



**City of Hamilton  
PLANNING COMMITTEE  
AGENDA**

**Meeting #:** 21-003  
**Date:** February 16, 2021  
**Time:** 9:30 a.m.  
**Location:** Due to the COVID-19 and the Closure of City Hall

All electronic meetings can be viewed at:

City's Website:  
<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel:  
<https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

Lisa Kelsey, Legislative Coordinator (905) 546-2424 ext. 4605

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- 14.1. Update and instructions regarding Ontario Municipal Board (now Local Planning Appeal Tribunal) Appeals of Rural and Urban Hamilton Official Plans – Urban Boundary Expansion (LS16029(c)/PED16248(c)) (City Wide)

Pursuant to Section 8.1, Sub-sections (e), (f) and (k) of the City's Procedural By-law 18-270, as amended, and Section 239(2), Sub-sections (e), (f) and (k) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and, to a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

**15. ADJOURNMENT**



## **PLANNING COMMITTEE MINUTES**

### **21-002**

**February 2, 2021**

**9:30 a.m.**

**Council Chambers, Hamilton City Hall  
71 Main Street West**

**Present:** Councillors J.P. Danko (Chair)  
B. Johnson (1<sup>st</sup> Vice Chair), J. Farr (2<sup>nd</sup> Vice Chair), C. Collins,  
M. Pearson, L. Ferguson, M. Wilson and J. Partridge

**Also in Attendance:** Councillor N. Nann

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#### **THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:**

**1. To Incorporate City Lands into Greenravine Drive by By-Law (PED21019)  
(Ward 12) (Item 7.1)**

**(Ferguson/Pearson)**

- (a) That the following City Lands designated as Parts 1 and 2 on Plan 62R-20006 be established as a public highway to form part of Greenravine Drive;
- (b) That the By-Law to incorporate the City lands to form part of Greenravine Drive be prepared to the satisfaction of the City Solicitor and be enacted by Council.

**Result: Motion CARRIED by a vote of 7 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr  
NOT PRESENT - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

2. **Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED21023) (City Wide) (Item 7.2)**

**(Collins/Farr)**

That Report PED21023 respecting Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications, be received.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

- YES - Ward 1 Councillor Maureen Wilson
- YES - Ward 5 Councillor Chad Collins
- YES - Ward 8 Councillor John-Paul Danko
- YES - Ward 2 Councillor Jason Farr
- YES - Ward 15 Councillor Judi Partridge
- YES - Ward 12 Councillor Lloyd Ferguson
- YES - Ward 11 Councillor Brenda Johnson
- YES - Ward 10 Councillor Maria Pearson

3. **Hamilton Municipal Heritage Committee Report 21-001 (Added Item 7.3)**

**(Ferguson/Partridge)**

**(a) Ancaster Pre-Confederation Inventory (PED21031) (Ward 12) (Added Item 10.1)**

- (i) That staff be directed to list the properties identified in Appendix "A", **as amended by removing 157 Butter Road East; 259 Filman Road; 1157 Garner Road East; 5282 Governors Road; 34 Lloyminn Avenue; 1719 Powerline Road West and 4237 Powerline Road West**, to Hamilton Municipal Heritage Committee Report 21-001, on the Municipal Heritage Register (Register) as non-designated properties of heritage interest in accordance with Section 27 of the Ontario Heritage Act.
- (ii) That staff be directed to add the properties identified in Appendix "B", **as amended by removing 38 Academy Street; 1719 Powerline Road West and 34 Lloyminn Avenue**, to Hamilton Municipal Heritage Committee Report 21-001, to the work plan for Designation under Part IV of the Ontario Heritage Act as low priorities.

**(b) Inventory and Research Working Group Meeting Notes - December 7, 2020 (Added Item 10.2)**

- (i) Former Mount Hamilton Hospital, 711 Concession Street, Hamilton  
  
That the 1932 Maternity Wing of the Former Mount Hamilton Hospital, 711 Concession Street, Hamilton be added to the

Municipal Register of Properties of Cultural Heritage Value or Interest and to the staff work plan for heritage designation under the *Ontario Heritage Act*.

**Result: Main Motion, As Amended, CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**4. Integrating Health & Environmental Requirements to Demolition Permits (Item 11.1)**

**(Wilson/Danko)**

WHEREAS, the City of Hamilton has declared a climate emergency and all matters related to the quality of the air we breathe ought to be prioritized;

WHEREAS, neither a demolition permit applicant, nor the Ministry of the Environment, Conservation and Parks (MECP), nor any Municipal Authority are required to notify neighbouring residents or businesses of a demolition before it occurs nor provide a forum to ask questions about potential impacts;

WHEREAS, the current practice for the City of Hamilton's demolition permit notices is that they are auto-generated and forwarded by email to Councillors and do not contain substantive information about demolitions, requiring instead that Councillors contact demolition permit applicants directly should they have concerns about impacts to neighbouring residents and businesses;

WHEREAS, demolition permit applicants are not obligated to respond to requests for information, such as date of demolition, scale of demolition, method of demolition, potential for contaminant emissions, potential of fugitive dust impacts and relevant dust mitigation plans, excessive noise impacts, emergency preparedness and disaster contingencies, etc.;

WHEREAS, demolition activities, and subsequent clean-up efforts, may impact not just air quality but can lead to pollutants being released to the stormwater system or demolition debris left in surface soil;

WHEREAS, the current demolition permit application does not require an applicant to do more than check a box indicating that they have followed MECP guidelines regarding contaminants;

WHEREAS, the current demolition permit application does not provide detailed information about potential pollutants or other harmful substances that may be released to air, land or water systems;

WHEREAS, in other Ontario Cities, such as the City of London, it is a requirement that Public Health be contacted to determine whether a Health Hazards Evaluation is required prior to demolition, depending on prior use of a structure to be demolished;

WHEREAS, the current permit application procedure does not require that the applicant's adherence to MECP guidelines regarding contaminant control be verified prior to issuance by the City of Hamilton's Building Division;

WHEREAS, it is irresponsible to assume that every demolition will be done well and in good faith;

WHEREAS, there is currently no way for the City of Hamilton to hold a company accountable when a demolition does go wrong: there is no requirement for post-demolition clean up, compensation to neighbours who experience property damage or loss, etc.;

WHEREAS, on September 30<sup>th</sup>, 2019, an errant demolition by Delsan, a division of American Iron and Metal (AIM), at 319 Sherman Ave. N, negatively impacted the neighbouring residential, commercial and industrial neighbours and properties;

WHEREAS, in the interest of providing an organized and informed community response to the Delsan-AIM demolition, the Ward 3 Councillor and staff established contact with the company in order to determine the cause of the particulate dust plume and improper demolition and their remedial action plan;

WHEREAS, in the absence of documentation detailing potentially harmful substances contained in the building that was demolished, the Ward 3 Councillor and staff had to work with MECP representatives and City of Hamilton's Public Health team to uncover this information and expedite disseminating this information to concerned residents.

THEREFORE BE IT RESOLVED:

- (a) That the General Manager of Planning and Economic Development draft a letter to the Ministry of Municipal Affairs and Housing requesting demolition requirements, under the Ontario Building Code be expanded to include a mandatory notification to all neighbouring properties, in writing, of the date and time that a **commercial or industrial** demolition is to take place which includes:
  - (i) the previous use of the site to be demolished;



- (ii) a list of any potential contaminants which could become airborne or enter Hamilton's waterways or soil;
  - (iii) the potential human health impacts of contamination; and,
  - (iv) a detailed action plan to mitigate all potential impacts to human health, air quality and waterways or soil.
- (b) That Public Health Services work with the Building Division to:
- (i) determine the size, scope, building-types of **commercial and industrial** demolitions that present the highest risk to human health;
  - (ii) determine application requirements for permit approval for any higher risk demolitions that qualify, such as:
    - (1) ensure that a designated substances survey (DSS), as defined within the Occupational Health And Safety Act, has been completed prior to demolition;
    - (2) an appropriate dust management plan will be implemented during demolition; and,
    - (3) inform mitigation requirements of human health impacts
  - (iii) review the dust mitigation plan with the Building Division before final approval;
- (c) That the Building Division be directed to:
- (i) review the current demolition permitting process of other Ontario Municipalities which account for human health and environmental impacts and make relevant adjustments in accordance with the Ontario Building Code including but not limited to the above; and,
  - (ii) report back with final recommended revisions to the City of Hamilton Building & Demolition Permit.

**Result: Main Motion, As Amended, CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr

YES - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

**5. Potential Donation to Hamilton Habitat for Humanity – 3 North Park Avenue, Hamilton (Item 11.2)**

**(Collins/Farr)**

WHEREAS, the Municipal Act requires municipalities to enact a by-law pursuant to and in accordance with the requirements of the Act, to establish procedures for the sale of real property owned by the municipality;

WHEREAS, before selling any land, the Council of the City of Hamilton shall, by by-law or resolution, declare the lands to be surplus;

WHEREAS before selling any land, the Council of the City of Hamilton shall obtain at least one appraisal of the fair market value of the land;

WHEREAS before selling any land, the Council of the City of Hamilton shall give notice to the public of the intended sale of the real property;

WHEREAS City Council on March 6, 2002 in adopting Item 21 of Report 02-008 of the Committee of the Whole, declared Lot 34 on Registered Plan 376, in the City of Hamilton surplus to the needs of the City of Hamilton;

WHEREAS Hamilton Habitat for Humanity, a non-profit organization, has requested the acquisition of Lot 34, Registered Plan 376, municipally known as 3 North Park Avenue for nominal consideration of \$2.00;

WHEREAS Habitat for Humanity Hamilton is a vital partner with the City of Hamilton and will continue to play a large role in helping to build more affordable housing within the City for years to come;

WHEREAS the deemed offer price of \$2.00 for the subject property is below the range of the fair market value as determined through an in-house appraisal of the subject's fair market value estimated at \$220,000; and,

WHEREAS the proceeds that were to be realized for the sale of Lot 34, Registered Plan 376, in the City of Hamilton, were to be credited to the City's Reserve – Hamilton Beach account and that the monetary loss from the sale be reflected with the City's Reserve-Hamilton Beach account.

THEREFORE BE IT RESOLVED:

- (a) That the Real Estate Section be directed to dispose of Lot 34 on Registered Plan 376, municipally known as 3 North Park Avenue, on an “as is, where is” basis, for a nominal fee of \$2;
- (b) That the Real Estate Section be directed to prepare an Offer to Purchase for the sale of Lot 34 on Registered Plan 376, being all of PIN 17569-0598(LT), in the City of Hamilton, municipally known as 3 North Park Avenue, on an “as is, where is” basis for a nominal fee of \$2; and,
- (c) That the City Solicitor be directed to complete this real estate transaction on the terms and conditions set out herein.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**6. City Ambassadors on the Waterfront Trail (Item 11.3)**

**(Collins/Partridge)**

WHEREAS, the use of the Waterfront Trail has become popular with out of town cyclists many of whom are travelling at unsafe speeds, creating daily safety concerns for other trail users; and,

WHEREAS, the use of e-bikes, e-scooters and other electric powered devices are increasingly used on the waterfront trail, contrary to the City’s by-law, and,

WHEREAS, Licensing and By-law Services has previously hired summer students to act as Waterfront Trail Ambassadors as part of a pilot program in 2020 to educate the public and enforce City By-laws; and,

WHEREAS, the Waterfront Trail Ambassador program was considered a success and well received by trail users and Beach Neighbourhood residents,

THEREFORE BE IT RESOLVED:

That Licensing and By-law Services be directed to hire two summer students to act as City Ambassadors on the Waterfront Trail for the months of May through

August at a cost of approximately \$27,522 to be funded by the Hamilton Beach Reserve Account 108037.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**FOR INFORMATION:**

**(a) APPROVAL OF AGENDA (Item 2)**

The Committee Clerk advised of the following changes to the agenda:

**1. CONSENT ITEMS (Item 7)**

7.3 Hamilton Municipal Heritage Committee Report 21-001

7.3 (a) Amendments to the Ancaster Pre-Confederation Inventory  
 Recommendations (Amending Motion)

**2. OTHER BUSINESS / GENERAL INFORMATION (Item 13)**

13.1 Outstanding Business List

(b) Items Requiring New Due Dates

12B - Request to Designate 437 Wilson Street East  
 Current Due Date: December 8, 2020  
 Proposed New Due Date: June 15, 2021

14A - Adding 206, 208, 210 King St E to the Register of  
 Property of Cultural Heritage Value or Interest  
 Current Due Date: December 8, 2020  
 Proposed New Due Date: May 18, 2021

17E - Family Friendly Housing Policy  
 Current Due Date: January 12, 2021  
 Proposed New Due Date: April 30, 2021

18E - 2018 Development Fee Review  
Current Due Date: Q2 2021  
Proposed Due Date: May 18, 2021

18F - Hamilton Airshed Modelling System  
Current Due Date: February 16, 2021  
Proposed New Due Date: June 15, 2021

18I - Designation of 378 Main Street East  
Current Due Date: December 8, 2020  
Proposed Due Date: June 15, 2021

18L - Review of C6 and C7 Zoning Regulations  
Current Due Date: March 2021  
Proposed Due Date: June 15, 2021

19G - Residential Care Facilities & Group Homes - Human Rights and Zoning By-law Discussion Paper  
Current Due Date: December 8, 2020  
Proposed Due Date: May 18, 2021

19Q - Zoning By-law Amend. for 116 and 120 Barnesdale Ave N  
Current Due Date: October 20, 2020  
Proposed Due Date: February 16, 2021

19U - Heritage Designation Process and Delegated Authority to Consent to Heritage Permits  
Current Due Date: December 8, 2020  
Proposed Due Date: September 21, 2021

19Y - Construction Hoarding  
Current Due Date: Q1 2021  
Proposed Due Date: September 21, 2021

19BB - Parking Fee Review  
Current Due Date: November 17, 2020  
Proposed Due Date: March 23, 2021

19CC - Feasibility of Glanbrook Sports Park Included in Binbrook Village Urban Boundary  
Current Due Date: Q3 2021  
Proposed Due Date: August 10, 2021

19DD - 2070 Rymal Road East (Delegation A. Longo)  
Current Due Date: Q1 2021  
Proposed Due Date: March 23, 2021

19EE - A. Riley - Request for a Taxi Stand  
Current Due Date: Q2 2021  
Proposed Due Date: June 15, 2021

19FF - Support of Private Member's Bill to Reverse Pit Bull Ban  
in Ontario  
Current Due Date: December 8, 2020  
Proposed Due Date: June 1, 2021

20A - Property Standards By-law - Rental Properties and  
Apartments  
Current Due Date: November 17, 2020  
Proposed Due Date: March 23, 2021

20B - Review of Problems Associated with Increased Visitors to  
Waterfalls  
Current Due Date: December 8, 2020  
Proposed Due Date: April 6, 2021

20G - Second Dwelling Units - Options to Increase Housing  
Supply in Hamilton's Existing Low Density Housing Stock  
Current Due Date: TBD  
Proposed Due Date: March 23, 2021

20H - 2069 Binbrook Road - Rural OPA and Zoning By-law  
amendments  
Current Due Date: TBD  
Proposed Due Date: February 16, 2021

20i - Site Plan Fees for Lapsed Applications  
Current Due Date: TBD  
Proposed Due Date: May 4, 2021

20J - Draft Urban Forest Strategy  
Current Due Date: TBD  
Proposed Due Date: December 7, 2021

20M - Appeal for lack of Decision to LPAT re 73-89 Stone  
Church Rd W and 1029 West 5th Street  
Current Due Date: TBD  
Proposed Due Date: February 16, 2021

**(Pearson/Ferguson)**

That the agenda for the February 2, 2021 meeting be approved, as amended.

**Result: Motion CARRIED by a vote of 7 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**(b) DECLARATIONS OF INTEREST (Item 3)**

None declared.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) January 12, 2021 (Item 4.1)**

**(Wilson/Farr)**

That the Minutes of the January 12, 2021 meeting be approved, as presented.

**Result: Motion CARRIED by a vote of 7 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 NOT PRESENT - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**(d) CONSENT ITEMS (Item 7)**

**(i) Hamilton Municipal Heritage Committee Report 21-001 (Added Item 7.3)**

**(Ferguson/Farr)**

**(a) Ancaster Pre-Confederation Inventory (PED21031) (Ward 12) (Added Item 10.1)**

- (i) That staff be directed to list the properties identified in Appendix "A" to Hamilton Municipal Heritage Committee Report 21-001, on the Municipal Heritage Register (Register)

as non-designated properties of heritage interest in accordance with Section 27 of the Ontario Heritage Act.

- (ii) That staff be directed to add the properties identified in Appendix “B” to Hamilton Municipal Heritage Committee Report 21-001, to the work plan for Designation under Part IV of the Ontario Heritage Act as low priorities

**(b) Inventory and Research Working Group Meeting Notes - December 7, 2020 (Added Item 10.2)**

- (i) Former Mount Hamilton Hospital, 711 Concession Street, Hamilton

That the 1932 Maternity Wing of the Former Mount Hamilton Hospital, 711 Concession Street, Hamilton be added to the Municipal Register of Properties of Cultural Heritage Value or Interest and to the staff work plan for heritage designation under the Ontario Heritage Act.

**(Ferguson/Farr)**

WHEREAS, the Ancaster Pre-Confederation Inventory project has proactively identified 62 properties of heritage interest worthy of heritage recognition and protection, as outlined in Report PED21031 and included in HMHC Report 21-001;

WHEREAS, several property owners have provided written correspondence or delegated virtually at the Hamilton Municipal Heritage Committee voicing their opposition to the recommendations;

WHEREAS, any properties removed from the Ancaster Pre-Confederation Inventory recommendations will be reviewed at a future date as part of the City-initiated Built Heritage Inventory Strategy Work Plan, or as part of the regular *Planning Act* development application process;

THEREFORE BE IT RESOLVED:

- (a) That the following properties be removed from the list of Ancaster Pre-Confederation Inventory Register Recommendations, attached as Appendix “A” to Hamilton Municipal Heritage Committee Report 21-001;
- 157 Butter Road East;
  - 259 Filman Road;
  - 1157 Garner Road East;
  - 5282 Governors Road;



- 34 Lloyminn Avenue;
- 1719 Powerline Road West; and,
- 4237 Powerline Road West.

(b) That the following properties be removed from the list of Ancaster Pre-Confederation Inventory Designation Candidates, attached as Appendix “B” to Hamilton Municipal Heritage Committee Report 21-001.

- 38 Academy Street;
- 1719 Powerline Road West; and,
- 34 Lloyminn Avenue.

**Result: *Amendment* CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 3.

**(e) PUBLIC HEARINGS / DELEGATIONS (Item 8)**

In accordance with the *Planning Act*, Chair Danko advised those viewing the virtual meeting that the public had been advised of how to pre-register to be a virtual delegate at the Public Meetings on today’s agenda.

In accordance with the provisions of the *Planning Act*, Chair Danko advised that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council makes a decision regarding the Zoning By-law Amendment application before the Committee today, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Local Planning Appeal Tribunal, and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

**(i) Application for a Zoning By-law Amendment for lands located at 130 Wellington Street South, Hamilton (PED21024) (Ward 2) (Item 8.1)**

Sean Stewart, Planner II, addressed the Committee with the aid of a PowerPoint presentation.

**(Farr/Johnson)**

That the staff presentation be received.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

Michael Barton with MB1 Development Consulting Inc., the Agent was in attendance and indicated they were in support of the staff report.

**(Johnson/Partridge)**

That the delegation from Michael Barton with MB1 Development Consulting Inc., be received.

**Result: Motion CARRIED by a vote of 7 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 NOT PRESENT - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

**(Farr/Johnson)**

That the following Registered Delegations be received:

- (i) Jesse Razaqpur – Concerns with the proposal
- (ii) Sheila Strong – Concerns with the proposal

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr  
YES - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

**(Farr/Pearson)**

That the public meeting be closed.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr  
YES - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

**(Farr/Collins)**

That Report PED21024 respecting the Application for a Zoning By-law Amendment for lands located at 130 Wellington Street South, Hamilton, be DEFERRED to the February 16, 2021 Planning Committee meeting to allow the Ward Councillor and residents an opportunity to have further consultation with the Developer.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr  
YES - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

(f) **MOTIONS (Item 11)**

(i) **Integrating Health & Environmental Requirements to Demolition Permits (Item 11.1)**

**(Ferguson/Pearson)**

That sub-sections (a) and (b) to the Motion respecting Integrating Health & Environmental Requirements to Demolition Permits **be amended**, by adding '**commercial or industrial**', as follows:

- (a) That the General Manager of Planning and Economic Development draft a letter to the Ministry of Municipal Affairs and Housing requesting demolition requirements, under the Ontario Building Code be expanded to include a mandatory notification to all neighbouring residential properties, in writing, of the date and time that a **commercial or industrial** demolition is to take place which includes:
- (b) That Public Health Services work with the Building Division to:
  - (i) determine the size, scope, building-types of **commercial and industrial** demolitions that present the highest risk to human health;

**Result: Amendment CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
 YES - Ward 5 Councillor Chad Collins  
 YES - Ward 8 Councillor John-Paul Danko  
 YES - Ward 2 Councillor Jason Farr  
 YES - Ward 15 Councillor Judi Partridge  
 YES - Ward 12 Councillor Lloyd Ferguson  
 YES - Ward 11 Councillor Brenda Johnson  
 YES - Ward 10 Councillor Maria Pearson

For disposition of this matter, refer to Item 4.

(g) **GENERAL INFORMATION / OTHER BUSINESS (Item 13)**

(i) **Outstanding Business List (Item 13.1)**

**(Pearson/Farr)**

That the following changes to the Outstanding Business List be approved:

**(a) Items to Be Removed:**

19J - Zoning By-law Amendment for 1400 Baseline Road  
(Addressed as Item 8.2 on the January 12 agenda)

**(b) Items Requiring New Due Dates:**

12B - Request to Designate 437 Wilson Street East  
Current Due Date: December 8, 2020  
Proposed New Due Date: June 15, 2021

14A - Adding 206, 208, 210 King St E to the Register of Property of  
Cultural Heritage Value or Interest  
Current Due Date: December 8, 2020  
Proposed New Due Date: May 18, 2021

17E - Family Friendly Housing Policy  
Current Due Date: January 12, 2021  
Proposed New Due Date: April 30, 2021

18E - 2018 Development Fee Review  
Current Due Date: Q2 2021  
Proposed Due Date: May 18, 2021

18F - Hamilton Airshed Modelling System  
Current Due Date: February 16, 2021  
Proposed New Due Date: June 15, 2021

18i - Designation of 378 Main Street East  
Current Due Date: December 8, 2020  
Proposed Due Date: June 15, 2021

18L - Review of C6 and C7 Zoning Regulations  
Current Due Date: March 2021  
Proposed Due Date: June 15, 2021

19G - Residential Care Facilities & Group Homes - Human Rights  
and Zoning By-law Discussion Paper  
Current Due Date: December 8, 2020  
Proposed Due Date: May 18, 2021

19Q - Zoning By-law Amend. for 116 and 120 Barnesdale Ave N  
Current Due Date: October 20, 2020  
Proposed Due Date: February 16, 2021

19U - Heritage Designation Process and Delegated Authority to  
Consent to Heritage Permits

Current Due Date: December 8, 2020

Proposed Due Date: September 21, 2021

19Y - Construction Hoarding

Current Due Date: Q1 2021

Proposed Due Date: September 21, 2021

19BB - Parking Fee Review

Current Due Date: November 17, 2020

Proposed Due Date: March 23, 2021

19CC - Feasibility of Glanbrook Sports Park Included in Binbrook  
Village Urban Boundary

Current Due Date: Q3 2021

Proposed Due Date: August 10, 2021

19DD - 2070 Rymal Road East (Delegation A. Longo)

Current Due Date: Q1 2021

Proposed Due Date: March 23, 2021

19EE - A. Riley - Request for a Taxi Stand

Current Due Date: Q2 2021

Proposed Due Date: June 15, 2021

19FF - Support of Private Member's Bill to Reverse Pit Bull Ban in  
Ontario

Current Due Date: December 8, 2020

Proposed Due Date: June 1, 2021

20A - Property Standards By-law - Rental Properties and  
Apartments

Current Due Date: November 17, 2020

Proposed Due Date: March 23, 2021

20B - Review of Problems Associated with Increased Visitors to  
Waterfalls

Current Due Date: December 8, 2020

Proposed Due Date: April 6, 2021

20G - Second Dwelling Units - Options to Increase Housing Supply  
in Hamilton's Existing Low Density Housing Stock

Current Due Date: TBD

Proposed Due Date: March 23, 2021

20H - 2069 Binbrook Road - Rural OPA and Zoning By-law amendments

Current Due Date: TBD

Proposed Due Date: February 16, 2021

20i - Site Plan Fees for Lapsed Applications

Current Due Date: TBD

Proposed Due Date: May 4, 2021

20J - Draft Urban Forest Strategy

Current Due Date: TBD

Proposed Due Date: December 7, 2021

20M - Appeal for lack of Decision to LPAT re 73-89 Stone Church Rd W and 1029 West 5th Street

Current Due Date: TBD

Proposed Due Date: February 16, 2021

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 5 Councillor Chad Collins

YES - Ward 8 Councillor John-Paul Danko

YES - Ward 2 Councillor Jason Farr

YES - Ward 15 Councillor Judi Partridge

YES - Ward 12 Councillor Lloyd Ferguson

YES - Ward 11 Councillor Brenda Johnson

YES - Ward 10 Councillor Maria Pearson

**(h) PRIVATE AND CONFIDENTIAL (Item 14)**

**(i) Closed Session Minutes – January 12, 2021 (Item 14.1)**

**(Johnson/Ferguson)**

That the Closed Session Minutes – January 12, 2021 be approved, as presented, and remain confidential.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson

YES - Ward 5 Councillor Chad Collins

YES - Ward 8 Councillor John-Paul Danko

YES - Ward 2 Councillor Jason Farr

YES - Ward 15 Councillor Judi Partridge

YES - Ward 12 Councillor Lloyd Ferguson

YES - Ward 11 Councillor Brenda Johnson

YES - Ward 10 Councillor Maria Pearson

**(i) ADJOURNMENT (Item 15)**

**(Pearson/Wilson)**

That there being no further business, the Planning Committee be adjourned at 12:10 p.m.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Ward 1 Councillor Maureen Wilson  
YES - Ward 5 Councillor Chad Collins  
YES - Ward 8 Councillor John-Paul Danko  
YES - Ward 2 Councillor Jason Farr  
YES - Ward 15 Councillor Judi Partridge  
YES - Ward 12 Councillor Lloyd Ferguson  
YES - Ward 11 Councillor Brenda Johnson  
YES - Ward 10 Councillor Maria Pearson

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Councillor J.P. Danko  
Chair, Planning Committee

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Lisa Kelsey  
Legislative Coordinator





Hamilton

**Agriculture and Rural Affairs Advisory Committee**

**REPORT 21-001**

**Monday, January 18, 2021**

**7:00 p.m.**

**Due to COVID-19 and the Closure of City Hall, this meeting was held virtually.**

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**Present:** Councillors B. Clark, B. Johnson and A. VanderBeek  
  
A. Spoelstra (Chair), D. Smith (Vice-Chair), J. Mantel,  
C. McMaster, N. Mills, A. Payne, R. Shuker, G. Smuk and  
M. Switzer

**Absent**  
**With Regrets:** Councillor L. Ferguson – City Business  
P. Krakar, R. Pearce and C. Roberts

**Also Present:** Janice Janiec, Ontario Federation of Agriculture  
Shawn Brenn, Chamber of Commerce (Flamborough)

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**THE AGRICULTURE & RURAL AFFAIRS ADVISORY COMMITTEE PRESENTS  
REPORT 21-001 AND RESPECTFULLY RECOMMENDS:**

**1. Farm 911 (Item 9.4)**

That the Agriculture and Rural Affairs Advisory Committee respectfully requests that appropriate City staff be directed to develop a framework to provide emergency 911 signs to owners of unidentified farm properties in Hamilton, at their request, at no cost to the applicant.

**2. Climate Action Working Group Update (deferred from the November 24, 2020 meeting) (Item 9.5)**

That the Climate Action Working Group of the Agriculture & Rural Affairs Advisory Committee be disbanded.

**FOR INFORMATION:**

**(a) APPROVAL OF AGENDA (Item 1)**

The Committee Clerk advised of the following changes to the agenda:

**9. DISCUSSION ITEMS**

9.4 Farm 911 (deferred from the November 24, 2020 meeting)

A presentation and handout were added.

**CHANGES TO THE ORDER OF ITEMS:**

That Item 9.6, respecting Farm Labour Residence Policies, be considered immediately following the virtual delegation from Jan VanderHout on this matter.

The agenda for the January 18, 2021 meeting of the Agriculture and Rural Affairs Advisory Committee was approved, as amended.

**(b) DECLARATIONS OF INTEREST (Item 2)**

There were no declarations of interest.

**(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 3)**

**(i) November 24, 2020 (Item 3.1)**

The Minutes of the November 24, 2020 meeting of the Agriculture and Rural Affairs Advisory Committee were approved, as presented.

**(d) DELEGATION REQUESTS (Item 5)**

**(i) Jan VanderHout, Beverly Greenhouses Limited, respecting Item 9.6 - Farm Labour Residence Policies (for today's meeting) (Item 5.1)**

The delegation request, submitted by Jan VanderHout, Beverly Greenhouses Limited, respecting Item 9.6 - Farm Labour Residence Policies, was approved for today's meeting.

For further disposition of this matter, refer to Items (e)(i) and (f)(vi).

**(e) PUBLIC HEARINGS / WRITTEN DELEGATIONS / VIRTUAL DELEGATIONS**  
**(Item 7)**

**(i) Jan VanderHout, Beverly Greenhouses Limited, respecting Item 9.6 - Farm Labour Residence Policies (Added Item 7.1)**

Jan VanderHout, Beverly Greenhouses Limited, addressed the Committee respecting Item 9.6 - Farm Labour Residence Policies.

Jan VanderHout proposed a number of ideas for modernizing the City of Hamilton's farm labour residence policies, as follows:

- (1) Eliminate the requirement for a farm labour residence to be located within 30 meters of the principal farm dwelling;
- (2) Eliminate the requirement for a farm labour residence to be located on the same lot as the existing principal farm dwelling;
- (3) Increase the maximum allowable size of a farm labour residence;
- (4) Allow multiple farm labour residences on a single lot; and,
- (5) Allow multiple rooms/bedrooms within a single farm labour residence.

The delegation from Jan VanderHout, Beverly Greenhouses Limited, respecting Item 9.6 - Farm Labour Residence Policies, was received.

For further disposition of this matter, refer to Item (f)(vi).

**(f) DISCUSSION ITEMS (Item 9)**

**(i) Presentation from Dan Carter, Canadian Hemp Farmers Alliance, respecting Adopting Hemp into the Canadian Sustainable Development Goals (SDGs) (referred from the General Issues Committee on September 23, 2020) (deferred from the November 24, 2020 meeting) (Item 9.1)**

Hamilton City Council, at its meeting held on September 30, 2020, approved Item 8 of General Issues Committee Report 20-014, which reads as follows:

**8. Dan Carter, Canadian Hemp Farmers Alliance, respecting Adopting Hemp into the Canadian SDGs (Item 7.1)**

The presentation, provided by Dan Carter, Canadian Hemp Farmers Alliance, respecting Adopting Hemp into the Canadian SDGs, be referred to the Agricultural and Rural Affairs Sub-Committee for review and a report back to the Planning Committee.

The Committee recommended that Dan Carter, Canadian Hemp Farmers Alliance, be directed to contact the appropriate federal Member of Parliament given that this is a federal initiative, outside the purview of the municipality.

The presentation from Dan Carter, Canadian Hemp Farmers Alliance, respecting Adopting Hemp into the Canadian Sustainable Development Goals (SDGs), was received.

Andrew Spoelstra relinquished the Chair to Dale Smith in order to provide the Committee with the following update:

**(ii) Update on Activities of Mayor's Task Force on Economic Recovery - Agriculture and Circular Economy Working Group (deferred from the November 24, 2020 meeting) (Item 9.2)**

Andrew Spoelstra, on behalf of the Mayor's Task Force on Economic Recovery, provided the Committee with an update on the activities of the Mayor's Task Force on Economic Recovery - Agriculture and Circular Economy Working Group.

The Committee was advised that Hamilton City Council approved the final report of the Mayor's Task Force on Economic Recovery on December 16, 2020. The Task Force established seven sector-specific Working Groups, of which the Agriculture and Circular Economy Working Group was one, to facilitate focused discussion and the development of short, medium and long-term recommendations.

The Agriculture and Circular Economy Working Group's recommendations included actions to be taken in each of the following areas:

- (1) Regulatory Environment - Red tape reduction
- (2) Support Local Food Production
- (3) Rural Connectivity - Look for ways to expand access to rural Hamilton residents and businesses. Strategic economic investments, like expanding reliable internet and cell phone access, will stimulate job creation, contribute to affordable community development, and deliver economic growth and prosperity for all Hamiltonians.
- (4) Rural Boundary Protection and Environmental Support

The verbal update, respecting Activities of Mayor's Task Force on Economic Recovery - Agriculture and Circular Economy Working Group, was received.

Andrew Spoelstra assumed the Chair.

**(iii) Natural Heritage Plans (deferred from the November 24, 2020 meeting)  
(Item 9.3)**

Joanne Hickey Evans, Manager, Policy Planning and Zoning By-law Reform, and Cathy Plosz, Natural Heritage Planner, were present and assisted in answering questions of Committee on this matter.

The City of Hamilton treats the Natural Heritage System as an overlay, as opposed to a land use designation, in both the Urban Hamilton Official Plan and the Rural Hamilton Official Plan. The Planning Section within the City of Hamilton updates heritage mapping datasets based on Environmental Assessment Reports, Environmental Impact Studies, Subwatershed Studies, and other studies, as available. In its Official Plans, the City of Hamilton has identified an interconnected, protected Natural Heritage System consisting of Core Areas (the most significant natural features) and Linkages (supporting habitat patches which connect Core Areas or contribute to their ecological functions).

It is likely there will be no significant natural heritage policy revisions needed to bring the Official Plans into conformity with the updated provincial *Greenbelt Plan, 2017* and *A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019*, as amended.

The discussion, respecting Natural Heritage Plans, was received.

**(iv) Farm 911 (deferred from the November 24, 2020 meeting) (Item 9.4)**

Janice Janiec, Ontario Federation of Agriculture, addressed Committee respecting Farm 911, with the aid of a presentation and handout.

Alvin Chan, Manager, Legislative Approvals / Staging of Development, was present and assisted in answering questions of Committee on this matter.

The current fee required for processing an application to change or add a new municipal number is \$359 per property. This fee is based on a full cost recovery model; the City recovers the cost to administer the service, but does not recognize any profit. The cost to purchase and install the sign are not included in this fee. If installed by the property owner, the cost to purchase the sign is \$34. If installed by the City, the cost to purchase and install the sign is \$192.

Considering new technologies, the Canadian Radio-Television and Telecommunication Commission (CRTC), has begun a transition to what is called the "New Generation 9-1-1 or NG 9-1-1". On June 1, 2017, the CRTC directed all telephone companies to update their networks in order to be

ready to provide next-generation (NG 9-1-1) voice and text messaging services in the near future.

In particular, under the Public Emergency Response Service (PERS) agreement between Bell Canada and the former Region, the City (as successor) has an obligation to provide Bell Canada with accurate addressing information if Bell is to provide the City with reliable response and effectiveness of the NG 9-1-1 system.

The presentation and handout, respecting Farm 911, were received.

For further disposition of this matter, refer to Item 1.

**(v) Climate Action Working Group Update (deferred from the November 24, 2020 meeting) (Item 9.5)**

The Climate Action Working Group was established on November 25, 2019 to assemble current knowledge on farm abatement technologies, strategies and management practices to reduce agricultural greenhouse gas emissions and sequester carbon in soil while maintaining or enhancing productivity and report back to the Agriculture & Rural Affairs Advisory Committee at each meeting (see Item 2(b) of Agriculture and Rural Affairs Advisory Committee Report 19-005 for reference).

The Working Group was not able to make any progress in researching and reviewing this matter amid the impacts of the COVID-19 pandemic. However, instead of pursuing this initiative independently, the members of the Working Group (Cathy McMaster and Andrew Spoelstra) expressed a desire to explore opportunities to lend their sector-specific expertise to existing, established climate change groups or task forces.

The verbal update, respecting the Climate Action Working Group, was received.

For further disposition of this matter, refer to Item 2.

**(vi) Farm Labour Residence Policies (Item 9.6)**

Joanne Hickey Evans, Manager, Policy Planning and Zoning By-law Reform, was present and assisted in answering questions of Committee on this matter.

Revisions to the City of Hamilton's farm labour residence policies would require an amendment to the Rural Hamilton Official Plan, followed by the requisite zoning by-law changes. The City is currently focused on revising

the existing Zoning By-law 05-200 regulations for second dwelling units (SDUs), but a review of the Rural Hamilton Official Plan is slated for 2022.

The discussion, respecting Farm Labour Residence Policies, was received.

**(g) ADJOURNMENT (Item 13)**

The meeting of the Agriculture & Rural Affairs Advisory Committee was adjourned at 8:57 p.m.

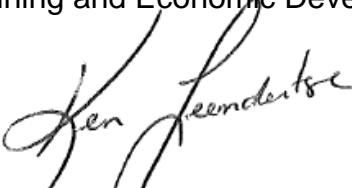
Respectfully submitted,

Andrew Spoelstra, Chair  
Agriculture and Rural Affairs  
Advisory Committee

Alicia Davenport  
Legislative Coordinator  
Office of the City Clerk



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Payday Loan Licences (PED21036) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Tiffany Gardner (905) 546-2424 Ext. 1789
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

At its meeting of February 28, 2018, Council approved Item 9 of Planning Committee Report 18-003 directing staff to report annually regarding the status of the number of Payday Loan Licences in the City of Hamilton.

## INFORMATION

Item 9 of Planning Committee Report 18-003 outlined the expansion of the municipal authority to limit the number and location of payday loan establishments within the City and included the updated Schedule 11 under the Business Licensing By-law 07-170, which outlines the following under Section 6:

- (a) No more than 15 payday loan business licences to be issued; and
- (b) No more than one payday loan business per ward.

On January 1, 2018 there were 31 licensed payday loan businesses at 30 locations. These locations and licences were grandfathered at the time of the passing of the amending By-law. Once a licence expires and is not renewed, these locations are eliminated, reducing the number of grandfathered locations to meet the By-law criteria. On January 1, 2019 the total number reduced to 29 licensed businesses at 28 locations. On October 23, 2019, Council approved Item 3 of Planning Committee Report 19-016 directing staff to amend Schedule 11 of the Licensing By-law 07-170 to include

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**SUBJECT: Payday Loan Licences (PED21036) (City Wide) Page 2 of 3**

90 Centennial Parkway North, Hamilton to the location of approved sites, increasing the total number to 30 licensed businesses at 29 locations. There has been no change from 2020 to 2021.

<b>Licensed Payday Loan Businesses as at January 1, 2018</b>	<b>Licensed Payday Loan Businesses as at January 1, 2021</b>	<b>Change</b>
1 Wilson Street	1 Wilson Street	
1056 Barton Street East	1056 Barton Street East	
1062 Barton Street East	1062 Barton Street East	
1116 Barton Street E Unit 1	1116 Barton Street E Unit 1	
1120 Fennell Avenue East	1120 Fennell Avenue East	
127 King Street East	127 King Street East	
1299 Barton Street East, Bldg. K	1299 Barton Street East, Bldg.K	
13 King Street East. Suite 1	13 King Street East, Suite 1	
1392 Main Street East	1392 Main Street East	
147 Locke Street South		Closed Aug 2018
152 Hwy 8, Unit 158	152 Hwy 8, Unit 158	
219 King Street East		Closed Aug 2018
1655 Main Street West	1655 Main Street West	
309 Grays Road	309 Grays Road	
314 Queenston Road, Unit F	314 Queenston Road, Unit F	
460 Main Street West	460 Main Street West	
478 King Street East. Unit 2	478 King Street East, Unit 2	
483 Hwy 8	483 Hwy 8	
529 Concession Street	529 Concession Street	
534 Concession Street	534 Concession Street	
58 Centennial Parkway North	58 Centennial Parkway North	
61 King Street East	61 King Street East	
695 Queenston Road	695 Queenston Road	
732 Queenston Road	732 Queenston Road	
736 Queenston Road	736 Queenston Road	
77 James Street North, Unit 223	77 James Street North, Unit 223	
833 Upper James Street	833 Upper James Street	
833 Upper James Street	833 Upper James Street	
836 Upper James Street	836 Upper James Street	
858 Upper James Street	858 Upper James Street	
970 Upper James Street	970 Upper James Street	
	90 Centennial Parkway North	Added Oct 2019

Payday loan businesses are inspected annually to confirm that they meet the requirements of Schedule 11 of the Business Licensing By-law 07-170, and licence statuses are monitored monthly. Due to the continual monitoring by Licensing, coupled

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**SUBJECT: Payday Loan Licences (PED21036) (City Wide) Page 3 of 3**

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with little change in the status of licences over the last 3 years, it is recommended that annual reporting is no longer required. Further information about payday loan businesses may be requested directly to Licensing.

**APPENDICES AND SCHEDULES ATTACHED**

N/A

KL:st



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Planning Committee Chair and Members
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Application for Zoning By-law Amendment for lands located at 95 - 97 Fairholt Road South, Hamilton (PED21029) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Sean Stewart (905) 546-2424 Ext. 7163
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

That **Amended Zoning By-law Amendment Application ZAR-19-054 by MHBC Planning (c/o Stephanie Mirtitsch), on Behalf of Semion Merzon**, for a change in zoning from the “C” (Urban Protected Residential, etc.) District, to “C/S-1805” (Urban Protected Residential, etc.) District, Modified, to permit the conversion of an existing two family dwelling to a six unit multiple dwelling with six parking spaces, for lands located at 95 - 97 Fairholt Road South, Hamilton, as shown on Appendix “A” to Report PED21029, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED21029, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law attached as Appendix “B” to Report PED21029, be added to District Map No. E33 of Zoning By-law No. 6593;
- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow Plan: Growth Plan for the Greater

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**SUBJECT: Application for Zoning By-law Amendment for lands located at 95-97 Fairholt Road South, Hamilton (PED21029) (Ward 3) - Page 2 of 18**

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Golden Horseshoe, 2019, as amended, and complies with the polices and intent of the Urban Hamilton Official Plan;

- (iv) That upon finalization of the amending By-law, the subject lands be re-designated from “Single & Double” to “Medium Density Apartments” in the Stipley Neighbourhood Plan.

**EXECUTIVE SUMMARY**

The subject property is municipally known as 95 – 97 Fairholt Road South, Hamilton. The applicant, Our Cool Blue Architects Inc. has applied for a Zoning By-law Amendment to permit the conversion of an existing two family dwelling to a six unit multiple dwelling.

Modifications to the “C” (Urban Protected Residential, etc.) District in Zoning By-law No. 6593 are required to recognize the existing building and to address parking.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP) upon finalization of the Neighbourhood Plan amendment; and,
- The proposed development is compatible with existing land uses in the area and represents good planning by, among other things, providing additional housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

**Alternatives for Consideration – See Page 17**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law.

**SUBJECT: Application for Zoning By-law Amendment for lands located at 95-97 Fairholt Road South, Hamilton (PED21029) (Ward 3) - Page 3 of 18**

**HISTORICAL BACKGROUND**

<b>Application Details</b>	
Owner:	Semion Merzon
Applicant:	Our Cool Blue Architects Inc. c/o Tom Kolbasenko
Agent:	MHBC Planning c/o Stephanie Mirtitsch
File Number:	ZAR-19-054
Type of Application:	Zoning By-law Amendment
Proposal:	<p>The original application was to permit the conversion of an existing two and a half storey, two family dwelling to a six unit multiple dwelling with four parking spaces.</p> <p>On November 2, 2020, the applicant submitted revisions to the concept plan to provide six parking spaces.</p>
<b>Property Details</b>	
Municipal Address:	95 - 97 Fairholt Road South, Hamilton
Lot Area:	690.94 square metres (0.69 hectares)
Servicing:	Existing full municipal services.
Existing Use:	Two family dwelling.
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods Designation.

**SUBJECT: Application for Zoning By-law Amendment for lands located at 95-97 Fairholt Road South, Hamilton (PED21029) (Ward 3) - Page 4 of 18**

Official Plan Proposed:	No amendment proposed.
Zoning Existing:	"C" (Urban Protected Residential, Etc.) District.
Zoning Proposed:	"C/S-1805" (Urban Protected Residential, Etc.) District, Modified. The application has been amended to provide six parking spaces.
Modifications Proposed:	<ul style="list-style-type: none"> <li>• To permit a multiple dwelling with a maximum of six units, whereas a multiple dwelling is not permitted;</li> <li>• Recognize the existing building height;</li> <li>• Reduce the front yard setback from 6.0 metres to 3.36 metres to recognize the existing front yard setback;</li> <li>• Reduce the required parking ratio from 1.25 spaces per unit (8 parking spaces) to 1.0 space per unit (6 spaces);</li> <li>• Reduce the required visitor parking from a ratio of 0.25 visitor spaces per unit (2 visitor parking spaces) to allow 0 visitor parking spaces;</li> <li>• To eliminate the requirement for an on-site loading space;</li> <li>• Permit parking to be 0.0 metres from the north property line, whereas 1.5 metres is required;</li> <li>• Eliminate requirement for planting strip between the parking area and a residential district;</li> <li>• Permit a single access driveway width of 3.43 metres (existing), whereas 5.5 metres is required; and,</li> <li>• Allow the access driveway to be located 0.0 metres from the common boundary between the district in which the multiple dwelling is located and a zoning district that does not permit the use (i.e. the "C" District) whereas 3.0 metres is required.</li> </ul>
Application Received:	October 30, 2019 Revised Application: November 2, 2020
<b>Processing Details</b>	
Deemed Complete:	November 29, 2019
Notice of Complete Application:	Sent to 151 property owners within 120 metres of the subject property on December 13, 2019.

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**SUBJECT: Application for Zoning By-law Amendment for lands located at 95-97 Fairholt Road South, Hamilton (PED21029) (Ward 3) - Page 5 of 18**

Public Notice Sign:	Sign posted: December 10, 2019 Sign updated: January 20, 2021
Notice of Public Meeting:	Sent to 151 property owners within 120 metres of the subject property on January 29, 2021.
Public Consultation:	The applicant's planning consultant mailed a public information letter to properties within 120 metres of the subject lands on July 15, 2020.
Public Comments:	Five pieces of correspondence in opposition to the proposal and one in support (attached as Appendix "E" to Report PED21029) <ul style="list-style-type: none"> <li>• The concerns related to property maintenance, parking concerns and intensification.</li> <li>• The submission in support identified that a reduction in parking was not an issue as not everyone owns a car.</li> </ul>
Processing Time:	475 days for original submission. 106 days from revised submission.

**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	Two family dwelling	"C" (Urban Protected Residential, etc.) District

**Surrounding Land Uses:**

<b>North</b>	Single detached dwellings	"C" (Urban Protected Residential, etc.) District
<b>East</b>	Single detached dwellings	"C" (Urban Protected Residential, etc.) District
<b>South</b>	Single detached dwellings	"C" (Urban Protected Residential, etc.) District

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**West**                      Single detached dwellings                      “C” (Urban Protected Residential, etc.) District

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use and balanced growth) are reviewed and discussed in the Official Plan analysis below.

As the application for a change in zoning complies with the Urban Hamilton Official Plan (UHOP), it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the Provincial Policy Statement (PPS) (2020); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

**Urban Hamilton Official Plan**

The subject property is identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the UHOP. The following policies, amongst others, apply to the proposal.

Neighbourhoods Designation

- “E.2.6.4                      The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, including affordable housing and housing with supports.
- E.2.6.7                      Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential



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intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.

- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and housing with supports.
- E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

#### Medium Density Residential

- E.3.5.1 Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads.
- E.3.5.2 Uses permitted in medium density residential areas include multiple dwellings except street townhouses.
- E.3.5.5 Medium density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities, public transit, schools, active or passive recreational facilities, and local or District Commercial uses.
- E.3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare.
- E.3.5.8 For medium density residential uses, the maximum height shall be six storeys.
- E.3.5.9 Development within the medium density residential category shall be evaluated on the basis of the following criteria:

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- a) Developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial roads from a local road only if a small number of low density residential dwellings are located on that portion of the local road.
- b) Development shall be integrated with other lands in the Neighbourhoods designation with respect to density, design, and physical and functional considerations.
- c) Development shall be comprised of sites of suitable size and provide adequate landscaping, amenity features, on-site parking, and buffering if required. The height, massing, and arrangement of buildings and structures shall be compatible with existing and future uses in the surrounding area.
- d) Access to the property shall be designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.”

In accordance with Policy E.2.6.4 and E.3.2.3, this proposal adds to the provision of a full range of housing types and tenure in the Neighbourhoods designation by providing additional housing opportunities. The proposed development is compatible with, and will maintain, the existing character and function of the neighbourhood as no exterior alterations to the existing building are proposed to the existing two and a half storey building (Policies E.2.6.7 and E.3.2.4, E.3.5.8).

The density of the proposed development is approximately 87 units per hectare and both the use and density is therefore a medium density residential use as per Policy E.3.5.2 and E.3.5.7.

While the proposed multiple dwelling is situated on a local road, it is located within close proximity to Main Street East with only seven residential dwellings between the subject lands and Main Street East which is a major arterial road as shown on Schedule “C” – Functional Road Classifications of the UHOP (Policies E.3.5.1 and E.3.5.2, E.3.5.9 a)). The subject property is consistent with this policy as it is within walking distance to Main Street East and King Street East, which are frequently serviced transit corridors. The property is also within walking distance of an elementary and secondary school as well as the Bernie Morelli Recreation Centre, in addition to retail uses along the Main Street East and King Street East corridors (Policy E.3.5.5).

The existing building is to convert with no external changes. This will ensure that the property maintains the existing built form character of the neighbourhood (Policy E.3.5.9 b)). The redevelopment will integrate with lands in the neighbourhood as the proposed

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parking area will use the existing driveway access, and the proposed increase in units will not have significant adverse effects on existing traffic patterns.

Regarding Policy E.3.5.9 c), there will be no change to the existing landscaping on the lot frontage, which consists of manicured lawn and street trees. The massing and height will also not change from what currently exists. The parking area will be expanded to include parking for six vehicles. The access to the parking area will be via the existing driveway which will reduce conflicts with pedestrians with only having one entrance from the street (Policy E.3.5.9 d)). It is acknowledged that the street is heavily parked. Staff are of the opinion that providing six parking spaces for six residential units, with no visitor parking, is appropriate as the subject lands are located on a local road which has direct access to a major arterial road (Main Street East) and there is convenient access to frequently serviced public transit corridors and cycling routes. It is important to note that if a street parking permit system is implemented, the proposed multiple dwelling units will not be eligible for on street parking permits.

#### General Residential Intensification Policies

“B.2.4.1.1 Residential intensification shall be encouraged throughout the entire built-up area, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g), as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,

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g) the ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts.”

The proposed development will add to the existing housing options in the neighbourhood and will not detract from the existing neighbourhood scale, form and character and is compatible with the existing developments as no exterior alterations are proposed (Policies B.2.4.1.4 b), c), d)). The site is serviced by city water and sewer and there are no concerns regarding infrastructure capacity. The site, while being on a local road, is within a half block of Main Street East, which is identified as a major arterial road on Schedule “C” – Functional Road Classification of the UHOP. The property is also within proximity to a higher order transit corridor which will provide residents with alternative and reliable transportation options (Policy B.2.4.1.4 f)).

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Policy B.2.4.2.2 outlines additional criteria for residential intensification specifically for proposals within the Neighbourhoods designation. This proposal is consistent with the relevant criteria in the following ways:

- The proposal is compatible with adjacent land uses and there are no anticipated nuisance effects relating to overlook, shadowing, traffic or noise. Further, the parking area will be placed in the rear of the property and will be screened from neighbours through fencing and will not be visible from the road (Policy B.2.4.2.2 b);
- As there are no changes proposed to the building, the proposal is consistent with the height, massing and scale of neighbouring buildings (Policies B.2.4.2.2 c) and d));
- The proposed development introduces a modest amount of new density to the neighbourhood (Policy B.2.4.2.2 d);
- There are no changes to the existing lot pattern or building setbacks (Policy B.2.4.2.2 e), f) and g));
- The proposed development provides additional housing opportunities in the neighbourhood (Policy B.2.4.2.2 h)); and,
- The proposed development does not pose a significant impact on infrastructure and transportation capacity as the property is located on city services and in proximity to major road arterials and transit corridors, and the proposed intensification is of a minor scale (Policy B.2.4.2.2 j)).

#### Urban Housing Policies

- “B.3.2.1.1 Provide for a range of housing types, forms, and densities to meet the social, health and well-being requirements of all current and future residents.
- B.3.2.1.6 Increase the mix and range of housing types, forms, tenures, densities, affordability levels, and housing with supports throughout the urban area of the City.
- B.3.2.4.1 The development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development. A full range of housing forms, types, and densities means the full spectrum of physical housing types including single detached dwellings, semi-detached

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dwellings, duplexes, townhouses of various types (street, block, stacked), apartments and other forms of multiple dwellings, and lodging houses, built at a range of densities.”

To accommodate a growing population and respond to the climate emergency, the development of more compact, transit-supportive neighbourhoods within the built-up area will be encouraged. This proposal will provide additional housing units and density in the urban area of the City (Policy B.3.2.1.1, B.3.2.1.6, B.3.2.4.1).

#### Urban Design Policies

“B.3.3.2.2 The principles in Policies B.3.3.2.3 through B.3.3.2.10 inclusive, shall apply to all development and redevelopment, where applicable.

B.3.3.2.3 Urban design should foster a sense of community pride and identity by:

- a) respecting existing character, development patterns, built form, and landscape;
- b) promoting quality design consistent with the locale and surrounding environment;
- c) recognizing and protecting the cultural history of the City and its communities;
- e) conserving, maintaining, and enhancing the natural heritage and topographic features of the City and its communities;
- f) demonstrating sensitivity toward community identity through an understanding of the character of a place, context and setting in both the public and private realm;
- g) contributing to the character and ambiance of the community through appropriate design of streetscapes and amenity areas;”

The conversion of the existing two family dwelling requires alterations to the interior of the existing building and includes the redevelopment of a portion of the rear yard for the parking area. As no alterations to the exterior of the building are proposed, the redevelopment will maintain the existing building, preserve the existing character and heritage of the street and neighbourhood and is an appropriate redevelopment of the existing property. The adaptive reuse of an existing building will help to maintain the existing streetscape and support the importance of preserving the community’s identity. The proposal is consistent with Policy B.3.3.2.3.

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Therefore, the proposal complies with the Urban Hamilton Official Plan.

Stipley Neighbourhood Plan

The following policies related to Neighbourhood Plans, amongst others, applies:

“F.1.2.7 Neighbourhood plans are policies adopted by council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations, and policies in the Neighbourhood Plan.

F.1.2.8 Any amendment to the Neighbourhood Plan must be evaluated using the provisions of Policies F.1.1.3 and F.1.1.4 and shall require a formal Council decision to enact the amendment.”

The subject property is designated “Single and Double” within the Stipley Neighbourhood Plan. The “Single and Double” designation does not reflect the proposed multiple dwelling. Therefore, staff recommend the Neighbourhood Plan be amended to designate the lands “Medium Density Apartments” to reflect what is proposed.

The policies of the Stipley Neighbourhood Plan permit densities which maintain the stable nature of the area while enhancing the positive characteristics of the neighbourhood. Any proposed redevelopment is encouraged to enhance the quality of life in the neighbourhood. The Neighbourhood Plan indicates that the southern portion of the neighbourhood between King Street East and Main Street East is intended to maintain its low density residential character.

Current Provincial planning policy and the Urban Hamilton Official Plan direction is to encourage and support residential intensification within built-up areas within proximity to major arterial routes. The intent of the Neighbourhood Plan as it pertains to the area of the proposed development is to direct significant development to the main streets at the periphery of the neighbourhood to preserve the character of the neighbourhood which is generally detached one and two family dwellings. The proposed redevelopment will preserve the historic character of the existing building and overall neighbourhood as there will be no exterior alterations to the building while providing additional housing opportunities.

Therefore, staff support the proposed amendment to the Stipley Neighbourhood Plan.

**SUBJECT: Application for Zoning By-law Amendment for lands located at 95-97 Fairholt Road South, Hamilton (PED21029) (Ward 3) - Page 14 of 18**

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**City of Hamilton Zoning By-law No. 6593**

The subject property is currently zoned “C” (Urban Protected Residential, Etc.) District. To implement the proposed development, the applicants have applied for further modifications to the “C” (Urban Protected Residential, etc.) District. The applicant has requested ten site specific modifications to accommodate the proposal which are summarized on page 4 of Report PED21029. Two of the requested modifications recognize the existing building on the property. The remaining modifications seek to permit the proposed use and address parking and loading. A concept plan for the property is included in Appendix “C” to Report PED21029. A detailed discussion of the merits of the proposed modifications is provided in the Zoning By-law Site Specific Modifications Table contained in Appendix “D” to Report PED21029.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
<b>Department</b>	<b>Comment</b>	<b>Staff Response</b>
Growth Planning Section, Planning and Economic Development Department	No comment	No response required.
Recycling and Waste Disposal Section, Public Works Department	No comment	No response required.
Forestry and Horticulture Section, Public Works Department	Tree Management and Landscape Plan required at Site Plan Approval stage.	A Tree Management Plan and Landscape Plan will be required as a condition of approval at the Site Plan Control stage.
Transportation Planning Section, Planning and Economic Development Department	Support Zoning By-law amendment.	No response required.

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Growth Management Division, Planning and Economic Development Department	<ul style="list-style-type: none"> <li>• No Right-of-Way dedication is required.</li> <li>• No objection from a Development Engineering perspective.</li> <li>• Site Plan application will require stormwater management brief, grading and servicing plan, and water servicing report.</li> </ul>	The applicant will be required to address the matters listed at the Site Plan Control stage.
<b>Public Consultation</b>		
<b>Issue</b>	<b>Comment</b>	<b>Staff Response</b>
Maintenance	Concern was raised with the general lack of maintenance on the property.	The owner has confirmed, through their agent, that they will hire a property management company to maintain the property. The existing inground pool and shed will be removed to accommodate parking and the parking area will need to be approved through the Site Plan Control process to address Development Engineering matters and screening matters.
Parking	<p>Concern was expressed about the proposed redevelopment and how it will negatively impact the parking on the street which is already heavily parked.</p> <p>One email was received in support of the reduced parking, stating that not all residents are likely to own vehicles.</p>	Staff have worked with the applicant to secure six parking spaces in the rear of the property. Staff are of the opinion that the proposed parking ratio can be supported as all of the units will have access to an on-site parking space, and there is frequent transit service within walking distance of the property, in addition to the close proximity of cycling corridors. Should Fairholt Road South become

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		permit only, the proposed multiple dwelling will not be eligible for on street parking permits.
Intensification	A concern was raised about the number of proposed units on a quiet street.	Staff are of the opinion that the conversion of the existing two unit dwelling into a six unit multiple dwelling can fit into the existing neighbourhood context as a form of transit supportive intensification which will provide additional housing options in the area. No external alterations to the existing building are required to facilitate the redevelopment of the subject lands.

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 151 residents within 120 metres of the subject property on December 13, 2019. A public notice sign was posted on the property on December 10, 2019 and updated on January 20, 2021. In addition, Notice of the Public Meeting was given on January 29, 2021 in accordance with the requirements of the *Planning Act*.

To date, City staff have received five letters of objection, and one letter in support of the application which are attached as Appendix “E” to Report PED21029.  
Public Consultation Strategy

The applicant’s Public Consultation Strategy included mailing a public information letter to properties within 120 metres on July 15, 2020. The letter included information about the proposal and provided the contact number of the planning consultant on file for residents to contact if they had questions.

Two people contacted the planning consultant. One person raised concerns about parking and another expressed support for the proposal. These concerns are addressed in the table above.

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**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the PPS (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan upon finalization of the Neighbourhood Plan Amendment; and,
  - (iii) It is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing additional housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
  
2. The application for Zoning By-law Amendment is for a further modification to the “C” (Urban Protected Residential, Etc.) District.

The proposed change in zoning will permit a form of residential intensification within the built-up area, by adding four additional dwelling units to an existing two family dwelling. As the proposed multiple dwelling will be located within the existing building there will be no change to the form and character of the area. The proposal will maintain adequate on-site parking in the rear of the property through the provision of six parking spaces and provide amenity space for the residents in the front, side and rear yard. Additionally, the parking area will be screened from neighbouring properties with fencing and where possible vegetation. Site Plan Control approval is required for the construction of the parking lot, and matters such as drainage, screening, and landscaping will be addressed at that stage.

The proposed Zoning By-law Amendment meets the intent of the “Neighbourhoods” designation, and the residential intensification policies of the UHOP. The zoning modifications are discussed in detail in Appendix “D” to Report PED21029. Therefore, staff support the change in zoning.

**ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property would remain zoned “C” (Urban Protected Residential, etc.) District, in the City of Hamilton Zoning By-law No. 6593 which permits the existing two family dwelling.

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**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” - Location Map

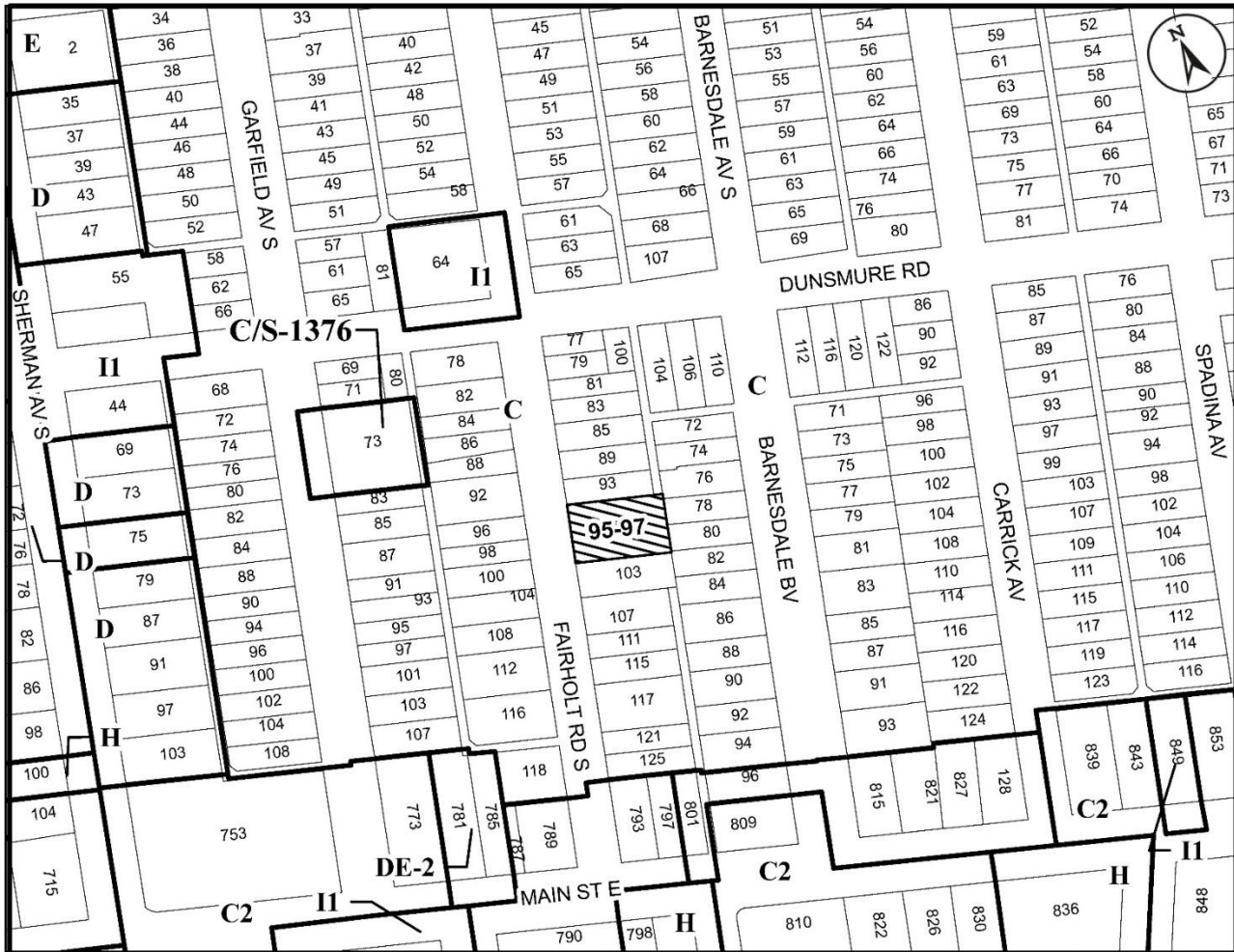
Appendix “B” - Draft Amendment to Zoning By-Law No. 6593

Appendix “C” - Concept Plan

Appendix “D”- Zoning By-law Site Specific Modification – Chart

Appendix “E” - Public Submissions

Appendix "A" to Report PED21029  
Page 1 of 1



● Site Location



Key Map - Ward 3

## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-19-054

Date:  
December 18, 2020

Appendix "A"

Scale:  
N.T.S

Planner/Technician:  
SS/NB

### Subject Property

95 and 97 Fairholt Road South, Hamilton



Change in Zoning from the "C" (Urban Protected Residential Etc.) District to the "C/S-1805" (Urban Protected Residential, Etc.) District, Modified

**Authority:** Item \_\_\_\_\_, Planning Committee  
Report  
CM:  
Ward: 3

**Bill No.**

## CITY OF HAMILTON

**BY-LAW NO.** \_\_\_\_\_

### **To Amend Zoning By-law No. 6593 (City of Hamilton) Respecting Lands located at 95-97 Fairholt Road South, Hamilton**

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Schedule C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in full force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951 (File No. P.F.C. 3821);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item \_\_\_\_\_ of Report 21-XXX of the Planning Committee, at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2021, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided; and,

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Sheet No. E33 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the zoning from the "C" (Urban Protected Residential, etc.) District to the "C/S-1805" (Urban Protected Residential, etc.) District, Modified, on the lands the extent and boundaries of which are shown of the plan hereto annexed as Schedule "A".

Appendix "B" to Report PED21029  
Page 2 of 4

2. That the "C" (Urban Protected Residential, etc.) District provisions as contained in Section 9 of Zoning By-law No. 6593 applicable to the subject lands, be modified to include the following special requirements:
  - a) That in addition to Section 9. (1) "Residential Uses", a multiple dwelling with a maximum of six dwelling units shall be permitted within the building existing on the date of the passing of this By-Law.
  - b) That notwithstanding Section 9.(2), the maximum building height shall be restricted to the height of the building existing on the date of the passing of this By-law.
  - c) That notwithstanding Section 9.(3)(i), a front yard depth of at least 3.36 metres.
  - d) That notwithstanding Section 18A(1)(a) and 18A – Table 1, a multiple dwelling shall provide 1 parking space per Class A dwelling unit.
  - e) Section 18A.(1)(b) and 18A – Column 1 of Table 2, shall not apply.
  - f) Section 18A.(1)(c) shall not apply.
  - g) Section 18A (9), shall not apply.
  - h) Section 18A (11), shall not apply.
  - i) Section 18A (12) (a) and (b), shall not apply.
  - j) That notwithstanding Section 18A (24)(b)(i) and (ii), the existing driveway access having a width of 3.43m shall be permitted for ingress and egress.
  - k) Section 18A (25), shall not apply.
3. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "C" (Urban Protected Residential, etc.) District provisions, subject to the special provisions referred to in Section 2.
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

Appendix "B" to Report PED21029  
Page 3 of 4

**PASSED and ENACTED** this    day of                    , 2021.

---

Fred Eisenberger  
Mayor

---

A. Holland  
City Clerk

ZAR-19-054





This is Schedule "A" to By-law No. 21-

Passed the ..... day of ....., 2021

-----  
Mayor

-----  
Clerk


## Schedule "A"

Map forming Part of  
By-law No. 21-\_\_\_\_\_

to Amend By-law No. 6593

### Subject Property

95 and 97 Fairholt Road South, Hamilton

 Change in Zoning from the "C" (Urban Protected Residential Etc.) District to the "C/S-1805" (Urban Protected Residential, Etc.) District, Modified

Scale:  
N.T.S

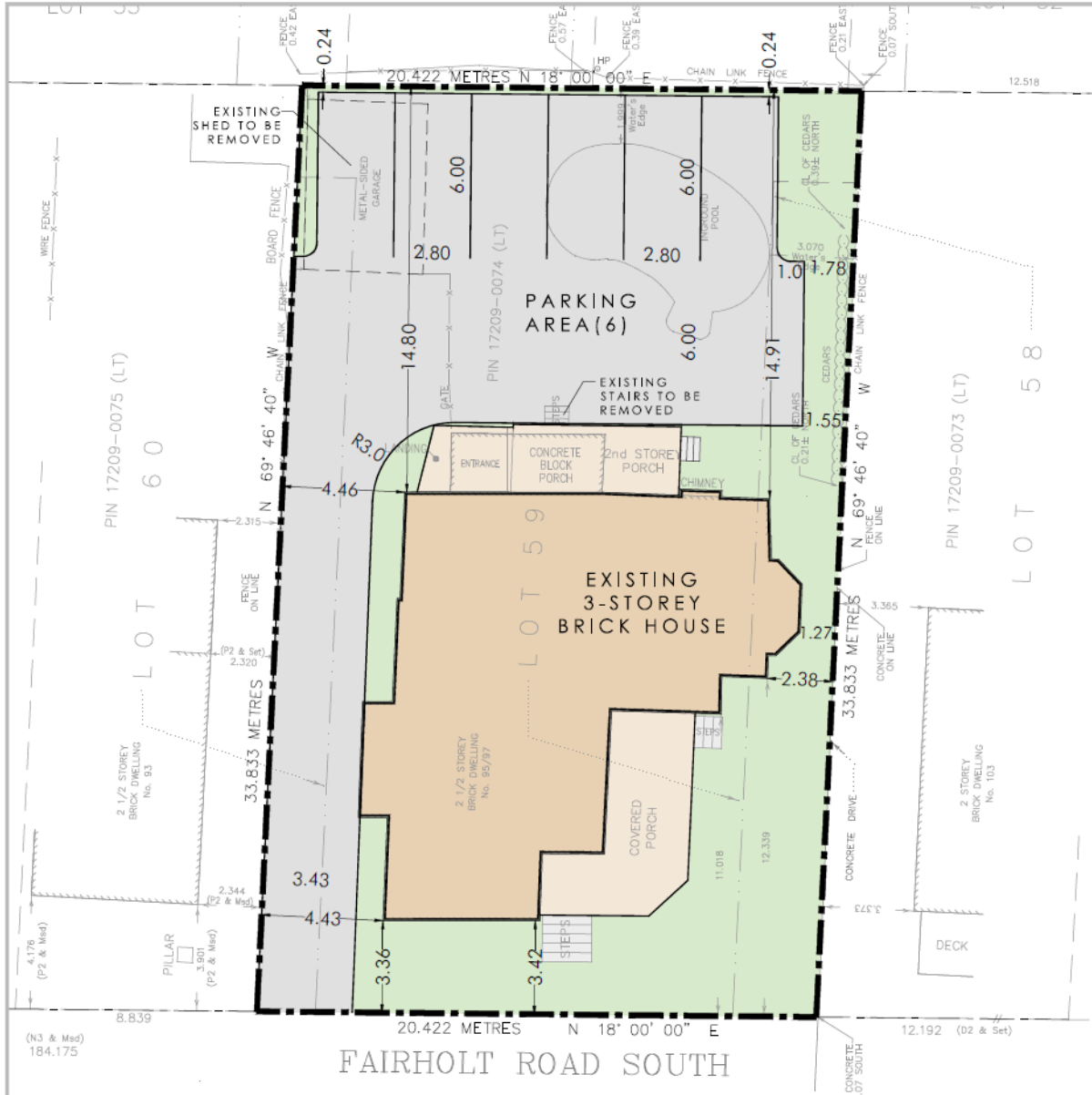
File Name/Number:  
ZAR-19-054

Date:  
December 18, 2020


Planner/Technician:  
SS/NB



Hamilton



**Concept Plan**

 Subject Lands

DATE: October 29, 2020

SCALE: 1: 200

FILE: 11162J

DRAWN: GC



K111162J-95-67 FAIRHOLT RD/CP/CONCEPT OCTOBER 29 2020.DWG

97 Fairholt Road South  
 City of Hamilton

**MHBC** PLANNING  
 URBAN DESIGN  
 & LANDSCAPE  
 ARCHITECTURE  
 200-540 BINGEMANS CENTRE DR. KITCHENER, ON, N2B 3X9  
 P. 519.576.3650 F. 519.576.0121 | WWW.MHBCPLAN.COM

<u>Site Specific Modifications to the “C” (Urban Protected Residential, Etc.) District</u>			
<b>Regulation</b>	<b>Required</b>	<b>Modification</b>	<b>Analysis</b>
Section 9. (1) (i) Restriction on the number of dwelling units.	Permits a Single Detached Dwelling.	To permit a multiple dwelling with a maximum of six units within the existing dwelling.	The proposed modification is to permit a six unit multiple dwelling. The proposed use is restricted to the existing building and as a result no external modifications are required. The proposed use will maintain the streetscape and established character of Fairholt Road South. Adequate parking is proposed.  Therefore, staff support this modification.
Section 9. (2) Height	A maximum building height of 11.0 metres and two and a half storeys	Recognize the height of the existing building.	The proposed modification recognizes the existing height of the dwelling which is marginally taller than the By-law permits.  Therefore, staff support this modification.
Section 9. (3) (i) Front Yard	A front yard depth of at least 6.0 metres.	A front yard depth of at least 3.36 metres.	The proposed modification recognizes the existing building location. There are no changes proposed to the existing building and the streetscape and character is therefore maintained.  Therefore, staff support this modification.
Section 18A. (1) (a) and (b) Minimum Required Parking	Multiple dwelling requires 1.25 spaces per Class A dwelling unit (eight parking spaces).	1.0 parking spaces per Class A dwelling unit (six parking spaces).  No visitor parking spaces are required.	The proposed modification permits the reduction of the amount of required parking spaces from eight spaces to six spaces. The regulation seeks to ensure that there is sufficient parking for residents and visitors. All of the units will have an assigned parking space. There are opportunities in the

Regulation	Required	Modification	Analysis
	Visitor parking requirement is 0.25 spaces per unit (two visitor parking spaces).		<p>neighbourhood for on-street parking for visitors. Should permit parking be enacted on the street, the multiple dwelling units will not be eligible to receive parking permits. In addition, there are cycling routes in close proximity as well as frequent and reliable public transit within walking distance of the property.</p> <p>Therefore, staff support this modification.</p>
Section 18A. (1) (c) Minimum Required Loading Space for Multiple Dwellings	One loading space for multiple dwellings between five and 30 units.	Shall not apply.	<p>The proposed modification permits the elimination of a loading space requirement. The regulation seeks to ensure that there is an area to load and unload items such as furniture. The By-law requires one loading space for multiple dwellings between five and 30 units. No loading space is required for a multiple dwelling with less than five units.</p> <p>The proposed redevelopment contains six units, and is only marginally above the threshold requirement for a specific loading space, and there are opportunities on the driveway and street to load and unload.</p> <p>Therefore staff support this modification.</p>
Section 18A. (9) Location of Parking, Loading and	The required parking, loading and maneuvering spaces shall be provided and maintained only on the lot on	Shall not apply.	The proposed modification eliminates the requirement for parking, loading and maneuvering spaces to be provided on the lot. The regulation exists to ensure that the lot can contain all uses so that there is not spillover to

Regulation	Required	Modification	Analysis
Maneuvering Spaces	which the principle building is located.		adjacent lots. The parking will be located on the lot and the maneuvering space will permit forward exit of vehicles. However, there is no loading space on the lot. Given the small number of units and the ability for delivery vehicles to park on the driveway or street, staff are of the opinion that this proposed modification can be supported.
Section 18A (11) Parking Area Containing 5 or More Spaces Abutting Residential Zone	The boundary of every parking area and spaces shall be fixed not less than 1.5 metres from the adjoining residential district boundary.	Shall not apply.	<p>The proposed modification eliminates the requirement for a buffer between the parking area and adjacent residential uses. The existing driveway, shed, and parking area immediately abut the north property line. The proposed parking area will have a buffer on the south property line but not the east and north. Through the site plan approval process, the parking area will be designed to reduce any nuisance impacts through fencing and where possible landscaping.</p> <p>Therefore, staff support the proposed modification.</p>
Section 18A (12) (a) and (b) Parking Area Abutting Residential District and Required Landscape Area and Planting Strip	The boundary of every parking area and residential area shall have a planting strip.	Shall not apply.	<p>The proposed modification eliminates the requirement for a planting strip between the parking area and residential area. The south boundary will have a landscaped area, however the east and north boundaries will not. Through the Site Plan process staff will ensure that fencing is erected around the parking area to provide a visual barrier.</p> <p>Therefore, staff support this modification.</p>

Regulation	Required	Modification	Analysis
Section 18A (24) (b) (i) and (ii) Access Driveway	Driveway width must be 5.5 metres for a parking area with more than five parking spaces, or there must be one ingress and one egress access of at least 3.0m in width.	Permit the existing driveway with of 3.43m to be used for ingress and egress.	The existing driveway is 3.43 metres wide and cannot be widened. Given the low number of parking spaces proposed, staff support the proposed modification.
Section 18A. (25) Location of Access Driveway	Access driveway shall be located not less than 3.0 metres from the common boundary between the district in which the multiple dwelling is located and the district does not permit such uses ("C" District).	Shall not apply.	<p>The proposed modification recognizes the existing location of the driveway. The intent of the regulation is to ensure that there is a buffer between multiple dwelling uses and single detached uses. Although the proposed redevelopment changes the use from two family to a six unit multiple dwelling, there are only six parking spaces proposed, and as such, there will be nominal traffic impacts which would require additional buffering.</p> <p>The Site Plan process will address issues such as drainage and fencing between properties.</p> <p>Therefore, staff support this modification.</p>

**Stewart, Sean**

---

**From:**  
**Sent:** December 14, 2019 6:20 PM  
**To:** Stewart, Sean; Nann, Nrinder  
**Cc:** ; @yahoo.com; @yahoo.com; ;  
5@hotmail.com; i m, i@hotmail.ca;  
v@me.com; @hotmail.com; t@live.com;  
i@notmail.com  
**Subject:** 6-plex proposal 95-97 Fairholt Road South

Sean Stewart,  
City Planner  
905.546.2424  
Ext. 7163

As a representative of the *Unified home owners association of Fairholt Road South*, we will require at least *2 weeks notice* for the meeting set by your department for the aforementioned proposal 95-97 Fairholt Road South by owner Semion Merzon.

I would also advise that as per your billboard seated on this property which clearly states "*all residents within 120 meters of this proposal*" that each property was to receive "*A Notice of Applications*". To that end, I can tell you, factually, that *not one* single resident has received this package within the stated 120 meters. I know, because I canvassed every single resident within the 120 meters myself.

We have a voice and our voice, collectively, is saying absolutley not. No more rental units on our street. A six-unit apartment is absolutely *unsustainable*. We are already bursting at the seems with rentals and parking. Out of 29 homes on our block/street, 14 are rentals which includes just one city block of Fairholt Road South 77- 117 - not the entire street/just our block. There are many more rentals further north, same street, that have not yet been canvassed. To put it bluntly, we are tired of being a forgotten community of Hamilton. We say *no* to becoming another Hamilton Ghetto.

Historically, this street has been a family oriented street where residents knew their neighbour and, for the most part, looked after their homes with a few exceptions ( Fairholt Road South) which have all been left to go into a deep-seated state of disrepair (year over year) with no repercussions from the city of Hamilton to protect the law abiding, tax paying, home owners of their most important investment - their homes. All have had no exterior maintenance done for at least a decade - minimum. The state of these homes is *appalling* - pictures available upon request. Not only that, of the houses sold on this street over the past five years, many have also become rental units changing our street dynamics considerably. To say the least, we've been absolutely inundated by rentals and thus, are collectively frustrated by the lack of protection by the city of Hamilton. But I regress, lets' get back to 95-97 Fairholt Road South, shall we:

- This new "owner" at 95-97 has foreshadowed himself in terms of what type of landlord he will be and, he is 'of the kind' that we dont' want.
- Failure to cut the grass in a timely manner and, failure to take down the curtains surrounding the front porch (left in place by the previous owner) that are *obviously* meant to be taken down every

year, washed, and remounted in the summer but he has done nothing - they've been left to dis-colour and blow around in the wind all seasons. And they're many of them. Soon, they will be ripped and threaded but this owner has only one thing in mind and that is, to capitalize this street with no regard for the home owners. So, it stands to reason that the push-back by the home owners has been brewing for some time. The reader can consider this email as the 'straw that broke the camels back'.

- on several occasions the grass was so long that one of the home owners on the street took it upon himself to lug his lawn mower over to the residence and cut the grass himself. The writer of this document also pulled many 5 foot weeds, an inch in diameter each, from the front yard. To that end, is it incumbent upon the home owners of this street to maintain these residents for these "business men" (from other cities I might add) who care nothing for the residents or the people who have to live here, in the homes surrounding their 'cash-cow' but too cheap to hire a maintenance company which in the end, supports the city by providing jobs aside from doing his responsibility to not create an 'eyesore'.
- when speaking of the parking issue with a resident of the street the owner was said to answer the question.. (*in a dismissive manner*).. where are the tenants supposed to park..?", his answer.. cavalierly, "on the street, free parking" with a shrug of his shoulders.

Meanwhile, there is all kinds of parking in the back of the residence where if the pool were to be filled in, the shed and fence knocked down ,PAVED and, the house be taken back to a triplex from a six-unit there may be light at the end of the tunnel so-to-speak. Providing that is- that the street be converted to "permit parking only" with each home owner granted a single street parking spot where, no rentals will be afforded street parking and, in-turn, parking to be provided by the landlords on premises or, the number of units/dwelling per address be scaled-back so that on site parking can be accommodated comfortably, without causing a parking- detriment to home owners of the area.

These demands come with a stipulation that no tenants 95-97 be allotted residence until *all the work* on the parking behind 95-97 be paved and organized and not a moment before. As an interesting note I had the opportunity to note that on December 12, three young males were casing the property with addresses' of various rental units in hand of perspective apartments. 3, in the course of approx. 30 minutes. To that end it is clear that your organization has already given the green light to Mr. Merzon. And clearly, the address is being advertised now, and thus a foregone conclusion by City planners and ward 3 councillor Nrinder Nann - Both being paid by the city of Hamilton to act on the behalf of Ward 3. Again, the forgotten home owners of Stipley, Ward 3.

There is also another deep-seated concern by all about the total lack of resolution in regard to the empty property located at Fairholt Road South. Its' been six-years (6 YEARS) that this house has laid dormant with absolutely no accountability by the current owners to keep the property in good standing order. Countless times we have had to phone bylaw, pull weeds ourselves and the latest, vagrants gaining access to the property, living there and, using this property as a drug-house as evidenced by the syringes and other garbage strewn about after gaining access to the property by breaking into the residence through a basement window. Police response " we cant do anything about it". That's not good enough and Im' sure the reader can understand our concern(s). Certainly this house can be sold to a respectable family. The current owners have stated "we dont' care about the house, or what happens to it", according to one house owner still occasionally in contact with them.

The homeowners of Fairholt road South will not allow the welfare of our street to be hastily turned into another Hamilton Ghetto. At this point, we need to see consideration of rights of us collectively, as law-abiding tax-paying citizens of the city of Hamilton, Stipley, Ward 3, Fairholt Road South.



I reiterate, we will require 2 weeks (*minimum*) notice of the meeting which is to occur downtown Hamilton City hall 2nd floor council chambers, 71 main street W and, respectfully, we impress upon your organization to halt any further actions with Mr. Merzon until these issues can be addressed for all concerned and in full.

- On behalf of the *Unified Home owners association of Fairholt Road South* -

*Disclaimer: the attached list of email address's are not all encompassing of all interested parties in this case. These other parties have also expressed grave concern and will be added to the list as they become available.*

Regards,

*representative*

**Stewart, Sean**

---

**Subject:** FW: 6-plex proposal 95-97 Fairholt Road South

---

**From:**

**Sent:** December 20, 2019 12:03 PM

**To:** Stewart, Sean <Sean.Stewart@hamilton.ca>; Nann, Nrinder <Nrinder.Nann@hamilton.ca>

**Cc:**

**Subject:** Re: 6-plex proposal 95-97 Fairholt Road South

Currently there are a number of illegal apartments on Fairholt South. A current example is 97 Fairholt South putting in a 3rd apartment in a single family home.

95-97 Fairholt South at best should be a duplex or at the most a triplex. Residents are having to park 2 - 3 blocks away from their residence due to NO PARKING available on the street. Your applicant has state to one resident his new tenants can part on the street too "as it is free."

are all multiple dwellings that according to the city are suppose to be single family homes. Are they up to code - are they fire safe and are the legal? You have a number of residences that have closed their lanes behind their homes. Have they bought these from the city or just taken them over. Look at Fairholt for example. What about 95-97 laneway?

A number of single family residence have spend individually \$10K and more fixing up our property A 6-plex is going to change the dynamics of the area to the benefit of a single NEW owner with no benefit to the long term residence.

Are the building department - urban planners - fire department parking enforcement and bi-law department all actively involved in the consideration of this application?

A 27 year resident.

**Stewart, Sean**

---

**From:** 1>  
**Sent:** January 5, 2020 1:16 PM  
**To:** Stewart, Sean  
**Subject:** Zoning By-law Amendment Application (ZAR-19-054)

As for the request to modify the "C" (Urban Protected Residential) zoning to a six unit multiple dwelling at 95-97 Fairholt Road South we are strongly opposed.

The main reason for opposing this application is that there will not be enough parking to accommodate 6 units. Parking in the area is terrible as it is. Adding more units will only make parking more difficult to find.

We commend the applicants for following the proper channels to try and modify the Zoning bylaw. There are too many illegal triplexes and four plexes

In the area as it is along with absentee landlords.

Thank You for registering our opposition

Please remove our personal information.

**Stewart, Sean**

---

**From:** [redacted]@gmail.com>  
**Sent:** January 5, 2020 3:45 PM  
**To:** Stewart, Sean  
**Subject:** ZAR-19-054 - Community Concern

Hey there Sean,

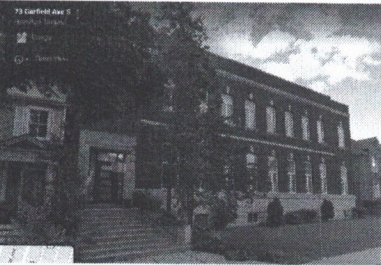
I am writing to address Zoning By-Law Amendment Application ZAR-19-054 (95-97 Fairholt Rd S).

I live at Fairholt Rd S, [redacted] project and have some major concerns with this application.

The current home is already mixed tenant and Airbnb usage. Increasing the units from 3 (I believe is the current number of suites) to 6 smaller sized potentially temporary Airbnb rental suites will increase the number of strangers passing through the neighbourhood. I am also concerned with the care that the current landlords have of the property. For nearly all of the snowfalls so far this year they haven't shovelled or salted their driveway. The shed on the driveway is also dilapidated and the fence along it is falling down.

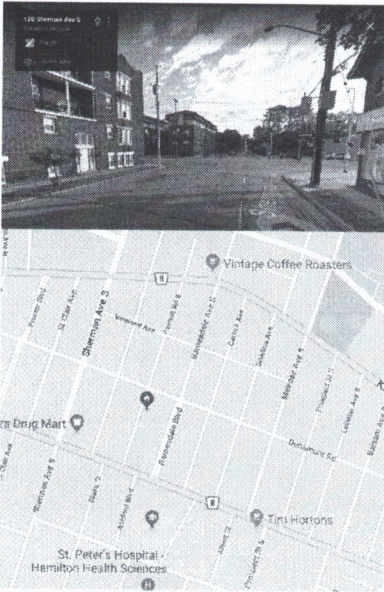
The locations sited as comparisons to 'ZONE C' are not at all comparable to the proposed development in either building type, size/scale or location on a major street.

(1) factory building repurposed into residential (73 Garfield)



or (2) On a major thoroughway or highway with traffic lights and 4 lanes of traffic (Main St E and Sherman Ave S)





I appreciate the need for residential housing in Hamilton, but I don't think making this heritage home into a 6 unit apartment on a quiet residential street is the right way to encourage positive development in the east end of Hamilton.

Happy to discuss these concerns further.

Thanks you kindly,

--

## Stewart, Sean

---

**From:** :a>  
**Sent:** January 14, 2020 6:43 PM  
**To:** Stewart, Sean; Nann, Nrinder  
**Subject:** ZAR-19-054

Dear planning and economic development department,

> This message is in regards to ZAR-19-054.

>

> As home a owner in the Stipley neighbourhood for more than 10 years I

> am objecting to the request for so many multiple units at 95-97

> Fairholt rd south.

>

>

> How will this effect the value of my property?

> What laws will be put in place about parking?

> Who monitors how many dwellings they actually build? And when?

>

> 95-97 Fairholt rd south has been largely neglected for at least the

> last 12 months. We have seen some people in the house only

> occasionally, but the yard and garage are in great neglect and

> disrepair. The garage may have squirrels, skunks and rats living in it

> as it appears to be untouched for over 12 months and in deplorable shape prior to that.

> Although the size of the residence is essentially two houses we are

> extremely concerned about each of those turning into 3 tenant

> residences due to parking issues in the neighbourhood, current neglect

> of the building, and the value of the neighbourhood. These are century

> homes in Ward 3. These homes are being chopped up too frequently

> without any concern to garbage, parking, property value, or legal

> apartments. Our greatest concern is that the yard will turn into a

> parking lot to manage the parking issues. The yard currently has a

> pool that is in terrible shape and not drained - There is a bylaw for

> this, but only october-april. The pool has not been cleaned in over

> 12months (probably 2

> years) and is about 4 feet full of rotting leaves and water. There is

> complete lack of maintenance and containment of the yard and it's debris.

>

> Indeed the property needs some fixing, but our concern about the lack

> of oversight of the property thus far is paramount and has been

> outlined by many neighbours. Parking is a huge issue in this neighbourhood.

>

> To accommodate the influx of multiple units what laws are there about parking?

> I am requesting permit parking on Fairholt Road south and Barnesdale

> Boulevard. I am also requesting that the city follow up on the illegal

> basement apartments if the concern for making living residences

> available is the reason why so many units would be allowed for a single dwelling.

>

> I would like to be informed of any updates and timelines as per the 20

> days notice outlined in bylaw zoning information. The property should

- > be managed in all legal and current environmental manors.
- >
- > The current owner has failed to meet basic property bylaws in all of
- > the time of their ownership, thus indicating a potential lack of
- > ability to effectively manage a six dwelling property.

>

> Sincerely

>

> I do not want my name address or information shared.

>

>

**Stewart, Sean**

---

**From:**  
**Sent:** July 22, 2020 7:32 PM  
**To:** Stephanie Mirtitsch  
**Subject:** 95-97 Fairholt Rd. S - zar-19-054

As much as I appreciate the response to address parking concerns surrounding the proposal for 95-97 Fairholt Rd.S, I seek to understand how the city of Hamilton would consider a parking ratio under 1.0 as acceptable for this area.

Thanks,

<



**Stewart, Sean**

---

**Subject:** FW: 95-97 Fairholt Road South

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**From:**

**Sent:** July 28, 2020 11:00 AM

**To:** Stephanie Mirtitsch <smirtitsch@mhbcplan.com>

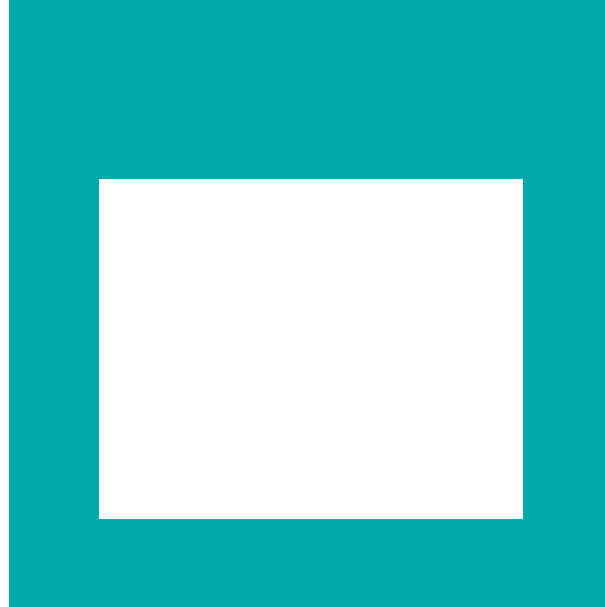
**Subject:** 95-97 Fairholt Road South

Received your letter re development of this property.  
What are you rezoning to? your letter said, rezoning from C to C?

I totally support redevelopment of this property, and the amendment to allow for less parking spaces.  
The by law is archaic.

People are moving away from cars, and often don't even own a car.

Regards,



WELCOME TO THE CITY OF HAMILTON

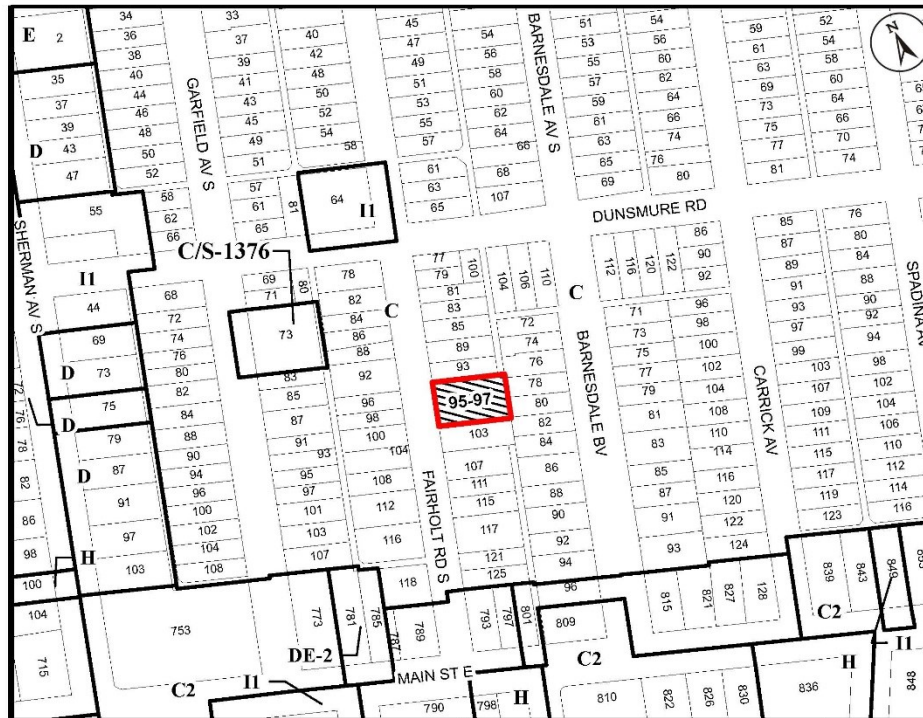
# PLANNING COMMITTEE

February 16, 2021

# PED21029– (ZAR-19-054)

Application for Zoning By-law Amendment for lands located at  
95 - 97 Fairholt Road South, Hamilton

Presented by: Sean Stewart



● Site Location



Key Map - Ward 3

### Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-19-054

Date:  
December 18, 2020

Appendix "A"

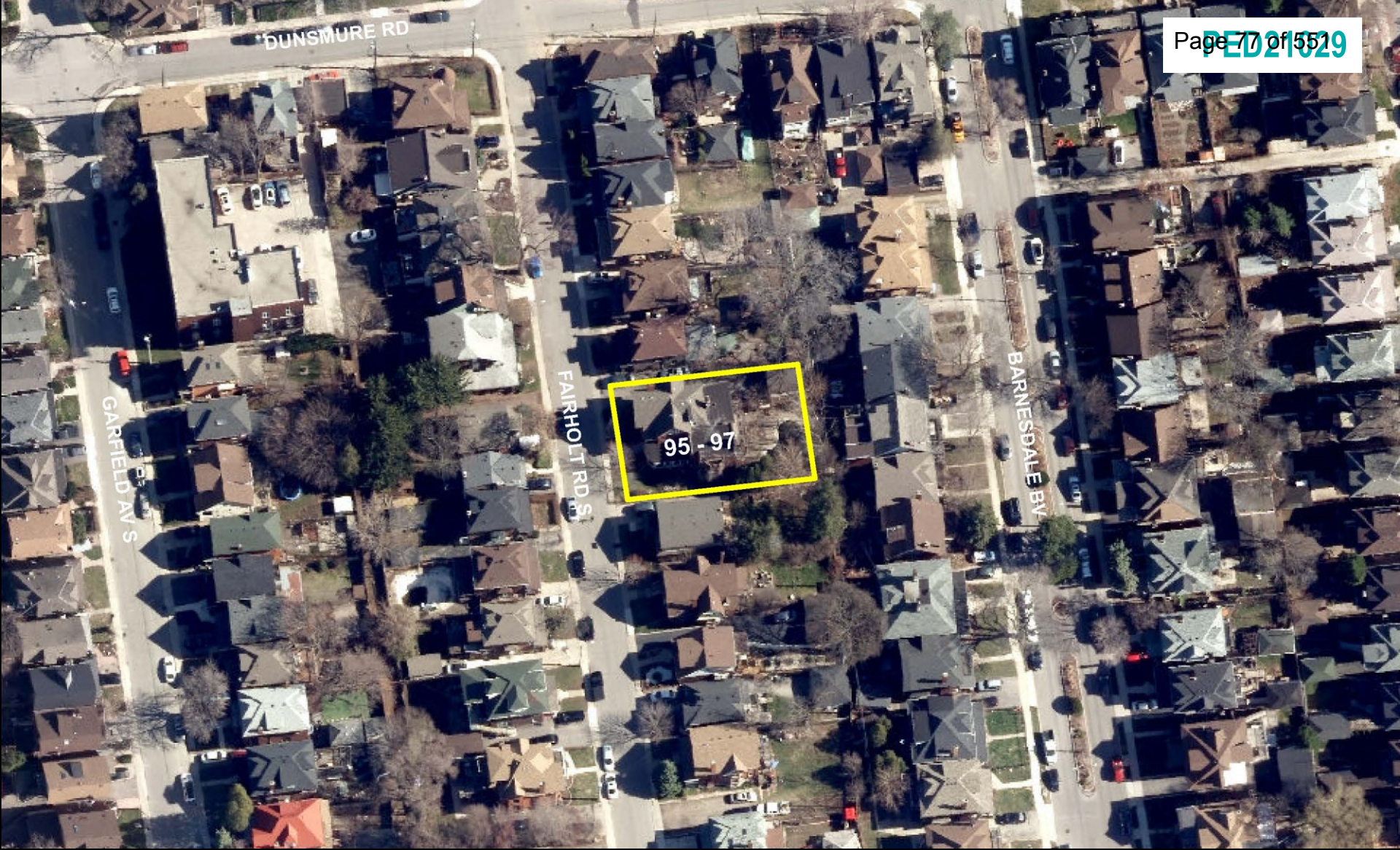
Scale:  
N.T.S

Planner/Technician:  
SS/NB

#### Subject Property

95 and 97 Fairholt Road South, Hamilton

- Change in Zoning from the "C" (Urban Protected Residential Etc.) District to the "C/S-1805" (Urban Protected Residential, Etc.) District, Modified



95 - 97


SUBJECT PROPERTY



95 & 97 Fairholt Road South, Hamilton



**Concept Plan**

 Subject Lands

DATE: October 29, 2020  
 SCALE: 1: 200  
 FILE: 11162J  
 DRAWN: GC



97 Fairholt Road South  
 City of Hamilton

K:\11162-94\Fairholt RD\CP\CONCEPT OCTOBER 29 2020.DWG

**MHBC** PLANNING  
 URBAN DESIGN  
 & LANDSCAPE  
 ARCHITECTURE

200-40 BINGEMANS CENTRE DR, KITCHENER, ON, N2B 3K9  
 P: 519.574.3450 F: 519.574.0121 | WWW.MHBCPLAN.COM



Subject property (95-97 Fairholt Road South)



Proposed parking area access driveway

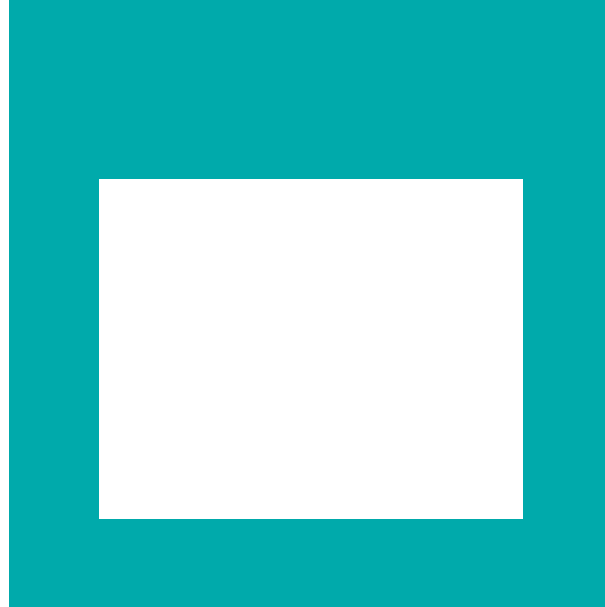




Looking south on Fairholt Road South



Looking north on Fairholt Road South



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Non-Statutory Public Meeting for an Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5 <sup>th</sup> Street, Hamilton (PED21037) (Ward 8)
<b>WARD(S) AFFECTED:</b>	Ward 8
<b>PREPARED BY:</b>	James Van Rooi (905) 546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

That Report PED21037, together with any written submissions and input from delegations received at Planning Committee, be referred to staff for consideration and incorporated into a further report for direction to be given to the City Solicitor on the appeal to the LPAT for non-decision of an Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton.

## Executive Summary

The subject property is municipally known as 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street (refer to Appendix "A" to Report PED21037). The applicant, Valeri Construction Limited, has applied for an Urban Hamilton Official Plan Amendment UHOPA-19-008 and Zoning By-law Amendment ZAC-19-029.

---

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton (PED21037) (Ward 8) - Page 2 of 6**

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The purpose of the applications is to facilitate the development of a nine storey (27.8 metre) multiple dwelling containing 216 residential units with 54 surface parking spaces and 167 underground parking spaces within a one level underground parking structure.

Application UHOPA-19-008 is an Official Plan Amendment application to create a Site Specific Policy Area for the subject lands that would increase the overall density from 100-200 units per net hectare to 309 units per net hectare to permit a nine-storey storey multiple dwelling.

Application ZAC-19-029 is a Zoning By-law Amendment application to rezone the lands from the “C” (Urban Protected Residential, Etc.) District, “AA” (Agricultural) District, and “DE-2/S-1700” (Multiple Dwelling) District, Modified, to a site specific “DE-2” (Multiple Dwelling) District, in Former City of Hamilton Zoning By-law No. 6593 to permit a nine storey (27.8 metre) multiple dwelling.

A number of site specific zoning modifications were proposed to implement the proposed development, including:

- To permit a building height of 27.8 metres instead of 26 metres;
- To permit a minimum front yard setback of 2 metres for floors 1-4; a minimum 6.8 metres for floors 5-9; and a minimum 0.97 metres for the underground parking garage instead of between 3 metres to 7.5 metres;
- To permit the interior side yard to be a minimum of 3.79 metres for floors 1-9 and a minimum of 2.07 metres for the underground parking garage instead of between 4.5 metres to 13.5 metres;
- To permit a flankage yard to be a minimum of 3.45 metres for floors 1-9 and 1.14 metres for the underground parking garage instead of between 3 metres to 7.5 metres;
- To permit a rear yard setback of 15.5 metres for floors 1-9 and 0.8 metres for the underground parking garage instead of between 3 metres to 13.5 metres;
- To permit a maximum gross floor area ratio of 3.35 instead of 0.90;
- To permit 1 parking space per dwelling unit instead of 1.25 parking spaces per dwelling unit and a minimum 0.25 visitor parking spaces per dwelling unit;
- To permit a loading space size of 3 metres by 13.9 metres instead of 18 metres by 3.7 metres by 4.3 metres in height;
- To permit the landscaped area provision to not apply instead of a minimum of 25% of the lot to be landscaped area;
- To permit parking spaces to be 3 metres by 5.8 metres instead of 2.7 metres by 6 metres;

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**SUBJECT: Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton (PED21037) (Ward 8) - Page 3 of 6**

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- To permit for parking spaces to be 2.8 metres by 5.8 metres in an underground parking structure instead of 2.7 metres by 6 metres;
- To permit not more than 10% of the required parking to be 2.6 metres by 5.8 metres for small cars instead of 2.7 metres by 6 metres;
- To permit the surface parking area to be a minimum of 0.9 metres from adjoining residential lots instead of 1.5 metres from adjoining residential lots;
- To remove restrictions for canopy projections into a required flankage yard instead of permitting up to only a 1.5 metre projection in a front yard, and provided no projection is closer than 1.5 metres to a street line and instead of permitting a projection more than half its width or 1 metre into a side yard;
- To remove restrictions for a terrace, an uncovered porch or platforms to project into a required yard or to the nearest streetline instead of allowing to project up to 0.5 metres from the nearest side lot line and up to 1.5 metres from the nearest streetline; and,
- To permit ornamental features to project into required yards instead of allowing ornamental features to project up to 0.5 metres from the nearest side lot line and up to 1.5 metres from the nearest streetline.

On July 31 2020, 465 days after the initial application was received and deemed complete, the applications were appealed for a non-decision by Council.

At the December 8, 2020 Planning Committee in response to an information report advising that appeals had been filed, staff were directed to schedule a non-statutory meeting and give notice based on the notice requirements/provisions of the *Planning Act*.

This report, together with any written submissions and input from delegations received at the Planning Committee, will be referred to staff for consideration and incorporated into a further report for direction to be given to the City Solicitor in terms of the City's position on the appeals to the LPAT.

**Background:**

On December 8, 2020, as part of Report LS20036/PED20217, in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision. Planning Committee was advised on matters relating to an appeal to the Local Planning Appeal Tribunal (LPAT) with regards to Urban Hamilton Official Plan Amendment application UHOPA-19-008 and Zoning By-law Amendment application ZAC-19-029, on December 8, 2020, as part of Report LS20036/PED20217, in

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**SUBJECT: Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton (PED21037) (Ward 8) - Page 4 of 6**

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accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision.

Although the applications have been appealed to the Local Planning Appeal Tribunal (LPAT) prior to a Statutory Public Meeting being held, a non-statutory public meeting has been scheduled as per Council's Procedures for Appeals, adopted February 28, 2018, which, in part, reads:

“(i) Where an appellant has agreed to postpone the scheduling of any hearing event until such time as Planning Committee has had an opportunity to consider the matter and that agreement has been communicated to the Ontario Municipal Board or its successor, that Planning staff be directed to process those matters accordingly and bring those matters to Planning Committee at a non-statutory public meeting for consideration and for direction to be given to the City Solicitor;”

A Non-Statutory Public Meeting has been scheduled to provide residents and neighbours an opportunity to speak to these applications. Input received from delegations at Planning Committee, along with any written submissions, will be referred to staff for consideration and incorporated into a further report for direction to the City Solicitor.

**Information:**

The subject property is municipally known as 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street (refer to Appendix “A” to Report PED21037).

The subject property is rectangular in shape, having a lot area of 0.8 ha (1.97 ac) and is located along two frontages, being Stone Church Road West and West 5<sup>th</sup> Street. The property is bound by Stone Church Road West to the north, St. Mari's Assyrian Church to the east, a retirement facility (currently undergoing construction) to the south, and West 5<sup>th</sup> Street to the west. The property is located within the Mewburn Neighbourhood.

The subject lands were previously developed with single detached dwellings, but 83 and 89 Stone Church Road West obtained demolition permits in 2013 and 2015 respectively. The demolition permits were obtained in anticipation of a prior development application approval under File No. ZAC-13-018 to permit 18 stacked townhouses. This previous application was abandoned and superseded by the current applications for an Official Plan and Zoning By-law Amendment to permit a multiple dwelling. The current applications were submitted on April 23, 2019 and were deemed complete on May 23, 2019.

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**SUBJECT: Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-19-008 and Zoning By-law Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83, and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton (PED21037) (Ward 8) - Page 5 of 6**

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The last submission provided by the applicant on June 15, 2020, proposed the development of a nine storey (27.8 metre) multiple dwelling containing 216 residential units with 54 surface parking spaces and 167 underground parking spaces within a one level underground parking structure, access to the site would be from West 5<sup>th</sup> Street (refer to Appendix “D” to Report PED21037).

**Applications:**

**Official Plan Amendment Application:**

The applicant originally applied for an Official Plan Amendment to allow for a site specific policy in Volume 3 of the Urban Hamilton Official Plan to permit a multiple dwelling development with a maximum density of 339 units per hectare, proposed in the form of a ten storey, 237 unit building. The last submission received by the applicant continued to propose a site specific policy in Volume 3 of the Urban Hamilton Official Plan to permit a multiple dwelling development however with a maximum density of 309 dwelling units per hectare in the form of a nine storey, 216 unit building.

**Zoning By-law Amendment Application:**

The Zoning By-law Amendment application proposed to rezone the lands from the “C” (Urban Protected Residential, Etc.) District, “AA” (Agricultural) District, and “DE-2/S-1700” (Multiple Dwelling) District, Modified to a site specific “DE-2” (Multiple Dwelling) District, in Former City of Hamilton Zoning By-law No. 6593.

In addition, a number of site specific modifications were proposed to implement the proposed development, including an increase in height, a reduction in front, side, flankage and rear yard requirements, an increase in floor area ratio, a reduction in landscaped area, a reduction in the number of parking spaces required, a modification to the parking stall size, a reduction in buffering of parking areas from adjoining properties, and modifications related to projections for canopies, terraces, porches or platforms. The requested site specific modifications are shown on the concept plan in Appendix “B” to Report PED21037.

**Public Consultation:**

As part of the Applicant’s Public Consultation Strategy and in consultation with the Ward Councillor’s office, a neighbourhood meeting was held on September 19, 2019. Notice of the neighbourhood meeting was sent out by the applicant to residents within 120 metres of the subject lands and additional notice was provided to residents on Pantano Drive and Giovanna Drive through the Councillor’s office.

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**SUBJECT: Non-Statutory Public Meeting for Urban Hamilton Official Plan  
Amendment Application UHOPA-19-008 and Zoning By-law  
Amendment Application ZAC-19-029 for Lands Located at 73, 77, 83,  
and 89 Stone Church Road West and 1029 West 5<sup>th</sup> Street, Hamilton  
(PED21037) (Ward 8) - Page 6 of 6**

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To date staff have received a total of 47 written submissions by residents opposed to the development. In addition, a petition has been received, signed by 76 individuals opposed to the development.

Issues raised by the public related to traffic and parking, the notification and circulation process, infrastructure and site servicing capacity, overdevelopment of the site, construction impacts, tenure, community benefit and compatibility with adjacent existing low density development.

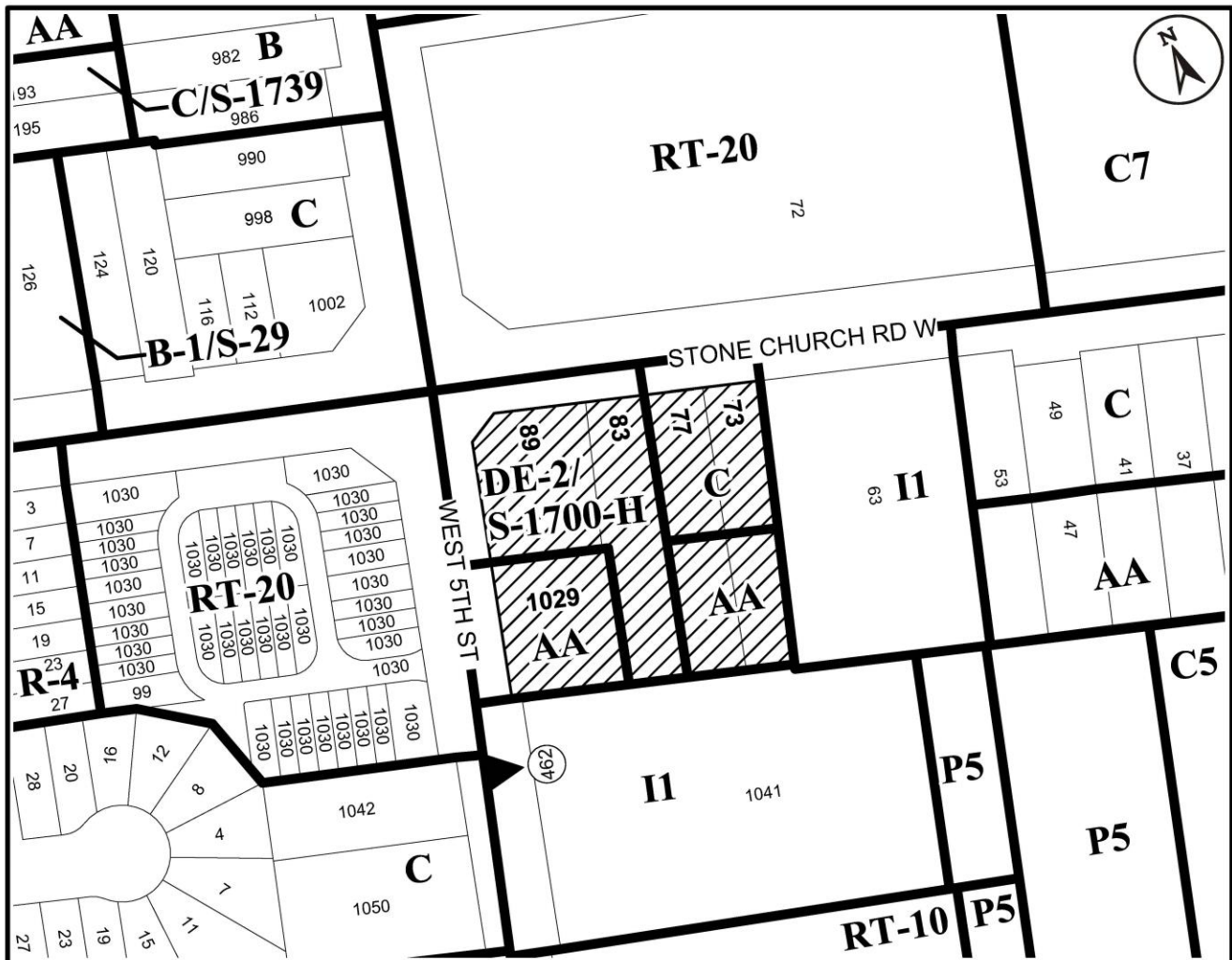
The appeal of both applications was received by the City Clerk's Office on July 31, 2020, 465 days after the receipt of the initial application (refer to Appendix "C" to Report PED21037).

Notice of the Non-Statutory Public Meeting was sent on January 29, 2021 to 146 property owners within 120 m of the subject property, as well as the people who attended the previous neighbourhood meeting or provided written concerns associated with this proposal.

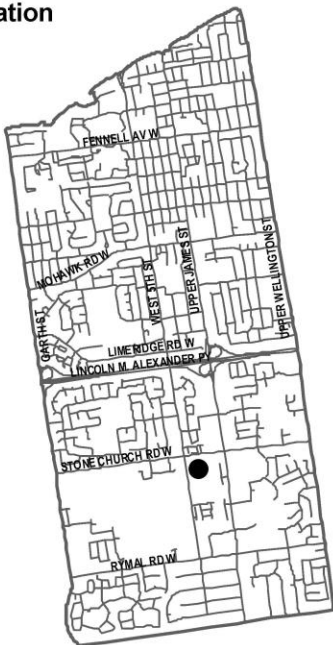
#### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" - Location Map  
Appendix "B" - Site Plan  
Appendix "C" - Letter of Appeal  
Appendix "D" - Elevation Drawings

AF:jvr



● Site Location



Key Map - Ward 8

N.T.S.

## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-19-029 & UHOPA-19-008

Date:  
May 28, 2019

ZAC-19-040  
Appendix "A"

Scale:  
N.T.S.

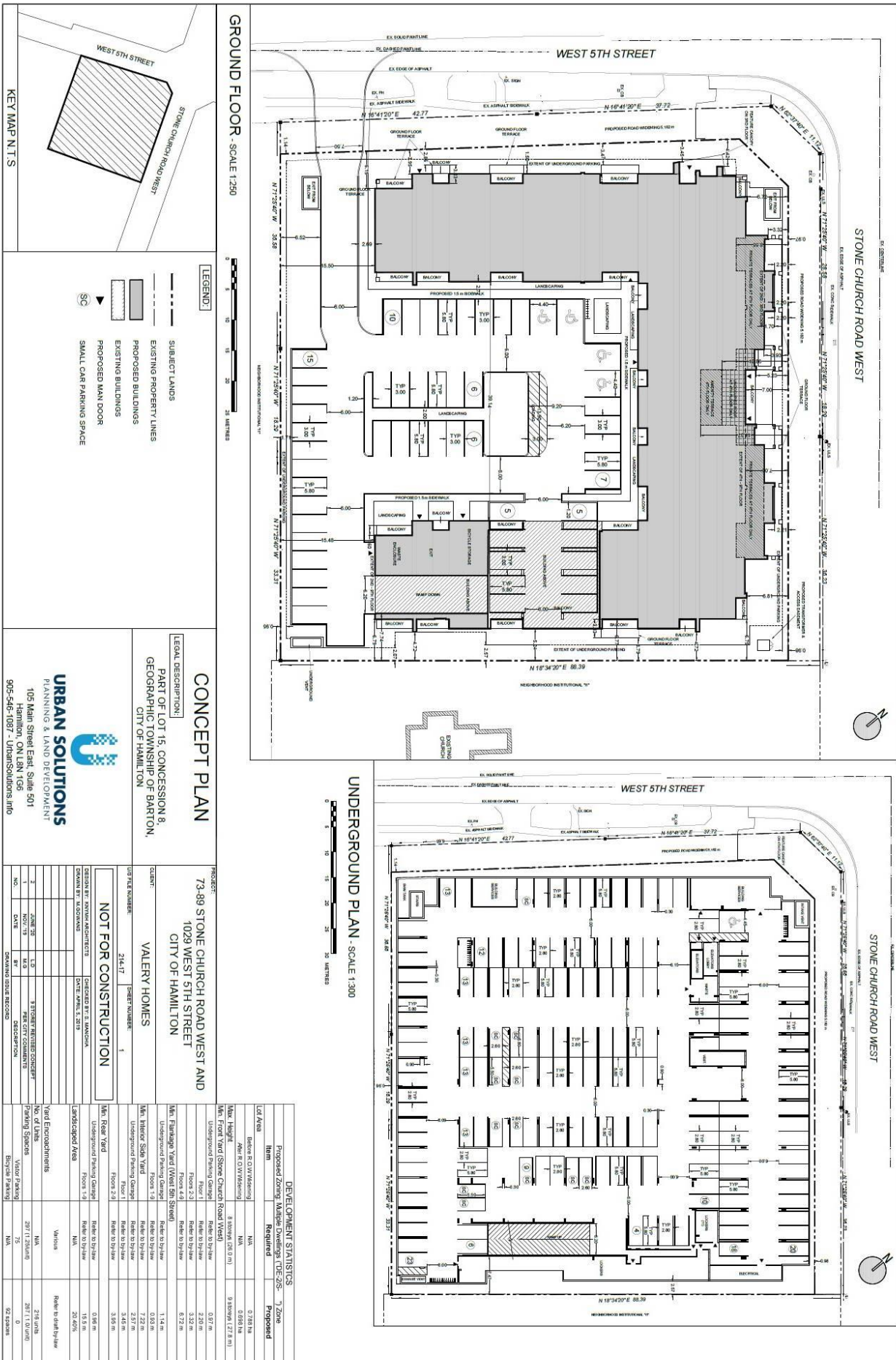
Planner/Technician:  
JV/AL

### Subject Property

73, 77, 83 & 89 Stone Church Road West and  
1029 West 5th Street



Change in Zoning from the "C" (Urban Protected Residential, Etc.) District, "AA" (Agricultural) District, and "DE-2/S-1700" (Multiple Dwelling) District, Modified to a "DE-2/S-XXXX" (Multiple Dwelling) District, Modified



**CONCEPT PLAN**

LEGAL DESCRIPTION:  
PART OF LOT 15, CONCESSION 8,  
GEOGRAPHIC TOWNSHIP OF BARTON,  
CITY OF HAMILTON

PROJECT:  
73-80 STONE CHURCH ROAD WEST AND  
1029 WEST 5TH STREET  
CITY OF HAMILTON

CLIENT:  
VALERY HOMES

DESIGNER:  
URBAN SOLUTIONS  
PLANNING & LAND DEVELOPMENT  
105 Main Street East, Suite 401  
Hamilton, ON L8N 1G6  
905-546-1087 - UrbanSolutions.info

**NOT FOR CONSTRUCTION**

NO.	DATE	BY	DESCRIPTION
1	2024-08-15	UR	STRATEGIC CONCEPT
2	2024-08-15	UR	STRATEGIC CONCEPT

**DEVELOPMENT STATISTICS**

Item	Required	Proposed
Lot Area	N/A	0.78 ha
Max. Height	13.10 m (43.0 ft)	9.80 m (32.1 ft)
Min. Front Yard (Stone Church Road West)	Rate to By-Law	0.2 m
Min. Front Yard (Stone Church Road West)	Rate to By-Law	3.25 m
Min. Front Yard (Stone Church Road West)	Rate to By-Law	6.72 m
Min. Front Yard (West 5th Street)	Rate to By-Law	1.14 m
Min. Rear Yard	Rate to By-Law	7.22 m
Min. Side Yard	Rate to By-Law	4.81 m
Min. Side Yard	Rate to By-Law	3.48 m
Min. Side Yard	Rate to By-Law	0.2 m
Min. Side Yard	Rate to By-Law	1.51 m
Min. Side Yard	Rate to By-Law	20.40 m
Min. Rear Yard	Rate to By-Law	214.00 m
Min. Side Yard	Rate to By-Law	267.11 (0.00) m
Min. Side Yard	Rate to By-Law	0
Min. Side Yard	Rate to By-Law	52.20 m

RUSSELL D. CHEESEMAN  
- Barrister & Solicitor -

REAL ESTATE DEVELOPMENT | MUNICIPAL LAW | ENVIRONMENTAL LAW

July 30, 2020

**DELIVERED BY COURIER and BY E - MAIL**

Ms. Andrea Holland  
City Clerk  
Corporation of the City of Hamilton  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, Ontario  
L8P 4Y5

<b>OFFICE OF THE CITY CLERK</b>	
JUL 31 2020	
REF'D TO	_____
REF'D TO	_____
REF'D TO	_____
ACTION	_____
_____	

Dear Ms. Holland:

**Re: Notice of Appeals Pursuant to Section 22(7) and 34(11) of the  
Planning Act, R.S.O. 1990, c. P. 13, as amended – T. Valeri  
Construction Limited – 73-89 Stone Church Road West and  
1029 West 5<sup>th</sup> Street, City of Hamilton  
City of Hamilton File Nos. UHOPA-19-08 & ZAC-19-029**

We are counsel for T. Valeri Construction Limited, the owner of the above referenced lands in the City of Hamilton.

T. Valeri Construction Limited, through its land use planning consultants, Urban Solutions Planning & Land Development Consultants Inc., filed applications to amend both the Official Plan and the Comprehensive Zoning By-law of the City of Hamilton in respect of the above referenced property on April 18, 2019. The applications were deemed complete by the City of Hamilton on May 23, 2019.

To date the City of Hamilton has failed to adopt the Official Plan Amendment and neglected to make a decision on the Zoning By-law Amendment.

This letter will serve as our client’s Notice of Appeal of Hamilton Council’s failure to adopt the requested Official Plan Amendment Application pursuant to Section 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. This letter will also serve as our client’s Notice of Appeal of Hamilton Council’s neglect to make a decision on the Zoning By-law pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Please find enclosed our firm’s cheque in the amount of \$2200.00, payable to the “Minister of Finance – Ontario”, which we understand to be the required combined

Royal Building  
277 Lakeshore Road East, Suite 211  
Oakville ON L6J 1H9



Toronto Meeting Rooms  
Brookfield Place, 161 Bay Street, Suite 2700  
Toronto ON M5J 2S1

fee for these types of appeals. Please also find enclosed one set of completed Form "A1" of the Local Planning Appeal Tribunal, for inclusion with the documentation you will forward to the Local Planning Appeal Tribunal.

Our client is of the opinion that the applications as submitted are consistent with the Provincial Policy Statement 2014, issued under Section 3 of the *Planning Act*. We also are of the opinion that the applications are in conformity with the Growth Plan for the Greater Golden Horseshoe, which is the Provincial Plan in effect and applicable to these lands. We believe the applications that were submitted constitute good land use planning.

We trust that you will now prepare a record and forward the prescribed material to the Local Planning Appeal Tribunal within fifteen days of the receipt of this notice, in compliance with Sections 22(9) and 34(23) of the *Planning Act*.

Thank you for your cooperation in respect of this matter.

Yours very truly,



Russell D. Cheeseman

cc. Mr. Ted Valeri (via e-mail)  
Mr. Paul Valeri (via e-mail)



Environment and Land Tribunals Ontario  
**Local Planning Appeal Tribunal**  
 655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Website: [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca)

Receipt Number (LPAT Office Use Only)

Date Stamp Appeal Received by Municipality/Approval Authority

**To file an appeal, select one or more below**

- Appeal of *Planning Act* matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances, proceed to Section 1A
- Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

**1 A. Appeal Type (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input checked="" type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 90 days	34(11)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
<b>Site Plan</b>	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

For matters subject to Bill 139 and the associated transition regulation (the second appeal).

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**1 C. Other Appeal Types (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b><i>Development Charges Act Matters</i></b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b><i>Education Act Matters</i></b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b><i>Aggregate Resources Act Matters</i></b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b><i>Municipal Act Matters</i></b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	



Subject of Appeal	Type of Appeal	Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
<b>Designation of Property</b>	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
<b>Other Act Matters</b>		
Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal  
 73-89 Stone Church Road West & 1029 West 5th Street

Municipality  
 City of Hamilton

Upper Tier (Example: county, district, region)

**3. Appellant/Objector Information**

**Note:** You must notify the LPAT of any change of address or telephone number in writing. Please quote your LPAT Case/File Number(s) after they have been assigned.

Last Name Valeri	First Name Ted
---------------------	-------------------

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
 T. Valeri Construction Limited

Email Address  
 ted@valeryhomes.com

Daytime Telephone Number 905-547-5056	ext.	Alternate Telephone Number
--	------	----------------------------

**Mailing Address**

Unit Number	Street Number 2140	Street Name King Street East	PO Box
City/Town Hamilton	Province Ontario	Country Canada	Postal Code L8K 1W6

**4. Representative Information**

I hereby authorize the named company and/or individual(s) to represent me

Last Name  
Cheeseman

First Name  
Russell

Company Name

Professional Title  
Barrister and Solicitor

Email Address  
rdcheese@aol.com

Daytime Telephone Number  
416-955-9529

ext.

Alternate Telephone Number  
416-520-9854

**Mailing Address**

Unit Number  
211

Street Number  
277

Street Name  
Lakeshore Road East

PO Box

City/Town  
Oakville

Province  
Ontario

Country  
Canada

Postal Code  
L6J 1H9

**Note:** If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

**5. Appeal Reasons**

Municipal Reference Number(s)  
City of Hamilton File Nos. UHOPA-019-08 & ZAC-19-029

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

Please see accompanying letter, dated July 30, 2020

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you intend on arguing one or more of the following:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement, issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If you intend on arguing on one or more of the above throughout a proceeding, please explain:  
Please see accompanying letter, dated July 30, 2020

**Oral/written submissions to council**

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council
- Written submissions to council

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

- Yes
- No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- Yes
- No

If yes, please provide LPAT Case Number(s) and/or Municipal File Number(s)

**7. Mediation**

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- I have read and understand the above statement.

**8. Witness Information**

Detail the nature and/or expertise of witnesses you will have available.

Land Use Planning, Architectural & Urban Design, Acoustical Engineering, Civil Engineering, Traffic Engineering, Hydrogeological Engineering, Geotechnical Engineering, Archaeological, Landscape Architecture

**For all other appeal types :**

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.).


**9. Required Fee**

Total Fee Submitted \$ 2,200

- Payment Method ►  Certified cheque  Money Order  Lawyer's general or trust account cheque

**10. Declaration**

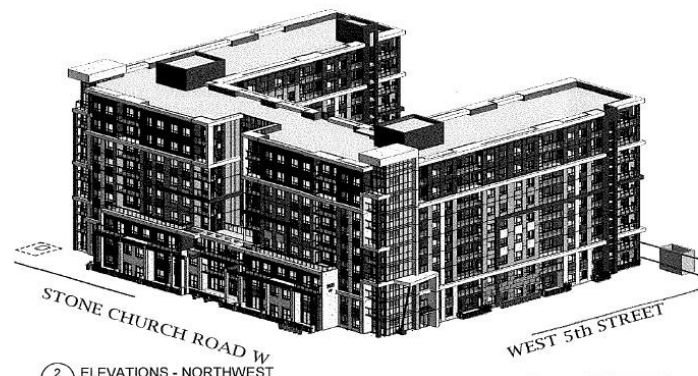
I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Russell D. Cheeseman		2020/07/30

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.



1 NORTH ELEVATION  
A400 1/160



2 ELEVATIONS - NORTHWEST  
A400

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KEY TO SYMBOL LOCATIONS

No.	SYMBOL	DESCRIPTION
1	(Symbol)	GENERAL REVISION
2	(Symbol)	REVISIONS TO DRAWING

DRAWING SHEET ISSUED	NO.	DATE	BY
ISSUE FOR PERMIT	1	2024.04.11	BP
REVISIONS TO PERMIT	2	2024.04.11	BP
FOR CONSTRUCTION	3	2024.04.11	BP

ALL PREVIOUS EDITIONS OF THIS DRAWING ARE SUPERSEDED

REVISIONS TO DRAWING	NO.	DATE	BY
	1		

NOT FOR CONSTRUCTION WITHOUT PERMIT

**KNYMH**  
ARCHITECTURE • SOLUTIONS

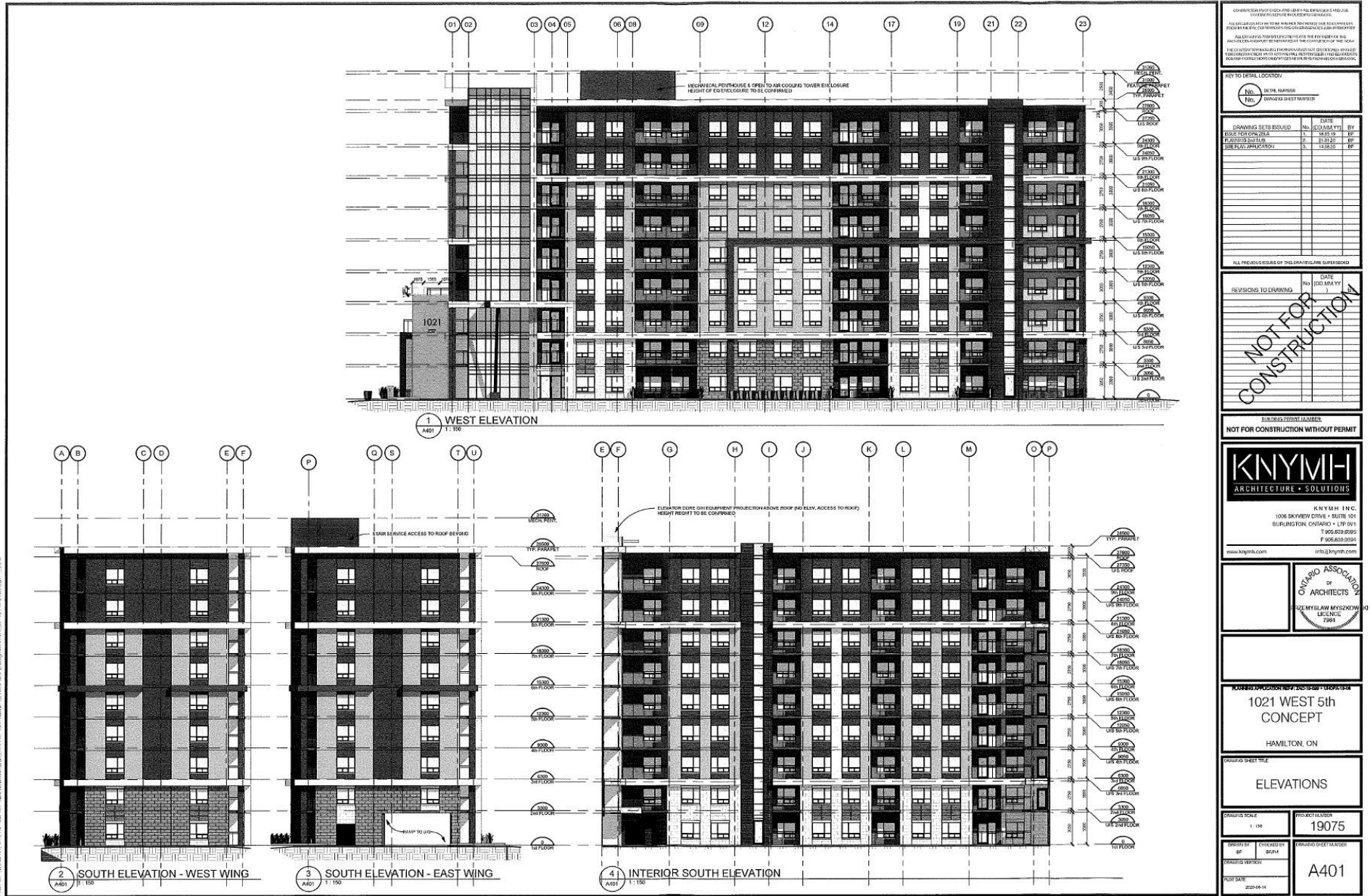
KNYMH INC.  
1008 SKYVIEW DRIVE • SUITE 104  
BURLINGTON, ONTARIO • L7P 0V1  
T 905.639.0595  
F 905.639.0394  
www.knymh.com info@knymh.com

ONARIO ASSOCIATION  
OF ARCHITECTS  
RIZEMAYLA MYSZKOWSKI  
LICENCE # 2388

PLANNING AND DESIGN NO. 2024-10-100-1-1007-104  
1021 WEST 5th  
CONCEPT  
HAMILTON, ON

DRAWING SHEET TITLE	
ELEVATIONS	
DRAWING SCALE	PROJECT NUMBER
As Indicated	19075
DRAWN BY	CHECKED BY
BP	BP
DRAWING NUMBER	DRAWING SHEET NUMBER
190	A400
PROJECT DATE	
2024.04.11	

T:\PROJECTS\2024\1021 West 5th\1021 West 5th Concept\1021 West 5th Concept.dwg, Drawing 19075, 1021 West 5th Concept, 2024.04.11



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KEY TO SHEET LOCATION

No.	DATE	BY
1	10/10/19	EP
2	11/22/19	EP
3	11/08/20	EP

DRAWING SETS ISSUED

No.	DATE	BY
1	10/10/19	EP
2	11/22/19	EP
3	11/08/20	EP

REVISIONS TO DRAWING

No.	DATE	BY
1	10/10/19	EP
2	11/22/19	EP
3	11/08/20	EP

KNYMH ARCHITECTURE + SOLUTIONS

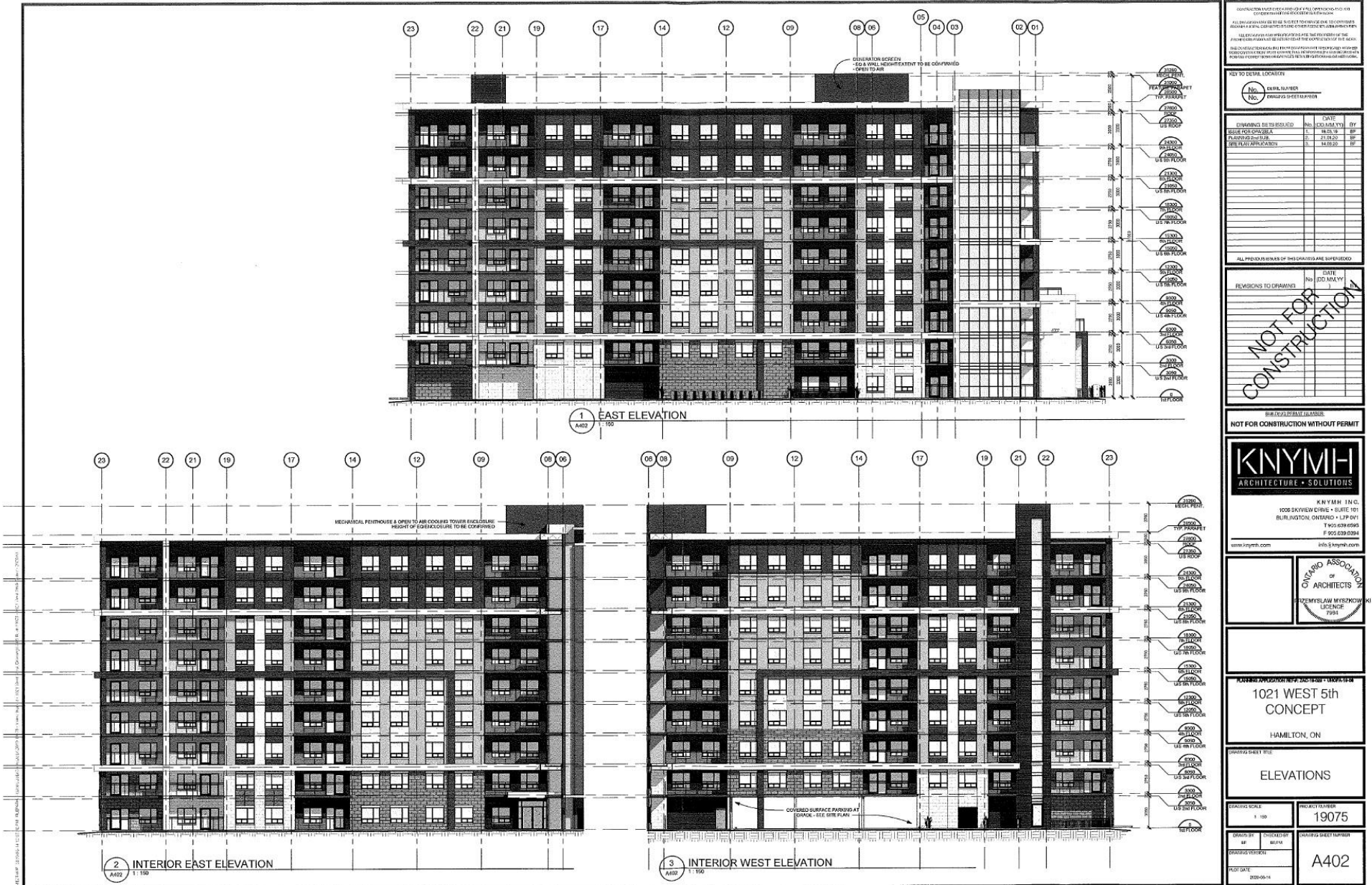
KNYMH INC.  
1006 SKYVIEW DRIVE • SUITE 101  
BURLINGTON, ONTARIO • L7P 0V1  
T 905.639.0295  
F 905.639.0394  
www.knymh.com info@knymh.com

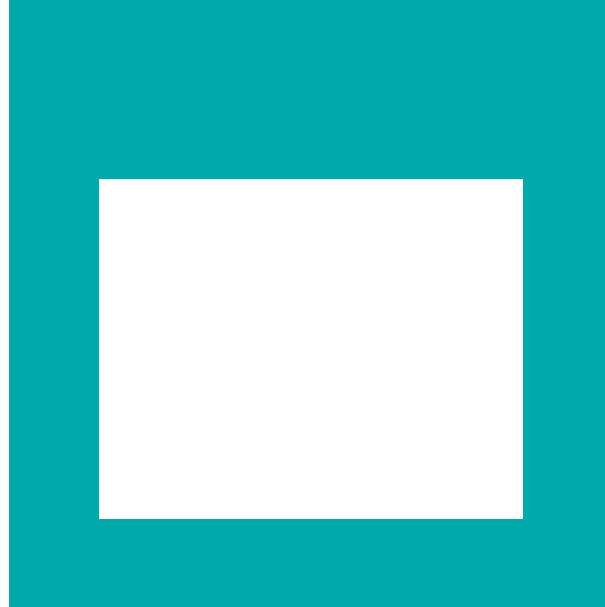
ONTARIO ASSOCIATION OF ARCHITECTS  
POLYMERAS MYSTAKOPOULOS  
LICENSED ARCHITECT

1021 WEST 5th CONCEPT  
HAMILTON, ON

ELEVATIONS

PROJECT NUMBER: 19075  
DRAWING SHEET NUMBER: A401  
DATE: 2020-06-10





WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

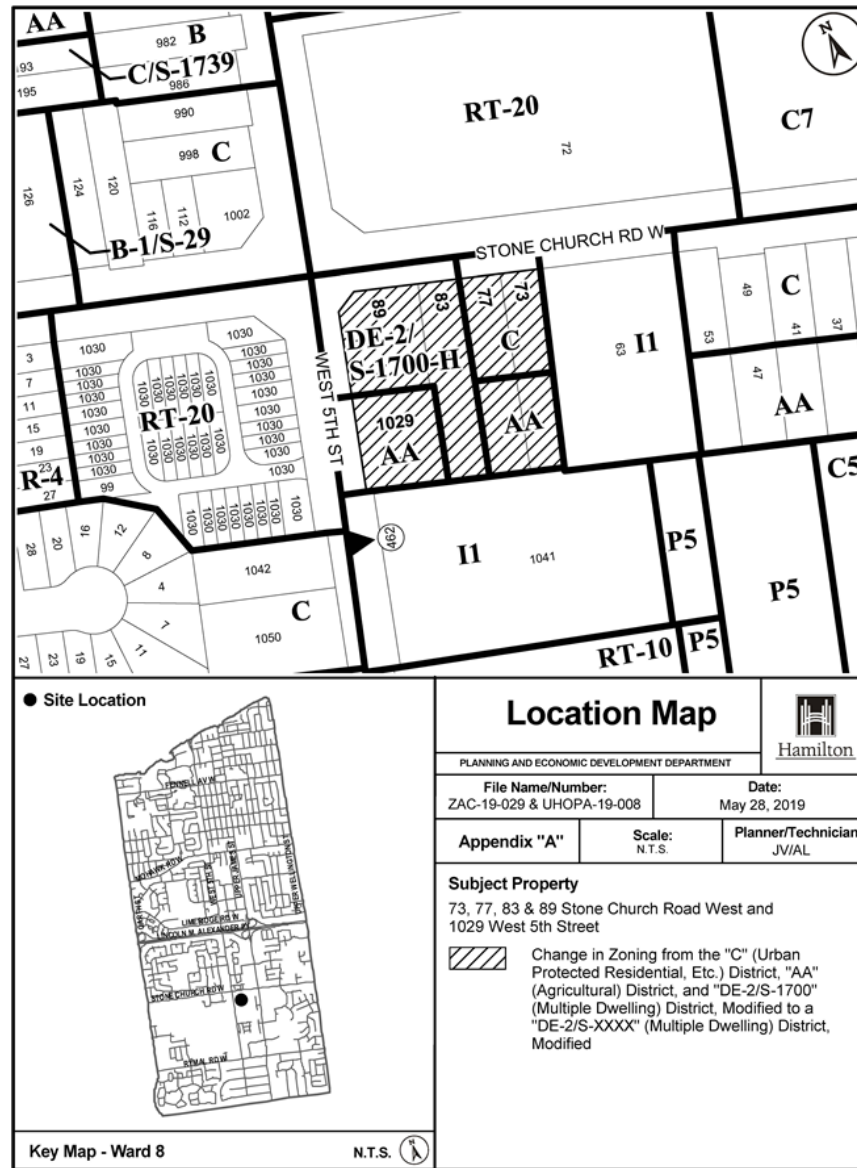
February 16, 2021



## **PED21037 – (UHOPA-19-008 & ZAC-19-029)**

Appealed Urban Hamilton Official Plan Amendment and Zoning By-law  
Amendment Applications for Lands located at  
73,77,83,89 Stone Church Road West and 1029 West 5<sup>th</sup> Street,  
Hamilton

Presented by: James Van Rooi



● Site Location



Key Map - Ward 8

N.T.S.

### Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		
File Name/Number: ZAC-19-029 & UHOPA-19-008	Date: May 28, 2019	
Appendix "A"	Scale: N.T.S.	Planner/Technician: JV/AL

**Subject Property**  
 73, 77, 83 & 89 Stone Church Road West and  
 1029 West 5th Street

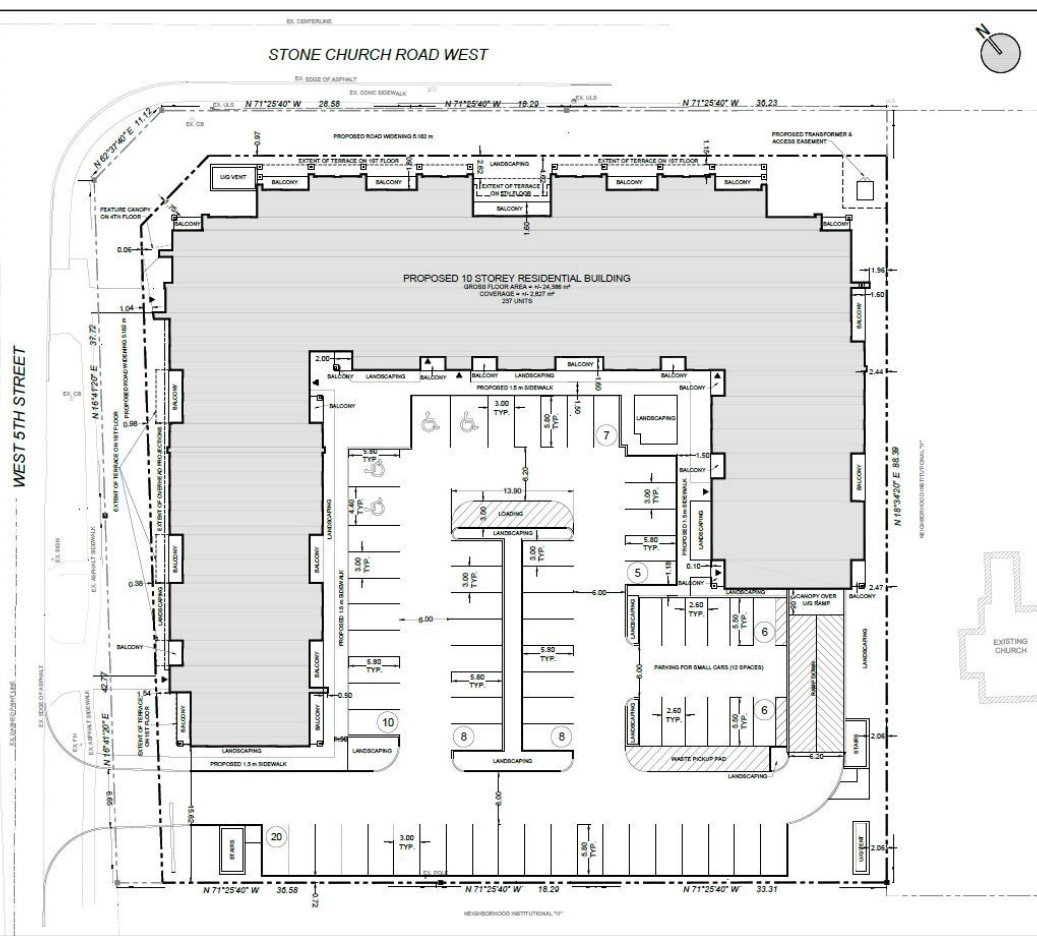
Change in Zoning from the "C" (Urban Protected Residential, Etc.) District, "AA" (Agricultural) District, and "DE-2/S-1700" (Multiple Dwelling) District, Modified to a "DE-2/S-XXXX" (Multiple Dwelling) District, Modified



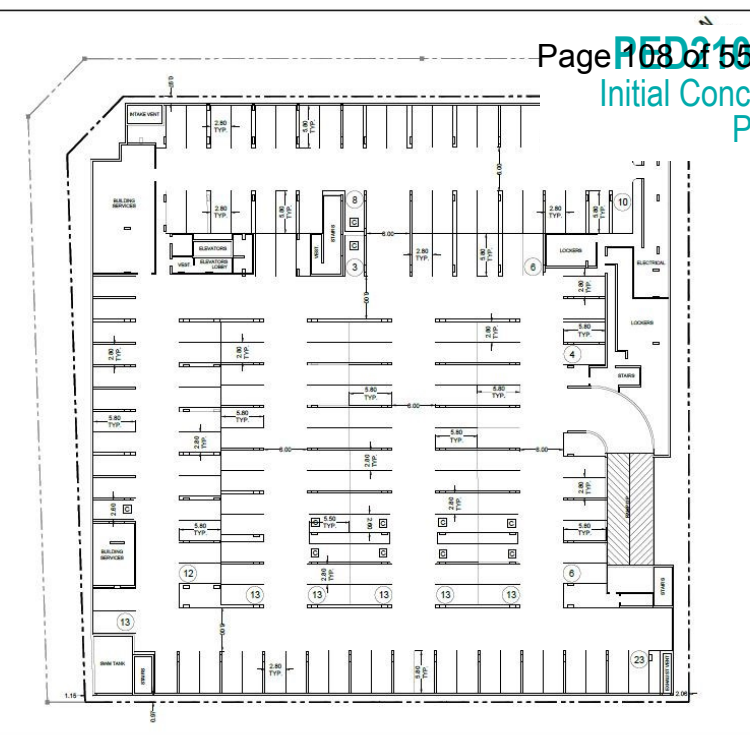
**SUBJECT PROPERTY**



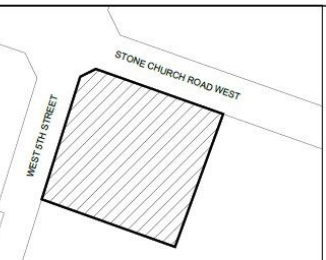
**73,77,83,89 Stone Church Road West and 1029 West 5th Street**



ROUND FLOOR - SCALE 1:250



UNDERGROUND PLAN - SCALE 1:300



- LEGEND:**
- SUBJECT LANDS
  - EXISTING PROPERTY LINES
  - PROPOSED BUILDINGS
  - EXISTING BUILDINGS
  - PROPOSED MAN DOOR

## CONCEPT PLAN

**LEGAL DESCRIPTION:**  
 PART OF LOT 15, CONCESSION 8,  
 GEOGRAPHIC TOWNSHIP OF BARTON,  
 CITY OF HAMILTON



**PROJECT:**  
 73-89 STONE CHURCH ROAD WEST AND  
 1029 WEST 5TH STREET  
 CITY OF HAMILTON

**CLIENT:**  
 VALERY HOMES

**US FILE NUMBER:** 214-17 | **SHEET NUMBER:** 1

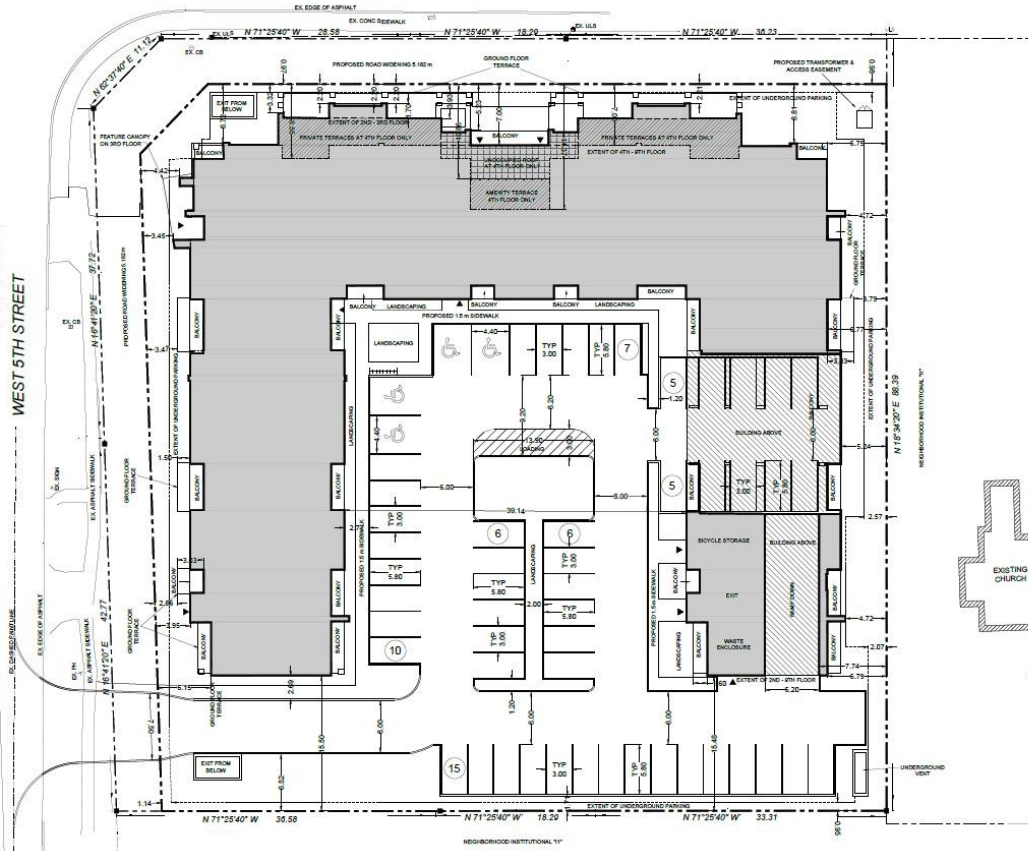
**NOT FOR CONSTRUCTION**

**DESIGN BY:** KNYMH ARCHITECTS | **CHECKED BY:** S. MANOHA  
**DRAWN BY:** M. DOWLING | **DATE:** APRIL 5, 2015

DEVELOPMENT STATISTICS		
Proposed Zoning: Multiple Dwellings ("DE-2/S-" ) Zone		
Item	Required	Proposed
Max. Height	8 storeys (26.0 m)	10 storeys (32.0 m)
Min. Front Yard		
Underground Parking Garage	Refer to by-law	0.97 m
Floors 1-4	Refer to by-law	2.12 m
Floors 5-10	Refer to by-law	7.02 m
Min. Flankage Yard		
Underground Parking Garage	Refer to by-law	1.15 m
Floors 1-10	Refer to by-law	1.54 m
Min. Side Yard	Refer to by-law	2.57 m
Min. Rear Yard		
Underground Parking Garage	Refer to by-law	0.97 m
Floors 1-10	Refer to by-law	15.02 m
Yard Encroachments	Various	Refer to draft by-law
Gross Floor Area Ratio	N/A	3.33
Lot Area	N/A	0.73 ha
No. of Units	N/A	237 units

**73,77,83,89 Stone Church Road West and 1029 West 5th Street**

STONE CHURCH ROAD WEST

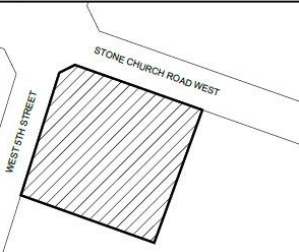


GROUND FLOOR - SCALE 1:250



LEGEND:

- SUBJECT LANDS
- EXISTING PROPERTY LINES
- PROPOSED BUILDINGS
- EXISTING BUILDINGS
- PROPOSED MAN DOOR
- SMALL CAR PARKING SPACE



CONCEPT PLAN

LEGAL DESCRIPTION:  
 PART OF LOT 15, CONCESSION 8,  
 GEOGRAPHIC TOWNSHIP OF BARTON,  
 CITY OF HAMILTON



PROJECT:  
 73-89 STONE CHURCH ROAD WEST AND  
 1029 WEST 5TH STREET  
 CITY OF HAMILTON

CLIENT: VALERY HOMES

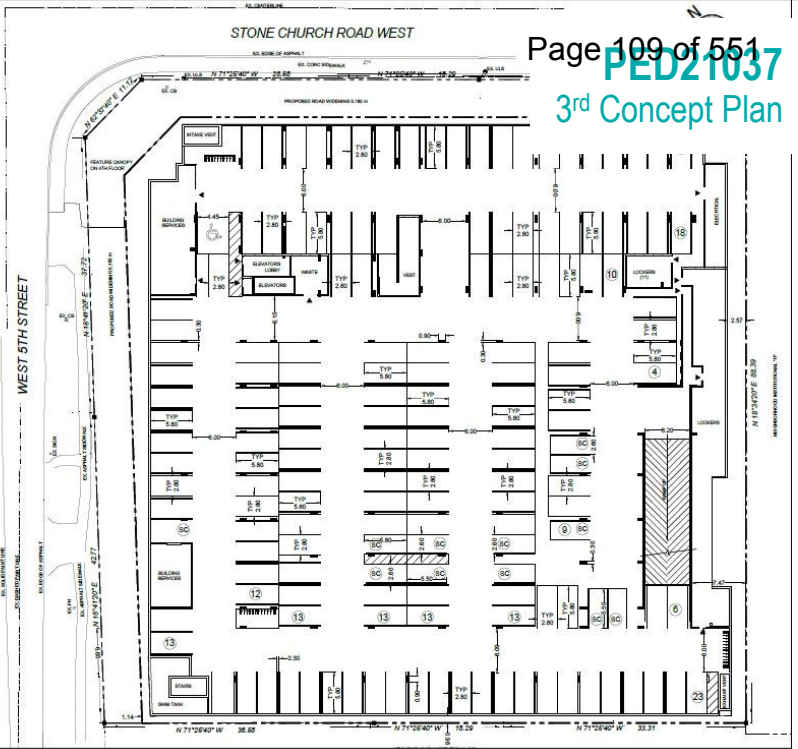
U/S FILE NUMBER: 214-17 SHEET NUMBER: 1

**NOT FOR CONSTRUCTION**

DESIGN BY: KNYMH ARCHITECTS CHECKED BY: S. MANOHA

DRAWN BY: M.GOWANS DATE: APRIL 5, 2019

UNDERGROUND PLAN - SCALE 1:300



DEVELOPMENT STATISTICS			
Proposed Zoning: Multiple Dwellings ("DE-2/S-") Zone			
Item	Required	Proposed	
Lot Area			
Before R.O.W Widening	N/A		0.788 ha
After R.O.W Widening			0.696 ha
Max. Height	8 storeys (26.0 m)		9 storeys (27.8 m)
Mn. Front Yard (Stone Church Road West)			
Underground Parking Garage	Refer to by-law		0.97 m
Floors 1	Refer to by-law		2.20 m
Floors 2-3	Refer to by-law		3.32 m
Floors 4-9	Refer to by-law		6.72 m
Mn. Flankage Yard (West 5th Street)			
Underground Parking Garage	Refer to by-law		1.14 m
Floors 1-9	Refer to by-law		0.93 m
Mn. Interior Side Yard			
Underground Parking Garage	Refer to by-law		2.57 m
Floor 1	Refer to by-law		3.45 m
Floors 2-9	Refer to by-law		3.95 m
Mn. Rear Yard			
Underground Parking Garage	Refer to by-law		0.96 m
Floors 1-9	Refer to by-law		15.5 m
Landscaped Area	N/A		20.40%
Yard Encroachments	Various		Refer to draft by-law
Np. of Units	N/A		216 units

73,77,83,89 Stone Church Road West and 1029 West 5th Street



89 Stone Church Road West (looking south east)



73 & 77 Stone Church Road West



St. Mari's Assyrian Church





72 Stone Church Road West (looking north)



Single Detached Residential (north west of subject lands)



Single Detached Residential (north west of subject lands)



1029 West 5<sup>th</sup> Street



1041 West 5<sup>th</sup> Street



1030 West 5<sup>th</sup> Street



Stone Church Road West (looking east)



Stone Church Road West (looking west)

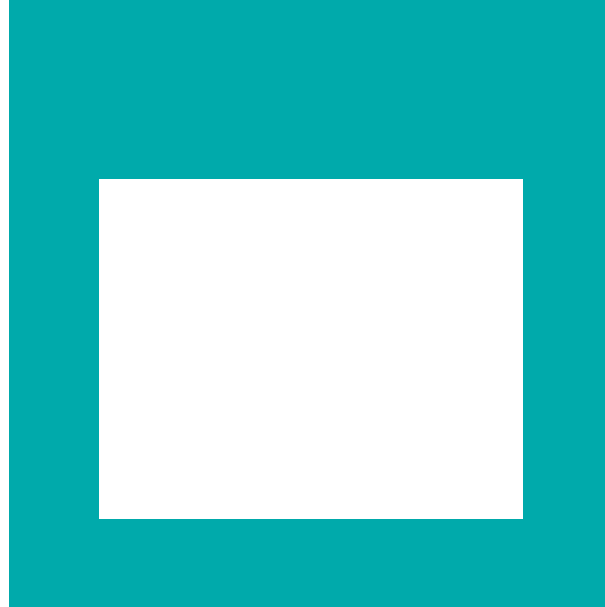




West 5<sup>th</sup> Street (looking south)



West 5<sup>th</sup> Street (looking north)



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

September 22, 2019

To the Attention of:

James Van Rooi - City Planner on File to Application for Plan and Development of 73-89 Stonechurch Rd. West & 1029 West 5<sup>th</sup> St. Hamilton Ontario ZAC -19-029 & OPA-19-08

John-Paul Danko Councillor Ward 8

I'm writing in opposition to the Proposed Development by Urban Solutions / Valeri Construction Ltd. at 73-89 Stonechurch Rd West & 1029 West 5<sup>th</sup> St Hamilton.

I attended the Neighborhood information Meeting September 19, 2019 to listen and view the Proposed Development. The Proposed Development is not an appropriate development for that site. It is an aggressive development plan, a massive Building, for this quiet and safe area, let alone all the traffic and emissions it will create to an area that is already in Gridlock.

There is nothing in the area of this nature. The area mainly consists of 2 Storey Townhomes, Single Family Homes and 3 Storey Walk Ups.

An Alzheimer's/ Dementia Care facility Ressay Gardens, which is very much supported, is a Neighbouring Site. Noise pollution will be intensified and consideration must be taken for the Care facility, along with the Residents who have lived in this quiet safe area for some 30 years. Air Pollution and Emissions would greatly intensify with that number of Vehicles added to an already congested traffic zone. Residents in this area are Commuters. Stonechurch Rd, West 5<sup>th</sup>, Upper James St, The Lincoln Alexander Parkway, Highway 403 access are so over loaded, without any sign in sight, of an expansion to handle the amount of traffic being added to the area. Gridlock is a daily occurrence on the major roadways.

Infrastructure, Safe Roads and Sidewalks are an added component. They are in need of long overdue upgrading.

A long-awaited William Connell Park has just opened on West 5th for Children, Young Families and Adult Recreation. A development of that size will no doubt impact the safety of that Park, as well as all the residents of the area. It is a very nice Park that adds tremendous value and quality of life for the folks in the are, reaching out to other parts of the Mountain and City for people to enjoy.

Buildings of this nature are meant for larger centres, Downtown cores or major roadways, Shopping Centres where High Density Buildings are in need with much larger access to Transit. This Building would fully support the proposed LRT and add value and much needed housing in the Downtown core. This type of Rental Building may be a good thing for the Downtown core that has easier access to Go Bus and Train Service leading out of the City.

I'm not opposed to an appropriate development of the site. Go back to the original plan of a 3 Storey Condominium Walk up or 2 Storey Owner occupied Townhomes. Nothing more is appropriate for that

site. In the past 10 years I have been inundated by real Estate Agents to sell my 2 Storey Townhome, because that is what is in demand for this area.

The Site has many mature Trees, please preserve as many as possible.

Respectfully,

Robyn White

Urban Solutions / Valeri Construction Ltd.

Proposed Development Located at 73, 77, 83, and 89 Stone Church Road West and

1029 West 5th Street, Hamilton (Ward 8)

UHOPA-19-008 and ZAC-19-029

Further to my original opposition to the proposed development, I continue to object to a development of this nature or any High Rise / High Density development on this site. My original concerns were pre COVID -19 Pandemic.

The proposed development is completely out of place in this quiet safe community. It is an overdeveloped proposal for this site. A building of this nature is more suited to a main corridor like Upper James St. or a Downtown location. The amount of traffic this would add to this small property and community, adjacent Park, Nursing Home and residents will no doubt add noise pollution, chaos, confusion and potential crime to this quiet, safe neighborhood.

The development of Ressam Gardens Nursing Home over the past year or so has given residents of the area a preview of what magnitude construction of this nature would mean to the residents of the area. Living directly across the street at 16 1030 West 5<sup>th</sup> I have experienced first hand what my original concerns would be.

- Dust /Air Pollution greatly intensified with the amount of dust created from Construction site, Trucks travelling on dust filled road (West 5<sup>th</sup> St) I have contacted Ward 8 Councillor Danko's office on several occasions regarding Dust control/ mitigation which also resulted in communication with City of Hamilton staff who came up to inspect the area and facilitate dust mitigation measures with site personnel. It has been an ongoing challenge to the area and properties nearby. It made outdoor living much less enjoyable with the thick dust in the air that settles on the outdoor living spaces that needs to be cleaned up daily, along with seeping into the inside of the home. Pandemic / post pandemic living means a lot more time spent outside enjoying our outdoor properties, the constant dust & noise made it a lot less enjoyable, needless to say challenging on the airwaves!

- Noise pollution has significantly increased from trucks rambling to and from the site, site construction, that goes on from 7AM to 5 PM 5 days a week, at different times construction will be carried out through the night up until midnight and on weekends, holidays. Blasting for the Strom water development adjacent to Ressam Gardens was very distrustful, it carried on for a month or more with 3 -4 major blasts a day that shook the guts of my home.

- Traffic congestion halted to a degree when we went into lockdown measures due to the pandemic with less cars on the road, but at times where Lockdown measures had lifted there is still a significant amount of traffic in the area at Stonechurch and West 5<sup>th</sup> especially exiting out of the complex at 1030 West 5<sup>th</sup> St., on any given day. Morning and afternoon drive times are particularly heavy with cars lined half way up to Rymal Rd. The additional traffic a 9-storey building would add would be devastating to the area that is already in gridlock, with increasing emissions.

- Traffic Light back up/ direction at West 5<sup>th</sup> and Stonechurch Rd W intersection has been an ongoing issue with residents voicing their concerns to City Hall.

- Speed is a big issue from upcoming traffic north of Stonechurch Rd on West 5<sup>th</sup> St. Some residents between 1030 West 5<sup>th</sup> And William Connell Park area have put up Safe neighborhood signs on their properties to help slow the speed, but it's not enough.

· There has been an increase in car accidents along West 5<sup>th</sup> in front of the construction site at Ressam Gardens and William Connell Park.

I have contacted and had phone conferences with Ward 8 Councillor Danko on all of the subjects noted.

Post Pandemic life is going to be different. Big city buildings, high rise condominiums, transit are all going to look different going forward. City's will have to reimagine themselves as to how they want to develop. Individuals and families are flocking from condo and apartment living to single family homes and townhomes that have more indoor/outdoor living space, that may also accommodate a home office. Work from Home will become more of the norm going forward. We are already seeing a significant increase in Toronto residents migrating to Hamilton to buy more affordable housing that has outdoor/ indoor living space and away from high rise/ Condo living.

There is plenty of land and old decrepit buildings, strip malls on Upper James St. that could be reimaged with a property of this nature that would be on a proper transit route. Apartment dwellers often rely on Transit.

I am opposed to anything more than a 2-storey townhome or 3 storey walk up development for this small lot and safe, quiet neighborhood.

Robyn White

**From:** vedant patel  
**Sent:** February 2, 2021 4:20 PM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
**Subject:** Building plan

The building proposed to be constructed on 73 - 89 Stone church Road W. and 1029 West 5th street, Hamilton is not a good fit for the area. This area, for many years has been for single family homes and a building of this size would completely take away from the aesthetic of the area. Most buildings in this area are single family homes and such a tall building would definitely not suit the area. Also, the street that the building is to be built on already experiences so much traffic on a small single lane road and such a large building would be a severe inconvenience to local residents and other drivers in the area. I strongly advise against the construction of this building.



**From:** Hanhan, Mariam

**Sent:** February 10, 2021 1:23 PM

**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)

**Cc:**

**Subject:** Flies: UHOPA-19-008 & ZAC-19-029 73-89 Stonechurch Road W. and 1020 West 5th Street Hamilton, ON

Good Afternoon,

Please include me as participant with the option to speak during the public hearing on Tuesday February 16, 2021 at 9:30 pm.

Regards,

Mariam Hanhan

The below are my concerns for the committee:

- We oppose/would like the committee to deny the building variance/rezoning by minor variance
- This “monster” new build changes the look and character of the neighbourhood
- This is a money making proposition
- Privacy concerns
- Sun/shadow impact of natural landscape
- Environmental footprint
- Not compatible with the other homes/building in the area
- This does not line up with the other 5 homes and 2 churches on Stonechurch W between Upper James and West 5th
- Natural habitat will be affected, there are many fruit trees on our properties and they will be negatively impacted
- Traffic
- Potential tax increase for current home owners on the street
- This monstrosity does not belong in this area at all and is not welcome by the neighbourhood
- 3 of the homes including ours are long term residents in this location and are dedicated to our homes i.e.: 41 Stonechurch W (over 21 years), 37 Stonechurch W (over 60 years), 33 Stonechurch Rd W (over 30 years)



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Application for Zoning By-law Amendment for Lands Located at 206 and 208 King Street West, Hamilton (PED21038) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Daniel Barnett (905) 546-2424 Ext. 4445
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That **Amended Zoning By-law Amendment Application ZAC-17-046 by A.J. Clarke and Associates (c/o Franz Kloibhofer) on behalf of King Stuart Development Inc., Owner**, for a further modification to the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone, to permit an alternative development concept, that being a 13 storey (43.75 metre) mixed use building with 123 residential units, 143.8 square metres of retail gross floor area, and 37 structured parking spaces for lands located at 206 and 208 King Street West, Hamilton, as shown on Appendix “A” to Report PED21038, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED21038, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law, attached as Appendix “B” to Report PED21038 be added to Map No. 952 of Schedule “A” – Zoning Maps of Zoning By-law No. 05-200;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application for Zoning By-law Amendment for Lands Located at 206 and 208 King Street West, Hamilton (PED21038) (Ward 2) - Page 2 of 29**

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- (iii) That Schedule “D” – Holding Provisions, of Zoning By-law No. 05-200; be amended by adding the following additional Holding Provision:
- H116. Notwithstanding Section 6.2 of this By-law, within lands zoned Downtown Mixed Use – Pedestrian Focus (D2, 731) Zone on Map No. 952 on Schedule “A” – Zoning Maps, and described as 206 and 208 King Street West, Hamilton, no development shall be permitted until such time as:
- a. The Owner submit and receive completion of a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP) or enters into a conditional building permit agreement with respect to completing a Record of Site Condition. This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton’s current RSC administration fee;
  - b. A Documentation and Salvage Report in accordance with the City’s Guidelines for Documentation and Salvage Reports has been submitted and implemented all to the satisfaction of the Director of Planning and Chief Planner prior to any demolition and the owner shall demonstrate that a copy of this report shall be submitted by the Owner to the Hamilton Public Library; and,
  - c. An updated Pedestrian Wind Study has been submitted and implemented to the satisfaction of the Director of Planning and Chief Planner.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and complies with the Urban Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

The application was originally submitted prior to the updates for the Downtown Secondary Plan, however the subsequent submissions including the submission that is the subject of this report were all submitted after the Downtown Secondary plan was adopted by Council and came into effect. As the application was revised after the

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OUR Vision: To be the best place to raise a child and age successfully.

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Downtown Secondary Plan was both adopted by Council and came into effect the proposed development has been evaluated in respect to the updated Downtown Secondary plan adopted by Council in 2018 and is currently in force and effect.

The subject property is municipally known as 206 and 208 King Street West, Hamilton. The Owner has amended their 2017 application and is seeking an amendment to the Downtown Mixed Use – Pedestrian Focus (D2) Zone City of Hamilton Zoning By-law No. 05-200 to permit the construction of a 13 storey (43.75 metre) (plus roof top mechanical penthouse and amenity area), mixed use building as shown on Appendix C to PED21038 containing:

- 123 dwelling units on the 2<sup>nd</sup> to 13<sup>th</sup> floors;
- 143.8 square metres of retail gross floor area on the ground floor;
- 36 parking spaces utilizing a 12 bay parking stacker system, plus one barrier free parking space located within the proposed building as shown on Appendix F to PED21038;
- 153 storage lockers;
- 123 long term bicycle parking spaces; and,
- Approximately a confirmed aggregate amenity space of 990 square metres, comprised of approximately 660 square metres of indoor amenity area and 330 square metres of outdoor amenity space.

The amended application, further amended by staff, has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

**Alternatives for Consideration – See Page 28**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

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Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law.

## HISTORICAL BACKGROUND

### Report Fact Sheet

<b>Application Details</b>	
Applicant/Owner:	King Stuart Developments Inc.
Agent:	A.J. Clarke and Associates (c/o Franz Kloibhofer)
File Number:	ZAC-17-046
Type of Application:	Zoning By-law Amendment
Proposal:	<p>The applicant initially applied in May, 2017 for a change to the zoning to permit the adaptive reuse of a portion of the existing building along King Street West and to construct a 120 unit, 16 storey mixed use building with a height of 54.65 metres located to the rear of the retained portion.</p> <p>36 parking spaces were proposed by way of a 12 space parking stacker system located within the proposed building and accessed from a proposed driveway and from an existing private laneway at the rear of the subject property, 24 storage lockers, and 65 long term bicycle parking spaces were proposed.</p> <p>The applicant subsequently revised the application October, 2019 in which the existing building was to be demolished and replaced with a new building. The revised proposal was for a 120 unit, 16 storey mixed use building with a height of 54.25 metres.</p> <p>36 parking spaces are proposed by way of a 12 space parking stacker system, plus one barrier free parking space located within the proposed building and accessed from a proposed driveway and from an existing private laneway at the rear of the subject property, 189 storage lockers; and 162 secure indoor bicycle parking spaces were proposed.</p>

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	<p>The applicant further revised the application in September, 2020 as follows:</p> <p>The total number of multiple dwelling units remains at 120 dwelling units, the number of storage lockers decreased to 141 storage lockers, and the long term bicycle parking spaces decreased to 130 spaces.</p> <p>As a result of comments provided by staff on the September, 2020 concept the applicant provided further minor revisions in respect to the potential uses for the commercial area in October, 2020. The revisions pertained to the potential uses of the 934 square metre commercial area on the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors that previously was proposed for office use to include a Financial Establishment on the 2<sup>nd</sup> floor, Office use on the 3<sup>rd</sup> floor and a Commercial School on the 4<sup>th</sup> floor. This amendment was in response to staff concerns that insufficient on-site parking was provided given the requirements in Zoning By-law 05-200 to implement the Downtown Secondary Plan which significantly reduced required parking.</p> <p>The proposed development would be deficient one parking space as 38 spaces were required while 37 parking spaces were proposed.</p> <p>The applicant provided a revised concept plan addressing staff concerns related to the height on January 19, 2021 and is the subject of this report. The following revisions were made:</p> <ul style="list-style-type: none"> <li>• The height of the building was reduced from 16 storeys or 55.0 metres (15 storeys plus mechanical penthouse and roof top amenity area), to 13 storeys or 43.75 metres, (plus roof top mechanical penthouse and amenity area);</li> <li>• The commercial area previously proposed on the second floor was replaced with amenity area, and the commercial area on the third and fourth floors was replaced with dwelling units, resulting in a total of 143.8 square metres of commercial gross floor area on the ground floor;</li> <li>• The total number of dwelling units was increased from 120 dwelling units to 123 dwelling units. The unit breakdown is:</li> </ul>
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	<ul style="list-style-type: none"> <li>○ 69 units less than 50.0 square metres; and,</li> <li>○ 54 units greater than 50.0 square metres of which, 5 are three bedroom units;</li> <li>● The number of lockers was increased to 153 (half height lockers);</li> <li>● The number of bicycle parking spaces was increased from 120 to 123; and,</li> <li>● A total of 991.17 square metres of amenity space, consisting of 660.71 square metres of indoor amenity space and 330.46 square metres of outdoor amenity space.</li> </ul>
<b>Property Details</b>	
Municipal Address:	206 and 208 King Street West
Lot Area:	857 square metres
Servicing:	Existing full municipal services.
Existing Use:	A four storey commercial building (Hamilton Store Fixtures).
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Downtown Mixed Use Area
Official Plan Proposed:	No amendment required or requested.
Secondary Plan Existing:	Downtown Mixed Use – Pedestrian Focus High Rise 2
Secondary Plan Proposed:	No amendment required or requested.
Zoning Existing:	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone

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Zoning Proposed:	Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone
Modifications Proposed:	<p>The following modifications to the D2 Zone are required to allow for the implementation of the alternative development concept to the parent D2 Zone proposed by the applicant:</p> <ul style="list-style-type: none"> <li>• To reduce the required size a barrier free parking space from 4.4 metres in width by 5.8 metres in length to 4.4 metres in width by 5.5 metres in length;</li> <li>• To increase the minimum number of required bicycle parking spaces from 0.5 per dwelling unit to 1 per dwelling unit;</li> <li>• To prohibit any portion of the building that has a stepback of less then 3.0 metres from the easterly side lot line from having windows facing the easterly side lot line, except for windows that are translucent;</li> <li>• To permit roof top indoor amenity area to exceed the maximum building height of 44.0 metres;</li> <li>• To require a minimum stepback of 3.0 metres from the easterly side lot line, except for those portions of the building that do not include clear glass windows in which case a reduction in the minimum stepback from 3.0 metres to 1.7 metres is permitted;</li> <li>• To establish a minimum 5.3 metre stepback for a mechanical penthouse and 11.2 metre stepback indoor amenity area, from the rear lot line;</li> <li>• To establish a minimum 1.7 metre stepback for a mechanical penthouse, from the easterly side lot line;</li> <li>• To permit off site manoeuvring, whereas all parking facilities are to be located on the same lot as the use requiring the parking;</li> <li>• To permit reduced parking stall size, specifically a minimum parking space size of 2.6 metres by 5.5 metres;</li> <li>• To exempt the parking spaces from the requirement that the size be increased in size when adjacent to a wall or column;</li> <li>• To permit access to on-site parking to be provided by way of a private laneway;</li> <li>• To permit parking to be provided by way of a parking stacker system;</li> <li>• To permit a private laneway to be partially utilized for the</li> </ul>

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	<p>required 6.0 metre aisle for accessing parking;</p> <ul style="list-style-type: none"> <li>• To permit a loading facility to be located in a rear yard that is not screened by a Visual Barrier from an adjacent Residential Zone;</li> <li>• To permit no on-site short term bicycle parking spaces, whereas 10 short term bicycle parking spaces are required;</li> <li>• To reduce the required stepback from Caroline Street North beyond a height of 11.0 metres from 3.0 metres to 0 metres;</li> <li>• To reduce the required stepback beyond a height of 22.0 metres from 3.0 metres to 0 metres;</li> <li>• To reduce the minimum area of the ground floor façade that is required to be comprised of clear glazed windows and doors, from 60% to 30%; and,</li> <li>• To increase the maximum ground floor height from 4.5 metres to 6.5 metres.</li> </ul>
<b>Processing Details</b>	
Received:	May 15, 2017
Deemed Complete:	May 19, 2017
Notice of Complete Application:	Sent to 872 property owners within 120 metres of the subject property on May 31, 2017.
Public Notice Sign:	Posted June 14, 2017 and updated on January 20, 2021.
Notice of Public Meeting:	Sent to 404 property owners within 120 metres of the subject property on January 29, 2021.
Public Consultation:	<p>Two separate meetings with the Central Neighbourhood Association were held in July 2015 and August 2016 prior to submission of the application.</p> <p>The applicant advised in the submitted Public Consultation Strategy that if the Notice of Complete Application generated significant public interest or if there was a request from the City, that an additional public engagement such as a public open house would be undertaken. Based on the results of the Notice of Complete Application, no public open house was deemed necessary by Planning staff.</p>

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Public Comments:	Two letters were received in response to the Notice of Complete Application. One letter expressed concern about the overall height of the building, parking and the traffic impact during construction. The second letter was not in opposition to the development but expressed concerns related to shadow impacts (see Appendix “E” to Report PED21038).
Processing Time:	1,373 days – From date of Original Submission (May 15, 2017) 137 days – From date of the October 2, 2020 Submission (Forth) 28 days – From date of the January 19, 2021 Submission

**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	Commercial	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone

**Surrounding Land Uses:**

<b>North</b>	Multiple dwelling	Downtown Residential (D5, H17, H19, H20) Zone
<b>East</b>	Restaurant	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone
<b>South</b>	Vacant lot	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone
<b>West</b>	Mixed use	Downtown Mixed Use – Pedestrian Focus (D2, H21) Zone

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## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal (LPAT) approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of Provincial interest (i.e. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

### **Cultural Heritage**

One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to cultural heritage policies of the PPS (2020). The following policies amongst others of the PPS 2020 apply.

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
  
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

The subject property is comprised of 206 and 208 King Street West (known formerly as the Regal Shirt Co. Ltd., and the McGregor Shirt Co. Ltd.) and is included in the City’s Inventory of Buildings of Architectural and / or Historical Interest. In 2014, the property was not listed on the City’s Register of Property of Cultural Heritage Value or Interest at the time of the Downtown Built Heritage Inventory (DBHI) was completed because it was not known how much of the original historic fabric remained under the modern cladding and the buildings original design has been so disguised by the metal cladding that its original design and character are no longer apparent.

A Cultural Heritage Impact Assessment (CHIA) dated September 14, 2016 (updated May 5, 2017) was submitted as part of the complete application in 2017. An addendum

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to the CHIA was submitted in support of the revised development proposal which proposed demolition of the existing building, dated September 2019. A structural review prepared by Sigmund Soudack & Associates Inc. dated September 10, 2018 was also prepared and attached to the Addendum to the CHIA, which concluded that the building is structurally unsound and cannot be resorted to its original condition and recommended that as part of any redevelopment of the site that the existing building be demolished. Based on the review and advise of the of the Policy and Design Working Group of the Hamilton Municipal Heritage Committee (HMHC) a peer review of the structural review was not required. Policy and Design Working Group of the HMHC reviewed the CHIA addendum including the attached structural review on October 21, 2019 and accepted the report as submitted. Cultural Heritage staff are satisfied with the new development concept and revised CHIA, in particular with the scale and massing of the four storey ground related building, the use of brick and glazing, segmental windows, modern cornice and the use of glazing and panels to define the corner section.

The CHIA addendum report recommends reusing the existing beams / joists and masonry / millwork in the new development and staff also encourage the proponent to reuse the 'Radio Arts' tiles at the front entrance in a publically visible area of the new building.

As the existing building will not be preserved, the property's cultural heritage value will be conserved through the implementation of the following:

1. Preparation, submission and implementation of a Documentation and Salvage Report in accordance with the City's Guidelines for Documentation and Salvage Reports be submitted to the satisfaction of the Director of Planning and Chief Planning prior to any demolition. Furthermore, a copy of this report shall be submitted by the Owner to the Hamilton Public Library.
2. Through the adaptive reuse materials and elements of the existing building in its reconstruction where feasible. Original structural and decorative components including the beams, joists, masonry units, millwork floorboards and tiles of the existing building should be salvaged and incorporated into the design of a communal area of the building (e.g. publicly accessible area, outdoor plaza, lobby, etc.) in order to recognize and commemorate the existing structure and its manufacturing and commercial history.

The Documentation and Salvage Report will be required to be completed and implemented prior to the lifting of the proposed 'H' Holding Provision. The implementation of adaptive reuse of materials and elements of the existing building will be undertaken through the Site Plan Control application and in this regard a site plan agreement will be required.

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## Noise

The PPS provides the following policy direction:

“1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.”

The subject property is located along King Street West, a major arterial road, and is less than 200 metres from Main Street West, also a major arterial road. Both roads are potential noise sources. The applicant submitted a Noise Impact Study prepared by HGC Engineering dated May 10, 2017 as part of the complete application in 2017. The noise study evaluated road noise impacts from King Street West, Main Street West, York Boulevard and Bay Street South. The study found that the sound levels, without mitigation, in the daytime range from 58 dBA on the north façade of the proposed building to 68 dBA on the south façade of the building. The noise levels at night range between 52 dBA to 61 dBA.

The noise study notes that roof top patio areas do not require any additional mitigation measures beyond a standard 1.07 metre solid guard or parapet around the perimeter. Balconies and terraces were found to be less than 4.0 metres in depth and therefore were not considered outdoor living areas.

The revised development proposal includes a terrace on the fifth floor facing King Street West and two roof top patios: one facing King Street West and the other at the rear of the building. All the terraces have depths greater than 4.0 metres. Therefore, the terraces are to be evaluated as outdoor living areas. A revised Noise Impact Study to identify any required mitigation measures is required and will be implemented at the Site Plan Control stage. An update to the Noise Impact Study will need to be completed and any noise mitigation measures implemented as part of the Site Plan Control application.

The Noise Impact Study identified a number of warning clauses and mitigation measures such as, central air conditioning, building materials and glazing standards, amongst others, that will need to be implemented. These measures will be implemented as part of the Site Plan Control application and the warning clauses will also need to be included in the Site Plan Control agreement and part of any future Plan of Condominium approval and agreement.

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## Site Contamination

“3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.”

The subject property has been used for commercial uses and the applicant is proposing to establish a sensitive land use (i.e. residential) on-site. As there is potential for site contamination an assessment through a Record of Site Condition (RSC) needs to be undertaken. A Holding Provision will be applied to the Zoning By-law Amendment requiring completion of a RSC or for the applicant to enter into an condition building permit and must be satisfied prior to any final Site Plan approval.

As the application for a change in zoning complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the PPS (2020); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended.

## Urban Hamilton Official Plan

The subject property is identified as “Downtown Urban Growth Centre” on Schedule “E” – Urban Structure and designated “Downtown Mixed Use Area” on Schedule “E-1” Urban Land Use Designations in Volume 1 of the UHOP.

The Downtown Hamilton Secondary Plan implements the policies of Volume 1 of the UHOP including the Downtown Urban Growth Centre, intensification and urban design policies. As discussed in detail below, the proposal complies with the policies of the Downtown Hamilton Secondary Plan. It is therefore staff’s opinion that the proposal complies with the applicable policies of Volume 1 of the UHOP.

## Downtown Hamilton Secondary Plan

The Downtown Hamilton Secondary Plan implements the applicable requirements of the Provincial Policy framework and parent policies of the UHOP. In this regard the following policies amongst others are applicable.

The subject property is designated “Downtown Mixed Use – Pedestrian Focus” on Map B.6.1-1 Land Use Plan and identified as “High-rise 2” on Map B.6.1-2 Maximum Building

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Heights in the Downtown Hamilton Secondary Plan. The following policies amongst others apply to the proposal.

“6.1.4.12 Building heights are identified on Map B.6.1.2 – Downtown Hamilton Building Heights and maximum heights for each area shall fall into the following categories:

e) High Rise 2 – up to 30 storeys.

6.1.4.22 Not every site in the Downtown identified as High-rise 1 or High-rise 2 can accommodate a tall building or is a suitable site for a tall building. The Tall Building Guidelines and Zoning By-law, shall establish the minimum criteria for accessing the suitability of an individual site for a tall building.”

The building height will be within the maximum height required by the Zoning By-law of 44.0 metres for a mid-rise building, and will provide adequate setbacks from any future tall buildings.

The development utilizes a combination of setbacks, architectural changes, architectural elements, and changes in material to establish a mid-rise built form that is compatible with the area, establishes a distinctive base and distinctive design for the upper floors, that reflects the scale and character of the area, and provides appropriate transition to the existing buildings in the area.

### **Mid-Rise Buildings**

“6.1.4.17 The following policies shall apply to mid-rise building forms:

- a) a mid-rise building is any building greater than 6 storeys but no greater than 12 storeys in height;
- b) mid-rise buildings shall be designed to address the street with active frontages, and provide principal entrances from the public realm; Volume 2, Chapter B – Hamilton Secondary Plans Urban Hamilton Official Plan September 2019 Vol. 2 – B.6.1 11 of 36
- c) mid-rise buildings shall create an effective transition between low-rise neighbourhoods and existing or future tall buildings through the use of appropriate setbacks and setbacks in accordance with Policies B.6.1.4.31 through B.6.1.4.39 of this Plan;
- a) mid-rise buildings shall be designed to frame the street they are fronting while allowing access to sunlight to adjacent properties. This shall be

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achieved through considerations given to building orientation, setbacks, stepbacks, angular plane, and relationship to grade and land uses; and,

- e) Shadow Impact Studies, Visual Impact Assessments, and Pedestrian Level Wind Studies may be required to determine potential impacts arising from mid-rise buildings.”

The proposed development is seeking to establish a building height of 13 storeys (43.75 metres). The proposed 13 storeys exceeds the 12 storey maximum height outlined in policy 6.1.4.17 a), however the Zoning By-law measures height in metres instead of storeys and establishes a height of 44.0 metres as the threshold between a mid-rise building and a tall building, on the basis of the Downtown Hamilton Secondary Plan implementing zoning assumed that a 12 storey building would be built with a first storey height of 4.5 metres and the balance of the building utilizing 3.5 metre high storeys for the balance of the building (for a total of 38.5 metres for floors 2 -12) and resulting in a height of 43 metres. As the Zoning By-law implements the policies of the Downtown Hamilton Secondary Plan and as the proposed development proposes a building height less than 44.0 metres the proposed development is consistent with the mid rise building policy in terms of height and massing. As such the proposal is considered to be a mid-rise building and not a tall building and therefore complies with the Policy 6.1.4.17 a) in respect to the maximum building height and the tall building guidelines do not apply.

The proposed development is supported by the Sun Shadow Impact Study, Cultural Heritage Impact Assessment, Infrastructure and Servicing Studies, Pedestrian Wind Review, Urban Design Brief and Planning Justification Report that were provided by the applicant in respect to Policy 6.1.4.17 e). As previously noted, the proposed development establishes a building base through the use of stepbacks, changes in material, architectural style, and architectural elements. The building base is of a height and scale that is similar to the existing buildings and incorporates grade related commercial space in support of the pedestrian oriented nature of King Street West (Policy 6.1.4.17 b) and d)).

Through the use of stepbacks, separation distances, design changes in architectural style and material between the building base and the upper portions of the building, as well as other architectural elements such as cornices, appropriate transition between the proposed development and adjacent low rise development and heritage buildings will be achieved (Policy 6.1.4.17 c)).

A revised Sun Shadow Impact Study by KHYMH Architects, dated March 30, 2020, was provided to reflect the changes in the design which was further amended June 11, 2020. The Sun Shadow Study assumed a building height of 16 storeys (55.0 metres). Based on a review of the Sun Shadow Impact Study, three hours of sun will be provided along the sidewalks of Caroline Street North and Market Street between 10:00 a.m. and

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4:00 p.m. on March 21<sup>st</sup> and September 21<sup>st</sup>. The 13 storey multiple dwelling to the north will receive three hours of sun exposure during the same period and the property to the east will not be impacted by shadows from the subject property until 2:00 p.m (Policy 6.1.4.17 d) and e)). It is noted that a Sun Shadow Impact Study specifically for the proposed 13 storey (43.75 metre) building was not required because the previous study assessed a 16 storey (55.0 metre) tall building and as it was demonstrated that the previously proposed building could provide adequate sun access, and as the 13 storey building envelop falls within the modelled 16 storey envelope. Therefore, staff are satisfied that as the 13 storey (43.75 metre) will be able to achieve greater sun access for adjacent properties and the public realm.

There is the potential that a future tall building could be developed on the lands to the east, which could result in shadow impacts on the easterly facing units, particularly those located on the lower floors. Therefore, prospective purchasers and tenants of the easterly units need to be advised of potential future shadow impacts in any purchase or sale / lease or rental agreement or in any condominium agreement. This will be undertaken through the Site Plan Control and Draft Plan of Condominium applications.

A Pedestrian Wind Review prepared by RWDI Consulting Engineers & Scientists dated September 21, 2016 was submitted with the initial Zoning By-law Amendment application. The 2016 RWDI report determined that a 16 storey (55.0 metre) building will not cause any significant wind impacts on the surrounding area and suitable wind conditions are predicted at building entrances and along public sidewalks. It is noted that while the applicant has not provided a Pedestrian Wind Review specifically for the proposed 13 storey (43.75 metre) building, the previous study assessed a 16 storey (55.0 metre) tall building and as it was demonstrated that the previously proposed building would not create adverse wind impacts, staff are satisfied that a 13 storey building will create less wind impacts on adjacent properties and the public realm. The 2016 study identified that higher than desired wind activity is predicted on the roof top patio and will require the establishment of wind control measures to ensure compliance with the City guidelines respecting wind impacts. Wind control measures will be implemented at the Site Plan Control stage. Furthermore, an updated wind study or addendum to the wind study will be required at as a condition of lifting the 'H' Holding Provision to ensure that wind control measures reflect the most up to date design for the proposed development (Policy 6.1.4.17 d) and e)). The study submitted is consistent with City Guidelines respecting Pedestrian Wind Studies and the required updates to the Pedestrian Wind Study and the implementation of the wind control measures will ensure that the development will comply with the City's guidelines respecting wind impacts.

"6.1.4.25 In addition to Section B.3.3 – Urban Design Policies of Volume 1, development in the Downtown shall achieve the following:

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- a) Eliminating expanses of blank walls;
  - b) Integrating roof design and function with the surrounding building and public spaces. This shall be achieved through:
    - i. Integrating roof design with the building architecture;
    - ii. Designing the tower top of tall buildings so that they are a recognizable landmark that contributes to an iconic and distinctive skyline;
    - iii. Ensuring that roof top mechanical equipment, as well as stair and elevator towers, are sized and located so that they are screened from view from the street;
    - iv. Developing rooftop terraces, gardens, and associated landscape areas for private amenity areas, climate enhancement and for storm water management; and,
    - v. Incorporating best practices and appropriate technology to reduce energy consumption and improve air quality.
- 6.1.4.26 All development shall be oriented toward the surrounding streets and shall include direct pedestrian access, including barrier free access from grade level to the principal entrances.
- 6.1.4.28 All development shall:
- a) Be massed to frame streets in a way the respects and supports the adjacent street proportions;
  - b) Be compatible with the context of the surrounding neighbourhood;
  - c) Contribute to high quality spaces within the surrounding public realm; and,
  - d) Provide high quality spaces within the buildings themselves.
- 6.1.4.29 Residential development shall provide amenity space within new development in the form of private or semi-private parkettes, rooftop gardens or internalized open space within courtyard areas created by new buildings.

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- 6.1.4.31 Development shall provide built form transition in scale through a variety of design methods including angular planes, location and orientation of the building and the use of setbacks and stepbacks of building mass.
- 6.1.4.32 Transition between development, and adjacent streets, parks or open spaces shall ensure access to sunlight and the sky view.
- 6.1.4.33 Development shall be required to provide transition in scale, within the development site, as a result of any of the following:
- a) The development is of greater intensity and scale than the adjacent existing scale, or where appropriate, the planned built form context;
  - b) The development is adjacent to a cultural heritage resource or a cultural heritage landscape; or,
  - c) The development is adjacent to existing or planned parks, or open spaces.”

There is an existing 13 storey multiple dwelling to the north which is separated from the proposed 13 storey (43.75 metre) building by approximately 16.0 metres. Caroline Street North provides a separation of 15.0 metres to the buildings to the west. The one storey restaurant building to the east is setback approximately 5.0 metres from the subject property and the proposed building is further transitioned through stepbacks above the fifth storey. The proposal provides sufficient transition and is similar to the built form that exists today. Finally, the proposed building is separated from the existing vacant lot to the south by King Street West creating a separation distance of approximately 20 metres. Transition to neighbouring buildings is achieved by maintaining the building base at a similar scale to what exists today and by providing stepbacks above the fifth floor thereby reducing the visual impact of the building as it is experienced from the public realm (Policies 6.1.4.31, 6.1.4.32, and 6.1.4.33).

The proposed development is oriented toward the street with at grade access to the street and has been designed to maintain the existing base height and preserve the existing King Street West streetscape (Policies 6.1.2.26, 6.1.4.28 a) and b)). The building has been designed to transition between existing buildings, provide for sun access and wind attenuation and is massed to incorporate roof top terraces and amenity areas for the benefit of the residents. Given the location along a higher order transit route at the centre of Downtown, the proposed development is consistent with the existing and planned context of King Street West. Additional measures will be taken at the Site Plan Control stage to address low impact development options and to ensure that architectural features and materials are used to incorporate the building into the

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Downtown Hamilton skyline, and ensure the final design does not include any blank walls (Policy 6.1.4.25).

The proposed development will contribute to a high quality public realm through the integration of improved sidewalk widths, integration of active uses at the ground floor, and visibility improvements with an increased daylight triangle at the corner of Caroline Street North and King Street West (Policy 6.1.4.28 c)). The development includes the provision for both indoor and outdoor amenity spaces for the benefit of the residents (Policy 6.1.4.28 d) and 6.1.4.29).

Based on the foregoing, the proposal complies with the policies of the Downtown Hamilton Secondary Plan.

**City of Hamilton Zoning By-law No. 05-200**

The subject property is currently zoned Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone. To implement the proposed development, the applicant has applied to change the zoning to a site specific Downtown Mixed Use – Pedestrian Focus (D2) Zone. A total of 19 site specific modifications are required to accommodate the proposal, with the majority of the modifications required to allow for the use of a parking stacker system. The modifications to the Zoning By-law are discussed in detail in Appendix “D” to Report PED21038.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
<ul style="list-style-type: none"> <li>• Transit Division, Public Works Department;</li> <li>• Strategic Planning, Public Works Department;</li> <li>• Recreation Planning, Healthy and Safe Communities Department; and,</li> <li>• Recycling and Waste Disposal, Operations</li> </ul>	No Comment or concerns with the proposal.	

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Division, Public Works Department.		
<ul style="list-style-type: none"> <li>• Healthy Environments Division, Public Health Services</li> </ul>	Public Health staff requested that both a pest control plan and dust management plan be undertaken.	The pest control plan and dust management plan will be required as a condition of Site Plan approval.
<ul style="list-style-type: none"> <li>• Forestry and Horticulture Section, Public Works Department</li> </ul>	There are municipal tree assets on site and therefore a Tree Management Plan will be required, and a Landscape Plan is required.	<p>The Tree Management Plan and Landscape Plan will be required as a condition of Site Plan approval.</p> <p>If the approved Site Plan incorporates Silva-cells, or equivalent planting measures, for street trees, then the applicant will be required to provide a detailed cost estimate for the work and securities in the full amount for these works as part of the required Site Plan agreement.</p>
<ul style="list-style-type: none"> <li>• Engineering Approvals, Planning and Economic Development Department</li> </ul>	<p>The eventual proposed shoring design must be contained entirely within private property, encroachment of tiebacks, shoring walls or slopes within the municipal right-of-way will not be permitted.</p> <p>Due to the proximity of shoring to the municipal right-of-way, the proponent will be required to entering into a Shoring Agreement.</p> <p>The City does not permit any permanent dewatering from</p>	<p>At the Site Plan Control stage, the applicant will need to identify any required tiebacks, shoring walls, and other construction details.</p> <p>At the Site Plan Control stage, the applicant will have to enter into a Shoring Agreement.</p> <p>A 5 metre by 5 metre daylight triangle is required to be dedicated at the Site Plan Control stage.</p>

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	<p>foundation drains to the municipal sewer system. The underground wall and foundation must be designed and constructed to be completely sealed and leak-proof to avoid the need for any permanent dewatering.</p> <p>Dedication of lands to achieve any required road widening and daylight triangle will be required at the Site Plan Control stage.</p>	
<ul style="list-style-type: none"> <li>• Growth Planning, Planning and Economic Development, Department</li> </ul>	<p>A single municipal address will be determined at the Site Plan application stage.</p>	<p>The municipal address will be determined at the Site Plan Control stage.</p>
<ul style="list-style-type: none"> <li>• Transportation Planning, Planning and Economic Development, Department</li> </ul>	<p>Transportation Planning cannot confirm ownership / title for the alley at the rear of the property.</p> <p>Driveway and vehicle accessibility cannot be guaranteed, granted and / or approved unit such time as the applicant can establish that access is available to the municipal right-of-way.</p> <p>Through the review of a Right-of-Way Impact Assessment a daylight triangle of 5 metres by 5 metres is required at the corner of King Street West and Caroline Street North.</p> <p>Caroline Street North between King and York is on</p>	<p>The alleyway has been determined to be privately owned. The applicant underwent legal proceedings to establish a legal right to access across the privately owned alleyway.</p> <p>The applicant has identified the required 5 metre by 5 metre daylight triangle on the concept plan and the dedication of the lands will be completed as part of the Site Plan Control process. Any encroachments into the right of way will require an encroachment agreement with the City or revisions to the design of the building.</p> <p>As part of the Site Plan Control application the applicant will need to outline their proposed access and obtain access</p>

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	<p>the list for two-way street conversion, vehicle access design should take this into consideration.</p> <p>An access permit from the Public Works Department is required for any new or changes to existing access.</p> <p>During construction, all vehicles, equipment, and materials must be kept on private property and cannot occupy the municipal sidewalk or roadway. Should occupancy of the municipal right of way be required during construction a temporary lane closure permit must be obtained. Long term occupancy of the road allowance for a period of three months or greater will require a Construction Management as part of the Site Plan Control application.</p> <p>A Transportation Demand Management Report was submitted and reviewed and noted that the TDM initiatives do not meet the objectives of the City, including a lack of short term bicycle parking spaces.</p>	<p>permits.</p> <p>As part of the Site Plan Control application a Construction Management Plan will be required.</p> <p>The applicant identified that short term bicycle parking is being proposed off-site within the Caroline Street North right-of-way. As part of the Site Plan Control application the applicant will be required to update their Transportation Demand Management Report and receive an encroachment agreement to locate short term bicycle parking within the City Boulevard.</p>
<b>Public Consultation</b>		
Issue	Comment	Staff Response
Building Height	A concern was raised that the building height, originally proposed at 16 storeys and	The Downtown Hamilton Secondary Plan identifies both the subject property and all the

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	54.65 metres, is extremely high for the area and for the surrounding neighbourhood north of King Street West.	<p>lands bound by King Street West, Caroline Street North, York Boulevard and Bay Street North as High Rise 2 which has a maximum height of 30 storeys.</p> <p>The City of Hamilton Zoning By-law No. 05-200 establishes a maximum building height of 90 metres for the subject lands and 90 to 91 metres for the area identified above.</p> <p>There is also an existing 13 storey building located to the north of the subject lands.</p> <p>The proposed building height of 13 storeys (43.75 metres) is permitted by both the Secondary Plan and Zoning By-law.</p>
Insufficient Parking	A concern was raised that given the number of units and the amount of commercial and office space that the parking provided will be insufficient to meet the parking needs of the subject property. It was noted that there is a large demand for private parking spaces in the neighbourhood.	Based on the proposed use of the property a total of 35 parking spaces are required to comply with the Zoning By-law, and a total of 37 parking spaces are proposed. Therefore, sufficient parking will be provided to comply with the requirements of the Zoning By-law.
Traffic Impacts	A concern was raised that during construction traffic impacts would be created.	At the Site Plan Control stage, the applicant will need to determine if any road or sidewalk closures are required and if so the applicant will be required to receive approval of a Construction Management Plan and road closure permits in order to undertake the development.

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		It is noted that traffic impacts created due to construction closures would be temporary and would not be an ongoing impact once the development is completed.
Shadow Impacts	A concern was raised respecting Sun Shadow Impacts on the adjacent buildings.	A Sun Shadow Impact Study was undertaken with respect to the proposed application. As noted in the analysis respecting the Downtown Hamilton Secondary Plan, the Sun Shadow study found that on the Equinox a 16 storey (55.0 metre) tall building would provide a minimum of 3 hours of sun between 10:00 a.m. and 4:00 p.m. for the buildings on the west side of Caroline Street North and the existing multiple dwelling located to the north and therefore complies with the Downtown Hamilton Secondary Plan policies, Sun Shadow guidelines, and Site Plan Guidelines. Staff are satisfied that a 13 storey (43.75 metre) tall building will be able to achieve greater sun access for adjacent properties and the public realm.

### Design Review Panel

The applicant presented to the Design Review Panel (DRP) in August 2015. The proposal presented was for a 15 storey mixed use building with 116 residential units, at grade retail, 116 bicycle parking spaces and four vehicular parking spaces accessed by a rear ramp that would be intended to be used as vehicle share spaces. The design proposed to demolish the existing building and establish a new building with a base of approximately two storeys. Both the building base and the tower incorporated modern building materials and proposed a substantial amount of glazing.

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The advise received from of the DRP included:

- Encouraging the applicant to save the existing building;
- Suggesting the use of a stacked parking system;
- Increasing the building set backs from the street to minimize impacts of the increased building height;
- Noted that the site is too small to provide setbacks and still have an appropriately sized building;
- Enhancing the pedestrian character along Caroline Street; and,
- Ensuring compatibility with the abutting uses.

Based on the advise of DRP and the applicable urban design policies and guidelines, the urban design staff of the Planning Division have worked with the applicant to revise the building design. When the applicant applied for the Zoning By-law Amendment application, they incorporated a stacked parking system into their design increasing the total number of parking spaces from four spaces to 37 parking spaces. The applicant is still proposing to demolish the existing building; however, the base of the proposed building has been revised to be comparable to the existing building in terms of height, architectural style, and materials. The proposed development includes setbacks from both the front and easterly side as well as changes in material, and other architectural features to provide compatibility with abutting uses, breaking up the massing of the building and establishing a built form that is consistent with the pedestrian character along both King Street West and Caroline Street North.

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 872 property owners within 120 metres of the subject property on May 31, 2017. A Public Notice sign was posted on the property on June 14, 2017 and updated on January 20, 2021. Finally, Notice of the Public Meeting was given on January 29, 2021 in accordance with the requirements of the *Planning Act*.

To date, two letters have been submitted expressing concern with the proposed development which are attached as Appendix "E" to Report PED21038 and summarized in the table above.

### **Public Consultation Strategy**

The Public Consultation Strategy included two separate meetings with the Central Neighbourhood Association, as discussed on page 9 of Report PED21038.

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**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan; and,
  - (iii) The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
  
2. The application for Zoning By-law Amendment is for a change in zoning from the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone.

The D2 Zone permits a range of commercial uses in addition to multiple dwellings. Figure 1 of Schedule “F” – Special Figures allows for a maximum height of 90 metres and the proposed development falls within this permission at a proposed height of 43.75 metres. The proposed amendment is to establish a site specific D2 Zone to recognize the modifications necessary to permit the proposed development. The modifications are identified on page 7 of Report PED21038 and discussed in detail in Appendix “D” to Report PED21038.

Therefore, staff support the proposed Zoning By-law Amendment.

3. An “H” Holding Provision is recommended to require the Owner submit a signed Record of Site Condition (RSC) to the City of Hamilton and the MOECP for the subject property or to enter into a conditional building permit agreement with respect to completing a Record of Site Condition (RSC). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton’s current RSC administration fee. This is required to evaluate the impacts of the former commercial uses on the property given the proposed change to include residential uses (a sensitive land use). The applicant has undergone a Phase I Environmental Site Assessment but has not submitted their findings to the MOECP.

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4. The subject property is included in the City's Inventory of Buildings of Architectural and/or Historical Interest. A CHIA was submitted and reviewed as part of the application for Zoning By-law Amendment and it was determined that as the existing building has is not structurally sound and cannot be restored to its original condition and therefore cannot be preserved as part of any redevelopment. The CHIA was reviewed and accepted by the Municipal Heritage Committee based on the advise of the Policy and Design working Group. The property's cultural heritage value shall be conserved by undertaking a Documentation and Salvage Report and adaptively reusing materials and elements of the existing building in the reconstruction. The proposed By-law includes an 'H' Holding Provision on the subject property which may be removed conditional upon the owner/applicant submitting the Documentation and Salvage Report to the satisfaction of the Director of Planning and Chief Planner. The adaptive reuse of materials and elements of the existing building in the reconstruction will be undertaken through the Site Plan Control application.
5. An update to the Pedestrian Wind Study will need to be undertaken in order to ensure that the necessary wind control measures reflect the most up to date design for the proposed development. The proposed By-law includes an 'H' Holding Provision on the subject property which may be removed conditional upon the owner/applicant submitting the updated Pedestrian Wind Study to the satisfaction of the Director of Planning and Chief Planner.
6. The subject property is currently subject to Holding Provision (H17) which outlines a number of requirements including lot size requirements, required studies that need to be undertaken, height benchmarks that cannot be exceeded, and a requirement that conditional Site Plan Approval be received, and (H19) for securing Community Benefits, before the 'H' Holding Provision can be lifted for any building exceeding 44.0 metres in height. While the proposed development will have a height of less than 44.0 metres, the existing (H17) and (H19) will be maintained on the subject lands and are being carried forward into the new site specific By-law in order to ensure that they will continue to apply to the subject lands. Carrying forward (H17) and (H19) into the new site specific By-law will ensure that a tall building cannot be built on site until these Holding Provision are applied for and lifted from the subject property. The subject property is also currently subject to Holding Provisions (H20) for demonstrating how any development having the effect of removing rental housing will have the rental housing replaced. There are no existing rental housing units on the subject lands and therefore no rental housing will be lost as a result of the proposed development. Therefore, Holding Provision (H20) is not required and is not being carried forward into the new site specific By-law.

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7. The proposed development is subject to Site Plan Control, and a detailed design and technical evaluation respecting cultural heritage, street trees, noise, grading and servicing, amongst others will be further reviewed and implemented as part of the Site Plan Control Application and a Site Plan agreement will be entered into.
8. A 5.0 metre by 5.0 metre daylight triangle at the corner of King Street West and Caroline Street North is required to be dedicated to the City of Hamilton as part of the Site Plan Control Application. It is noted that the sixth through fourteenth floors of the proposed building cantilever over the daylight triangle and therefore would encroach over property that will be owned by the City of Hamilton. The applicant will be required to enter into an encroachment agreement in order to permit part of the building to cantilever over the boulevard or will have to revise their design to not encroach over the daylight triangle. It should be noted that revisions to the design to not have the upper floors encroach will not result in compliance issues with respect to the site specific Zoning By-law.
9. On January 7, 2021 the Local Planning Appeal Tribunal issued Memorandum of Oral Decision by M.A. Sills on October 15, 2020 respecting a settlement hearing respecting the passing of Zoning By-law No. 17-240 by Council of the City of Hamilton for increase in minimum parking spaces size from 2.6 metres in width and 5.5 metres in length to 2.8 metres in width and 5.8 metres in length. The LPAT decision also outlined when an increase in parking space width is required when adjacent to a wall or column. The decision of the LPAT exempted three properties which included the subject property from the increase in parking space size and therefore the parking space size requirement of 2.6 metres by 5.5 metres would still apply. The site-specific by-law contains a modification to recognize the reduced parking space size related to the parking stacker system.

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment application be denied, the subject property could be utilized in accordance with the range of uses and provisions of the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

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**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Location Map

Appendix "B" – Draft Amendment to Zoning By-law No. 05-200

Appendix "C" – Revised Concept Plan

Appendix "D" – Zoning By-law Site Specific Modification - Chart

Appendix "E" – Public Submissions

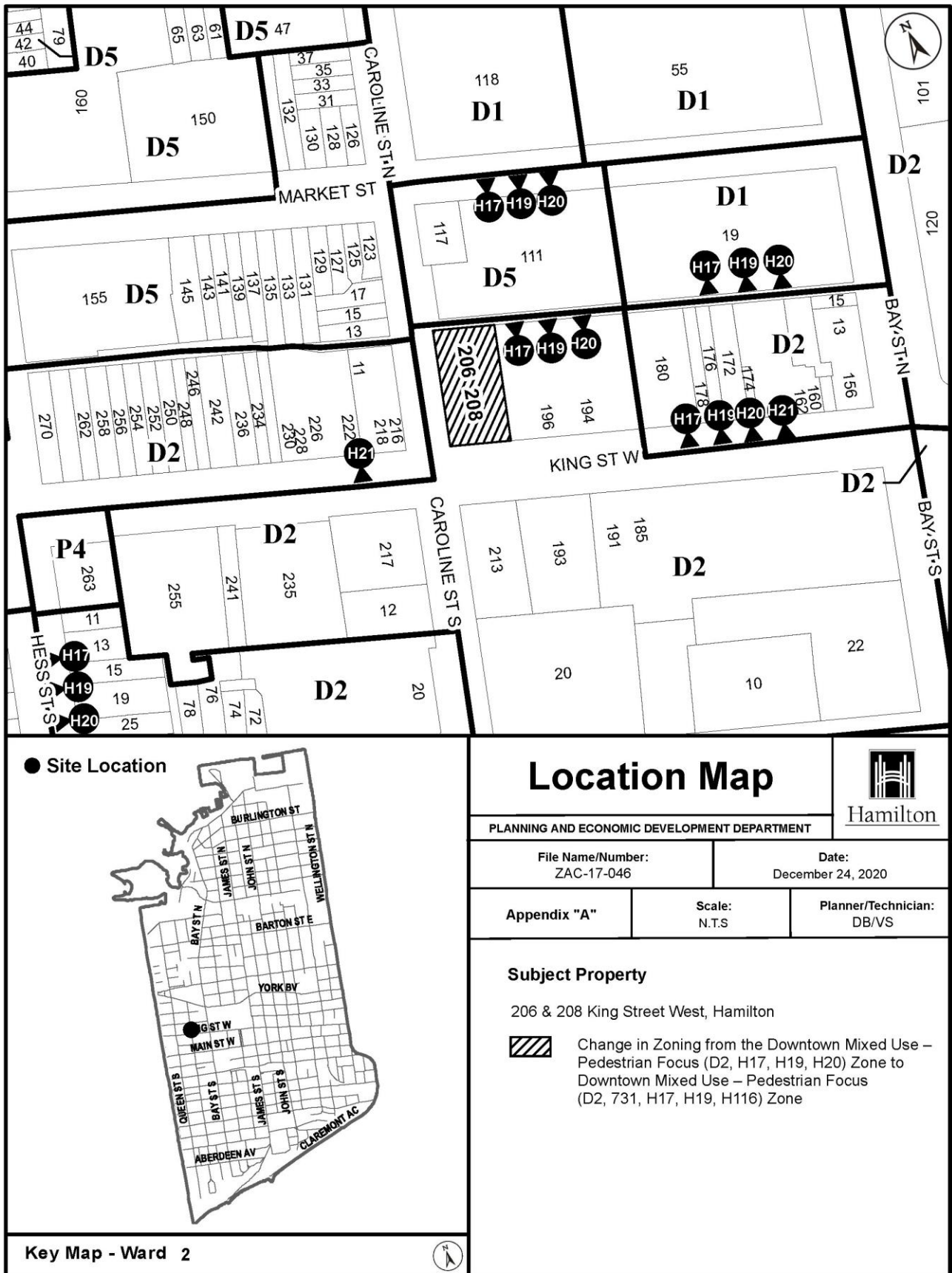
Appendix "F" – Diagram of the Parking Stacker System

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● Site Location



Key Map - Ward 2

## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-17-046

Date:  
December 24, 2020

Appendix "A"

Scale:  
N.T.S

Planner/Technician:  
DB/VS

### Subject Property

206 & 208 King Street West, Hamilton



Change in Zoning from the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone



**Authority:** Item ,  
Report (PED21038)  
CM:  
Ward: 2

**Bill No.**

## **CITY OF HAMILTON**

### **BY-LAW NO.**

#### **To Amend Zoning By-law No. 05-200 Respecting Lands Located at 206 and 208 King Street West**

**WHEREAS** Council approved Item \_\_\_ of Report \_\_\_\_\_ of the Planning Committee, at the meeting held on February 16, 2021;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map 952 of Schedule "A" – Zoning Maps, appended to and forming part of By-law No. 05-200, as amended, is hereby further amended by changing the zoning from the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to the Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone for the extent and boundaries more particularly described in Schedule "A" annexed hereto forming part of this By-law.
2. That Schedule "C" - Special Exceptions of Zoning By-law No. 05-200, as amended by By-law No. 18-114, is hereby further amended by adding Special Exception 731 as follows:
  - "731. Within the lands zoned Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116,) Zone, identified on Map 952 of Schedule "A" - Zoning Maps and described as 206 and 208 King Street West, development in accordance with the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone shall be permitted. Alternatively, the development of a 13 storey (44.0 metre), mixed use building containing a maximum of 123 dwelling shall only be permitted in accordance with the following special provisions.
    - a) Notwithstanding Section 5.1 a) i), 5.2 b) i), ii), c), f), g), and i), 5.2.1 c), and 5.7 c) and e) i), the following special provisions shall apply:
      - i) The manoeuvring space and access of the parking spaces can be provided off site by way of an adjacent laneway.
      - ii) For the purposes of special exception 731. a parking stacker system shall permit a parking space that is positioned above, below or beside another parking space and is accessed by means



**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 206 and 208 King Street West**

of an elevating device.

For the purposes of special exception 731, a parking stacker system shall be permitted and required parking may be provided by means of a parking stacker system.

- iii) Parking stall size shall be:
1. A minimum 2.6 metres in width and 5.5 metres in length for above ground or underground parking structures, when parking is provided by means of a parking stacker system.
  2. Where parking is not provided in a parking stacker system the regulations of Section 5.0 – Parking, shall apply.
  3. Where a wall, column, or any other obstruction is located abutting or within any parking space within an above ground or underground parking structure, the minimum width of a parking space shall be increased by 0 metres when parking is provided by means of a parking stacker system.
  4. A Barrier Free Parking space shall have a minimum width of 4.4 metres and a minimum length of 5.5 metres.
- iv) All required parking shall be provided with adequate means of ingress and egress to and from the street or private laneway without the necessity of moving any other motor vehicle, except by way of a mechanical stacker system, and shall be arranged so as not to interfere with normal public use of the street or laneway. Any parking lot shall provide for ingress and egress of vehicles to and from a street in a forward motion only.
- v) A minimum aisle width of 6.0 metres is not required for parking accessed by a private laneway.
- vi) Loading Facilities
- Loading facilities shall be permitted in a required rear yard adjacent to a Residential Zone and shall not be required to be screened by a Visual Barrier in accordance with Section 4.19 of this By-law.
- vii) Bicycle Parking
1. No short term bicycle parking spaces are required.

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2. 1 long term bicycle parking space per residential unit.

b) Notwithstanding Sections 6.0 b) i) and ii), and e) i) and iii), and in addition to Section 6.0 b) and Section 6.2 the following special provisions shall apply:

- |      |                                       |                    |   |
|------|---------------------------------------|--------------------|---|
| i)   | Building Façade Caroline Street North | Base Height Street | Notwithstanding Figure 15 – Schedule "F" – Special Figures, no stepback shall be required for the Caroline Street North Building Base Façade Height.  |
| ii)  | Building Height                       |                    | <p>In addition to the definition of Building Height in Section 3: Definitions, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations:</p> <p>a) A minimum 12.5 metre stepback from the rear lot line shall be required, except for the portion of the building used for a mechanical penthouse then a 5.3 metre stepback from the rear lot line shall be required, and for the portion of the building used for an indoor amenity area a minimum 11.2 metre stepback from the rear lot line shall be required.</p> <p>b) A minimum 12.5 metre stepback from the easterly side lot line shall be required, except for the portion of the building used for a mechanical penthouse then a 1.7 metre stepback from the easterly side lot line shall be required.</p> |
| iii) | Minimum Stepbacks                     |                    | <p>a) The following stepbacks shall be required for any portion of the building exceeding 22.0 metres, but not greater than 44.0 metres, in height:</p> <p>1. A minimum 3.0 metre stepback from the easterly side lot line is required, except for the portion of the building</p>  |

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setback less than 13.2 metres from the front lot line and 5.8 metres from the rear lot line then a minimum 1.7 metre setback from the easterly side lot line is required.

2. Notwithstanding 1. above, for any portion of the building that has a setback of less than 3.0 metres from the easterly side lot line, no windows are permitted facing the easterly side lot line except for windows that are translucent.
3. No setback from a rear lot line is required.

- |     |               |       |   |
|-----|---------------|-------|---|
| iv) | Glazing       |       | A minimum of 30% of glazing is required for the first floor.  |
| v)  | Ground Height | Floor | The ground floor storey shall be no less than 3.6 metres in height and no greater than 6.5 metres in height. The second and third storeys shall each be no less than 3.0 metres in height and no greater than 4.0 metres in height. |

4. That Schedule "D" – Holding Provisions, of By-law No. 05-200, be amended by adding the additional Holding Provisions as follows:

H116. Notwithstanding Section 6.2 of this By-law, within lands zoned Downtown Mixed Use – Pedestrian Focus (D2, 731) Zone on Map No. 952 on Schedule "A" – Zoning Maps, and described as 206 and 208 King Street West, Hamilton, no development shall be permitted until such time as:

- a. The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and submission of the City of Hamilton's current RSC administration fee.

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- b. A Documentation and Salvage Report in accordance with the City's Guidelines for Documentation and Salvage Reports be submitted to the satisfaction of the Manager of Development Planning, Heritage and Design prior to any demolition. Furthermore, a copy of this report should be submitted to the Hamilton Public Library.
  - c. An updated Pedestrian Wind Study has been submitted and implemented to the satisfaction of the Director of Planning and Chief Planner.
5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of the By-law, in accordance with the *Planning Act*.
6. That this By-law No. 21\_\_ shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the *Planning Act*, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

**PASSED** this \_\_\_\_\_ , 2021

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F. Eisenberger  
Mayor

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A. Holland  
City Clerk

ZAC-17-046

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 206 and 208 King Street West**

			
<p>This is Schedule "A" to By-law No. 21-</p> <p>Passed the ..... day of ....., 2021</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>		
<p><b>Schedule "A"</b></p> <p>Map forming Part of By-law No. 21-_____</p> <p>to Amend By-law No. 05-200 Map 952</p>	<p><b>Subject Property</b></p> <p>206 &amp; 208 King Street West, Hamilton</p> <p> Change in zoning from the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to the Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone</p>		
<p>Scale: N.T.S</p>	<p>File Name/Number: ZAC-17-046</p>	 <b>Hamilton</b>	
<p>Date: December 24, 2020</p>	<p>Planner/Technician: DB/VS</p>		
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>			

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 206 and 208 King Street West**

*For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law*

Is this by-law derived from the approval of a Committee Report? No

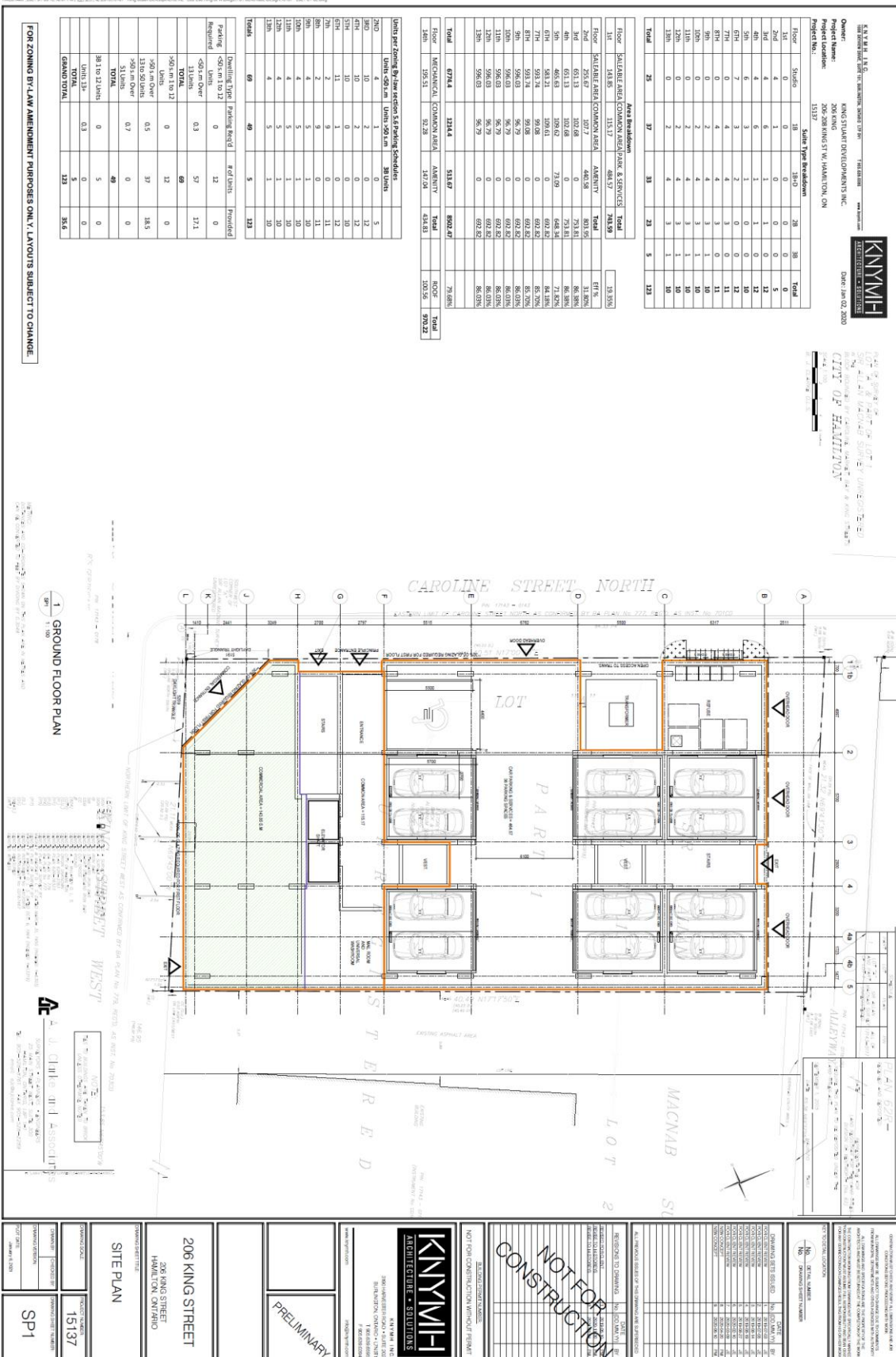
Committee: Chair and Members      Report No.: PED21038      Date: 02/16/2021

Ward(s) or City Wide: Ward: 2      (MM/DD/YYYY)

Prepared by: Daniel Barnett

Phone No: 905-546-2424 ext. 4445

*For Office Use Only, this doesn't appear in the by-law*



Floor	Studio	1B	3B/4	2B	3B	Total
1st	0	0	0	0	0	0
2nd	4	1	0	0	0	5
3rd	4	1	0	0	0	5
4th	4	1	0	0	0	5
5th	6	3	1	0	0	10
6th	7	3	2	0	0	12
7th	0	4	4	0	0	8
8th	0	4	3	0	0	7
9th	0	2	4	3	1	10
10th	0	2	4	3	1	10
11th	0	2	4	3	1	10
12th	0	2	4	3	1	10
13th	0	2	4	3	1	10
<b>Total</b>	<b>25</b>	<b>47</b>	<b>33</b>	<b>23</b>	<b>5</b>	<b>133</b>

Floor	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	13th	Total
Area Breakdown	143.85	115.17	484.57	743.99										1333.58
Scaleable Area	255.67	207.7	446.58	801.59										1711.54
Common Area	601.13	302.68	0	253.81										1157.62
Scaleable Area / Common Area	465.63	109.62	71.09	548.34										1157.62
ET %	32.4%	9.5%	14.7%	74.0%										
10th	596.03	96.79	0	692.82										1295.64
11th	596.03	96.79	0	692.82										1295.64
12th	596.03	96.79	0	692.82										1295.64
13th	596.03	96.79	0	692.82										1295.64
<b>Total</b>	<b>6714</b>	<b>1244</b>	<b>518.67</b>	<b>8928.47</b>										<b>23389</b>

Units per Floor by Area Section	1B	3B/4	2B	3B	Total
2ND	4	1	0	0	5
3RD	4	1	0	0	5
4TH	4	1	0	0	5
5TH	6	3	1	0	10
6TH	7	3	2	0	12
7TH	0	4	4	0	8
8TH	0	4	3	0	7
9TH	0	2	4	3	10
10TH	0	2	4	3	10
11TH	0	2	4	3	10
12TH	0	2	4	3	10
13TH	0	2	4	3	10
<b>Totals</b>	<b>69</b>	<b>49</b>	<b>5</b>	<b>123</b>	<b>133</b>

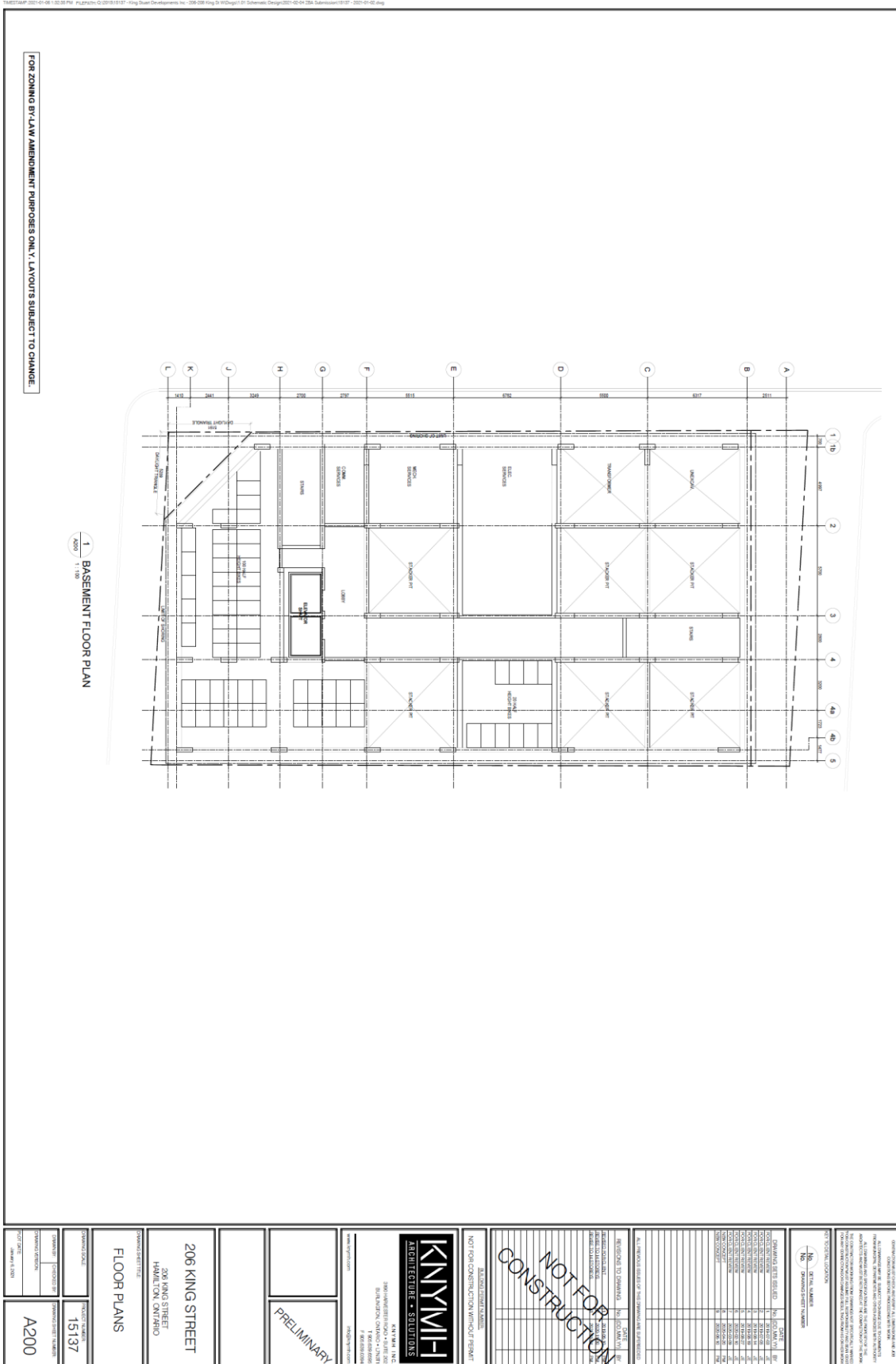
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2ND	4	1	0	0	5
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8TH	0	4	3	0	7
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7TH	0	4	4	0	8
8TH	0	4	3	0	7
9TH	0	2	4	3	10
10TH	0	2	4	3	10
11TH	0	2	4	3	10
12TH	0	2	4	3	10
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<b>Totals</b>	<b>69</b>	<b>49</b>	<b>5</b>	<b>123</b>	<b>133</b>







FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY. LAYOUTS SUBJECT TO CHANGE.

1 2ND FLOOR PLAN

2 3RD-4TH FLOOR PLAN

<p>206 KING STREET 206 KING STREET HAMILTON, ONTARIO</p>		<p><b>KNYMIH</b> ARCHITECTURE &amp; SOLUTIONS</p> <p>3900 UNIVERSITY AVENUE, SUITE 100 HAMILTON, ONTARIO L8N 4K1 TEL: 905.571.1111 WWW.KNYMIH.COM</p>		<p>PRELIMINARY</p>	
<p>FLOOR PLANS</p>		<p>PROJECT NUMBER 15137</p>		<p>DATE A201</p>	

NOT FOR CONSTRUCTION



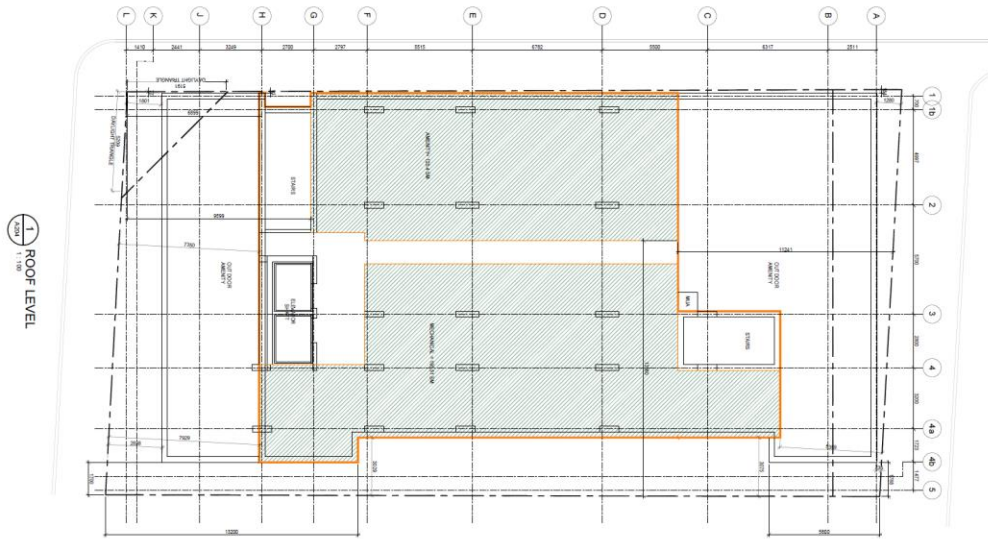
<p>FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY. LAYOUTS SUBJECT TO CHANGE.</p>	
<p><b>1</b> 5th FLOOR PLAN A202 1:100</p>	<p><b>2</b> 6th FLOOR PLAN A202 1:100</p>
<p><b>KNYMIH</b> ARCHITECTURE &amp; SOLUTIONS 1800 VICTORIA PARK AVENUE, SUITE 100 HAMILTON, ONTARIO L8N 4M1, CANADA TEL: 905.571.8888 FAX: 905.571.8889 WWW.KNYMIH.COM</p>	
<p><b>PRELIMINARY</b></p>	
<p><b>206 KING STREET</b> 206 KING STREET HAMILTON, ONTARIO</p>	
<p><b>FLOOR PLANS</b></p>	
<p>PROJECT NUMBER <b>15137</b></p>	<p>DATE <b>A202</b></p>

NOT FOR CONSTRUCTION



1/25/2021 10:12:13 AM FILEPATH: G:\2018\15137 - King Street Developments Inc. - 206 King St W\Drawings\1.01 Schematic Design\021-02-04 206 Submission\15137\_2021-01-25.dwg

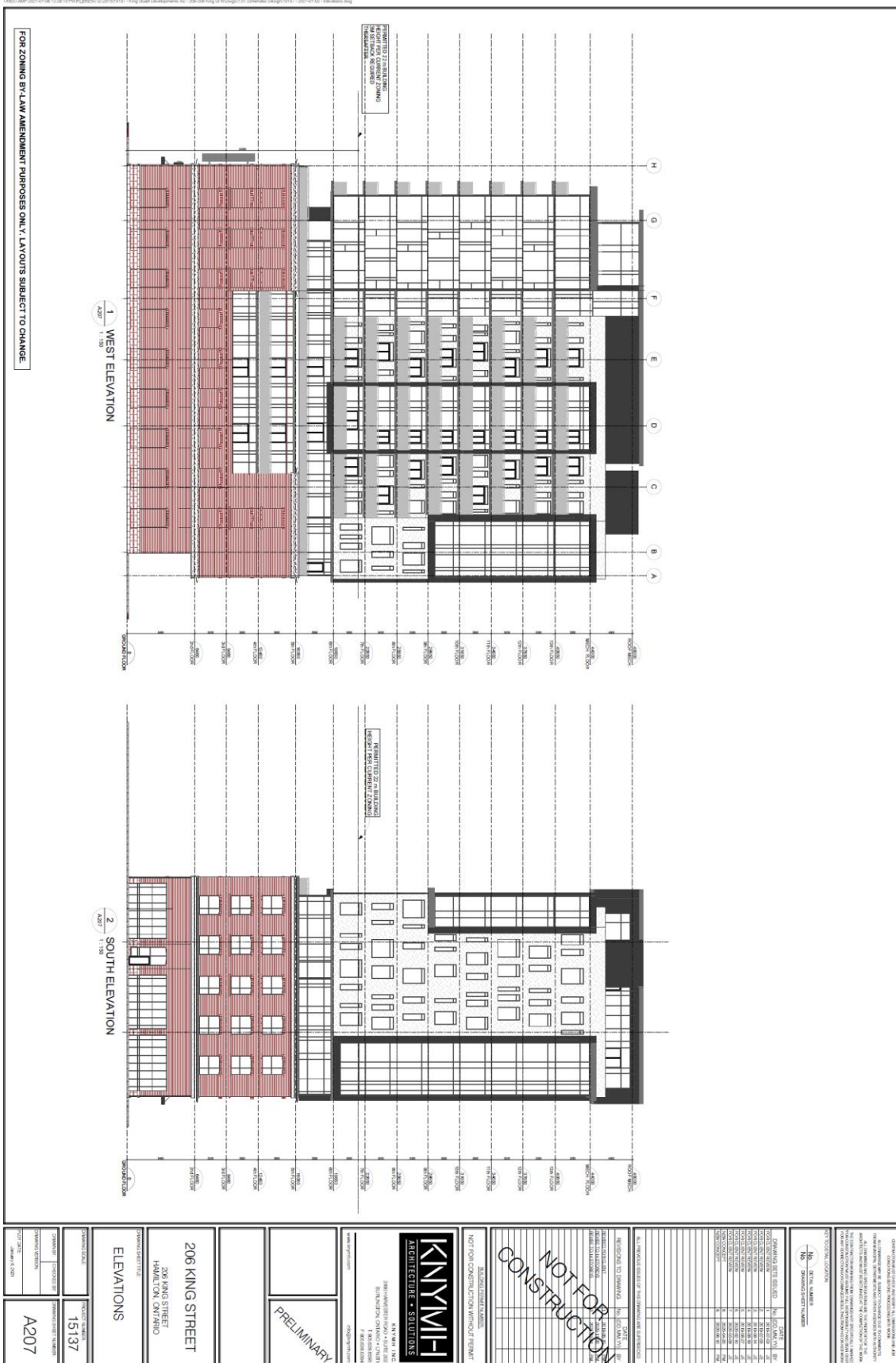
FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY, LAYOUTS SUBJECT TO CHANGE



1 ROOF LEVEL

<p>206 KING STREET 206 KING STREET HAMILTON ONTARIO</p>		<p>PROJECT NUMBER 15137</p>		<p>PROJECT TITLE A204</p>	
<p>FLOOR PLANS</p>		<p>DATE 15/13/2021</p>		<p>SCALE AS SHOWN</p>	
<p>PRELIMINARY</p>		<p>NOT FOR CONSTRUCTION WITHOUT PERMIT</p>		<p>NOT FOR CONSTRUCTION</p>	
<p><b>KNYMHI</b> ARCHITECTURE • SOLUTIONS</p>		<p>KIM YAM, P. ENG. SHEILA WONG, P. ENG. DANIELA GONCALVES, P. ARCHT. 1000 BAYVIEW AVE. SUITE 1000 SCARBOROUGH, ONTARIO M1B 2Y1</p>		<p>ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED</p>	





Zoning By-law Site Specific Modifications – Downtown Mixed Use – Pedestrian Focus (D2, 731, H116, H117) Zone

Provision	Required	Requested Amendment	Analysis
<b>Section 5.0: Parking Requirements</b>			
<p>5.1 (a) i) - Parking Facilities On-Site</p> <p><i>** Applicant Requested Modification</i></p>	<p>Required parking facilities shall be located on the same lot as the use requiring the parking.</p>	<p>The manoeuvring space and access for some of the parking spaces are provided by way of an adjacent private laneway.</p>	<p>The parking for the proposed development consists of six parking stackers each consisting of three levels with a double platform capable of parking two vehicles per level, for a total of six vehicles.</p> <p>Four of the parking stackers are accessed by way of an internal driveway which has access directly to Caroline Street North, therefore the parking facilities for these parking spaces are provided on-site.</p> <p>The remaining two parking stackers are accessed by way of a rear private laneway that connects from Bay Street North to Caroline Street North. The laneway is privately owned however the applicant has established a legal right to access across the laneway lands. Therefore, while the manoeuvring and access for the two stackers are not located on site this will not impede the manoeuvring and access for these parking spaces.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>5.2 (b) i) – Parking Space Size (new parking standard not yet in effect)</p> <p><i>** Applicant</i></p>	<p>Minimum parking space size of 2.8 metres in width and 5.8 metres in length shall be permitted within an above ground or</p>	<p>Minimum parking space size of 2.6 metres in width and 5.5 metres in length shall be permitted within an above ground or</p>	<p>The modification facilitates the decision made by the Local Planning Appeal Tribunal (LPAT) in their written decision on the appeal of the CMU Zoning By-law dated January 7, 2021 that exempted the property at 206 and 208 King Street West from the increase in minimum parking space size and therefore the minimum parking space size of 2.6 metres in width by 5.5 metres in length</p>

<i>Requested Modification</i>	underground parking structures.	underground parking structure when parking is provided by means of a parking stacker system.	applies. The modification is being included in the site specific Zoning By-law to ensure that the site specific By-law reflects the decision of the LPAT.  Therefore, the proposed modification can be supported.
5.2 (b) ii) – Parking adjacent to wall or column (new parking standard not yet in effect)  <i>** Applicant Requested Modification</i>	Where a wall or column or any other obstruction is located abutting or within any parking space within an above ground or underground parking structure, the minimum width of a parking spaces shall be increased by 0.3 metres.	0 metres when parking is provided by means of a parking stacker system.	The modification facilitates the decision made by the LPAT in their written decision dated January 7, 2021 on the appeal to the CMU Zoning By-law that exempted the property at 206 and 208 King Street West from the requirement to increase the width of a parking space size where a wall, column, or any other obstruction is located abutting or within any parking space. The modification is being included in the site Specific Zoning By-law to ensure that the site specific By-law reflects the decision of the LPAT.  Therefore, the proposed modification can be supported.
5.2 f) – Barrier Free Parking Space Size  <i>** Staff Recommended Modification</i>	Minimum barrier free parking space of 4.4 metres in width and 5.8 metres in length.	To permit a barrier free parking space with a minimum width of 4.4 metres and a minimum length of 5.5 metres.	The proposed modification for a reduction in parking space length reflects the requirement that was in effect at the time that the application made. The proposed modification is seeking to provide a minimum barrier free parking space length that aligns with the length of the other parking spaces proposed on-site. The proposed modification does not alter the required width of a barrier free parking space and therefore will not impact the accessibility of the barrier free parking space.  Therefore, the proposed modification can be supported.



<p>5.2 (c) (g) and (i) – Stacked Parking and Unobstructed Manoeuvring Space</p> <p><i>** Applicant Requested Modification</i></p>	<p>All required parking shall be provided adequate access by means of ingress and egress to and from the street or private laneway without the necessity of moving any other motor vehicle.</p> <p>Tandem or stacked parking is permitted for Commercial Parking Facilities and Hotels when a parking attendant is on site or a valet service.</p> <p>A minimum of 6.0 metres of unobstructed manoeuvring space.</p>	<p>To allow ingress and egress to all required parking from a street or private laneway, without the necessity of moving any other motor vehicle, except by way of a mechanical stacker system.</p> <p>To permit requiring parking to be provided by means of a parking stacker system.</p> <p>To permit parking spaces that do not provide 6.0 metres of unobstructed manoeuvring space.</p>	<p>The laneway located at the rear of the property is privately owned and therefore does not meet the definition of a laneway in the Zoning By-law which is defined as a public highway or road allowance having a width of less than 12.0 metres. The applicant has established a legal right to access to and from Caroline Street North over the privately owned laneway and therefore adequate ingress and egress will be provided for the parking spaces.</p> <p>Stacked parking is restricted to certain types of uses and requires that a parking attendant or valet service be provided to ensure that stacked vehicles are not obstructed by other vehicles. A parking attendant or valet service would traditionally have the ability to relocate vehicles to clear an obstruction, and the absence of a parking attendant or valet service would traditionally result in vehicles being obstructed.</p> <p>The parking stacker system proposed by the applicant does not include a parking attendant or valet services. Instead the parking stacker system is automated to raise or lower the stacked vehicles in order for a vehicle owner to be able to gain access to their vehicle (see Appendix F of Report PED21038). As such, allowing the proposed parking stackers for parking associated with a multiple dwelling and an office use without a parking attendant or valet service will not result in vehicles that cannot be accessed.</p> <p>In respect to the provision for 6.0 metres of unobstructed manoeuvring space, the vehicles while obstructed can be easily accessed through the use of the automated</p>
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			<p>parking stacker system. A 6.0 metre on-site manoeuvring area is provided for the four stackers that are accessed from the internal driveway that has access directly to Caroline Street North. In respect to the two parking sackers accessed from the rear laneway, approximately 6.0 metres of manoeuvring area is provided, however it is located partially onsite and partially within the private laneway. Therefore adequate manoeuvring space is provided that will allow the proposed parking spaces to be easily accessed.</p> <p>Therefore, the proposed modifications can be supported.</p>
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<p>5.2.1 c) – Location of Loading Facilities</p> <p><i>** Applicant Requested Modification</i></p>	<p>A loading door and loading area are not permitted in a required yard abutting a Residential Zone and shall be screened from view by a Visual Barrier.</p>	<p>To permit a loading door and loading area to be located in the rear yard abutting a Residential Zone and to not be required to be screened from view by a Visual Barrier.</p>	<p>As the proposed loading area is to be accessed directly from the private laneway, a visual barrier separating the loading area and loading door from the rear lot line would obstruct access to the loading area.</p> <p>The door for the loading and garage facilities are located at the rear of the property which abuts lands zoned Downtown Residential (D5) Zone to the north. The proposed loading door and loading area are recessed approximately 2.9 metres which will partially buffer the nearby residential property to the north. The loading door and loading area are further separated from the residential building to the north by the existing private laneway and the existing parking associated with the existing multiple dwelling to the north. A separation of approximately 18.9 metres is provided between the loading door and loading area and the adjacent property, which will provide adequate separation and will not negatively impact the existing residential uses.</p> <p>Therefore, the proposed modifications can be supported.</p>
<p>5.7 (c) and (d) Short Term Bicycle Parking Spaces</p> <p><i>** Applicant Requested Modification</i></p>	<p>For the proposed Multiple Dwelling and Commercial uses a total of 10 short term bicycle parking spaces are required on-site.</p>	<p>To not require any short term bicycle parking spaces on site.</p>	<p>The proposed building is to be located in proximity to the Caroline Street North and King Street West lot lines and therefore does not provide sufficient spaces on-site in which to provide the required 10 short term bicycle parking spaces.</p> <p>The applicant is proposing to provide a total of 10 short term bicycle parking space along Caroline Street North that are partially on the subject lands but are predominantly within the City boulevard. As the By-law requirement requires the 10 short term bicycle parking</p>

			<p>spaces to be provided on-site, the proposed short term bicycle parking spaces located within the boulevard would not meet this By-law requirement. As such a modification to not require any short term bicycle parking spaces on-site is required. However, the short term bicycle parking needs of the subject lands will be addressed in an alternative manner. An encroachment agreement will be required for the proposed short term bicycle parking spaces provided within the City boulevard which will be secured at the Site Plan Control stage.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>5.7 (e) Long Term Bicycle Parking Spaces</p> <p>** Staff Recommended Modification</p>	<p>A multiple dwelling requires a minimum number of long term bicycle parking at a rate of 0.5 per dwelling unit.</p>	<p>To increase the minimum bicycle parking ratio for a multiple dwelling from 0.5 per dwelling unit to 1.0 per dwelling unit.</p>	<p>The applicant has identified in their proposed design that they will be providing 123 long term bicycle parking spaces. As some of the parking necessary to facilitate the proposed development will not be provided on-site but instead provided by way of Cash-in-Lieu of Parking an increase beyond the minimum number of long term bicycle parking spaces was deemed to be appropriate by staff. Therefore, to ensure that the increase in the minimum number of long term bicycle parking spaces is provided, staff propose a modification to increase the minimum number of long term bicycle parking spaces required per multiple dwelling unit from 0.5 per dwelling unit to 1.0 per dwelling unit.</p> <p>Therefore, the proposed modification can be supported.</p>
Section 6.0: Downtown Zones General Provisions			
(b) i) Stepback – Caroline Street	Minimum 3 metre stepback beyond	To not require a stepback along the	The proposed development establishes distinctive materials between the lower portion of the building (4 <sup>th</sup>

<p>North</p> <p><i>**Applicant Requested Modification</i></p>	<p>Building Base Façade Height of 11.0 metres along Caroline Street North</p>	<p>Caroline Street North façade.</p>	<p>floor and below) and the upper portion of the building (6<sup>th</sup> floor and above), with the 5<sup>th</sup> floor in having its own distinct treatment. The change in materials between the 4<sup>th</sup> and 5<sup>th</sup> floors occurs at a height of 16.06 metres and the change between the 5<sup>th</sup> and 6<sup>th</sup> floors occurs at a height of 19.65 metres.</p> <p>In addition to the 5<sup>th</sup> floor having a distinctive design treatment, the 5<sup>th</sup> floor also maintains a 7.2 metre stepback from the King Street West lot line and is therefore recessed further back from King Street West than the floors above (6<sup>th</sup> through 16<sup>th</sup>) which cantilever over the 5<sup>th</sup> floor terrace with a stepback of 2.8 metres from King Street West.</p> <p>The material of the lower portion of the building is reflective of the material style of buildings along King Street West and the height is reflective of the height of the building that currently exists on site.</p> <p>Architectural elements including cornice lines further breaks up the massing of the proposed building creating a transition between the lower portion of the building and the upper portion of the building.</p> <p>The distinct design of the 5<sup>th</sup> floor along with the recessed stepback from King Street West, in conjunction with the difference in design between the lower and upper floors and architectural elements allow for the building to properly frame the street and reflect the massing and scale of the area without providing a physical stepback along the Caroline Street North (westerly) façade.</p>
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			Therefore, the proposed modification can be supported.
<p>(b) (ii) Stepback – Easterly Side</p> <p><i>** Partially Applicant Requested Modification</i></p> <p><i>** Modified by Staff to clarify the portions of the building permitted to be 1.7 metres and what must remain at 3.0 metres.</i></p>	<p>Minimum 3.0 metre stepback for any portion of a building exceeding 22.0 metres in height from a side lot line.</p>	<p>For any portion of a building exceeding 22.0 metres in height a minimum 3.0 metre stepback from a side lot line is required, except for the portion of the building setback less than 13.2 metres from the front lot line and 5.8 metres from the rear lot line then a minimum 1.7 metre stepback from a side lot line is required.</p>	<p>The middle portion of the easterly wall of the building, which constitutes the majority of the easterly wall, will provide the required 3.0 metre stepback. The stepback will be provided above the 4<sup>th</sup> floor at a height of 16.06 metres and therefore does not exceed the 22.0 metre height.</p> <p>A portion of the easterly wall includes a stepback of 1.7 metres. Staff has modified the By-law to ensure that those portions of the building stepped back 1.7 metres will not include transparent windows. Therefore, the reduction in stepback will not create privacy and overlook concerns for any future development of the adjacent lands.</p> <p>There is currently an existing restaurant located on the lands immediately to the east of the subject property. The proposed reduction in stepback for the portions of the building exceeding 22.0 metres in height will not create negative privacy overlook impacts on the existing restaurant.</p> <p>As outlined in the Policy Implications and Legislative Requirements section of Report PED21038 a Sun Shadow Impact Study was submitted with the application for Zoning By-law Amendment and demonstrated that shadows from the proposed development will not impact the property to the east until 2 p.m. at the Equinox and therefore will provide a minimum of three hours of sun between 10:00 a.m. and</p>

			<p>4:00 p.m.</p> <p>If a tall building is developed on the property to the east the proposed development may be impacted by the resulting shadows due to the reduced stepback. As part of the Site Plan Control and Draft Plan of Condominium applications prospective purchasers / tenants must be advised of this potential future impact.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>Restriction on Easterly Facing Windows</p> <p><b>** Staff Recommended Modification</b></p>	No existing provision.	<p>For the portion of the building exceeding 22.0 metres in height but not greater than 44.0 metres, with a stepback of less than 3.0 metres from the easterly side lot line, no windows are permitted facing the easterly side lot line except for windows that are translucent.</p>	<p>The absence of clear glass windows on the portion of the easterly facing wall, that is stepped back less than 3.0 metres, forms part of the justification for the reduction in the required stepback above 22.0 metres. Therefore, to ensure that easterly facing windows, within the portion of the building that is less than 3.0 metres, are not clear glass windows, a modification is required to prohibit windows except for windows that are translucent (frosted).</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(b) (ii) Stepback – Rear</p> <p><b>**Applicant Requested</b></p>	Minimum 3.0 metre stepback for any portion of a building exceeding 22.0 metres in height from	To not require any stepback for any portion of a building exceeding 22.0 metres, but	<p>There is an existing private laneway located immediately to the north (rear) of the subject lands and the existing multiple dwelling located to the north is stepback approximately 16.0 metres from the rear lot line of the subject property. Furthermore, the existing multiple</p>

<i>Modification</i>	a rear lot line.	not greater than 44.0 metres, in height from a rear lot line.	<p>dwelling located to the north of the subject lands is setback approximately 17.0 metres from the Caroline Street North lot line and therefore only approximately 4.0 metres of the existing multiple dwelling lines up with the proposed building. Therefore, not requiring a 3.0 metre stepback will not have negative privacy overlook impacts.</p> <p>Furthermore, as outlined in the Policy Implications and Legislated Requirements section of Report PED21038, a Sun Shadow Impact Study was submitted with the application for Zoning By-law Amendment and demonstrated that a minimum of three hours of sun will be provided on the south façade of the building to the north between 10:00 a.m. and 4:00 p.m. at the Equinox.</p> <p>Therefore, the proposed modification to not require a 3.0 metre stepback for the portions of the building exceeding 22.0 metres in height will not create negative privacy overlook and sun shadow impacts.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>Building Height for rooftop amenity area.</p> <p>** Staff Recommended Modification</p>	An enclosed roof top amenity is considered part of the building in respect to overall calculation for building height.	To not include an enclosed or partially enclosed amenity area or the access to a rooftop amenity area to be considered part of the building in respect to the	<p>The proposed modification to allow enclosed rooftop amenity area to not be considered part of the building in respect to the overall calculation for building height is consistent with other zones in the City of Hamilton Zoning By-law 05-200.</p> <p>Therefore, the proposed modification can be supported.</p>



		overall calculation for building height.	
<p>(c) iii) 1. Stepback Rear Lot Line</p> <p><i>** Applicant Requested Modification</i></p> <p><i>** Modified by Staff to restrict the reduction in the stepback to a mechanical penthouse and indoor amenity area.</i></p>	<p>Minimum 12.5 metre stepback for any portion of a building exceeding 44.0 metres in height from a rear lot line.</p>	<p>Minimum 5.3 metre stepback for any portion of a building exceeding 44.0 metres in height, used for a mechanical penthouse, from a rear lot line.</p> <p>Minimum 11.2 metre stepback for any portion of a building exceeding 44.0 metres in height, used for an indoor amenity area, from a rear lot line.</p>	<p>The reduction in the rear yard stepback from 12.5 metres to 5.3 metres pertains is for the stepback to the mechanical penthouse and the site specific By-law modification will restrict the modification for reduction in the stepback to a mechanical penthouse only. Therefore as the 5.3 metre stepback is only for a mechanical penthouse it would not contain windows that would create overlook impacts onto any adjacent property nor on any future tall building developed on lands located to the rear of the subject property.</p> <p>The reduction in the rear yard setback from 12.5 metres to 11.2 metres pertains to the stepback for an indoor amenity area located on the top floor. As the modification for reduced stepabck is limited to indoor amenity space the 1.3 metre reduction in stepback will not result in any negative overlook impacts on the adjacent lands nor on any future tall building development on lands located to the rear of the subject property.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(c) iii) 2. Stepback Side Lot Line</p> <p><i>** Applicant Requested Modification</i></p>	<p>Minimum 12.5 metre stepback for any portion of a building exceeding 44.0 metres in height from a side lot line.</p>	<p>Minimum 1.7 metre stepback for any portion of a building exceeding 44.0 metres in height, used for a mechanical</p>	<p>The proposed 1.7 metres stepback for the portion of the building exceeding 44.0 metres in height is for a mechanical penhouse and will be restricted in the By-law modification to only permit the reduction in the stepback for a mechanical penthouse. Therefore as the 1.7 metre stepback is only for a mechancial penthouse it would not contain windows that would create overlook impacts</p>

<p><i>** Modified by Staff to restrict the reduction in the setback to a mechanical penthouse..</i></p>		<p>penthouse, from the easterly side lot line.</p>	<p>onto any adjacent properties nor any future tall building development on the lands located to the east of the subject property.</p> <p>Therefore the proposed modification can be supported.</p>
<p>(e) i) – Ground Floor Glazing</p> <p><i>** Applicant Requested Modification</i></p>	<p>A minimum of 60% of the area of the ground floor façade shall be comprised of clear glazed windows and doors.</p>	<p>A minimum of 30% of the area of the ground floor façade shall be comprised of clear glazed windows and doors.</p>	<p>The intent of the minimum glazing requirement is to ensure that there is an active streetscape along the pedestrian oriented street. The building that presently exists on site has very little ground floor glazing with only two small windows on the Caroline Street North frontage and five small windows and a small doorway along the King Street West frontage.</p> <p>A reduced amount of glazing is necessary for the proposed podium level to be consistent with the style and character of the area, in which the existing building façade for both the existing building and the building located at the north west corner of Caroline Street North and King Street West have limited ground floor windows facing Caroline Street North.</p> <p>The active uses at the ground level are primarily focused at the front of the building along King Street West in which the amount of glazing has been substantially increased from what exists today. Therefore, the proposed minimum 30% ground level glazing represents an improved situation.</p> <p>A minimum 30% ground level glazing modification is required in part due to the fact that a significant portion</p>

			<p>of the ground level of the building along Caroline Street North consists of parking and other utility elements in which windows would not be appropriate. While the treatment of both façades is important, providing an increased amount of glazing on the King Street West frontage improves the pedestrian experience along a very heavily travelled pedestrian route.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(e) iii) – Ground Floor Height</p> <p><i>** Applicant Requested Modification</i></p>	<p>A maximum ground floor height of 4.5 metres in height.</p>	<p>A maximum ground floor height of 6.5 metres in height.</p>	<p>The first floor of the existing building on-site is elevated above grade due to the basement level being partially above grade. In order to establish grade oriented commercial while providing a development that is reflective of the size and scale of the existing development a higher ground floor height is required. As a difference in ground floor height between the existing building and the buildings to the west along King Street West represents the existing situation, the proposed modification to establish a similar scale of development will be compatible with the existing streetscape character of the area.</p> <p>The increase in ground floor building height is also required to accommodate the proposed parking stacker system. For the vehicle at the bottom of the stacker to be able to ingress and egress the parking stacker space without obstruction there needs to be sufficient clearance above the ground level for the two other vehicles in the stacker to be raised up.</p> <p>Therefore, the proposed modification can be supported.</p>

June 20, 2017

Kimberley Harrison-McMillan  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON. L8P 4Y5

Via email to [Gerry.Tchisler@hamilton.ca](mailto:Gerry.Tchisler@hamilton.ca)

RE: File: ZAC-17-046

Dear Ms. Harrison-McMillan,

As a resident at [REDACTED], I wish to share some concerns of the new proposed project by King Stuart Developments Inc. at 206-208 King Street West in Hamilton.

- A 15 storey multiple dwelling is extremely high for the area and for the surrounding neighbourhood north of King Street.
- Given the number of units for residential, commercial and office space, the number of parking spaces will not fulfill the need of this building. I am sure the intention is for the resident owners of the building to not have their own private transportation, but if they do, there will be insufficient parking spaces. There is a big demand for private parking spaces at this time in the neighbourhood, I do not want to imagine the difficulty the current residents and visitors to the area will have in finding parking.
- During the construction phase of the proposed building, the traffic congestion on Caroline Street North will increase driver and resident frustration.

**Please remove my personal information from any published content regarding ZAC-17-046.**

Being born and raised in Hamilton, I have seen how far Hamilton has come as a city and a community to be proud of. I would not want any new proposed buildings to affect Hamilton as a city, community and a place that many people call home.

Respectfully submitted,

**SENT VIA EMAIL**

June 20, 2017

Gerry Tchisler  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor, Hamilton, ON L8P 4Y5

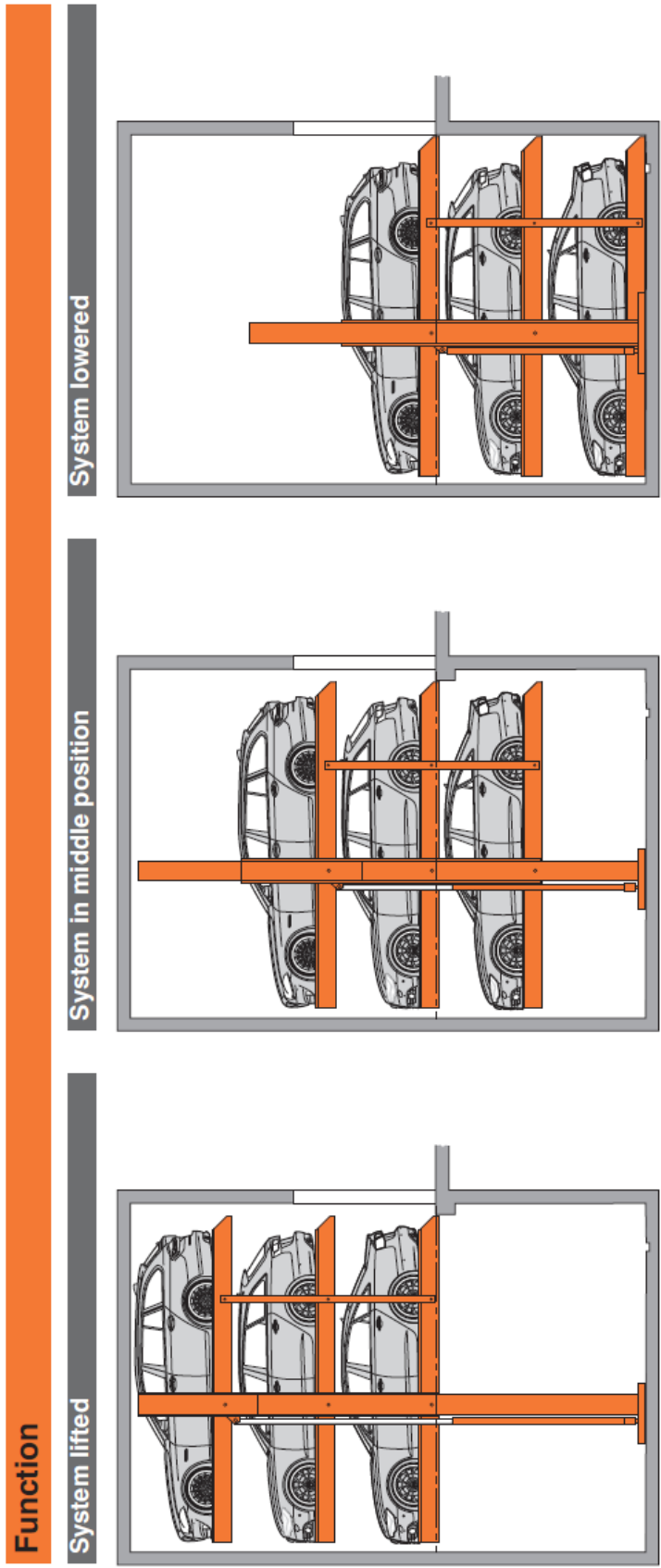
Gerry Tchisler,

We represent the interests of the owner of \_\_\_\_\_, Hamilton, ON \_\_\_\_\_. We are writing to you in response to your letter dated June 2, 2017 regarding the Zoning By-law Amendment for **206-208 King Street West**, file **ZAC-17-046**.

We are not opposed to development, but we are concerned regarding the potential development's shadowing impact on \_\_\_\_\_. We would like to obtain and a review a copy of the shadow impact study completed as part of the re-zoning application when it becomes available. We also trust that the shadow impact study will be reviewed by the City's planning staff as part of their report and recommendation.

We also ask that **all personal information regarding this communication be removed from the public record** when compiling comments and opinions regarding the re-zoning application.

Kind Regards,

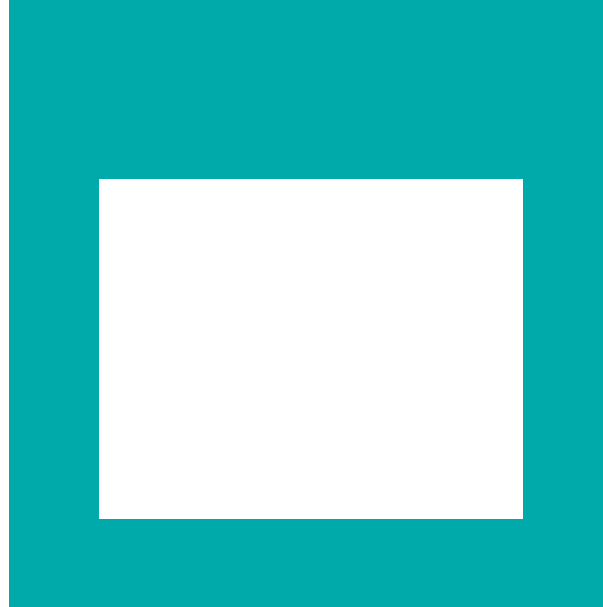


**Function**

System lowered

System in middle position

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WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

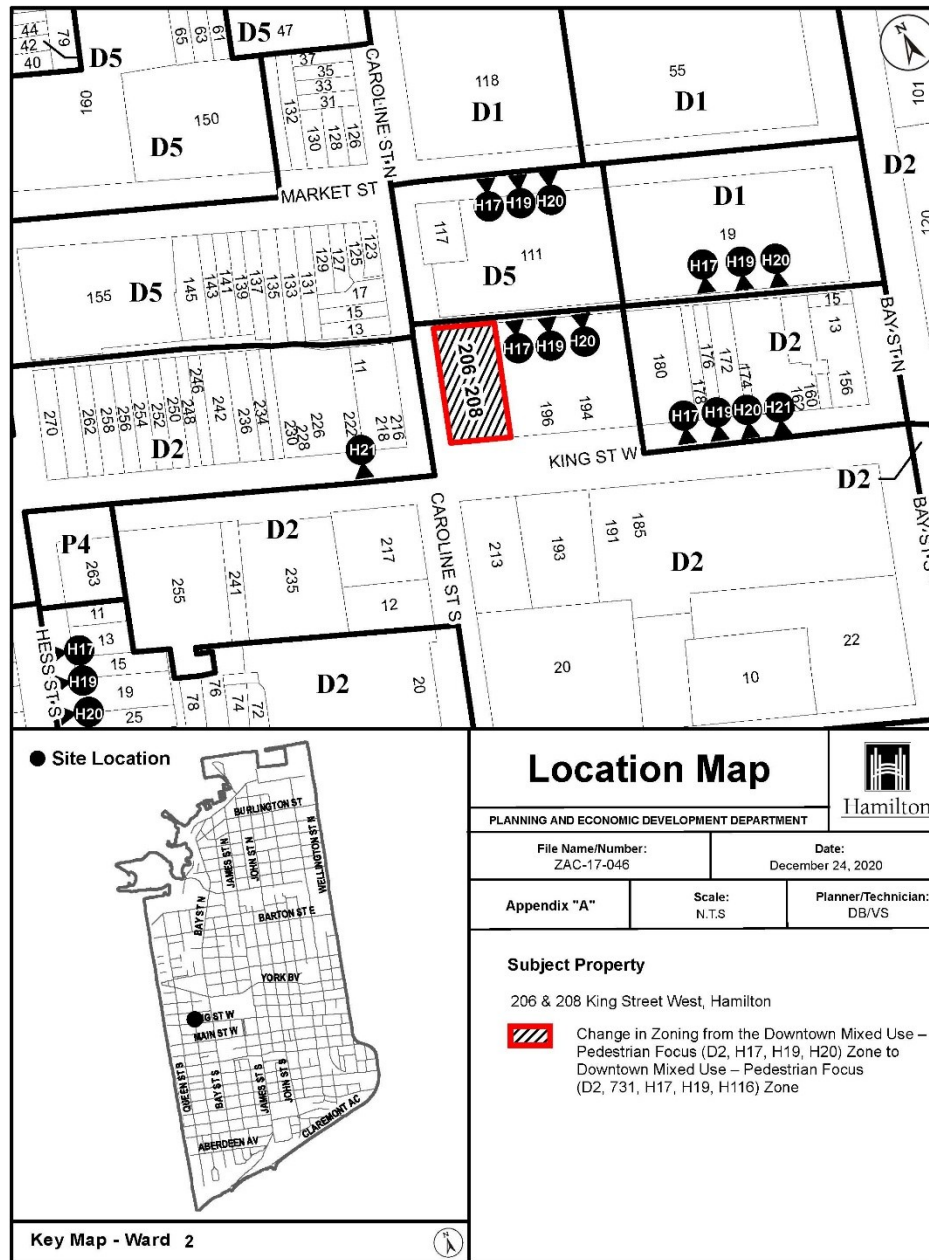
February 16, 2021

# PED21038– (ZAC-17-046)

Application for Zoning By-law Amendment for Lands Located at  
206 and 208 King Street West, Hamilton

Presented by: Daniel Barnett







**SUBJECT PROPERTY**



**206 – 208 King Street West, Hamilton**

**KNYMH ARCHITECTURE + SOLUTIONS**

Owner: KING STUART DEVELOPMENTS INC. Date: Jan 02, 2020  
 Project Name: 206 KING  
 Project Location: 206-208 KING ST W, HAMILTON, ON  
 Project No.: 15137

Floor	Studio	1B	1B+D	2B	3B	Total
1st	0	0	0	0	0	0
2nd	4	1	0	0	0	5
3rd	4	6	1	1	0	12
4th	4	6	1	1	0	12
5th	6	3	1	0	0	10
6TH	7	3	2	0	0	12
7TH	0	4	4	3	0	11
8TH	0	4	4	3	0	11
9th	0	2	4	3	1	10
10th	0	2	4	3	1	10
11th	0	2	4	3	1	10
12th	0	2	4	3	1	10
13th	0	2	4	3	1	10
<b>Total</b>	<b>25</b>	<b>37</b>	<b>33</b>	<b>23</b>	<b>5</b>	<b>123</b>

Floor	SALEABLE AREA	COMMON AREA/PARK & SERVICES	Total	Eff %	
1st	143.85	115.17	454.57	19.39%	
2nd	255.67	107.7	440.58	31.82%	
3rd	651.13	102.68	0	753.81	86.38%
4th	651.13	102.68	0	753.81	86.38%
5th	465.63	109.62	73.09	648.34	71.82%
6TH	583.21	109.61	0	692.82	84.18%
7TH	593.74	99.08	0	692.82	85.70%
8TH	593.74	99.08	0	692.82	85.70%
9th	596.03	96.79	0	692.82	86.03%
10th	596.03	96.79	0	692.82	86.03%
11th	596.03	96.79	0	692.82	86.03%
12th	596.03	96.79	0	692.82	86.03%
13th	596.03	96.79	0	692.82	86.03%
<b>Total</b>	<b>6724.4</b>	<b>1214.4</b>	<b>513.67</b>	<b>8002.47</b>	<b>79.68%</b>

Floor	MECHANICAL	COMMON AREA	AMENITY	Total	ROOF	Total
14th	195.51	92.28	147.04	434.83	100.56	<b>970.22</b>

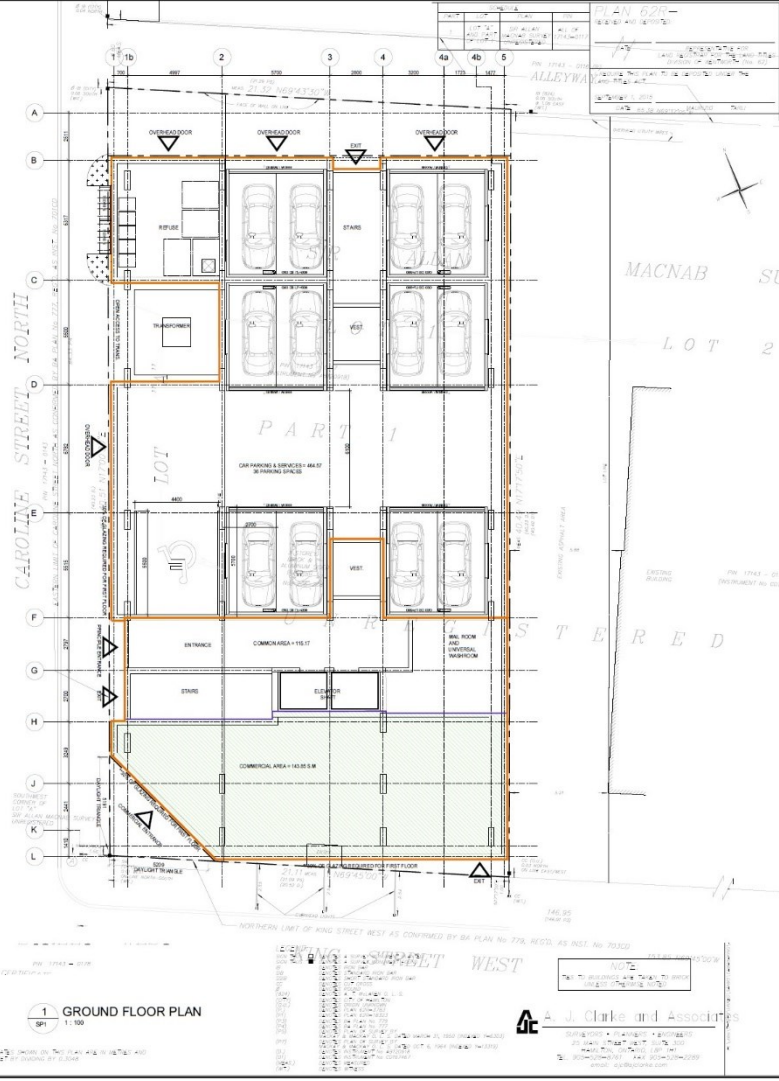
Units per Zoning By-law section 5.6 Parking Schedules	Units <50 s.m.	Units >50 s.m.	3B Units	
2ND	4	1	0	5
3RD	10	2	0	12
4TH	10	2	0	12
5TH	10	0	0	10
6TH	11	1	0	12
7th	2	9	0	11
8th	2	9	0	11
9th	4	5	1	10
10th	4	5	1	10
11th	4	5	1	10
12th	4	5	1	10
13th	4	5	1	10
<b>Totals</b>	<b>69</b>	<b>49</b>	<b>5</b>	<b>123</b>

Parking Required	Dwelling Type	Parking Req'd	# of Units	Provided
PARKING	<50 s.m. to 12 Units	0	12	0
	<50 s.m. Over 13 Units	0.3	57	17.1
	<b>TOTAL</b>		<b>69</b>	
	>50 s.m. to 12 Units	0	12	0
	>50 s.m. Over 13 to 50 Units	0.5	37	18.5
>50 s.m. Over 51 Units	0.7	0	0	
<b>TOTAL</b>		<b>49</b>		
3B to 12 Units	3B to 12 Units	0	5	0
	Units 13+	0.3	0	0
	<b>TOTAL</b>		<b>5</b>	
<b>GRAND TOTAL</b>		<b>123</b>	<b>35.6</b>	

FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY. LAYOUTS SUBJECT TO CHANGE.

PLAN OF SUBDIVISION OF LOT 1 & 2 PART OF LOT 1 & 2 4th AVENUE EAST SURVEY UNREGISTERED  
 AS SHOWN BY ORIGINAL SURVEY UNREGISTERED  
 AS SHOWN BY ORIGINAL SURVEY UNREGISTERED  
 CITY OF HAMILTON  
 2014-11-10



ALL DIMENSIONS AND LOCATIONS ARE APPROXIMATE AND SUBJECT TO FIELD SURVEY. ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO FIELD SURVEY. ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO FIELD SURVEY.

NO. 15137  
 SHEET NUMBER  
 DRAWING SHEET NUMBER

DRAWING SETS ISSUED	NO.	DATE	BY
PROJECT SET	1	2019/04/15	SP
PERMIT SET	1	2019/04/15	SP
CONSTRUCTION SET	1	2019/04/15	SP
AS-BUILT SET	1	2019/04/15	SP
FINAL SET	1	2019/04/15	SP
REVISIONS TO DRAWING <th>NO.</th> <th>DATE</th> <th>BY</th>	NO.	DATE	BY
REVISIONS TO DRAWING	1	2019/04/15	SP
REVISIONS TO DRAWING	2	2019/04/15	SP
REVISIONS TO DRAWING	3	2019/04/15	SP
REVISIONS TO DRAWING	4	2019/04/15	SP
REVISIONS TO DRAWING	5	2019/04/15	SP
REVISIONS TO DRAWING	6	2019/04/15	SP
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NOT FOR CONSTRUCTION

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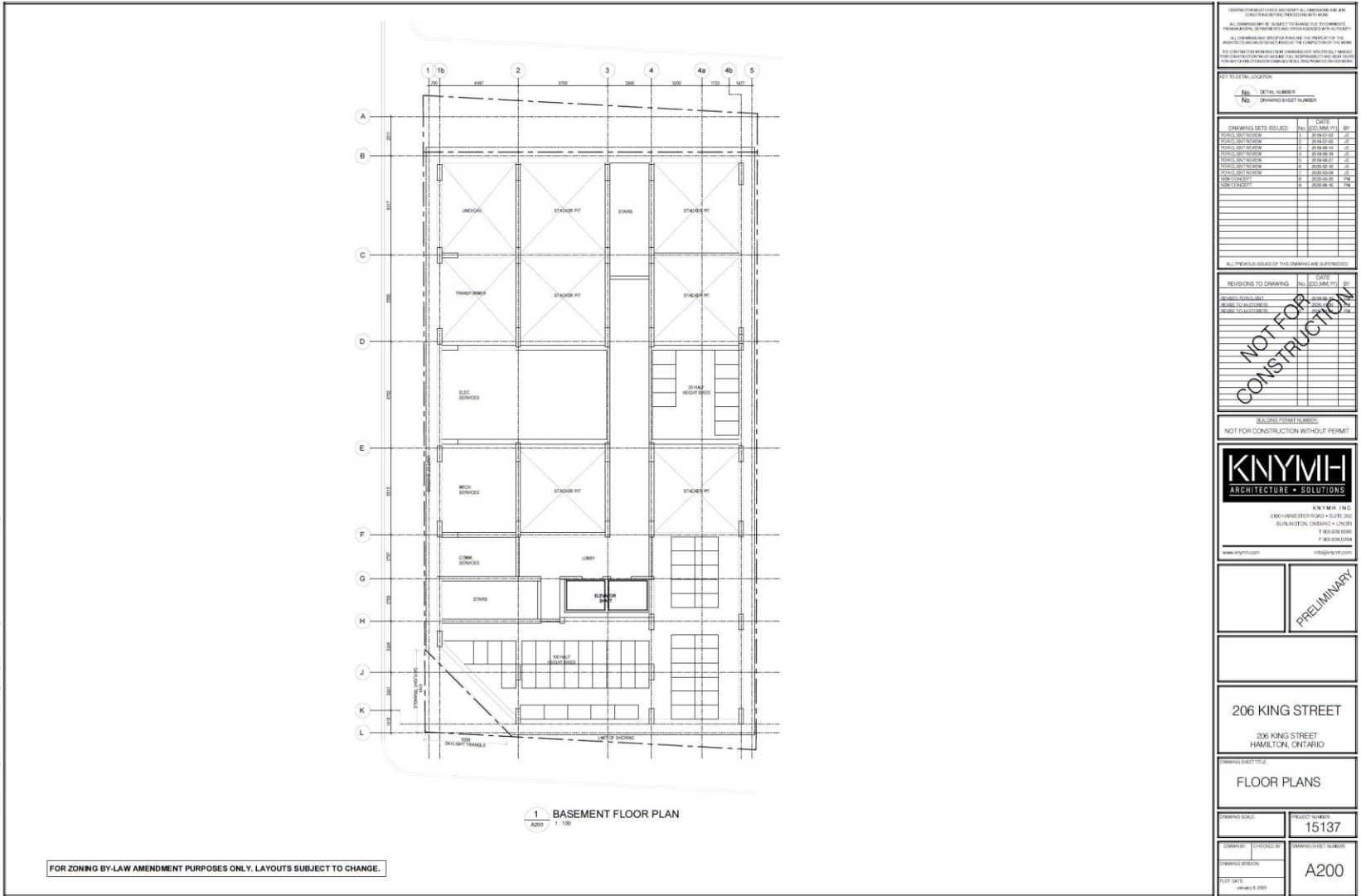
206 KING STREET  
 206 KING STREET  
 HAMILTON, ONTARIO

SITE PLAN

PROJECT NUMBER: 15137

DRAWING SHEET NUMBER: SP1

PROJECT DATE: JANUARY 2, 2020



CONTRACTOR SHALL VERIFY ALL DIMENSIONS ARE AS SHOWN ON THESE DRAWINGS AND SHALL BE RESPONSIBLE FOR ANY DISCREPANCIES.  
 ALL DIMENSIONS ARE SUBJECT TO CHANGE AS TO COMMENTS FROM ARCHITECT AND ENGINEER WITH NO NOTICE.  
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS OF ALL UTILITIES AND SERVICES PRIOR TO CONSTRUCTION.  
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS OF ALL UTILITIES AND SERVICES PRIOR TO CONSTRUCTION.

KEY SYMBOL LOCATION

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No.	DRAWING SHEET NUMBER

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CONTRACT SET	11/20/2019	4	MMH
CONTRACT SET	11/20/2019	5	MMH
CONTRACT SET	11/20/2019	6	MMH
CONTRACT SET	11/20/2019	7	MMH
CONTRACT SET	11/20/2019	8	MMH
CONTRACT SET	11/20/2019	9	MMH
CONTRACT SET	11/20/2019	10	MMH

ALL PREVIOUS ISSUES OF THIS DRAWING ARE SUPERSEDED

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REVISIONS TO DRAWING	11/20/2019	4	MMH
REVISIONS TO DRAWING	11/20/2019	5	MMH

BUILDING PERMIT IS NEEDED.  
 NOT FOR CONSTRUCTION WITHOUT PERMIT

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 BURLINGTON, ONTARIO L7R 4G8  
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PRELIMINARY

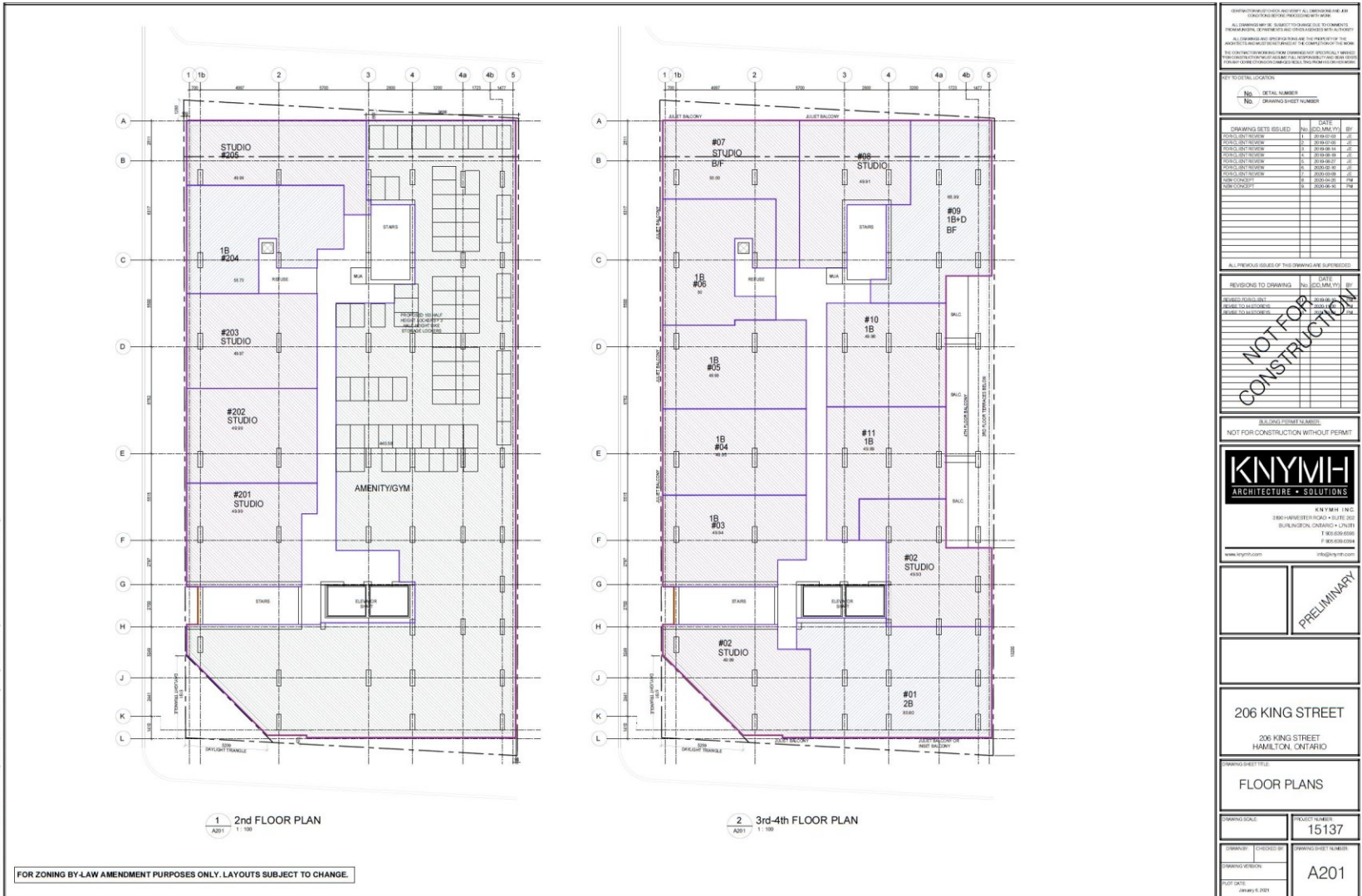
206 KING STREET

206 KING STREET  
 HAMILTON, ONTARIO

DRAWING SHEET TITLE  
 FLOOR PLANS

DRAWING SCALE: PROJECT NUMBER: 15137

DRAWN BY: CHECKED BY: DRAWING SHEET NUMBER: A200  
 DRAWING VERSION: 1  
 PLOT DATE: JANUARY 8, 2020





CONTRACTOR SHALL VERIFY ALL DIMENSIONS ARE AS SHOWN ON THESE DRAWINGS AND SHALL BE RESPONSIBLE FOR ANY DISCREPANCIES. ALL DIMENSIONS ARE SUBJECT TO CHANGE DUE TO OMISSIONS, ERRORS AND/OR OMISSIONS AND THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DISCREPANCIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF HAMILTON AND THE PROVINCE OF ONTARIO. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF HAMILTON AND THE PROVINCE OF ONTARIO.

KEY SYMBOL LOCATION

No.	DETAIL NUMBER
No.	DRAWING SHEET NUMBER

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PRELIMINARY DESIGN	8	2020-09-08	JE
CONCEPT DESIGN	9	2020-09-08	JE
PRELIMINARY DESIGN	10	2020-09-08	JE

ALL PREVIOUS EDITIONS OF THIS DRAWING ARE SUPERSEDED.

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REVISIONS TO DRAWING	2	2020-09-08	JE
REVISIONS TO DRAWING	3	2020-09-08	JE
REVISIONS TO DRAWING	4	2020-09-08	JE
REVISIONS TO DRAWING	5	2020-09-08	JE

BUILDING PERMIT IS NEEDED.  
 NOT FOR CONSTRUCTION WITHOUT PERMIT

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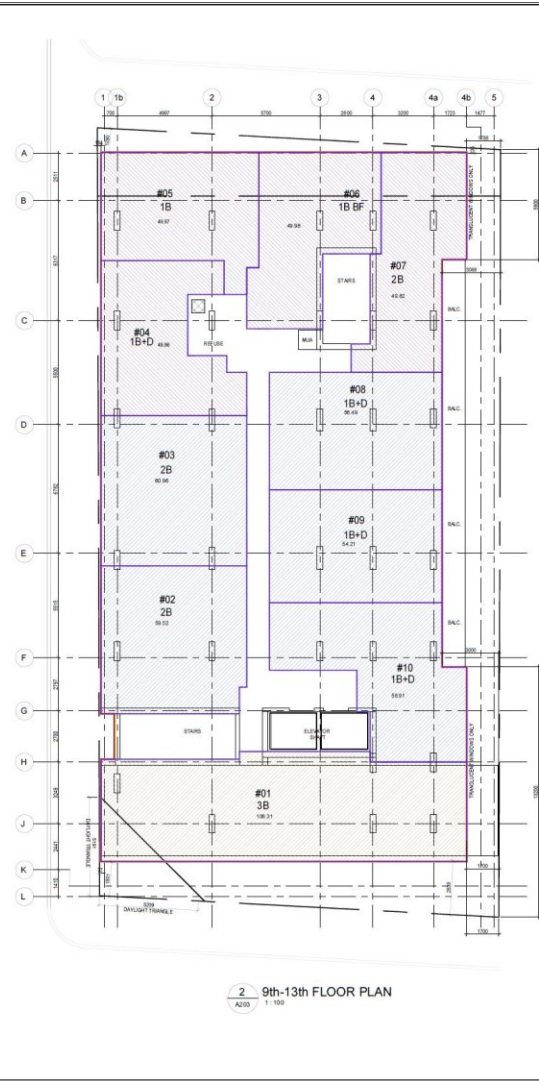
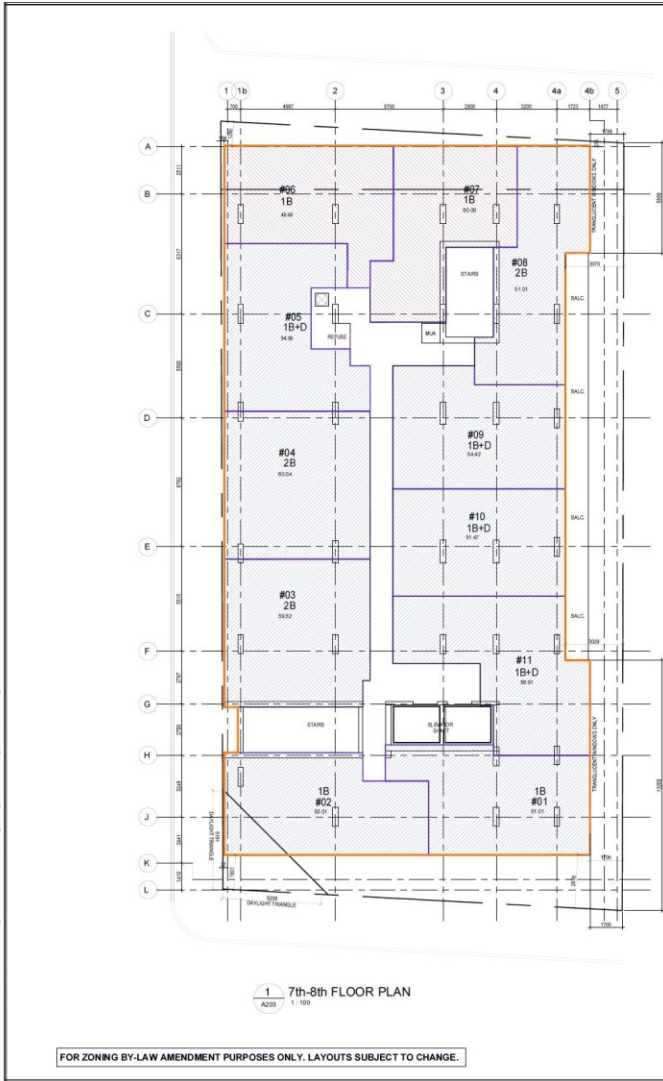
PRELIMINARY

206 KING STREET  
 206 KING STREET  
 HAMILTON, ONTARIO

DRAWING SHEET TITLE  
**FLOOR PLANS**

DRAWING SCALE A202 1:100	PROJECT NUMBER 15137
DRAWN BY CHECKED BY DRAWING VERSION	DRAWING SHEET NUMBER A202
PLUT DATE JANUARY 4, 2021	

FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY. LAYOUTS SUBJECT TO CHANGE.



CONFIRMED: I HAVE REVIEWED ALL DIMENSIONS AND CALCULATIONS AND CONFIRMED THAT ALL DIMENSIONS ARE CORRECT AND ALL DIMENSIONS ARE SUBJECT TO CHANGE. I HAVE REVIEWED ALL DIMENSIONS AND CONFIRMED THAT ALL DIMENSIONS ARE CORRECT AND ALL DIMENSIONS ARE SUBJECT TO CHANGE. I HAVE REVIEWED ALL DIMENSIONS AND CONFIRMED THAT ALL DIMENSIONS ARE CORRECT AND ALL DIMENSIONS ARE SUBJECT TO CHANGE. I HAVE REVIEWED ALL DIMENSIONS AND CONFIRMED THAT ALL DIMENSIONS ARE CORRECT AND ALL DIMENSIONS ARE SUBJECT TO CHANGE.

KEY SYMBOL LOCATION

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No.	DRAWING SHEET NUMBER

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PRELIMINARY DESIGN	15.09.2016	6	MM
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PRELIMINARY DESIGN	15.09.2016	8	MM
CONCEPT DESIGN	15.09.2016	9	MM
PRELIMINARY DESIGN	15.09.2016	10	MM

ALL PREVIOUS ISSUES OF THIS DRAWING ARE SUPERSEDED

REVISIONS TO DRAWING	DATE	NO.	BY
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REVISION TO DRAWING	15.09.2016	2	MM
REVISION TO DRAWING	15.09.2016	3	MM
REVISION TO DRAWING	15.09.2016	4	MM
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REVISION TO DRAWING	15.09.2016	6	MM
REVISION TO DRAWING	15.09.2016	7	MM
REVISION TO DRAWING	15.09.2016	8	MM
REVISION TO DRAWING	15.09.2016	9	MM
REVISION TO DRAWING	15.09.2016	10	MM

NOT FOR CONSTRUCTION

SCALE: PERMIT TO BE FILLED

NOT FOR CONSTRUCTION WITHOUT PERMIT

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PRELIMINARY

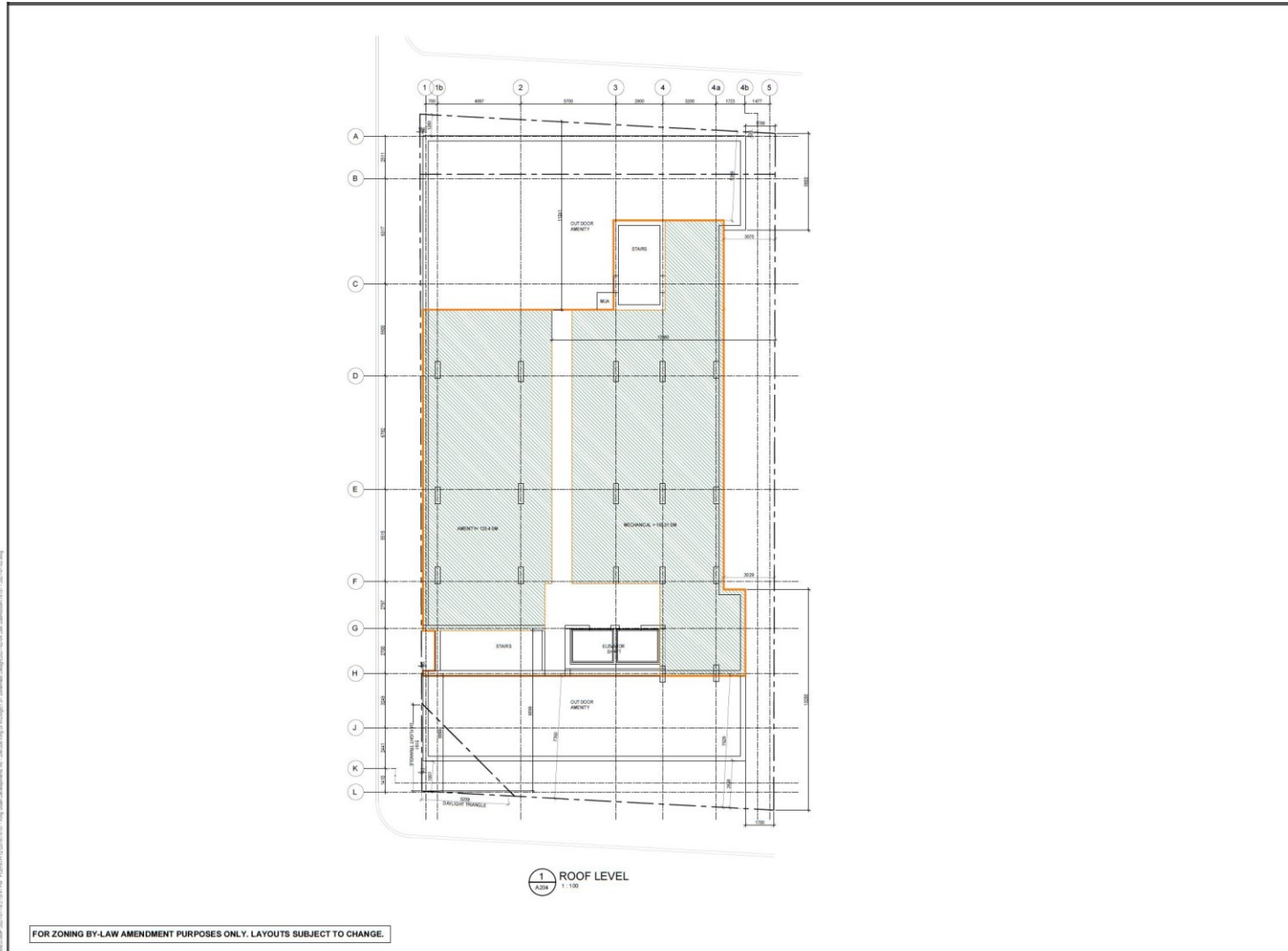
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 206 KING STREET  
 HAMILTON, ONTARIO

DRAWING SHEET TITLE  
 FLOOR PLANS

DRAWING SCALE	PROJECT NUMBER
A203	15137

DRAWN BY	CHECKED BY	DRAWING SHEET NUMBER
		A203

PRINT DATE  
 JANUARY 4, 2017



CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS AND AREAS COMPATIBLE WITH PERMITTED DEVELOPMENT PROGRAM.

ALL DIMENSIONS ARE SUBJECT TO CHANGE DUE TO TOLERANCES, DIMENSIONS, DIFFERENCES AND/OR DISCREPANCIES TO THE ARCHITECT'S INTENT AND TO THE REQUIREMENTS OF THE PROJECT.

ALL DIMENSIONS AND OPERATIONS ARE THE PROPERTY OF THE ARCHITECT. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND OPERATIONS BEFORE CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND OPERATIONS BEFORE CONSTRUCTION.

KEY TO SERIAL LOCATION

No.	Serial Number	Revised Sheet Number

CHANGING SETS ISSUED	DATE	BY

ALL PREVIOUS EDITIONS OF THE DRAWING ARE SUPERSEDED.

REVISIONS TO DRAWINGS	DATE	BY

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SCALE: 1:100

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PRELIMINARY

206 KING STREET  
 206 KING STREET  
 HAMILTON, ONTARIO

DRAWING SHEET TITLE:  
**FLOOR PLANS**

PROPOSED SCALE:	PROJECT NUMBER:
	15137

DRAWN BY:	CHECKED BY:	DRAWING SHEET NUMBER:
		A204

STUDY DATE:  
 JANUARY 18, 2021

FOR ZONING BY-LAW AMENDMENT PURPOSES ONLY. LAYOUTS SUBJECT TO CHANGE.

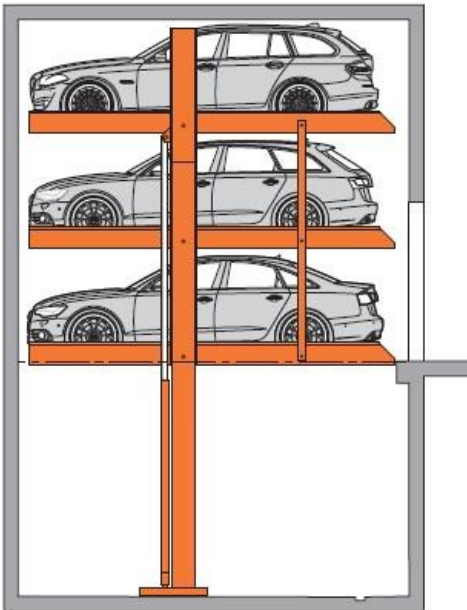




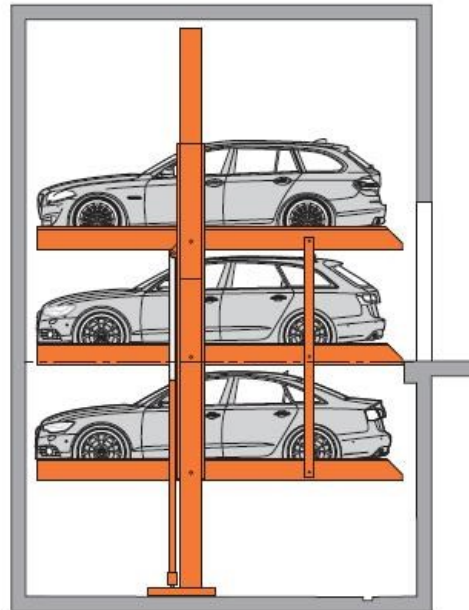


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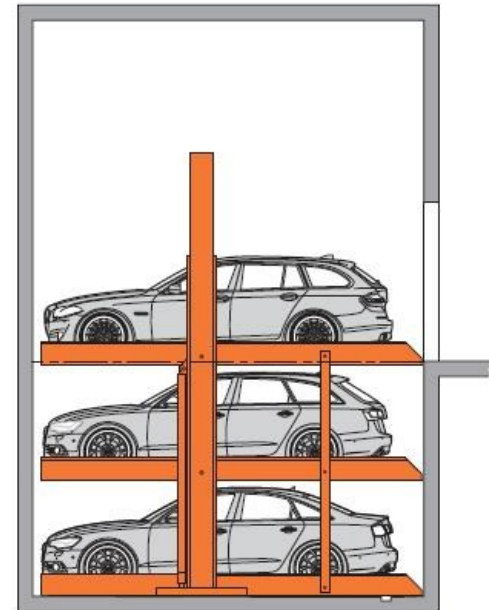
System lifted



System in middle position



System lowered





Front of the existing building on subject property facing King Street West, as seen from Caroline Street South, looking north



Westerly side of the existing building on the subject property facing Caroline Street North and the rear of the existing building on the subject property, as seen from Caroline Street North, looking south east



South east corner of the subject property and the properties at 216 – 220 King Street West, located to the west of the subject property, as seen from King Street West, looking north west



Existing commercial property at 196 King Street West located to the east of the subject property, as seen from King Street West, looking north



Existing commercial properties at 215, 217 and 235 King Street West, located to the south west of the subject property, as seen from King Street West, looking south west





Existing parking lot at 193 and 213 King Street West and the existing tall building located at 22 George Street, as seen from Caroline Street North, looking south



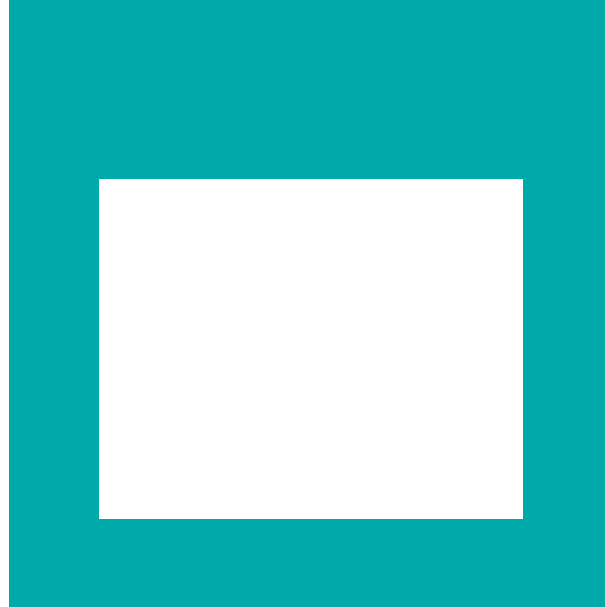
Existing private alleyway located to the rear of the subject property and the mid-rise building at 111 Market Street located to the rear of the subject property, as seen from Caroline Street North, looking east



Rear of the properties at 216 - 220 King Street West and the front of the property at 13 Caroline Street North, as seen from Caroline Street North looking West



Subject property, 216-220 King Street West, and King Street West, as seen from King Street West, looking north east



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Application for Zoning By-law Amendment for Lands Located at 9 Westbourne Road, Hamilton (PED21039) (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Daniel Barnett (905) 546-2424 Ext. 4445
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That **Zoning By-law Amendment Application ZAS-20-003 by Joseph DiDonato and Sven Oppermann, Owner**, for a further modification to the “C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, Etc.) District, Modified, to the “C/S-1335”, “C/S-1335a” and “C/S-1804” (Urban Protected Residential, Etc.) District, Modified, to permit the expansion and conversion of an existing detached garage into a second dwelling unit at the rear of the lands located at 9 Westbourne Road, Hamilton, as shown on Appendix “A” to Report PED21039, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED21039, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - x
  - (ii) That the amending By-law attached as Appendix “B” to Report PED21039, be added to District Map No. W45 of Zoning By-law No. 6593; and,

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OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton  
Zoning By-law No. 6593 for Lands Located at 9 Westbourne Road,  
Hamilton (PED21039) (Ward 2) - Page 2 of 17**

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- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and complies with the Urban Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

The subject property is municipally known as 9 Westbourne Road, Hamilton. The Owner has applied for an amendment to the City of Hamilton Zoning By-law No. 6593 to permit a 53 square metre expansion and conversion of the existing detached garage into an 88.7 square metre detached accessory dwelling unit located in the rear yard of an existing single detached dwelling. Approximately eighty seven (87.4) square metres of the building will be used for a second dwelling unit and 1.3 square metres will be used for storage for both the single detached dwelling and the accessory second dwelling unit. Parking will be provided on site for both the principal dwelling and the accessory dwelling unit.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to the Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, increasing the supply of housing units, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

## **Alternatives for Consideration – See Page 17**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law. In accordance with Section 34(19.1) of the *Planning Act*, third party appeals of the proposed Zoning By-law Amendment are not permitted because the City's Official Plan contains policies permitting secondary dwelling units.

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton  
Zoning By-law No. 6593 for Lands Located at 9 Westbourne Road,  
Hamilton (PED21039) (Ward 2) - Page 3 of 17**

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## HISTORICAL BACKGROUND

### Report Fact Sheet

<b>Application Details</b>	
Applicant/Owner:	Joseph DiDonato and Sven Oppermann
File Number:	ZAS-20-003
Type of Application:	Zoning By-law Amendment
Proposal:	<p>The applicant originally applied on December 13, 2019 for a change in zoning to permit the conversion of the existing 34.9 square metre detached garage with a 53.8 square metre addition to establish an 88.7 square metre building. 87.4 square metres will be used for a second dwelling unit and 1.3 square metres will be used for storage by both the single detached dwelling and the second dwelling unit. Six parking spaces were shown on the concept plan with the application.</p> <p>The applicant revised their original proposal on August 17, 2020 to reduce the number of parking spaces from six to four in order to increase greenspace.</p> <p>Staff are recommending approval of the application but to reduce the required / permitted parking to three (3) spaces. The August 17, 2020 plan submitted by the applicant does not reflect the recommended revision as the August, 2020 concept plan was submitted in response to comments received relating to conformity with Zoning By-law No. 6593 with respect to parking related matters.</p>
<b>Property Details</b>	
Municipal Address:	9 Westbourne Road
Lot Area:	503 square metres
Servicing:	Existing full municipal services.
Existing Use:	A single detached dwelling with a 34.9 square metre detached garage located in the rear yard.

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton  
Zoning By-law No. 6593 for Lands Located at 9 Westbourne Road,  
Hamilton (PED21039) (Ward 2) - Page 4 of 17**

<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods Designation (UHOP) Low Density Residential 2 (Ainslie Wood Westdale Secondary Plan)
Official Plan Proposed:	No amendment required.
Zoning Existing:	<p>“C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, etc.) District, Modified</p> <p>“C/S-1788” District is a Temporary Use By-law to allow for the conversion of a single detached dwelling to add an accessory unit for Wards 1, 8 and 14. The Temporary Use By-law does not apply to the proposed development as the proposed second dwelling unit is located in a separate building.</p>
Zoning Proposed:	<p>“C/S-1335”, “C/S-1335a” and “C/S-1804” (Urban Protected Residential, etc.) District, Modified.</p> <p>The “C/S-1788” (Urban Protected Residential, etc.) District will remain in effect until December 11, 2022 when the Temporary Use By-law will expire unless extended by Council.</p>
Modifications Proposed:	<p>Applicant Requested:</p> <ul style="list-style-type: none"> <li>• To permit a second dwelling unit on the same lot as an existing single detached dwelling;</li> <li>• Reduction to the northerly side yard setback for the proposed second dwelling unit; and,</li> <li>• Reduction to the rear yard setback for the second dwelling unit.</li> </ul> <p>Staff Recommended Modifications:</p> <ul style="list-style-type: none"> <li>• To limit the maximum gross floor area of the second dwelling unit and storage to 89.0 square metres;</li> <li>• To not require manoeuvring space for parking spaces located within the front yard;</li> <li>• To require one parking space for the second dwelling unit;</li> </ul>

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton  
Zoning By-law No. 6593 for Lands Located at 9 Westbourne Road,  
Hamilton (PED21039) (Ward 2) - Page 5 of 17**

	<ul style="list-style-type: none"> <li>To require a minimum distance of 2.9 metres between the principal dwelling unit and the second dwelling unit; and,</li> <li>To restrict the maximum number of driveways to one.</li> </ul>
<b>Processing Details</b>	
Received:	December 13, 2019
Deemed Complete:	January 10, 2020
Notice of Complete Application:	Sent to 62 property owners within 120 metres of the subject property on January 17, 2020.
Revised Notice of Complete Application and Request for Preliminary Circulation:	<p>Sent to 62 property owners within 120 metres of the subject property on January 31, 2020.</p> <p>A separate notice was provided on January 31, 2020 due to the fact that the January 17, 2020 notice to the public did not include a Preliminary Circulation for comments.</p>
Public Notice Sign:	Posted January 22, 2020 and updated on January 20, 2021.
Notice of Public Meeting:	Sent to 62 property owners within 120 metres of the subject property on January 29, 2021.
Public Consultation:	The applicant engaged in door to door discussions around the neighbourhood on January 18, 2020 visiting approximately 25 homes, primarily the homes on Westbourne Road and some homes on Sanders Boulevard to advise the residents / property owners that an application had been submitted to the City, the purpose of the application and to answer any question regarding the application.
Public Comments:	Eight letters were received expressing concern for the proposed Zoning By-law Amendment.
Processing Time:	431 days – From Original Submission (December 13, 2019) 183 day – From the August 17, 2020 Submission

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton  
Zoning By-law No. 6593 for Lands Located at 9 Westbourne Road,  
Hamilton (PED21039) (Ward 2) - Page 6 of 17**

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**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	Single detached dwelling	“C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, etc.) District, Modified

**Surrounding Land Uses:**

<b>North</b>	Single detached dwelling	“C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, etc.) District, Modified
<b>East</b>	Single detached dwelling	“C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, etc.) District, Modified
<b>South</b>	Single detached dwelling	“C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, etc.) District, Modified
<b>West</b>	Vacant, former education establishment	Community Institutional (I2, 17, H20) Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Planning Policy Framework**

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. As of May 1, 2020, the policies of the PPS (2020) apply to planning decision.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeals Tribunal (LPAT) approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the

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Provincial planning policy framework. As such, matters of Provincial interest (i.e. efficiency of land use, and balanced growth, are reviewed and discussed in the Official Plan analysis that follows.

#### Planning Act

The UHOP has not been updated with respect the *Planning Act* regulations respecting additional residential units within accessory buildings to a detached dwelling. The following policies, amongst others, apply to the proposal.

Section 16 (3) of the *Planning Act* states:

“An Official Plan shall contain policies that authorize the use of additional residential units by authorizing,

- a) The use of two residential units in a detached house, semi detached house or rowhouse; and,
- b) The use of a residential unit in a building or structure ancillary to a detached house, semi detached house or rowhouse.”

Ontario Regulations 299/19 made under the *Planning Act* establishes requirements and standards with respect to additional residential units:

Section 2.1 “Each additional residential unit shall have one parking space that is provided and maintained for the sole use of the occupant of the additional residential units.”

Official Plan Amendment No. 142 was adopted by the Council of the City of Hamilton on January 20, 2021 and amended the UHOP to implement the requirements of Bill 108 with respect to additional residential units.

A total of one parking space is required to be provided for the additional residential unit based on the applicable Ontario Regulations under the *Planning Act*.

The direction of the *Planning Act* is to encourage minor forms of intensification by allowing a residential unit within an ancillary building to an existing single detached dwelling.

The Provincial Policy Statement (2020) permits and facilitates single detached dwellings with additional residential units.

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Based on the foregoing and given that the application for a change in zoning complies with the UHOP, it is staff's opinion that the application is:

- Consistent with Section 3 and Section 16(3) of the *Planning Act*;
- Consistent with the Provincial Policy Statement (2020); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

### **Urban Hamilton Official Plan**

The subject property is identified as "Neighbourhoods" on Schedule "E" – Urban Structures and designated "Neighbourhoods" on Schedule "E-1" Urban Land Use Designations in the UHOP. The following policies, amongst others, apply to the proposal.

- "B.3.2.4.4 A secondary dwelling unit shall be permitted on a single, semi-detached or townhouse lot in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, provided it complies with all applicable policies and Zoning By-law regulations.
- B.3.2.4.5 The existing stock of housing shall be retained wherever possible and kept in a safe and adequate condition through use of the City's Demolition Control by-law, Property Standards by-law, and incentive programs financed by the City or by senior levels of government.
- C.3.2.2 The following uses shall be permitted in the Neighbourhoods, Commercial and Mixed Use, and Institutional designations:
- d) A secondary dwelling shall be permitted within single, semi-detached or townhouse lot provided it complies with all applicable policies and the Zoning By-law.
- E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes *compatible* with the existing character or function of the neighbourhood shall be permitted. Applications for *development* and *residential intensification* within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.

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E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

- a) residential dwellings, including second dwelling units and *housing with supports*.

E.3.3.3 Secondary dwelling units shall not be included in the calculation of residential density.”

The Neighbourhoods designation permits a secondary dwelling unit within a single detached lot (B.3.2.4.4, Policy C.3.2.2 d), and E.3.2.3). The proposed secondary dwelling unit shall be included in the calculation of residential density (E.3.3.3) and therefore the proposal will not alter the existing residential density of the area. With regard to this application, staff are satisfied that the proposed detached second dwelling unit is appropriate and will be compatible and integrate with the surrounding neighbourhood as discussed in detail below (E.2.6.7).

The proposed detached second dwelling unit offers an opportunity to increase housing supply in the City and provides an alternative form of housing and tenure. The proposed one storey second dwelling unit will be of a height and scale that aligns with the existing one storey principal dwelling as well as other dwellings in the area which range between one and one and a half storeys in height. To facilitate the proposed second dwelling unit, a 53.8 square metre addition to the existing detached garage is proposed. The additional area will allow for combined living room and kitchen, a bathroom and part of the bedrooms with the balance of the bedrooms occupying the portion of the building that is existing. There will also be storage area for both units.

The Second Dwelling Unit Study (see Report PED20093) and the “Laneway House” pilot project (See Report PED16200(b)) limit a second dwelling unit to 50 square metres which is generally reflective of a lot having a 12 metre frontage and an overall lot area of between 200 and 270 square metres. The subject property, at 503 square metres, is almost double the area that is required to accommodate a 50 square metre second dwelling unit. As such, the proposed second dwelling unit, having a total area of 88.7 square metres, is proportionate to the lot area. The proposed second dwelling unit will maintain the existing northerly side yard and rear yard setbacks of the existing garage and based on the one storey height and existing fencing, the maintenance of the existing setback will not create negative impacts on the adjacent properties.

The existing lot is located on a local road and a separate access driveway is proposed for each of the dwelling units. Based on the August, 2020 concept plan provided by the applicant, parking for the detached second dwelling unit is proposed by way of a driveway located along the southerly lot line, while parking for the primary single detached dwelling is proposed to be located along the northerly lot line (see Appendix

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“C” to Report PED21039). Based on the August, 2020 concept plan, each unit is proposed to have two parking spaces. Two access driveways are not typical for a single detached dwelling and the establishment of a second driveway access cannot be guaranteed. Furthermore the regulations under the Planning Act only require one parking space for each additional residential unit. As part of the community consultations on future zoning regulations for secondary dwelling units, which include detached units, feedback has been requested and received regarding zoning regulations with respect to the neighbourhood character, front yard landscaping and front yard parking. On this basis staff are recommending that a total of three parking spaces be provided, parking for three parking spaces can be provided by way of a single driveway access with parking located in the front yard and side yards.

Based on the foregoing, the proposal complies with the policies of the UHOP.

### **Ainslie Wood Westdale Secondary Plan**

The subject property is designated “Low Density Residential 2” on Map B.6.2-1 – Ainslie Wood Westdale – Land Use Plan, within the Ainslie Wood Westdale Secondary Plan. The following policies, amongst others, apply to the application.

#### **“6.2.5.3 General Residential Policies**

In addition to Section E.3.2 – Neighbourhood Designation – General Policies of Volume 1, the following general policies apply to all residential land use designations identified on Map B.6.2-1 – Ainslie Wood Westdale - Land Use Plan:

- a) A range of residential designations is provided to encourage a variety of housing types, forms and sizes. Rental housing is important in providing a range of housing types.
- c) Changes to the existing housing stock, such as new infill construction and renovations, shall be comparable to existing housing styles on the same block and street. New construction shall be encouraged to reflect similar housing styles, massing, height, setbacks, and other elements of style as the adjacent homes on the same block and street. The City shall discourage the building-out of rooflines to convert dormers into a full storey. The City shall limit overbuilding on properties, to maintain compatibility within the neighbourhood.
- d) Where there is no consistent style of homes on a street or block to determine the style for infill housing, such infill or renovations shall be encouraged to be compatible with the various housing styles on

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that street or block, reflecting one style or a suitable combination, rather than being of a height or style not found in the area.”

The proposal to establish a second dwelling unit at the rear of a lot with an existing single detached dwelling contributes to providing a variety of housing types, forms and sizes. As the proposal seeks to convert an existing detached garage into a one storey second dwelling unit at the rear of the subject property, the proposed development will not impact the existing streetscape and the existing low-rise residential character of the neighbourhood. The location of the proposed second dwelling unit will not alter the building massing along the street. The proposed one storey height for the second dwelling unit will reflect both the height of the existing principal dwelling and the building height of the existing dwellings along Westbourne Road which range from one to one and a half storeys in height. The proposed second dwelling unit will maintain the existing rear yard and northerly side yard setbacks of the existing garage and the proposed height and existing fencing will ensure that the second dwelling unit will not create negative impacts on the adjacent properties.

**“6.2.5.4 Low Density Residential Designation**

- a) The following policies shall apply to the lands designated Low Density Residential 2 on Map B.6.2-1 – Ainslie Wood Westdale – Land Use Plan:
  - i) Low Density Residential 2 areas permit single detached dwellings, semi detached dwellings, duplexes, and street townhouses. These uses shall include dwellings with accessory apartments / second dwelling units. Single detached housing shall be the primary form of housing in most of these areas, especially in the interior of neighbourhoods. Existing, legal 3, 4, and 5 plexes shall be recognized as permitted uses.
  - ii) Notwithstanding Policy 3.4.4.4 of Volume 1, the Low density Residential 2 densities shall generally be from 10 – 29 units per gross hectare. The area of large lots noted in Policy B.6.2.5.3 d) – General Residential Policies of Volume 2 shall have a lower density.
  - iii) Where single detached housing presently exist in the interior of the neighbourhood, the maintenance of such low density housing shall be preferable to new higher density housing forms.”

The “Low Density Residential 2” designation permits single detached dwellings as well as accessory apartments / second dwelling units. As noted in the UHOP section of

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Report PED21039 above, secondary dwelling units are not included in the calculation of density.

Therefore, the proposed development complies with the polices of the Ainslie Wood Westdale Secondary Plan.

**City of Hamilton Zoning By-law No. 6593**

The subject property is currently zoned “C/S-1335”, “C/S-1335a” and “C/S-1788” (Urban Protected Residential, Etc.) District, Modified. The “C/S-1335” and “C/S-1335a” District, Modified, permit a single detached dwelling however they do not permit a second dwelling unit within a separate building. To permit the proposed second dwelling unit a Zoning By-law Amendment is required. To implement the proposed development, the applicant has applied to further modify the “C” (Urban Protected Residential, Etc.) District to establish a site specific “C/S-1335”, “C/S-1335a” and “C/S-1804” (Urban Protected Residential, Etc.) District. The site-specific modifications to accommodate the proposal are outlined in the Report Fact Sheet above and are discussed in detail in Appendix “D” of Report PED21039.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
<ul style="list-style-type: none"> <li>Engineering Approvals, Growth Management Section</li> </ul>	<p>The existing width of Westbourne Road is approximately 20.1m adjacent to the property, therefore a right-of-way dedication, is not required for the property.</p> <p>There is an existing 150mm watermain and 400mm watermain and 750mm Combined Sewer along Westbourne Road.</p> <p>No secondary water service lateral or sanitary service lateral will be permitted to be installed at the municipal main for a single residential lot.</p>	<p>No road widening dedication required for the property.</p> <p>The applicant will be required to provide appropriate municipal services to the proposed second dwelling unit without establishing any secondary service laterals. The principal dwelling and second dwelling unit will therefore need to share the same water and sanitary services.</p>

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	<p>The initial comments by Engineering Approvals require the applicant to receive approval a preliminary / conceptual Service Plan, preliminary / conceptual Grading and Drainage Plan, Drainage Area Plan, and Stormwater Management Brief/Letter at the Zoning By-law Amendment stage. Upon further evaluation based on the nature of the proposed development only a Grading and Drainage Plan will be required.</p> <p>On January 29, 2021 Engineering Approvals approved a Grading and Drainage Plan that was provided by the applicant, thereby resolving the issue with respect to Grading and Drainage.</p>	
<b>Public Consultation</b>		
<b>Issue</b>	<b>Comment</b>	<b>Staff Response</b>
Parking	A concern was raised that the proposed development would increase parking demand for the area and result in spill over parking into the neighbourhood.	Based on the size and scale of both the principal dwelling and the second dwelling unit, a total of four on-site parking spaces are required to comply with the Zoning By-law, however direction set out in the <i>Planning Act</i> only one parking spaces for the second dwelling unit is required. A minimum of three parking spaces will be provided on site and therefore adequate parking shall be provided.

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Traffic	A concern was raised that the proposed development would create traffic impact on the surrounding area.	The proposed development is a minor form of intensification that will not significantly increase the amount of traffic in the area.
Increase in Student Residence	A concern was raised that the proposed development would further expand student residences in an area oversaturated with student residences. The concern was further articulated in respect to other nuisance impacts such as noise, garbage, and anti-social behaviour.	<p>The Zoning By-law does not regulate who can live in a particular dwelling unit.</p> <p>The proposed second dwelling unit is one storey in height and therefore the size and scale will limit the potential number of residents that can be accommodated.</p>
Character of Area	A concern was raised that the proposed development would change the character of the area and set a precedent.	<p>The proposed second dwelling unit will be located within the existing detached garage and proposed addition located in the rear yard and therefore will not change the existing streetscape character of the area.</p> <p>The northerly side yard and rear yard setbacks of the second dwelling unit will not change and reflect the setbacks of the existing detached garage.</p> <p>The proposed second dwelling unit is one storey and will not have any impacts including privacy and overlook on those properties immediately adjacent to the subject lands.</p> <p>Provincial policies and the UHOP permit second dwelling units within the Neighbourhoods designation.</p>

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## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 62 property owners within 120 m of the subject property on January 31, 2020. A Public Notice sign was posted on the property on January 22, 2020 and updated on January 20, 2021. Finally, Notice of the Public Meeting was given on January 29, 2021 in accordance with the requirements of the *Planning Act*.

To date, eight letters have been submitted expressing concern with the proposed development which are attached as Appendix “E” to Report PED21039 and summarized in the table above.

### **Public Consultation Strategy**

The Public Consultation Strategy included holding door to door meetings between the applicant and approximately 25 neighbours, as discussed on page 5 of Report PED21039.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
  - (iii) The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, increasing the supply of housing units, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
2. At the present time, Zoning By-law No. 6593 does not permit secondary dwelling units in detached structures, nor does Zoning By-law No. 6593 have regulations pertaining to detached secondary dwelling units.

In 2019, Council approved the Laneway Housing pilot project and implementing temporary use By-law. The temporary use By-law permits detached accessory units in geographically limited portions of the City of Hamilton.

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In 2020, Council received the draft discussion paper on secondary dwelling units. This discussion paper is to form the basis of community consultation of secondary dwelling units. These consultations occurred in the fourth quarter of 2020 and staff will be reporting back to Planning Committee no later than the end of the second quarter of 2021.

It is intended that as part of the reporting back, staff will also be recommending on changes to the Zoning By-law to permit secondary dwelling units as of right and associated regulations in any zone that permits a single detached dwelling, semi-detached dwelling and row house (street townhouse) dwelling.

Based on the above, the on-going zoning by-law reform work has been informative in evaluating this application but the application has been evaluated based on the in force planning instruments and the response received from the applicable City Departments who were circulated the application.

3. The proposed change in zoning will permit a second dwelling unit accessory to an existing single detached dwelling, within the built-up area. As the proposed second dwelling unit will be located at the rear of the existing lot within the existing detached garage and proposed addition, the existing streetscape and low-rise residential character of the area will be maintained. The subject property has a lot area of 503 square metres and is of a sufficient size to accommodate a second dwelling unit with a gross floor area of 88.7 square metres.

The proposal meets the intent of the “Neighbourhoods” designation of the UHOP, with some By-law modifications needed to permit the establishment of the proposed second dwelling unit. The modifications are identified on page 4 of Report PED21039 and discussed in detail in Appendix “D” to Report PED21039.

Therefore, staff support the proposed Zoning By-law Amendment.

4. The subject property is currently subject to Zoning By-law “C/S-1335” and “C/S-1335a” which restricts the gross floor area (GFA) for development on-site to a ratio of 45% of the lot area. The provision of “C/S-1335” and “C/S-1335a” will be carried forward to the new site specific By-law and will therefore continue to apply to the subject lands. The applicant has indicated that the existing one storey dwelling and the proposed one storey secondary dwelling will comply with the maximum GFA ratio of 45% with a combined GFA of 44%. Therefore the proposed development will comply with the provisions of “C/S-1335” and “C/S-1335a”.

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## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property can be used in accordance with the “C/S-1335”, “C/S-1335a”, and “C/S-1788” (Urban Protected Residential, etc.) District, Modified, in the City of Hamilton Zoning By-law No. 6593.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

### **Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

### **Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

### **Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Draft Amendment to Zoning By-law No. 6593

Appendix “C” – Revised Concept Plan

Appendix “D” – Zoning By-law Site Specific Modification - Chart

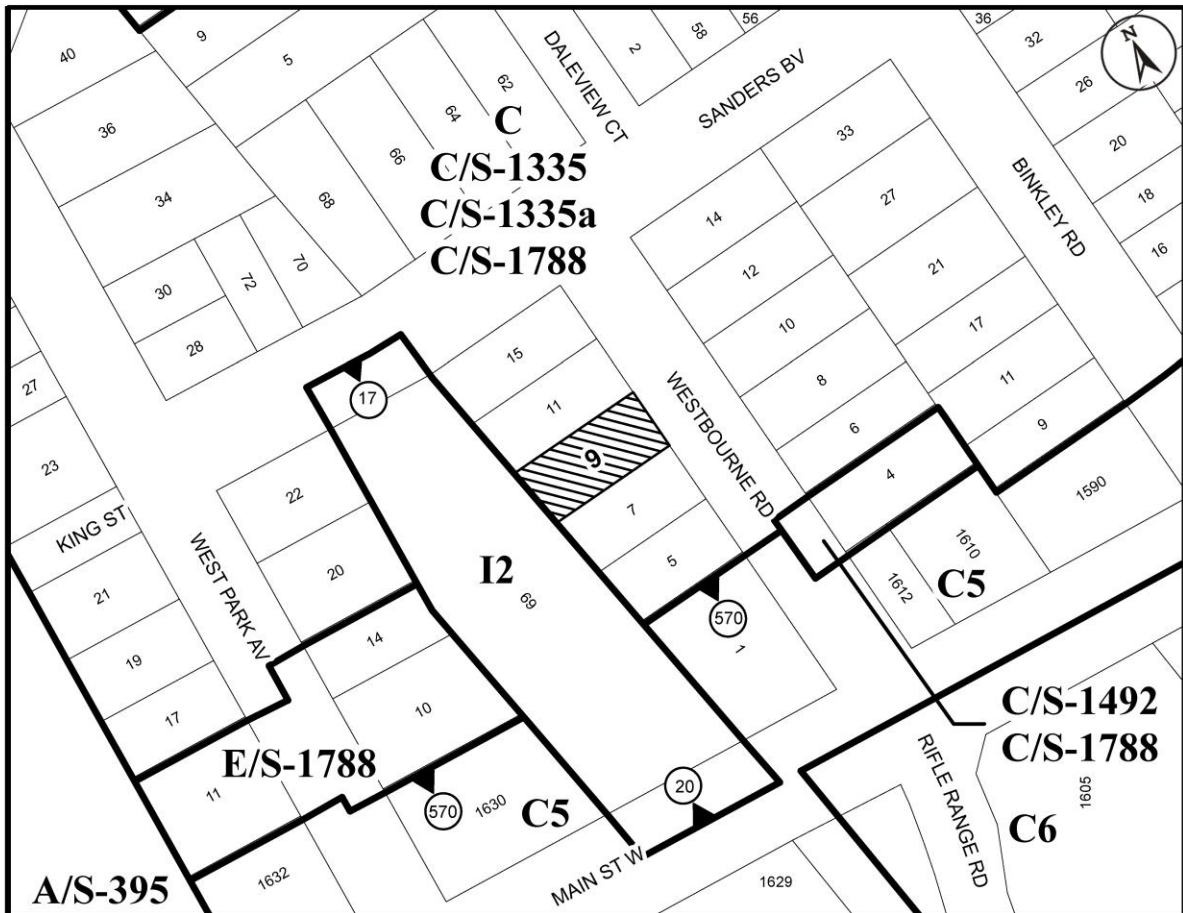
Appendix “E” – Public Submissions

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● Site Location



Key Map - Ward 1

## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAS-20-003

Date:  
January 29, 2021

Appendix "A"

Scale:  
N.T.S

Planner/Technician:  
DB/NB

### Subject Property

9 Westbourne Road



Change in Zoning from the "C/S-1335", "C/S-1335a" and "C/S-1788" (Urban Protected Residential, Etc.) District Modified, to the "C/S-1335", "C/S-1335a" and "C/S-1804" (Urban Protected Residential, Etc.) District, Modified

**Authority:** Item, Planning Committee  
Report  
CM: , 2021  
Ward: 1

**Bill No.**

## CITY OF HAMILTON

## BY-LAW NO.

To Amend Zoning By-law No. 6593 (Hamilton) as amended,  
Respecting Lands Located at 9 Westbourne Road, Hamilton

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Schedule C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in full force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951(File No. P.F.C. 3821);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item of Report 21 - of the Planning Committee, at its meeting held on the day of , 2021, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. W45 of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended as follows:



- a) By changing the zoning from the "C/S-1335", "C/S-1335a" and "C/S-1788" (Urban Protected Residential, Etc.) District, Modified, to the "C/S-1335", "C/S-1335a" and "C/S-1804" (Urban Protected Residential, Etc.) District, Modified;

on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the "C" (Urban Protected Residential, Etc.) District provisions as contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following special requirements:
  - a) That notwithstanding Section 4(3)(a) and in addition to Section 9 (1), a maximum 89.0 square metre building containing a second dwelling unit and shed shall be permitted on the same lot as a single family dwelling.
  - b) That notwithstanding Section 9 (3) (ii), a side yard of a width of at least 1.2 metres shall be provided, except for a second dwelling unit for which a northerly side yard width of at least 0.7 metres shall be required,
  - c) That notwithstanding Section 9 (3) (iii), a rear yard of a depth of 7.5 metres shall be provided, except for a second dwelling unit for which a rear yard of a depth of 0.8 metres shall be required.
  - d) That notwithstanding Section 18.A (1) (f) no manoeuvring shall be required for parking spaces located within the front yard.
  - e) That notwithstanding Subsection 18A(1)(a), for a second dwelling unit one parking space shall be provided.
  - f) That a minimum distance of 2.9 metres from the rear face of a principal dwelling shall be required.
  - g) A maximum one driveway shall be permitted for each lot containing a second dwelling unit.
3. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "C/S-1335", "C/S-1335a", and "C/S-1804" District provisions, subject to the special requirements in Section 2 of this By-law.
4. That By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-1804.
5. That Sheet No. W45 of the District maps is amended by making the lands referred to in Section 1 of this By-law as Schedule S-1804.
6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

**PASSED and ENACTED** this [REDACTED] day of [REDACTED], 2021.

---

F. Eisenberger  
Mayor

---

A. Holland  
City Clerk

ZAS-20-003



<p style="text-align: center;"><b>This is Schedule "A" to By-law No. 21-</b></p> <p>Passed the ..... day of ....., 2021</p>	<p style="text-align: center;">----- Mayor -----</p> <p style="text-align: center;">----- Clerk -----</p>
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<p><b>Schedule "A"</b></p> <p><b>Map forming Part of</b></p> <p><b>By-law No. 21-_____</b></p> <p><b>to Amend By-law No. 6593</b></p>	<p><b>Subject Property</b> 9 Westbourne Road, Hamilton</p> <p> Change in Zoning from the "C/S-1335", "C/S-1335a" and "C/S-1788" (Urban Protected Residential, Etc.) District Modified, to the "C/S-1335", "C/S-1335a" and "C/S-1804" (Urban Protected Residential, Etc.) District, Modified</p>
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<p>Scale: N.T.S</p>	<p>File Name/Number: ZAS-20-003</p>	<p>Hamilton</p>
<p>Date: February 1, 2021</p>	<p>Planner/Technician: DB/NB</p>	
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>		

*For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law*

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning and Economic Development Committee

Report No.: PED21039      Date: 02/16/2021

Ward(s) or City Wide: Ward: 1

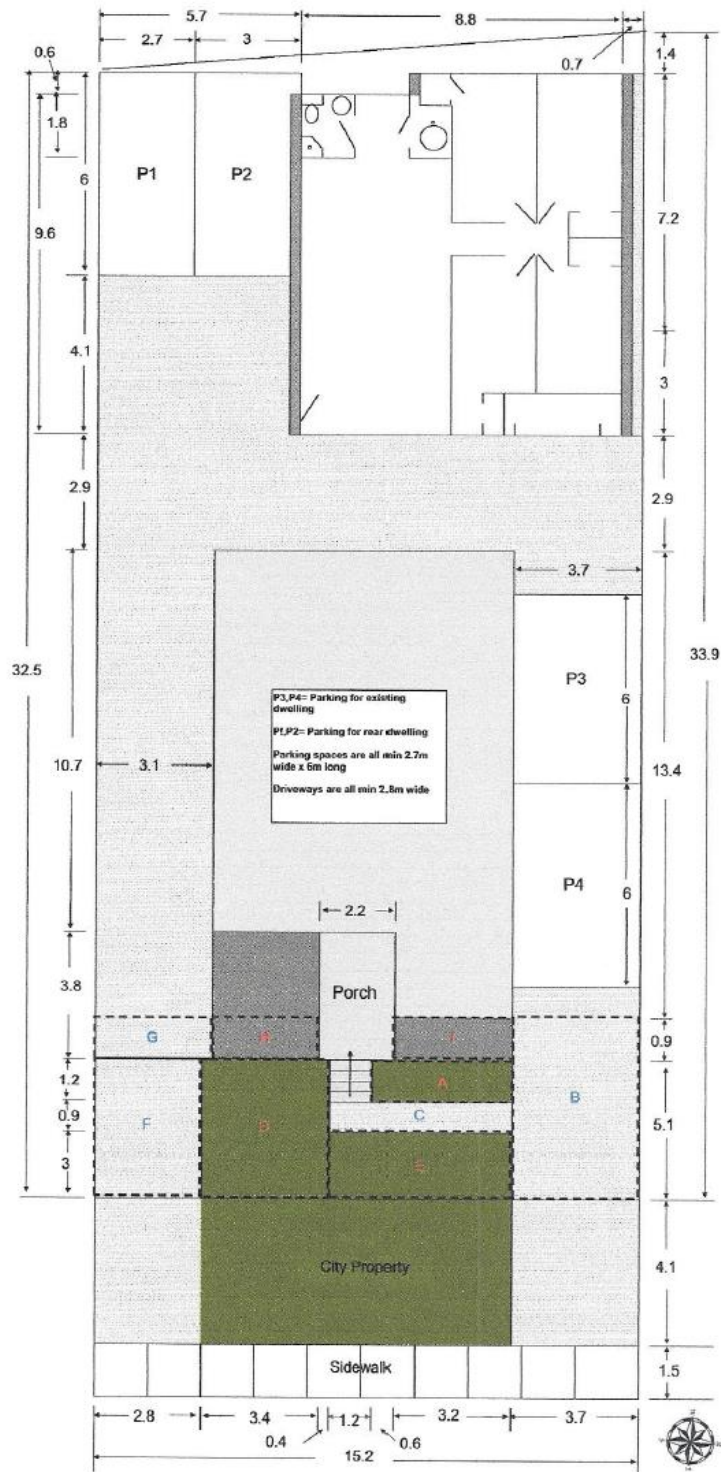
(MM/DD/YYYY)

Prepared by: Daniel Barnett

Phone No: 905-546-2424 ext. 4445

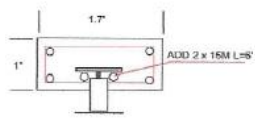
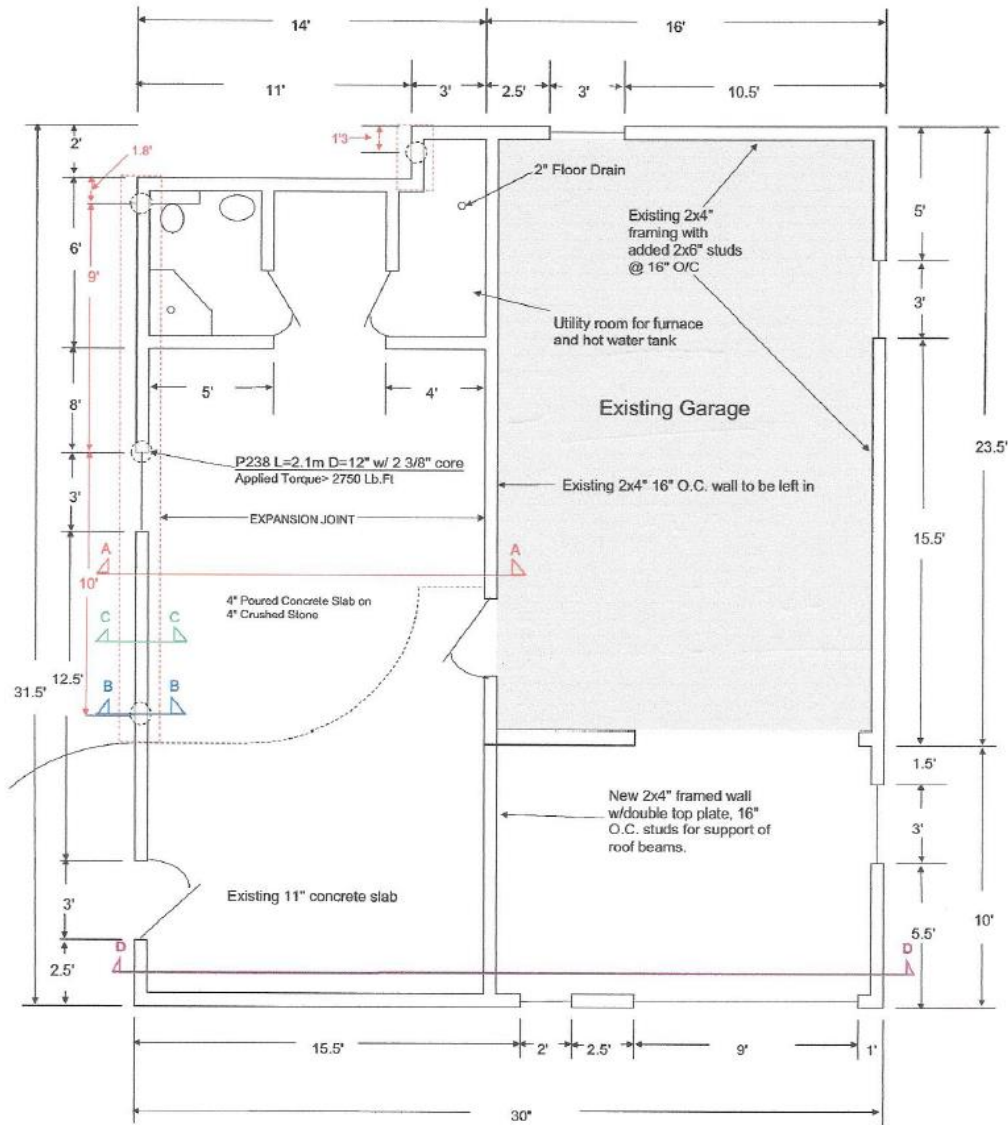
*For Office Use Only, this doesn't appear in the by-law*

5

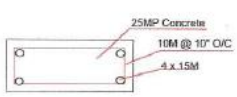


9 Westbourne Rd.  
Parking Plan

7



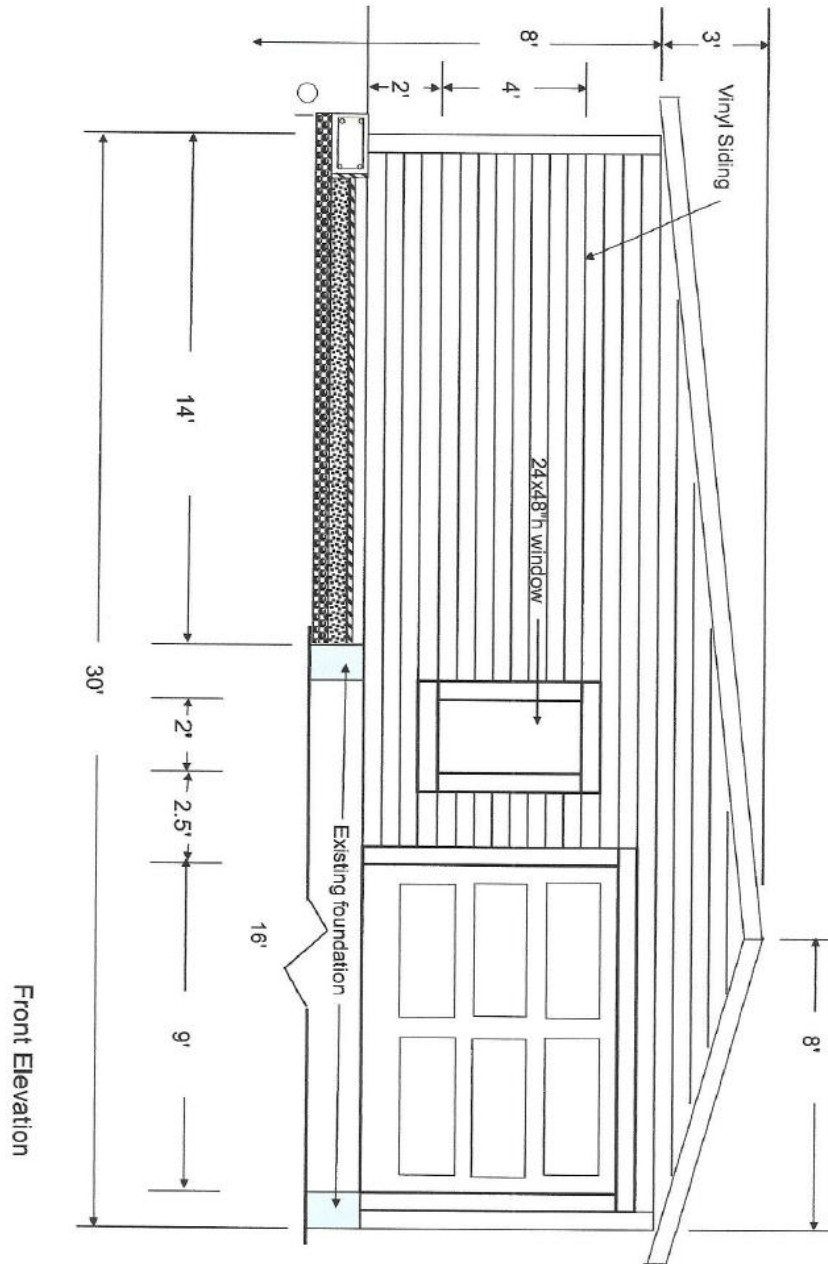
Sec B-B



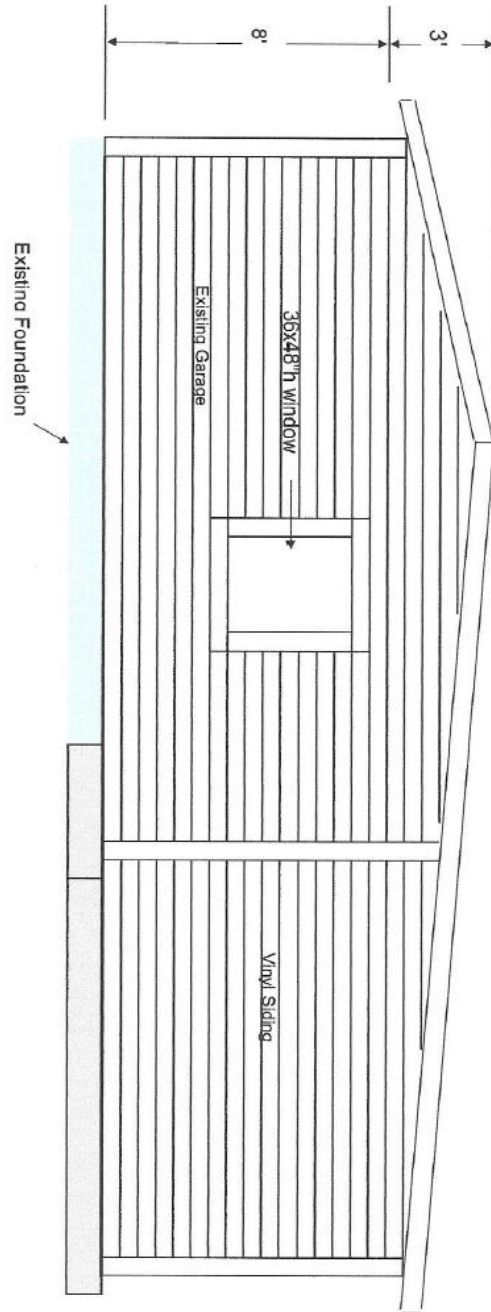
Sec C-C

Floor Plan

12

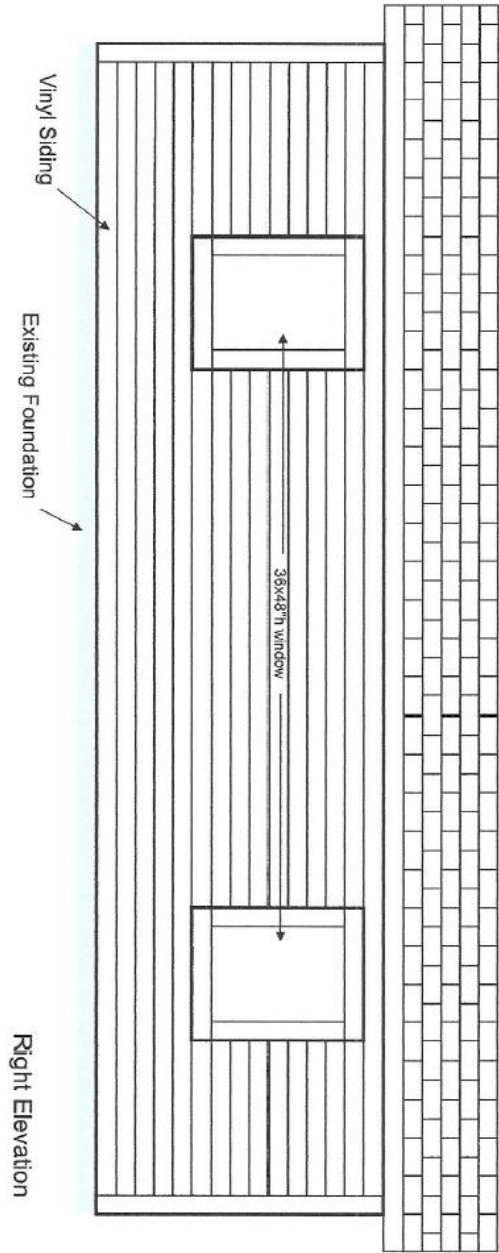


13

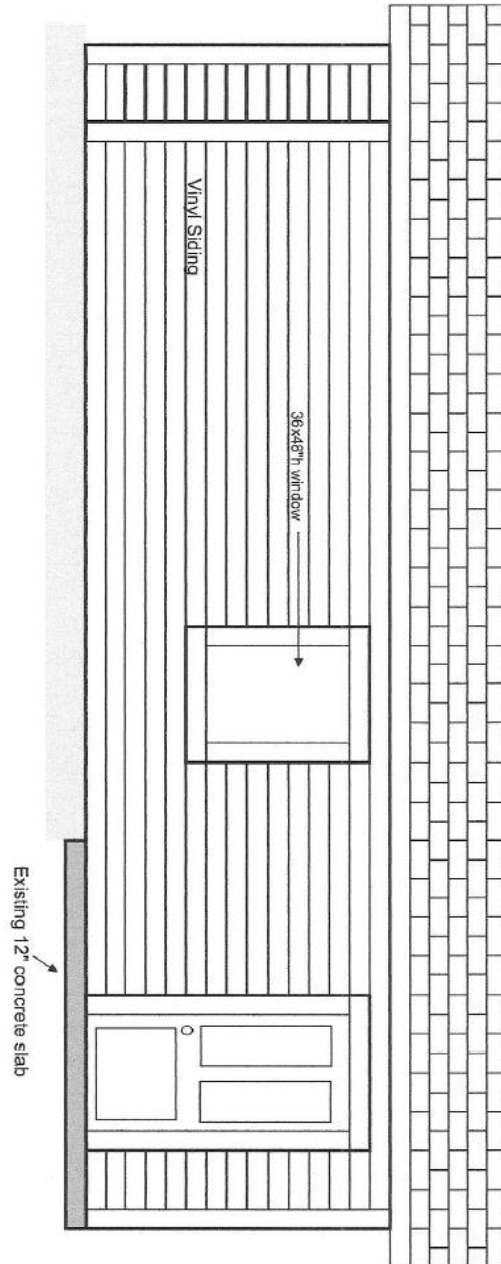




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Zoning By-law Site Specific Modifications – “C” (Urban Protected Residential, Etc.) – District

Provision	Required	Requested Amendment	Analysis
<b>Section 4 Prohibited Uses and 9: (Urban Protected Residential, Etc.) - Uses</b>			
<p>(4)(3) a) and (9)(1) Use of the Lands</p> <p><i>**Applicant Requested Modification, Modified by Staff</i></p>	<p>One Single Family Dwelling is Permitted</p>	<p>To permit a second dwelling unit on the same lot as a Single Family Dwelling with a maximum gross floor area of 89.0 square metres.</p>	<p>As outlined in the Policy Implications and Legislated Requirements section of Report PED21039, a second dwelling unit is permitted by both Provincial policy and the UHOP.</p> <p>The proposed second dwelling unit and storage is to be established to the rear of the existing dwelling within the existing detached garage with an addition and therefore the proposal would not alter the existing streetscape character along Westbourne Road. Furthermore, adequate parking will be provided to meet the parking needs of the subject lands of the existing single detached dwelling and the proposed second dwelling unit.</p> <p>Restricting the maximum gross floor area for a second dwelling unit and storage to 89.0 square metres is to ensure that second dwelling unit remains accessory to the principal single detached dwelling and does not negatively impact adjacent properties.</p> <p>Therefore, the proposed modification can be supported.</p>
<b>Section 9: (Urban Protected Residential, Etc.) - Requirements</b>			
<p>(3) (ii) Side Yard</p> <p><i>** Applicant Requested</i></p>	<p>A side yard of a width of 1.2 metres shall be required.</p>	<p>To permit a northerly side yard width of 0.7 metres for the second</p>	<p>The side yard setback of the existing detached garage is 0.7 metres and therefore the proposed modification is to recognize the existing side yard setback of the existing building and to require a 0.7 metre setback for the</p>

<i>Modification</i>		<p>dwelling unit located at the rear of the property.</p> <p>All other buildings shall comply with the minimum 1.2 metre requirement.</p>	<p>addition.</p> <p>The proposed 0.7 metre northerly side yard setback is for the second dwelling unit at the rear of the property and therefore the reduction in the side yard setback requirement will not change the existing streetscape character along Westbourne Road.</p> <p>The proposed second dwelling unit is one storey and there is an existing window on the north façade and a window is being proposed as part of the addition. There is an existing solid board fence along the north lot line and therefore the existing and proposed windows for the one storey dwelling unit will not create privacy and overlook impacts on the adjacent property.</p> <p>The site specific modification only allows for a reduction to the northerly side yard for the proposed second dwelling unit. The minimum side yard setback of 1.2 metres will be maintained for the southerly side yard for the second dwelling unit and for both the northerly and southerly side yard setbacks for the existing single detached dwelling.</p> <p>Therefore, the proposed modification can be supported.</p>
(3) (iii) Rear Yard <i>** Applicant Requested Modification</i>	A rear yard of a depth of 7.5 metres shall be required.	To permit a rear yard of a depth of 0.8 metres for the second dwelling unit located at the rear of the property.	<p>The rear yard setback of the existing detached garage is 0.8 metres and therefore the proposed modification is to recognize the existing rear yard setback. The reduced setback will also facilitate the proposed addition to the detached garage.</p> <p>The existing detached garage has a window facing the</p>

		<p>The rear yard for the easterly (front) single detached dwelling shall comply with the 7.5 metre requirement.</p>	<p>rear lot line. No additional windows along the rear lot line are proposed. While the lands to the rear are zoned Institutional, residential uses are permitted on these lands therefore, privacy impacts need to be considered. As the proposed second dwelling unit is to be one storey in height a visual barrier along the rear lot line will protect the adjacent lands from any privacy and overlook impacts created by the proposal.</p> <p>The site specific modification only allows a reduction in the rear yard setback of the second dwelling unit at the rear. The minimum 7.5 metre rear yard setback will be maintained for the existing single detached dwelling.</p> <p>Therefore, the proposed modification can be supported.</p>
<b>Section 18A: Parking and Loading Requirements</b>			
<p>(1) (a) Minimum Parking Spaces</p> <p><i>** Staff Recommended Modification</i></p>	<p>A minimum of two parking spaces per single detached dwelling unit is required.</p>	<p>To require only one parking space for a secondary dwelling unit.</p>	<p>The provisions of the <i>Planning Act</i> respecting additional residential units require that each additional residential unit have one parking space for the use of the occupant of the additional residential unit. It is further noted that the current requirement for parking for an additional dwelling unit within the principal dwelling is one parking space.</p> <p>The proposed modification implements the direction set forth in the <i>Planning Act</i> and establishes a parking requirement that is consistent with other forms of secondary dwelling units.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(1) (f)</p>	<p>A minimum</p>	<p>To not require any</p>	<p>The existing dwelling is setback 6.0 metres from the</p>

<p>Manoeuvring Space</p> <p><b>** Staff Recommended Modification</b></p>	<p>manoeuvring area of 6.0 metres shall be required.</p>	<p>manoeuvring space for a parking space within the front yard.</p>	<p>front lot line and there is insufficient space on-site in which to provide 6.0 metres of manoeuvring space. Approximately 4.0 metres of manoeuvring space is available within the City boulevard to allow for vehicles to access a parking space located in front of the existing dwelling.</p> <p>It is further noted that Westbourne Road is a local road with a total of 12 dwellings having access to the road and therefore significant traffic volumes are not anticipated and a reduction in on-site manoeuvring space will not create traffic conflicts.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>Separation between dwellings.</p> <p><b>** Staff Recommended Modification</b></p>	<p>No existing provision.</p>	<p>To require a secondary dwelling unit be setback a minimum distance of 2.9 metres from the rear face of the principal dwelling.</p>	<p>The proposed development will maintain approximately 71 square metres of amenity area to the south of the proposed secondary dwelling unit. Maintaining a 2.9 metre separation distance between the existing dwelling and the secondary dwelling unit will provide approximately 25.5 square metres of additional amenity area for a total of approximately 96.5 square metres of amenity space. In the "C" District a dwelling that complies to the minimum requirements with respect to rear yard setback and lot width would maintain approximately 90 square metres of rear amenity space. Therefore the proposed 96.5 square metres represents an appropriate amount of amenity area.</p> <p>In order to ensure that adequate amenity space is provided staff are recommending that a modification establishing a minimum separation distance is provided.</p>

			Therefore, the propsoed modification can be supported.
Restriction on the number of Driveways	No existing provision	To permit a maximum of one driveway access for a lot containing a second dwelling unit.	<p>Limiting the number of driveway access for the subject property will maximize the amount of landscaping available both within the front yard but also within the side and rear yards. Additionally limiting the number of driveway access reduces the number of potential points of traffic conflict as well as maximizing the potential for on-street parking.</p> <p>In order to ensure that the number of driveway access is limited to one driveway staff are recommending a modification to limit the maximum number of driveways to one.</p> <p>Therefore, the proposed modification can be supported.</p>

**Barnett, Daniel**

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**From:**  
**Sent:** March 4, 2020 2:58 PM  
**To:** Barnett, Daniel  
**Subject:** housing

Dear Mr Barnett,

I strongly agree with the opinion expressed in the two letters below. We live on Thorndale Cres. and we have to deal with too many students and cars and garbage already. Additions on houses, extra dwellings on properties, or 9 story houses will increase this development tremendously. All the once nice and well looked houses will be the past. And who will live in such a neighbourhood.

I strongly hope that you will consider this when you decide on the application mentioned in the two letters below.

File: ZAS -20-003

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for 9 Westbourne

Road, Hamilton, Ontario. I am in opposition to a second dwelling being built behind the existing home for the following reasons:

- a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for other homeowners to do the same and consequently change the fabric of the neighbourhood.



- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Please consider these reasons when deciding on the above mentioned application.

Sincerely,

-

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Daniel Barnett, City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design - Urban Team  
71 Main St. West, 5th Floor, Hamilton, Ont. L8P 4Y5  
Fax: 905-546-4202  
e-mail: [Daniel.Barnett@hamilton.ca](mailto:Daniel.Barnett@hamilton.ca)

Tuesday February 25, 2020

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for

**9 Westbourne Road, Hamilton, Ontario. File ZAS-20-003**

I am in opposition to a second dwelling being built behind the existing home for the following reasons:

- a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for other homeowners to do the same and consequently change the fabric of the neighbourhood.
- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Thank you for your consideration when deciding on the above mentioned application.

Sincerely,

**Barnett, Daniel**

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**From:** .....  
**Sent:** March 3, 2020 8:02 PM  
**To:** Barnett, Daniel  
**Subject:** FW: 9 Westbourne Rd.

File: ZAS -20-003

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for 9 Westbourne Road, Hamilton, Ontario. I am in opposition to a second dwelling being built behind the existing home for the following reasons:

- a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for other homeowners to do the same and consequently change the fabric of the neighbourhood.
- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.
- d. This will start a long process of changing the very charter of the neighbourhood. This area is already a high density area.

Please consider these reasons when deciding on the above mentioned application.

Sincerely,

.....  
.....  
.....

**Barnett, Daniel**

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**From:**  
**Sent:** March 2, 2020 1:33 PM  
**To:** Barnett, Daniel  
**Subject:** 9 Westbourne Road

Good afternoon Mr. Barnett . My name is [redacted] and i live at [redacted] , one of the closest streets to McMaster.University on the West side . I am contacting you today regarding File ZAS-20-003 which is an application to build another structure on the property of # 9 Westbourne Road . I am totally against this project going forward . I cannot quote any of the city of hamilton building codes but i am appalled by the owner or owners wanting to make this house bigger than it is to accommodate " more students " into our neighborhood . I have lived in AWN since 1976 and have seen our neighborhood turn into a massive student rental neighborhood . The remaining residents in our area have to battle with some of the students renting these properties or the absentee landlords to keep our neighborhood respectable . Some ( not all ) of the students are slob , disrespectful , park on front lawns , have wild and loud parties well into early hours , leave garbage cans or recycling bins on the front lawn from one garbage day to another , if critters get into the garbage the night before pick up day and make a mess on the front lawn or sidewalk they do not go our and clean it up until we have to call MLE or Waste Management to clean it up and that even takes 3 to 4 days . Allowing these owners to add more students into our neighborhood only taxes all the utility services and probably more vehicle traffic . Every time you look around in our area ( and i am sure you can check the records ) there is a contractor digging up the sidewalks and roads to replace the plugged up sewers going to these student rentals . Most of the student rentals have at least a minimum of 5 to 6 students each house . The monster house down the street from me has 21 students leaving in it ( confirmed by Brian McHattie when he was canvassing for office ) . I beg you please to not allow the building of another structure on this property . How much money do these money hungry absentee landlords need to make off of these properties . Enough is enough . Do you think the students safety is taken into consideration by the absentee landlords while they are trying to cram them into every little nook of the house . Unfortunately there will not be hordes of residents trying to stop the addition on this property because the majority of us left in the area are seniors who have lived here for many years and are just too tired trying to stop the surge of rental properties in our area.

Cheers ,

**Barnett, Daniel**

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**From:** [REDACTED]  
**Sent:** February 26, 2020 11:08 PM  
**To:** Barnett, Daniel  
**Subject:** ZAS -20--003  
**Attachments:** Westbourne.docx

Dear Mr. Barnett,  
Please read the attached concern about the extra dwelling on the lot on Westbourne Street.  
Sincerely

\_\_\_\_\_ Pasted Attachment below \_\_\_\_\_

File: ZAS -20-003

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for 9 Westbourne Road, Hamilton, Ontario. We have lived in this neighbourhood for almost 30 years and are very concerned with the increase in the number of students living in family homes. Besides the garbage that is produced by so many people living at the same address the care of the property is alarming at times. On a winter day the amount of ice in front of homes as we walk is unsafe. Many landlords are good but those that are not make it difficult for us to enjoy of area.

We are in strong opposition to a second dwelling being built behind the existing home for the following reasons:

a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for

other homeowners to do the same and consequently change the fabric of the neighbourhood.

b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.

c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood

North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Please consider these reasons when deciding on the above mentioned application.

Sincerely,

File: ZAS -20-003

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for 9 Westbourne Road, Hamilton, Ontario. We have lived in this neighbourhood for almost 30 years and are very concerned with the increase in the number of students living in family homes. Besides the garbage that is produced by so many people living in the same house the care of the property is alarming at times. On a winter day the amount of ice in front of homes as we walk is unsafe. Many landlords are good but those that are not make it difficult for us to enjoy of area.

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- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Please consider these reasons when deciding on the above mentioned application.

Sincerely,

**Barnett, Daniel**

---

**From:**  
**Sent:** February 26, 2020 7:16 PM  
**To:** Barnett, Daniel  
**Subject:** Zoning By-law Amendment File No. ZAS-20-003, 9 Westbourne Rd.

To

Daniel Barnett, City of Hamilton

Planning and Economic Development Department

Development Planning Heritage and Design – Urban team

Re: Zoning By-Law Amendment – File ZAS-20-003

We wish to record our opposition to granting this zoning amendment. This is a student rental house which typically houses six to ten students with all the attendant problems this entails: insufficient parking spaces, traffic and garbage (one bag per household for a large number of adults.) This second dwelling unit – a garage – is situated very close to the proposed development at the former Binkley School property (a high density project) as well as to the adjacent homes.

We are not sure what the amendment calls for but we suspect it has to do with the ratio of residential living space to lot size. This is a battle we have fought many times before. Our community has many unlicensed rooming houses. This has given our community a density far beyond what you would normally find in a neighbourhood of "single" family dwellings. This proposed use/amendment would further exacerbate what is already an uncomfortable situation. We greatly fear that granting this zoning variance would create a precedent for the construction of further infill buildings throughout our community. This would damage a community that has already suffered from over intensification because of rental group homes. This precedent would have far reaching negative effects in the future.

There are reasons why we have zoning restrictions. Granting this variance simply so an investor/absentee landlord can maximize his return on investment is not a good reason to further damage our neighbourhood.

Yours truly,

Sent from [Mail](#) for Windows 10



**Barnett, Daniel**

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**From:**  
**Sent:** February 25, 2020 10:04 AM  
**To:** Barnett, Daniel  
**Subject:** 9 Westbourne Road, Hamilton, Ontario. File ZAS-20-003

Daniel Barnett, City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design - Urban Team  
71 Main St. West, 5th Floor, Hamilton, Ont. L8P 4Y5  
Fax: 905-546-4202  
e-mail: [Daniel.Barnett@hamilton.ca](mailto:Daniel.Barnett@hamilton.ca)

Tuesday February 25, 2020

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for

**9 Westbourne Road, Hamilton, Ontario. File ZAS-20-003**

I am in opposition to a second dwelling being built behind the existing home for the following reasons:

- a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for other homeowners to do the same and consequently change the fabric of the neighbourhood.
- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Thank you for your consideration when deciding on the above mentioned application.

Sincerely,

**Barnett, Daniel**

---

**From:** ...  
**Sent:** February 25, 2020 7:13 AM  
**To:** Barnett, Daniel  
**Cc:** Ward 1 Office  
**Subject:** ZAS-20-003

File: ZAS -20-003

Dear Mr. Barnett,

This letter is in regards to the above mentioned file regarding a Zoning By-law Amendment for 9 Westbourne Road, Hamilton, Ontario. I am in opposition to a second dwelling being built behind the existing home for the following reasons:

- a. According to the Urban Hamilton Official Plan, Section B regarding Residential Intensification 2.4.2.2, any application should consider the relationship of the proposed lot with the lot pattern and configuration within the neighbourhood. (5. e) . Within the neighbourhood of Ainslie Wood North, there are no other houses that have a second dwelling on their property. If this dwelling is allowed, this would set a precedent for other homeowners to do the same and consequently change the fabric of the neighbourhood.
- b. Sanders Gardens, a condominium complex to be built at 1630 Main St. West runs directly behind 9 Westbourne. This proposed complex is a 9 storey condo with 154 units and 22 three storey back to back townhomes. This could affect shadowing on the proposed second dwelling at 9 Westbourne as it is to be built extremely close to the property line. Intensification should be on major arteries, not on a side street.
- c. Parking and traffic are a problem on Westbourne Road already. There is a Doctor's office on the corner of Westbourne and Main St. W. which accounts for the street to be lined with cars Monday to Friday, 9 a.m. to 6 p.m. As there is a one hour time limit between these hours, there is a constant flow of traffic. Westbourne is the only street in our neighbourhood that has a traffic light, so traffic exiting Ainslie Wood North onto Main St.W. use this light. An extra dwelling may just add to the congestion and parking issues that already plague this street and others.

Please consider these reasons when deciding on the above mentioned application.

Sincerely,

Planning and Economic Development Department  
71 Main Street West 5<sup>th</sup> Floor, Hamilton ON L8P 4Y5

Attention: Shannon McKie/Daniel Barnett

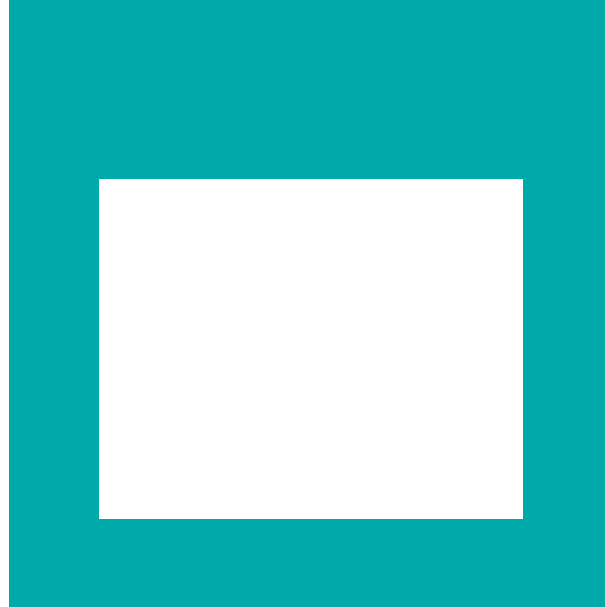
**Re: File: ZAS-20-003 Zoning By-law amendment application 9 Westbourne Road  
Hamilton (Ward 1)**

Thank you for the opportunity to speak to this application. The Ainslie Wood Community Association Corp (AWCA) is opposed to the proposed change in zoning for the following reasons:

- Building a dwelling in a garage would not be in keeping with the neighborhood. To allow the zoning change would set an undesirable precedent.
- The existing house on the property has 8 student rental rooms. The house and the area in general are over-intensified with student room rentals as it is. Adding more in this way would affect the permanent residents in a negative way, and the renter students would also be impacted by clearly substandard housing.
- Road parking and traffic is presently at a premium on the road. Enforcement of traffic and parking issues is already stressed.
- In looking at amendments to the City of Hamilton Zoning By-law No 6593 on accessory dwelling units, would this new pilot project be in effect for 9 Westbourne Road? If so, it specifically states under 2.1 West of Highway 403 to avoid such development in the proximity to McMaster University. It is noted that 9 Westbourne Road is located within the area of Ward 1 where infill is not considered appropriate.

Kind Regards,

Ainslie Wood Community Association



WELCOME TO THE CITY OF HAMILTON

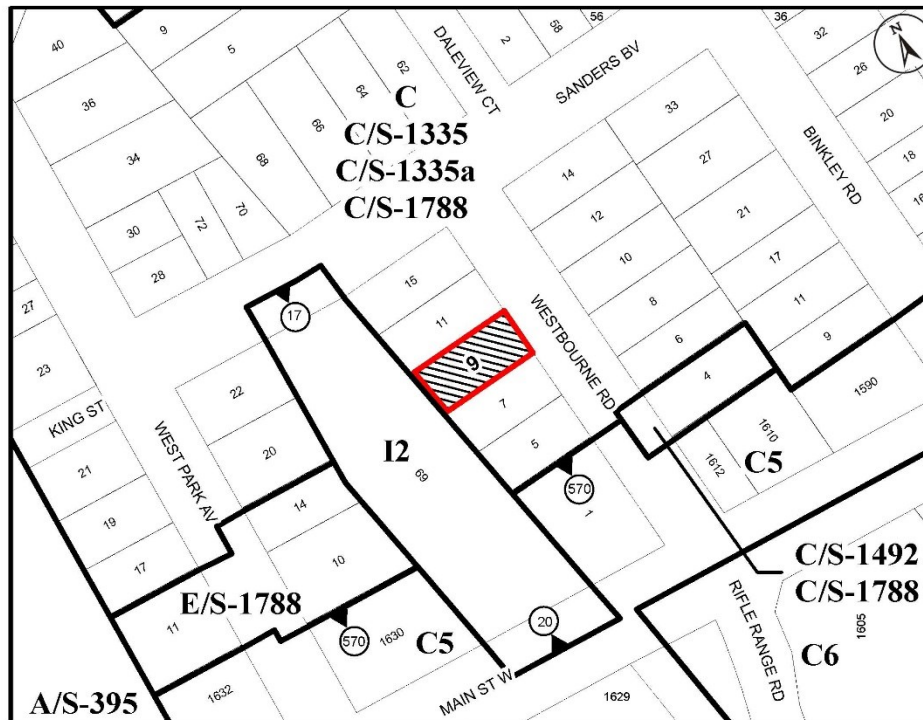
# PLANNING COMMITTEE

February 16, 2021

# PED21039– (ZAS-20-003)

Application for Zoning By-law Amendment for Lands Located at  
9 Westbourne Road, Hamilton

Presented by: Daniel Barnett



● Site Location



Key Map - Ward 1

### Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAS-20-003	Date: January 29, 2021
Appendix "A"	Scale: N.T.S.
	Planner/Technician: DB/NB

#### Subject Property

9 Westbourne Road

- Change in Zoning from the "C/S-1335", "C/S-1335a" and "C/S-1788" (Urban Protected Residential, Etc.) District Modified, to the "C/S-1335", "C/S-1335a" and "C/S-1804" (Urban Protected Residential, Etc.) District, Modified



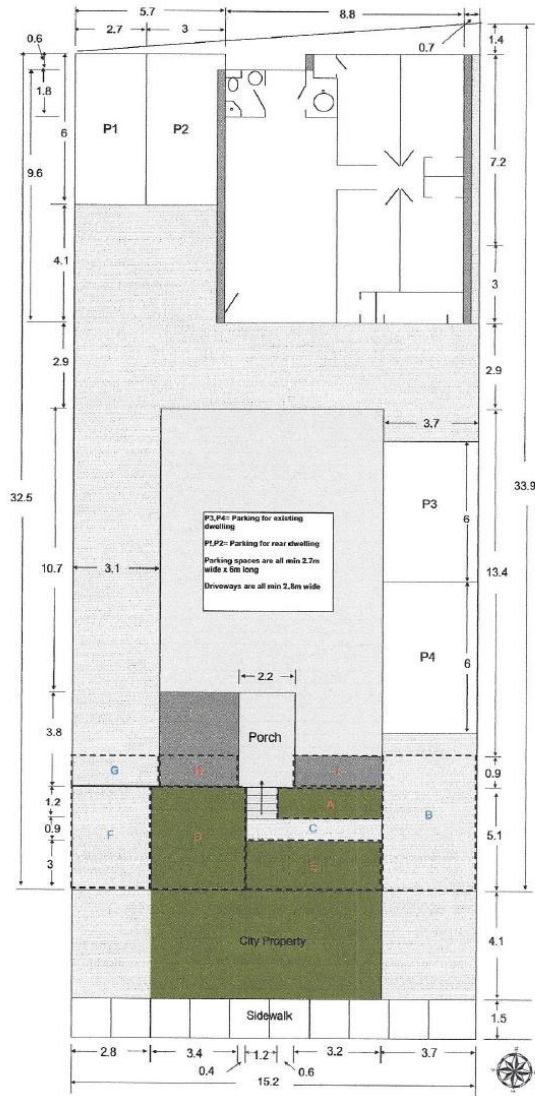
**SUBJECT PROPERTY**

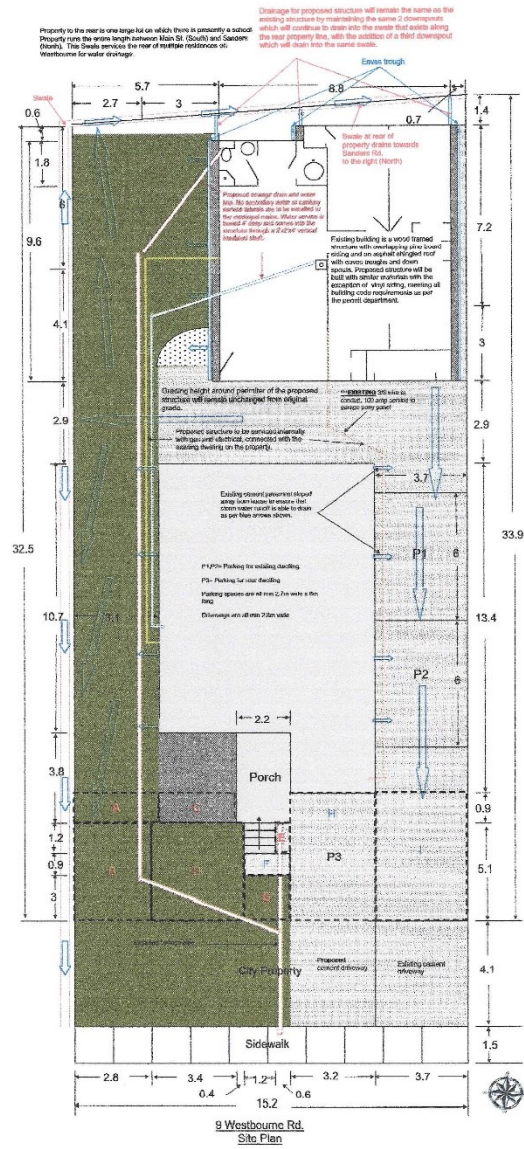


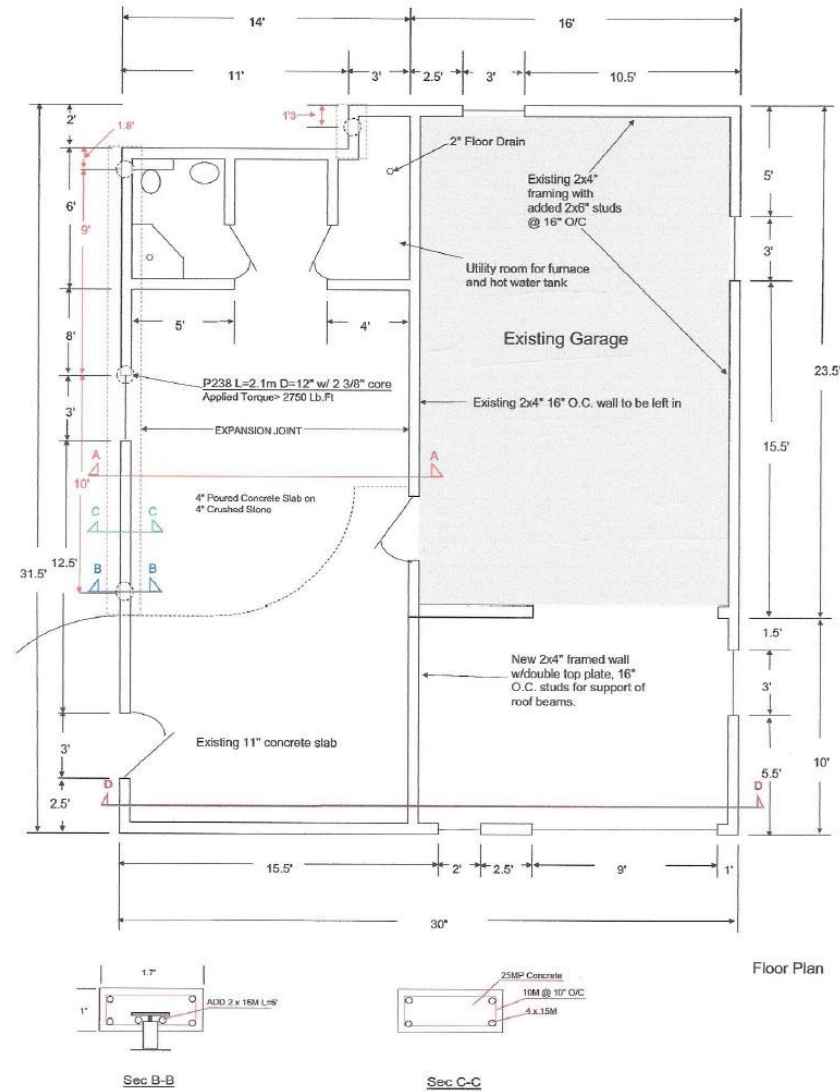
**9 Westbourne Road, Hamilton**



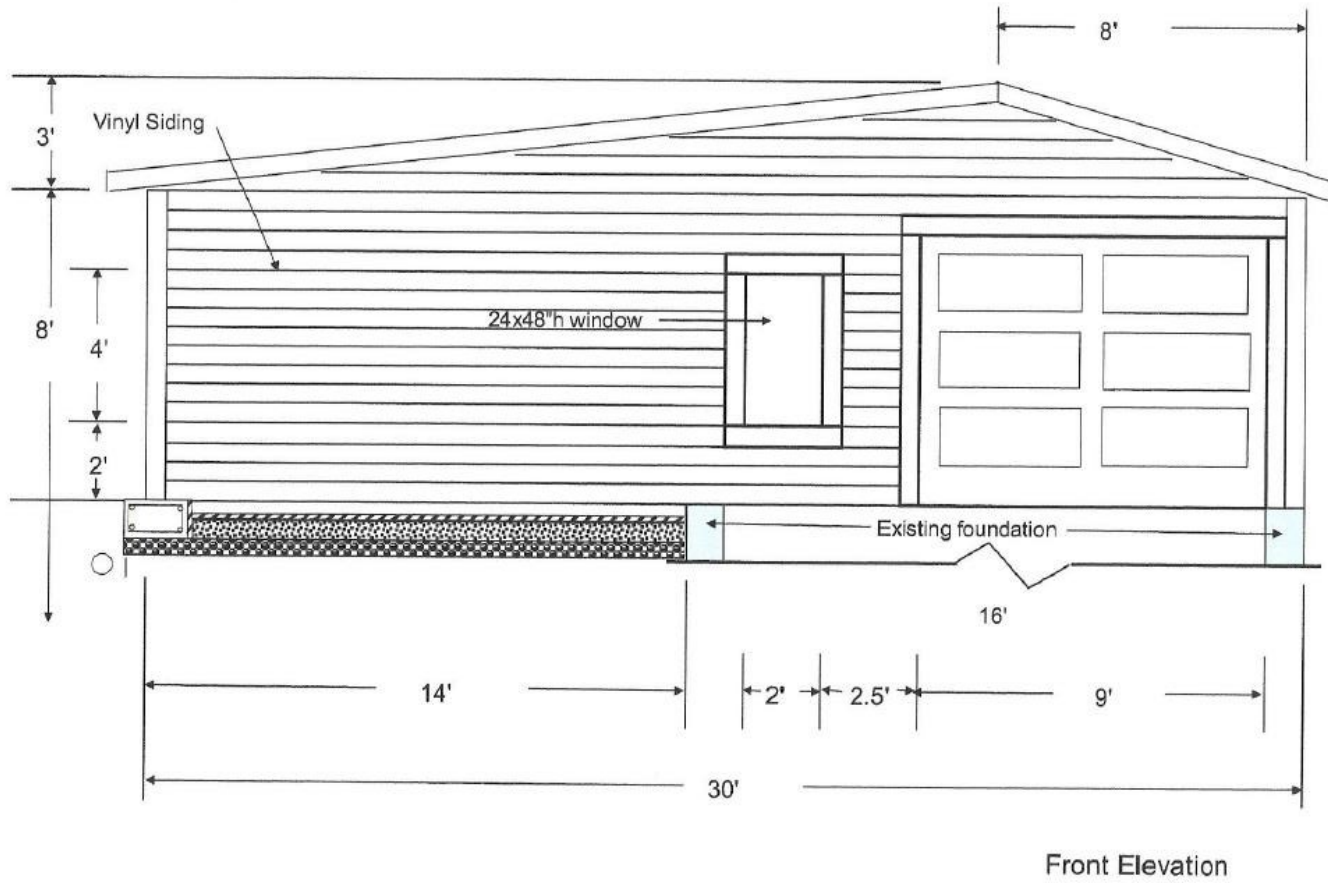
5



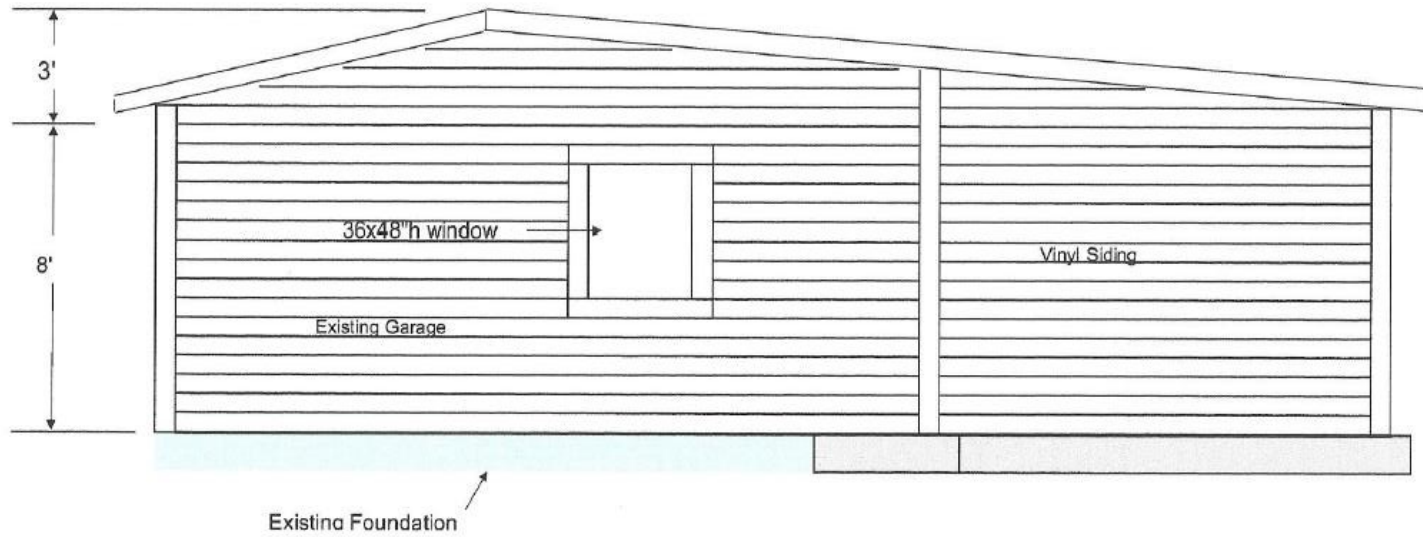


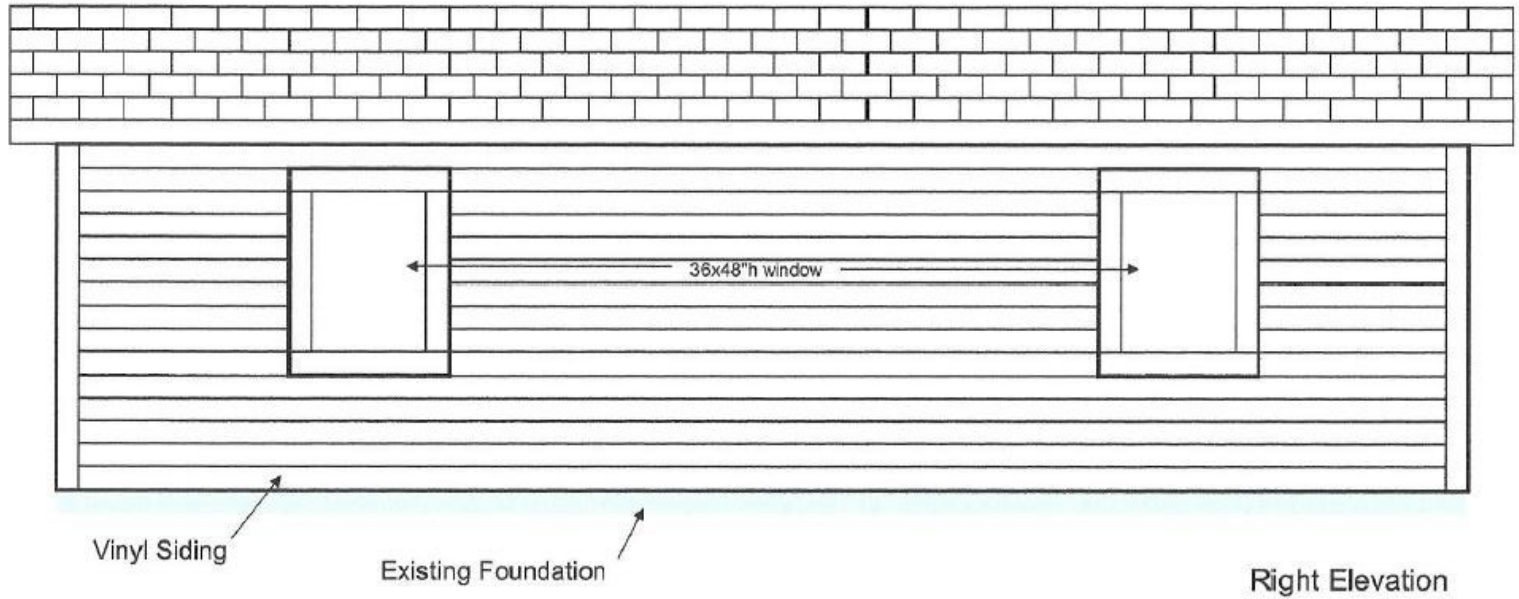


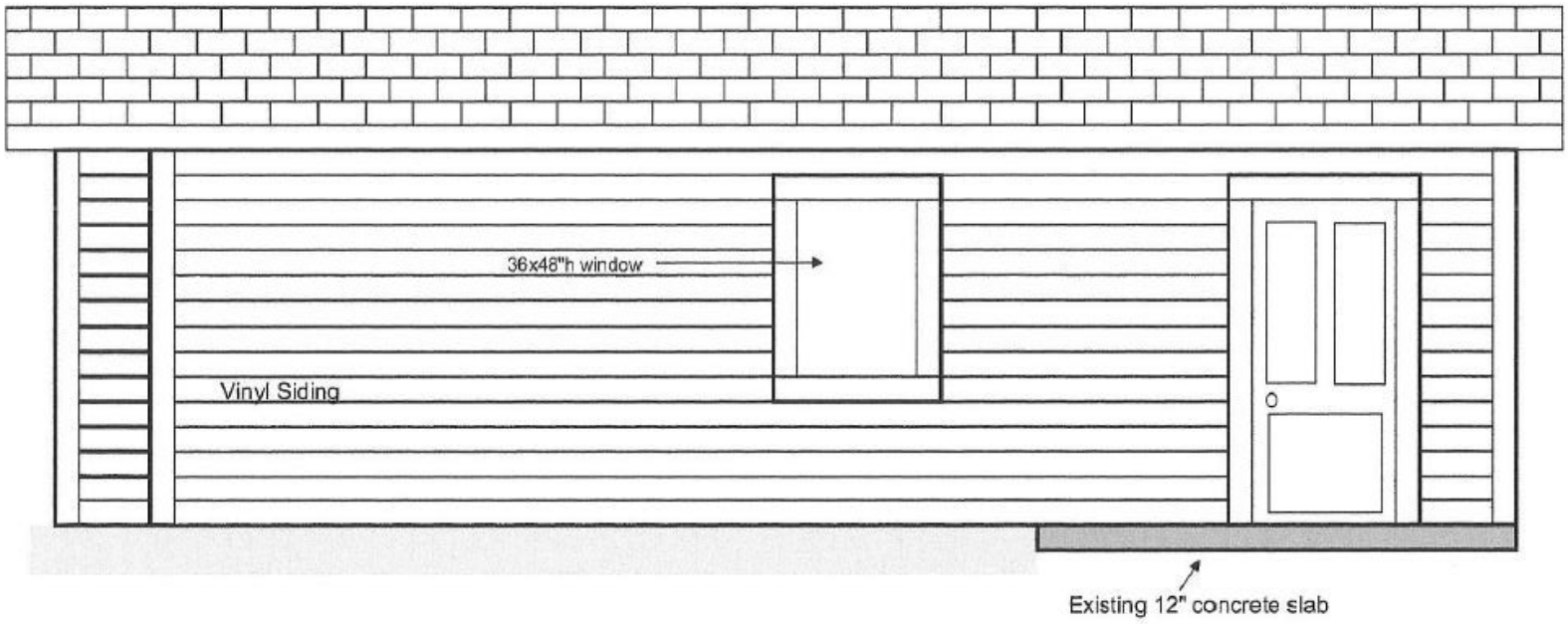
12



13









Existing dwelling on the subject lands, as seen from Westbourne Road, looking west





Existing driveway and the existing detached garage towards the rear of the property, as seen from Westbourne Road, looking west



Properties at 11 and 15 Westbourne Road located to the north of the subject property, as seen from Westbourne Road, looking north west



Property at 7 Westbourne Road located to the south of the subject property, as seen from Westbourne Road, looking west



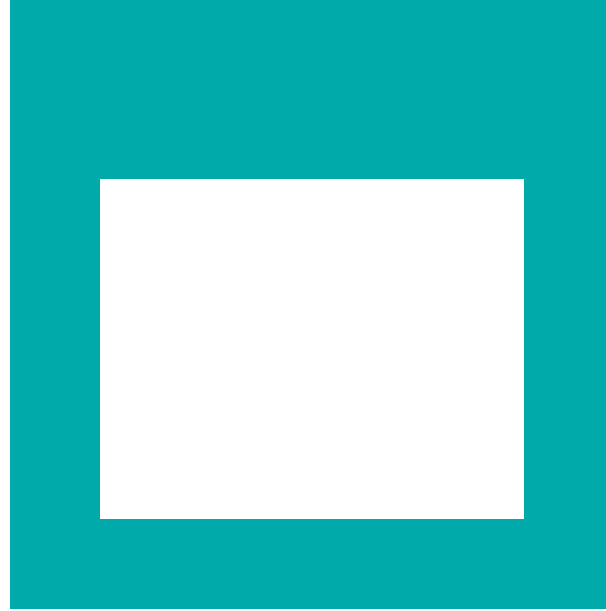
Properties at 1 and 5 Westbourne Road located to the south of the subject property, as seen from Westbourne Road looking, south west



Properties at 8 and 10 Westbourne Road located across the street to the east of the subject property, as seen from Westbourne Road, looking east



Properties 4, 6, and 8 Westbourne Road and 1612 Main Street West located across the street to the south east of the subject property, as seen from Westbourne Road looking, south east



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

**From:** Tordis Coakley  
**Sent:** February 8, 2021 12:19 PM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
**Cc:** Wilson, Maureen <[Maureen.Wilson@hamilton.ca](mailto:Maureen.Wilson@hamilton.ca)>  
**Subject:** Zoning ByLaw Amendment (File No. ZAS-20-003)

**Re: 9 Westbourne Road Hamilton Application for a change in Zoning - For the Public Hearing February 16, 2021 and the Council agenda February 24, 2021:**

We are the Ainslie Wood Community Association, and this letter is to again document our strong opposition to the Application for a Change in Zoning at 9 Westbourne Road in Hamilton. Our arguments for opposing the application are noted below:

- Amending the zoning by-law to allow the construction of a garage into a room for rent dwelling does not conform to the official plan and the use of the land in the area.
- Building a dwelling for room rental in a garage would not be in keeping with the neighborhood. Allowing the zoning change would set an undesirable precedent in the neighborhood.
- The area is already over-intensified by room rentals and sub-standard housing for the same. Adding more by allowing garage conversions seems incorrect.
- Too many houses in the neighborhood are housing people way above the numbers for which the houses were intended. This puts pressure on public services and road maintenance, garbage, water pressure, sewage, vehicular access, illegal parking preventing effective snow removal, street cleaning, and more.
- The existing house on the property now has 8 student rental rooms. Adding 4 more student rental rooms to this property will mean 12 rooms for rent. The use of the property may already be in non-compliance in terms of habitable rooms and parking requirements.

We ask that the Zoning By-Law amendment for 9 Westbourne Road Hamilton be denied.

Many thanks for your consideration, and for keeping the best interest of the Ainslie Wood neighborhood in mind.

Tordis Coakley, Treasurer

Ainslie Wood Community Association

**Sent by email on February 8, 2021**



**From:** Tom Perrie  
**Sent:** February 8, 2021 1:56 PM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca); Barnett, Daniel <[Daniel.Barnett@hamilton.ca](mailto:Daniel.Barnett@hamilton.ca)>  
**Cc:** r Hilson, Stephanie <[Stephanie.Hilson@hamilton.ca](mailto:Stephanie.Hilson@hamilton.ca)>  
**Subject:** Zoning By-Law Amendment – File ZAS-20-003 – 9 Westbourne Road Hamilton, Ontario

To  
Planning Committee, City of Hamilton  
c/o City Clerk, [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
& Daniel Barnett, City of Hamilton  
Planning and Economic Development Department  
Development Planning Heritage and Design – Urban team

February 8, 2021

Re: Zoning By-Law Amendment – File ZAS-20-003 – 9 Westbourne Road Hamilton, Ontario

In response to the Notice of Public Meeting of the Planning Committee of February 16, 2021 inviting public input on this issue we submit the following objection. We would also ask to be updated on developments on this file as they unfold.

We wish to record our opposition to granting this zoning amendment. This is a student rental house which typically houses six to ten students with all the attendant problems this entails: insufficient parking spaces, traffic and garbage (one bag per household for a large number of adults.) This second dwelling unit – a garage – is situated very close to the proposed development at the former Binkley School property (a high density project) as well as to the adjacent homes.

We are not sure what the amendment calls for but we suspect it has to do with the ratio of residential living space to lot size. This is a battle we have fought many times before. Our community has many unlicensed rooming houses. This has given our community a density far beyond what you would normally find in a neighbourhood of “single” family dwellings. This proposed use/amendment would further exacerbate what is already an uncomfortable situation. We greatly fear that granting this zoning variance would create a precedent for the construction of further infill buildings throughout our community. This would damage a community that has already suffered from over intensification because of rental group homes. This precedent would have far reaching negative effects in the future.

There are reasons why we have zoning restrictions. Granting this variance simply so an investor/absentee landlord can maximize his return on investment is not a good reason to further damage our neighbourhood.

Yours truly,  
Sheryl and Tom Perrie  
Hamilton, Ontario

**From:** Faure, Paul  
**Sent:** February 8, 2021 7:31 PM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
**Subject:** File: ZAS-20-003

08 January 2021

Legislative Coordinator  
Planning Committee  
City of Hamilton  
71 Main Street West, 1st Floor  
Hamilton, ON  
L8P 4Y5  
[<clerk@hamilton.ca>](mailto:clerk@hamilton.ca)

Re: File ZAS-20-003 (Application by Joseph DiDonato and Sven Oppermann) for Zoning By-Law Amendment for lands located at 9 Westbourne Road, Hamilton (Ward 1)

To Whom It May Concern,

I wish to state my opposition to the Application by Joseph DiDonato and Sven Oppermann for a Zoning By-Law Amendment for lands located at 9 Westbourne Road, Hamilton (Ward 1).

Please note that in the 16 February 2021 correspondence from the City of Hamilton, the letter say that 9 Westbourne Road is located in Ward 2 even though this address is in Ward 1 according to City's website on ward boundaries <https://www.hamilton.ca/municipal-election/election-information/ward-boundary-changes>.

The stated purpose of the application "is to establish a site specific "C" Urban Protected Residential, etc. District in order to permit a second dwelling unit within an accessory building for an existing single detached dwelling."

I urge the City to reject this application because Ainslie Wood is already overrun with legal and illegal student lodging homes. As a local resident, I am very concerned that approving this application will further exacerbate the student housing problem that already exists within neighborhood. The application is missing a clear rationale or need for a second dwelling unit within the accessory building. Moreover, the information provided in the letter from the Planning and Economic Development Department (16 February 2021) is vague and does not clearly indicate if the accessory building already exists and why a dwelling would need to be established in it. Lastly, even if the existing single detached dwelling is not functioning as a student lodging home, I am concerned that allowing a dwelling unit with an accessory building will eventually result in another student lodging unit either by the current or a future owner.

I wish to be notified of the decision of the City of Hamilton on the proposed Zoning-By-Law Amendment.

Sincerely,

Paul A. Faure  
Hamilton, ON



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Mark Kehler (905) 546-2424 Ext. 4148
<b>SUBMITTED BY:</b>	Stephen Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

- (a) That **Amended Urban Hamilton Official Plan Amendment Application UHOPA-18-17, by GSP Group Inc. (c/o Brenda Khes) on behalf of Corktown Plaza Inc., Owner**, to establish a Site Specific Policy to the Mixed Use – Medium Density designation to permit the development of the subject lands for a mixed use building containing 769 dwelling units comprised of a 27 storey multiple dwelling, and a 14 storey mixed use building attached to an eight storey multiple dwelling, for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton as shown on Appendix “A” to Report PED21032, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED21032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,

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**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 2 of 37**

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- (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended.
- (b) That **Amended Zoning By-law Amendment Application ZAC-18-041, by GSP Group Inc. (c/o Brenda Khes) on behalf of Corktown Plaza Inc., Owner**, to modify the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone to permit a mixed use development consisting of a 27 storey (92.0 metre) multiple dwelling, and a 14 storey (48.5 metre) mixed use building attached to an eight storey (29.0 metre) multiple dwelling, with a total of 769 dwelling units, 929.25 square metres of commercial space and 462 parking spaces, for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton, as shown on Appendix “A” to Report PED21032, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED21032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and will comply with the Urban Hamilton Official Plan upon finalization of Urban Hamilton Official Plan Amendment No. XX; and,
- (iii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject property by introducing the Holding symbol “H118” to the proposed Mixed Use - Medium Density (C5, 739) Zone.

The Holding Provision “H118” be removed conditional upon:

- 1) The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton’s current RSC administration fee.

**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 3 of 37**

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- 2) That the Owner submits and receives approval of a Documentation and Salvage Report for the existing buildings at 211 John Street South and 78 Young Street and implements the strategy of the Documentation and Salvage Report in accordance with the City of Hamilton Documentation and Salvage Report guidelines to the satisfaction of the Director of Planning and Chief Planner.

## **EXECUTIVE SUMMARY**

The Owner, Corktown Plaza Inc., has applied for an Official Plan Amendment and a Zoning By-law Amendment to permit a mixed use commercial / residential development with 769 dwelling units, 929.25 square metres of commercial space and 462 parking spaces at 211 and 225 John Street South and 78 Young Street, Hamilton. The subject lands occupy the entire block bordered by Young Street to the north, Catharine Street South to the east, Forest Avenue to the south and John Street South to the west and are located in the Corktown Neighbourhood.

The purpose of the Urban Hamilton Official Plan Amendment application is to establish a Site Specific Policy to the Mixed Use – Medium Density designation to permit the development of a 27 storey multiple dwelling and a 14 storey mixed use building attached to an eight storey multiple dwelling. The existing Mixed Use - Medium Density Designation applicable to the site permits a maximum building height of six to eight storeys. The proposed Site Specific Policy requires that the implementing Zoning By-law set out appropriate building height transitions and step backs to adjacent streets and residential uses.

The purpose of the Zoning By-law Amendment application is to modify the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone to permit a mixed use development consisting of a 27 storey (92.0 metre) multiple dwelling, and a 14 storey (48.5 metre) mixed use building attached to an eight storey (29.0 metre) multiple dwelling. A total of 769 dwelling units, 929.25 square metres of commercial space and 462 underground parking spaces are proposed.

The applications have merit and can be supported as the proposal is consistent with the Provincial Policy Statement (2020), conforms to the A Place to Grow Plan: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and will comply with the UHOP upon finalization of the Official Plan Amendment. The proposed development complies with the function, permitted uses and design policies of the Mixed Use – Medium Density designation. The scale of the development is appropriate for the surrounding neighbourhood that features a mix of commercial, low-rise residential and high-rise residential development.

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**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 4 of 37**

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**Alternatives for Consideration – See Page 36**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Official Plan and Zoning By-law. The proposed Zoning By-law amendment is to amend a Zoning By-law that remains under appeal to the LPAT. Therefore, Council's approval of the Zoning By-law Amendment will not take effect until the C5 Zoning on the subject lands comes into effect as a result of either the appeal being withdrawn by the applicant, a negotiated settlement is reached and approved by the LPAT or alternatively the LPAT dismisses the appeal. The staff recommended approval of the zoning application is in effect a negotiated settlement that will be implemented through adoption of a site specific Official Plan Amendment and Zoning By-law Amendment.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner	Corktown Plaza Inc.
Applicant:	GSP Group Inc. (c/o Brenda Khes)
File Numbers:	UHOPA-18-17 and ZAC-18-041
Type of Application:	Official Plan Amendment and Zoning By-law Amendment
Proposal:	To permit a mixed use development consisting of a 27 storey (92.0 metre) multiple dwelling and a 14 storey (48.5 metre) mixed use building attached to an eight storey (28.0 metre) multiple dwelling. A total of 769 dwelling units, 929.25 square metres of commercial space and 462 underground parking

**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 5 of 37**

	<p>spaces are proposed. Six of the proposed dwelling units are accessible directly at grade.</p> <p>The proposal is a revision to the original application for a mixed use development consisting of two towers connected by a multi-storey podium with maximum building heights of 31 storeys (104.86 metres) and 34 storeys (113.85 metres) and a total of 792 dwelling units, 2,157 square metres of commercial space and 436 parking spaces.</p>
<b>Property Details</b>	
Municipal Address:	211 and 225 John Street South and 78 Young Street, Hamilton
Lot Area:	5,950 square metres (0.595 hectares)
Servicing:	Existing municipal services
Existing Use:	A one storey commercial plaza, a three storey commercial building and a two storey detached dwelling.
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
A Place to Grow:	The proposal conforms with the Growth Plan.
Official Plan Existing:	Schedule "E": Neighbourhoods Schedule "E-1": Mixed Use – Medium Density
Official Plan Proposed:	<p>Mixed Use – Medium Density on Schedule "E-1" with a Site Specific Policy to permit:</p> <ul style="list-style-type: none"> <li>• A maximum building height of 8 storeys for Area "A-1";</li> <li>• A maximum building height of 14 storeys for Area "A-2";</li> <li>• A maximum building height of 27 storeys for Area "A-3";</li> <li>and,</li> <li>• The implementing Zoning By-law set out appropriate building height transitions and step backs to adjacent</li> </ul>

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**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 6 of 37**

	streets and residential uses (see Appendix “B” to Report PED21032).
Zoning Existing:	“CR-2/S-572”, “CR-2/S-572a” and “CR-2/S-572b” (Commercial – Residential Districts) District, Modified, and “E-3” (High Density Multiple Dwellings) District, and Mixed Use Medium Density (C5) Zone (under appeal)
Zoning Proposed:	Mixed Use Medium Density (C5, 739, H118) Zone, including Special Figure 23: Maximum Building Heights for 211 and 225 John Street South and 78 Young Street.
Modifications Proposed:	<p>Applicant requested modifications:</p> <ul style="list-style-type: none"> <li>• To amend the definition of “Grade” to be 102.97 metres above sea level, implementing the existing average grade on site.</li> <li>• Increased building height from a maximum of 22.0 metres to a maximum 92.0 metres, inclusive of mechanical penthouse and amenity area;</li> <li>• Reduced parking rate from 493 residential parking spaces to a total of 462 parking spaces, and from three commercial parking spaces to no parking spaces;</li> <li>• Increased rooftop amenity area size from 10% of the area of the storey beneath to 20% of the storey beneath with a minimum 2.0 metre setback instead of a 3.0 metre setback from the exterior main wall of the storey directly beneath;</li> <li>• Reduced minimum setback from a street for buildings with ground floor units facing a street from 3.0 metres to 1.5 metres along Young Street and 0.5 metres along Catharine Street South; and,</li> <li>• Reduced ground floor elevation for a residential unit facing a street from 0.9 metres above grade to 0.6 metres below grade.</li> </ul> <p>Staff recommended modifications:</p> <ul style="list-style-type: none"> <li>• To require step backs and a gradation of maximum building heights on site in accordance with Special Figure 23 in Appendix “C” to Report PED21032;</li> </ul>

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**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 7 of 37**

	<ul style="list-style-type: none"> <li>Added minimum long term bicycle parking rate requirement of 0.5 parking spaces, or 385 long term bicycle parking spaces; and,</li> <li>Added requirement for a 2.4 metre setback from the Catharine Street South street line for any building with a height greater than 28.0 metres.</li> </ul>
<b>Processing Details</b>	
Received:	July 13, 2018
Deemed Complete:	August 10, 2018
Notice of Complete Application:	Sent to 1,568 residents within 120 metres of the subject property on August 24, 2018.
Public Notice Sign:	Posted on August 23, 2018 and updated with the public meeting date on January 29, 2021.
Notice of Public Meeting:	Sent to 339 property owners within 120 metres of the subject property on January 29, 2021.
Public Consultation:	<ul style="list-style-type: none"> <li>Applicant Pre-Design Community Meeting held on December 12, 2017.</li> <li>Applicant Pre-Application Community Meeting held on May 23, 2018.</li> </ul>
Public Comments:	Seven letters of concern have been received by City staff (attached as Appendix "F" to Report PED21032)
Processing Time:	949 days from date of original submission 231 days from date of receipt of revised proposal

**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 8 of 37**

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**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	One storey commercial plaza, three storey commercial building and two storey detached dwelling	Mixed Use – Medium Density (C5) Zone (under appeal) and “CR-2/S-572”, “CR-2/S-572a” and “CR-2/S-572b” (Commercial – Residential) District, Modified, and “E-3” (High Density Multiple Dwellings) District

**Surrounding Lands:**

<b>North</b>	One storey vehicle repair shop, two storey commercial building and two and a half storey townhouse development	Mixed Use Medium Density (C5) Zone and “DE/S-1456a” (Low Density Multiple Dwellings) District, Modified
<b>East</b>	Eleven storey multiple dwelling	“E-3/S-601” and “E-3/S-601a” (High Density Multiple Dwellings) District, Modified
<b>South</b>	Two storey commercial building, one storey single detached dwelling and two and a half storey single detached dwelling	“E-3” (High Density Multiple Dwellings) District, “E-3/S-960” (High Density Multiple Dwellings) District, Modified and Mixed Use Medium Density (C5) Zone
<b>West</b>	14 storey multiple dwelling and one storey commercial plaza	Mixed Use Medium Density (C5) Zone

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**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 9 of 37**

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## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Policy Statement (2020) (PPS)**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, apply to the proposed development.

#### Settlement Areas

“1.1.3.1 Settlement areas shall be the focus of growth and development.

1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses which:

- a) efficiently use land and resources;
- b) are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and / or uneconomical expansion;
- e) support active transportation;
- f) are transit-supportive, where transit is planned, exists or may be developed;

Land use patterns within settlement areas shall also be based on a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.

1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for transit-supportive development, accommodating a significant supply and range of housing options through intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.”

The subject property is located within a settlement area as defined by the PPS. The proposed mixed use development would provide for a mix of land uses in the area,

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would efficiently use land and existing infrastructure, and represents a form of intensification. The proposal is transit-supportive by providing intensification in proximity to the Hamilton GO Centre and Downtown Hamilton.

#### Cultural Heritage and Archaeology

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the PPS apply to the lands. An acknowledgement note of the archaeological requirements applicable to the site will be required at the Site Plan Control stage.

The subject property contains a commercial plaza constructed in the mid-1980s. The property also contains a three storey commercial building (211 John Street South) and a two storey detached dwelling (78 Young Street) constructed in the late 19<sup>th</sup> century, both of which are included in the City’s Inventory of Buildings of Architectural and/or Historical Interest.

The subject property is adjacent to the Church of the Ascension, a Gothic Revival church constructed in 1875 that is designated under Part IV of the *Ontario Heritage Act* and a “protected heritage property” under the PPS. Additionally, the subject property is adjacent to a number of properties included in the City’s Inventory of Buildings of Architectural and / or Historical Interest, including:

- 247 John Street South;
- 190 Catharine Street South;
- 157 Catharine Street South;
- 155 Catharine Street South; and,

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- 153 Catharine Street South.

A Cultural Heritage Impact Assessment (CHIA) completed by ERA Architects and dated June 28, 2018 was submitted with the applications. The CHIA found that the existing buildings are not considered to be significant cultural heritage resources and their loss is mitigated by the re-animation of a currently underutilized site. The report recommended mitigation strategies, including the utilization of brick materials to fit within the adjacent heritage context, the use of building step backs and the provision of ground level retail units to enhance the pedestrian realm.

On September 17, 2018, the report was reviewed by the Hamilton Municipal Heritage Committee's Policy and Design Working Group. The Working Group accepted the report as submitted and recommended that building materials from the 19th century structures at 211 John Street South and 78 Young Street be reintegrated within the podium and that excess building materials be retained for reuse elsewhere. Staff concur with the recommendations of the Working Group and the findings of the CHIA and, should the applications be approved, would work with the applicant to implement them at the Site Plan Control stage. In addition, a Documentation and Salvage Report is required as a condition of Holding Removal to ensure historic building materials from 211 John Street South and 78 Young Street are utilized in the development or reused off-site.

#### Noise

- "1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities."

The proposed residential portion of the development is a noise sensitive use and will be located adjacent to John Street South, a minor arterial road as shown on Schedule C – Functional Road Classification of the UHOP. John Street South and Young Street are also part time truck routes that permit heavy traffic between 7:00 a.m. and 7:00 p.m. The subject lands are located approximately 240 metres south of the CPR / GO railway line.

A Noise and Vibration Feasibility Assessment dated June 8, 2018 was prepared by RWDI and submitted with the applications. The report predicts that sound levels on site will comply with the MOECP sound level limits without specialized design interventions for the building façade or outdoor amenity areas. Standard warning clauses are

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recommended to be included in all future agreements of purchase and sale or lease related to traffic noise and noise from the CPR / GO railway line. The report was prepared on a preliminary basis and a more detailed noise study for the revised proposal will be required at the Site Plan Control stage.

#### Human-Made Hazards

“3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.”

The subject lands are recognized as a potentially contaminated site due to the former commercial use and are subject to environmental review to allow the proposed mixed use commercial / residential development. The applicant commissioned a Phase One Environmental Site Assessment (ESA) dated January 24, 2018, and a subsequent Soil and Groundwater Assessment dated May 14, 2018, both completed by Terraprobe. Based on the results of the Soil and Groundwater Assessment, exceedances of metals and inorganics were found at the north and southwest portions of the property. The assessment recommends a second round of ground water samples, the completion of a Phase 2 ESA and the filing of a Record of Site Condition (RSC). A Holding Provision is included in the amending By-law requiring a conditional building permit agreement with respect to an RSC or receipt of a Notice of Acknowledgement letter from the Ministry of the Environment, Conservation and Parks that an RSC has been filed.

Therefore, the proposal is consistent with the policies of the PPS (2020).

#### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan) 2019, as Amended**

The Growth Plan directs the majority of growth to settlement areas that have access to municipal water and wastewater systems and can support the achievement of complete communities. The following policies, amongst others, apply to the proposal.

“2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to settlement areas that:
  - i. have a delineated built boundary;

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- ii. have existing or planned municipal water and wastewater systems; and
- iii. can support the achievement of complete communities;
- c) within settlement areas, growth will be focused in:
  - i. delineated built-up areas;
  - ii. strategic growth areas;
  - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and,
  - iv. areas with existing or planned public service facilities;

2.2.1.4 Applying the policies of this Plan will support the achievement of complete communities that:

- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- c) provide a diverse range and mix of housing options, including second units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes;”

The subject lands are located within the City of Hamilton urban boundary and are fully serviced by municipal water and wastewater infrastructure. The proposal expands housing options within the neighbourhood at a convenient location adjacent to Downtown Hamilton with access to local stores and services (Policy 2.2.1.4 a) and c)). Consistent with the growth management policies of the Growth Plan, the proposal represents a form of residential intensification within the built up area, in proximity to existing transit at the Hamilton GO Centre and Downtown Hamilton.

Based on the foregoing, the proposal conforms with the policies of the Growth Plan.

### **Urban Hamilton Official Plan**

The subject property is identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Mixed Use – Medium Density” on Schedule “E-1” – Urban

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Land Use Designations of the UHOP. The following policies, amongst others, apply to the proposal.

Neighbourhoods (Urban Structure)

- “E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide for a full range of housing forms, types and tenure, including affordable housing and housing with supports.
- E.2.6.5 The Neighbourhoods element of the urban structure shall permit a range of commercial uses including retail stores and services. These commercial uses may be clustered into plaza forms or in main street configurations. Over time, some of these commercial areas may evolve into a mixed use form, where appropriate. Commercial uses that cater to a broader regional market shall be directed to appropriate Urban Nodes. The Neighbourhoods element of the urban structure permits a broader range of commercial areas than the Neighbourhoods Designation. The different types of commercial areas are designated on Schedule E-1 – Land Use Designations. The policies of Section E.4.0 – Commercial and Mixed Use Designations, Section E.3.0 – Neighbourhoods Designation, and applicable secondary plans of Volume 2 shall provide specific direction on the scale of commercial uses in the various commercial and mixed use designations.
- E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Section B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and E.6.0 – Institutional Designation.”

Consistent with Policies E.2.6.4 and E.2.6.5, the proposal adds to the range of housing available in the Corktown Neighbourhood by providing at grade units along Catharine Street South and Young Street, and multiple dwelling units in mid-rise and high-rise buildings. The proposal includes commercial uses at an appropriate location in a main street configuration and within a mixed use designation.



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As per Policy E.2.6.7, the Corktown Neighbourhood has a unique scale and character that features a mix of single detached, semi-detached and townhouse dwellings together with mid-rise and high-rise multiple dwellings. The subject lands are located within the southern portion of the Corktown Neighbourhood that is divided geographically north / south by the CPR railway tracks. This portion of the neighbourhood is located outside of the Downtown Urban Growth Centre. The immediate context includes lower profile residential and commercial uses to the north and northwest and mid to high-rise multiple dwellings ranging in height from 10 to 14 storeys to the west, east and south. The prevailing heights within the neighbourhood increase toward the southeast of the site, including two, 21 storey multiple dwellings and a 32 storey multiple dwelling on Charlton Avenue East.

Staff are satisfied that the proposed development is compatible with the existing character of the neighbourhood by locating the 27 storey portion of the development at the southeast corner of the site with an eight storey portion at the northeast providing adequate transition to existing lower profile development. A 14 storey mixed use commercial / residential building is proposed along the west property line, maintaining the intended mixed use, medium density function of the John Street South corridor. Existing development to the west includes a 14 storey multiple dwelling and the proposed building steps down to a six storey building height at the northwest corner of the site to transition to existing development to the north along John Street South. Step backs from all property lines are required to reflect the scale of the street and provide transition to residential areas.

#### Mixed Use – Medium Density

- “E.4.6.1 The range of commercial uses is intended to serve the surrounding community or series of neighbourhoods as well as provide day-to-day retail facilities and services to residents in the immediate area. These areas shall also serve as a focus for the community, creating a sense of place.
- E.4.6.2 The Mixed Use – Medium Density designation shall be applied to traditional ‘main street’ commercial areas outside of the area designated Downtown Mixed Use, and to promote the continuation of these areas as pedestrian oriented mixed use areas. Retail and service commercial uses are key elements in maintaining that function and ensuring the continued vibrancy of the pedestrian realm.
- E.4.6.4 It is also the function of areas designated Mixed Use – Medium Density to serve as vibrant people places with increased day and night activity

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through the introduction of residential development. Residential development enhances the function of these areas as transit supportive nodes and corridors.

- E.4.6.5 The following uses shall be permitted on lands designated Mixed Use - Medium Density on Schedule E-1 – Urban Land Use Designations:
- a) commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices, medical clinics, personal services, financial establishments, live-work units, artist studios, restaurants, gas bars, and drive-through facilities; (OPA 64)
  - f) multiple dwellings;
- E.4.6.10 Permitted uses shall be located in both single and mixed use buildings.
- E.4.6.15 Although residential development is permitted and encouraged, it is not the intent of the Plan for the Mixed Use - Medium Density designated areas to lose the planned retail and service commercial function set out in this Plan.
- E.4.6.22 Development applications shall be encouraged to provide a mix of uses on the site.”

The proposed development complies with the permitted uses in both a single use and a mixed use building as outlined in Policies E.4.6.5 and E.4.6.10 and provides a mix of uses on site as encouraged by Policy E.4.6.22. As encouraged by Policies E.4.6.1, E.4.6.2 and E.4.6.15, the proposal maintains the commercial retail function of the lands that currently serve as a retail centre for the neighbourhood. Consistent with Policy E.4.6.4, the proposal introduces residential uses to the site which, in combination with the proposed commercial component, will contribute to the vibrancy of John Street South, will increase the day and night activity in the area and will support nearby transit infrastructure.

- “E.4.6.7 Lands designated Mixed Use - Medium Density shall contain a range of building heights and densities to a maximum height of six storeys, which shall be set out in the implementing zoning by-law. The specific permitted heights and densities shall depend on the area and be established through secondary plans where one exists and the zoning by-law.

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- E.4.6.8 Additional height up to a total of eight storeys may be permitted without an amendment to this Plan, provided the applicant demonstrates:
- a) there are no adverse shadow impacts created on existing residential uses within adjacent lands designated Neighbourhoods;
  - b) buildings are progressively stepped back from adjacent areas designated Neighbourhoods. The Zoning by-law may include an angular plane requirement to set out an appropriate transition and stepping back of heights; and,
  - c) buildings are stepped back from the street to minimize the height appearance from the street, where necessary.
- E.4.6.9 The predominant built form shall be mid rise and low rise buildings. The intent is to increase the proportion of multiple storey, mixed use buildings that have retail and service commercial stores at grade; however, single use commercial buildings and medium density ground related housing forms shall be permitted except for pedestrian focus streets as listed by Policy E.4.3.1.
- E.4.6.24 New development shall respect the existing built form of adjacent neighbourhoods by providing a gradation in building height and densities, and by locating and designing new development to minimize the effects of shadowing and overview on properties in adjacent neighbourhoods.”

The intent of the Mixed Use – Medium Density designation is to promote the development of a full range of retail, service, commercial, entertainment and residential uses within low-rise and mid-rise buildings. Policy E.4.6.9 reinforces that the predominant built form shall be mid-rise and low-rise buildings and Policies E.4.6.7 and E.4.6.8 limit the building heights within the designation to six storeys, or up to eight storeys provided appropriate step backs are provided and there are no adverse shadow impacts. An Official Plan Amendment is required to permit the proposed 27 storey building at the southeast corner of the site, and a 14 storey building along John Street South attached to an eight storey building along Young Street at the northeast corner of the site.

Policy E.4.6.24 further emphasizes that development shall respect the existing built form of adjacent neighbourhoods by providing a gradation in building height and densities and designing new development to minimize the effects of shadowing and overview. The proposal provides for a gradation in building height within the site that

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reflects the built form character of the neighbourhood. The highest portion of the development is located towards the southeast portion of the neighbourhood, which features taller buildings including two, 21 storey buildings and a 32 storey building on Charlton Avenue East. At the northeast portion of the site, the maximum building height is limited to eight storeys (28.0 metres) with a step back above the sixth storey along Young Street to provide for transition to the lower profile residential uses to the north and northeast. At the west property line, the 14 storey (48.5 metre) portion of the building is at the southwest corner of the site across from an existing 14 storey multiple dwelling on the opposite side of John Street South. The permitted height transitions to a six storey (22.0 metre) height at the northwest corner (intersection of John Street South and Young Street) of the site with step backs at the eighth and tenth storeys. Step backs are provided along the John Street South frontage to reduce shadow and limit the visual impact of the building from the street. Permitted building heights are shown in detail on Special Figure 23 in Appendix "C" to Report PED21032.

In support of the revised proposal, the applicant submitted a Sun Shadow Study Analysis, prepared by Core Architects Inc. dated November 27, 2019. The Sun Shadow Study Analysis references the Terms of Reference for Shadow Impact Studies for Downtown Hamilton and notes that a minimum three hours of sun coverage is achieved between 10:00 am and 4:00 pm as measured on March 21<sup>st</sup> and September 21<sup>st</sup> on public sidewalks along Forest Avenue, John Street South and Catharine Street South. The 3 hour criteria is not met for sidewalks along Young Street due to its location to the north of the site where shadow impact is the greatest. Staff note that the eight storey mid-rise built form proposed along the Young Street frontage with step backs above the sixth storey to minimize the height appearance from the street is consistent with Policy E.4.6.8 and that pedestrian activity is likely to be less on Young Street than on John Street South which functions as a mixed use corridor. A minimum 50% sun coverage is achieved at all times on Shamrock Park to the northeast of the site on September 21<sup>st</sup> and March 21<sup>st</sup>.

Further regarding Policy E.4.6.24 and the Hamilton Site Plan Guidelines, the proposal includes design features to minimize shadows cast on private outdoor spaces located on adjacent properties. The Sun Shadow Study Analysis demonstrates that the proposed 27 storey tower will shadow the rear yards of existing low-rise residential uses to the northeast of the site within the block bordered by Catharine Street South, Young Street, Augusta Street and Walnut Street South in the afternoon on March 21<sup>st</sup> and September 21<sup>st</sup>. The reduced building height and step backs at the north portion of the site results in additional shadows not reaching the block until the evening when rear yards are largely shadowed by existing buildings. Limiting shadow impacts to the 27 storey portion of the development ensures afternoon shadows pass more quickly over individual properties. The development occupies an entire city block and therefore does

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not directly abut and overlook residential amenity areas on other properties. Therefore, staff are satisfied Policy E.4.6.24 has been met.

- “E.4.6.16 New development shall be designed and oriented to create comfortable, vibrant and stimulating pedestrian oriented streets within each area designated Mixed Use - Medium Density.
- E.4.6.17 Areas designated Mixed Use - Medium Density are intended to develop in a compact urban form with a streetscape design and building arrangement that supports pedestrian use and circulation and create vibrant people places.
- E.4.6.25 Areas designated Mixed Use – Medium Density shall be integrated with the surrounding neighbourhoods through frequent street and pedestrian linkages.”

Consistent with Policies E.4.6.16 and E.4.6.17, the development incorporates design elements that contribute to a comfortable pedestrian environment. Retail is proposed on the ground floor with entrances facing John Street South. Residential units with entrances onto the street are provided along Young Street and Catharine Street South to further animate the pedestrian realm and street trees are proposed on all four frontages. As required by Policy E.4.6.25, a mid-block pedestrian connection is proposed connecting Forest Avenue to Young Street via an outdoor sidewalk. There is also an indoor connection through the residential lobby facing John Street South and a pedestrian mews accessible from Catharine Street South allowing residents access through the site in an east / west direction.

- “E.4.6.26 Automobile access shall continue to be an important mode of transportation from the surrounding neighbourhoods, but it shall be balanced with the need to improve pedestrian access and opportunities for active transportation.
- E.4.6.27 Reduced parking requirements shall be considered to encourage a broader range of uses and take advantage of a higher level of transit service.”

Policies E.4.6.26 and E.4.6.27 recognize that automobiles continue to be an important mode of transportation within the Mixed Use – Medium Density designation but that accommodating vehicles should be balanced with the need to improve pedestrian access and encourage transit use. This policy direction includes considering reduced parking requirements to encourage a broad range of uses. The applicant has proposed

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a residential parking rate of 0.6 parking spaces per residential unit, or 462 parking spaces. Based on the residential unit mix proposed and a 10% reduction for the provision of 385 long-term bicycle parking spaces on site, the Council approved C5 Zone applicable to the site would require a minimum of 493 residential parking spaces, resulting in a deficiency of 31 parking spaces. The applicant has proposed no vehicle parking for the two retail units on site, whereas one parking space for each 17.0 square metre of retail gross floor between 450.0 square metres and 4,000.0 square metres is required. The retail units have gross floor areas of 418.65 square metres and 510.6 square metres, resulting in a parking deficiency of three parking spaces. Staff note that the Zoning By-law No. 05-200 parking rate requirements for the C5 Zone are under appeal to the Local Planning Appeal Tribunal but consider them to be Council's most recent direction for determining an appropriate parking supply for the site.

In support of the proposed parking reduction, the applicant submitted a Parking Justification Report dated June 2020, prepared by Paradigm Transportation Solutions Limited. The Report includes a proxy site parking survey completed in February 2020 at 187 Park Street South, approximately 500 metres from the subject property. 187 Park Street South is a 138 unit multiple dwelling with 69 one bedroom and 69 two bedroom units. The survey found the peak daily demand to be 0.67 parking spaces per unit, whereas 0.6 parking spaces are proposed for the development. The study notes that the proposal is likely to contain a lower proportion of two bedroom units and will provide additional Transportation Demand Management options on site, including bicycle parking. The site is located 200 metres south of the Hamilton GO Centre, which provides access to regional GO Train service, inter-city bus service and is an HSR hub. HSR transit is also available on John Street South and James Street South. Staff are satisfied that the proposed parking rate of 0.6 parking spaces per unit is appropriate for the site based on its location adjacent to Downtown Hamilton with convenient access to transit and the provision of 385 long term and 40 short term bicycle parking spaces on site. Customers of the proposed retail units would have access to temporary on-street parking and nearby commercial parking lots on Young Street.

#### Residential Intensification

"B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g) as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;

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- c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.”

Consistent with Policies B.2.4.1.4 c) and f) the proposed mixed use development will utilize existing infrastructure and transportation capacity in the area and contribute to the range of dwelling types in the neighbourhood.

Staff are satisfied that the proposal complies with Policies B.2.4.1.4 b) and d) as it incorporates building heights and step backs that are compatible with the scale, form and character of the neighbourhood. As discussed previously, the development provides for a gradation of building heights on site, including a 27 storey (92.0 metre) building adjacent to existing high-rise development to the southeast, an eight storey (28.0 metre) building providing transition to lower profile development to the north and northeast, and a 14 storey (48.5 metre) building along John Street South that transitions in height down to six storeys (22.0 metres) at the northwest corner of the site to reflect the building heights of adjacent development.

The proposal meets the policies applicable to the “Neighbourhoods” element of the Urban Structure and will comply with the “Mixed Use – Medium Density” designation upon approval of the proposed Official Plan Amendment (Policies B.2.4.1.4 e) and g)). The proposal is compatible with the existing scale and character of the surrounding neighbourhood. Based on staff's evaluation of Residential Intensification criteria, the proposal complies with Policy B.2.4.1.4 a).

#### Urban Design

- “B.3.3.1.3 Create pedestrian oriented places that are safe, accessible, connected, and easy to navigate for people of all abilities.

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- B.3.3.1.5 Ensure that new *development* is compatible with and enhances the character of the existing environment and locale.
- B.3.3.1.8 Promote *intensification* that makes appropriate and innovative use of buildings and sites and is *compatible* in form and function to the character of existing communities and neighbourhoods.
- B.3.3.3.1 New *development* shall be located and organized to fit within the existing or planned context of an area as described in Chapter E – Urban Systems and Designations.
- B.3.3.3.2 *New development* shall be designed to minimize impact on neighbouring buildings and public spaces by:
- a) creating transitions in scale to neighbouring buildings;
  - b) ensuring adequate privacy and sunlight to neighbouring properties; and,
  - c) minimizing the impacts of shadows and wind conditions.
- B.3.3.3.3 New *development* shall be massed to respect existing and planned street proportions.
- B.3.3.3.5 Built form shall create comfortable pedestrian environments by:
- a) locating principal façades and primary building entrances parallel to and as close to the street as possible;
  - b) including ample glazing on ground floors to create visibility to and from the public sidewalk;
  - c) including a quality landscape edge along frontages where buildings are set back from the street;
  - d) locating surface parking to the sides or rear of sites or buildings, where appropriate; and,
  - e) using design techniques, such as building step-backs, to maximize sunlight to pedestrian areas.



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B.3.3.5.2 Views and vistas shall be achieved through alignment of rights-of-way, layout of pedestrian circulation and open space systems, and the siting of major features, public uses and built form.”

Staff are satisfied that the proposal fits within the existing and planned context as required by Policies B.3.3.1.5, B.3.3.1.8 and B.3.3.3.1. The proposed gradation in building heights on site and step backs from property lines provide for appropriate transitions in scale to neighbouring buildings as required by Policy B.3.3.3.2 a). As per Policy B.3.3.3.3 and B.3.3.3.5 e), step backs have been utilized along street frontages to respect street proportions and maximize sunlight on pedestrian areas. Further to the discussion earlier in this report, the massing of the development will help limit shadow impacts on nearby properties, thus addressing Policies B.3.3.3.2 b) and c).

In response to Policy 3.3.3.2 c), the applicant submitted a Preliminary Pedestrian Wind Study dated June 18, 2018, prepared by Theakston Environmental. The Study concluded that pedestrian wind comfort surrounding the development for the original proposal would be suitable for sitting or standing in the summer and standing or walking in the winter, which is appropriate for the area’s purpose throughout the year. An addendum to the Wind Study dated February 25, 2020 confirmed that the revised proposal will result in similar and likely improved wind levels on site. A more detailed Wind Study based on the revised design will be required as a condition of Site Plan approval.

Policy B.3.3.5.2 establishes that views and vistas in the City of Hamilton shall be achieved through appropriate built form. Examples of significant vistas include the panorama of the Niagara Escarpment and the Downtown skyline as part of the review process. Staff have modelled the development using 3D software to view the impact of the proposed massing on views towards the Escarpment and from the Escarpment towards Downtown. Staff are satisfied that the revised massing that includes a maximum building height below the height of the escarpment and a mid-rise built form along John Street South limits the impact of the development on significant vistas.

With respect to the pedestrian environment, the applicant has located principal facades and building entrances close to and parallel with adjacent streets, consistent with Policy B.3.3.3.5 a) (see Appendix “E” to Report PED21032). Consistent with Policy B.3.3.3.5 b), glazing is proposed on portions of all four facades, with significant glazing provided on the retail portion of the building facing John Street South. Staff will work with the applicant at the Site Plan Control stage to ensure appropriate landscaping is provided in locations where the building is set back from the street to fulfill Policy B.3.3.3.5 c). Parking and loading are proposed behind the buildings and within four underground levels and will not be visible from the pedestrian realm, thus meeting the intent of Policy

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OUR Vision: To be the best place to raise a child and age successfully.

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B.3.3.3.5 d). As per Policy B.3.3.1.3, the site layout includes a north / south pedestrian connection through the site by way of a sidewalk and an east / west connection via a residential lobby and pedestrian mews.

Therefore, based on the foregoing, staff are in support of the proposed UHOP Amendment.

#### Corktown Neighbourhood Plan

“F.1.2.7 Neighbourhood plans are policies adopted by council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations, and policies in the Neighbourhood Plan.”

The subject property is designated “Commercial and Apartments” within the Corktown Neighbourhood Plan and is located within the “Transition Area”. The Transition Area is centred along James Street South and John Street South and is located between the “Neighbourhood Residential” and “Downtown Areas” of the neighbourhood. It provides a buffer that allows for mixed use commercial, residential and service uses that are sensitive to the “Neighbourhood Residential” area to the east. The existing plaza on site is identified as the Corktown Village Centre or Square.

Policy 7.b) directs intermediate densities of population to the “Transition Area.” Policy 8.b) and Map 2 limit height within the south portion of the neighbourhood, including the subject lands, to 3 storeys but Policy 8.b) notes that height limits in the “Transition Area” will be guided by impact on nearby developments as a secondary consideration. Policy 8.d) requires new buildings to be designed to reduce heights as much as possible to make a positive contribution to the neighbourhood streetscape and be compatible with the traditional character of the neighbourhood. As per Policy 8.f) of the Neighbourhood Plan, implementation of building height through rezoning applications will balance the rights of owners with community interests.

Staff are satisfied that the proposed development is consistent with the “Commercial and Apartments” designation and the “Transition Area” policies by providing a mixed use commercial / residential building and a multiple dwelling at a scale that is sensitive to the adjacent “Neighbourhood Residential” area. Therefore, an amendment to the Corktown Neighbourhood Plan is not required.

Therefore, based on the foregoing, the proposal will comply with the UHOP upon finalization of Official Plan Amendment XX.

**SUBJECT: Applications for Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for lands located at 211 and 225 John Street South and 78 Young Street, Hamilton (PED21032) (Ward 2) - Page 25 of 37**

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**City of Hamilton Zoning By-law No. 05-200**

On November 8, 2017, Council approved a change in zoning for the subject lands to a Mixed Use Medium Density (C5) Zone under Zoning By-law No. 05-200 through the adoption of new Commercial and Mixed Use Zones. The site was previously zoned CR-2/S-572, “CR-2/S-572a” and “CR-2/S-572b” (Commercial – Residential) District, Modified, and “E-3” (High Density Multiple Dwellings) District under former City of Hamilton Zoning By-law No. 6593. The applicant has appealed the Council approved zone change to the LPAT and, as of the writing of this report, the appeal has not been resolved.

To facilitate the proposal, the applicant has proposed modify the Council approved Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone. Proposed modifications to the C5 Zone which are listed in the table above and discussed in greater detail in Appendix “D” to Report PED21032. As previously noted in the Financial – Staffing – Legal Implications section of this report, as this proposal is for an amendment to the C5 Zone, Council’s approval of the proposed Zoning By-law Amendment will take effect once the applicant withdraws their appeal of the Commercial and Mixed Use Zoning.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
<ul style="list-style-type: none"> <li>• Strategic Planning Division, Public Works Department; and,</li> <li>• Alectra Utilities (formerly Horizon Utilities Corporation).</li> </ul>		No Comment
	<b>Comment</b>	<b>Staff Response</b>
CP Rail	<ul style="list-style-type: none"> <li>• The proposed development is located in proximity to the Hamilton Subdivision, which is classified as a Principal Main Line.</li> <li>• Dwellings must be constructed such that interior noise levels meet MOECP criteria.</li> <li>• A warning clause shall be inserted in all offers of</li> </ul>	<ul style="list-style-type: none"> <li>• An updated Noise Study will be required at the Site Plan Control stage demonstrating that interior noise levels meet MOECP criteria.</li> <li>• A warning clause advising of CPR operations will be required to be included in all agreements of purchase and sale or</li> </ul>

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	<p>purchase of sale or lease advising of the existence of the CPR right of way and warning that the Railway may expand its operations in the future. CPR will not be responsible for complaints or claims arising from the use of its facilities.</p>	<p>lease as a condition of Site Plan and Condominium approval.</p>
Metrolinx	<ul style="list-style-type: none"> <li>• Advised that the railway noise data in the applicants Noise and Vibration Feasibility Study is consistent with current forecasts and that vibration mitigation is not necessary for the development.</li> <li>• A noise warning clause is required in all agreements of purchase and sale or lease advising of GO Transit operations and that Metrolinx will not be responsible for any complaints or claims arising from the use of their facilities.</li> <li>• The Owner is required to grant Metrolinx an environmental easement for operational emissions, registered on title.</li> </ul>	<ul style="list-style-type: none"> <li>• A warning clause advising of Metrolinx operations will be required to be included in all agreements of purchase and sale or lease as a condition of Site Plan and Condominium approval.</li> <li>• The Owner will be required to grant Metrolinx an easement for operational emissions as a condition of Site Plan approval.</li> </ul>
Niagara Escarpment Commission	<ul style="list-style-type: none"> <li>• Advised that the property is outside of, but near lands that are subject to the policies of the Niagara Escarpment Plan.</li> <li>• Recommended that measures be taken to reduce the visual impact of the original proposal, that included a 31 storey tower and a 34 storey,</li> </ul>	<ul style="list-style-type: none"> <li>• The revised proposal reduces the visual impact of the proposal by providing one tower with a building height of 27 storeys.</li> </ul>

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	on views from the Niagara Escarpment at Sam Lawrence Park.	
Healthy Environments Division, Public Health Services	<ul style="list-style-type: none"> <li>Require submission of a Pest Control Plan.</li> </ul>	<ul style="list-style-type: none"> <li>A Pest Control Plan will be required as a condition of Site Plan approval.</li> </ul>
Forestry and Horticulture Section, Public Works Department	<ul style="list-style-type: none"> <li>Forestry staff reviewed a preliminary tree protection and removal plan dated June 29, 2018 and advised of four additional trees shown to incur excessive impacts to critical root zones. An updated landscape plan is required showing new planting locations for trees to be removed.</li> <li>All trees require a minimum soil volume of 21 cubic metres or 16 cubic metres in joined tree pits.</li> </ul>	<ul style="list-style-type: none"> <li>An updated tree management plan and landscape plan will be required at the Site Plan Control stage identifying the removal of impacted trees and the locations of new tree planting locations.</li> <li>The required soil volumes shall be demonstrated on the landscape plan at the Site Plan Control stage.</li> <li>Should silva cell plantings or equivalent, be utilized, a special condition will be required at Site Plan Control stage requiring details of the silva cell design, applicable fees and a letter of credit.</li> </ul>
Recycling & Waste Disposal, Operations Division, Public Works Department	<ul style="list-style-type: none"> <li>The development is eligible for municipal waste collection service subject to meeting the City's requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Waste storage and collection will be reviewed in detail at the Site Plan Control stage.</li> </ul>
Transportation Planning Section, Planning and Economic	<ul style="list-style-type: none"> <li>Transportation Planning staff reviewed and approved the Transportation Impact Study dated June 2020, prepared by</li> </ul>	<ul style="list-style-type: none"> <li>The applicant has agreed to dedicate the required right of way widenings and</li> </ul>

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Development Department	<p>Paradigm Transportation Solutions Ltd. and submitted with the revised applications.</p> <ul style="list-style-type: none"> <li>• Transportation Planning staff support the proposed 385 long term and 40 short term bicycle parking spaces and recommend additional Transportation Demand Management measures be considered, including unbundling parking and providing a preloaded Presto card, car share membership and / or bikeshare membership to residents of the development.</li> <li>• Required right of way dedications include a 3.0 metre dedication along John Street South and a 0.6 metre dedication along Young Street.</li> <li>• 4.57 metre by 4.57 metre daylight triangle dedications are required at the following intersections: <ul style="list-style-type: none"> <li>○ John Street South and Young Street;</li> <li>○ John Street South and Forest Avenue;</li> <li>○ Young Street and Catharine Street South; and,</li> <li>○ Forest Avenue and Catharine Street South.</li> </ul> </li> <li>• 3.0 metre by 3.0 metre visibility triangles and 7.5 metre driveway widths at the ultimate property lines are required.</li> </ul>	<p>daylight triangles at the Site Plan Control stage.</p> <ul style="list-style-type: none"> <li>• Bicycle parking requirements have been included in the proposed Zoning By-law Amendment and Transportation Demand Management measures will be further reviewed at the Site Plan Control stage.</li> <li>• Visibility triangles, driveway widths, and parking location requirements will be implemented at the Site Plan Control stage.</li> </ul>
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	<ul style="list-style-type: none"> <li>Any parking area shall be a minimum 6.0 metres from the right of way.</li> <li>A turning plan has been provided with the application demonstrating that large trucks are able to successfully manoeuvre in and out of the site without any limitations.</li> </ul>	
Development Engineering Section, Growth Management Division	<ul style="list-style-type: none"> <li>Watermain and sewage infrastructure exists adjacent to the site below John Street South, Forest Avenue, Catharine Street South and Young Street.</li> <li>Development Engineering staff have reviewed the revised Functional Servicing Report prepared by Lithos Group, dated June 2020 and have no concerns with the Official Plan Amendment and Zoning By-law Amendment applications proceeding from a servicing perspective.</li> </ul>	<ul style="list-style-type: none"> <li>During the Site Plan Control process, the applicant will be required to demonstrate that appropriate sewer servicing, water servicing stormwater management, grading, and erosion and sediment control measures are undertaken to the satisfaction of City staff.</li> </ul>

<b>Public Consultation</b>	
<b>Comment</b>	<b>Staff Response</b>
Scale and massing	There were concerns that the original proposal for a 31 storey tower and a 34 storey tower above a multi-storey podium was too large for the site and did not fit with the neighbourhood. The proposal has been revised to provide a gradation of building heights on site and step backs from property lines to reflect the scale and character of the surrounding neighbourhood.
Trees	There are concerns that the development will result in the removal of existing mature trees. Tree Management and

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	Landscape Plans will be required at the Site Plan Control stage to determine the feasibility of preserving existing trees and to identify locations for new trees on site.
Built Heritage	There are concerns that the development will negatively impact the heritage character of the area, including through the removal of existing buildings on site. A Cultural Heritage Impact Assessment (CHIA) completed by ERA Architects and dated June 28, 2018 submitted with the applications found that the existing buildings are not considered to be significant cultural heritage resources and their loss is mitigated by the re-animation of a currently underutilized site. The report recommended mitigation strategies, including the utilization of brick materials to fit within the adjacent heritage context, the use of building step backs and the provision of ground level retail units to enhance the pedestrian realm. The design will be reviewed in more detail at the Site Plan Control stage to ensure the recommendations of the CHIA are implemented. A Documentation and Salvage Report is required as a condition of Holding Removal to ensure historic building materials are salvaged for reuse.
Carshare and Bikeshare	There are concerns that no carshare or bikeshare facilities have been provided as part of the development. Carshare and bikeshare have not been included as requirements of the Zoning By-law but are identified by Transportation Planning staff as recommended Transportation Demand Management measures to be considered at the Site Plan Control stage.
Shadows	There are concerns that the development will have adverse shadow impacts. The proposal has been amended to include one residential tower rather than two and reduced overall building heights, limiting the shadow impact of the development on the residential neighbourhood to the northeast, as demonstrated in the submitted sun shadow study.
Traffic	There are concerns that the development will generate traffic that will lead to increased congestion. Transportation Planning staff have reviewed the Transportation Impact Study submitted with the applications and are satisfied that the traffic generated

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	by the proposal can be accommodated on the existing street network.
Noise	There are concerns that the development will generate noise impacting area residents. New development will be required to comply with MOECP noise criteria and the City of Hamilton Noise By-law.
Construction	There are concerns that the construction of the development will be disruptive to area residents. A Construction Management Plan will be required at the Site Plan Control stage that includes traffic control measures. Construction activities are required to abide by the City of Hamilton Noise Control By-law.
Loss of Neighbourhood Amenities	There are concerns that the redevelopment of the site will result in the loss of local businesses in the Corktown Plaza that serve area residents. The proposal includes a commercial component on the ground floor facing John Street South that will replace some of the commercial amenity lost through the demolition of the existing Plaza.

### Design Review Panel (DRP)

The applicant presented the original proposal for a mixed use commercial / residential development consisting of a 31 storey tower and a 34 storey tower above a multi storey podium to the City's Design Review Panel (DRP) on September 13, 2018.

The DRP provided advice to City staff on a number of design recommendations including the below summarized comments, amongst others:

- In general, the panel considered the original proposal to be an overdevelopment of the site noting that the concept had successful elements but that the height and density were excessive.
- The panel recommended that a proposal to develop tall buildings on the site should conform to the best practices from the Downtown Hamilton Secondary Plan and Tall Building Guidelines, including tower floorplate sizes, tower separation and podium step backs. It was not clear to the panel whether the development site is a suitable location for tall buildings as the site is outside of the Downtown Hamilton Secondary Plan boundaries.

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- The height, massing and orientation of the building should more carefully consider views through the site and stay below the height of the escarpment.
- The panel noted that the building massing created a sheer wall condition on some sides that was imposing on the pedestrian realm. Building bases should respond to surrounding buildings and adequately transition to the existing community. The area around the site has suffered from some inappropriate demolition and suburban style infill development and acknowledging the heights of surrounding buildings is a good method to repairing the urban fabric.
- The building massing created lengthy shadows throughout the neighbourhood and the Panel considered the shadow impact on Shamrock Park to be unacceptable.
- The panel considered the mid block connection linking John Street South to Catharine Street South to be a vital part of the proposal and recommended it be opened up and programmed to be a space for the public to access. A north south mid-block connection would open up the development even more to the public realm.
- The proposed grade related units should be aligned with the adjacent townhouse development on Catharine Street South and have a change in material, so they have their own character and contribute to the streetscape.
- The panel recommended adding bike parking at a rate of one space per unit and additional cycling amenities.

**Applicant's Response to DRP Advice:**

The massing of the proposed development has been reduced in response to the advice of the DRP and comments from Staff. Instead of 31 and 34 storey towers above a single podium building, the revised proposal consists of one 27 storey tower at the southeast corner (Forest Avenue and Catharine Street South) of the site, and an "L-shaped" eight to 14 storey building along the John Street South and Young Street frontages. Except for the mechanical penthouse and amenity area, the height of the 27 storey tower has been brought below the height of the escarpment and the elimination of the second tower originally proposed at the northwest corner (John Street South and Young Street) of the site reduces shadow impacts on the low-rise residential neighbourhood and Shamrock Park to the northeast. The reduced massing improves views through the site to the Niagara Escarpment.

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To address sheer wall conditions along public streets, the revised proposal provides building step backs that are implemented in a Special Figure in the proposed Zoning By-law Amendment (see Appendix “C” to Report PED21032). A north / south pedestrian connection has been added and the east / west connection has been retained through a residential lobby and a pedestrian mews. The grade related units have been retained at the corner of Young Street and Catharine Street South and staff will work with the applicant at the Site Plan Control stage to ensure the material treatment of the grade related units complements existing development. The proposed 0.5 long term bicycle parking spaces per unit meets the requirements of Transportation Planning staff and are required in the implementing Zoning By-law.

### **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 1,568 residents within 120 metres of the subject property on August 24, 2018. A Public Notice sign was posted on the property on August 21, 2018 and updated with the public meeting date on January 20, 2021. Finally, Notice of the Public Meeting was mailed to 336 property owners within 120 metres of the subject lands on January 29, 2021.

To date, seven letters of concern have been submitted (refer to Appendix “C” of Report PED21032). The concerns raised are summarized in the above chart.

#### Public Consultation Strategy

In accordance with their submitted Public Consultation Strategy, the applicant held two community meetings prior to submission of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications. On December 12, 2017, a Pre-Design Community Meeting was held at the Church of the Ascension across from the subject site. Invitations were sent to selected individuals via email. A total of 24 people attended this meeting, including three representatives for the developer, one from the architect, two City staff members and the Ward Councillor.

On May 24, 2018, a Pre-Application Community Meeting was held at the Church of the Ascension. Electronic invitations were sent to residents, business owners, and those who attended the Pre-Design Community Meeting. The invitation was shared on social media by the Corktown Residents Association and flyers were distributed at neighbourhood shops and community boards. An advertisement for the meeting was printed in the Hamilton Spectator on May 23, 2018. Sign-in sheets for this meeting

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have not been provided to Staff. The applicant estimates that 30 to 35 individuals were in attendance.

The applicant has also maintained a microsite (<https://www.gspgroup.ca/active-projects/corktown-plaza/>) containing application materials available to be reviewed by the public.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the PPS (2020) and conforms to A Place to Grow Plan, 2019 as amended;
  - (ii) The proposed development implements the Residential Intensification policies of the UHOP; and,
  - (iii) The proposed development complies with the function, permitted uses and design policies of the Mixed Use – Medium Density Designation. The scale of the development that includes setbacks and step backs to surrounding streets and adjacent development is appropriate for the neighbourhood that features a mix of commercial, low-rise residential, mid-rise residential and high-rise residential development.

2. Official Plan Amendment

The Mixed Use – Medium Density designation permits commercial and residential development within mid-rise buildings with a maximum height of six storeys, or up to eight storeys provided appropriate step backs are provided and there are no adverse shadow impacts. The proposed Official Plan Amendment permits additional building heights within three areas, including a maximum 27 storey building height at the southeast corner of the site, a maximum 14 storey building height along the John Street South frontage and a maximum eight storey building height at the northeast corner of the site.

Staff recognize that the Corktown Neighbourhood has a unique scale and character that includes high-rise buildings and support the proposed Official Plan Amendment based on the proposed building step backs and gradation of heights on site that result in an appropriately scaled mixed use development. The 27 storey portion of the development is located towards existing 21 storey and 32 storey multiple dwellings to the southeast of the site and the eight storey portion of the building transitions to existing low profile development to the north and

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northeast. The 14 storey portion of the building is located across from a 14 storey multiple dwelling to the west and steps down to a six storey building height at the northwest corner of the site to transition to the lower scale mixed use corridor further north along John Street South. The Official Plan Amendment stipulates that the implementing Zoning By-law shall set out appropriate height transitions and step backs to adjacent streets and existing residential uses.

Staff are satisfied that the proposed building heights and massing are compatible with adjacent buildings. By locating the highest portion of the development at the southeast corner of the site, with lower building heights towards the north, the development reduces shadow impacts on the low-profile residential uses to the northeast. The built form along John Street South maintains the intended mid-rise, mixed use function of the street and incorporates step backs from the street to reduce the visual impact of the development from ground level and to maintain views of the Niagara Escarpment.

Therefore, the proposed Official Plan Amendment can be supported.

### 3. Zoning By-law Amendment

As a result of the appeal, the subject lands are currently zoned CR-2/S-572”, “CR-2/S-572a” and “CR-2/S-572b” (Commercial – Residential) District, Modified, and “E-3” (High Density Multiple Dwellings) District under former City of Hamilton Zoning By-law No. 6593.

On November 8, 2017, Council approved a change in zoning for the site to a Mixed Use Medium Density (C5) Zone under Zoning By-law No. 05-200 through the adoption of new Commercial and Mixed Use Zones. The applicant has appealed this Council approved zone change to the Local Planning Appeal Tribunal and, as of the writing of this report, the appeal has not been resolved.

To permit the proposed mixed use development consisting of a 27 storey (92.0 m) multiple dwelling, and a 14 storey (48.5 m) mixed use building attached to an eight storey (28.0 m) multiple dwelling, the applicant has applied to zone the lands as Mixed Use Medium Density (C5, 739, H118) Zone. Staff support the proposed rezoning that implements the use policies of the Mixed Use – Medium Density designation in the UHOP and permits an appropriate built form that provides step backs and setbacks and a gradation of building heights on site to limit shadow and view impacts and transition appropriately to adjacent buildings. The amending Zoning By-law includes a Special Figure identifying transitions in building height and step backs from adjacent streets and residential uses as

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required by the proposed Official Plan Amendment. Staff support the proposed modifications to the development standards of the C5 Zone as summarized in the table above and discussed in detail in Appendix “D” of Report PED21032.

4. “H” Holding Provisions are included in the amending Zoning By-law to require:
- The Owner to enter into a conditional building permit agreement with respect to completing a Record of Site Condition (RSC) or a signed RSC be submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP) for the subject property. This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton’s current RSC administration fee. This is required to evaluate the impacts of the former commercial uses on the property given the proposed change to include residential uses (a sensitive land use).
  - That the Owner submits and receives approval of a Documentation and Salvage Report in accordance with the City of Hamilton Documentation and Salvage Report guidelines to the satisfaction of the Director of Planning and Chief Planner. The Report is required to ensure materials from the two 19<sup>th</sup> Century buildings on site are salvaged for reuse.

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Official Plan Amendment and Zoning By-law Amendment be denied, the LPAT appeal process for the Council approved Mixed Use Medium Density (C5) Zoning for the site would proceed based on existing UHOP Policies which permit a maximum building height of six to eight storeys.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

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**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" – Location Map

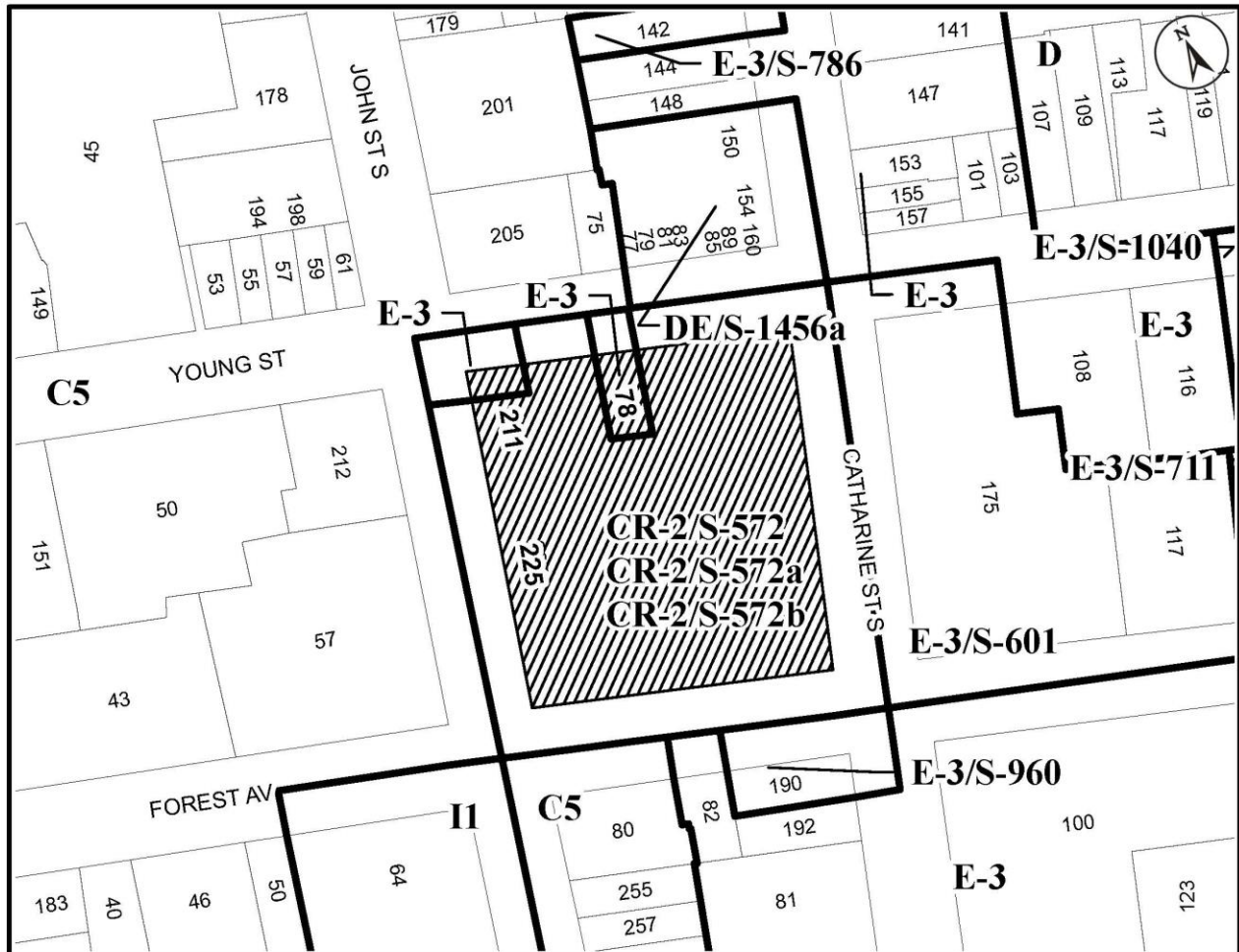
Appendix "B" – Official Plan Amendment

Appendix "C" – Amendment to Zoning By-law No. 05-200

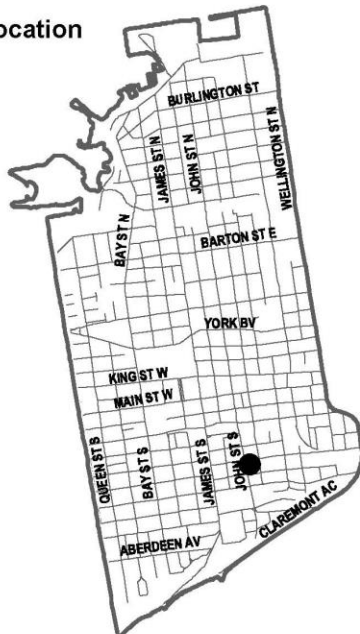
Appendix "D" – Zoning Modification Table

Appendix "E" – Concept Plan

Appendix "F" – Public Submissions



● Site Location



Key Map - Ward 2

## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-18-041

Date:  
November 19, 2020

Appendix "A"

Scale:  
N.T.S

Planner/Technician:  
MK/AL

### Subject Property

211, 225 John Street South & 78 Young Street



Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone





**Schedule "1"**

## **DRAFT Urban Hamilton Official Plan Amendment No. X**

The following text, together with Appendix "A" – Volume 3: Map 2a – Urban Site Specific Key Map (Lower City) attached hereto, constitutes Official Plan Amendment No. "X" to the Urban Hamilton Official Plan.

### **1.0 Purpose and Effect:**

The purpose and effect of this Amendment is to establish a Site Specific Policy to permit the development of a 27 storey multiple dwelling and a 14 storey mixed use building attached to an 8 storey multiple dwelling on the subject lands.

### **2.0 Location:**

The lands affected by this Amendment are known municipally as 211 and 225 John Street South and 78 Young Street, in the City of Hamilton.

### **3.0 Basis:**

The basis for permitting this Amendment is:

- The proposed development complies with the function, permitted uses and design policies of the Mixed Use – Medium Density Designation. The scale of the development is appropriate for the surrounding neighbourhood.
- The proposed development implements the Residential Intensification policies of the Urban Hamilton Official Plan.
- The Amendment is consistent with the Provincial Policy Statement, 2020 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

### **4.0 Actual Changes:**

#### **4.1 Volume 3 – Special Policy Areas, Area Specific Policies, and Site Specific Policies**

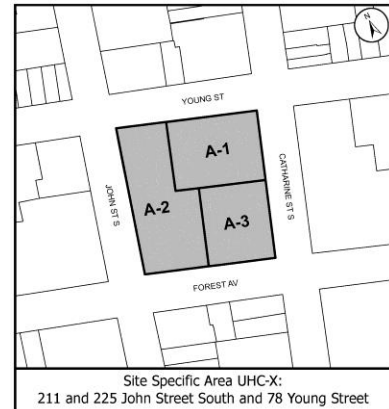
**Text**

4.1.1 Chapter C – Urban Site Specific Policies

- a. That Volume 3, Chapter C – Urban Site Specific Policies be amended by adding a new Site Specific Policy, as follows:

**"UHC-X Lands located at 211 and 225 John Street South and 78 Young Street**

1.0 For the lands designated "Mixed Use – Medium Density" located at 211 and 225 John Street South and 78 Young Street, the following policies shall apply:



- a) Notwithstanding Policy E.4.6.7 of Volume 1, the following maximum building heights shall apply:
  - i) for Area A-1 the maximum building height shall be 8 storeys;
  - ii) for Area A-2 the maximum building height shall be 14 storeys; and,
  - iii) for Area A-3 the maximum building height shall be 27 storeys.
- b) The implementing Zoning By-law shall set out the appropriate building height transitions and step backs from adjacent streets and existing residential uses within the adjacent lands designated Neighbourhoods."

**Maps and Appendices**

4.1.2 Map

- a. That Volume 3, Map 2a – Urban Site Specific Key Map (Lower City) be amended by identifying the subject lands as UHC-X, as shown on Appendix "A", attached to this Amendment.

**5.0 Implementation:**

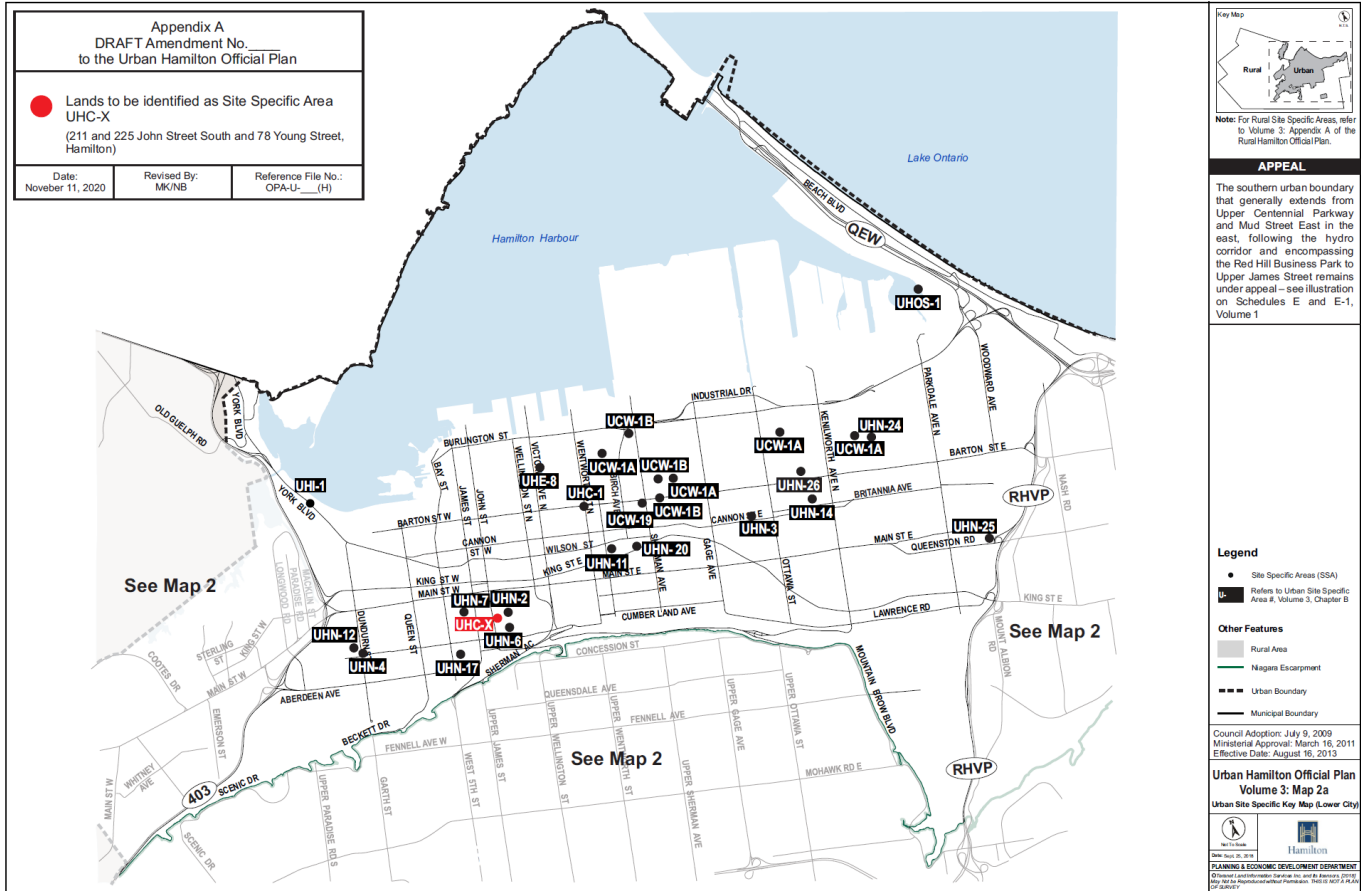
An implementing Zoning By-Law Amendment and Site Plan will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. \_\_\_\_\_ passed on the \_\_\_<sup>th</sup> day of \_\_\_, 2021.

**The  
City of Hamilton**

\_\_\_\_\_  
F. Eisenberger  
MAYOR

\_\_\_\_\_  
A. Holland  
CITY CLERK



**Authority:** Item ,  
Report (PED21032)  
CM:  
Ward: 2

**Bill No.**

## **CITY OF HAMILTON**

### **BY-LAW NO.**

#### **To Amend Zoning By-law No. 05-200**

#### **Respecting Lands Located at 211 and 225 John Street South and 78 Young Street, Hamilton**

**WHEREAS** Council approved Item \_\_\_\_\_ of Report PED21 \_\_\_\_\_ of the Planning Committee at its meeting held on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2021;

**AND WHEREAS** this By-law conforms with the Urban Hamilton Official Plan upon adoption of Official Plan Amendment No. \_\_\_\_\_.

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Map No. 994 of Schedule "A" – Zoning Maps of Zoning By-law No. 05-200, is amended by changing the zoning from the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone for the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" to the By-law.
2. That Schedule "C" – Special Exceptions of Zoning By-law No. 05-200, is hereby amended by adding an additional special exception as follows:

"739. Within the lands zoned Mixed Use Medium Density (C5) Zone, identified on Map No. 994 of Schedule "A" – Zoning Maps and described as 211 and 225 John Street South and 78 Young Street, Hamilton, the following special provisions shall apply:

- a) Notwithstanding the definition of "Grade" in Section 3, the following shall apply:

Grade	Shall be 102.97 metres above mean sea level as defined by the Geodetic Survey Datum.
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- b) Notwithstanding Sections 5.6 c) and 5.7 g) as it relates to a multiple dwelling and permitted commercial uses, the following shall apply:

- i) Parking
  - 1) A minimum 0.6 parking spaces per unit shall be

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**

- required for a multiple dwelling; and,
- 2) The Commercial parking requirements of Section 5.6 c) shall not apply except to a Commercial School, Financial Establishment, Hotel, Conference or Convention Centre, Medical Clinic, Office or Veterinary Service.
- ii) Bicycle Parking A minimum 0.5 long term bicycle parking spaces per dwelling unit shall be required.
- c) Notwithstanding Sections 10.5.1.1 i) 1., and 10.5.3 a) i) and d) the following shall apply:
- i) Restriction of Uses Within a Building The finished floor elevation of any dwelling unit shall be a minimum 0.6 metres below grade.
- ii) Building Setback from a Street Line
- 1) For buildings with residential units on the ground floor facing a street:
- A. A minimum 1.5 metres from Young Street;
- B. A minimum 0.5 metres from Catharine Street South; and,
- C. A minimum 3.0 metres from John Street South and Forest Avenue.
- 2) Notwithstanding b) ii) 1) B. above, a minimum 2.2 metres from the Catharine Street South street line shall be required for a building exceeding 29.0 metres in

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**

- height.
- iii) Building Height
- 1) Minimum 5.5 metres;
  - 2) Maximum building height shall be in accordance with Figure 23 of Schedule F – Special Figures of Zoning By-law No. 05-200.
  - 3) In addition to the definition of Building Height in Section 3: Definitions, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations:
    - A. The total floor area of the wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area does not exceed 20% of the floor area of the storey directly beneath;
    - B. The wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area shall be setback a minimum of

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**

2.0 metres from the exterior walls of the storey directly beneath; and,

- C. The wholly enclosed or partially enclosed structure belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area shall not be greater than 3.0 metres in vertical distance from the uppermost point of the building to the uppermost point of the rooftop enclosure.

3. That Schedule "D" – Holding Provisions, of By-law No. 05-200, be amended by adding the additional Holding Provision as follows:

"118. Notwithstanding Section 10.5 of this By-law, within lands zoned Mixed Use Medium Density (C5, 739) Zone on Map No. 993 on Schedule "A" – Zoning Maps, and described as 211 and 225 John Street South and 78 Young Street, no development shall be permitted until such time as:

- 1) The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECP, and submission of the City of Hamilton's current RSC administration fee.
- 2) That the Owner submits and receives approval of a Documentation and Salvage Report for the existing buildings at 211 John Street South and 78 Young Street and implements the strategy of the Documentation and Salvage Report in accordance with the City of Hamilton Documentation and Salvage Report guidelines to the satisfaction of the Director of Planning and Chief Planner."



**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**

4. That Schedule F: Special Figures of By-law No. 05-200 is hereby amended by adding Figure 23: Maximum Building Heights for 211 and 225 John Street South and 78 Young Street.
5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

**PASSED** this \_\_\_\_\_ , 2021

\_\_\_\_\_  
F. Eisenberger  
Mayor

\_\_\_\_\_  
A. Holland  
City Clerk

ZAC-18-041

<i>For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law</i>
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Is this by-law derived from the approval of a Committee Report? Yes
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Committee: Planning Committee	Report No.: PED21032	Date:
Ward(s) or City Wide: Ward 2		(16/02/2021)

Prepared by: Mark Kehler, Planner I	Phone No: 905-546-2424 ext. 4148
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<i>For Office Use Only, this doesn't appear in the by-law</i>
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**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**

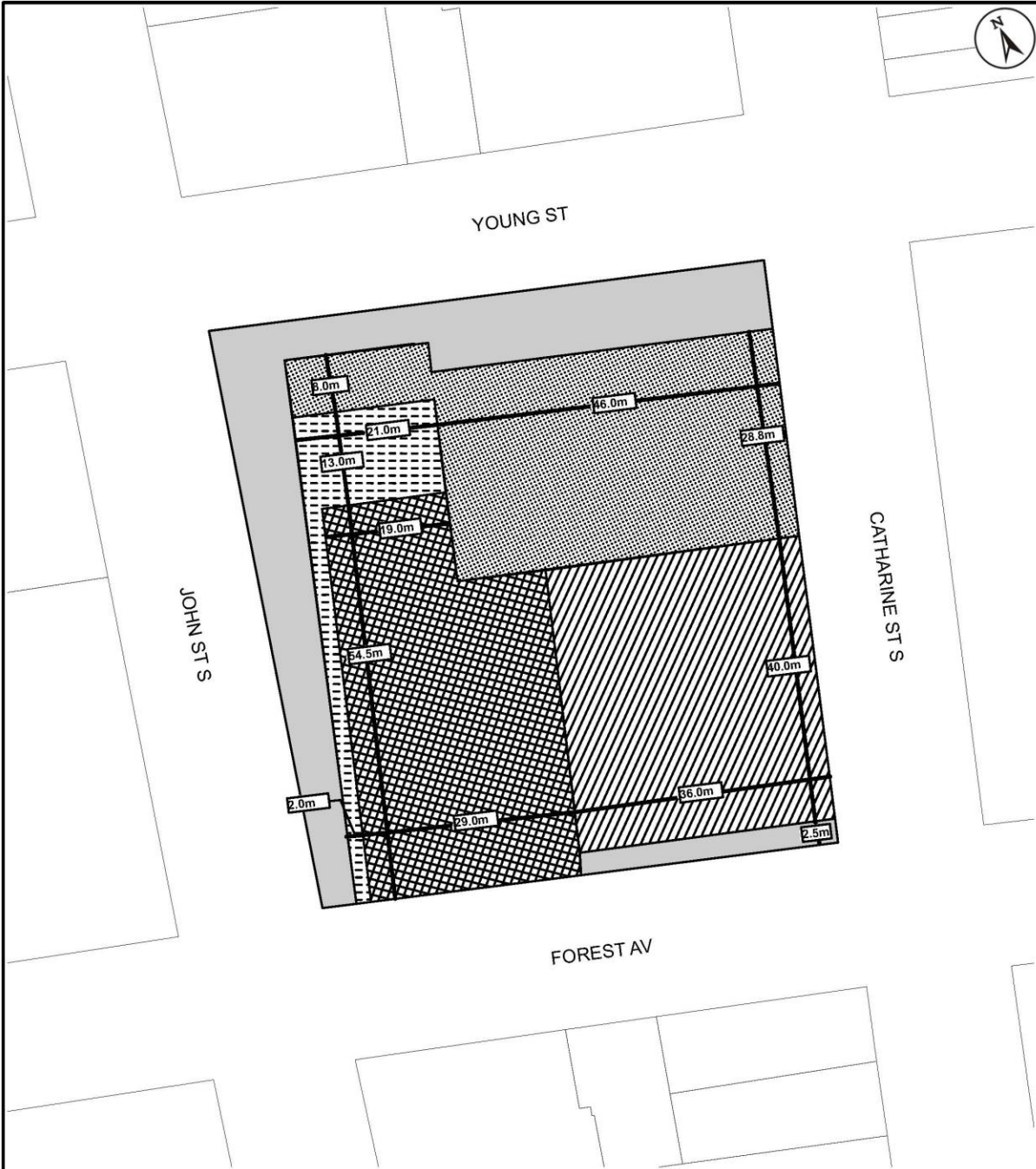


This is Schedule "A" to By-law No. 21-  Passed the ..... day of ....., 2021	----- Mayor  ----- Clerk
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<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 5px 0;">Map forming Part of By-law No. 21-_____</p> <p style="margin: 5px 0;">to Amend By-law No. 05-200 Map 994</p>	<p><b>Subject Property</b></p> <p>211, 225 John Street South &amp; 78 Young Street</p> <p> Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone</p>
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Scale: N.T.S	File Name/Number: ZAC-18-041	
Date: January 29, 2021	Planner/Technician: MK/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		






**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 211 and 225 John Street South and 78 Young Street,  
Hamilton**



**Special Figure 23: Maximum Building Heights for 211 and 225 John Street and 78 Young Street**

Date:  
January 29, 2021

**Legend**

-  Maximum Building Height 92m, inclusive of mechanical penthouse and amenity area
-  Maximum Building Height 48.5m
-  Maximum Building Height 36.5m
-  Maximum Building Height 29m
-  Maximum Building Height 23m



**Site Specific Modifications to the Mixed Use Medium Density (C5, 739, H118) Zone**

<b>Regulation</b>	<b>Required</b>	<b>Modification</b>	<b>Analysis</b>
Definition of "Grade"	Shall mean the average level of the proposed or finished ground adjoining a building calculated along the perimeter of all exterior walls.	Shall be 102.97 metres above mean sea level as defined by the Geodetic Survey Datum.	<p>Due to grade variation on site and to for provide greater clarity, the applicant has requested that the geodetic elevation established based on the definition of "Grade" in Zoning By-law 05-200 be specified in the amending By-law.</p> <p>Staff have no concerns with the proposed modification that implements the By-law requirement at a site specific level.</p>
5.6 c) Parking Rate	<p>For Multiple Dwellings:</p> <p>i) Dwelling Units less than 50.0 square metres in gross floor area – 0.3 per unit</p> <p>ii) Dwelling Units greater than 50.0 square metres in gross floor area</p> <ul style="list-style-type: none"> <li>• 1-14 units – 0.7 parking spaces per unit</li> <li>• 15-50 units – 0.85 per unit</li> <li>• 51+ units – 1.0 per unit</li> <li>• Minus 10% for</li> </ul>	<p>A minimum 0.6 parking spaces per dwelling unit (462 parking spaces).</p> <p>No parking required for a permitted commercial use, except for a Commercial School, Financial Establishment, Hotel, Conference or Convention Centre, Medical Clinic, Office or Veterinary Service.</p>	<p>Staff are satisfied that the proposed parking rate of 0.6 parking spaces per unit is appropriate for the site based on its location adjacent to Downtown Hamilton with convenient access to transit and the provision of long term bicycle parking on site.</p> <p>Staff support the proposal to provide no vehicle parking for the proposed retail units. Customers would have access to temporary on-street parking and nearby commercial parking lots on Young Street. Staff recognize that the commercial uses may change based on the permitted uses in a C5 Zone and are satisfied that parking can be met off-site, except for a Commercial School, Financial Establishment, Hotel, Conference or Convention Centre, Medical Clinic, Office or Veterinary Service which may produce higher parking demands.</p> <p>Therefore, staff support the proposed modifications.</p>

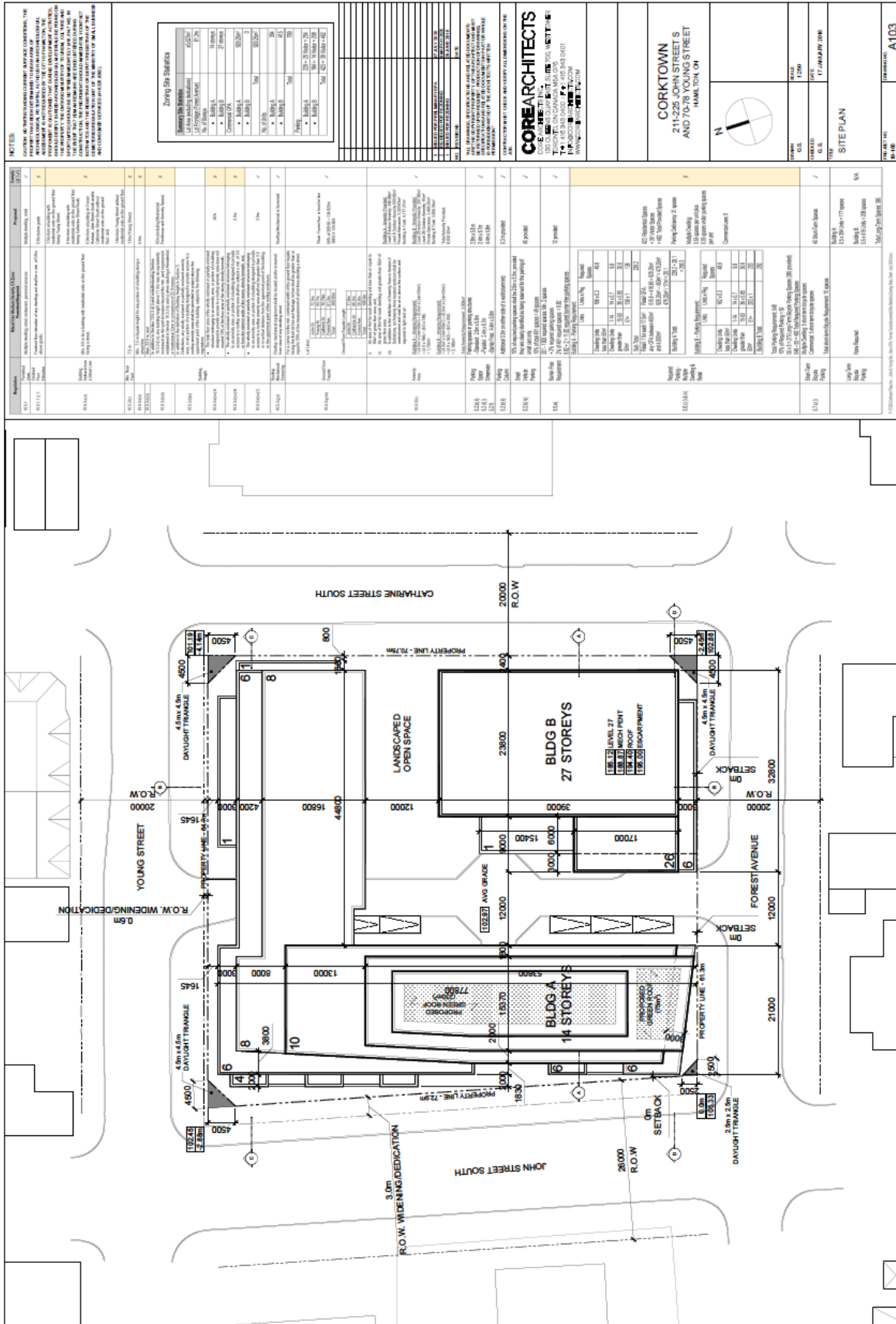
Regulation	Required	Modification	Analysis
	<p>provision of long-term bicycle parking.</p> <p>Total for Multiple Dwelling – <u>493 parking spaces</u></p> <p>For retail: 1 parking space for each 17.0 sqm of retail gross floor area greater than 450 sq m – <u>3 parking spaces</u></p>		
5.7 g) Long Term Bicycle Parking	The required motor vehicle parking may be reduced by 1 motor vehicle space for every 5 long term bicycle parking spaces up to a maximum of 10% of the original vehicle parking requirement.	A minimum 0.5 long term bicycle parking spaces per dwelling unit shall be required.	<p>The C5 Zone does not require long term bicycle parking but provides an incentive allowing vehicle parking to be reduced by one space for every five long term bicycle parking spaces provided up to a maximum of 10% of the original bicycle parking requirement. Based on the concept plan submitted the total parking requirement is reduced from 548 parking spaces to 493 parking based on the provision of 275 long term bicycle parking spaces. The applicant has proposed a further reduction to 462 parking spaces. A total of 385 long term bicycle parking spaces are proposed on site as a Transportation Demand Management measure in support of the proposed parking reduction. Transportation Planning staff have reviewed and are satisfied with the proposed long term bicycle parking rate.</p> <p>Staff support the proposed modification.</p>

Regulation	Required	Modification	Analysis
10.5.1.1 i) Finished floor elevation	The finished floor elevation of any dwelling unit shall be a minimum of 0.9 metres above grade	The finished floor elevation of any dwelling unit shall be a minimum of 0.6 metres below grade	<p>The purpose of this provision is to avoid rear lotting and to ensure buildings are designed with front porch conditions facing the street.</p> <p>Due to grades on site that are lowest at the northwest corner of the site, a modification is required to permit a minimum finished floor elevation of 0.6 metres below grade for the site, instead of 0.9 metres above grade for the ground floor units facing Young Street and Catharine Street South at the base of the proposed eight storey multiple dwelling. This is a technical variance based on how grade is measured in the By-law. All the grade related units are designed with stairs leading to porches and unit entrances above sidewalk level. There are no proposed amenity areas adjacent to the street that give the appearance of rear lotting.</p> <p>Therefore, the proposed modification can be supported.</p>
10.5.3 a) Building Setback from a Street Line	A minimum 3.0 metre setback from a street line for a building with residential units on the ground floor facing a street.	<p>For a building with residential units on the ground floor facing a street:</p> <ul style="list-style-type: none"> <li>• A minimum 1.5 metres from Young Street;</li> <li>• A minimum 0.5 metres from Catharine Street South; and,</li> <li>• A minimum 3.0 metres from John Street South and Forest Avenue.</li> </ul>	<p>The intent of the minimum setback from a street line for buildings with residential units on the ground floor is to provide for adequate room for landscaping. The proposed reduced setback for the grade related units on the Young Street and Catharine Street South façades, reflect the design of the existing townhouse development at the northeast of corner of Young Street and Catharine Street South that features units close to the street. There is room for landscaping and public realm improvements between the front of the dwelling units and the sidewalk. Should units facing John Street South or Forest Avenue be proposed, the existing minimum 3.0 metre setback would apply.</p> <p>The C5 Zone does not require a setback from the street where ground floor units are not provided to bring buildings towards the street and create an interesting pedestrian realm. Staff recommend a minimum 2.2 metre setback for the proposed 27 storey multiple dwelling be required from the Catharine Street South lot line to reflect the character</p>

Regulation	Required	Modification	Analysis
		Notwithstanding the regulations above a minimum 2.2 metres from the Catharine Street South street line shall be required for a building exceeding 28 metres in height.	of adjacent development that includes multiple dwellings with landscaped setbacks adjacent to the street.  Therefore, staff support the proposed modifications.
10.5.3 d) i) and ii) Building Height	Minimum 7.5 metre façade height for any portion of a building along a street line; and,  Maximum 22.0 m building height.	Minimum 5.5 metre building height; and,  Maximum building heights shall be accordance with Figure 24 of Schedule F – Special Figures.	The intent of the minimum façade height and maximum building height requirements is to achieve the mid-rise built form contemplated for the Mixed Use – Medium Density designation in the UHOP. As discussed in the UHOP analysis in Report PED21032, staff are satisfied that the permitted building heights and step backs (shown on Figure 23 of Schedule F – Special Figures and attached as Appendix “C” of Report PED21032) provide for appropriate transition to adjacent streets and residential areas. The proposed minimum 5.5 metre building height is required to accommodate a one storey portion of the building abutting Young Street, which has a lower residential scale.  Based on the forgoing, staff support the proposed modification.
10.5.3 d) iv) Floor Area of Amenity Area	A wholly enclosed or partially enclosed amenity area or any portion of a building designed to provide access to a rooftop	A wholly enclosed or partially enclosed amenity area or any portion of a building designed to provide access to a rooftop amenity	Modifications are requested to permit an increased total floor area of 20% instead of 10% of the area of the storey directly beneath for a wholly enclosed or partially enclosed amenity area or any portion of a building designed to provide access to a rooftop amenity area. In addition, a setback of 2.0 metres, instead of 3.0 metres from the exterior main walls of the storey directly beneath is requested.  The intent of the By-law is to reduce the visual impact of a rooftop

Regulation	Required	Modification	Analysis
	<p>amenity area shall be permitted to project above the uppermost point of the building provided:</p> <ul style="list-style-type: none"> <li>• The total floor area does not exceed 10% of the area of the storey directly beneath;</li> <li>• It is setback a minimum 3.0 metres from the exterior main walls of the storey directly beneath.</li> </ul>	<p>area shall be permitted to project above the uppermost point of the building provided:</p> <ul style="list-style-type: none"> <li>• The total floor area does not exceed 20% of the area of the storey directly beneath;</li> <li>• It is setback a minimum 2.0 metres from the exterior main walls of the storey directly beneath.</li> </ul>	<p>amenity area and limit overlook. Rooftop amenity areas are proposed at the top floor of the 27 storey multiple dwelling and the rooftop of the eight storey multiple dwelling. Staff are satisfied that the proposed increased floor area and reduced setback will not significantly increase the visual impact of the building or result in overlook as the proposed building occupies an entire block and does not directly overlook adjacent properties.</p> <p>Therefore, staff support the proposed modifications.</p>





Revision	Revised	Revised	Revised
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**NOTES:**  
1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.  
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**COREARCHITECTS**  
100 DUNDAS STREET WEST, SUITE 1001  
TORONTO, ONTARIO M5G 1C6  
TEL: 416 593 3000 FAX: 416 593 3001  
WWW.COREARCHITECTS.COM  
Registration No. 10018 P-Eng  
10018 P-Eng

**CORKTOWN**  
214-226 JOHN STREET  
AND 70-78 YOUNG STREET  
HAMILTON, ON



NO.	DATE	REVISION
1	17 JANUARY 2016	SITE PLAN

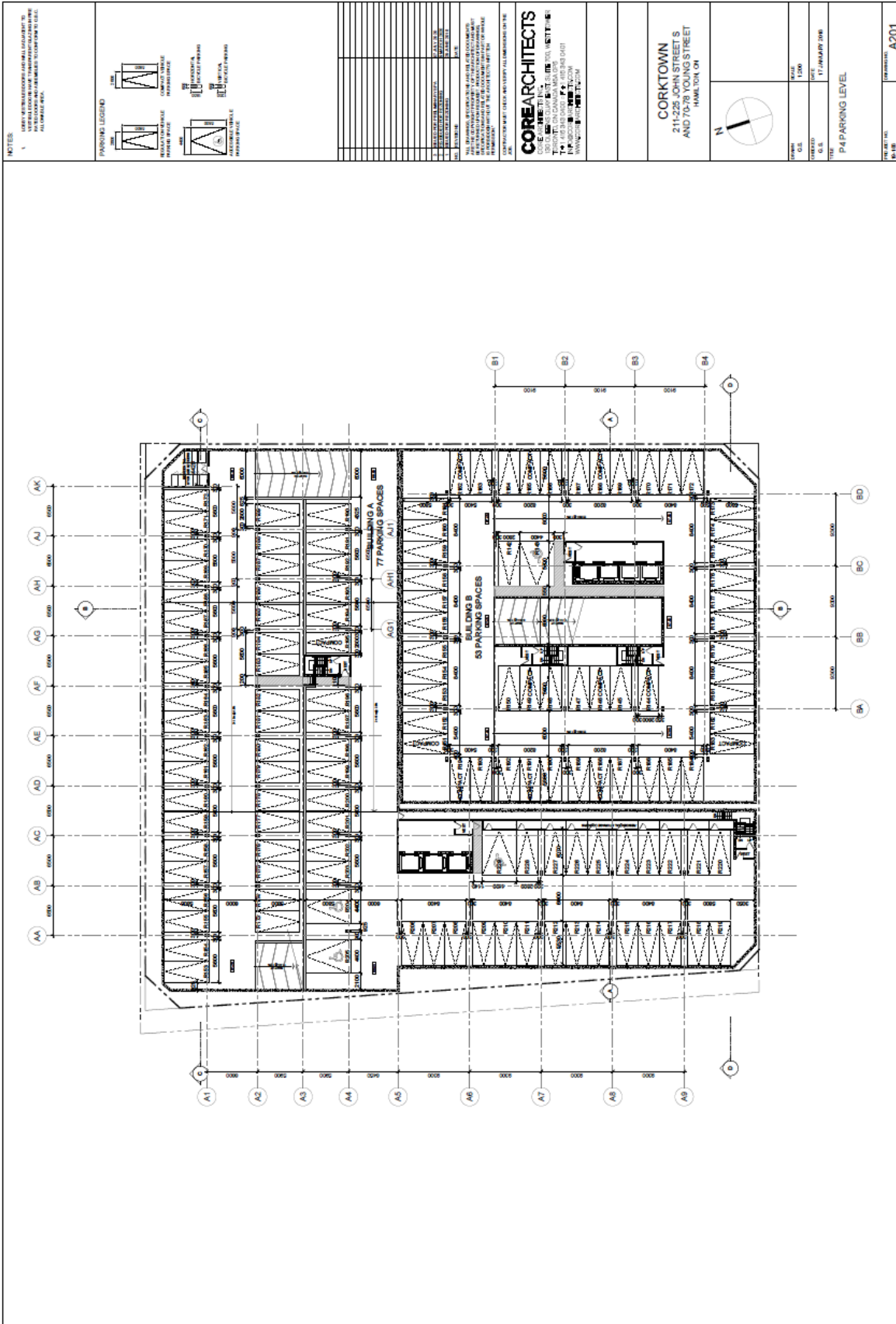
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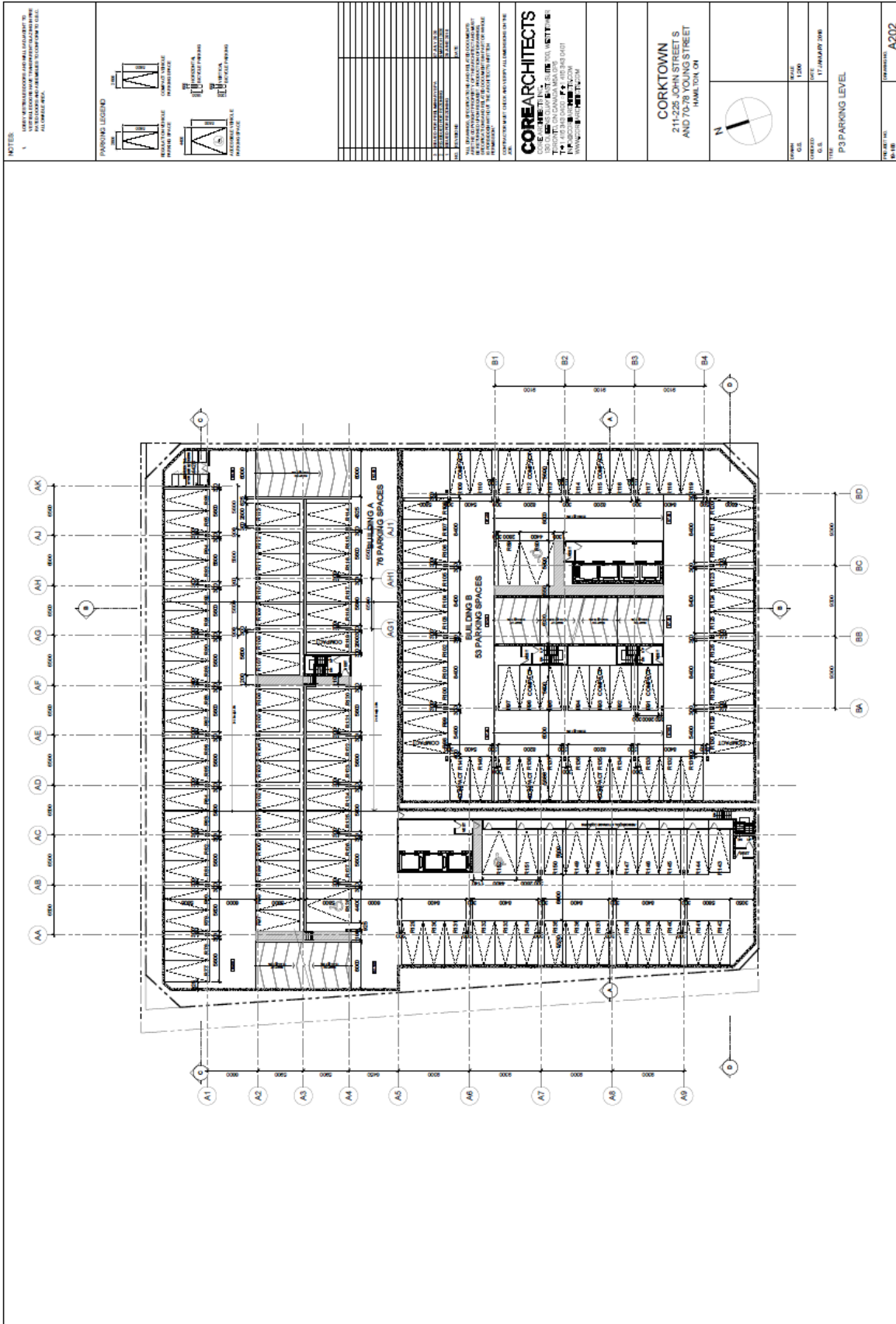
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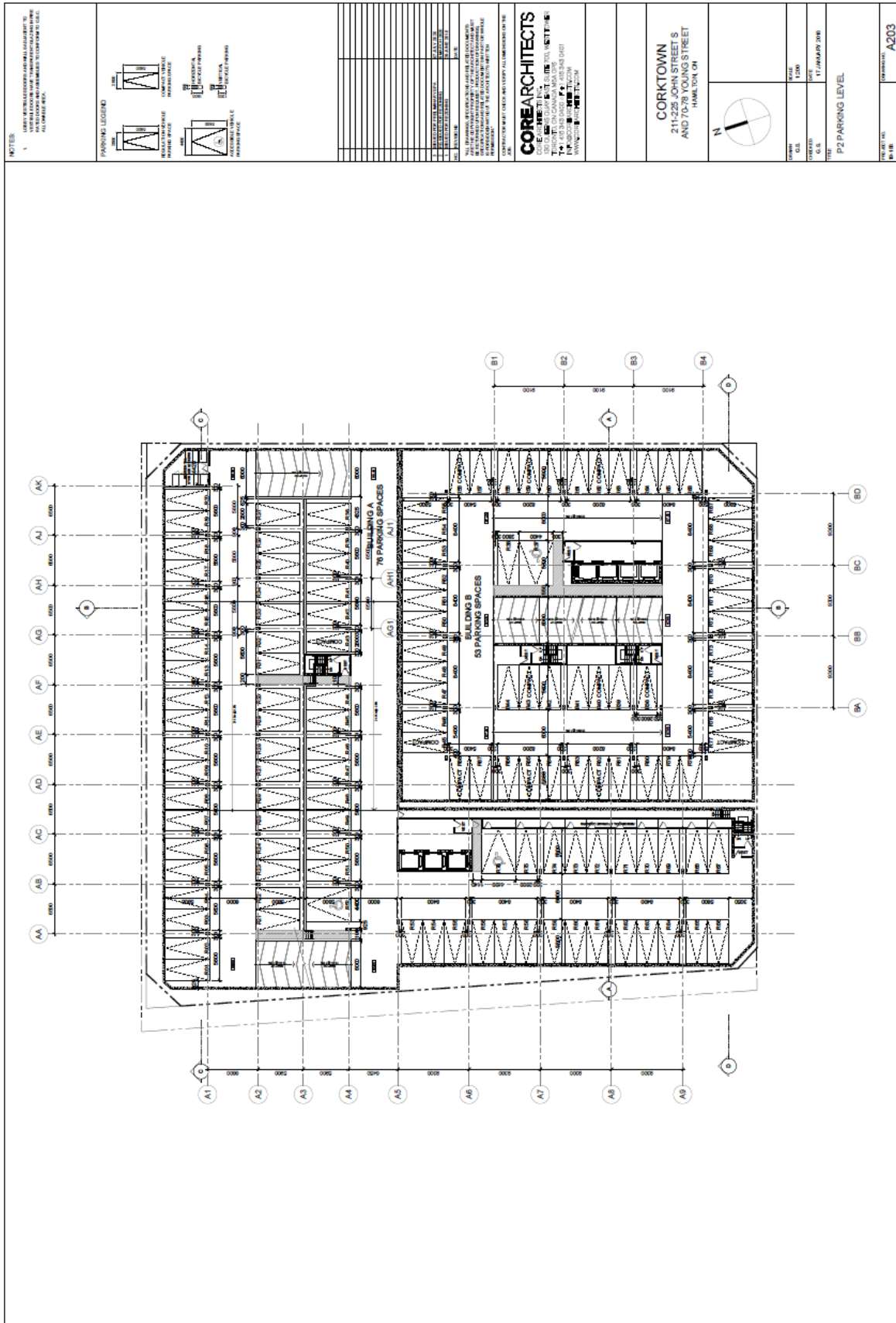
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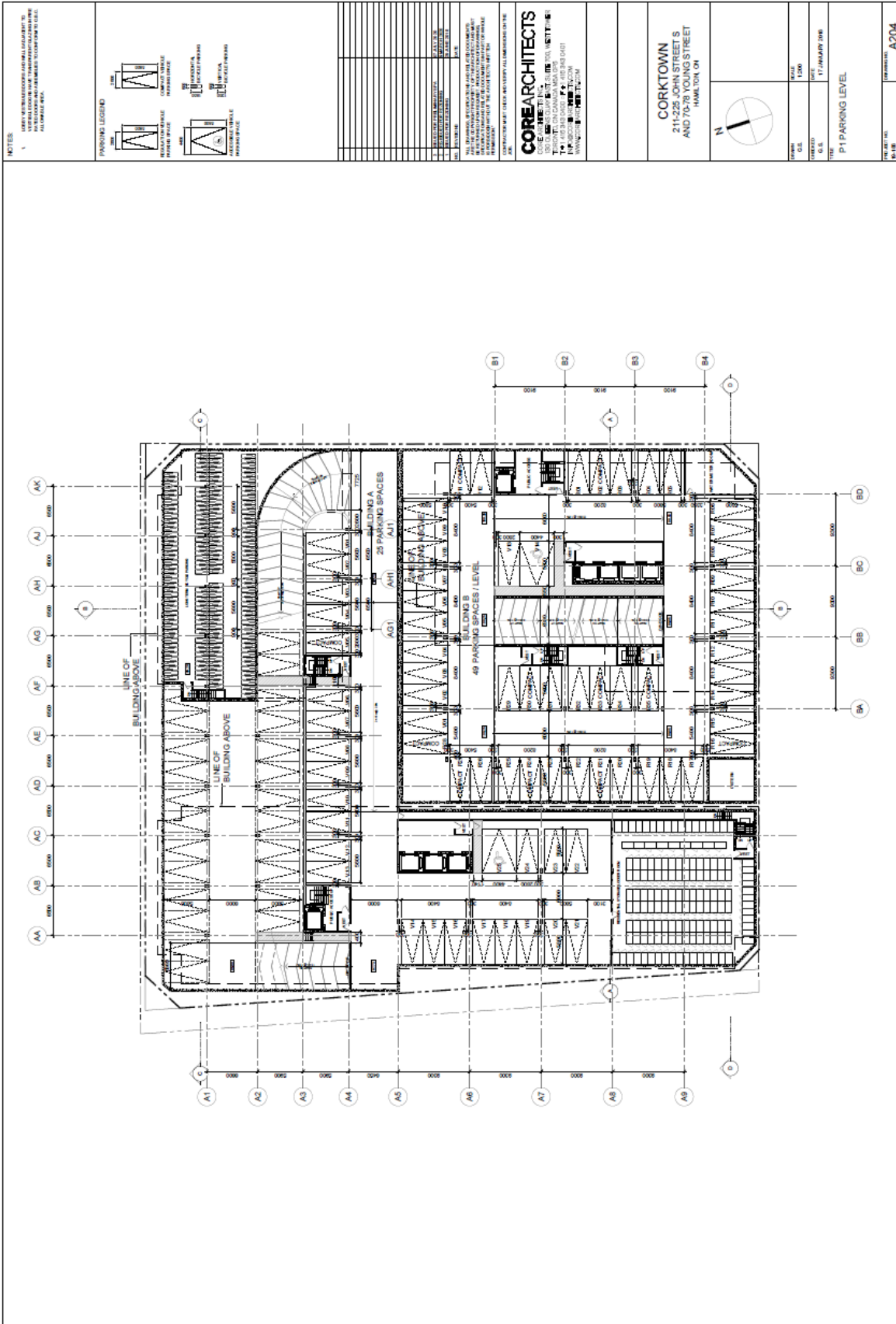
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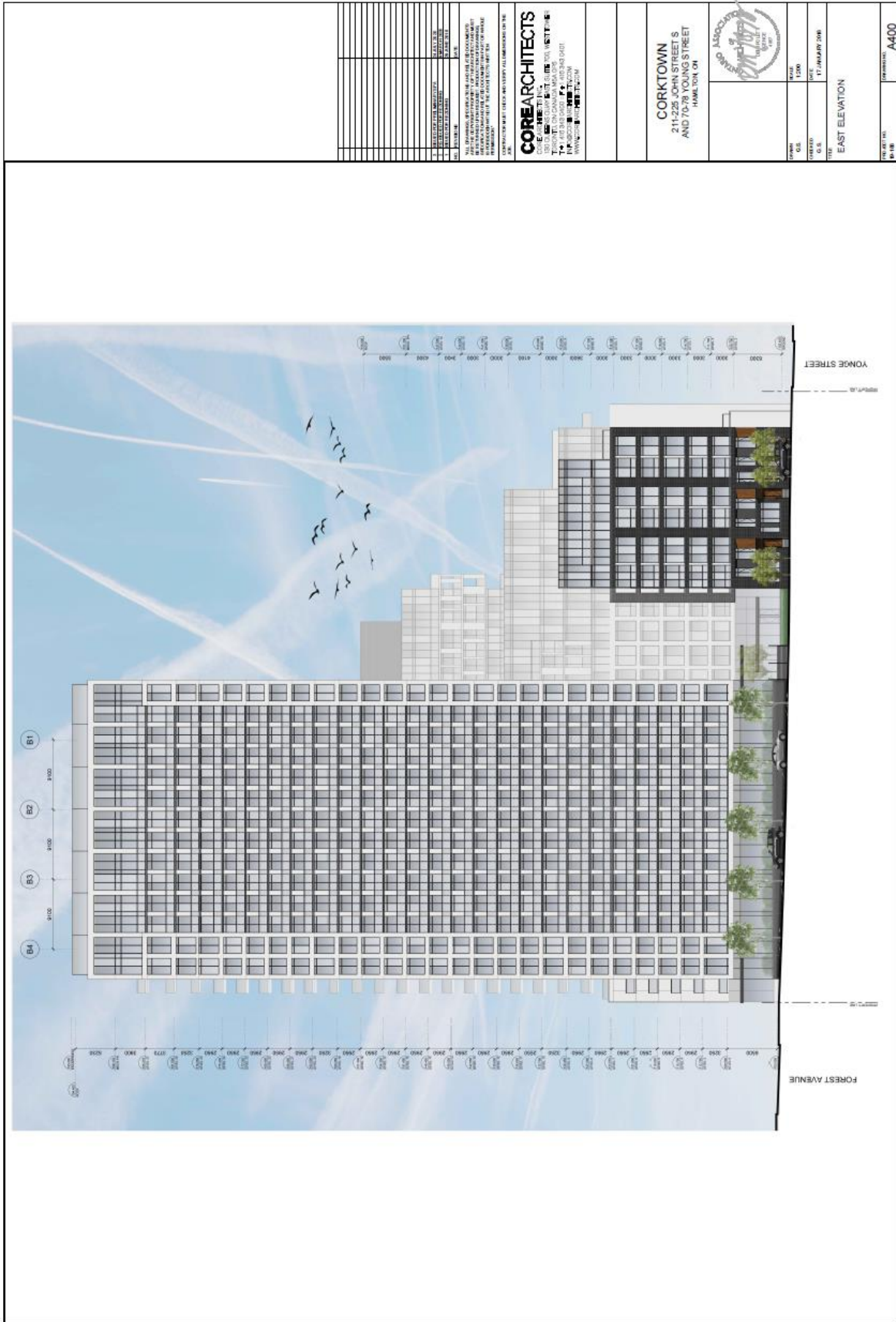














CATHARINE STREET SOUTH

JOHN STREET SOUTH



**CORKTOWN**  
 211 ON JOHN STREETS  
 AND 70-78 YOUNG STREET  
 HAMILTON, ON

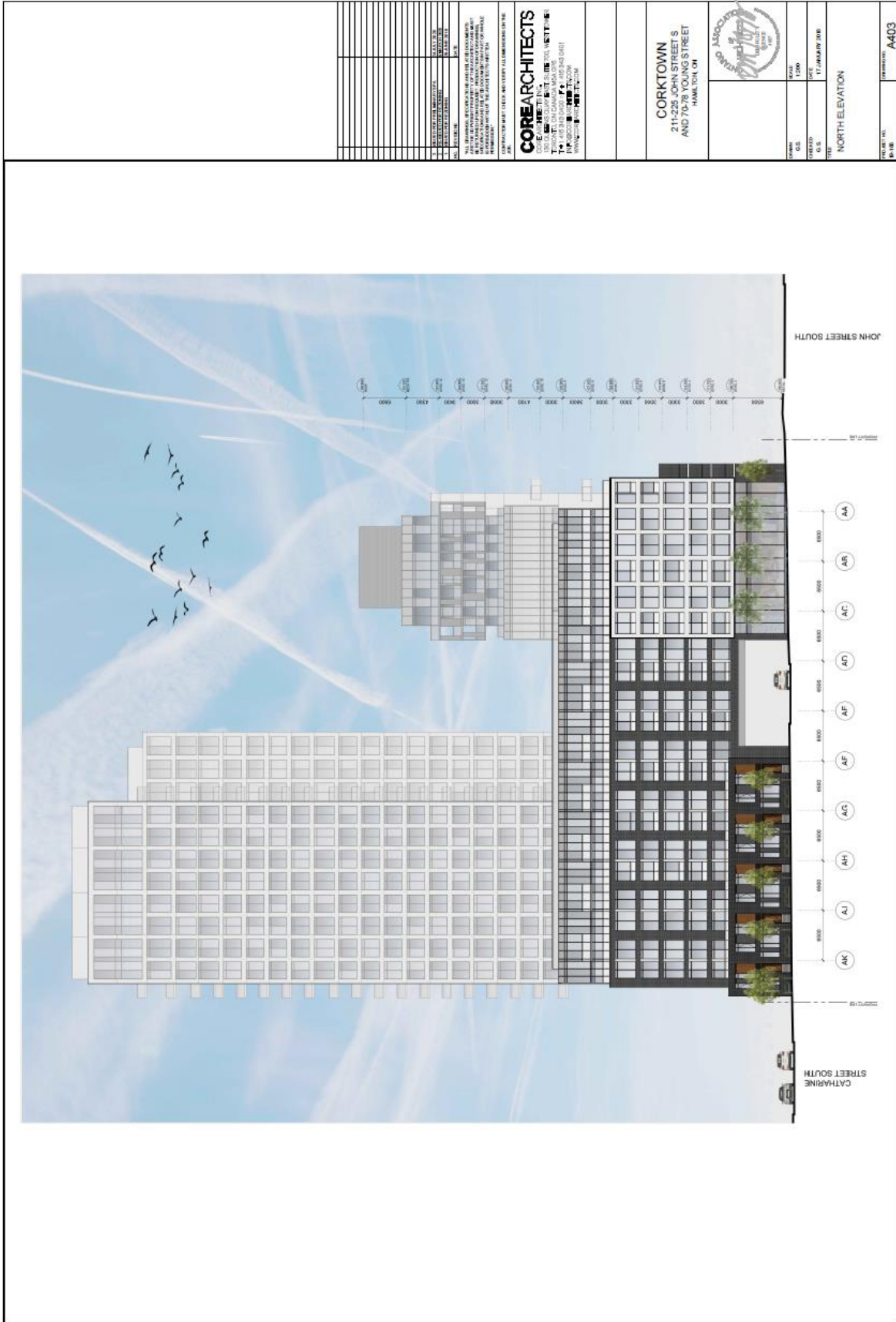
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DESIGNER	COREARCHITECTS
DATE	11-JANUARY 2018
TITLE	SOUTH ELEVATION
SCALE	AS SHOWN
PROJECT NO.	A401

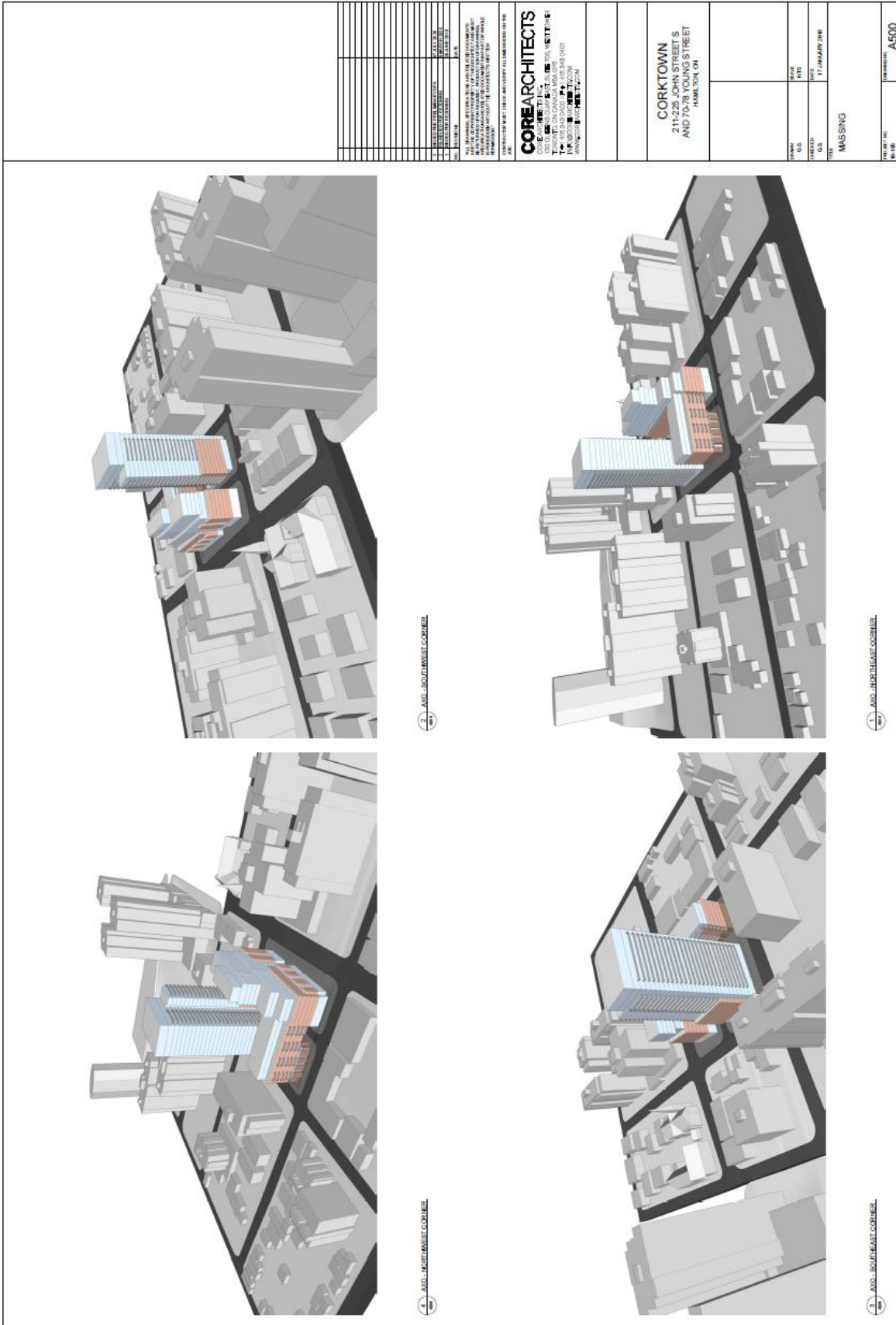
**COREARCHITECTS**  
 1200 COLLEEN AVENUE, SUITE 200, HAMILTON, ONT. L8N 3T1  
 TEL: 905.575.0000 FAX: 905.575.0001  
 INFO@COREARCHITECTS.COM WWW.COREARCHITECTS.COM  
 REG. ARCHITECTS NO. 11088 11/08/12

NO.	REVISION	DATE
1	ISSUE FOR PERMITTING	11/11/17
2	ISSUE FOR CONSTRUCTION	02/15/18
3	ISSUE FOR MARKETING	02/15/18
4	ISSUE FOR CONSTRUCTION	02/15/18
5	ISSUE FOR CONSTRUCTION	02/15/18
6	ISSUE FOR CONSTRUCTION	02/15/18
7	ISSUE FOR CONSTRUCTION	02/15/18
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50	ISSUE FOR CONSTRUCTION	02/15/18









**Kehler, Mark**

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**From:** James MacNevin [REDACTED]  
**Sent:** October 24, 2018 11:28 AM  
**To:** Kehler, Mark  
**Cc:** Farr, Jason; bkhes@gspgroup.ca  
**Subject:** Corktown Plaza redevelopment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mark,

I am writing in regard to the proposed redevelopment of the Corktown Plaza (file nos. UHOPA-18-17 & ZAC-18-037). I hope it's not too late to submit written comments on this application.

I live two blocks away from the Corktown Plaza, on Young Street. Overall I strongly support the proposed redevelopment. It's appropriate for the site and provides the kind of densification that downtown Hamilton desperately needs. I'm especially impressed by the high quality of the landscape design and by the possible inclusion of a grocery store, which would be a huge benefit for the community.

That said, I do have one major concern about the plans. I am a frequent user of the two Vrtucar cars that are currently stationed at the Corktown Plaza. The presence of these carshare cars so close to my home allows me to live car-free. Many others in the neighbourhood are in the same position; indeed, my understanding is that these two cars are some of the most heavily used vehicles in Vrtucar's Hamilton fleet. In light of this, I am troubled that I can't find any reference to Vrtucar or carsharing in the developer's Planning Justification Report or Transportation Impact Study, Parking Justification, and TDM Options Report. Given that the developer is requesting permission to provide only 0.44 parking spaces per dwelling unit (roughly half what the bylaw requires), I would expect them to contribute in some way to the availability of alternative modes of transportation. At a minimum, I would expect a commitment to maintaining the two current carshare spaces. But ideally they should be proposing to increase carshare availability if they are planning to add hundreds of new car-free residents to the area. This is something that should be addressed at the design stage, as I understand carshare parking spaces would need to be provided on the ground level (not underground) in order for the cars' transponders to work.

The same goes for SoBi bikeshare infrastructure. The application makes repeated mentions of the SoBi hub across the street on Catharine Street, but in my experience this hub is already heavily used, and I imagine it will quickly become oversubscribed with all of the new development proposed for the area. (At the moment, the SoBi app shows only one available bike.) Here again, I think it would be appropriate to expect the developer to make a contribution to the expansion of bikeshare infrastructure in the neighbourhood.

I've been impressed so far by the developer's commitment to community consultation and dialogue, and I hope they will be open to working collaboratively with community members and City staff to address these issues. Thank you for your time.

Best,

James MacNevin  
[REDACTED]

07:40:08 a.m. 08-30-2018

1 / 2

August 28<sup>th</sup>, 2018sent by Fax to 905-546-4202  
Tel. 905-546-2323 X-4148 and  
905-546-2424 X- 2222

Attn: Mark Kehler, and Kimberley Harrison-McMillan , Sr. Project Manager

City of Hamilton,  
Development Planning – Urban Team71 Main Street West- 5<sup>th</sup> Floor

Hamilton, ON, L8P 4Y5

Dear Mr. Kehler and Ms Harrison-McMillan;

Re: File UHOPA-18-17 – Official Plan Amendment and  
ZAC -18-041 – By-Law AmendmentApplicants – GSP Group Inc (Brenda Khes) for Corktown Plaza Inc.  
(Brandon Donnelly)

For property at 221-225 John St. S. and 70-78 Young St., Hamilton,

Ward 2 – Counsellor Jason Farr

This letter will be notice that there is a lack of information in your notice. Please send details as to –

- a) Parking needs and what is offered by the applicants;
- b) The present height limit without amendment;
- c) How this project interacts with the project proposed at Charlton Avenue and John Street for three towers and over 1000 residential units and commercial units;
- d) The position of the staff for the City – Their comments;

[Redacted]

07:40:15 a.m. 08-30-2018 2 / 2

- e) What projects these, this developer has completed;
- f) Any other information that the staff has that would allow for better understanding of the project details.

Presently, the project appears to present too much use for too little space.

Please note my communication, being my personal information, is not to be on the City's web site and is to be removed.

Send a copy of the staff report to us. Please acknowledge receipt.

Thanking you,

Yours very truly,

[Redacted Signature]

**Kehler, Mark**

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**From:** Ania [REDACTED]  
**Sent:** September 4, 2018 5:20 PM  
**To:** Kehler, Mark  
**Subject:** Re: File UHOPA-18-17 and ZAC-18-041/Corktown Plaza

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello mark,

Thank you. I forgot to add the impacts on existing heritage trees and heritage homes on the property. May you please include as I assume the heritage trees and homes would also need to come down as a result of the new development.

Thank you,  
Ania

On Sep 4, 2018, at 4:22 PM, Kehler, Mark <[Mark.Kehler@hamilton.ca](mailto:Mark.Kehler@hamilton.ca)> wrote:

Hello Ania,

Thank you for your comments.

Your input will be considered by staff and incorporated into a future staff report provided to Planning Committee. Once the report has been finalized and a date has been scheduled for the public meeting / Planning Committee, you will be notified.

If you have any further questions or comments about this application, please let me know.

Best regards,

**Mark Kehler**  
Planner II

Development Planning, Heritage and Design, Urban Team  
Planning Division  
Planning and Economic Development Department  
City of Hamilton  
71 Main Street West, 5th floor  
Hamilton, ON  
L8P 4Y5  
t. 905.546.2424 ext. 4148  
f. 905.546.4202  
e. [mark.kehler@hamilton.ca](mailto:mark.kehler@hamilton.ca)

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**From:** Ania [REDACTED]  
**Sent:** September-02-18 9:36 PM  
**To:** Kehler, Mark  
**Subject:** File UHOPA-18-17 and ZAC-18-041/Corktown Plaza

Hello Mark Kehler,

Thank you for the opportunity to provide comments on the proposed development 70-78 Young St./221-225 John St./Corktown Plaza redevelopment. As a Corktown resident, I am not supportive of the height of the proposed developments. The reason I have chosen to live outside the primary downtown core is that there are not many high rises in the area - most are well below 34 stories in height.

The proposed development is going to block the escarpment as well as create unnecessary congestion and create excess shadows above my property. Corktown is more suited to new townhome developments such as the new Augusta Brownstones (Augusta St./Catherine St.), St. Joseph Mews Townhomes (Young and Catherine St.), and New York Style Townes (Walnut and Young St.). This is the reason my husband and I have chosen to live here - those new developments are in line with the heritage in this area.

This proposed development is outside the premise of the primary plan but within the secondary plan which should only allow mid-rises as they are more compatible with the area. As a resident of Corktown, we are interested in the preservation of the heritage in this neighbourhood and therefore, do not agree with the proposed giant glass towers that are proposed in this plan.

The proposed development takes away from mom and pop shops and will only increase the number of big chains in the neighbourhood that will be the only ones able to afford such exorbitant rent fees. We appreciate having a Hasty's Market, and Drug Store in close proximity.

This area is well suited to mid-rises and townhomes as well as mixed commercial spaces but not high-rises. As such, we do not support this development.

**Please do not post my private information online. You may use my first name.**

**Please keep us updated on the progress of this application and any decisions made.**

Thank you,  
Ania



**Kehler, Mark**

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**From:** Rick Hemingway [REDACTED]  
**Sent:** September 4, 2018 7:48 PM  
**To:** Kehler, Mark  
**Subject:** Proposed development of Corktown Plaza into 34 story apartment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mark

I am advised you are the City of HAMILTON contact regarding this matter.

Can you forward details regarding the environmental impact the City and Developer has conducted regarding increased traffic, noise pollution and impact to the cultural significance to the Corktown area? As a resident and taxpayer, I have seen nothing from the City confirming their due diligence in insuring the neighbourhood remains a safe and healthy environment for the families who live here.

I would also like to be advised of any meetings regarding this development and if you could confirm if you are the City's representative where petitions should be addressed. I am aware there is a number of concerned residents planning to raise their concerns and I would like to insure I am kept abreast of such venues to hear what has been done to date and what still is ahead.

Regards  
Rick Hemingway

Sent from my iPhone

Rick

Best regards

Rick Hemingway

Disclaimer:

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you receive this in error, please contact the sender and delete the material from any computer. This e-mail does not constitute a contract offer, a contract amendment, or an acceptance of a contract offer unless explicitly and conspicuously designated or stated as such.

**Kehler, Mark**

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**From:** [REDACTED]  
**Sent:** September 14, 2018 3:01 PM  
**To:** Kehler, Mark  
**Subject:** UHOPA-18-17 and ZAC-18-041 - Notice for Planning and Zoning Amendments in respect of Lands Located at 221-225 John Street South and 70-78 Young Street

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr Kehler

We are in receipt of your letter dated August 24, 2018 concerning the above matter.

Whilst we welcome the rejuvenation and improvement to the area which the development will hopefully bring about, we have the following comments, concerns and/or reservations:

- (1) The excessive noise levels that inevitably follows such demolition and building work. Our Law Firm is in close proximity to the proposed development.
- (2) That vehicle accessibility to our office will not be affected or disrupted whilst the demolition and building works are being carried out.
- (3) That the proposed rezoning to permit the construction of mixed use commercial/residential development in the terms outlined will not significantly cause an increase in car traffic in an already busy and congested area.
- (4) That the proposed erection of two 34 storey tower buildings above a multi-storey podium may be overbearing and will spoil the current character and openness of the area.
- (5) Should the above development coincide with the proposed development of lands located at 299 – 307 John Street South and 97 St. Joseph’s Drive, Hamilton ( Ward 2 ) under Planning File UHOPA-18-04; ZAC-18-009 that this could cause major disruption to the owners/occupiers of surrounding properties for the reasons given above.

We trust that the above concerns will be taken into account and that appropriate safeguards and measures will be put in place to minimize any inconvenience to others who live or work in businesses nearby. Subject to this, we believe that the development will otherwise make a positive contribution to the uplift of the area.

Whilst we have no objection to our written comments being available to the general public and appearing on the City’s website, we request that our personal details be removed and remain **strictly private and confidential**.

Please acknowledge receipt.

Yours truly

[REDACTED]

**Kehler, Mark**

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**From:** Mark [REDACTED]  
**Sent:** September 12, 2018 5:26 PM  
**To:** Kehler, Mark; Farr, Jason  
**Subject:** UHOPA-18-17, ZAC-18-041 - Proposed Corktown Plaza Re-Development

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Mark and Jason,

In regards to the proposed Corktown Plaza Re-Development plan (31 and 34-story glass towers), as a resident of the area, I am writing to express my deep concerns for such a project. I fear this development would greatly compromise the aesthetics, beauty, heritage, and tight-knit community feel that Corktown affords its many proud residents. My concerns are as follows:

**Landscape/Aesthetics/Heritage** - Corktown, situated under Hamilton's escarpment, is characterized by its beautiful green spaces and parks, schools, Victorian-style brick town and row houses, fantastic restaurants and pubs, and historic buildings. It is very unique, special, and rare to have such a lovely and quaint neighbourhood so close to a major city's downtown core, something that the City of Hamilton should fight to preserve. To introduce such a development plan (multi-story skyscraper-type glass towers) to Corktown would severely compromise our harmonious neighbourhood's beauty, tranquility, and architectural layout, as well as rob its residents of the beautiful skyline view of the escarpment.

**Traffic Implications** - James Street and John Street currently act as access streets for residents to travel up and down the escarpment from the mountain to the downtown and vice versa. Traffic can get very congested at peak times not only on primary streets like James, John, and Charlton, but on Corktown's secondary streets as well (Young, Augusta, Catharine, Walnut, etc.). Introducing a development plan that could potentially add 500-1,000 or so vehicles to this area would be devastating. Further pollution, congestion, and noise is not the only concern, but the welfare of pedestrian and cyclist safety is also a concern. With so many points of interest within walking and cycling distance (restaurants, schools, parks, etc.), a development plan that could bring hundreds of additional vehicles to the area would pose additional safety risks. I am sure pedestrian and cyclist safety is of utmost importance to the city.

**Construction/Noise** - construction of such a large and complex development will imply years of noise, traffic disruption, and dust/debris, which will be of extremely appreciable concern for residents. It is one thing if this large development were to be built outside of a residential area, but to build two towers in the middle of a quiet and peaceful neighbourhood would be an extreme disruption for years.

**Loss of Rental Prospects/Income** - in order to afford home ownership in Corktown, many residents in the area supplement their incomes by renting part/all of their properties to students, hospital staff, etc. Introducing two rental unit towers will adversely affect these residents of whom rely on this supplemental income.

**Parking** - current Corktown residents are in the fortunate position to leverage street parking for their guests. This street parking is also relied upon by local businesses for their patrons, as well as staff at St. Joseph's hospital. By introducing a development plan that would add hundreds of additional vehicles to the area would greatly compromise these parking options.

I am sure my fellow Corktown neighbours share my sentiment, and I am encouraging them to also share their concerns. I understand progress and growth is essential to the city, but introducing two glass skyscraper-style rental

units to a quaint and historic residential neighbourhood is not the answer. I certainly hope the City of Hamilton values the preservation of such a neighbourhood and opposes this development plan.

Thank you,

Mark [REDACTED]

(P.S., I consent to have only my first name made public regarding this matter.)

**Kehler, Mark**

---

**From:** Jilda Perez [REDACTED]  
**Sent:** September 4, 2018 9:51 PM  
**To:** Kehler, Mark  
**Subject:** Urban Hamilton Official Plan Amendment (File no. UHOPA-18-17) Zoning By-law Amendment (ZAC-18-041)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Mark,

My name is Jilda Perez and I am writing to you in connection with the Urban Hamilton Official Plan Amendment (File no. UHOPA-18-17) and Zoning By-law Amendment (ZAC-18-041) for the lands located at 221-225 John Street South and 70-78 Young Street Hamilton.

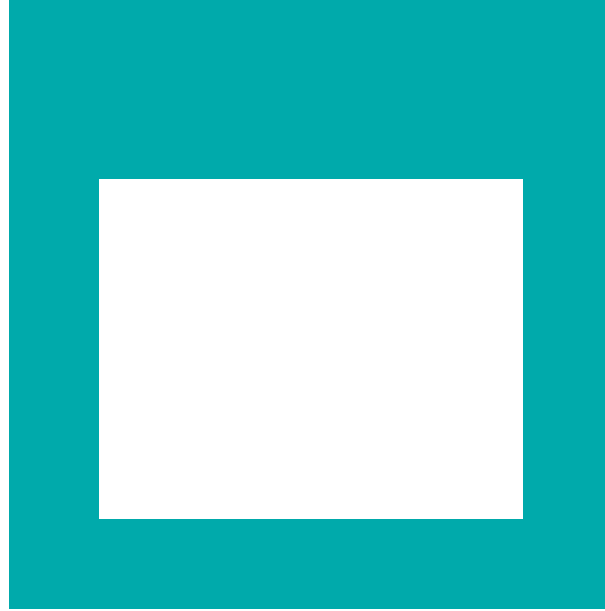
I own a town home located at 81 Young Street and I lived there for several years. I really enjoyed living in the Corktown neighborhood. The Corktown Plaza was an essential part to living in that neighborhood. That plaza offered several amenities including laundry, pharmacy, a small grocery store, and restaurants to name a few. The convenience of having those services in such close proximity enhanced the quality of life for me.

If two towers are built there with a height of 34 storeys, I fear that it will take away from the quiet and peaceful neighborhood that Corktown currently is. It will increase noise pollution, traffic and congestion. In addition, the current amenities will be gone, and that will have a devastating effect on the neighborhood. In addition, the height of the building would look out of place for that location. Therefore, I must express my opposition to this project. It would be a detriment to the residents of the Corktown neighborhood.

Respectfully,

Jilda Perez

[REDACTED]



WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

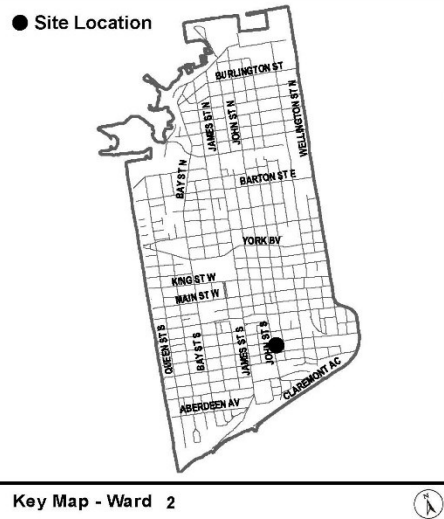
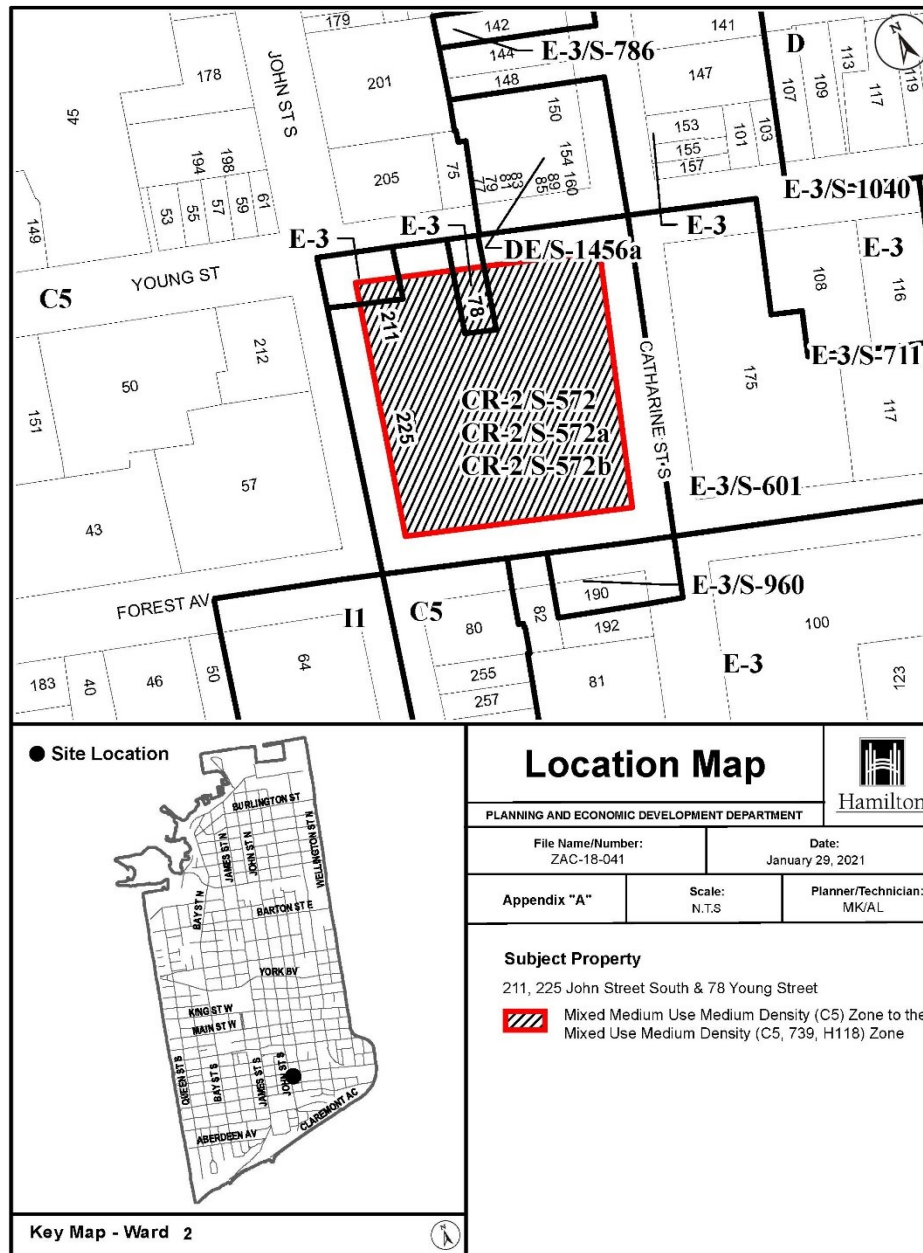
February 16, 2021

## PED21032– (ZAC-18-041)

Applications for Urban Hamilton Official Plan Amendment and Zoning By-law  
Amendment for lands located at

211 and 225 John Street South and 78 Young Street, Hamilton

Presented by: Mark Kehler



### Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
File Name/Number: ZAC-18-041	Date: January 29, 2021
Appendix "A"	Planner/Technician: MK/AL

**Subject Property**  
 211, 225 John Street South & 78 Young Street

Mixed Medium Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 739, H118) Zone





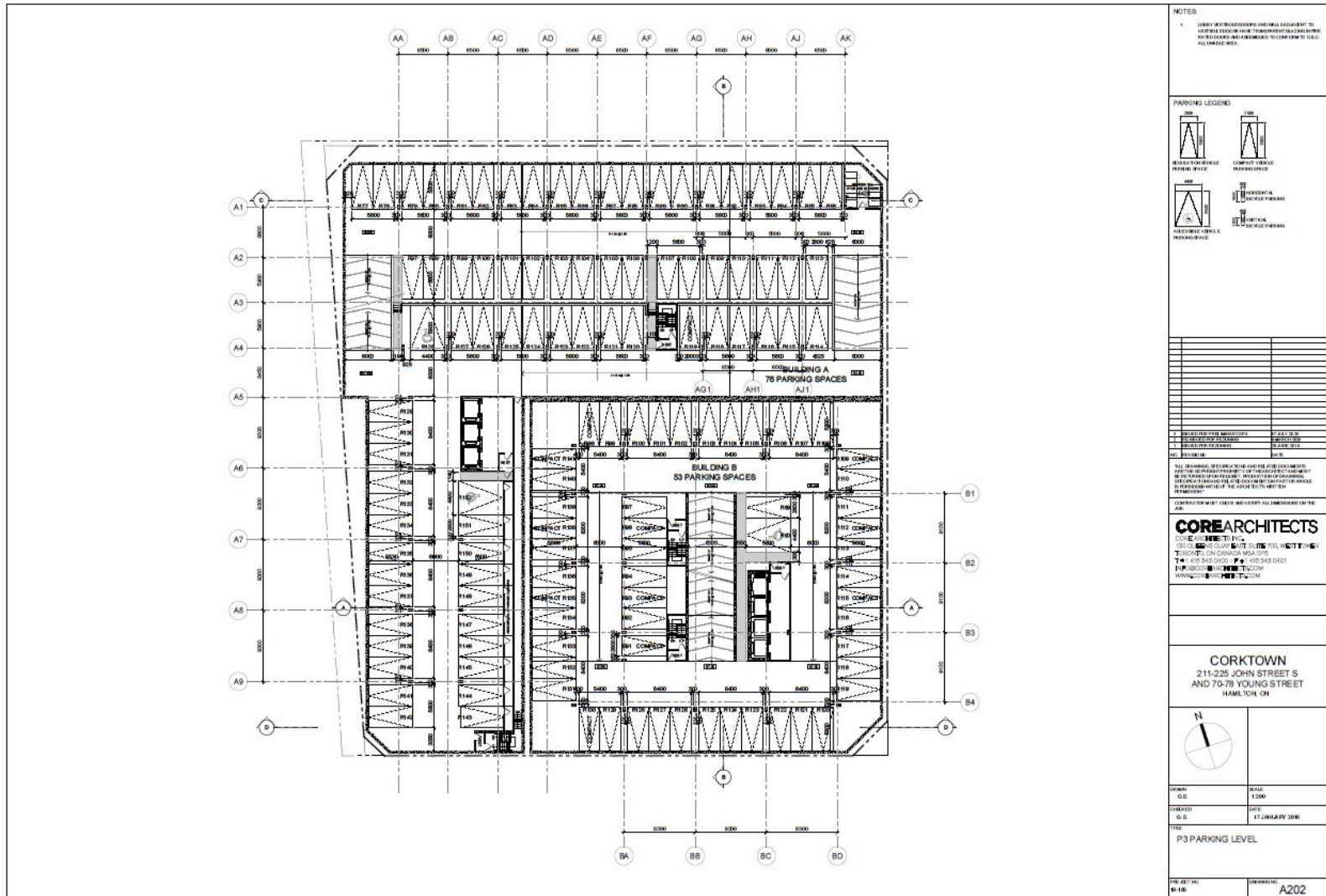
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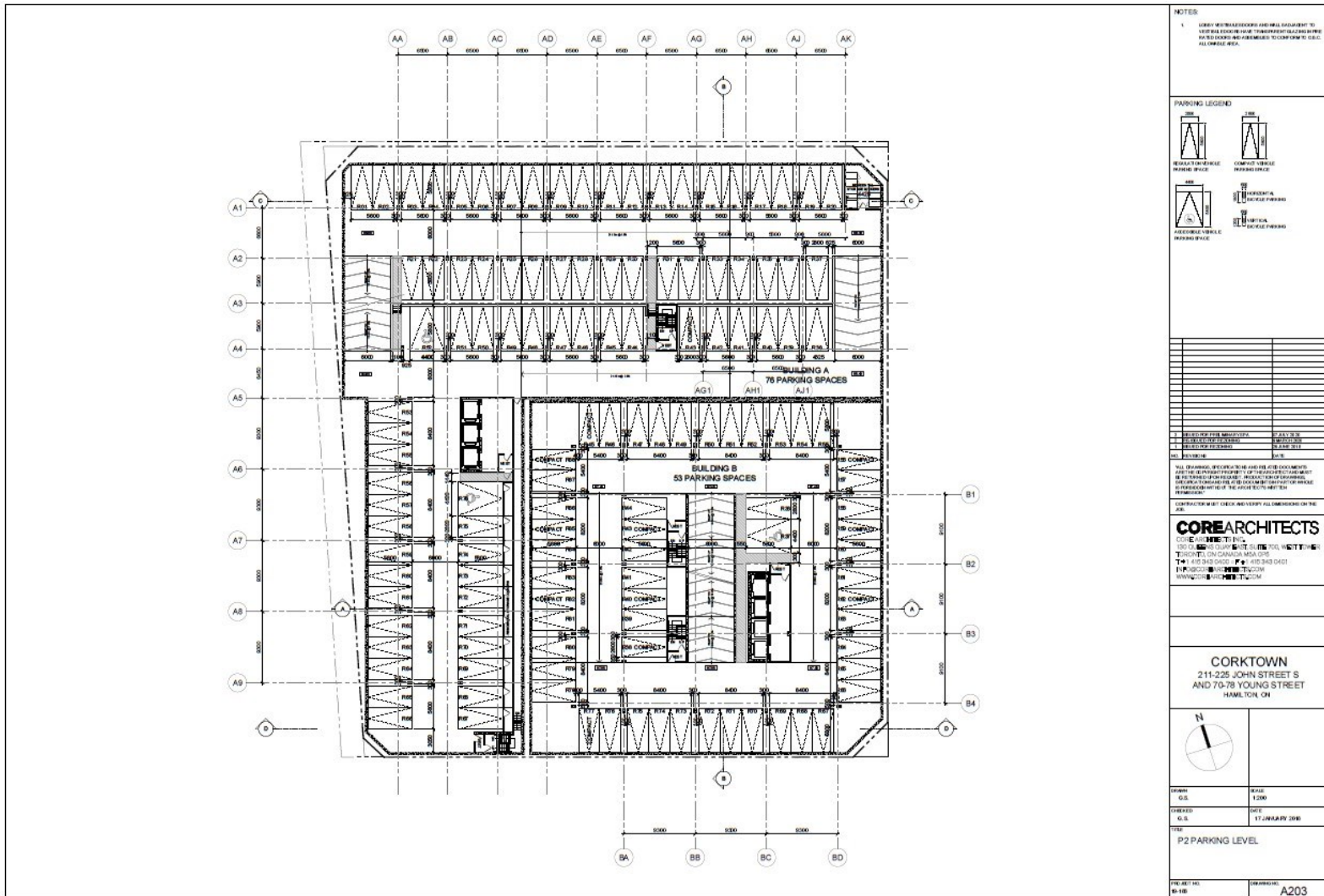


**211 & 225 John Street South and 78 Young Street, Hamilton**







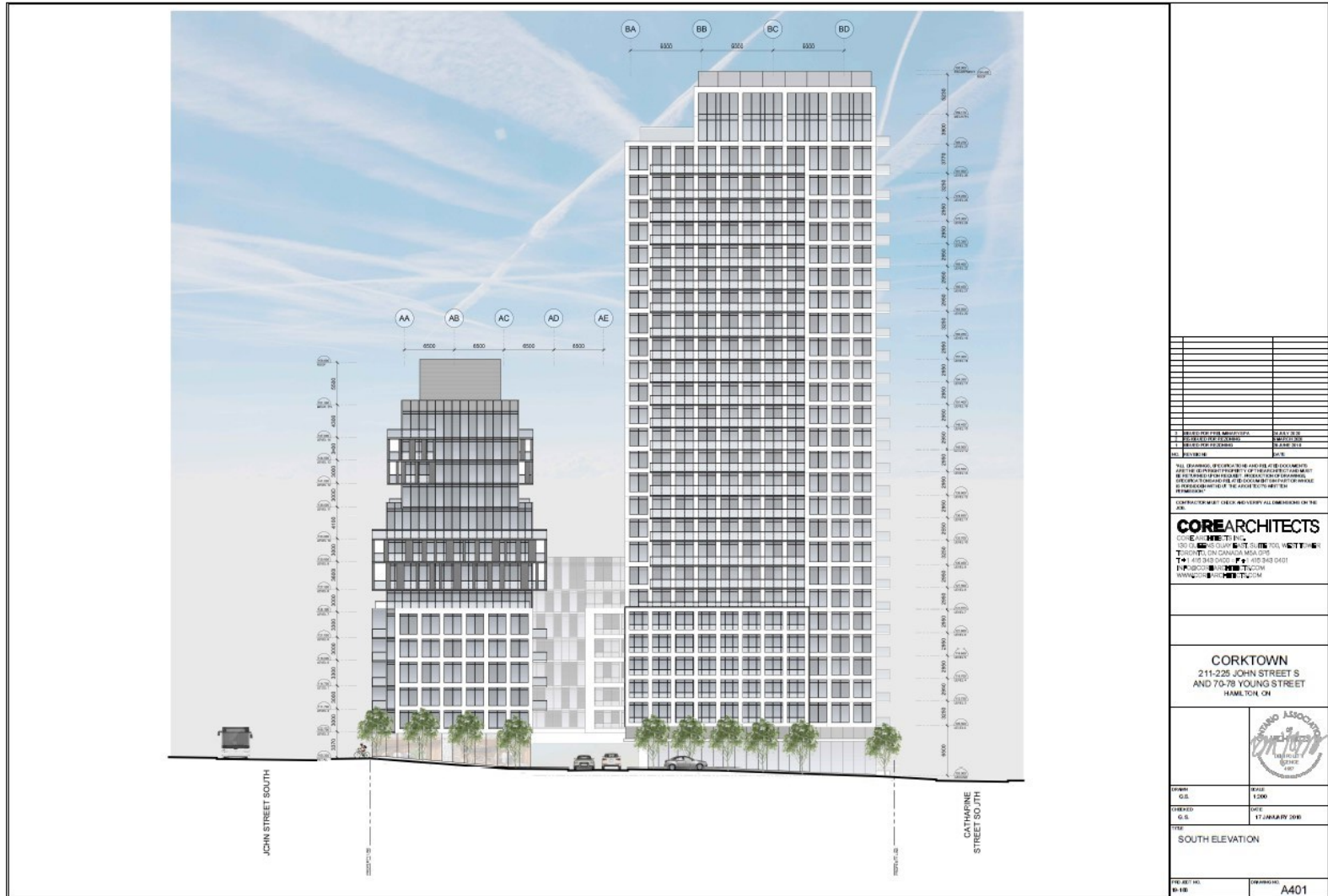


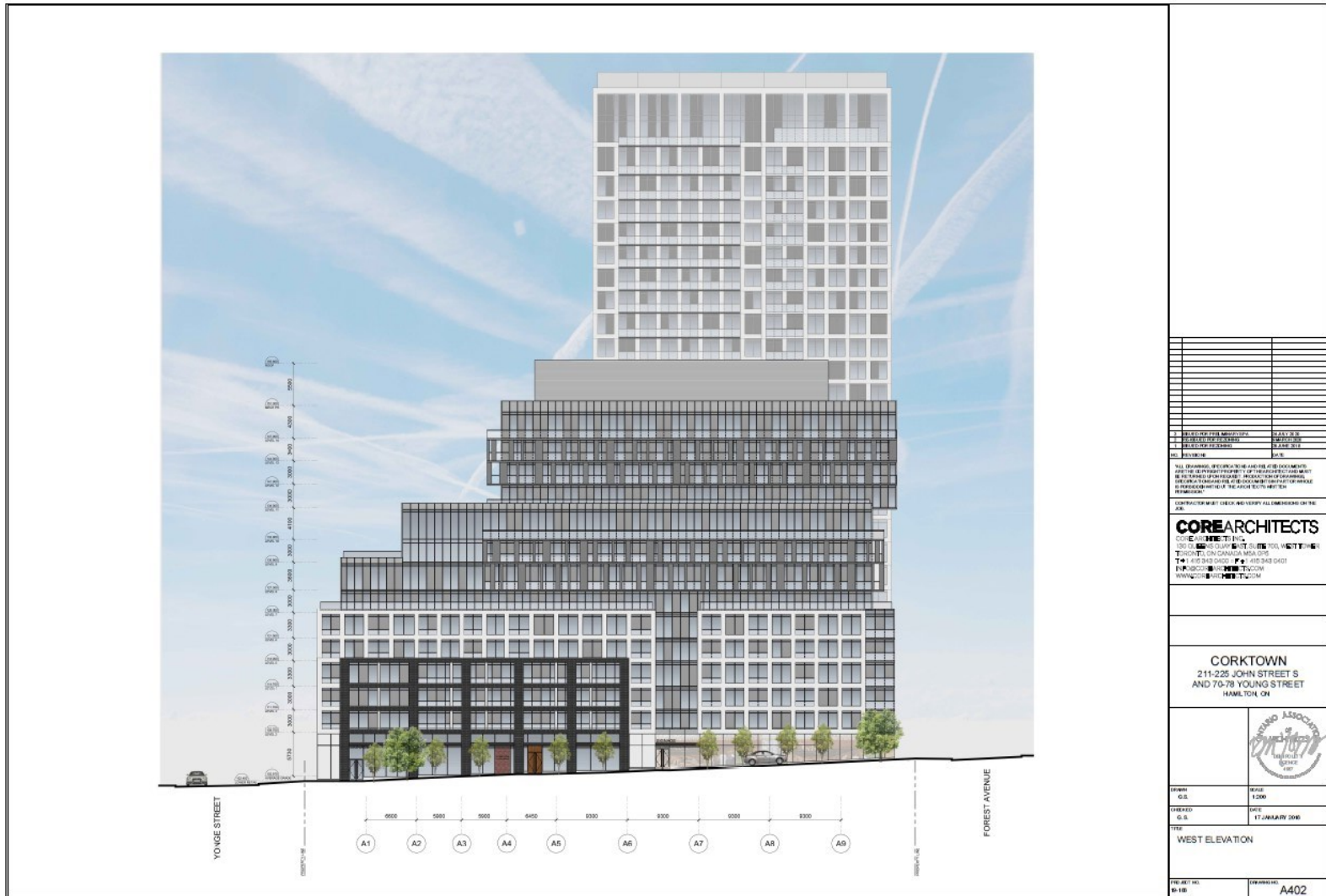


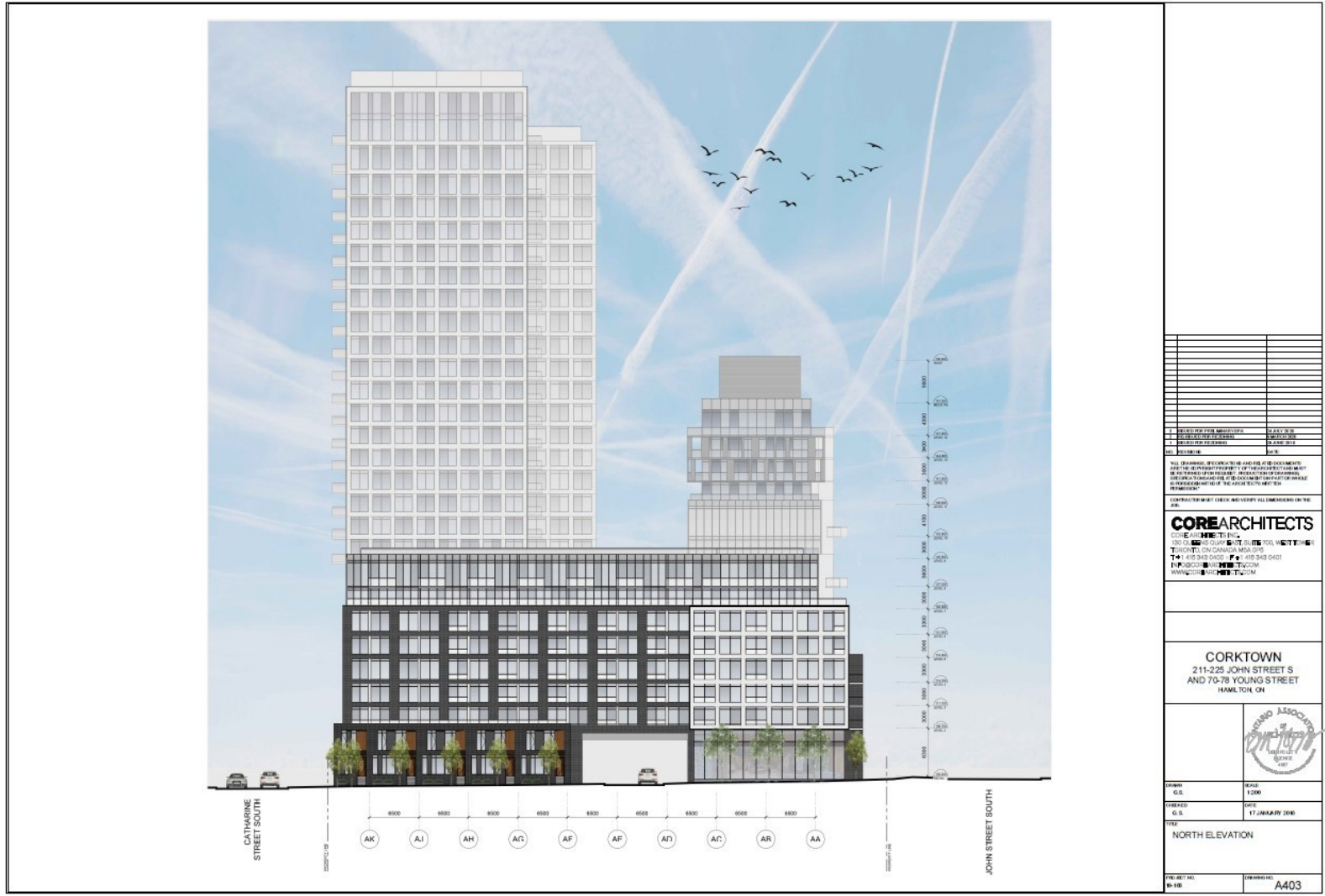
















Subject property, as seen from the intersection of John Street South and Young Street looking southeast



Subject property, as seen from the intersection of John Street South and Forest Avenue looking northeast



Subject property, as seen from the intersection of Catharine Street South and Forest Avenue looking northwest



Subject property, as seen from the intersection of Catharine Street South and Young Street looking southwest





Existing development to the west and southwest as seen from John Street South



Existing development to the south and southeast as seen from Forest Avenue



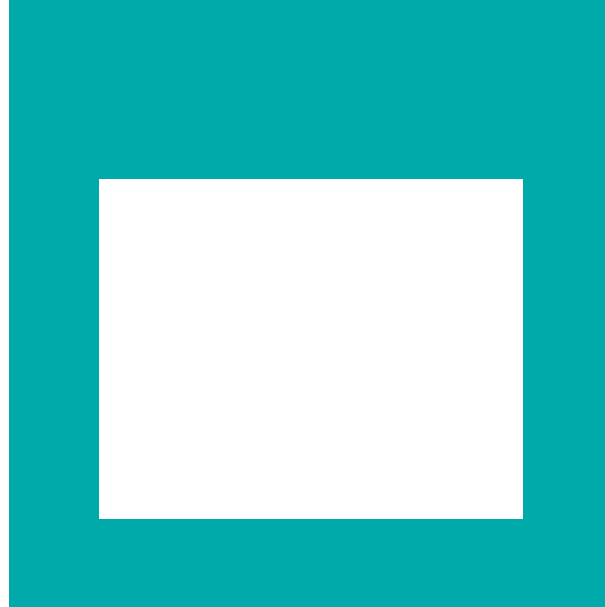
Existing development to the east as seen from Catharine Street South



Existing development to the north and northeast as seen from Young Street



Existing development to the north and northwest as seen from Young Street



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

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# Corktown Plaza

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**211 & 225 John Street South  
and 70 & 78 Young Street**

**Statutory Public Meeting**

Official Plan Amendment (UHOPA-18-17)  
Zoning By-Law Amendment (ZAC-18-041)

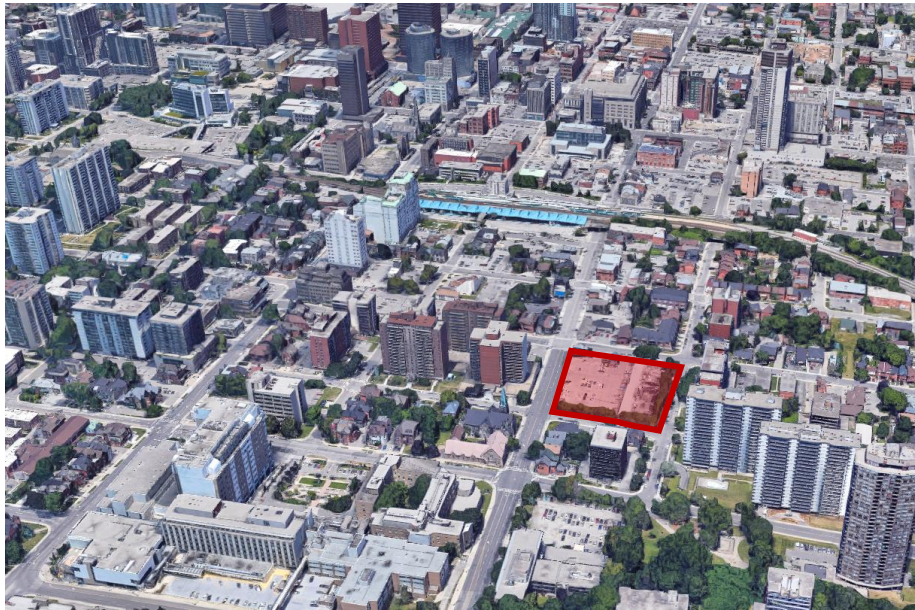
*Feb. 16, 2020*

**SLATE**



# Site Context

## 211 & 225 John Street South and 70 & 78 Young Street





# Community Context

### Public Service Facilities:

- St. Joseph’s Hospital

### Restaurant and Retail Amenities:

- Augusta Pub District
- James Street South Shopping District

### Transit:

- Hamilton GO Centre
- Coach Megabus
- HSR Routes

### Parks & Recreation:

- Corktown Park
- Shamrock Park
- Escarpment Rail Trail
- St. Joseph’s Park

### Schools:

- Queen Victoria Elementary School
- St. Charles Adult & Continuing Education Centre



# Community Engagement

## What we heard:

- Need for a local grocery store
- Provision of community space
- Maintain views to the escarpment
- Traffic congestion
- Height and shadow impacts
- Cultural heritage impact
- Construction noise



# Design Evolution

## Height significantly reduced in response to consultation



### Original Submission (2018)

- 34- and 31-storey tower atop podium



### Current (February 2021)

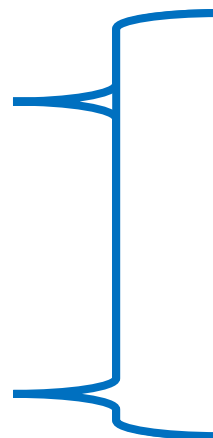
- 27-storey tower
- 8- to 14-storey mixed use building

# Planning Policy Framework

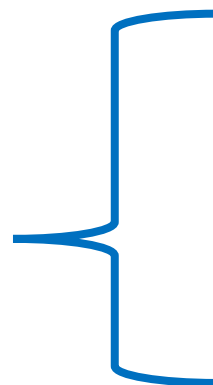
## 2020 Provincial Policy Statement

## 2020 Growth Plan for the Greater Horseshoe

## Urban Hamilton Official Plan



- Intensification
- Transit-supportive development
- Active transportation
- Diverse housing stock
- Sustainability and climate change

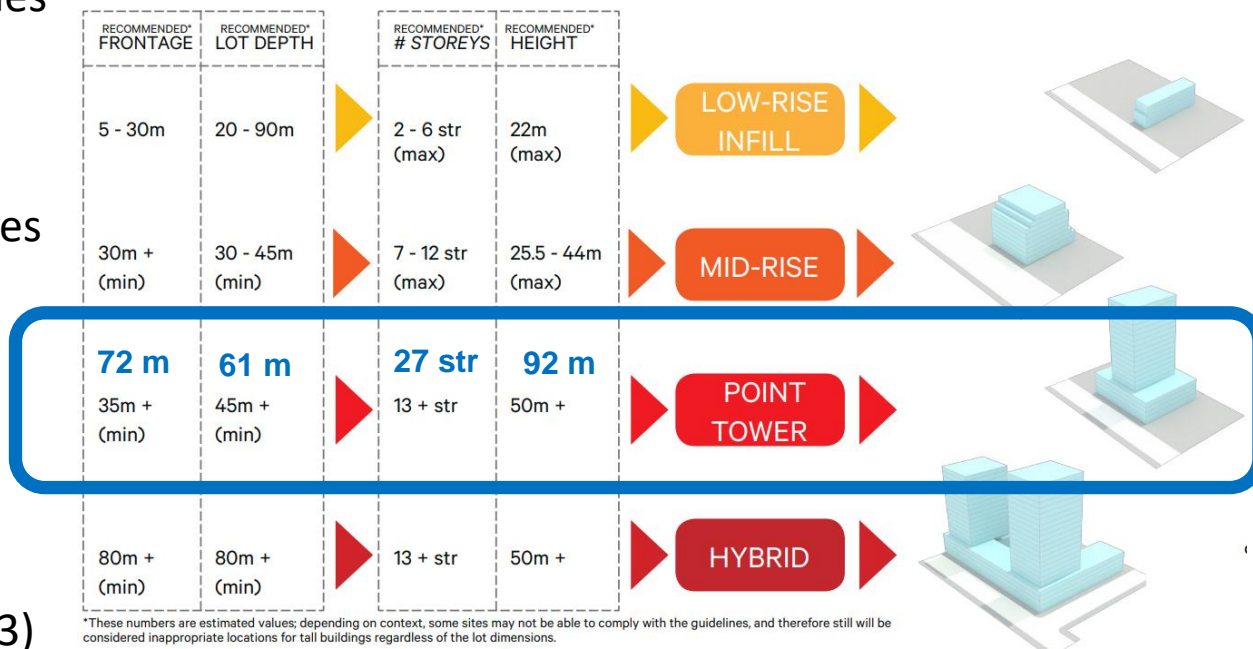


- Frontage on arterial road
- Proximity to commercial facilities
- Proximity to amenities
- Access to public transit
- Appropriate size of site

# Urban Design Guidance

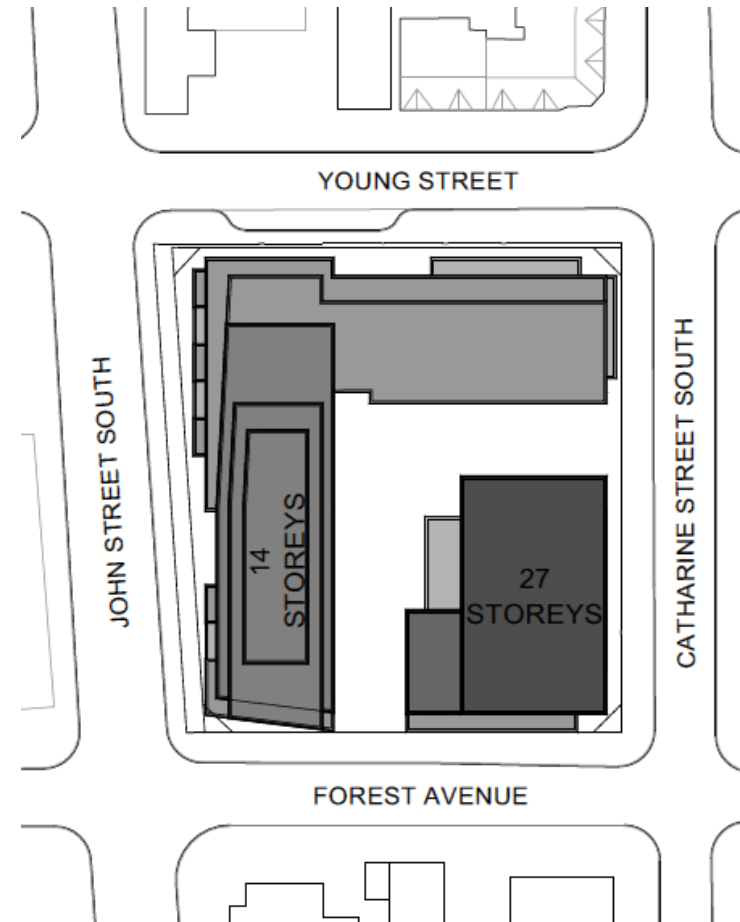
## Multiple, overlapping layers of design guidance

- Official Plan design policies (2013)
- Corridor Design Guidelines
- **Tall building Guidelines (2018)**
- Site plan guidelines (2003)



# Overview of Proposed Development

<b>Form</b>	27-storey multiple dwelling building, and a 14-storey mixed use building, attached to an 8-storey multiple dwelling building
<b>Units</b>	769 dwelling units
<b>Commercial Space</b>	929.25 square metres
<b>Parking Spaces</b>	462 spaces
<b>Amenity Space</b>	Indoor and outdoor amenity areas



# Proposed Development

Looking southeast, toward the Niagara Escarpment



# Proposed Development

Looking southwest, toward the Niagara Escarpment





# Corridor-scaled building base

## John Street South



# Pedestrian Oriented Form

## Young Street

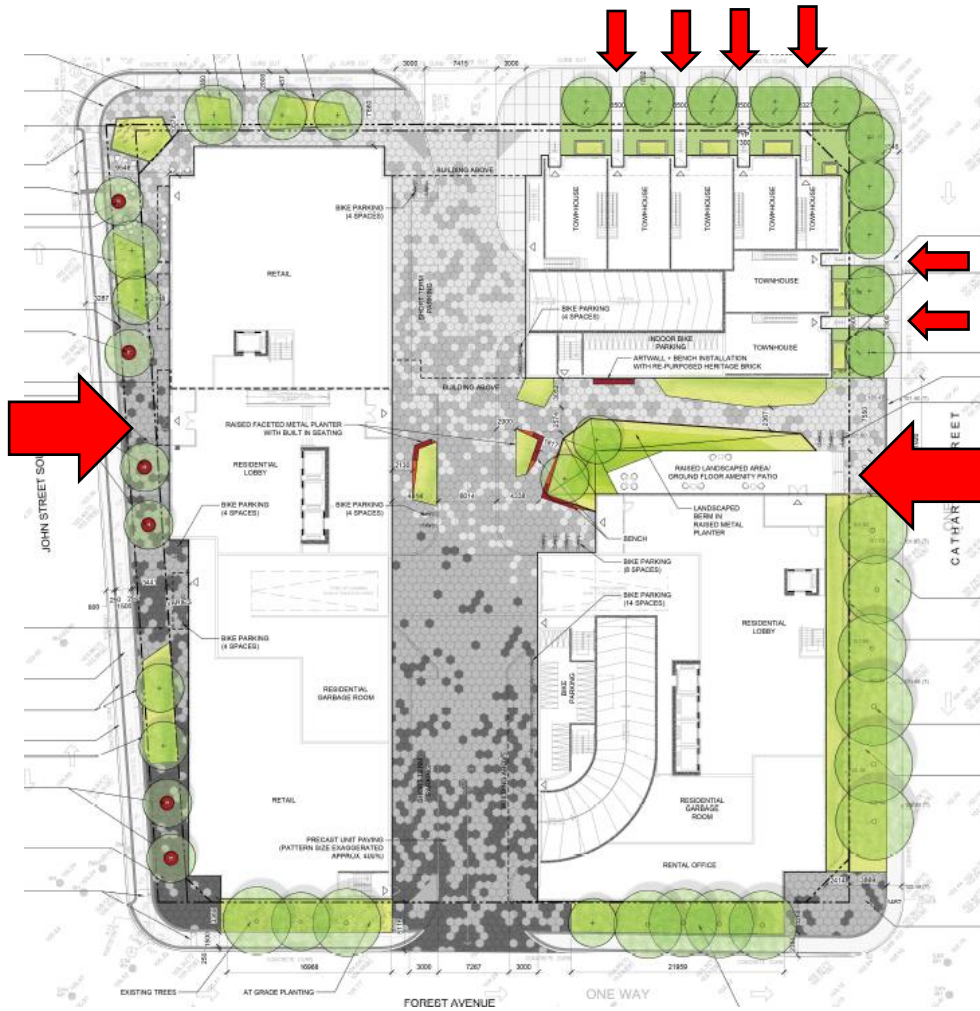


# Pedestrian Oriented Form

## Catharine Street South

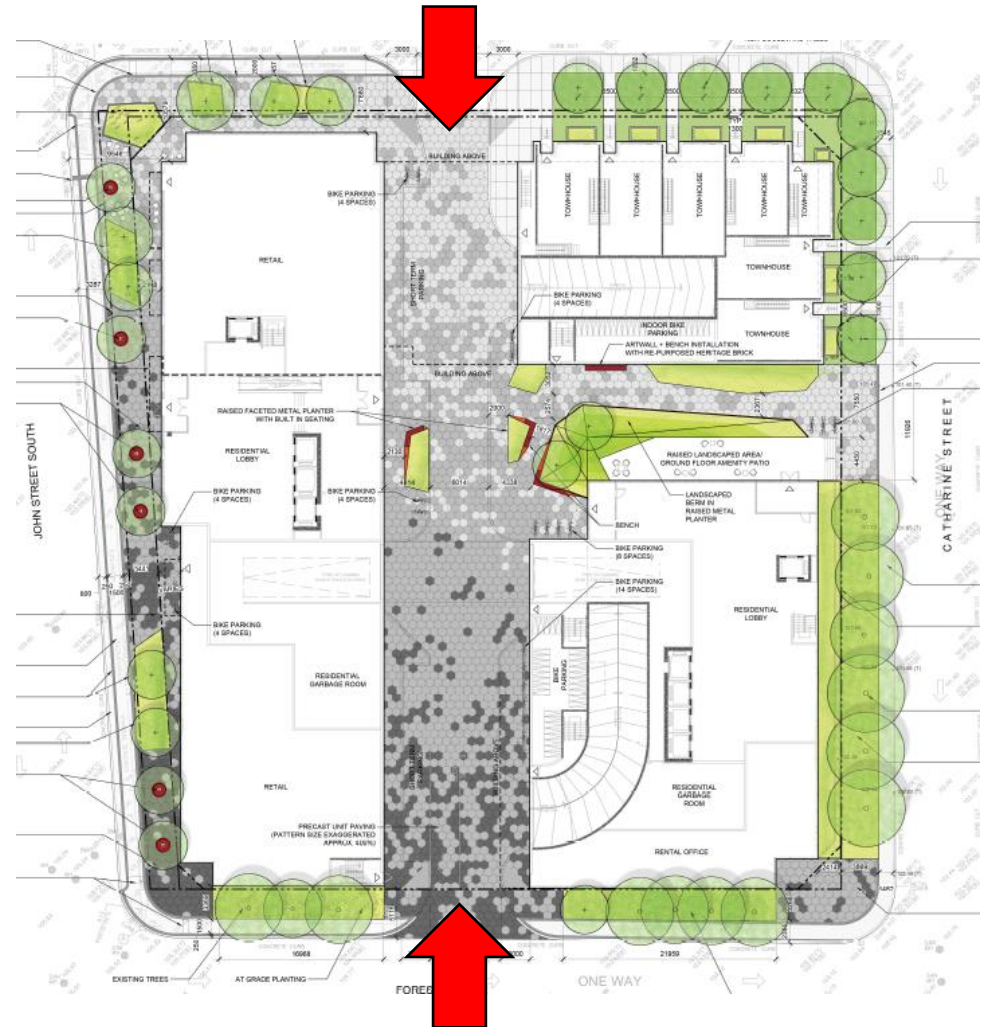


# Active Ground Floor Uses and Public Realm



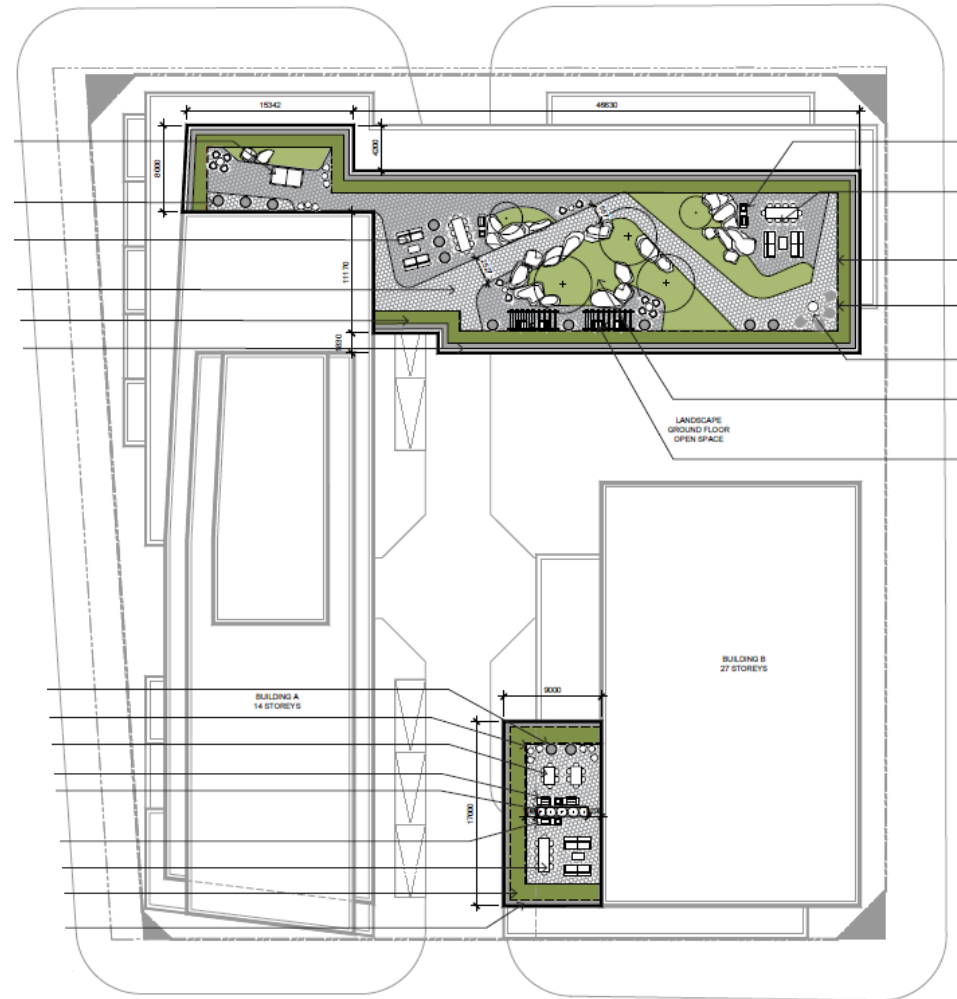
# Parking and Service Areas away from public

- Laneway provides consolidated access to the parking garage
- All parking and loading facilities internal to the site and away from public streets



# Integrated Amenity Spaces

- Balconies
- Shared indoor amenities such as a fitness centre and lounge space
- Large residential lobbies
- Landscaped rooftop amenity terraces (both buildings)
- Indoor and outdoor bicycle storage
- Indoor locker storage



# Heritage Incorporation

The proposed development will incorporate on-site heritage brick



# Heritage Incorporation

The proposed development will incorporate on-site heritage brick



RECLAIMED HISTORIC RED BRICK FROM EXISTING BUILDINGS ON SITE TO BE USED TO CREATE ACCENT WALL TO STRENGTHEN EAST-WEST CONNECTION THROUGH THE SITE.

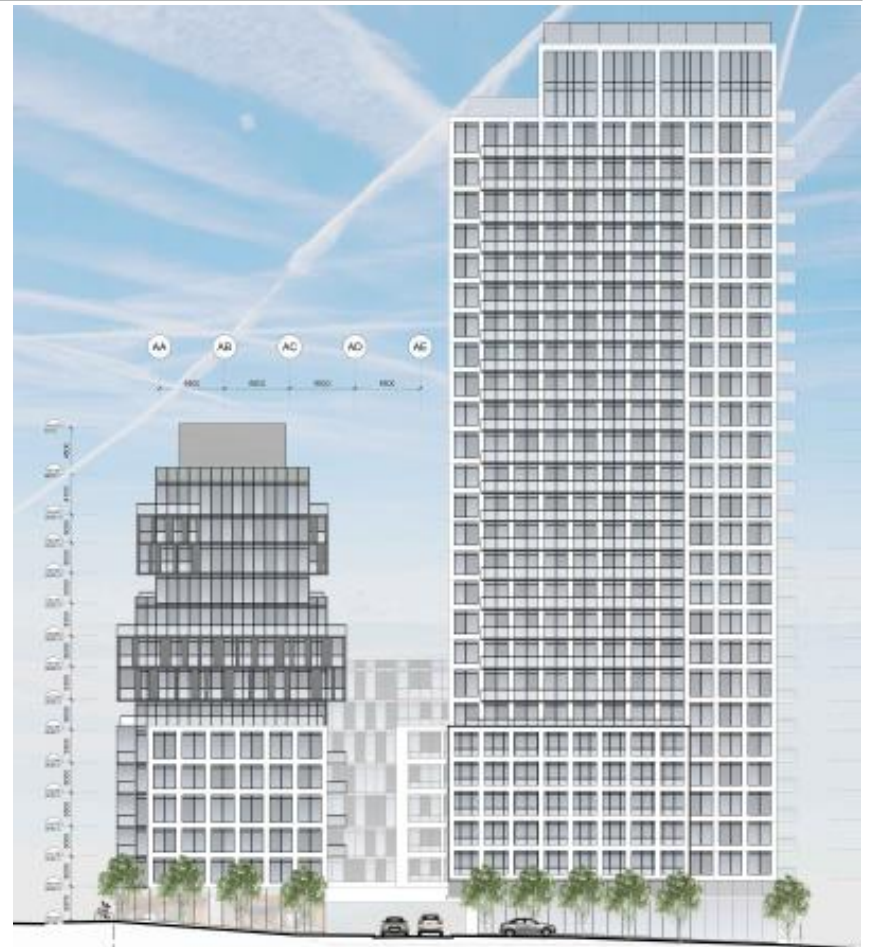
FOREST AVE.



# Height Transition



**John Street South**



**Forest Avenue**

# Height Transition



# Planning Applications

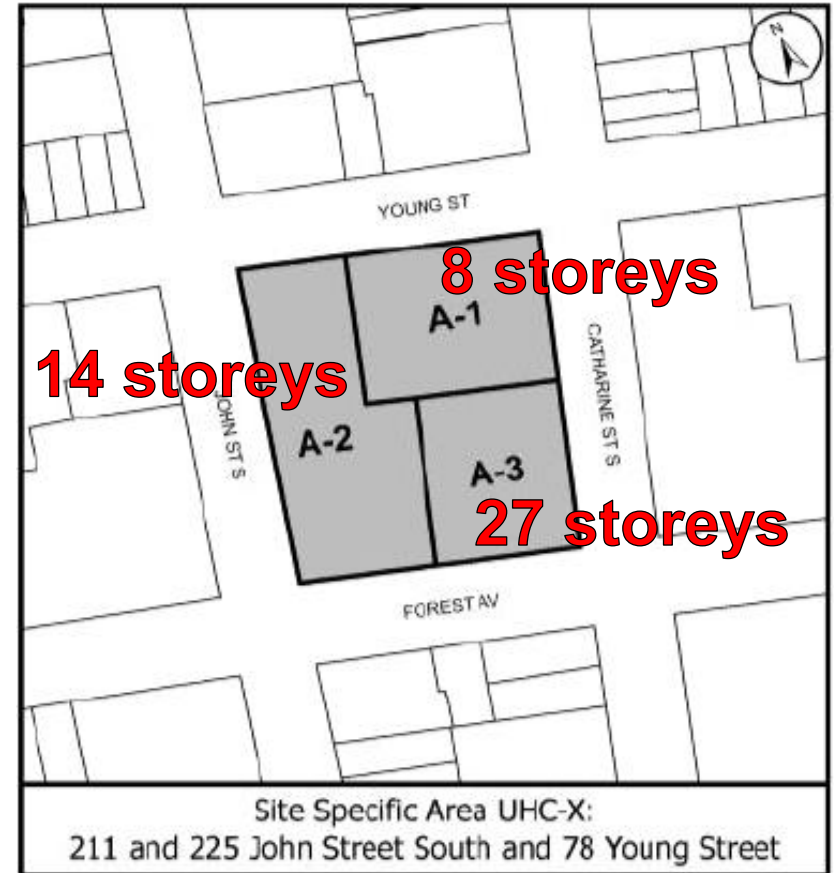
## Official Plan Amendment

### Current Designation:

Mixed Use Medium Density

### Proposed Designation:

Mixed use Medium Density with a Site-Specific Policy to permit the development of a 27-multiple dwelling (apartment building) and a 14-storey mixed use building attached to an 8-storey residential apartment building



# Planning Applications

## Zoning By-law 05-200

Rezone site from the Mixed Use medium Density (C5) Zone to a modified, holding Mixed Use Medium Density (C5, 739, H118) zone.

### Requested modifications:

- Provide a new definition for “grade”
- Permit a reduced parking ratio
- Require long term bike parking on site
- Permit a reduced finished floor elevation of 0.6m below grade
- Permit reduced setbacks from Young, Catharine and John Streets
- Permit an increase in maximum building height
- Permit an increase in the total GFA for rooftop amenity areas



# Completed Studies and Reports

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## Comprehensive reports completed and submitted to City staff

### Engineering

- Functional Servicing and Stormwater Management Report
- Record of Site Condition – Phase 1 & 2

### Transportation

- Transportation Impact Study, Parking Justification and TDM Options Report

### Impact

### Assessments

- Noise Impact and Vibration Study
- Sun Shadow Impact Study
- Pedestrian Wind Impact Study
- Right of Way Impact Assessment
- Cultural Heritage Impact Assessment
- Urban Design Brief and Visual Impact Assessment

### Design and Planning

- Planning Justification Report
- Preliminary Landscape Plan

# Shadow Impacts

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## Overview

1. The proposed shadows allow public sidewalks on Forest Avenue, John Street South, and Catharine Street South to receive at least 3 hours of sunlight.
2. The 3-hour criteria is not met for Young Street due to its location to the north of the site.
3. A minimum 50% sun coverage is achieved at all times on Shamrock Park. Shadows do not encroach on Corktown Park, or any school yards or playgrounds.
4. The proposed shadows do not extend to any of the five identified civic gathering places.

# Parking Justification

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## Overview

- 462 parking spaces proposed (0.6/unit)
- Carshare spaces will be provided on site
- Development will promote cycling with long- and short- term bike parking spaces
- Development will promote the use of active transportation

# Planning Analysis

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## *2020 Provincial Policy Statement*

## *2020 Growth Plan for the Greater Golden Horseshoe*

## *Urban Hamilton Official Plan*

- ✓ Underutilized site along minor arterial road
- ✓ Compact, transit-supportive form and density
- ✓ Diversification of the housing stock
- ✓ Improvement to public realm and pedestrian experience
- ✓ Unbundled parking supply, and secure bicycle storage
- ✓ Shadow impacts mitigated through reduced building height and setbacks
- ✓ Addition to Hamilton skyline aesthetic



# Questions?

From: Donna Portree  
 Subject: the latest go at building the Corktown Plaza

Message Body:

I have just received a new application by the GSP Group c/o Brenda Khes for the Corktown Plaza - I am NOT impressed- 3 towers cutting off the space between my apartment on 57 Forest that facing the Plaza & the apartment on Catherine S We both will be looking into someone's apartment - the noise, dust & finished product will hold heat will impact the environment The Hasty Market is a "small grocery story/variety store" that services the area as does the laudromat & the walk in clinic - all will be gone It doesn't "fit" the neighbourhood I would rather a small rise town house like the one built across the road beside the lawyer's office or the other 2 low rise buildings in the area - we certainly do not need any more towers Where I am facing this monster I will never see a sunrise or moon rise again I will live in a shadow - at best I can look down John Street I am nearly 80 & cannot afford to move Can this be fought - I feel strongly it is not an asset to the character of Corktown...aye yours, Donna G Portree

**From:** DONNA PORTREE  
**Date:** February 2, 2021 at 8:18:05 AM EST  
**To:** "Farr, Jason" <[Jason.Farr@hamilton.ca](mailto:Jason.Farr@hamilton.ca)>  
**Subject:** Fwd: Website contact

Hi Jay,

I'm not sure this actually went to them I have cogeco's e-mil & sometimes it gets selective & sometimes will not work SO you have my permission to forward this along with the comments I am about to make to the City Clerk so that my voice is heard.

My daughter will also be sending her comments on this. I object to the size of the proposed changes to Corktown because although there is an apartment on Catherine St S. managed by Effort Trust just behind the Corktown Plaza I cannot see into the apartment & I can still see the lovely view I have of the City from my window & balcony because my apartment faces the Plaza I can see fireworks when they are set off on Victoria Day & Canada day, I can see the sun and the moon rise I will no longer be able to see that What I mostly likely will see is into a window of apartments too close for comfort I will feel like I am in an over stuffed closet.

I am a senior & live on a fixed income Due to rising rents I cannot afford to move. I love the Corktown area of Hamilton & feel strongly that what is planned will impact negatively on the area. The once empty lot on Young St - the southeast corner was built up into a small condo complex as was the case on Augusta & the New York style complex at Young & Walnut

My apartment complex was recently bought by Starlight & they have invested a lot of money into upgrades to the 4 buildings that are already here - for anyone currently renting or for future renters on the east side like me will find their view very limited to a giant wall of brick with a crap view as will current renters in the lovely condos on Young & the apartments that will face the block that is the Corktown Plaza.

The Hasty Market there has fresh produce & is more like a mini grocery store than other variety stores & services many in the area- we will have lost that

For many finding a doctor is hard and the walk in clinic is easily accessible for anyone with mobility issues - we will have lost that

Re climate change - tall buildings inhibit air flow thus increasing the heat held in cities, birds often die by flying into windows Once you had a great view of the west harbour of our City from

the Jolly Cut- now all you see is giant eye sores - indeed much of what was a great view across the City out to the harbour toward Toronto is now obscured.

We have a huge problem with homelessness & increased rents make it almost impossible for people born & raised in this City to be able to live here - I note that in the letter I received there was NO mention of any affordable housing- it seems that some developer will come in- develop and just add to the problems of homelessness.

The other aspect of this is Covid 19- the financial cost of this pandemic is HUGE and not fully experienced We could well be heading for a Depression I think the size of the project needs to be revised - smaller so that it "fits" better with the neighbourhood & should include affordable units and "local business" type to enhance the sense of community instead of what seems to be a development of Hamilton as a "bedroom community" We had a vibrant City with lots of local places to shop like Eaton's Robinson, The Right House - we had places to eat like The Honey Dew, The Chicken Roost - now we have big bog stores, scores of homeless - many tall buildings I do not wish to be up close and personal with yet another...thanks you Donna G Portree

**From:** Andrew Selbo  
**Sent:** February 9, 2021 12:15 PM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
**Subject:** UHOPA-18-17 and ZAC-18-041 - Notice for Planning and Zoning Amendments in respect of Lands Located at 221-225 John Street South and 70-78 Young Street

Dear Sir/Madam

Further to our email below wish to clarify the following.

Whilst we acknowledge that the size, structure and layout of the proposed development has changed since the initial proposals contained in the City's letter dated August 24, 2018, and it is welcomed that there will now only be one tower block of a lesser height, point 4 of our comments and reservations set out in our email to Mark Kehler dated September 14, 2018 are still relevant in that consideration should continue to be given to ensuring that the proposed changes will not constitute over development and spoil the openness and character of the area.

As previously stated, we welcome the rejuvenation and improvement to the area which the proposed development will hopefully bring about, but it is also important that a balance is achieved so far as possible between this and the concerns and reservations which we and others may have.

Thank you.

Andrew Selbo

**From:** Andrew Selbo  
**Sent:** February 9, 2021 11:08 AM  
**To:** [clerk@hamilton.ca](mailto:clerk@hamilton.ca)  
**Subject:** UHOPA-18-17 and ZAC-18-041 - Notice for Planning and Zoning Amendments in respect of Lands Located at 221-225 John Street South and 70-78 Young Street

Dear Sir/Madam

We refer to your Notice dated January 29, 2021 in connection with the above matter.

When we previously wrote to Mark Kehler in September 2018 regarding the planning and zoning proposals ( please see below ), we set out our comments and reservations which are still relevant in so far as the latest proposed planning and zoning by-law amendments are concerned. We request that these again be considered and noted accordingly.

Whilst we have no objection to our written comments and/or opinions being made available, we would ask that our personal details be respected and kept private so far possible - particularly in the event such comments and/or opinions will be published on the City's website.

Thank you.

Yours truly

Andrew Selbo

**From:** Kehler, Mark [<mailto:Mark.Kehler@hamilton.ca>]

**Sent:** September 14, 2018 4:04 PM

**To:** Andrew Selbo

**Subject:** RE: UHOPA-18-17 and ZAC-18-041 - Notice for Planning and Zoning Amendments in respect of Lands Located at 221-225 John Street South and 70-78 Young Street

Dear Mr. Selbo:

Thank you for your comments.

Your input will be considered by staff and incorporated into a future staff report provided to Planning Committee. Once the report has been finalized and a date has been scheduled for the public meeting / Planning Committee, you will be notified.

If you have any further questions or comments about this application, please let me know.

**Mark Kehler**

Planner II

Development Planning, Heritage and Design, Urban Team

Planning Division

Planning and Economic Development Department

City of Hamilton

71 Main Street West, 5th floor

Hamilton, ON

L8P 4Y5

t. 905.546.2424 ext. 4148

f. 905.546.4202

e. [mark.kehler@hamilton.ca](mailto:mark.kehler@hamilton.ca)

**From:** Andrew Selbo [

**Sent:** September-14-18 3:01 PM

**To:** Kehler, Mark

**Subject:** UHOPA-18-17 and ZAC-18-041 - Notice for Planning and Zoning Amendments in respect of Lands Located at 221-225 John Street South and 70-78 Young Street

Dear Mr Kehler

We are in receipt of your letter dated August 24, 2018 concerning the above matter.

Whilst we welcome the rejuvenation and improvement to the area which the development will hopefully bring about, we have the following comments, concerns and/or reservations:

- (1) The excessive noise levels that inevitably follows such demolition and building work. Our Law Firm is in close proximity to the proposed development.
- (2) That vehicle accessibility to our office will not be affected or disrupted whilst the demolition and building works are being carried out.
- (3) That the proposed rezoning to permit the construction of mixed use commercial/residential development in the terms outlined will not significantly cause an increase in car traffic in an already busy and congested area.
- (4) That the proposed erection of two 34 storey tower buildings above a multi-storey podium may be overbearing and will spoil the current character and openness of the area.
- (5) Should the above development coincide with the proposed development of lands located at 299 – 307 John Street South and 97 St. Joseph’s Drive, Hamilton ( Ward 2 ) under Planning File UHOPA-18-04; ZAC-18-009 that this could cause major disruption to the owners/occupiers of surrounding properties for the reasons given above.

We trust that the above concerns will be taken into account and that appropriate safeguards and measures will be put in place to minimize any inconvenience to others who live or work in businesses nearby. Subject to this, we believe that the development will otherwise make a positive contribution to the uplift of the area.

Whist we have no objection to our written comments being available to the general public and appearing on the City’s website, we request that our personal details be removed and remain **strictly private and confidential**.

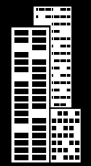
Please acknowledge receipt.

Yours truly

Andrew Selbo

# CORKTOWN PLAZA:

COMPARING THE NEW AND OLD PROPOSAL

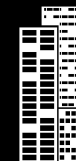


# THE UPDATED PROPOSAL



Not as good as the original, but still:

- represents a much better use of land than the existing strip mall;
- takes advantage of excellent transit connectivity;
- fits within the existing and future built context; and
- represents a major increase in downtown dwellings.



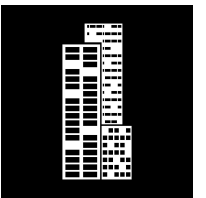


# THE PREVIOUS PROPOSAL



Represented a better, more well-rounded proposal, with:

- two point towers of 31 and 34 storeys, above an attractive podium;
- 792 brand new rental units;
- 351 residential parking stalls; and
- 2,157 m<sup>2</sup> of retail space, which would have allowed for a much-desired local grocery store.



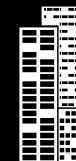
# HEIGHT DECREASE



## A SIMPLE PRINCIPLE:

*When you're modifying any single aspect of a building, you CANNOT expect it to be modified in isolation.*

In the case of this proposal, this principle applies to the change in height causing numerous knock-on effects.

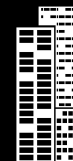


# MASSING DOWNGRADE



- Northwest tower replaced by a 14-storey slab building running along John Street.
  - More imposing, less elegant, and more jumbled than the tower.
- Southeast tower floorplate has grown from 808 m<sup>2</sup> to 1,081 m<sup>2</sup>.
  - Appears heftier, more imposing, and stubbier than the previous plan.

**Is this really an improvement over the previous plan?**



# MASSING & 'BREATHING ROOM'



- Units facing west in the tower up to the 14th storey face into the slab, and units in the southern half of the slab which face north face into the tower.
- Inwardly-focused nature results in limited separation distances, as low as 12 metres between the tower and the slab.

**Is this really an improvement over the previous plan?**



# MASSING: JOHN STREET



- Overall design much less cohesive.
- Streetscape much more sterile and plain.
- Tower sensitive to avoiding an overimposing feeling replaced by a large, dark slab.

**Is this really an improvement over the previous plan?**



# FEWER UNITS, SMALLER UNITS

**792** → **769**

TOTAL UNITS

**22** → **328**

UNITS <50 m<sup>2</sup>

**770** → **441**

UNITS >50 m<sup>2</sup>

Thanks to the height decrease and resulting changes in buildable area:

- Overall unit count has fallen slightly.
- Units under 50 m<sup>2</sup> in size has gone up nearly 1500%.
- Units over 50 m<sup>2</sup> have dropped by over 40%.

**Is this really an improvement over the previous plan?**



# INCREASE IN PARKING

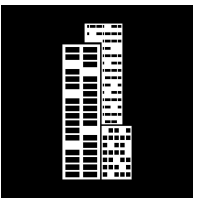
**355** → **462**

RESIDENTIAL PARKING SPACES

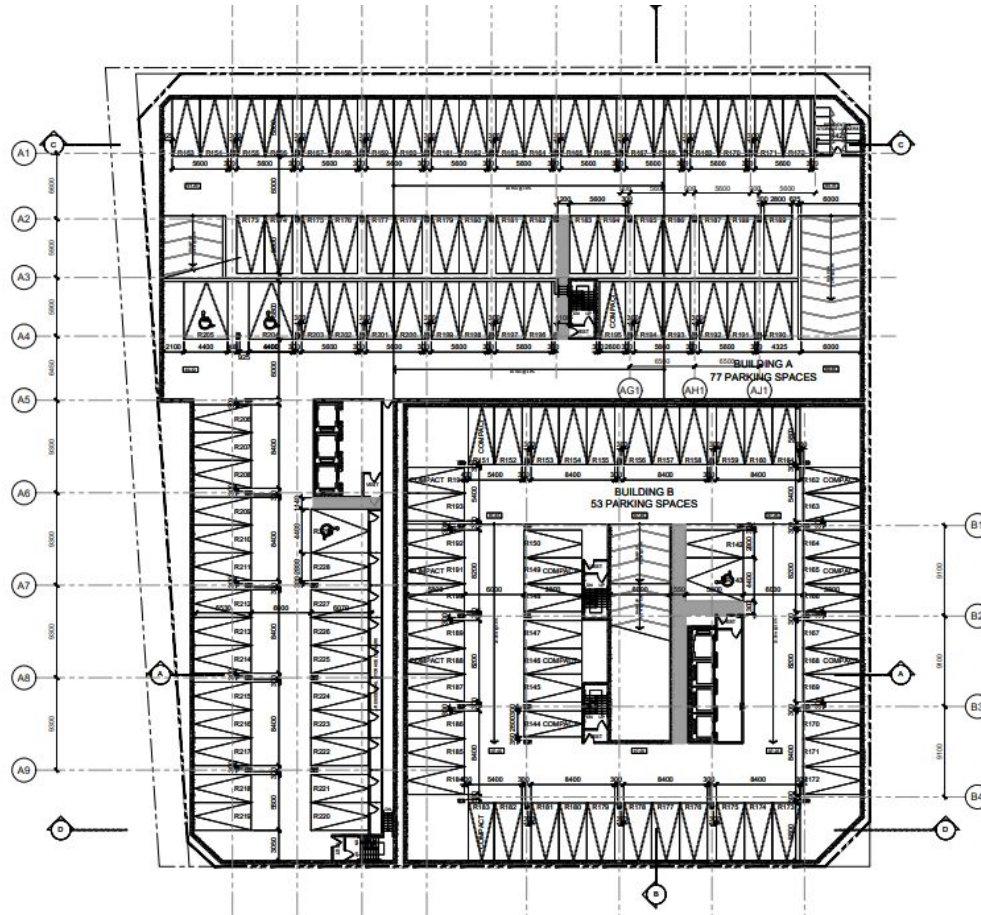
**107**

SPOT INCREASE

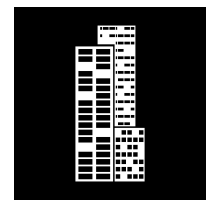
- Future success of the downtown counts on pedestrian friendliness, not vehicular friendliness.
- Current state of the downtown would be not be well served by increasing vehicle traffic.
- The site is supported very well by existing transit.
- Increased parking is counter to the success of the downtown.
- Increased parking is also counter to climate change goals.



# THE COST OF PARKING



- Construction costs for a single parking space is in the 10's of thousands.
- Underground parking is the most expensive type to build.
- The end user ends up paying this cost, whether they use the spots or not.
- Research has found that the cost of parking adds hundreds of dollars to monthly rent, above any fee.



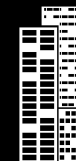


# THE WIDENING OF JOHN STREET



- John Street is already wide enough.
- The ability to go through with a road widening is questionable.
- If it were possible, it wouldn't be desirable.

**Is this really an improvement over the previous plan?**

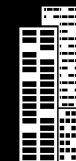


# RETAIL SLASHED



- Previously proposed total of 2,100 m<sup>2</sup> of space, now total of 930 m<sup>2</sup> of space.
- Largest space in previous proposal was nearly 1,500 m<sup>2</sup>, the new largest space is just 510 m<sup>2</sup>.
- Podium change from east-west to north-south now precludes a grocery store-size space & layout.

**Is this really an improvement over the previous plan?**

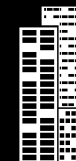


# IN SUM: IMPROVED?



- This is still a good, above-average development proposal for Hamilton.
- It is not, however, improved from the original proposal. It is simply not as good as it was.

**ASK YOURSELF:** are the things we're pushing for, as the City, making projects better or worse?



23  
HAMILTON'S  
CORK T

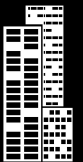
**THANK YOU**

EAT HONEST

*Eatwell*

EAT WELL

I:DA





**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 2, 2021
<b>SUBJECT/REPORT NO:</b>	Application for a Zoning By-law Amendment for lands located at 130 Wellington Street South, Hamilton (PED21024) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Sean Stewart (905) 546-2424 Ext. 7163
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

- a) That **Zoning By-law Amendment Application ZAR-18-057 by 130 Wellington Investments Inc., Owner**, for a change in zoning from the “D” (Urban Protected Residential, One and Two Family Dwellings, etc.) District, to “D/S -1806 - ‘H’” (Urban Protected Residential, One and Two Family Dwellings, etc.) District, Modified, Holding, to permit six dwelling units within the existing building and four parking spaces, for lands located at 130 Wellington Street South, Hamilton, as shown on Appendix “A” to Report PED21024, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED21024, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law attached as Appendix “B” to Report PED21024, be added to District Map No. E5 of Zoning By-law No. 6593;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application for Zoning By-law Amendment for Lands Located at 130 Wellington Street South, Hamilton (PED21024) (Ward 2) - Page 2 of 19**

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- (iii) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol 'H' as a suffix to the proposed zoning. The Holding Provision "D/S -1806 - 'H'" (Urban Protected Residential, One and Two Family Dwellings, etc.) District, Holding, Modified, be removed conditional upon:
- 1) That the Owner apply for a Building Permit to legalize a multiple dwelling with a maximum of six units, to the satisfaction of the Chief Building Official, Building Division.
  - 2) That the Owner implements the recommendations of the Noise Impact Study, dated December 7, 2018 in the application for Building Permit, to the satisfaction of the Chief Building Official, Building Division.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow Plan: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and complies with the policies and intent of the Urban Hamilton Official Plan.
- b) That upon finalization of the amending By-law, the subject lands be re-designated from "Single & Double" to "Medium Density Apartments" in the Corktown Neighbourhood Plan.

## **EXECUTIVE SUMMARY**

The subject property is municipally known as 130 Wellington Street South, Hamilton. The owner has applied for an amendment to the former City of Hamilton Zoning By-law No. 6593 to legally recognize the illegal conversion of a lodging house with six lodgers to a multiple dwelling. The property has four parking spaces.

The proposed Zoning By-law Amendment is for a further modification to the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to permit a six unit multiple dwelling, address existing building setbacks, and parking deficiencies. A Holding Provision has been added by staff to ensure that the owner applies for a Building Permit and the noise study recommendations are implemented.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,

**SUBJECT: Application for Zoning By-law Amendment for Lands Located at 130 Wellington Street South, Hamilton (PED21024) (Ward 2) - Page 3 of 19**

- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing additional rental housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

**Alternatives for Consideration – See Page 18**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner:	130 Wellington Investments Inc.
Applicant:	MB1 Development Consulting Inc. c/o Michael Barton
File Number:	ZAR-18-057
Type of Application:	Zoning By-law Amendment
Proposal:	To legally recognize the illegal conversion to a six unit multiple dwelling within the single detached dwelling with four parking spaces.  The original application did not contain any parking spaces. The applicant has revised the application to include four parking spaces in the rear yard.
<b>Property Details</b>	
Municipal Address:	130 Wellington Street South, Hamilton

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Lot Area:	631.3 square metres (.0613 hectares)
Servicing:	Existing full municipal services.
Existing Use:	Lodging house with six lodgers.
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods Designation.
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	"D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District.
Zoning Proposed:	"D/S-1806 - 'H'" (Urban Protected Residential - One and Two Family Dwellings, etc.) District, Modified, Holding.
Modifications Proposed:	<ul style="list-style-type: none"> <li>• Permit multiple dwelling;</li> <li>• Recognize existing front yard depth of 5.28 metres, whereas 6.0 metres required;</li> <li>• Recognize existing side yard depth of 0.44 metres (north side) and 0.64 metres (south side), whereas 1.2m is required;</li> <li>• Recognize existing lot width of 9.75 metres, whereas 12.0 metres is required;</li> <li>• Recognize existing encroachments into yards;</li> <li>• Reduce required parking ratio from 0.8 (5 spaces) to 0.66 (4 spaces) per Class A dwelling unit;</li> <li>• Eliminate required visitor parking space (1 space required);</li> <li>• Eliminate required loading space and loading manoeuvring space;</li> </ul>

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	<ul style="list-style-type: none"> <li>• Eliminate requirement that loading, parking and manoeuvring be located only on the lot where the principle dwelling is located;</li> <li>• Modify requirement to have access to roadway from parking area and to utilize existing right-of-way;</li> <li>• Allow access driveway to be located 0.0 metres from the common boundary between the “D” (Urban Protected Residential – One and Two Family Dwellings, etc) District in which the multiple dwelling is located and the district which does not permit such uses, whereas 3.0 metres is required;</li> <li>• Permit the passage of vehicles from the subject property to the roadway whereas the zone does not permit vehicles travelling from a property zoned for multiple dwellings to pass through an area not zoned (“D” District) for multiple dwellings;</li> <li>• Permit a non-paved (gravel) parking surface, whereas a paved surface is required; and,</li> <li>• Eliminate requirement for commercial motor vehicles to move readily between the loading spaces and an access driveway.</li> </ul>
<b>Processing Details</b>	
Application Received:	November 7, 2018
Deemed Incomplete:	December 6, 2018
Deemed Complete:	December 24, 2018
Notice of Complete Application:	Sent to 448 addresses within 120 metres of the subject property on January 8, 2019.
Public Notice Sign:	Sign posted: January 14, 2019 Sign updated: January 6, 2021
Notice of Public Meeting:	Sent to 140 property owners within 120 metres of the subject property on January 15, 2021.
Public Consultation:	The applicant’s planning consultant hand delivered a public information letter to 95 properties within 120 metres of the subject lands on September 23, 2020.

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Public Comments:	None received.
Processing Time:	794 days.

**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	Six unit lodging house	“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District

**Surrounding Land Uses:**

<b>North</b>	Single detached dwellings	“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District
<b>East</b>	Single detached dwellings	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District
<b>South</b>	Two, eight storey multiple dwellings	“E/S - 192” (Multiple Dwellings Lodges, Clubs, etc.) District, Modified
<b>West</b>	Single detached dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Planning Policy Framework**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the PPS. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy

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framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use and balanced growth) are reviewed and discussed in the Official Plan analysis that follows.

### Cultural Heritage and Archaeology

Staff note the Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS. The following policies of the PPS also applies:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

The existing dwelling is believed to be constructed circa 1895 and is included on the City’s Inventory of Buildings of Architectural and/or Historical Interest. The proposal does not impact the exterior of the building and will conserve the heritage resource as no exterior modifications are proposed. Staff are of the opinion that the proposed development is consistent with the PPS.

As the application for a change in zoning complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the Provincial Policy Statement (PPS) (2020); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

### Urban Hamilton Official Plan

The subject property is identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” - Urban Land Use Designations in the UHOP. The following policies, amongst others, apply to the proposal.

#### Neighbourhoods

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“E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, including affordable housing and housing with supports.

E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.”

#### Neighbourhoods Designation

“E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

a) residential dwellings, including second dwelling units and housing with supports.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

E.3.3.1 Lower density residential uses and building forms shall generally be located in the interiors of neighbourhood areas with higher density dwelling forms and supporting uses located on the periphery of neighbourhoods on or in close proximity to major or minor arterial roads.

E.3.3.2 Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area.”

#### Medium Density Residential

“E.3.5.1 Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads.

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- E.3.5.2 Uses permitted in medium density residential areas include multiple dwellings except street townhouses.
- E.3.5.5 Medium density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities, public transit, schools, active or passive recreational facilities, and local or District Commercial uses.
- E.3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare.
- E.3.5.9 Development within the medium density residential category shall be evaluated on the basis of the following criteria:
- a) Developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial roads from a local road only if a small number of low density residential dwellings are located on that portion of the local road.
  - b) Development shall be integrated with other lands in the Neighbourhoods designation with respect to density, design, and physical and functional considerations.
  - c) Development shall be comprised of sites of suitable size and provide adequate landscaping, amenity features, on-site parking, and buffering if required. The height, massing, and arrangement of buildings and structures shall be compatible with existing and future uses in the surrounding area.
  - d) Access to the property shall be designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.”

The proposed multiple dwelling is contemplated by Policies E.3.2.3 and E.3.5.2. In accordance with Policy E.2.6.4, the proposal adds to the provision of a full range of housing types and tenure in the Neighbourhoods designation by providing additional housing opportunities. The proposal is compatible with, and will maintain the existing character and function of the neighbourhood, and there is no conflict with the transition to the abutting low density residential properties to the north, as the existing building will remain and no exterior alterations to the existing building are proposed (Policies E.2.6.7, E.3.2.4, E.3.3.2 and E.3.5.9 b)).

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The proposed multiple dwelling has a net residential density of 98 units per hectare. This is within the density range for medium density residential uses (Policy E.3.5.7). In accordance with Policy E.3.3.1, the subject lands are located on Wellington Street South which is identified as a major arterial road on Schedule C – Functional Road Classification of the UHOP. The subject property is located just south of the Hunter Street East and Wellington Street South intersection and is located at the “T” intersection where Stinson Street (a collector road) meets Wellington Street South (Policy E.3.5.1 and E.3.5.9 a)). The subject property is within proximity to Corktown Park and Carter Park. Further, it is located on HSR bus route 5, is within 400 metres of a frequently serviced transit corridor (Main Street East) and is 900 metres from the Hunter Street GO Station (Policy E.3.5.5).

The proposal is integrated with the surrounding neighbourhood with respect to density, design, physical and functional considerations. The neighbourhood has properties with densities ranging from low to high. As no physical changes are proposed to the existing building, form and massing remain consistent with the neighbouring properties to the north and east.

The applicant is seeking a reduction in required parking spaces from six spaces to four spaces. The reduction is for one required visitor parking space and one required resident space. Staff are of the opinion that this reduction can be supported as the property is directly located on HSR bus route 5, is within 400 metres of a frequently serviced transit corridor (Main Street East), within 900 metres of the Hunter Street GO Station, is located on a signed on-street bicycle route which leads to designated bike lanes on Hunter Street East and Ferguson Avenue South, and is within walking distance of downtown Hamilton employment opportunities (E.3.5.9 c)). While street parking is available in the neighbourhood, it should be noted that if permit parking was instituted, the residents of the proposed multiple dwelling would not be eligible to obtain street parking permits as more than three units are proposed.

The property offers residents amenity space in the form of two front verandas and rear patio space. The property is adequately landscaped and includes a mature tree in the front yard. The rear yard consists of patio space, a garage, and parking area. As the parking will remain as currently used and given the low number of vehicles using the space, no additional buffering methods are proposed. Access to the property minimizes conflict between traffic and pedestrians. Pedestrians can access the property from the front sidewalk along Wellington Street South, while vehicles can park on Wellington Street South or access the rear parking area via an existing right of way access over the rear lots of 128 and 126 Wellington Street South and 1 Ford Street, which leads to a City alley running between Wellington Street South and Ford Street (Policy E.3.5.9 c) and d)).

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Residential Intensification

“B.2.4.1.1 Residential intensification shall be encouraged throughout the entire built-up area, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g), as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;

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- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts.”

This proposal represents a form of intensification within the existing neighbourhood. As there is no external construction proposed, there will not be a change to the existing character of the neighbourhood in terms of built form. The neighbourhood has a variety of housing types, ranging from single detached dwellings, to multiple dwellings, occurring in many different scales and forms. There will be no change to the existing character of the neighbourhood as a result of this proposal. In addition, the proposal builds on the existing housing options in the area through the inclusion of additional rental units (Policy B.2.4.1.4 b) c) and d)).

The subject property is serviced by municipal sewer and water infrastructure and can adequately service the proposed development. The existing road network can accommodate the minimal increase in vehicular traffic. Additionally, the subject property is situated on an HSR bus route and is in proximity to other local and regional transit options and designated bike routes (Policy B.2.4.1.4 f) and B.2.4.2.2 j)).

In addition to Policy B.2.4.1.4, Policy B.2.4.2.2 must be evaluated when considering an application for residential intensification in the Neighbourhoods designation. In terms of compatibility with adjacent land uses, the proposal is compatible with adjacent land uses. As no new construction is proposed, there will be no impacts on shadowing and overlook, and no new exterior lighting is proposed. A noise study was commissioned by the applicants which identified that the main source of noise was from vehicular traffic on Wellington Street South with secondary sources from Young Street and the CP/Metrolinx railway line to the south of the subject lands. The study recommended warning clauses pertaining to noise be included on rental agreements and that the



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owner incorporate forced air ducts for central air-conditioning in addition to ensuring double glazed windows meet the requirements of the Ontario Building Code. A memo has been sent to the Building Division advising them of the requirements for final building plans and approval (Policy B.2.4.2.2 b)). A Holding Provision has been included which will ensure that a Building Permit is applied for and that the noise study recommendations are implemented.

The rear of the property is currently used informally for parking. The proposed parking will add one additional parking space to the property which will have a minimal effect on traffic in the right-of-way easement and alley. The right-of-way is a historic agreement between the property owners of 130, 128 and 126 Wellington Street South and 1 Ford Street which allows for free and uninterrupted pedestrian and vehicular access through and over the rear portions of the properties to access the City alley running between Ford Street and Wellington Street South (Policy B.2.4.2.2 b)).

The proposal is compatible with adjacent land uses and lot patterns in terms of height, massing and lot configuration. The existing building is two and a half storeys in height and is beside two, eight storey multiple dwellings and a two and a half storey dwelling. The proposed density offers a transition from the high density multiple dwelling to the lower density residential uses to the north of the property (Policy B.2.4.2.2 c), d), and e)).

The property offers residents amenity space in the front yard with two verandas. There is also private amenity space in the rear of the property with a patio space at ground level. The provision of amenity space at the front and rear of the property is consistent with the character of the neighbourhood where many dwellings have front porches and private rear yard amenity space. The proposal also maintains the existing streetscape patterns including building separations and setbacks (Policy B.2.4.2.2 f) and g)).

With the provision of additional rental units, this proposal will complement the existing functions of the neighbourhood. The additional units will provide additional housing opportunity for residents, in proximity to downtown Hamilton employment opportunities. Additional residents will also help to support local businesses. Having additional housing opportunities in the neighbourhood is also transit supportive which benefits area residents (Policy B.2.4.2.2 h)).

The existing dwelling is believed to be constructed circa 1895 and is included on the City's Inventory of Buildings of Architectural and/or Historical Interest. The proposed intensification does not impact the exterior of the building and will conserve the heritage resource (Policy B.2.4.2.2 i)).

## Urban Design Policies

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- “B.3.3.2.2 The principles in Policies B.3.3.2.3 through B.3.3.2.10 inclusive, shall apply to all development and redevelopment, where applicable.
- B.3.3.2.3 Urban design should foster a sense of community pride and identity by:
- a) respecting existing character, development patterns, built form, and landscape;
  - b) promoting quality design consistent with the locale and surrounding environment;
  - c) recognizing and protecting the cultural history of the City and its communities;
  - f) demonstrating sensitivity toward community identity through an understanding of the character of a place, context and setting in both the public and private realm;
  - h) contributing to the character and ambiance of the community through appropriate design of streetscapes and amenity areas;
- B.3.3.2.8 Urban design should promote environmental sustainability by:
- c) encouraging on-site storm water management and infiltration through the use of techniques and technologies, including storm water management ponds, green roofs, and vegetated swales;”

The proposal respects the existing character of the neighbourhood by preserving the building and existing landscaping, with no proposal for any physical changes. The existing building is included on the City’s Inventory of Buildings of Architectural and/or Historical Interest and the internal conversion supports the importance of preserving the community’s identity and the existing character and streetscape (Policy B.3.3.2.3).

Through the intensification of an existing building and use of a permeable surface in the parking area, this proposal achieves a level of environmental sustainability through the use of existing building materials and allowing stormwater to permeate into the ground rather than contribute to the stormwater system (Policy B.3.3.2.8 c)).

Therefore, the proposal complies with the Urban Hamilton Official Plan.

Corktown Neighbourhood Plan

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The subject property is designated “Single and Double” within the Corktown Neighbourhood Plan. The “Single and Double” designation does not reflect the proposed multiple dwelling. Therefore, staff recommend the Neighbourhood Plan be amended to designate the lands “Medium Density Apartments” to reflect the proposal.

The policies of the Corktown Neighbourhood Plan contemplate infilling within the Neighbourhood Residential Area. Policies also direct housing heights in the eastern part of the neighbourhood to reflect the traditional low rise character.

The proposed multiple dwelling will be facilitated within the existing structure and will preserve the historic character of the existing building and neighbourhood overall. Therefore, the proposed amendment to the Corktown Neighbourhood Plan is appropriate and is supported by staff.

**City of Hamilton Zoning By-law No. 6593**

The subject property is currently zoned “D” (Urban Protected Residential, One and Two Family Dwellings, etc.) District. To implement the proposed development, the applicants have applied for a change in zoning to modify the existing “D” District.

The applicant has requested 16 site specific modifications to accommodate the proposal which are summarized on page 4 of Report PED21024. Some of the requested modifications recognize the existing building on the property, while the remaining modifications address parking and access matters. A detailed discussion of the merits of the proposed modifications is provided in the Zoning By-law Site Specific Modifications Table contained in Appendix “D” to Report PED21024.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
<b>Department</b>	<b>Comment</b>	<b>Staff Response</b>
Growth Planning Section, Planning and Economic Development Department	No comment	None
Forestry and Horticulture Section, Public	No comment	None

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Works Department		
Recycling and Waste Disposal Section, Public Works Department	<ul style="list-style-type: none"> <li>• The property is eligible for municipal collection service.</li> <li>• Property owner must contact the Environmental Service Division to request service.</li> </ul>	None
Transportation Planning Section, Planning and Economic Development Department	<ul style="list-style-type: none"> <li>• Support Zoning By-law amendment.</li> <li>• Minimal increase in vehicular traffic is expected and be accommodated by the current road network.</li> </ul>	None
Growth Management Division, Planning and Economic Development Department	<ul style="list-style-type: none"> <li>• No Right-of-Way dedication is required.</li> <li>• No objection to the Zoning By-law Amendment.</li> <li>• Existing municipal services can support the proposal.</li> <li>• No objection to the use of gravel for parking purposes.</li> <li>• It is the owner's responsibility to ensure that the existing private sewer and water services are able to support the proposed development. Required Servicing permits will be required if existing services are inadequate.</li> </ul>	None

## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 448 property owners within 120 metres of the subject property on January 8, 2019. A public notice sign was posted on the property on January 14, 2019 and updated on January 6, 2021. Notice of the Public Meeting was given on January 15, 2021 in accordance with the requirements of the *Planning Act*.

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### Public Consultation Strategy

The applicant's Public Consultation Strategy included hand delivering a public information letter to 95 properties within 120 metres on September 23, 2020. Letters were also provided to property managers of nearby multiple dwellings to post in common areas for residents' information. The letter included information about the proposal and provided the contact number of the planning consultant on file for residents to contact if they had questions.

To date, City staff have received two general inquiries and no written correspondence.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the PPS (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
  - (iii) It is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing additional rental housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
2. The application for Zoning By-law Amendment is for a further modification to the "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District.

The proposed zoning modification will permit a form of residential intensification within the built-up area. As there are no changes proposed to the building, there will be no change to the form and character of the area. The proposal will maintain adequate on-site parking in the rear of the property and provide amenity space for the residents in the front and rear yard. The proposal meets the medium density residential density requirements.

The proposed Zoning By-law Amendment meets the intent of the "Neighbourhoods" designation of the UHOP and the residential intensification policies, with some modifications required to recognize the existing built form. The modifications are identified on page 4 of Report PED21024 and discussed in detail in Appendix "D" to Report PED21024.

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Therefore, staff support the change in zoning.

3. Holding Provision

The existing building has been illegally converted to a six unit multiple dwelling without the necessary Building Permits. An 'H' Holding Provision is being proposed on the subject lands to ensure that a Building Permit is applied for to the satisfaction of the Chief Building Official, Building Division, thereby legally establishing the six unit multiple dwelling.

In addition, staff are placing an 'H' Holding Provision on the subject lands to ensure that the recommendations contained in the Noise Impact Study, dated December 7, 2018 are implemented to the satisfaction of the Chief Building Official, Building Division through the Building Permit application.

The Holding Provisions are included in Appendix "B" to Report PED21024.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property would remain zoned "D" (Urban Protected Residential – One and Two Family Dwellings, Etc) District, in the City of Hamilton Zoning By-law No. 6593. Furthermore, the applicant would be required to discontinue the use of the existing building as a six unit multiple dwelling.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

### **Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application for Zoning By-law Amendment for Lands Located at 130 Wellington Street South, Hamilton (PED21024) (Ward 2) - Page 19 of 19**

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**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

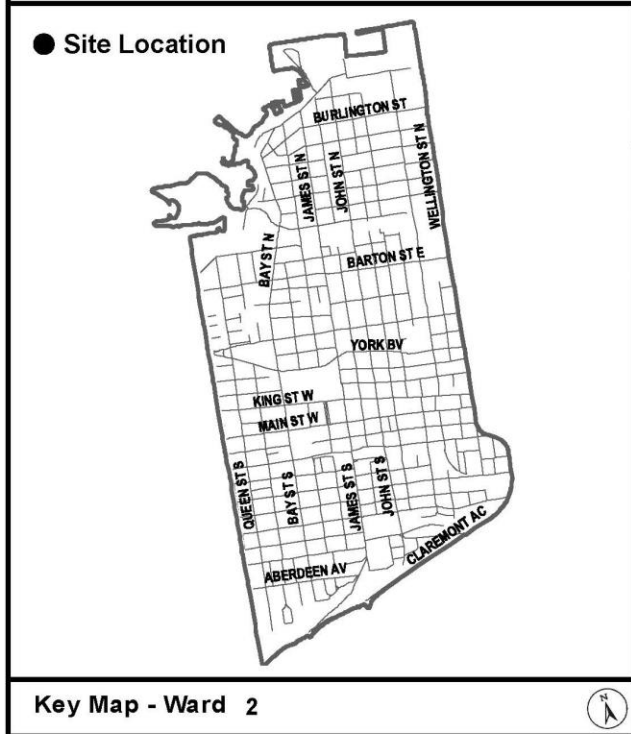
**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" - Location Map

Appendix "B" - Draft Amendment to Zoning By-Law No. 6593

Appendix "C" - Concept Plan

Appendix "D" - Zoning By-law Site Specific Modification – Chart



## Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-18-057

Date:  
November 26, 2020

Appendix "A"	Scale: N.T.S	Planner/Technician: SS/AL
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**Subject Property**

130 Wellington Street South

Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District to the "D/S-1806-'H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding



**Authority:** Item \_\_\_\_\_, Planning  
Committee Report  
CM:  
Ward: 2

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO. XXXX**

**To Amend Zoning By-Law No. 6593 (City of Hamilton)  
Respecting Lands Located at 130 Wellington Street South, Hamilton**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 6593 (Hamilton) was enacted on the 25<sup>th</sup> day of July 1950, which was approved by the Ontario Municipal Board by Order dated the 7<sup>th</sup> date of December 1951, (File. No. O.F.C. 3821);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item \_\_\_\_ of Report 21-\_\_\_\_ of the Planning Committee at its meeting held on the 2<sup>nd</sup> day of February 2021, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided; and,

**WHEREAS** this By-Law is in conformity with the Urban Hamilton Official Plan.

**NOW THEREFORE** the Municipal Council of the City of Hamilton enacts as follows:

1. That Sheet No. E5 of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended by changing the zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District to the “D/S-1806 - ‘H’” (Urban Protected Residential - One and Two Family Dwellings, etc.) District, Modified, Holding; the extent and boundaries of which are shown on a plan here to annexed as Schedule “A”.

2. That the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District provisions as contained in Section 10 of Zoning By-law No. 6593 applicable to the subject lands, be modified to include the following special requirements:
  - a) That in addition to Section 10 (1), a multiple dwelling with a maximum of six units shall be permitted within the building existing on the date of the passing of this By-law.
  - b) That notwithstanding Section 10 (3) (i), a front yard depth of 5.28 metres shall be permitted for the building existing on the date of the passing of this By-law.
  - c) That notwithstanding Section 10 (3) (ii), a side yard having a width of 0.44 metres on the north side of the building, and 0.64 metres on the south side of the building shall be permitted for the building existing on the date of passing of this By-law.
  - d) That notwithstanding Section 10 (4), a lot width of 9.75 metres and lot area of 631.0 square metres.
  - e) That notwithstanding Section 18 (3) (vi) (a), the encroachment of any chimney, sill, belt course, leader, pilaster, lintel or ornamental projections of the building existing on the date of the passing of this By-law shall be permitted.
  - f) That notwithstanding Section 18 (3) (vi) (b), the encroachment of any eaves or gutters of the building existing on the date of the passing of this By-law shall be permitted.
  - g) That notwithstanding Section 18A (1) (a) and Section 1 (g) of Table 1, the Minimum Parking Requirement for a Multiple Dwelling shall be 0.66 spaces per Class A Dwelling Unit.
  - h) Section 18A (1) (b) and Column 1 of Table 2, shall not apply.
  - i) Section 18A (1) (c) and Column 1 of Table 3, shall not apply.
  - j) Section 18A (9) shall not apply.
  - k) That notwithstanding Section 18A (23), the driveway access shall be provided via the existing right-of-way to the alleyway.

- l) Section 18A (25), shall not apply.
  - m) That notwithstanding Section 18A (28), lands in the adjacent "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, which does not permit multiple dwellings, shall be used for the purpose of vehicular access to the existing multiple dwelling on the lands shown on Schedule "A" by way of the right-of-way currently providing access to the rear yard of these lands from the alleyway and roadway.
  - n) That Notwithstanding Section 18A (30), a permanent surface that is graded, drained and paved with concrete or asphalt, or a combination of concrete and asphalt, or gravel or similar surface shall be provided and maintained for every parking area, maneuvering space and access driveway.
  - o) Section 18A (32) shall not apply.
  - p) Section 18A (33) shall not apply.
3. That the 'H' symbol applicable to the lands referred to in Section 1 shall be removed conditional upon:
- i. That the Owner apply for a Building Permit to legalize a multiple dwelling with a maximum of six units, to the satisfaction of the Chief Building Official, Building Division.
  - ii. That the Owner implements the recommendations of the Noise Impact Study, dated December 7, 2018 in the application for Building Permit, to the satisfaction of the Chief Building Official, Building Division.
4. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District provisions, subject to the special provisions referred to in Section 2.
5. That the Clerk is hereby authorized and directed to proceed with giving of notice of the passing of this By-Law in accordance with the *Planning Act*.

**PASSED** this xx day of xx, 2021.

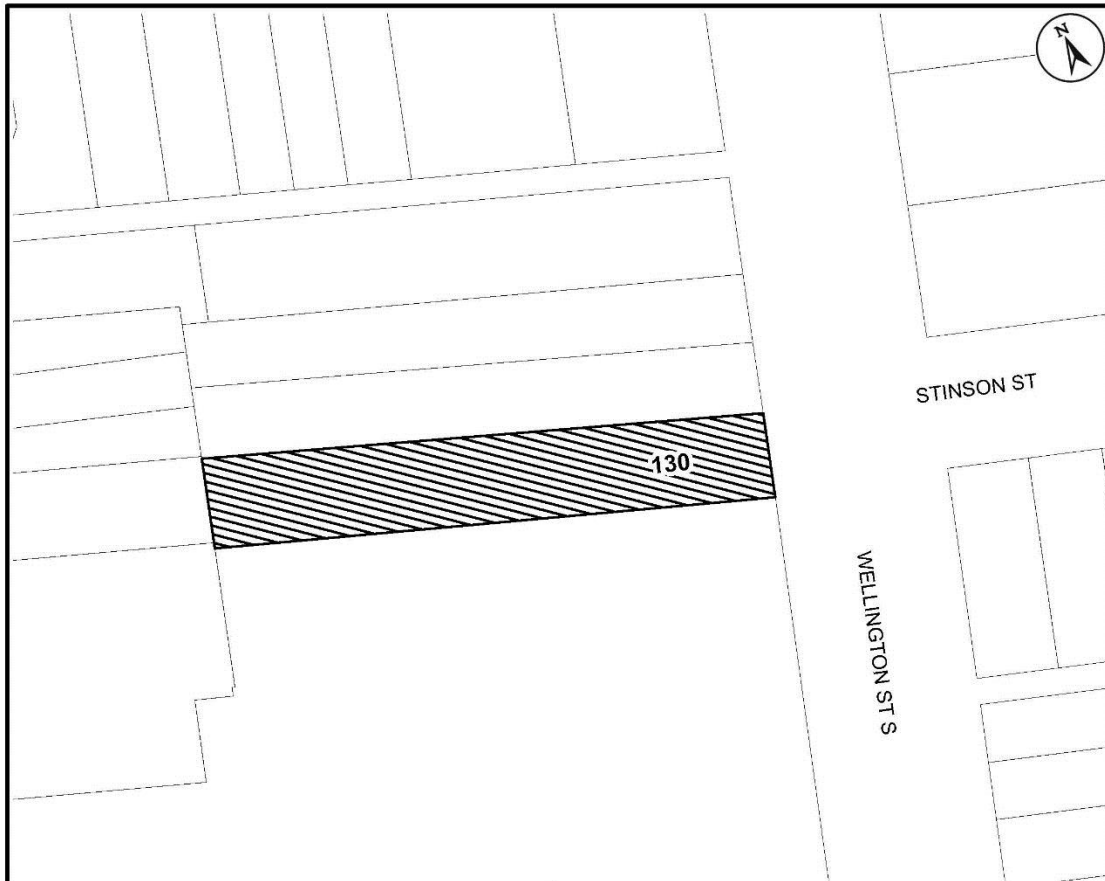
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F. Eisenberger  
Mayor

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A. Holland  
Clerk

ZAR-18-057



<p>This is Schedule "A" to By-law No. 21-</p> <p>Passed the ..... day of ....., 2021</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>
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<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;"><b>Map forming Part of By-law No. 21-_____</b></p> <p style="margin: 0 0 0 0;"><b>to Amend By-law No. 6593</b></p>	<p><b>Subject Property</b></p> <p>130 Wellington Street South</p> <p> Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District to the "D/S-1806-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding</p>
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<p><b>Scale:</b> N.T.S</p>	<p><b>File Name/Number:</b> ZAR-18-057</p>	
<p><b>Date:</b> November 26, 2020</p>	<p><b>Planner/Technician:</b> SS/AL</p>	
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>		



<u>Site Specific Modifications to the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District</u>			
<b>Regulation</b>	<b>Required</b>	<b>Modification</b>	<b>Analysis</b>
Section 10 (1) Requirements as to Use	Multiple dwellings not permitted use.	To permit a multiple dwelling with a maximum of six dwelling units within the building existing on the date of passing of the By-law.	<p>The proposed modification permits the proposed multiple dwelling but restricts the number of units to six. The modification will maintain the existing character of the neighbourhood and preserve a building of Cultural Heritage value, while limiting the overall density of the subject lands to a compatible scale.</p> <p>Therefore, the proposed modification can be supported.</p>
Section 10 (3) (i) Front Yard Depth	6.0 metres.	To permit a front yard depth of 5.28 metres for the building existing on the date of passing of the By-law.	<p>The proposed modification permits the reduction in front yard depth to recognize the existing condition. The modification will maintain the existing character of the neighbourhood as the existing setback is consistent with what is found in the neighbourhood.</p> <p>Therefore, the proposal can be supported.</p>

Regulation	Required	Modification	Analysis
Section 10 (3)(ii) Side Yard Width	1.2 metres.	To permit a side yard of 0.44 metres (north) and 0.64 metres (south) for the building existing on the date of passing of the By-law.	The proposed modification recognizes the existing condition of the dwelling. There are no changes proposed to the building and as such the proposed building will maintain the established building setbacks and character of the immediate neighbourhood.  Therefore, staff support this modification.
Section 10 (4) Lot Width and Lot Area	No requirement for multiple dwelling as the use is not permitted.	To permit a 9.75 metre lot width and 631.0 square metre lot area.	The proposed modification recognizes the existing lot width and area. As multiple dwellings are not a permitted use, there is not a specific regulation for the lot area. The proposed modification reflects the existing condition which is consistent with the neighbouring lands and also provides on-site parking and amenity space.  Therefore, staff support this modification.
Section 18 (3) (vi) (a) Encroachment of Projections	A chimney, sill, belt course, leader, pilaster, lintel or ornamental projection may project not more than 0.5 metres (1.64 feet) into a required side yard, and not more than 1.0 metre (3.28 feet) into any other required yard.	To recognize the chimney, sill, and ornamental projections of the building existing on the date of the passing of the By-law.	The proposed modification recognizes the existing chimney, sill, and ornamental projections for the existing building.  Therefore, staff support the modification.
Section 18 (3) (vi) (b)	Eaves and gutters may project into a required front	To recognize the eaves and gutters of	The proposed modification recognizes the existing eaves and gutters for the existing



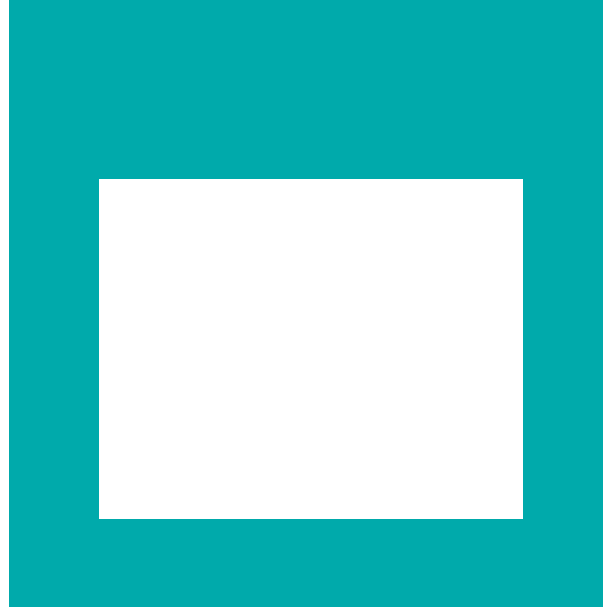
Regulation	Required	Modification	Analysis
Encroachment of Eaves and Gutters	<p>yard not more than 1.5 metres provided that no such projection shall be closer to a street line than 1.5 metres.</p> <p>May project into a required rear yard not more than 1.5 metres.</p> <p>May project into a required side yard not more than one-half of its width, or 1.0m whichever is the lesser.</p>	the building existing on the date of the passing of the By-law.	<p>building.</p> <p>Therefore, the proposed modification can be supported.</p>
Section 18A (1) (a) and (b) - Table 1 (g) Minimum Required Parking	Multiple dwelling requires 0.8 spaces per Class A dwelling unit (five parking spaces). The visitor parking requirement is 0.16 spaces per unit (one visitor parking space).	To permit a parking ration of 0.66 parking spaces per Class A dwelling unit (four parking spaces) and no visitor parking spaces.	The proposed modification permits the reduction of the amount of required parking spaces from six spaces to four spaces. The regulation seeks to ensure that there is sufficient parking for residents and visitors. The recognized use of six lodging units would have the same effect on parking as the proposed six unit multiple dwelling. There are opportunities in the neighbourhood for on-street parking for visitors, however street parking permits will not be available to residents. In addition, there are cycling routes in close proximity, with direct access to dedicated bike lanes as well as frequent and reliable public transit (bus and GO train) within walking distance of the property. The property is within walking and biking distance of downtown commercial services and employment opportunities which reduces the

Regulation	Required	Modification	Analysis
			<p>need for each resident to have access to on site parking spaces.</p> <p>Therefore, staff support this modification.</p>
Section 18A (1) (c) Minimum Required Loading Space for Multiple Dwellings	One loading space for multiple dwellings between five and thirty units.	Shall not apply.	<p>The proposed modification permits the elimination of a loading space requirement. The regulation seeks to ensure that there is an area to load and unload items such as furniture. The requirement for a loading space is one space for multiple dwellings between five and 30 units (zero below five units). The proposal contains six units (and is only marginally above the threshold requirement for a loading space), and there are opportunities in the rear parking area and street to load and unload.</p> <p>Therefore, staff support the proposed modification.</p>
Section 18A (9) Location of Parking, Loading and Maneuvering Spaces	The required parking, loading and maneuvering spaces shall be provided and maintained only on the lot on which the principle building is located.	Shall not apply.	<p>The proposed modification eliminates the requirement for parking, loading and maneuvering spaces to be provided on the lot. The regulation exists to ensure that the lot can contain all uses so that there is not spillover to adjacent lots. The parking will be located on the lot and the maneuvering space will permit forward exit of vehicles. However, there is no loading space on the lot.</p> <p>Given the small number of units and the ability for delivery vehicles to park in the rear parking</p>

Regulation	Required	Modification	Analysis
			area or street, staff are of the opinion that this proposed modification can be supported.
Section 18A (23) Access Driveway	Every access driveway shall provide easy access from a highway to the parking area to which the access driveway is accessory.	To permit the passage over the existing right-of-way through to the alleyway to the street from the parking area.	<p>The proposed modification clarifies that the existing right-of-way can be used to access the rear parking area. The regulation exists to ensure that there is easy access for vehicles from the parking areas to the street. The property owner has removed a tree which was a barrier to accessing the parking area from the right-of-way. Given the minor scale of the proposed parking area, staff are supportive of the proposed vehicular access route using the right-of-way and alleyway to reach the street.</p> <p>Therefore staff support this modification.</p>
Section 18A (25) Access driveway abutting residential	Access driveway shall be located not less than 3.0 metres from the common boundary between the district in which the multiple dwelling is located and the district which does not permit such uses (D District).	Shall not apply.	<p>The proposed modification recognizes the existing condition of the driveway which runs along the neighbouring property line. The intent of the regulation is to ensure that there is a buffer between multiple dwelling uses and low-rise residential uses. Although the proposal seeks to establish six dwelling units, there are only four parking spaces proposed, and as such, there will be nominal traffic impacts which would require additional buffering.</p> <p>Therefore, staff support this modification.</p>

Regulation	Required	Modification	Analysis
Section 18A. (28) Vehicular access to and from any land used for a multiple dwelling	No land in a residential district in which a multiple dwelling is not permitted shall be used for the purpose of vehicular access to or egress from any land used for a multiple dwelling.	The lands in the adjacent “D” District shall be used for the purpose of vehicular access to the existing multiple dwelling on the lands shown on ‘Schedule A’ by way of the right-of-way currently providing access to the rear yard of these lands from the alleyway and roadway.	The proposed modification will permit the passage of vehicles from the subject property, through the rear of adjacent properties in the “D” District by way of the existing right-of-way access. The purpose of the regulation is to ensure that adjacent areas of higher density forms do not produce conflict with lower-density land uses. The proposal is of a minor scale and can safely utilize the existing right-of-way or alleyway.  Therefore, staff support this modification.
Section 18A (30) Surface Parking	A permanent durable and dustless surface that is graded, drained and paved with concrete or asphalt or a combination of concrete and asphalt shall be provided and maintained for every parking area, maneuvering space, loading space and access driveway.	To ensure that a graded and drained gravel or concrete or asphalt surface be maintained for each parking space.	The exiting gravel surface is to remain as the existing parking area is appropriate for the proposed use and will help to avoid potential drainage issues on adjacent properties. The property owner will need to maintain the gravel and ensure it covers the parking area. Given the small size of the parking area, staff are of the opinion that the modification can be supported.
Section 18A (32) Sufficient space additional to required loading	Sufficient space additional to the required loading space shall be provided and maintained on the same lot on which the loading space is located, in such a manner as to enable each and every	Shall not apply.	The proposed modification removes the requirement to provide sufficient space additional to the required loading space. The regulation is in place to ensure that loading activities won’t interfere with parking or vehicle movement. As the proposal seeks to eliminate loading areas this provision is not required.

Regulation	Required	Modification	Analysis
	loading space to be unobstructed and freely and readily accessible from within the lot, without moving any vehicle on the lot or encroaching on a designated parking or loading space.		Therefore, staff support this modification.
Section 18A (33) Loading Space and access driveway	Every loading space shall be provided and maintained to permit commercial motor vehicles to move readily and without hindrance between the loading spaces and an access driveway.	Shall not apply.	The proposal will not provide a loading space, so the regulation is not required. The regulation exists to ensure free movement of commercial vehicles between the roadway and loading areas.  Staff support this modification.



WELCOME TO THE CITY OF HAMILTON

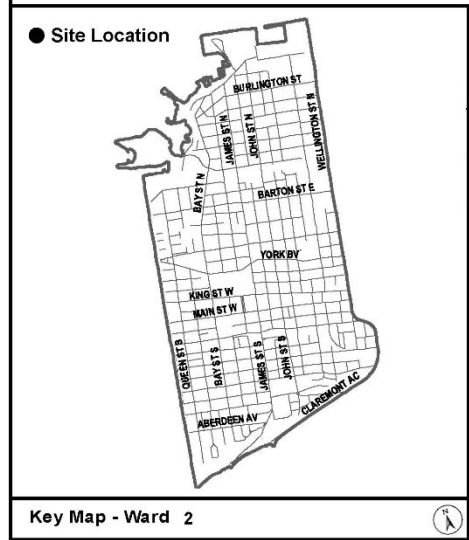
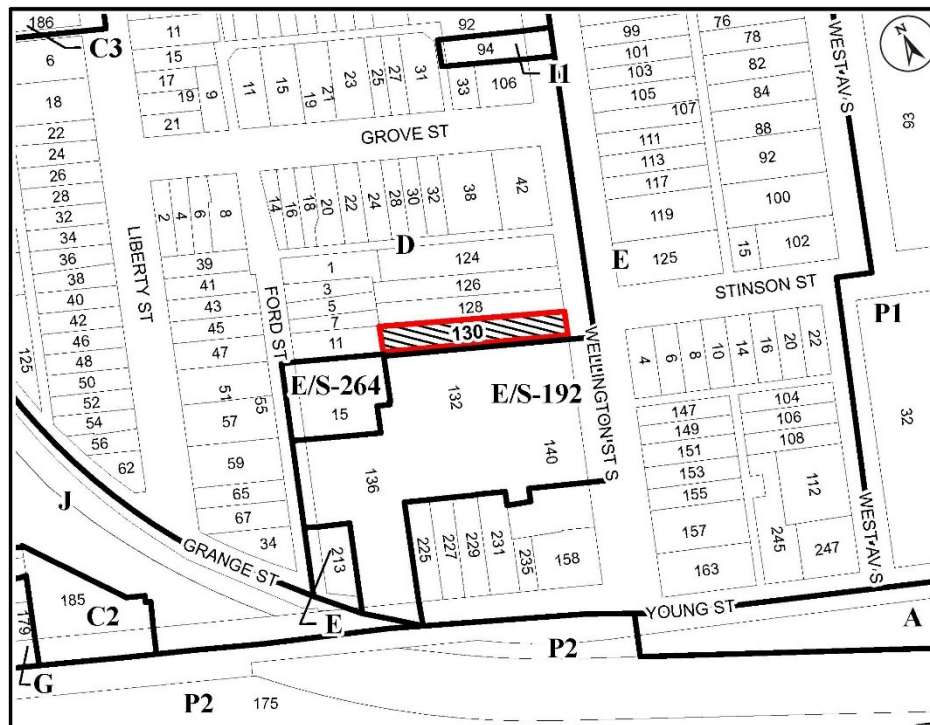
# PLANNING COMMITTEE

February 2, 2021

# PED21024– (ZAR-18-057)

Application for a Zoning By-law Amendment for lands located at  
130 Wellington Street South, Hamilton

Presented by: Sean Stewart



### Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
File Name/Number: ZAR-18-057	Date: November 26, 2020
Appendix "A"	Scale: N.T.S.
Planner/Technician: SS/AL	

#### Subject Property

130 Wellington Street South



Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District to the "D/S-1806-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding





**SUBJECT PROPERTY**



**130 Wellington Street South, Hamilton**





Subject Lands from Stinson Street and Wellington Street South



Looking south on Wellington Street South



Looking north on Wellington Street South



Wellington Street South looking north

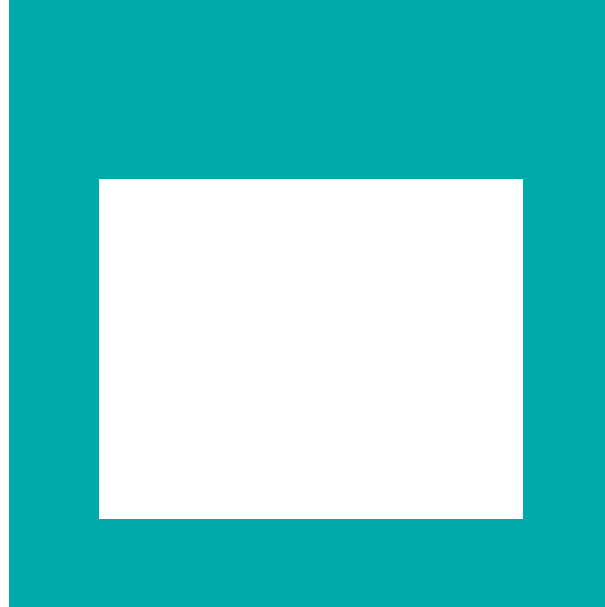


Public Alley between Wellington Street South and Ford Street



Right-of-Way between Subject Lands and Public Alley





# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE

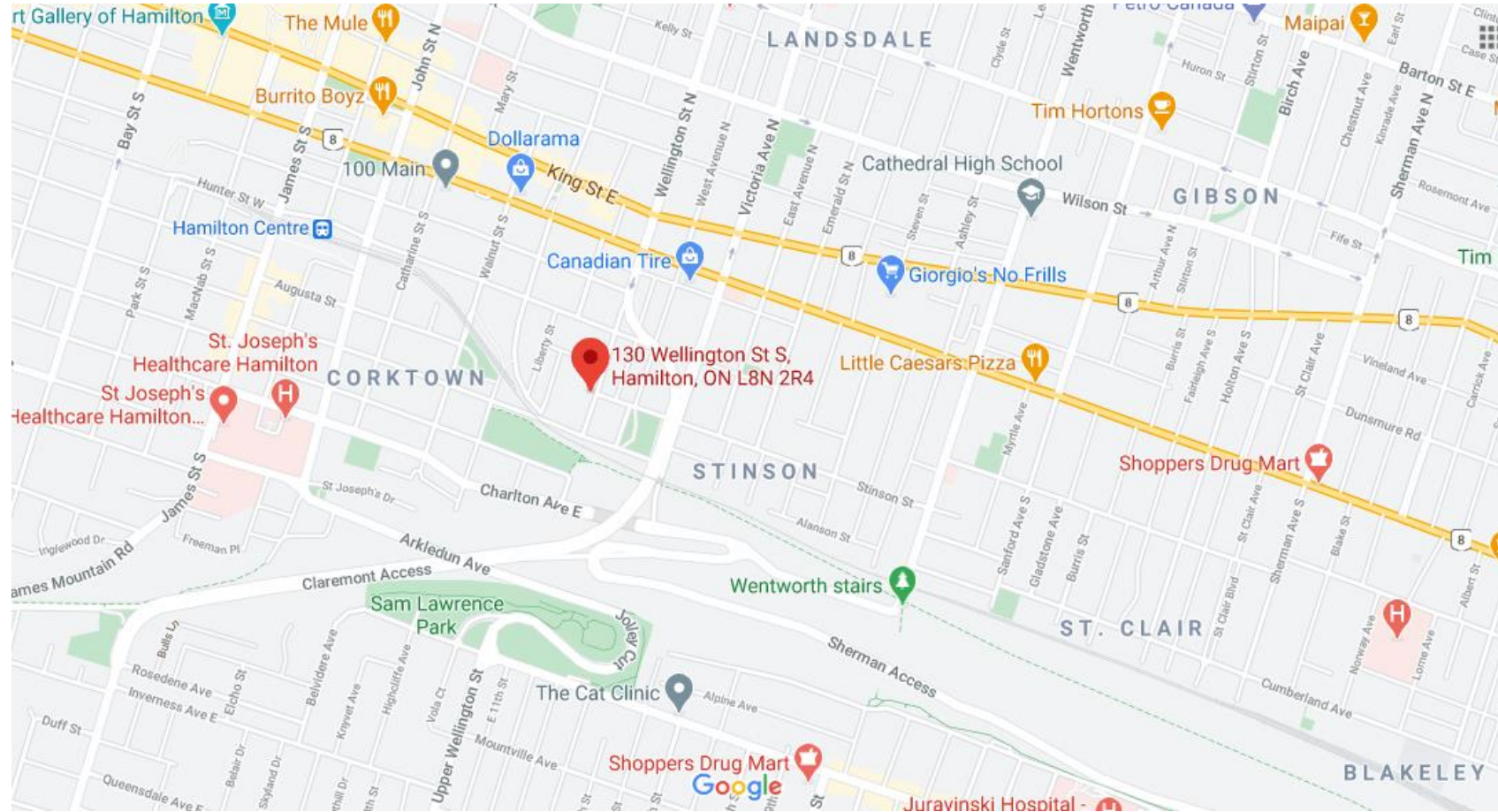
# 130 Wellington Street South Zoning By-Law Amendment

City of Hamilton Planning Committee

February 2, 2021

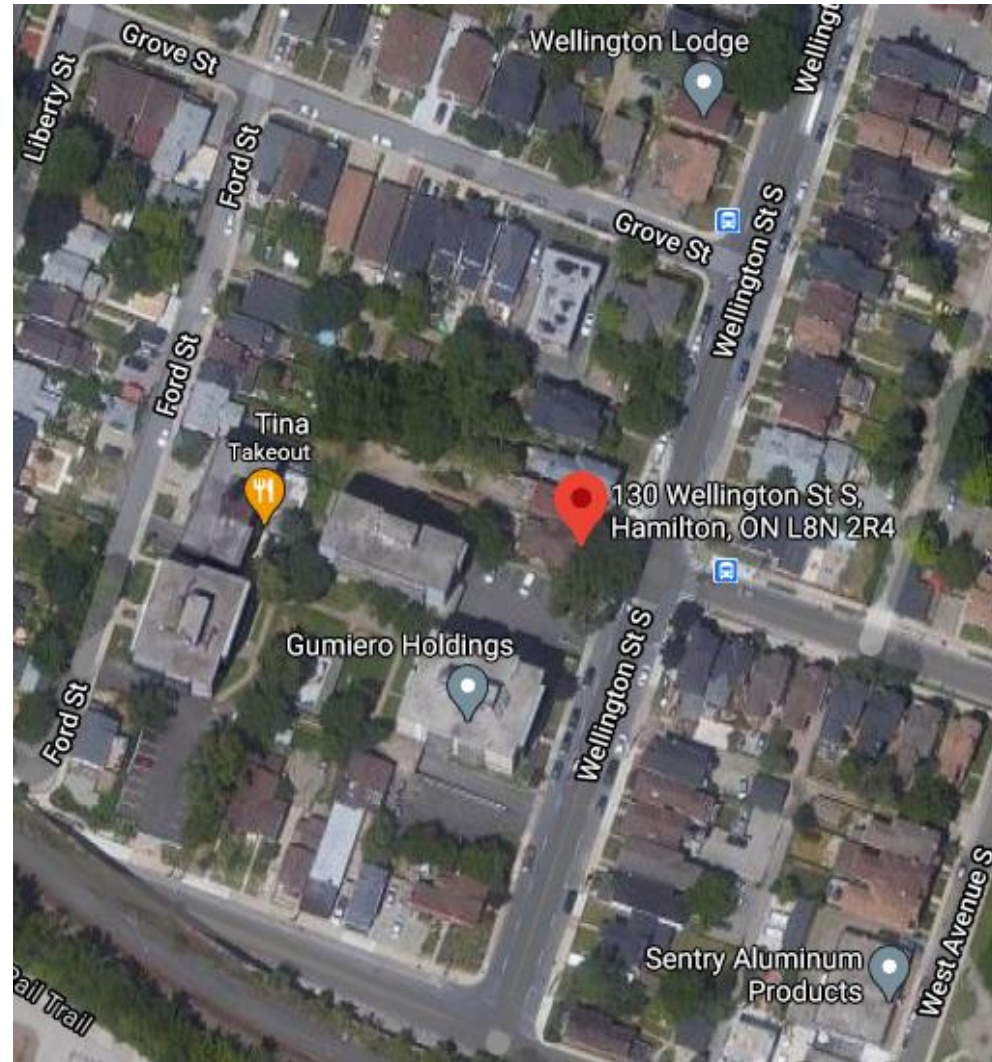


# Site Location



130 Wellington Street South, Hamilton

# Community Aerial View



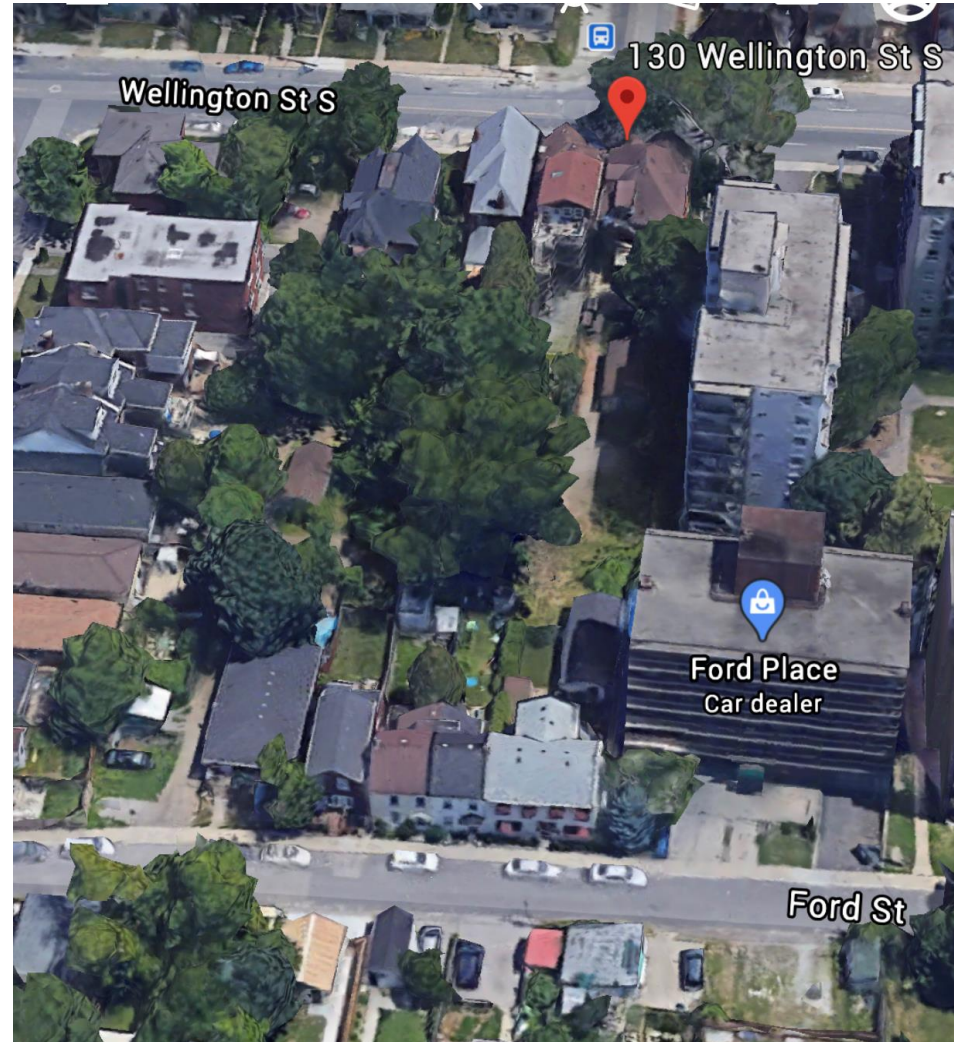
130 Wellington Street South, Hamilton

# Site Context and Access



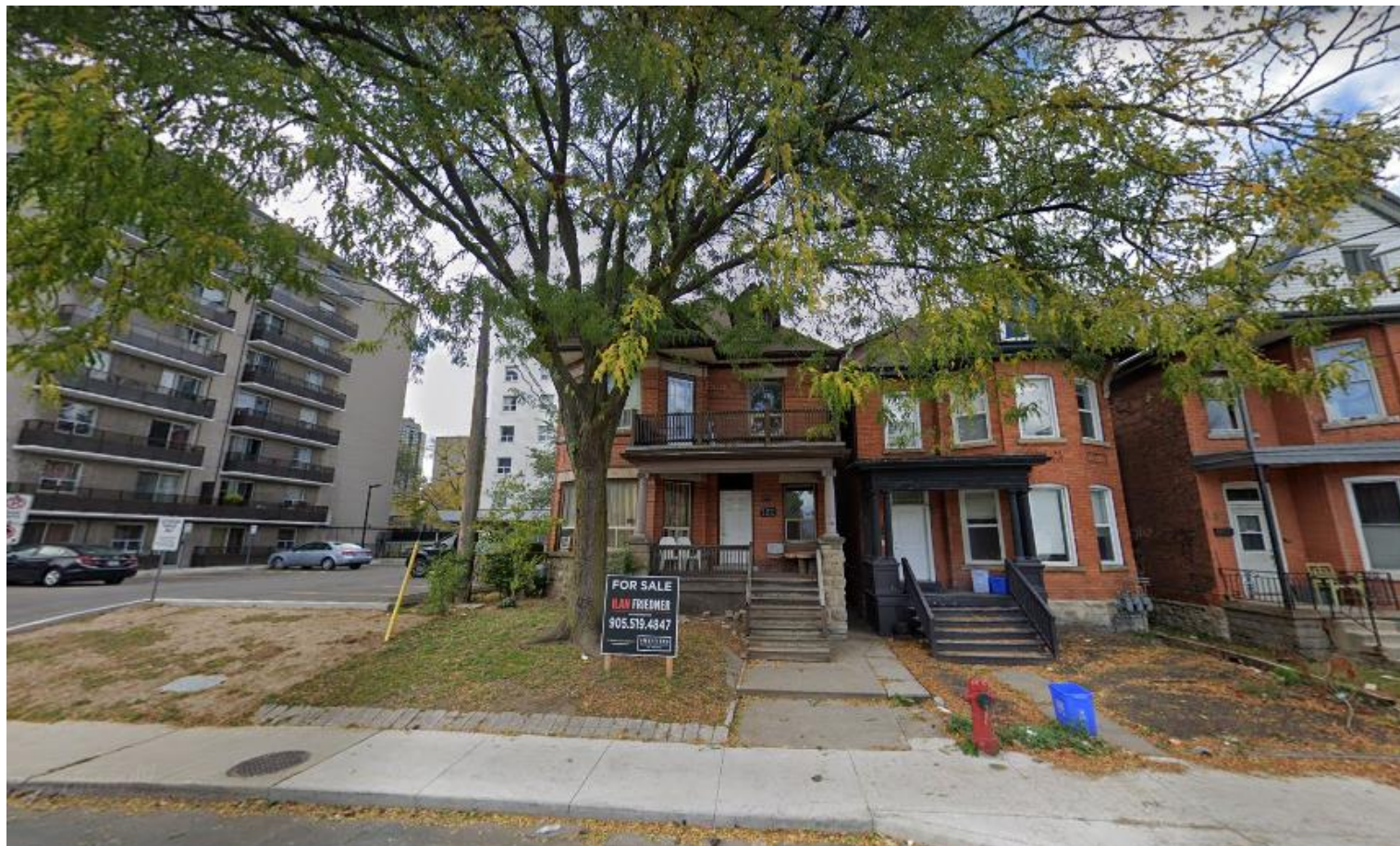
130 Wellington Street South, Hamilton

# Community Perspective



130 Wellington Street South, Hamilton

# Subject Property and Adjacent Lands

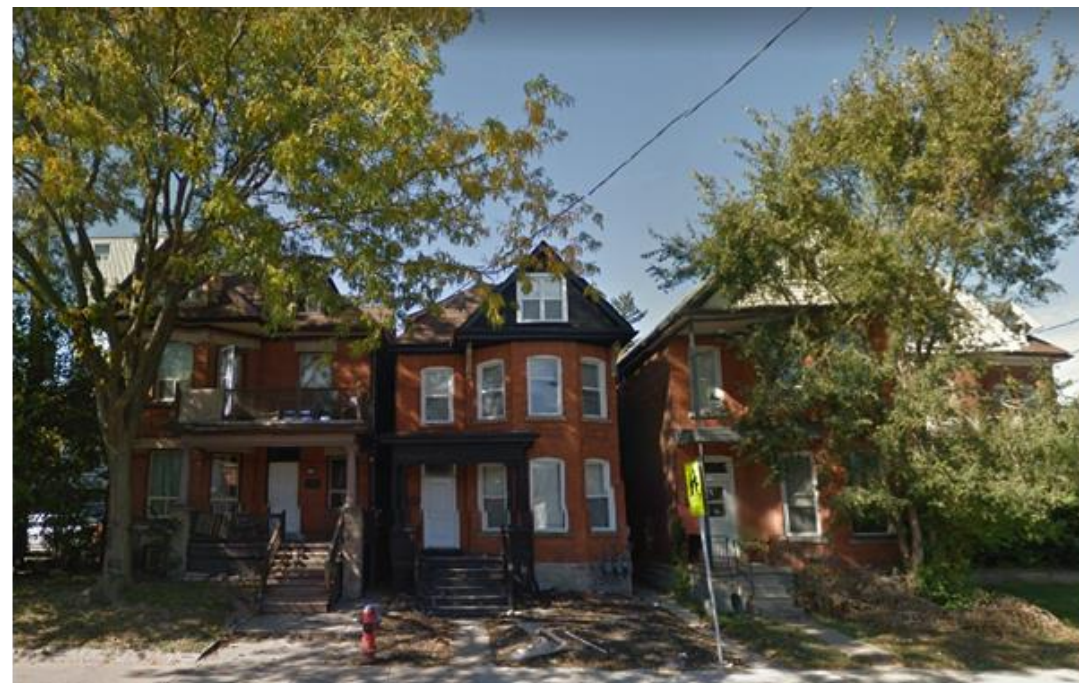


130 Wellington Street South, Hamilton

# Surrounding Land Uses



Existing Rental Buildings to South of Subject Property



Single Detached Dwellings to North of Subject Property



# Surrounding Land Uses



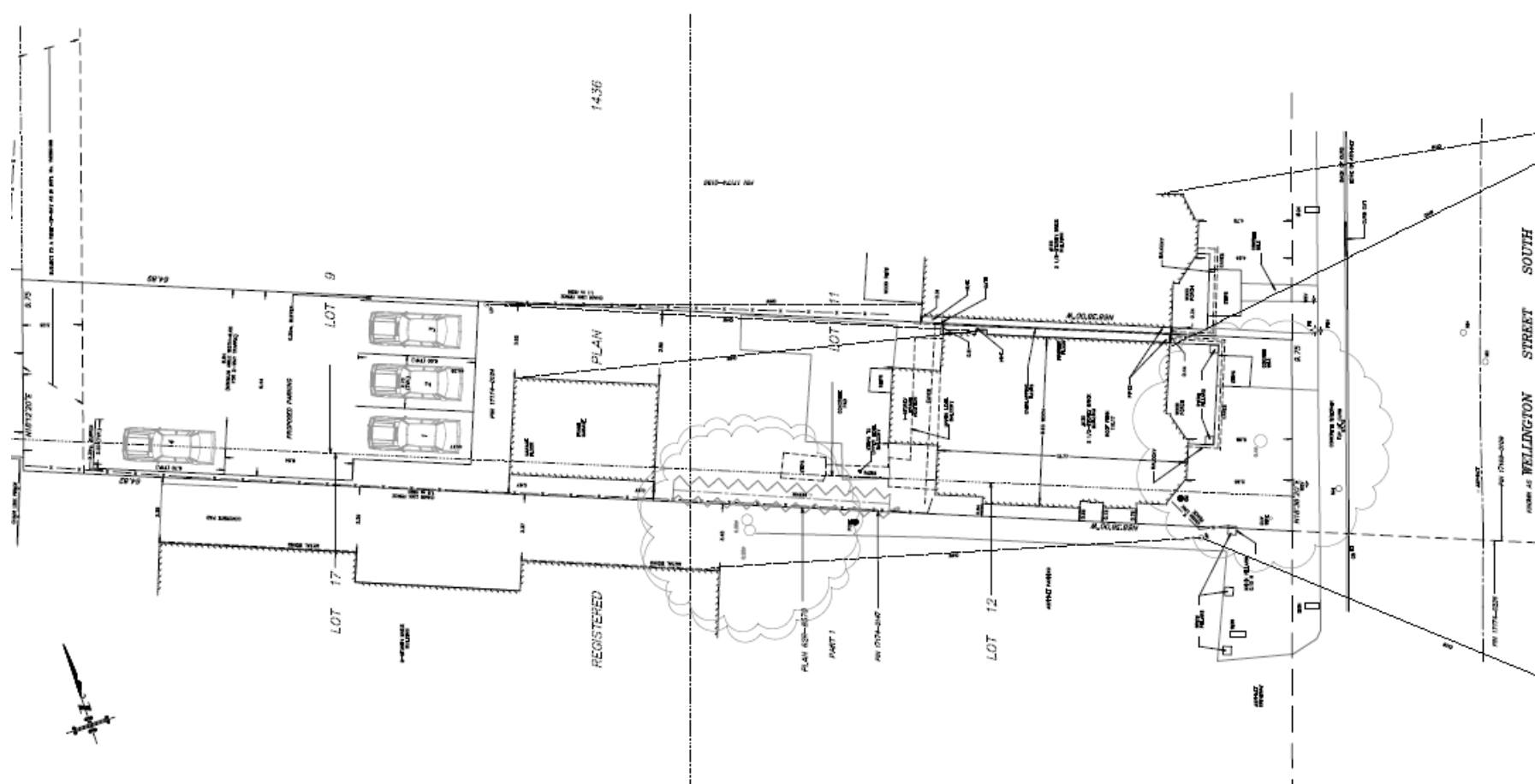
Single Detached Dwellings to East of Subject Property

# Zoning By-Law Designations

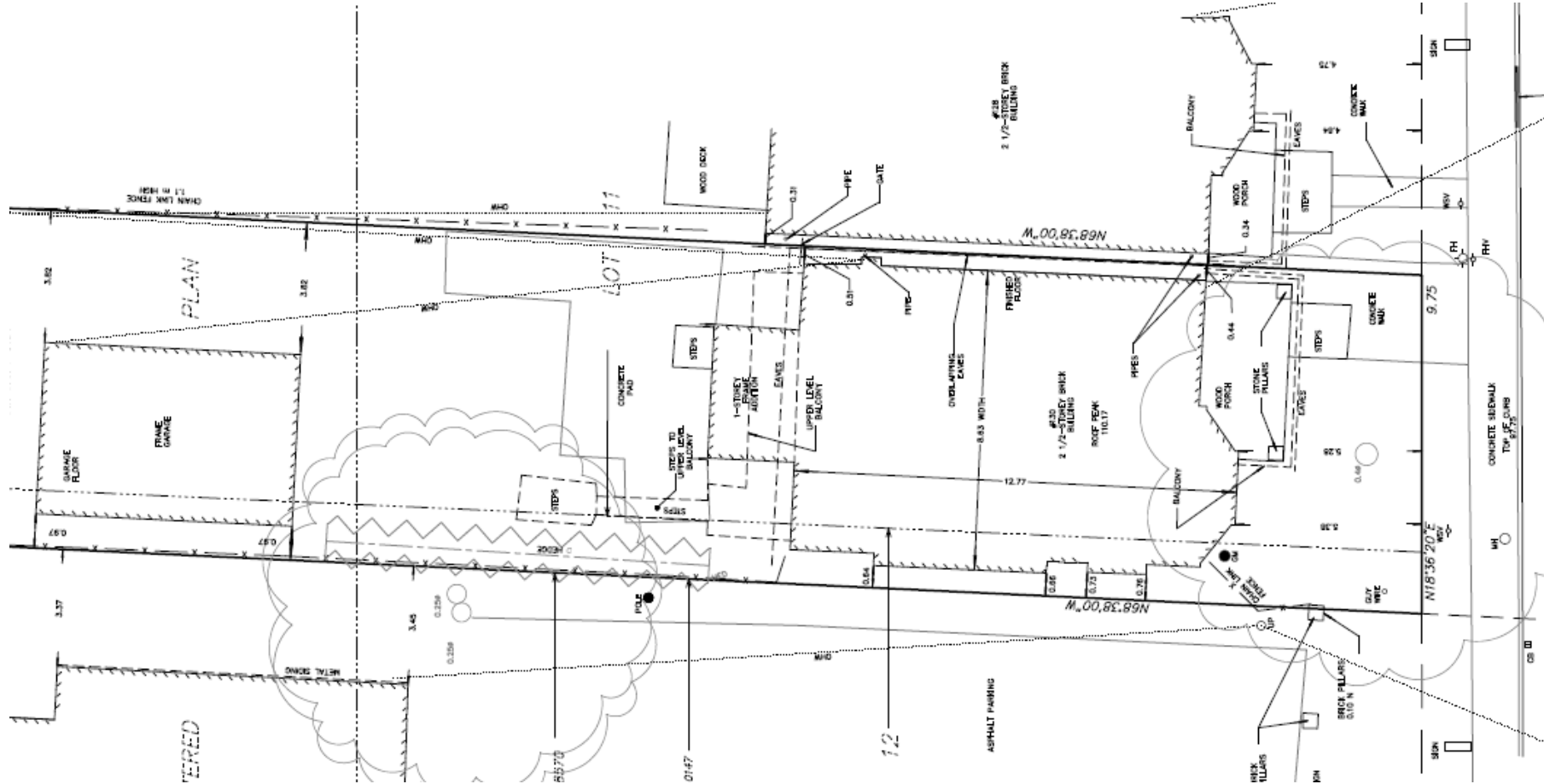


130 Wellington Street South, Hamilton

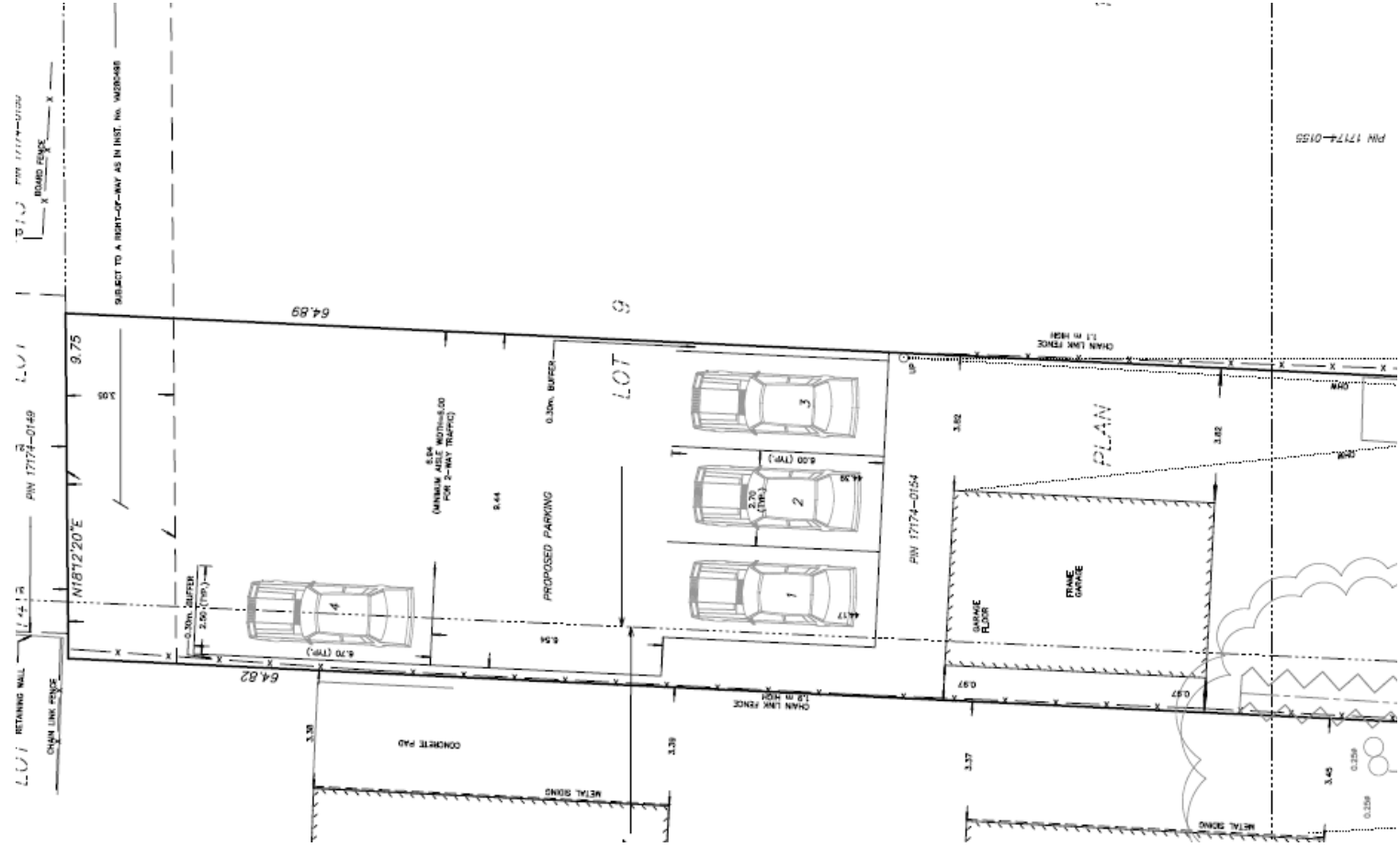
# Survey/Site Plan



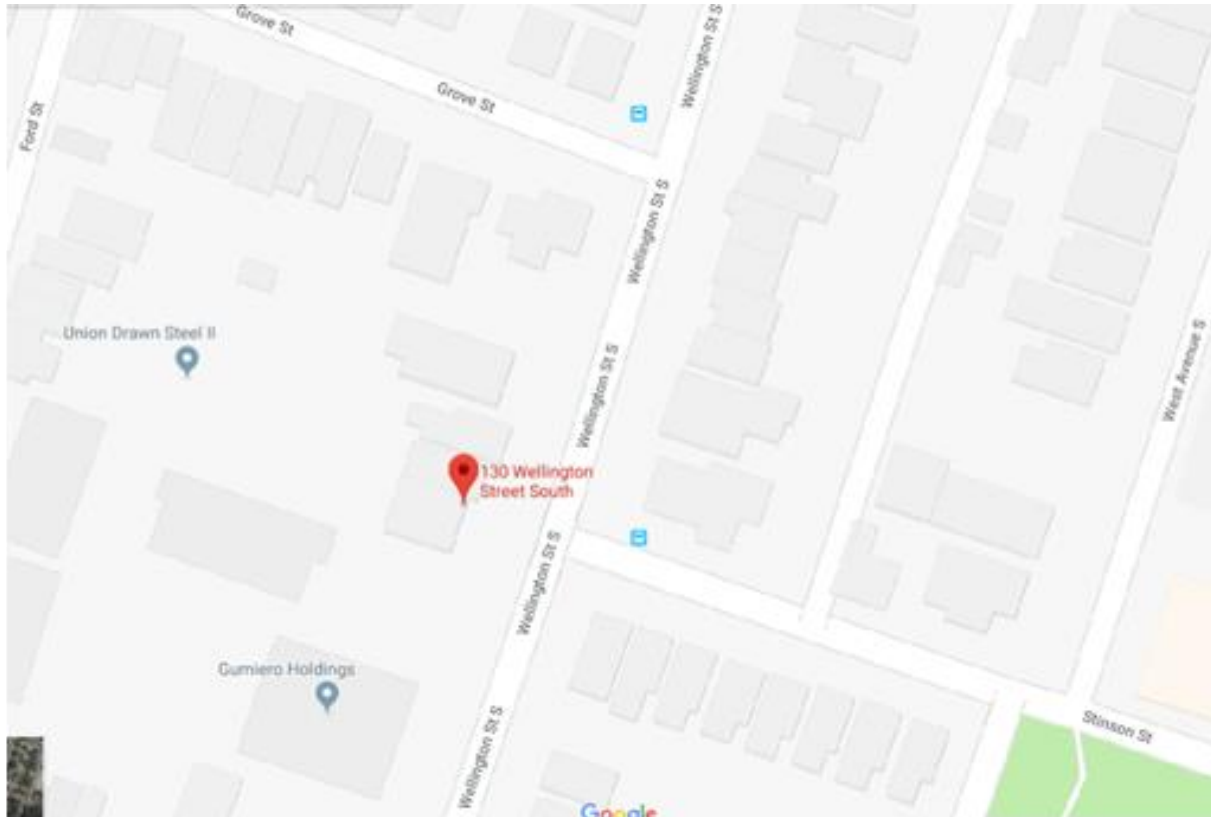
# Expanded View of Front Portion of Property



# Expanded View of Rear Portion of Property



# Transit Service and Infrastructure



130 Wellington Street South, Hamilton

**From:** kfawcett

**Sent:** February 1, 2021 4:29 PM

**To:** Stewart, Sean <[Sean.Stewart@hamilton.ca](mailto:Sean.Stewart@hamilton.ca)>


**Subject:** Re: City of Hamilton Re-zoning Application ZAR-18-057 (130 Wellington Street South)

Mr. Stewart, I have no objection at all to whatever plans the applicant has for the interior spaces of the building at 130 Wellington St. S. that conform to Building Code requirements. There have always been multiple units from the time that I moved into ## Wellington St. S in August, 2009 and there have been no major problems with the majority of the residents during this time. However, the parking issue has raised some concerns. The rear of the property is accessed by an alley which runs from Ford St. to Wellington St, and a shared access running off that alley south to where it abuts the property at 132 Wellington, a shared access for all of 1-11 Ford St and the properties facing Wellington St. Since the sale of !30 Wellington St. in 2019, the new owners removed two mature trees that were situated behind 130 and behind 7 Ford, I believe without necessary permits. The area was naturally used by hundreds of birds in their flights and kept any underbrush growth to a minimum. These trees were both approximately 50 feet tall, topping out above the 5th floor of 132 Wellington St. S. This area is now used as a storage area; two boats behind 11 Ford: the rear of 7 Ford is now used as a dumping area for used mattresses and other detritus; and there is untended brush with derelict shopping carts behind 130 Wellington. The area behind 130 was not used as a multi-car parking area before 2019, but has been used constantly as such since.

I believe that the trees have been removed without proper authority and as such any application for the re-zoning for parking spaces be denied until restitution has been made for that act, and a stipulation added that the owners must maintain the unsightly brush and garbage generated by their actions.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Economic Development Division**

<b>TO:</b>	Mayor and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Updates to the Terms of the Environmental Remediation and Site Enhancement's (ERASE) Redevelopment Grant and Tax Assistance Programs (PED21034) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Phil Caldwell (905) 546-2424 Ext. 2359
<b>SUBMITTED BY:</b>	Norm Schleeahn Director, Economic Development Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the amended program description for the Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant (ERG) Program, which forms Appendix B to the ERASE Community Improvement Plan and attached as Appendix "A" to Report PED21034, be approved.
- (b) That the amended program description for the Environmental Remediation and Site Enhancement (ERASE) Tax Assistance Program (TAP), which forms Appendix C to the ERASE Community Improvement Plan and attached as Appendix "B" to Report PED21034, be approved.

### EXECUTIVE SUMMARY

On January 20, 2021, City Council approved a Motion requesting staff investigate potential amendments to the terms of the Environmental Remediation and Site Enhancement (ERASE) Redevelopment Grant (ERG) Program and ERASE Tax Assistance Program (TAP). The intent of the potential amendments would be to provide City Council the ability to refuse applications or approve applications at reduced amounts relative to the standard program parameters where City Council does not

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.



**SUBJECT: Updates to the Terms of the Environmental Remediation and Site Enhancement's (ERASE) Redevelopment Grant and Tax Assistance Programs (PED21034) (City Wide) - Page 2 of 5**

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support the development that is the subject of a program application. This would include instances where developments have been approved by the Local Planning Appeals Tribunal (LPAT) or the Provincial Minister of Municipal Affairs and Housing (the Minister) in a manner not supported by City Council.

In consultation with Legal Services and Taxation Divisions, staff are recommending the inclusion of two new program terms to the ERG and TAP program descriptions which would provide greater certainty as to City Council's ability to refuse an application or provide reduced grants or tax cancellation for all or a portion of a development that City Council does not support.

These terms would not impact staff's review or recommendations on applications. The decision as to whether City Council supports the development in its entirety, only partially or not at all, as well as the ability to approve a program application, approve at a reduced amount relative to the standard program parameters or refuse the application in its entirety, would continue to be at the sole discretion of City Council.

Where City Council elects to approve an application, but at a reduced amount, it will be at City Council's discretion to identify the alternate parameters and/or maximum value of the assistance to be provided. In this respect, staff are also recommending additional language in the program descriptions whereby applicants will be required to provide additional supporting documentation, at their own expense, to support the City's providing of financial assistance in accordance with City Council's approval/direction, including but not limited to, all Municipal Property Assessment Corporation (MPAC) post development assessment estimates required by staff.

### **Alternatives for Consideration – Not Applicable**

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: There are no financial implications arising from this Report.

Staffing: There are no staffing implications arising from this Report.

Legal: There are no legal implications arising from this Report.

### **HISTORICAL BACKGROUND**

Since 2001, the City has voluntarily provided financial incentives through the ERASE Community Improvement Plan (CIP) to assist property owners with the investigation and/or remediation of soil and groundwater contamination on their properties. The goal of these programs is to mitigate increased costs associated with redeveloping

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contaminated properties relative to properties that are not contaminated. By providing such incentives the City achieves improved environmental conditions, generates increased tax revenue from under-utilized properties at risk of not otherwise being developed and generally supports the broader revitalization of the urban area.

Two ERASE programs, the ERG and TAP provide financial assistance specifically with respect to the physical remediation of properties where remediation will occur in association with a planned redevelopment of the property. These programs provide either grants or tax cancellation incentives respectively in an amount that is directly correlated to, and provided from, the increase in municipal property taxes generated by the redevelopment. Specifically, annual grants or tax cancellation are provided at 80% of the tax increment generated by the redevelopment and can be provided for a maximum of 10 years or until such time as the eligible remediation costs have been recovered, whichever comes first. After this period, the City retains the full tax increment for the life of the development.

On January 20, 2021, City Council approved a Motion requesting staff to investigate potential amendments to the terms of the ERG and TAP programs so as to provide City Council the ability to refuse applications or approve applications at reduced amounts relative to the standard program parameters for developments which City Council does not support.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

This Report contains recommended updates to the program descriptions of the ERG and TAP programs in response to City Council's Motion. These programs are implemented as Appendix B and C respectively to the authorizing ERASE CIP. As these appendices do not form part of the approval of the ERASE CIP or its implementing By-Law (No. 18-076) and as the recommended amendments do not alter the intent of the authorizing CIP, an amendment under Section 28 of the *Planning Act* to implement the recommendations of this Report is not required.

## **RELEVANT CONSULTATION**

Staff from Economic Development, Legal Services and Taxation Divisions have been involved in the development and review of the recommended amendments contained in this Report.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following program terms are being recommended for inclusion in the program descriptions of the ERG and TAP programs in response to City Council's Motion:

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OUR Vision: To be the best place to raise a child and age successfully.  
 OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.  
 OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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- “A Program application may be denied by City Council if the development that is the subject of the grant application is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications.”
- “City Council’s approval of a Program application can provide for a reduced grant amount so that no grant is payable in respect of any portion of the development that is the subject of the grant application which City Council does not support notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications.”

These terms will address the intent of the Motion by providing greater certainty as to City Council’s ability to refuse applications or provide reduced grants or tax cancellation incentives for all or a portion of a development that City Council does not support.

The above program terms would not impact staff’s review or recommendations to City Council of applications which involve developments that have been the subject of an approval by another authority including the LPAT or the Minister. The decision as to whether City Council supports the development in its entirety, only partially or not at all, as well as the ability to approve a program application, approve at a reduced amount relative to the standard program parameters or refuse the application in its entirety, would continue to be at the sole discretion of City Council.

Where City Council elects to approve an application, but at a reduced amount, it will be at City Council’s discretion to identify the alternate parameters and/or maximum value of the financial assistance to be provided. Depending on the parameters established by City Council at the time of considering an application, this may require staff to obtain additional information and documentation from the applicant to facilitate City Council’s approval/direction. One such scenario is if City Council elected to provide a partial incentive based on the tax increment that would have been generated based on the portion of a development that meets existing Official Plan and Zoning By-law permissions versus that which may have been approved in excess of those permissions via another authority. In such an instance, staff would require alternative post development assessment estimates to be created by MPAC for use in the administration of the program, including prior to each annual grant payment, as the actual assessment and property tax increment that will materialize, and which would typically be used in the calculation of annual grant payments, would no longer be applicable for that purpose.

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To address matters such as this, staff are also recommending added language in the program descriptions such that applicants will be required to provide additional supporting documentation, at their own expense, to support the providing of financial assistance in accordance with City Council's approval/direction, including but not limited to, all MPAC post development assessment estimates required by staff.

The additional terms discussed in this section are reflected in the recommended program descriptions contained in Appendices A and B to this Report.

### **ALTERNATIVES FOR CONSIDERATION**

Not applicable.

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

#### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

### **APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A" – Amended Program Description for the ERASE Redevelopment Grant (ERG) Program forming Appendix B to the ERASE Community Improvement Plan.
- Appendix "B" – Amended Program Terms and Administrative Procedures for the ERASE Tax Assistance Program (TAP) forming Appendix C to the ERASE Community Improvement Plan.

## APPENDIX B - ERASE Community Improvement Plan

### 8.2 ERASE Redevelopment Grant Program (ERG)

#### 8.2.1 Purpose

The purpose of this program is to alleviate a serious financial impediment to brownfield redevelopment efforts, namely the large tax increase that can result when a brownfield property is redeveloped. The intent of the ERG is to encourage environmental remediation, rehabilitation, redevelopment and adaptive re-use of brownfield sites. Therefore, only those brownfield redevelopment projects that result in an increase in property assessment and taxes will be eligible for funding under the ERG. The ERG also leverages public sector investment and encourages development that would otherwise not take place without this incentive program.

#### 8.2.2 Program Description

The ERG is a tax-increment based program that will provide a financial incentive in the form of a grant to help offset the cost of environmental remediation and rehabilitation of brownfield properties where redevelopment results in a re-valuation and tax increase on these properties. The applicant will initially pay for the entire cost of the remediation and redevelopment project. Once the municipality receives the first full calendar year of newly assessed property taxes that result from the development, the municipality will reimburse the applicant in the form of an annual grant equivalent to 80% of the increase in City taxes that result from redevelopment. Each year, the property owner must first pay taxes owing and then the approved applicant will receive the grant. In no case will the total amount of the grant provided under this program exceed the value of the approved eligible program costs. Also, in no case, will the total amount of the grants provided under this program, and the Tax Assistance Program (TAP) (8.3) exceed the estimated eligible program costs as approved by City Council.

The grant provided under the ERG will equal 80% of the increase in the City portion of property taxes. The remaining 20% of the increase in the City portion of property taxes will be dedicated to the ERASE Municipal Acquisition and Partnership Program (MAPP)

The grants may be received by the property owner in conjunction with any other available municipal program except for other tax increment financing programs.

Assignment of a grant under this Program is not permitted except where the grant is to be assigned to the City of Hamilton as payment towards a loan under the Downtown Hamilton/West Harbourfront Remediation Loan Program for the same project.

The grant will be earned by the applicant if they have met all terms and conditions of the Program and the property and property owner are in good standing with the City in terms of all City By-laws that apply to the property and project, all laws that govern the construction and development of the project and the payment of all taxes *during the development stage* and for any portion of the property retained by the property owner after remediation and redevelopment are complete. The annual grant to the applicant will be pro-rated if an appeal has been filed with the Municipal Property Assessment Corporation (MPAC) by any of the condominium unit owners. The grant for condominium units that are under appeal will not be released until the appeals are settled through the Assessment Review Board.

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For developments containing condominium units, the first-year grant is payable during the calendar year in which 75% of the condominium units within the project are reassessed by MPAC and the property owner(s) have paid in full the new taxes for one (1) calendar year. For non-condominium developments, the first-year grant is payable during the calendar year in which the redevelopment project is complete, the property has been reassessed by MPAC and the property owner has paid in full the new taxes for one (1) calendar year.

Grant payments under the ERG Program will cease at such time as whichever of the following comes first:

- a) Total grant payments provided under this program equal the approved and accepted eligible costs have been reimbursed; or,
- b) 10 annual payments have been provided.

The ERG is an application-based program. As early as possible in the development approvals process, a property owner will register their intent to participate in the program by filing an ERG Application with the Economic Development Division. Before accepting this application, the Economic Development Division will screen the application to ensure that it is for a property within the designated ERASE Community Improvement Project Area (CIPA) and the application meets the eligibility requirements.

Applications that are not within the ERASE CIPA or applications that clearly do not meet the eligibility requirements will not be accepted. Acceptance of the application by the Economic Development Division in no way implies grant approval.

Applications will be processed and approved on a first come, first serve basis. Review and evaluation of the application and supporting materials against program eligibility requirements will be done by City staff. The applicant participating in the ERG program must enter into an agreement with the City. This Agreement will specify the terms and conditions of the grant and will include terms and conditions in addition to those contained in this Appendix “B” as determined by the City Solicitor and General Manager of Planning and Economic Development. All ERG applications and agreements will be subject to approval by City Council or Council’s designate.

The amount of City taxes (“base rate”) will be determined before commencement of the project. The increase in the municipal portion of real property taxes (or “municipal tax increment”) will be calculated as the difference between the base rate and the amount of City taxes levied as a result of reassessed by the Municipal Property Assessment Corporation (MPAC) following project completion. The municipal tax increment will be used to fund the grant. This program does not exempt property owners from an increase/decrease in municipal taxes due to a general tax rate increase/decrease, or a change in assessment for any other reason.

For eligible sites where environmental remediation is proposed, the applicant shall obtain and submit to the City a Phase II ESA and/or Risk Assessment and a Remedial Action Plan undertaken by a Qualified Person that:

- a) Identifies the extent and provides a cost estimate for the environmental remediation of the eligible property; and,
- b) Contains a detailed work plan and budget for said environmental remediation.

For eligible sites where the removal and/or abatement of designated substances and/or hazardous materials is proposed, the applicant shall obtain and submit to the City:

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- a) A Designated Substances and Hazardous Materials Survey which identifies the presence, extent and need for the removal and/or abatement of such substances/materials in accordance with the *Occupation Health and Safety Act*, Ontario Regulation 278/05 (where applicable) and to the City’s satisfaction; and,
- b) A detailed work plan and cost estimate.

For eligible sites where the removal, replacement and/or upgrade of capacity for existing on-site infrastructure (water services, sanitary sewers and storm sewers) and/or building demolition is proposed, the applicant shall obtain and submit to the City:

- a) Any applicable engineering/servicing reports identifying the need for the removal, replacement and/or upgrade of on-site infrastructure; and,
- b) A detailed work plan and cost estimate for the demolition and/or removal, replacement and/or upgrade of on-site infrastructure.

The actual component costs for all eligible cost items will be supplied to the City upon completion of the project. Payment of the grant will be based on the City’s review, satisfaction and acceptance of all reports, paid invoices and documentation which is submitted outlining the full scope and cost of the work completed. Any and all of these costs may be subject to audit, at the expense of the property owner. The grant may be reduced or cancelled if the eligible work is not completed, not completed as approved and/or where documentation/invoicing of said costs is not provided to the City’s satisfaction.

If during the course of the work, the scope of the work changes, or actual costs are greater or less than estimated costs, the City reserves the right to increase or decrease the total amount of the grant. The annual grant payment will be based on the actual increase in property taxes as calculated, based on the actual reassessment by MPAC following project completion and receipt of an RSC.

The City may discontinue the ERG Program at any time. However, participants in the ERG Program with applications and agreements that were approved prior the closing of the program will continue to receive grant payments as determined through their ERG Agreement with the City. The City is not responsible for any costs incurred by the property owner in any way relating to the program, including without limitation, costs incurred in anticipation of a grant.

It should be noted that peer-reviewed Risk Assessments are to be permitted in situations where a RSC is not required by the Ministry of Environment, Conservation and Parks (MOECP) (i.e. not moving to a more sensitive land use).

Finally, for the purposes of clarity a ‘project’ consists of the redevelopment site. The redevelopment site may include multiple properties with more than municipal address.

### **8.2.3 Eligibility Requirements**

All owners of properties within the ERASE Community Improvement Project Area are eligible to apply for funding under this program, subject to meeting the general program requirements in Section 8.0, the following eligibility requirements, and subject to availability of funding as approved by Council:

- a) An application for the ERG must be submitted to the Economic Development Department prior to the commencement of any works and prior to application for building permit

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(Program is not retroactive);

- b) Such application shall include reports, plans, estimates, contracts and other details as may be required to satisfy the City with respect to the eligible costs of the project and conformity of the project with the ERASE CIP;
- c) The applicant shall obtain and submit to the City a Phase II ESA and/or Risk Assessment and Remedial Action Plan undertaken by a Qualified Person that:
  - i) identifies the extent and provides a cost estimate for the environmental remediation of the eligible property; and,
  - ii) contains a detailed work plan and budget for said environmental remediation.
- d) As a condition of the grant application, the City may require the applicant to submit a Business Plan, with said Plan to the City’s satisfaction;
- e) The property shall be redeveloped such that the amount of work undertaken is sufficient to at a minimum result in an increase in the assessed value of the property;
- f) The total value of the grant provided under this program shall not exceed the total value of work done under eligible program costs;
- g) Eligible program costs include the following:
  - i) environmental remediation (i.e., the cost of any action taken to reduce the concentration of contaminants on, in or under the eligible property to permit a Record of Site Condition (RSC) to be filed for the proposed use by a Qualified Person, including costs of preparing and filing of an RSC and Certificate of Property Use (CPU), cost of clean fill, grading and compaction to replace contaminated soils;  
**Eligible environmental remediation costs do not include construction/development costs that would be required regardless of the presence of contamination.**
  - ii) Phase II ESAs, Risk Assessments and Remedial Action Plans not covered by the ERASE Study Grant program;
  - iii) installing environmental and/or engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment and/or CPU;
  - iv) monitoring, maintaining and operating environmental and/or engineering controls/works related to environmental remediation, as specified in the Remedial Action Plan and/or Risk Assessment and/or CPU;
  - v) Industrial/Office Reuse Feasibility Study (Area 2 only)
  - vi) Designated Substances and Hazardous Material Survey and their removal and abatement in accordance with the *Occupational Health and Safety Act* and Ontario Regulation 278/05 (where applicable) in the Older Industrial Area (Area 2);
  - vii) Designated Substances and Hazardous Material Survey and their removal and abatement in accordance with the *Occupational Health and Safety Act* and Ontario Regulation 278/05 (where applicable) in current/closed Institutional use



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- buildings across the CIPA;
- viii) Designated Substances and Hazardous Material Survey and their removal and abatement in accordance with the *Occupational Health and Safety Act* and Ontario Regulation 278/05 (where applicable) as part of the rehabilitation and restoration of heritage buildings/properties designated under Part IV or V of the *Ontario Heritage Act* across the CIPA; and
- ix) In addition to the above, the following costs may also be considered eligible when incurred on a site requiring remediation/rehabilitation and located in the applicable geographic area:
- A. the following Leadership in Energy and Environmental Design (LEED) Program components up to a maximum of 50% as per the City of Hamilton’s LEED Grant Program (LGP) to achieve LEED certification under the LEED rating system by the Canadian Green Building Council – CaGBC:
    - incremental construction costs,
    - consultation costs
    - energy modeling; and
    - certification fees
  - B. demolition costs not covered by demolition charge credits (Areas 2 and 3 only);
  - C. the removal, replacement and/or upgrade of capacity for existing infrastructure (water services, sanitary sewers and storm sewers) up to a maximum of 25% of the cost of said improvement provided the improvement is located on the property and will support the rehabilitation and reuse of the property (Areas 2 and 3 only);
  - D. certain relocation/removal costs for existing and operating industrial manufacturing and transportation uses, where such costs relate to or contribute directly to the actual remediation and rehabilitation of the site (Areas 2 and 3 only).
- h) Notwithstanding 8.2.3 g), costs shall not be considered to be eligible if incurred prior to the date an application has been submitted under this program and accepted by the City with the exception of studies which were the subject of an approved ERASE Study Grant (ESG) Program (8.1) application. The total of the grant provided under this Program in combination with any tax assistance provided under the Tax Assistance Program (TAP) (8.3) shall not exceed the total approved eligible costs. Previous grant payments provided under the ESG Program for studies which are also to be accepted as eligible costs under this program will be deducted from the approved eligible costs;
- i) To be eligible under this program, costs must be incurred by the property owner as identified on the submitted program application accepted by the City;
- j) Actual costs for any or all of the items in eligible program costs above may be subject to audit by the City, at the expense of the property owner;
- k) All property owners participating in this program will be required to enter into an agreement with the City which will specify the terms and conditions of the grant;

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- l) All ERG applications must be approved by City Council or City Council’s designate;
- m) The property owner shall be required to submit one of the following prior to a grant being paid under this program:
  - i) a Record of Site Condition (“RSC”) conforming to the latest Ontario Regulation 153/04 standards and prepared by a Qualified Person to the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* and shall submit to the City an acknowledgement of receipt of the RSC by the MOECP; or
  - ii) where the submission of a signed RSC is not required under the *Environmental Protection Act* to permit the brownfield redevelopment, and provided that the owner of the property within the ERASE Community Improvement Project Area undertakes a Risk Assessment and remediates the property to a standard that would enable the owner to submit a RSC, the property owner may instead provide the City with a Risk Assessment prepared by a Qualified Person for Risk Assessments (as defined in the *Environmental Protection Act* and Ontario Regulation 153/04, as amended), subject to a peer-review by a Qualified Person for Risk Assessment, who is acceptable to the City. This peer-review must certify that the property has been remediated to the appropriate levels for the proposed use in accordance with the Risk Assessment, to the satisfaction of the City. The cost of the peer-review will be an eligible cost under this program.
- n) The City reserves the right to require the submission, to the City’s satisfaction, of environmental reports and documentation showing the subject property has been remediated to the appropriate levels for the proposed use.
- o) If a building(s) erected on a property participating in this Program is demolished before the grant period expires, the remainder of the monies to be paid out under the grant shall be forfeited;
- p) The improvements made to buildings and/or land shall be made pursuant to a Building Permit, constructed in accordance with the Ontario Building Code, and in compliance with all applicable Official Plan, Zoning By-Law and Site Plan Control requirements and approvals; and,
- q) Outstanding work orders and/or orders or requests to comply from the City must be satisfactorily addressed prior to grant approval.
- r) No grant is to be paid out until the project is completed. Alternatively, subject to written approval by the Director of Economic Development, a percentage of the total grant payment may be provided for phased developments based on the number of phases completed and proportional to the eligible costs incurred in each completed phase. Such partial payments shall be limited to those projects where the incremental tax increase for individual development phase can be determined to the City’s satisfaction.
- s) Work on the portion of the Project that is at or above grade shall commence no longer than five (5) years from the date an application under this program was approved by City Council (or City Council’s designate) and the Project and all eligible works shall be completed and the project capable of being fully occupied within 10 years from the date an application under this program approved by City Council (or City Council’s designate). Where a project consists of multiple phases, consideration may be provided for an extended project

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completion and occupancy period at the sole absolute and unfettered discretion of City Council.

Eighty-percent (80%) of the municipal portion of the tax increment will be reimbursed to the property owner in the form of a grant, while the remaining 20% of the tax increment will be dedicated to the ERASE Municipal Acquisition and Partnership Program (see Section 8.5).

**8.2.4 Administration**

The Economic Development Division will be responsible for administering the ERG, in consultation with other division/departments as necessary. Applications shall be submitted to the Economic Development Division and shall be accompanied by a Phase II ESA and/or Risk Assessment and Remedial Action Plan undertaken by a Qualified Person (as defined under Ontario Regulation 153/04) and/or Designated Substances and Hazardous Materials Survey (where applicable). For sites undertaking environmental remediation, the work plan and cost estimate shall be in the form of a Remedial Action Plan prepared by a Qualified Person. Said work plan and cost estimate will be supported by a Phase II ESA and/or Risk Assessment undertaken by a Qualified Person. Studies/plans submitted shall:

- a) Identify the extent of the environmental remediation and any installation, monitoring, maintaining and operating environmental and/or engineering controls/works required for the eligible property; and,
- b) Provide a detailed work plan and cost estimate for said environmental remediation which includes the installation, monitoring, maintaining and operating environmental and/or engineering controls/works.

For other non-remediation eligible works under this program, a written contractor's estimate shall be provided which shall be supported by any applicable studies (such as Designated Substances and Hazardous Materials Survey) to the City's satisfaction. The City may also require the submission of a Business Plan for the proposed development.

In addition, a cost estimate for all eligible LEED program component costs by a LEED certified specialist must be provided.

Applicants will be required to have a pre-application consultation meeting with City staff in order to determine program eligibility, proposed scope of work, project timing, etc.

Before accepting an application, City staff will screen the application. If the application is not within the community improvement project area or the application clearly does not meet the program eligibility requirements, the application will not be accepted.

Acceptance of the application by the City in no way implies grant approval.

Program eligibility will be determined by the Economic Development Division, in consultation with other divisions/departments as necessary. Applications will be recommended for approval only if they meet the criteria specified in this Plan and any other requirements of the City including that the property and property owner are in good standing with the City in terms of all City By-laws that apply to the property and project, all laws that govern the construction and development of the project and the payment of all taxes.

In instances where an applicant cannot satisfy staff with all necessary eligible cost estimates and

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required back-up documentation, staff reserves the right to consider an application as part of a two-step application and approval process, with the ultimate approval residing with City Council.

Where an ERG application has been submitted by a property owner and accepted by the City but not yet approved by City Council (or City Council’s designate), and the subject property(s) are transferred to a new property owner, the City may permit the transfer or assignment of the application, and any eligible costs incurred from the original date of application, to the new owner at the sole, absolute and unfettered discretion of the General Manager of Planning and Economic Development. An assignment or transfer may require the assignee or transferee to submit an application, assignment or transfer agreement and/or such other documents as determined by the General Manager of Planning and Economic Development in their sole, absolute and unfettered discretion.

A recommendation on the ERG Application (including estimated eligible costs) will be forwarded to City Council (or Council’s designate) for consideration.

A Program application may be denied by City Council if the development that is the subject of the grant application is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications.

City Council’s approval of a Program application can provide for a reduced grant amount so that no grant is payable in respect of any portion of the development that is the subject of the grant application which City Council does not support notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications. In such cases, the applicant shall be required to provide additional supporting documentation, at the applicant’s own expense, to support the providing of financial assistance in accordance with City Council’s approval/direction, including but not limited to, all MPAC post development assessment estimates required by the City.

The applicant participating in the ERG program must enter into an agreement with the City which will be forwarded to the applicant for signature once City Council (or Council’s designate) approves the ERG Application. Once the applicant has signed the agreement, the agreement will then be executed by City officials and a copy will be provided to the applicant. The City may require the applicant to register the agreement on title immediately upon execution of the agreement. This agreement will identify events of default whereby upon its occurrence, and for so long as the default continues, the City shall be entitled to remedies including but not limited to ceasing or delaying the release of grant payments without notice to the owner and any obligation of the City to make a grant payment or provide accommodation under the ERG Agreement shall cease. In addition, the City may declare, by notice to the owner, that any grant payments already made to be forthwith due and payable as determined by the General Manager of Planning and Economic Development in their sole, absolute and unfettered discretion.

For sites subject to environmental remediation, the property owner shall submit to the MOECP a signed Record of Site Condition (RSC) prepared by a Qualified Person, and the property owner shall submit to the City an acknowledgement of receipt of the RSC by the MOECP. The City reserves the right to require the submission to the City’s satisfaction, of environmental reports and documentation showing the subject property has been remediated to the appropriate levels for the

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proposed use. The RSC filed with the MOECP must conform to the latest Ontario Regulation 153/04 standards. Where the submission of a signed RSC is not required under the *Environmental Protection Act* to permit the brownfield redevelopment and provided that the owner of the property within the ERASE Community Improvement Project Area undertakes a Risk Assessment and remediates the property to a standard that would enable the owner to submit a RSC, the property owner may instead provide the City with a Risk Assessment prepared by a Qualified Person for Risk Assessments (as defined in the *Environmental Protection Act* and Ontario Regulation 153/04, as amended), subject to a peer-review by a Qualified Person for Risk Assessments, who is acceptable to the City. This peer-review must certify that the property has been remediated to the appropriate levels for the proposed use in accordance with the Risk Assessment, to the satisfaction of the City. The cost of the peer-review will be an eligible cost.

Once the development project is complete and the property has been reassessed by MPAC, the property owner will be sent a new tax bill. After the property owner has paid in full the new taxes for one (1) calendar year, the City will check to see that the property is not in tax arrears and that the property is still in conformity with the terms of the ERG Agreement. The City will calculate the actual tax increment and grant payment. The City will then issue payment of the grant in the form of a cheque in the amount specified as per the calculation of the actual grant payment. If the property is severed into multiple parcels or lots or if there is a conveyance of part of the property (all referred to as "severed parcels") prior to the first full year of reassessment resulting from the completion of the project, the property taxes used to calculate the grant shall be the sum of the amount which is the lesser of the post-project municipal property taxes or the municipal property taxes payable for the year for which a grant payment is being made, for all the severed parcels but for the initial grant payment means the amount which equals the sum of the post-project municipal property taxes for the severed parcels.

A grant will not be made unless a written request for the grant payment has been made by the owner in the year in which the grant payment is payable. If a written request has not been made for grant payment in the year in which it is payable but all other conditions for its payment have been satisfied, the grant payment shall accrue and be payable together with any other grant payments for which a written request has not been made until such time as a written request has been made and upon such written request the grant payment shall equal the sum of the accrued and previously unrequested grant payments. If a request for the initial grant payment is not made within three (3) years of the year in which the first-years' grant is payable the agreement shall terminate and without limiting the generality of the foregoing the City shall not be obligated to make any grant payments.

## APPENDIX C - ERASE Community Improvement Plan

### 8.3 ERASE Tax Assistance Program (TAP)

#### 8.3.1 Purpose

The purpose of the ERASE Tax Assistance Program (TAP) is similar to the ERG, i.e., to remove a serious financial impediment to brownfield redevelopment efforts, namely the large tax increase that can result when a brownfield property is redeveloped. Specifically, the TAP applies only to the costs of environmental remediation.

The legislative authority for the TAP is established under Sections 365.1(2) and (3) of the *Municipal Act* which allow municipalities to pass a by-law providing tax assistance to an eligible property in the form of a freeze or cancellation of part or all of the taxes levied on that property for municipal and school purposes during the rehabilitation period (maximum 18 months from the date that tax assistance begins) and the development period of the property. Matching assistance from the education property tax is subject to approval by the Ministry of Finance.

#### 8.3.2 Program Description

The Tax Assistance Program consists of two stages. In the first stage, taxes may be frozen. In the second stage, the developer will initially pay for the entire cost of the remediation and redevelopment project. When the municipality receives the incremental property taxes that result from the project, the municipality may cancel a portion of the increase in City taxes that result from redevelopment. The tax assistance will continue for a period of up to three years, at which point, if the City so chooses, continued assistance may be offered either through TAP or through the ERASE Redevelopment Grant (ERG) Program.

Under the TAP, 80% of the increase in the City and education portion of taxes that results from remediation and rehabilitation of the property will be cancelled. Cancellation of the education portion of taxes will only be undertaken if the City of Hamilton receives the approval of the Minister of Finance. Approval for the education portion of the property tax under the TAP may be provided by the Minister of Finance on a case-by-case basis by means of individual applications. The remaining 20% of the increase in the City portion of property taxes will be dedicated to the ERASE Municipal Acquisition and Partnership Program (MAPP) (see Section 8.4). The remaining 20% of the increase in the education portion of property taxes will be remitted to the Province of Ontario.

Assignment of tax assistance under this program is not permitted.

All tax assistance provided under the TAP to a property will cease:

- a) When the total tax assistance provided equals the total cost of environmental remediation, i.e., the costs of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition (RSC) to be filed in the Environmental Site Registry under Section 168.4 of the *Environmental Protection Act*; or,
- b) After 10 years for the municipal portion of taxes, and after such time period as is approved by the Minister of Finance (if applicable) for the education portion of the taxes; whichever comes first.

If tax assistance is approved by the Minister of Finance, the timing and conditions associated with matching tax assistance relating to the education portion of taxes may be different from those of

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the municipality. Education Tax Assistance will be to a maximum of a three (3) year period unless otherwise approved by the Minister of Finance.

The TAP is an application-based program. As early as possible in the development approvals process, a property owner will register their intent to participate in the grant program by filing an ERASE TAP Application with the Economic Development Division. Before accepting this application, the Economic Development Division will screen the application to ensure that it is for a property within the designated Community Improvement Project Area and the application meets all of the eligibility requirements. Applications that are not within the Project Area or applications that clearly do not meet the eligibility requirements will not be accepted.

Acceptance of the application by the Economic Development Division in no way implies grant approval.

Applications will be processed and approved on a first come, first serve basis. Review and evaluation of applications and supporting materials against program eligibility requirements will be done by City staff. The applicant participating in the TAP must enter into an agreement with the City. This Agreement will specify the terms and conditions of the tax assistance. All TAP applications and agreements will be subject to approval by City Council or Council’s designate.

The amount of City taxes (“city base rate”) and the amount of education taxes (“education base rate”) will be determined before commencement of the project and before the record of site condition is filed in the Environmental Site Registry. For stage 1 of the TAP, taxes may be frozen at this city base rate and, if approval granted by the Minister of Finance, education base rate. For stage 1 of the TAP, taxes may be frozen. For stage 2 of the TAP, the increase in the City portion of real property taxes (or “municipal tax increment”) will be calculated as the difference between the city base rate and the amount of City taxes levied as a result of reassessed by Municipal Property Assessment Corporation (MPAC) following project completion. The increase in the education portion of real property taxes (or “education tax increment”) will be calculated as the difference between the education base rate and the amount of education taxes levied as a result of reassessed by MPAC following project completion. This program does not exempt property owners from an increase/decrease in municipal or education taxes due to a general tax rate increase/decrease, or a change in assessment for any other reason.

The applicant shall obtain and submit to the City a Phase II ESA and/or Risk Assessment and a Remedial Action Plan undertaken by a Qualified Person that:

- a) Identifies the extent and provides a cost estimate environmental remediation of the eligible property; and,
- b) Contains a detailed work plan and budget for said environmental remediation.

To qualify for education tax assistance, the subject property, as of the date of the phase two environmental site assessment was completed, did not meet the standards that must be met under subparagraph 4 i) of subsection 168.4 (1) of the *Environmental Protection Act* to permit a Record of Site Condition to be filed under that subsection in the Environmental Site Registry. The actual component costs of the environmental remediation work done will be supplied to the City upon completion of the project. Provision of the tax assistance will be based on the City’s review and satisfaction with all reports and documentation submitted outlining the full scope and cost of the work completed.

Any and all of these costs may be subject to an independent audit, at the expense of the property owner.

If during the course of the work, the scope of the work changes, or actual costs are greater or less than estimated costs, the municipality reserves the right to increase or decrease the total amount of the tax assistance, subject to any conditions or restrictions with respect to taxes for school purposes as required by the Minister of Finance. The actual amount of the tax assistance will be based on the actual increase in property taxes as calculated based on the actual reassessment by the MPAC, following project completion.

The City may discontinue the TAP at any time. However, participants in the TAP with applications and agreements that were approved prior the closing of the program will continue to receive tax assistance as determined through their TAP Agreement with the City. No right to any tax assistance until it has been duly authorized by the City. The City is not responsible for any costs incurred by the owner/applicant in any way relating to the program, including without limitation, costs incurred in anticipation of tax assistance in stage two of the TAP (e.g., after project completion).

### **8.3.3 Eligibility Requirements**

All owners of property within the ERASE Community Improvement Project Area are eligible to apply for funding under this tax assistance program, subject to meeting the general program requirements in Section 8.0, the following eligibility requirements, and subject to availability of funding as approved by Council:

- a) An application for the TAP must be submitted to the Economic Development Division prior to the filing of a Record of Site Condition in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and prior to the commencement of any works and prior to application for Building Permit;
- b) Such application shall include reports, plans, estimates, contracts and other details as may be required to satisfy the City with respect to the eligible costs of the project and conformity of the project with the ERASE CIP;
- c) As soon as possible the applicant shall obtain and submit to the City a Phase II ESA and/or Risk Assessment and Remedial Action Plan undertaken by a Qualified Person that:
  - i) identifies the extent and provides a cost estimate for the environmental remediation of the eligible property; and,
  - ii) contains a detailed work plan and budget for said environmental remediation;
- d) As a condition of the tax assistance application, the City may require the applicant to submit a Business Plan, with said Plan to the City's satisfaction;
- e) The property shall be redeveloped such that the amount of work undertaken is sufficient to at a minimum result in an increase in the assessed value of the property;
- f) The total value of the tax assistance provided under this program shall not exceed the total value of work done under eligible program costs;



- g) Eligible program costs include the following:
- i) environmental remediation, i.e., the cost of any action taken to reduce the concentration of contaminants on, in or under the eligible property to permit a Record of Site Condition (RSC) to be filed for the proposed use by a Qualified Person, including costs of preparing and filing an RSC and Certificate of Property Use (CPU), cost of clean fill, grading and compaction to replace contaminated soils;  
**Eligible environmental remediation costs do not include construction/development costs that would be required regardless of the presence of contamination.**
  - ii) Phase II ESAs, Risk Assessments and Remedial Action Plans not covered by the ERASE Study Grant program;
  - iii) installing environmental and/or engineering controls/works, as specified in the Remedial Work Plan and/or Risk Assessment and/or CPU;
  - iv) monitoring, maintaining and operating environmental and/or engineering controls/works related to environmental remediation, as specified in the Remedial Action Plan and/or Risk Assessment and/or CPU; and
  - v) Environmental Insurance Premiums;
- h) Notwithstanding 8.3.3 g), costs shall not be considered to be eligible if incurred prior to the date an application has been submitted under this program and accepted by the City with the exception of studies which were the subject of an approved ERASE Study Grant (ESG) Program (8.1) application. The total of the tax assistance provided under this Program in combination with the ERG Program (8.2), shall not exceed the total approved costs. Previous grant payments provided under the ESG Program for a study(s) which are also to be accepted as eligible costs under this Program will be deducted from the approved eligible costs;
- i) To be eligible under this program, costs must be incurred by the property owner as identified on the submitted program application accepted by the City;
  - j) Actual costs for any or all items in eligible program costs above may be subject to audit by the City, at the expense of the property owner;
  - k) The applicant participating in the TAP program must enter into an agreement with the City. This Agreement will specify the terms and conditions of the tax assistance to be provided and will include terms and conditions in addition to those contained in this Appendix "C" as determined by the City Solicitor and General Manager of Planning and Economic Development.
  - l) All TAP applications and agreements must be approved by City Council or City Council's designate;
  - m) The property owner shall be required to submit one of the following prior to being provided tax assistance:
    - i) a Record of Site Condition ("RSC") conforming to the latest Ontario Regulation 153/04 standards and prepared by a Qualified Person to the Environmental Site

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Registry under Section 168.4 of the *Environmental Protection Act* and the property owner shall submit to the City an acknowledgement of receipt of the RSC by the Ministry of Environment, Conservation and Parks (MOECP); or

- ii) where the submission of a signed RSC is not required under the *Environmental Protection Act* to permit the brownfield redevelopment and provided that the owner of the property within the ERASE Community Improvement Project Area undertakes a Risk Assessment and remediates the property to a standard that would enable the owner to submit a RSC, the owner may instead provide the City with a Risk Assessment prepared by a Qualified Person for Risk Assessments (as defined in the *Environmental Protection Act* and Ontario Regulation 153/04, as amended), subject to a peer-review by a Qualified Person for Risk assessment, who is acceptable to the City. This peer-review must certify that the property has been remediated to the appropriate levels for the proposed use in accordance with the Risk Assessment, to the satisfaction of the City. The cost of the peer-review will be an eligible cost;
- n) The City reserves the right to require the submission to the City’s satisfaction, of environmental reports and documentation showing the subject property has been remediated to the appropriate levels for the proposed use;
- o) If a building(s) erected on a property participating in this program is demolished before the tax assistance period expires, the remainder of the tax assistance shall be forfeited;
- p) The improvements made to buildings and/or land shall be made pursuant to a Building Permit, constructed in accordance with the Ontario Building Code and in compliance with all applicable Official Plan, Zoning By-Law and Site Plan Control requirements and approvals;
- q) Outstanding work orders and/or orders or requests to comply from the City must be satisfactorily addressed prior to tax assistance approval;
- r) Work on the portion of the Project that is at or above grade shall commence no longer than five (5) years from the date an application under this program was approved by City Council (or City Council’s designate) and the Project and all eligible works shall be completed and the project capable of being fully occupied within 10 years from the date an application under this program was approved by City Council (or City Council’s designate) . Where a project consists of multiple phases, consideration may be provided for an extended project completion and occupancy period at the sole discretion of the City.
- s) For all applications for the TAP that meet the eligibility requirements for matching tax assistance under the provisions of section 365.1 of the *Municipal Act, 2001*, the City will forward a separate application to the Minister of Finance in order that the Minister may consider providing matching education property tax assistance.

### **8.3.4 Administration**

The Economic Development Division will be responsible for administering the TAP, in consultation with other division/departments as necessary. Applications shall be submitted to the Economic Development Division and shall be accompanied by a Phase II ESA and/or Risk Assessment and Remedial Action Plan undertaken by a Qualified Person (as defined under Ontario Regulation 153/04). The work plan and cost estimate shall be in the form of a Remedial Action Plan prepared

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by a Qualified Person. Said work plan and cost estimate will be supported by a Phase II ESA and/or Risk Assessment undertaken by a Qualified Person. Studies/Plans submitted shall:

- a) Identify the extent of the environmental remediation and any installation, monitoring, maintaining and operating environmental and/or engineering controls/works required for the eligible property; and,
- b) Provide a detailed work plan and cost estimate for said environmental remediation which includes the installation, monitoring, maintaining and operating environmental and/or engineering controls/works.

The City may also require the submission of a Business Plan for the proposed development.

Applicants will be required to have a pre-application consultation meeting with City staff in order to determine program eligibility, proposed scope of work, project timing, etc.

Before accepting an application, City staff will screen the application. If the application is not within the community improvement project area or the application clearly does not meet the program eligibility requirements, the application will not be accepted.

Acceptance of the application by the City in no way implies grant approval.

Program eligibility will be determined by the Economic Development Division, in consultation with other divisions/departments as necessary. Applications will be recommended for approval only if they meet the criteria specified in this Plan and any other requirements of the City including that the property and property owner are in good standing with the City in terms of all City By-laws that apply to the property and project, all laws that govern the construction and development of the project and the payment of all taxes which are not the subject of assistance under this program.

Where a TAP application has been submitted by a property owner and accepted by the City but not yet approved by City Council (or City Council's designate), and the subject property(s) are transferred to a new property owner, the City may permit the transfer or assignment of the application, and any eligible costs incurred from the original date of application, to the new owner at the sole, absolute and unfettered discretion of the General Manager of Planning and Economic Development. An assignment or transfer may require the assignee or transferee to submit an application, assignment or transfer agreement and/or such other documents as determined by the General Manager of Planning and Economic Development in their sole, absolute and unfettered discretion.

A recommendation on the TAP Application and a TAP Agreement will be prepared by City staff. Staff will also prepare a Draft by-law under Section 365.1 of the *Municipal Act* to effect tax assistance equal to 80% of the increase in taxes levied for City, and taxes levied for school purposes. This Draft by-law will be forwarded to the Minister of Finance for approval of the tax assistance equal to the increase in taxes levied for school purposes. Once written approval of the by-law is received from the Minister of Finance, any conditions or restrictions specified by the Minister will be included in the by-law.

The recommendation on the TAP Application and the TAP Agreement will be forwarded to City Council (or Council's designate) for consideration.

A Program application may be denied by City Council if the development that is the subject of the grant application is not supported by City Council notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal

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or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications.

City Council’s approval of a Program application can provide for a reduced grant amount so that no grant is payable in respect of any portion of the development that is the subject of the grant application which City Council does not support notwithstanding any approval of *Planning Act* applications by any other authority including, but not limited to, the Local Planning Appeal Tribunal or the Minister of Municipal Affairs and Housing, and that City Council’s decision on the Program application will not fetter its discretion on *Planning Act* applications. In such cases, the applicant shall be required to provide additional supporting documentation, at the applicant’s own expense, to support the providing of financial assistance in accordance with City Council’s approval/direction, including but not limited to, all MPAC post development assessment estimates required by the City.

Where City Council (or City Council’s designate) approves the TAP Application and the TAP Agreement, the TAP Agreement will be forwarded to the applicant for signature. Once the applicant has signed the agreement, the agreement will then be executed by City officials and a copy will be provided to the applicant. The implementing by-law will then be forwarded to Council for adoption.

The by-law requesting matching education tax assistance will be forwarded to the Minister of Finance for approval within 30 days of Council’s adoption.

The agreement with the City will be forwarded to the applicant for signature once City Council (or Council’s designate) approves the TAP Application. Once the applicant has signed the agreement, the agreement will then be executed by City officials and a copy will be provided to the applicant. The City may require the applicant to register the agreement on title immediately upon execution of the agreement. This agreement will identify events of default whereby upon its occurrence, and for so long as the default continues, the City shall be entitled to remedies including but not limited to ceasing or delaying tax assistance without notice to the owner and any obligation of the City to provide tax assistance or provide accommodation under the TAP Agreement shall cease. In addition, the City may declare, by notice to the owner, that any tax assistance already provided to be forthwith due and payable as determined by the General Manager of Planning and Economic Development in their sole, absolute and unfettered discretion.

The property owner shall submit to the MOECP a signed RSC prepared by a Qualified Person, and the property owner shall submit to the City an acknowledgement of receipt of the RSC by the MOECP. The City reserves the right to require the submission to the City’s satisfaction, of environmental reports and documentation showing the subject property has been remediated to the appropriate levels for the proposed use. The RSC filed with the MOECP must conform to the latest Ontario Regulation 153/04 standards.

Where the submission of a signed RSC is not required under the *Environmental Protection Act* to permit the brownfield redevelopment, provided that and the owner of the property within the ERASE Community Improvement Project Area undertakes a Risk Assessment and remediates the property to a standard that would enable the owner to submit a RSC, the owner may instead provide the City with a Risk Assessment prepared by a Qualified Person for Risk Assessment (as defined in the *Environmental Protection Act* and Ontario Regulation 153/04, as amended), subject to a peer-review by a Qualified Person for Risk Assessment, who is acceptable to the City. This peer-review must certify that the property has been remediated to the appropriate levels for the proposed use in accordance with the Risk Assessment, to the satisfaction of the City. The cost of the peer-review will be an eligible cost.

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Once the redevelopment project is complete and the property has been reassessed by the MPAC, the property owner will be sent a new tax bill from which 80% of the City tax increment and the portion of the education tax increment that will be cancelled. The remaining 20% of the increase in the City portion of property taxes will be dedicated to the ERASE Municipal Acquisition and Partnership Program (MAPP) (see Section 8.4). The remaining portion (if any) of the increase in the education portion of property taxes will be remitted to the Province of Ontario. If the property is severed into multiple parcels or lots or if there is a conveyance of part of the property (all referred to as “severed parcels”) prior to the first full year of reassessment resulting from the completion of the project, the property taxes used to calculate the assistance shall be the sum of the amount which is the lesser of the post-project municipal property taxes or the municipal property taxes payable for the year for which tax assistance is being provided, for all the severed parcels means the amount which equals the sum of the post-project municipal property taxes for the severed parcels.

Tax assistance will not be provided unless a written request for the assistance has been made prior to the year in which tax assistance is to commence. If a written request has not be made for assistance prior to the year in which tax assistance is to commence but all other conditions for the assistance have been satisfied, the assistance shall accrue and be provided together with any other tax assistance for which a written request has not been made until such time as a written request has been made and upon such written request the assistance shall equal the sum of the accrued and previously unrequested assistance. If a request for tax assistance is not made within three (3) years of the year in which the first-years’ tax assistance may commence, the agreement shall terminate and without limiting the generality of the foregoing the City shall not be obligated to provide any tax assistance.

In the event of the sale, conveyance, transfer or entering into of any agreement of sale or transfer of the title of the Property, any future tax assistance will be terminated.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Bill 197, the <i>COVID-19 Economic Recovery Act, 2020</i> and Changes to the <i>Planning Act</i> (PED21046) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Anita Fabac (905) 546-2424 Ext. 1258
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

- (a) That Council adopt the submissions and recommendations regarding legislative provisions in the *Planning Act* in force with the enactment of Bill 197, the *COVID-19 Economic Recovery Act*, as provided in Report PED21046;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submission made to the Province attached as Appendix "A" to Report PED21046.

## EXECUTIVE SUMMARY

On December 16, 2020, the Province posted on the Environmental Registry of Ontario an invitation to submit comments concerning changes to certain legislative provisions in the *Planning Act* in force with the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020* which received Royal Assent on July 21, 2020. In summary, the changes enable the Minister to address site plan matters and apply inclusionary zoning as part of a Minister's Zoning Order.

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The Province sought feedback as to whether the legislative changes should be expanded, repealed or otherwise adjusted and how this enhanced authority should be used. The Ministry indicated that they were interested in feedback where this enhanced authority could be particularly helpful and where using it may not be appropriate.

Site plan is a technical review to ensure development complies with detailed aspects of development related to City guidelines and standards based on the specific locational context. As such, Staff has advised the Province that the City does not support the proposed changes to allow the Minister to address site plan matters for areas part of a Minister's Zoning Order.

The deadline for comments on the ERO posting was January 30, 2021. As such and given the timing, staff-level comments have been submitted to the Province and through this Report and are contained at Appendix "A" to Report PED21046. If the recommendations of this Report are approved by Council, the Director of Planning and Chief Planner will notify the Province that the submission made has been adopted by Council and of any amendments made by Council for the City of Hamilton.

**Alternatives for Consideration – N/A**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

Recent changes to Section 47 of the *Planning Act* were included in Schedule 17 of Bill 197, the *COVID-19 Economic Recovery Act, 2020*. This Bill received Royal Assent on July 21, 2020.

Section 47 of the *Planning Act* gives the Minister of Municipal Affairs and Housing the authority to zone any property in Ontario by issuing a zoning order. Currently, when a zoning order is issued by the Minister, a municipality has the authority to address site plan matters for that area under Section 41 on the *Planning Act*.

The recently enacted legislative changes to the *Planning Act* enhance the Minister's authority for zoning orders across the Province, however this enhanced authority will not apply to lands within the Greenbelt Area.

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**ANALYSIS AND RATIONALE FOR RECOMMENDATIONS**

The enhanced authority through the recent *Planning Act* changes allows the Minister to:

- Require inclusionary zoning affordable housing;
- Remove municipal use of site plan control and require agreements between the municipality and owner or applicant concerning site plan matters; and,
- Make amendments to Minister's Zoning Orders that use any of these enhanced authorities without first giving public notice.

The Province has indicated that an enhanced Minister's Zoning Order could help to overcome potential barriers and the enhanced authority could be used to support transit station infrastructure, optimize surplus lands, provide increased certainty for strategic projects, remove potential delays, increase the availability of affordable housing and enable economic recovery.

**Inclusionary Zoning**

The recently enacted changes to Section 47 of the *Planning Act* provide the Minister with authority, as part of a Minister's Zoning Order, to use inclusionary zoning to require affordable housing units in a proposed development. The changes would allow the Minister to require agreements between the landowner and the municipality or the landowner and the Minister to address inclusionary zoning matters.

**Staff Comments**

Through Bill 108 the ability for a municipality to use inclusionary zoning was restricted to major transit station areas or where a development permit system is in place. Council was not supportive of these restrictions as they limited the City's ability to increase the supply of affordable housing.

Staff have no concerns with Ministerial authority to use inclusionary zoning however it is requested that the Province provide municipalities with the authority to seek affordable housing through the use of inclusionary zoning City wide and not in limited areas of the City to support the City's Housing and Homelessness Action Plan to increase affordable housing projects in the City. In addition, the City should be provided with the opportunity to review the specific details of how inclusionary zoning would be applied to individual sites, how it would be administered, and who would be responsible for ensuring the units created are affordable housing units and the mechanisms to ensure the units remain as affordable units, including the direct and indirect costs of monitoring the units over time (i.e. will they be rental or ownership, and if ownership, what price controls will be utilized?).

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## Site Plan Control

The recently enacted changes to the *Planning Act* allow the Minister to address site plan matters for areas part of a Minister's Zoning Order. This new authority could be used in conjunction with a new Minister's Zoning Order or to an existing Minister's Zoning Order. This authority would supersede municipal site plan authority. Through the Minister's Zoning Order the Minister could require a municipality and owner/applicant to enter into an agreement to address site plan matters, however the Minister will be able to give binding direction outside the zoning order regarding the agreement to scope the matters to be address or to specify how the matters are to be addressed.

## Staff Comments

The Province is requesting comments concerning changes to certain legislative provisions in the *Planning Act* in force with the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020* which received Royal Assent on July 21, 2020 relating to Minister's Zoning Orders and site plan control. As the legislative provisions are already in force, the City questions the timing of the Province seeking comments at this time and whether concerns can feasibly be addressed.

There are many misconceptions regarding the site plan process in terms of processing applications in a timely manner. In the case of the City of Hamilton's site plan process, staff are able to process applications in 6 to 9 months on average. Many of the delays that can occur are beyond the City's control in that delays relate to the timing and quality of resubmissions and required information, but the City works very hard to ensure plans and drawings are reviewed expeditiously and issues are addressed as quickly as possible to assist in getting applicants to the building permit stage.

Staff are not supportive of the Minister addressing site plan matters for areas part of a Minister's Zoning Order. The effect of this would be to upload the site plan review function from the City of Hamilton to the Province. This is contrary to previous Provincial initiatives to delegate approval functions (i.e. Official Plan Amendments, Plans of Subdivision and Plans of Condominium) to local municipalities to ensure that local requirements and standards are addressed. Site plan review has never been a Provincial function and has always resided with municipalities.

The following comments are provided for consideration:

- Development which fits within the vision established by the City of Hamilton's Official Plans and supported by quality technical studies proceeds in a timely manner through the site plan process in the City of Hamilton. It is unclear how allowing the Minister to address site plan matters would expedite development where technical review would still be required in order to make an informed decision on a site plan.

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- Site plan control is a tool to ensure a development is technically sound and in accordance with Council approved policies, protocols, guidelines and By-laws. Site plan control should continue to be the responsibility of municipalities as it provides the opportunity for municipalities to work with applicants and review and approve:
  - conformity with applicable Zoning By-laws and design standards/guidelines;
  - massing of buildings, exterior design, lighting and landscaping in accordance with Official Plan policies or other approved design standards and the relationship of buildings to the street, public access, sidewalk connections, and ensuring accessibility for persons with disabilities;
  - matters of Provincial interest including noise, and record of site condition;
  - impacts on environmental features and natural heritage systems;
  - loading, garbage collection, snow storage and parking areas;
  - grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water;
  - detailed engineering including functional servicing reports with engineering drawings, stormwater management reports, transportation impact studies, geotechnical studies, vibration for shoring any proposed, construction management, slope stability and shoreline protection studies;
  - easements conveyed to the municipality for access, construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board;
  - erosion and siltation control;
  - tree removal and tree plantings;
  - letter of credit (securities) to be kept in force until the completion of the required site development works in conformity with the approved design and requirements and other fees, cost recoveries, developer and City shares for cost of development and Development Charges;
  - addressing/units and street naming for Emergency Services purposes;
  - servicing including capacity and allocation;
  - stormwater management and Low Impact Development;
  - ensuring land assembly and orderly development;
  - infrastructure upgrades to support the development; and,
  - right-of-way dedications to the City (including daylight triangles) and access management standards.

Should these matters no longer be the responsibility of municipalities, it is not clear if the Province would assume responsibility for the technical review of conformity with local zoning by-laws, other by-laws, guidelines and related policies. It is also not clear who will enforce the site plan requirements. The City requires a Letter of Credit as noted above and the Province should clarify if Letters of Credit would be required and if the Ministry would be responsible for receiving and releasing Letters of Credit.

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**SUBJECT: Bill 197, the *COVID-19 Economic Recovery Act, 2020* and Changes to the *Planning Act* (PED21046) (City Wide) - Page 6 of 7**

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It should also be clarified who will assume liability and responsibility for site plan approvals, for example site servicing or grading. It should also be clarified who will be responsible for any issues post-construction and occupancy.

The Province should clarify in detail how the review of site plan matters would be undertaken, including process and responsibility, should the municipality not be the approval authority and the Province should confirm if the Ministry would provide clearance/approval on all technical site plan matters on behalf of the City and assume all liability and responsibility for those approvals.

- The City assumes a coordinating role with site plans by seeking comments from external agencies such as the Conservation Authorities and the Ministry of Transportation as well as requirements from other Departments within the City. The Province should clarify if the Ministry will assume this coordinating role.
- The Province should clarify if municipal site plan control by-laws would need to be amended to address Ministerial approval of site plans.
- The Province should be advised that it could be problematic if the Minister's Zoning Order dictated the scope of a site plan agreement before the site plan application is submitted. It may be impossible to anticipate every matter that may need to be addressed in a site plan application at the zoning stage before anyone (including the Ministry) knows the substance of the actual proposal.
- Should the approval authority no longer be the municipality, the Province should clarify if the Ministry will assume enforcement and ensure that the development meets municipal by-laws.
- The City's site plan process includes Conditional Approval and limits site plan approval to 1 year (or 15 months in the Downtown) to ensure the application is in keeping with the most up-to-date City By-laws and requirements. The Province should confirm if the Ministry will impose processes specific to each municipality in approving a site plan application.

### **Consultation**

The following were consulted in the preparation of this report and comments to the Province:

- Legal Services;
- Growth Management Division; and,
- Transportation Planning Division.

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**SUBJECT: Bill 197, the *COVID-19 Economic Recovery Act, 2020* and Changes to the *Planning Act* (PED21046) (City Wide) - Page 7 of 7**

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**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton* has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Our People and Performance**

*Hamiltonians* have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

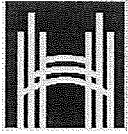
Appendix “A” – Letter submitted to the Province with comments

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Physical Address: 71 Main Street West  
Phone: 905.546.2424 Fax: 905.546.4202  
Email: Steve.Robichaud@hamilton.ca

Hamilton

January 29, 2021

Provincial Planning Policy Branch  
777 Bay Street  
13th floor  
Toronto, ON  
M7A 2J3

Re: Bill 197, the *COVID-19 Economic Recovery Act, 2020* and Changes to the  
*Planning Act*

Dear Sir or Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission on Bill 197. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes. City staff will be taking a report to Planning Committee on February 16, 2021 and to Council on February 24, 2021 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on Bill 197. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Robichaud".

Stephen Robichaud  
Director of Planning and Chief Planner

Attachments:

Appendix A – Letter to the Province  
Appendix B – Inclusionary Zoning Report

Copy to

Anita Fabac, Manager of Development Planning, Heritage and Design

### **City of Hamilton Comments - Inclusionary Zoning**

Through Bill 108 the ability for a municipality to use inclusionary zoning was restricted to major transit station areas or where a development permit system is in place. Council was not supportive of these restrictions as they limited the City's ability to increase the supply of affordable housing.

Staff have no concerns with Ministerial authority to use inclusionary zoning however it is requested that the Province provide municipalities with the authority to seek affordable housing through the use of inclusionary zoning City wide and not in limited areas of the City to support the City's Housing and Homelessness Action Plan to increase affordable housing projects in the City.

### **City of Hamilton Comments - Site Plan Control**

The Province is requesting comments concerning changes to certain legislative provisions in the *Planning Act* in force with the enactment of Bill 197, the *COVID-19 Economic Recovery Act, 2020* which received Royal Assent on July 21, 2020. As the legislative provisions are already in force, the City questions the timing of the Province seeking comments at this time and whether concerns can feasibly be addressed.

There are many misconceptions regarding the Site Plan process in terms of processing applications in a timely manner. In the case of the City of Hamilton's Site Plan process we are able to process applications in 6 to 9 months on average. Many of the delays that can occur are beyond the City's control, but the City works very hard to ensure issues are addressed as quickly as possible to assist in getting applicants to the building permit stage.

Staff are not supportive of the Minister addressing Site Plan matters for areas part of a Minister's Zoning Order. The effect of this would be to upload the Site Plan review function from the City of Hamilton to the Province. This is contrary to previous Provincial initiatives to delegate approval functions (i.e. Official Plan Amendments, Plans of Subdivision and Plans of Condominium) to local municipalities to ensure that local requirements and standards are addressed. Site Plan review has never been a Provincial function and has always resided with municipalities.

The following comments are provided for consideration:

- Development which fits within the vision established by the City of Hamilton's Official Plans and supported by quality technical studies proceeds in a timely manner through the Site Plan process in the City of Hamilton. It is unclear how allowing the Minister to address Site Plan matters would expedite development where technical review would still be required in order to make an informed decision on a Site Plan.
- Site Plan Control is a tool to ensure a development is technically sound and in accordance with Council approved policies, protocols, guidelines and By-laws. Site Plan Control should continue to be the responsibility of municipalities as it

provides the opportunity for municipalities to work with applicants and review and approve:

- conformity with applicable Zoning By-laws and design standards/guidelines;
- massing of buildings, exterior design, lighting and landscaping in accordance with Official Plan policies or other approved design standards and the relationship of buildings to the street, public access, sidewalk connections, and ensuring accessibility for persons with disabilities;
- matters of Provincial interest including noise, and record of site condition;
- impacts on environmental features and natural heritage systems;
- loading, garbage collection, snow storage and parking areas;
- grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water;
- detailed engineering including functional servicing reports with engineering drawings, stormwater management reports, transportation impact studies, geotechnical studies, vibration for shoring any proposed, construction management, slope stability and shoreline protection studies;
- easements conveyed to the municipality for access, construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board;
- erosion and siltation control;
- tree removal and tree plantings;
- letter of credit (securities) to be kept in force until the completion of the required site development works in conformity with the approved design and requirements and other fees, cost recoveries, developer and City shares for cost of development and Development Charges;
- addressing/units and street naming for Emergency Services purposes;
- servicing including capacity and allocation;
- stormwater management and Low Impact Development;
- ensuring land assembly and orderly development;
- infrastructure upgrades to support the development; and,
- right-of-way dedications to the City (including daylight triangles) and access management standards.

Should these matters no longer be the responsibility of municipalities, it is not clear if the Province would assume responsibility for the technical review of conformity with local zoning by-laws, other by-laws, guidelines and related policies. It is also not clear who will enforce the Site Plan requirements. The City requires a Letter of Credit as noted above and the Province should clarify if Letters of Credit would be required and if the Ministry would be responsible for receiving and releasing Letters of Credit.

It should also be clarified who will assume liability and responsibility for Site Plan approvals, for example site servicing or grading. It should also be clarified who will be responsible for any issues post-construction and occupancy.

The Province should clarify in detail how the review of Site Plan matters would be undertaken, including process and responsibility, should the municipality not be

the approval authority and the Province should confirm if the Ministry would provide clearance/approval on all technical Site Plan matters on behalf of the City and assume all liability and responsibility for those approvals.

- The City assumes a coordinating role with Site Plans by seeking comments from external agencies such as the Conservation Authorities and the Ministry of Transportation as well as requirements from other Departments within the City. The Province should clarify if the Ministry will assume this coordinating role.
- The Province should clarify if municipal Site Plan Control by-laws would need to be amended to address Ministerial approval of Site Plans.
- The Province should be advised that it could be problematic if the Minister's Zoning Order dictated the scope of a Site Plan agreement before the Site Plan application is submitted. It may be impossible to anticipate every matter that may need to be addressed in a Site Plan application at the zoning stage before anyone (including the Ministry) knows the substance of the actual proposal.
- Should the approval authority no longer be the municipality, the Province should clarify if the Ministry will assume enforcement and ensure that the development meets municipal by-laws.
- The City's Site Plan process includes Conditional Approval and limits Site Plan approval to 1 year (or 15 months in the Downtown) to ensure the application is in keeping with the most up-to-date City By-laws and requirements. The Province should confirm if the Ministry will impose processes specific to each municipality in approving a Site Plan application.





Hamilton

**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Response to the Ministry of Municipal Affairs and Ministry of Housing Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning) (City Wide) (PED18063)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Edward John (905) 546-2424 Ext. 5803
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning Division
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That Council endorse the comments and recommendations contained in Report PED18063 and that the City Clerk be directed to forward Report PED18063 and Appendix "A" to the Ministry of Municipal Affairs and the Ministry of Housing as formal comments in response to the proposed regulatory content concerning Inclusionary Zoning; and,
- (b) That following the proclamation of Bill 7, the *Promoting Affordable Housing Act*, staff be directed to consult with the community and report back to Planning Committee with a proposed framework for inclusionary zoning in Hamilton.

**EXECUTIVE SUMMARY**

This Report responds to the request for comments regarding the proposed regulatory content related to inclusionary zoning placed upon the Environmental Registry (EBR) by the Ministry of Municipal Affairs and the Ministry of Housing. The regulation was posted on the EBR December 18, 2017 and a 45 day submission requirement was provided, with the deadline for comments being February 1, 2018. Draft comments which are detailed within Appendix "A" to Report PED18063 were submitted to the Province on January 22, 2018. Once endorsed by Council, this Report including Appendix "A" to Report PED18063 will be forwarded to the Province as the City's final comments.

This Report has been completed in collaboration with the Housing Services Division.

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***Alternatives for Consideration – See Page 10***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** There are no financial implications as a direct result of this Report, but if Council elects to pursue inclusionary zoning, then determining individual program elements of an inclusionary zoning framework at the local level and preparing an Inclusionary Zoning By-Law, will require resources and a number of studies. The source of the funding required to finalize these matters has not been determined, but capital funding for the necessary staff to conduct the research, implementation and monitoring may be required.

Depending on the specifics of the regulation ultimately established by the Province, implementation of an inclusionary zoning framework could require financial offsets, including exemptions of Development Charges and parkland dedication fees. Resources would also be required to establish agreements to enforce the inclusionary zoning, and to monitor, track and enforce the agreements to ensure affordability over the long term.

**Staffing:** There are no staffing implications as a direct result of this Report, but if Council elected to implement inclusionary zoning, staff resources would be required to undertake detailed evaluation of growth forecasts, detailed market studies, and modelling of various development scenarios, as well as to implement, and administer the program. Implementation would include drafting agreements, monitoring affordability and eligibility over the length of the affordability period, reporting, etc. The amount of staff resources required is unknown at this time.

**Legal:** There are no legal implications as a direct result of this Report, but if Council elected to implement inclusionary zoning there would be legal implications related to developing agreements, administration, registering instruments on title, and enforcing legal agreements.

**HISTORICAL BACKGROUND**

On March 14, 2016, the Ontario Government provided an update to the Long-Term Affordable Housing Strategy. Part of the update included proposed legislation for Inclusionary Zoning (IZ). This legislation was in response to numerous requests received during the consultation on the strategy update, including a request from the City for the Province to establish an Inclusionary Zoning framework through Report CES15032 and the responses to Bill 73 provided in Report PED15093.

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The proposed legislation and associated regulations would allow municipalities to mandate that affordable housing units be provided by development proponents as part of residential development projects.

On May 18, 2016, Ontario introduced Bill 204, which is now referred to as the *Promoting Affordable Housing Act, 2016 (Bill 7)*. The bill, proposed amendment to six provincial acts: the *Development Charges Act, 1997*; *Housing Services Act, 2011*; *Planning Act 1990*, *Residential Tenancies Act, 2006*; *Smart Growth For Our Communities Act, 2015* and *Elderly Persons Housing Aid Act, 1990*.

The *Promoting Affordable Housing Act, 2016 (Bill 7)* was introduced on September 14, 2016 and received Royal Assent on December 8, 2016.

The current matters under consideration concern the proposed regulatory content related to inclusionary zoning should the proposed legislation be proclaimed.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Bill 204 Changes**

Bill 204 proposed to amend six provincial acts. Those acts with an impact on land use planning were the *Development Charges Act, 1997*; *Planning Act, 1990*; and *Smart Growth For Our Communities Act, 2015*.

Key amendments proposed in Bill 204 include:

1. Under the proposed legislation certain municipalities prescribed by regulation will be **required** to implement inclusionary zoning through their Official Plan policies and by passing an inclusionary zoning by-law. Other municipalities, those not prescribed by regulation, **may** choose whether or not to implement inclusionary zoning. The Ministry has been clear through the consultation materials and discussions with staff, that there is no intention to require any municipalities to implement inclusionary zoning. Municipalities will only be enabled to do so. The "required" language is in the legislation only in case the Ministry finds that it is necessary to require inclusionary zoning at some undefined point in the future;
2. Official Plan policies and by-laws to authorize inclusionary zoning, including "any condition, requirement or standard relating" to inclusionary zoning are only appealable by the Minister;
3. A by-law passed by a municipality to give effect to implement inclusionary zoning policies:

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- a. **must** include requirements for the number of affordable housing units to be provided, the period of time affordability must be maintained, and the requirements and standards that affordable housing units must meet;
  - b. **must** require that the owners of the new development enter into an agreement with the municipality to implement the requirements set by the by-law. Such agreements may be registered on title and enforced on subsequent owners;
  - c. **may** include measures and incentives to support inclusionary zoning, unless they are otherwise required by regulation. Measures are planning permissions that can help off-set the cost of building the affordable units, such as increased height and density and reduced parking standards. Incentives are fee waivers, grants, loans, loan guarantees, etc. provided by the municipality;
  - d. **may** determine the price at which affordable housing units are sold or rented. Generally, successful inclusionary zoning programs are able to meet the need for slightly below market housing rather than more deeply affordable housing;
  - e. **may** set requirements and standards regarding exterior access, the shape and dimensions of each affordable housing unit, and the approximate location of the affordable units relative to the market rate units. It is uncertain if the affordable units are required to be exactly like the market units, or if some concessions can be made to increase the affordability of the units, such as reduced size, specific location within the development, lesser quality of finishings, etc.; and,
  - f. **may** require that in the case of condominium projects, any shared facilities agreements are acceptable to the municipality.
4. Other parameters and requirements for implementation of inclusionary zoning include:
- a. A requirement for municipalities to monitor and ensure that the affordability of the units is maintained for the required period of time;
  - b. Municipalities may not use density bonusing (Section 37) to obtain a community benefit from the developer in addition to the affordable units;
  - c. Municipalities may not accept cash-in-lieu of the affordable housing units, or permit affordable housing units be built on a different site. The intent of this requirement is to ensure that there would be affordable units in every development, ensuring a mix of incomes in every neighbourhood;

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- d. Minor variances may not be granted to the inclusionary zoning portion of a by-law; and,
- e. Long-term leases of new developments containing affordable housing units are exempt from subdivision and part-lot control.

An additional proposed change to the *Planning Act* that any policies, or parts of by-laws that give effect to policies permitting second dwelling units, including any requirement or standard relating to second dwelling units, are not appealable.

**Proposed *Planning Act* Regulations**

Many of the details regarding implementation of inclusionary zoning will be addressed by provincial regulation the proposed content of which is the subject of this Report. Official Plan policies and zoning by-laws will be required to comply with the regulations.

**Urban Hamilton Official Plan (UHOP)**

- 3.2.3.1 The City shall endeavour to provide a facilitative land use planning process for development applications for *affordable* housing and *housing with supports*.
- 3.2.3.2 Where appropriate, assistance shall be provided, either by the City and/or by senior governments, to encourage the *development* of *affordable* housing, with priority given to projects in areas of the City that are lacking in *affordable* housing. City assistance may include selling or leasing of surplus City land or financial assistance.
- 3.2.3.4 The City shall identify, promote and, where appropriate, participate in *affordable* housing opportunities funded by senior levels of government.
- 3.2.3.5 The City shall encourage senior levels of government to adopt a 'Housing First' policy whereby *affordable* housing uses are given priority in the disposition of surplus government owned land.
- 3.2.3.6 Investment in new *affordable* housing shall be encouraged by a coordinated effort from all levels of government through implementation of a range of strategies, including effective taxation, regulatory and administrative policies and incentives.

The above policies are also contained within the Rural Hamilton Official Plan.

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**Housing and Homelessness Action Plan (HHAP)**

The goal of the following strategies in the City's ten year Housing & Homelessness Action Plan is to increase the supply of affordable housing and promote a mix of incomes in neighbourhoods. Inclusionary zoning has the potential to further both of these objectives.

Outcome Area 1: There is more affordable rental and ownership housing in Hamilton to meet the need and demand.

Strategy 1.4: Explore the feasibility of **inclusionary zoning** and seek necessary provincial legislative changes that would facilitate the implementation of inclusionary zoning in Hamilton.

Outcome Area 2: There is an increase in people's housing affordability, stability and choice

Strategy 2.1(a): Encourage mixed housing and mixed income development in all urban neighbourhoods by: increasing opportunities for rental, social and affordable housing in areas that currently offer limited opportunities.

Strategy 2.2: Develop a policy and strategy to ensure the low and moderate income households in neighbourhoods experiencing economic growth and transformation are not displaced or negatively impacted by gentrification.

**RELEVANT CONSULTATION**

**Housing and Homelessness Planning Group**

The Housing and Homelessness Planning Group reviewed the regulatory content and were in support of the position of staff articulated within Appendix "A" to Report PED18063.

**Development Industry Liaison Group**

The Development Industry Liaison Group (DILG) was provided a brief overview of the proposed regulatory content. Given the significant and complex implications raised within the proposed regulations, separate and more detailed responses are expected to be provided by DILG directly to the Ministry. The high-level responses included the following comments:

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- Geographical areas within Hamilton offer varying levels of services. A city wide application would need to identify need and suitability of the location of IZ units.
- Incentives currently exist within certain areas of Hamilton, whether it is Development Charges, Parkland Dedication or parking requirements. Clarification would be required to determine if incentives are to be above and beyond that which currently exists.
- Incentives are needed otherwise costs associated with an IZ framework will be transferred to the market purchasers.
- Similarly ongoing tax and condominium fees require discussion concerning who pays and if this will again be a cost born by market owners only.
- The required assessment report should be completed in conjunction with Municipal Comprehensive Review process.

Staff will investigate the issues raised at DILG as part of the IZ study that is required to be prepared.

### **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Ontario's Long-Term Affordable Housing Strategy Update (LTAHS-U), released in March 2016, is an ambitious plan to increase the supply of affordable housing, transform the housing system, better support people, work in partnership with municipalities, end chronic homelessness, and more. Report CES15032(a) provides an overview of the changes put forward in the LTAHS-U. As part of the commitment to increase the supply of affordable housing, the LTAHS Update committed to bring forward legislation to enable municipalities to implement inclusionary zoning.

The proposed inclusionary zoning authority is intended to help municipalities increase the supply of affordable housing to meet the objectives and targets set out in municipal housing and homelessness plans and official plans.

#### Inclusionary Zoning

Inclusionary Zoning refers to policies, by-laws and programs that require residential development proposals to include affordable housing units and provide for those units to be maintained as affordable over a period of time. This approach uses the land-use planning approvals process to require private-market development to provide below market-rate rental and/or ownership housing. Programmatic aspects ensure that the units are affordable for a period of time. That length of time and what constitutes "affordable housing" are two of several elements of inclusionary zoning that must be determined for each specific inclusionary zoning program.

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While inclusionary zoning can be targeted to varying parts of the housing spectrum, most successful programs are able to create housing, both rental and ownership housing, that is just under market rent or market price. This type of housing is often referred to as “key” or “essential” worker housing; housing for those workers who can't afford a home near their work, but have too high an income to qualify for social housing. In this way, inclusionary zoning has the ability to contribute significantly to reducing affordability programs for those who can afford to pay just under market rates, but will not solve Hamilton's affordable housing program. Additional City incentives such as rent subsidies would be required to create more deeply affordable housing.

### Proposed Inclusionary Zoning Regulations

The inclusionary zoning regulations proposed by Ministry of Municipal Affairs and Ministry of Housing have been summarized below:

#### 1. Prescribed Official Plan Policies

- Inclusionary zoning requirements would only apply to ownership, not rental units.
- Would only apply to development or redevelopments that propose no less than 20 residential units.
- Municipalities would determine applicable locations, range of household incomes eligible and set the average market price for each proposed unit type.

#### 2. Municipal Assessment Report

- Prior to adopting an inclusionary zoning by-law, municipalities must submit a Municipal Assessment Report to the Ministry outlining population and demographic information, municipal housing market trends and projections.

#### 3. Provisions

- Municipalities could require a maximum of 5% of new units/GFA (gross floor area) to be affordable, 10% if located in a high density transit station area.
- Affordability period - minimum 20 years, maximum 30 years.
- For 10 years after the affordability period, the unit is subject to sale price and sale provisions as determined in the regulation.

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- Municipalities would be required to provide financial incentive commensurate to 40% of the difference between the market price and the affordable price.
- These incentives could be direct or indirect including aspects such as Development Charge reductions, Parkland dedication reductions, parking reductions and application fee waivers.
- Density bonusing is not permitted as a means to off-set financial impact.

4. Inclusionary Zoning Agreements

- The municipality shares in the equity of the affordable unit with the owner.
- The balance or share of proceeds related to the equity upon sale of a unit shifts from the municipality to the homeowner over time; whereas, when the owner has owned the home for two years or less, 90% of the proceeds go to the municipality and 10% go to the owner. After 20 years, 10% of proceeds go to the municipality while 90% goes to the owner.
- Sharing of the proceeds of equity limited only to the first sale of the unit, however, provisions are in place to limit the use of this property speculation (i.e. flipping of the property).

5. Reporting

- Municipalities are required to monitor and regularly report back on the number, location and types of affordable units established through the program as well as proceeds related to the sale of affordable units.

6. Off-site provisions

- Affordable units provided off-site must be located within proximity to the proposed development and lands must be zoned (unless a non-profit housing provider). Affordable units must be ready for occupancy within 36 months and may comprise no more than 50% of the project.

7. Restrictions on s.37 (Bonusing)

- Inclusionary zoning units or GFA cannot be used to determine community benefits and would not be applicable within a community planning permit system.

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8. Exemptions

- Inclusionary zoning requirements are not applicable to non-profit housing providers, rental developments, where an application for building permit or site plan approval was made before the day that an inclusionary zoning by-law was passed or where concurrent applications were submitted before the day an Official Plan policy was adopted.

9. Community Planning Permit System

- Inclusionary zoning will be permitted to be implemented within a community planning permit system. A community planning permit system allows for review of development applications in a comprehensive fashion, whereby zoning and site plan process are conducted at the same time.

Given the short response time given by the Ministry (responses had a deadline of February 1, 2018), staff prepared responses and submitted these to the Ministry on January 22, 2018. This response is contained in Appendix "A" to Report PED18063 and staff noted that the comments provided were staff comments only to meet the Provincial deadlines and that formal City of Hamilton comments would be forthcoming once Council considered the matter.

**Responses to the Proposed Inclusionary Zoning Regulations:**

The recommended responses to the draft inclusionary zoning regulations posed by the Province are in Appendix "A" to Report PED18063. In summary, it is the position of staff that the proposed regulatory content successfully balances the individual program and implementation elements that should primarily be determined at the local level with those that should be determined at the Provincial level. However, some elements determined at the Provincial level require additional consideration, in particular the requirement for a financial contribution by the municipality.

**Additional Considerations:**

In addition to the above responses, staff raised a number of additional considerations including: the absence of provincial incentives and funding, as well as the need for additional planning tools to determine affordable unit suitability. These outstanding matters should be addressed by the Province.

**ALTERNATIVES FOR CONSIDERATION**

The City could forego the opportunity to provide comments to the Province at this time.

**SUBJECT: Response to the Ministry of Municipal Affairs and Ministry of Housing  
Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning)  
(City Wide) (PED18063) - Page 11 of 11**

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**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

**Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": City of Hamilton Responses to the Ministry of Municipal Affairs and Ministry of Housing proposed inclusionary zoning regulation

EJ:mo

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*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**Ministry of Hamilton Response to the  
Ministry of Municipal Affairs and Ministry of Housing  
Regarding the Proposed Regulatory Content for Inclusionary Zoning with  
respect to *The Promoting Affordable Housing Act, 2016, Bill 204***

Summary of Responses to the Proposed Regulatory Content

1. Prescribed Official Plan Policies

The Municipalities would be required to adopt Official Plan policies that include provisions for the following:

Threshold:

As detailed in the proposed regulatory content, zoning by-laws giving effect to the Official Plan policies could only apply to development or redevelopments that propose no less than 20 residential units.

Comments:

As previously commented, staff were of the opinion that thresholds should be determined at the local level, to ensure the threshold size is responsive to the form, scale and type of current development occurring across Hamilton.

It was considered that at the municipal level, introduction of a sliding scale would assist in creating a meaningful threshold across the various geographical areas of Hamilton, as well as avoiding the potential for developments to be sized immediately below the threshold to avoid triggering the requirement for affordable units. This is particularly concerning given the potential for IZ to be applied to subdivisions, whereby developers may choose to register their developments in phases such that they do not trigger the requirement for affordable units.

Locations and Areas:

Staff are supportive of the discretion to choose appropriate locations within the Municipality to apply IZ requirements.

Range of Household Incomes:

Staff are supportive of the discretion to identify a range of household incomes for which IZ by-laws could provide for affordable housing units.

Average Market Price:

Staff are supportive of the municipal ability to identify an approach within their Official Plan policies to set, as well as vary across different locations within the municipality, an average market price for each proposed unit that may be required as affordable housing units in an inclusionary zoning by-law. This is particularly useful in a municipality such as Hamilton with a wide diversity of housing markets.

(i.e. urban and rural). This would create a more meaningful and responsive IZ framework.

Other:

Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ units.

2. Municipal Assessment Report

A reasonable requirement, but would require administrative funding to complete. The Province should provide additional resources and detailed guidelines.

3. Provisions Required in IZ By-laws

Unit Set Aside:

Staff previously commented that a broad minimum and maximum range would be beneficial, with the authority given to the municipalities to determine exact set aside requirements following review of local housing markets and the key targets established within the municipalities presiding policy documents (Official Plan / Housing and homelessness Action plan).

On this matter, the 5% set aside value is considered conservative and staff has concerns over the ability for such a value to satisfy increasing housing affordability issues within Hamilton. Based on the current regulations and applying the framework to Hamilton's 2017 development activity, Hamilton would have been able to secure approximately 30 IZ units in 2017.

Staff would instead prefer a higher maximum set aside with flexibility for municipalities to determine set asides based on local market dynamics and other IZ requirements. For instance the required set aside could be different for off-site IZ provision, housing types, etc.

Staff also raise the question regarding the authority to 'round up' or 'round down' values, and would request that this be a factor determined at the municipal level.

Notwithstanding this concern with the 5% set aside value, it is noted that this value does increase to 10% in 'high-density transit-station areas' identified within a municipality's Official Plan. These areas represent important opportunities to take advantage of increased intensification in locations that offer services considered important for those residents who are in search of affordable units.

It is also noted that the flexibility in where the IZ by-laws can be applied and the determination of the threshold level by the regulation are inter-related matters and determination of these factors should be reviewed collectively. On this basis, while the applicability of the IZ framework may be tempered by the provisions determined

within this regulation, they do provide some much needed clarity on the extent and direction IZ by-laws should take.

Finally, the ability to consider either unit numbers or gross floor area with regards to the amount of the development to be used for affordable housing is a more responsive and fair approach.

Affordability Period:

Hamilton is supportive of the range of affordability period of 20 to 30 years and for the precise term to be determined by the Municipality.

Hamilton is generally supportive of a shared equity model and the lack of restriction on the use of municipal proceeds from the sale of an IZ unit. In 4. iv) "the price at which the owner sold the affordable housing unit" should reference "fair market value."

Measures and Incentives:

The requirement for municipalities to provide direct financial incentives would make an inclusionary zoning framework unworkable. Councils would find it challenging to support financial incentives for ownership housing that is moderately affordable at best. Based on the current proposed regulations, the City of Hamilton would likely have to forgo Development Charges on the 'affordable units' in order to achieve only shallow affordability (10% below market). Deeper affordability would result in potentially even further capital investment from the municipality.

The flexibility in the provision of measures (both direct and indirect) to account for the financial implications of an IZ By-law is noted, however, the City of Hamilton has already adopted a number of these measures to date, including reduced parking rates and fee waivers for affordable housing developments. As such, availability and appropriateness of additional incentives are limited within the Hamilton context.

Notwithstanding this, should indirect incentives be pursued, this raises questions over how, for instance, a value is determined for a parking space requirement which has been exempted. On this matter, direction on who and how measures / incentives are determined and applied is sought, given the concerns of potential arbitration with developers who may for example seek DC exemptions whereby municipal staff prefer to apply alternative measures to address the financial consideration.

With respect to density bonusing, it is appreciated that this is not considered a requirement, given that Hamilton has sought to ensure future zoning allowances represent significant consideration of how and where Hamilton grows, and bonusing above that may potentially undermine the vision of growth within Hamilton.

Staff consider that if incentives are to be mandated, it should be in instances where the municipality seeks to increase the set aside beyond 5% or alternatively where deeper affordability thresholds are sought. Under these circumstances, a 60/40

share in the financial impact beyond that contemplated in the regulations (based on the increase in units and / or affordability), would seem more appropriate. Further, it is noted that provincial opportunities such as Provincial Tax exemptions have not been considered and that these incentives could prove increasingly meaningful within the proposed framework.

Price:

Staff support the ability of municipalities to set prices (initial and resale prices) for inclusionary zoning units.

4. IZ Agreements

Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ units.

Comments with respect to the proposed equity share model are addressed under "Affordability Period."

5. Reporting / Monitoring

Staff are generally supportive of reporting requirements.

6. Off-site Provisions

Staff are supportive of the flexibility to permit off-site provisions, albeit that consideration of cash-in-lieu would have been also complimentary to an IZ framework in Hamilton, given the variation in land values and varied Geography across Hamilton.

The clear requirements regarding how much, and timing for delivery of off-site provisions are appreciated. However, it is unclear what 'located in proximity' would mean, and what if any, the implications would be for units to be delivered in areas with different average market price.

Additionally, it is unclear as to what penalties the municipality could impose should adherence to the 36 month period not be satisfied. Clear guidance and potentially direction of which planning tools could be applied would be appreciated.

7. Restrictions on Use of s.37

Staff are satisfied with the flexibility and limitations placed within the use of s.37 options, and consider them a reasonable response to our previous comments.

## 8. Exemptions

Staff acknowledges that the decision to exempt rental housing units from IZ regulations is to encourage increased development of rental units, however; staff consider that the decision to exempt such units should be discretionary and made at the municipal level, based on the individual market impacts and variation across the municipality.

Staff support the decision to exempt non-profit housing providers from the regulations.

With respect to the proposed transitional exemptions, staff are supportive of the approach, which as previously commented, would provide sufficient time for developers to address their development pro-formas accordingly.

## 9. Community Planning Permit System

Although Hamilton currently does not have any plans to adopt CPPS, inclusion of IZ regulations within the amended O. Reg. is supportable.

## 10. General Matters

### Costs:

This IZ framework imposes an unfunded mandate on municipalities in the form of administrative program and monitoring costs. While there will be some influx funds as IZ units are sold, these should be reinvested into the program rather than used for reimbursement of administrative costs incurred many years previous.

### Suitability:

There was no mention in the regulations regarding powers to assess 'suitability' of the affordable units created. Clear criteria needs to be established in which to determine what makes a unit 'suitable'. If this is to be determined at the municipal level, guidance should be provided by the Ministry in order to ensure consistency in approach is secured across Municipalities.

On this matter, the 2017 Growth Plan requires municipalities to complete a Housing Strategy as part of the Municipal Comprehensive Review. The Growth Plan policies stress the importance of including affordable housing as part of the range and mix of housing options. Further, the Growth Plan, through policy 2.2.6.3, requires municipalities to "consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes". Staff note that there is a lack of tools available through which a municipality can require the provision of a range of unit sizes within multi-residential buildings. Staff further note that the IZ regulations, as provided, do not provide any additional tools to aid municipalities in meeting this requirement. Staff require clarification from the Province regarding Growth Plan



policy 2.2.6.3 and the inability of municipalities to satisfy this policy in light of the lack of available tools.

Condominium Fees:

Given the inability of municipalities to use cash-in-lieu in the implementation of inclusionary zoning, buildings with comparatively high condominium fees may be required to provide affordable units. There is an outstanding question of how these fees would be applied to affordable units. Limited access or restrictions to shared facilities may be counter to the intent to create inclusive communities, whereas reduction or elimination of fees for occupants of the affordable units could lead to higher fees and tensions between those in the affordable units and owners of the market units.

Tenure:

The proposed regulations appear to be focused on an ownership model. However, rental remains a much required source of affordable housing within Hamilton. Would the IZ framework be able to be applied to secure rental units? If so, would this be permitted to be addressed within the Official Plan Policies?

For context Staff have also attached our previous comments sent to the Ministry with respect to the Promoting Affordable Housing Act 2016 (Bill 7).

## Previous Responses Sent to Ministry

### Planning Act Application Fees:

It is noted that the Minister will be prescribed powers to determine application fees. It is noted that the City of Hamilton has already provided fee waivers for certain development applications that are providing affordable housing. However, there would be concern over the decision to further modify the approach for application fees currently in operation within Hamilton. Application fees are based on cost recovery, understanding the staff time and subsequent costs to the municipality to review development applications. Additional fee reductions mandated from the province would have implications with respect to the review costs and budgetary operation of the City.

### Parking:

Bill 204 will provide the Minister the authority to determine parking and loading requirements for affordable units. A number of issues determine parking demand requirements. Affordability is one such issue, but access to transit, size of household and specific locational attributes also need consideration. Given Hamilton's varied communities, it is the position of the City of Hamilton that such provisions be determined at the municipal level.

### Cash-in-lieu:

In consultations staff heard repeatedly that while inclusion is an important component of inclusionary zoning, there are some limited circumstances in which providing units in a particular development is not practical. For example, an expensive condominium building for which the condominium fees would be high or a suburban or rural subdivision that is not readily accessible by transit or to services. Additionally, not allowing cash-in-lieu in some circumstances could create some unreasonable situations. Examples of these unreasonable situations could fuel the argument against a municipality adopting inclusionary zoning at all. While cash-in-lieu should not be permitted broadly, municipalities should have the ability to employ it in certain select situations.

### Conclusion:

The City of Hamilton would emphasize the need for a greater understanding of the local impacts of the proposed legislative changes and caution against any changes that may result in outcomes that may otherwise prejudice either the adoption or overall success of an Inclusionary Framework within Hamilton.

Inclusionary Zoning Consultation Discussion Guide

**1. Should there be Provincial direction to further specify the target groups for inclusionary zoning, or should this be left to each municipality to determine?**

***If you think direction is needed, who should be addressed based on the PPS definition of "affordable"?***

**Comment:**

As each municipality has unique affordable housing needs that may differ significantly from the needs in other municipalities, municipalities should determine the income groups targeted by their inclusionary zoning by-laws. The City's 10 year Housing & Homelessness Action Plan provides a framework and direction to determine any targeting.

With respect to the definition of affordable, the intent of an inclusionary zoning framework is to increase the number of affordable units throughout Ontario. Many existing inclusionary zoning programs in other jurisdictions seek to target families and individuals that earn too little to afford market rate housing and too much to qualify for social assistance. In some programs, income is not the sole determinant as units can be targeted to specific groups such as those in need of supports.

Relating this framework to Hamilton's own goals and targets, the Urban Hamilton Official Plan (UHOP) provides a definition of affordable as detailed below:

**"Affordable** means:

- a) in the case of ownership housing, the least expensive of:
  - i) housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for *low and moderate income households*; or
  - ii) housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the City of Hamilton; and,
- b) in the case of rental housing, the least expensive of:
  - i) a unit for which the rent does not exceed 30 percent of gross annual household income for *low and moderate income households*; or
  - ii) a unit for which the rent is at or below the average market rent of a unit in the City of Hamilton (PPS, 2005 amended); and,
- c) in the case of housing developments, at least 25 percent of either *affordable* ownership or *affordable* rental housing. For the purposes of the policies of this

Plan, *affordable* housing developments may include a mix of *affordable* and market rate units, both ownership and rental."

The UHOP definition – which is based on that in the PPS, provides criteria that would enable housing for both shallow and deep affordability. However, when applying this to an inclusionary zoning framework, which will be applicable only to new units, the definition may be too broad and in some instances too restrictive. For instance, it is unlikely that newly constructed rental units can achieve rents below average market rents. The form inclusionary zoning may take in Hamilton must therefore be determined through a thorough analysis of local conditions including both housing need and market realities.

As such, should the City of Hamilton elect to adopt an inclusionary zoning framework, the determination of the target group should be predicated on a definition specific to inclusionary zoning requirements and which is formulated through additional review and assessment of policy goals and targets in combination with current market realities. It should be noted, however that most successful inclusionary zoning programs target affordability of just below market rates, which would meet the needs of households with moderate incomes. It is much more difficult to meet the deeper affordability needs of households with low incomes, and would require additional programs such as rent subsidies.

**Recommendation:**

Municipalities should be responsible for determining the target groups applicable within an inclusionary zoning framework. The definition of affordable should be specifically related to the determined target groups to ensure it is implementable and successful.

- 2. Should there be Provincial direction on how price and rent would be determined in an inclusionary zoning by-law when inclusionary zoning units are sold or leased?***

***If so, what approach would you recommend?***

**Comment:**

Municipalities are the most knowledgeable about their unique housing market and submarkets and are thus best equipped to determine how price and rent would be determined in their inclusionary zoning by-laws. Once the target groups have been determined, review of housing need and market conditions particular to the identified groups will be required at a localized geographical level to ensure the intent of the framework is being delivered.

The City's 10 year Housing & Homelessness Action Plan provides a framework and direction to inform price and rent levels. However, a guideline, prepared by the Province that sets out various options for methods of determining price and rent would be helpful to municipalities.

**Recommendation:**

The Province should provide a general guideline with respect to the various options for determining price and rent; however, final determination should rest with the municipalities.

**3. *Should minimum and / or maximum unit set asides be specified Province-wide or should this be left to each municipality to determine?***

**Comment:**

The Province could set very broad minimum and maximum set asides, but municipalities should determine the specifics within that range based on local conditions. Provincially set minimum and maximum set asides would give both the development industry and the housing sector assurances that municipally determined set asides will be reasonable. Preliminarily, we would suggest that a minimum and maximum that would give both the housing sector and development industry some level of comfort would be in the range of 5% to 25%. Based on existing targets in the Urban Hamilton Official Plan and Housing and Homelessness Action Plan and the most recent growth projections produced for the Growth Plan, 25% of all new residential would need to be affordable to meet growth projections; 10% of rental development and 15% of ownership development. The determination of actual set asides would require a much more in depth analysis, particularly market analysis and public consultation, but this provides a reasonable top limit.

Consideration of different forms of housing within the Hamilton market will be required, specifically as related to the need of the identified target group and observed growth and distribution of existing and future development.

Ultimately, given the unique and varied nature of the Hamilton housing market, the determination of the set aside should be a matter for the municipality, in consultation with the local community. Set asides need to carefully and sensitively respond to municipally specific housing markets and growth projections, and apply only once the municipality has assessed the locations for growth. The creation of a toolkit would assist staff in making these decisions at a local level, and would be a more beneficial response from the Province. The Province should not make specific decisions on program elements.

Further, it is difficult to consider specific set aside provisions without understanding the threshold of development in which the set aside provisions would be applied. The two are inextricably linked. Similarly, both of these program elements need to be considered in conjunction with the intended target groups as the level of affordability also affects the consideration of appropriate set aside and threshold values.

**Recommendation:**

The Province should provide a toolkit to assist municipalities to determine unit set aside amounts locally, but should not regulate a required set aside.

Alternatively, the Province could set broad maximum and minimum set aside parameters provincially to provide comfort to both the housing sector and development industry, but should not regulate specific set asides. The Province should also provide a toolkit to assist municipalities determine local set aside amounts.

***If you think that a specified number or percentage of units should be applied Province-wide, what would you recommend?***

**Comment:**

As stated above, it is suggested that a specified number or percentage should be established by the municipality based on a greater understanding of the need of the identified target group and the market and geographical condition. The Province could consider setting a minimum and maximum threshold in order to provide guidance and clarity to both the development industry and municipalities.

On this matter it is suggested that a range between a minimum of 5% and a maximum of 25% would be reasonable, with individual municipalities determining specific set asides following additional review, consultation and study.

It may also be beneficial to determine a standardized metric that is to be employed by each municipality. While Bill 204 proposes that the set aside be a percentage of unit numbers, basing the set aside on Gross Floor Area should be considered. Using gross floor area takes into account the relative size (and potentially the cost) of units, with larger units contributing more. It also better enables the provision of large affordable units which are much in need.

To assist in determining this program element, further analysis is required, including a needs assessment and full market and submarket analysis. While the ideal from the need perspective is to maximize affordable units, this must be balanced with market considerations to ensure inclusionary zoning doesn't deter development. This is of particular concern regarding rental housing as with current conditions rental housing is only financially viable with substantial incentives and high rents.

**Recommendation:**

The Province should provide direction on minimum and maximum set aside and consider standardizing the measurement to allow for meaningful benchmarking, but municipalities should ultimately determine set asides based on need and market conditions. Notwithstanding Bill 204, the Province should consider permitting set asides, not just on unit numbers, but on gross floor area.

- 4. Should there be Provincial direction for a minimum or maximum affordability period that would apply to inclusionary zoning programs Province-wide, or should this be left to each municipality to determine?***

**Comment:**

There would be benefit in the Province setting a minimum affordability period, but allowing municipalities to require longer affordability periods. It is important to consider affordability periods for rental and ownership independently, with rental being the most challenging for the development industry. With ownership units, the administration of the affordability maintenance could be onerous for municipalities unless there are legislative changes, but there is no impact of a long affordability period on the developer.

Longer affordability periods mean a greater administrative burden for municipalities. Additional resources will be required to do the ongoing administrative work necessary to ensure that affordability is maintained.

Furthermore, the lifespan of the unit and ongoing maintenance and operational costs need to be factored in, understanding that periods beyond 30 years would experience increasing costs as the units reach the end of their life cycle.

**Recommendation:**

The Province should provide a minimum affordability period, and provide financial and program assistance to support the administrative requirements.

***If you think a Province-wide affordability period should be specified, what would you recommend (e.g., 20 years, 30 years, no time limitation)?***

**Recommendation:**

It is important to set separate set asides for rental and ownership housing as the impacts of each set aside are very different. A minimum affordability period of 20 years for rental units, with municipalities able to set longer affordability periods is appropriate.

With respect to ownership, indefinite affordability should be considered as there is no negative impact on the developer. It should be up to municipalities to determine an appropriate level of equity for the owners of an inclusionary zoning unit.

- 5. Should there be Provincial direction for a minimum and / or maximum threshold size that would apply to inclusionary zoning programs Province-wide, or should this be left to each municipality to determine?***

***If you think the threshold size should be specified Province-wide, what would you recommend?***

**Comment:**

Similar to the answer to the set aside question, (Question 3), it would be necessary to ensure the threshold size is responsive to the scale, type and form of current development in Hamilton and is responsive to the identified target groups.

The threshold should be determined on the unit yield of developments. A sliding scale would allow the program to be responsive to smaller and mid-range developments and allow threshold limits that would not unreasonably distort the market. A sliding scale could also eliminate the potential for developments to be sized at immediately below the threshold to avoid triggering the requirement for affordable units.

It is noted that implementation and monitoring of inclusionary zoning would create administrative burdens, with significant impacts on staff time and resultant costs to municipalities. The Province should provide funding to offset these costs.

Finally it is noted that variations exist not only between municipalities, but also between different communities within municipalities. A Province-wide threshold that is not responsive to these differences could make the inclusionary zoning tool less effective.

**Recommendation:**

Threshold size should be determined at the municipal level.

- 6. Should measures and incentives be required on a Province-wide basis through regulation, or should this be left up to municipalities?***

***If you think the Province should provide direction, what would you recommend?***

**Comment:**

The need for meaningful and appropriate measures and incentives is crucial to the success of inclusionary zoning. This will need to be integrated and supported beyond the tools currently available to municipalities and could include matters such as Ontario Municipal Board reforms, Provincial tax exemptions as well as other provincial tools that should be discussed and developed collaboratively. There is also greater need for wider and potentially more costly incentives in order to address deep affordability.

However, it is requested that municipalities not be mandated to provide specific measures or incentives, but provided the flexibility to review and apply incentives where necessary. Hamilton currently offers numerous incentives, including partial waiver of Development Charges, Parkland dedication reductions and application fee waivers. The ability to determine locally how and where such incentives should be provided, would be necessary to ensure success of any potential inclusionary zoning framework.

**Recommendation:**

Measures and incentives should not be required through regulation, but be program elements determined and applied at the local level.



The Province should consider systemic and legislative changes to reduce the cost of development, thereby enabling increased housing affordability. Changes could include Ontario Municipal Board reforms and provincial tax exemptions and should be developed in consultation with municipalities and the development industry. The Province should also assist municipalities by providing access to current research, forums for the sharing of information among municipalities, and the development of guidelines that lay out options, the benefits and drawbacks of each, and considerations for implementation.

**7. *Should there be Provincial direction to specify minimum requirements and standards for inclusionary zoning units or should these be left up to each municipality to determine?***

**Comment:**

The Ontario Building Code determines minimum building standards that must be observed. These are sufficient building standards for affordable units, but guidance from the Province would be helpful in regards to other factors that come under 'suitability' in Bill 204.

**Recommendation:**

The Province should not specify minimum requirements and standards, but should allow municipalities to determine specifics and instead provide guidance in regards to factors that are considered to determine the threshold of 'suitability' as raised within Bill 204.

***If you think requirements or standards should be specified Province-wide, what would you recommend?***

**Recommendation:**

The Province should not specify minimum requirements and standards, including for parking and loading as proposed in Bill 204, but should provide guidance to municipalities in regards to factors that are considered to be 'suitability' in Bill 204. These include the relative location of affordable units; relative size of affordable units; treatment of the affordable units through site plan review including external access and, if relevant, exterior design; the relative quality of finishes; access to on-site amenities; reduced parking requirements for affordable units; and review of shared facilities agreements for condominiums. As noted above, this guidance should be in the form of access to current research, presentation of options including the benefits and drawbacks of each, and considerations for implementation.

If the Province does specify minimum requirements and standards, these should balance the principle that affordable units be indistinguishable from market units on the exterior, but allow certain differences to help offset costs, such as lesser quality finishes.

**8. Should there be provincial direction on inclusionary zoning agreements?**

**Comment:**

General direction on the items to be included in inclusionary zoning agreements and a basic template would be helpful for municipalities.

The agreements should be in a form that ensures execution and registration of the legal documents does not create any impact on the development review timelines.

**Recommendation:**

The Province should provide templates to inform the creation of inclusionary zoning agreements and ensure execution and registration of the legal documents does not create any impact on the development review timelines.

**9. Should there be Provincial direction on requirements for ongoing administration of units and ensuring affordability over the control period?**

*If so, what types of requirements would you recommend?*

**Comment:**

The requirements for ongoing administration of affordable units and to ensure affordability of units over time proposed in Bill 204 are appropriate. However, municipalities should determine the most appropriate mechanisms for administration and for ensuring long term affordability and eligibility, particularly if the Province does not provide funding for administration of inclusionary zoning. The provision of best practice information, including a suite of potential program models, by the Province would be helpful. Maintaining affordability and eligibility will be administratively burdensome for municipalities, requiring additional resources. Municipalities should be enabled to use third parties to undertake the administration, but not be required to do so.

Additionally, legislative changes should be adopted to better enable municipalities to secure long term affordability of ownership units.

**Recommendation:**

The Province should provide best practice information and potential program models regarding ongoing administration of units and monitoring of affordability over time, but should allow municipalities to determine how best to undertake the monitoring. Additionally the Province should make any legislative changes necessary to ensure long term affordability of ownership units.

**10. Should there be Provincial direction on mandatory requirements for municipal monitoring procedures?**

**Comment:**

There should be basic requirements for ongoing administration of units, and to ensure affordability of units and eligibility of purchasers or new tenants over the control period. Income testing will be required for new purchasers or tenants of the affordable units at turnover, on an ongoing basis, to ensure affordable units are available for the intended target group. Municipalities will be required to take on significantly more administrative responsibilities and will need additional resources for this purpose.

***If so, what mandatory requirements would you recommend?***

**Recommendation:**

There should be basic requirements for ongoing administration of units and to ensure affordability of units and eligibility of purchasers or new tenants over the control period.

***11. Should there be Provincial direction on municipal reporting of inclusionary zoning units (e.g., reports must be publicly available; reports must be provided annually to municipal council)?***

***If so, what would you recommend?***

**Comment:**

There should be requirements for municipalities to annually report the numbers and types of affordable units, and the level of affordability, produced by inclusionary zoning. These Reports should be available publicly and received by the Province. The Province should combine the individual reports and publish an annual Provincial report. With time the reports will help determine the relative success of different models and parameters of inclusionary zoning programs.

**Recommendation:**

The Province should provide direction on the annual reporting of inclusionary zoning units.

***12. In what circumstances would it be appropriate to require inclusionary zoning units as well as community benefits in exchange for additional height and density?***

**Comment:**

Municipalities should be permitted to require Section 37 community benefits in addition to inclusionary zoning units in some circumstances. For instance, the City of Hamilton is reviewing its growth related development strategy, and it is likely that areas such as nodes and transit corridors will be planned to achieve significant density increases. It is in these circumstances, that the application of density bonusing in addition to inclusionary zoning, may be both reasonable and advantageous. It would be appropriate to require inclusionary zoning on the units permitted through City initiating rezoning, but also allow Section 37 community

benefits should any additional height and density be deemed appropriate on a site by site basis.

Similarly, Hamilton has considerable built heritage resources that are being considered for development and adaptive re-use. The ability to apply Section 37 to increase the height and density of these developments and use the 'bonus' to ensure the protection of the heritage resource achieves numerous policy objectives.

To limit the ability of municipalities to apply both legislative options on a single site that has benefitted considerably from either density or built form provisions would unnecessarily hinder the ability to leverage growth in a sustainable and appropriate manner.

A more reasonable approach would be to apply a hybrid approach that applies inclusionary zoning requirements only to the base zoning permissions, and permit Section 37 to apply to the increase in height or density. Allowing the municipalities to adopt this approach, would ensure all community benefits appropriate to a given development application are secured and policy goals are achieved.

**Recommendation:**

Municipalities should be permitted to require inclusionary zoning units as well as community benefits in exchange for additional height and density.

***13. Should conditions or restrictions apply to these circumstances, and if so, what would you recommend?***

**Comment:**

It is not considered necessary to apply restrictions at a provincial level, given the unique differences in development activity across the Province. Should the Province determine that restrictions are necessary – such as a hybrid approach, it should provide the flexibility for the municipalities to determine these circumstances, and include them as part of the Official Plan policy changes required to implement an inclusionary zoning framework.

**Recommendation:**

Municipalities should determine the circumstances in which it may be appropriate to apply Section 37 in addition to inclusionary zoning requirements, and to include conditions and circumstances for such as approach as part of the Official Plan policy changes.

***14. Do you think that planning applications commenced prior to enactment of the proposed legislative process should be grandfathered?***

**Comment:**

Any development application is the product of extensive planning and significant financial assumptions. The introduction of inclusionary zoning requirements partway

through the development approvals process is likely to have a significant impact upon any development projects in the planning stages, impacting the development process itself, development plans, the financial viability of the project, as well as whether the application is approved. For applications commenced prior to the enactment of the proposed legislation, an inclusionary zoning requirement would be unreasonable and punitively affect the development application.

**Recommendation:**

The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to enactment of the proposed inclusionary zoning legislation in Bill 204.

***15. Do you think that planning applications commenced prior to municipal adoption of inclusionary zoning official plan policies and / or zoning by-laws should be exempted?***

**Comment:**

Similar to the comments presented above, sufficient time should be available within the development process to allow for potential financial impacts to be appropriately accommodated, particularly as there will be a lag in time between provincial regulation and any adoption of Official Plan policy and Zoning By-law. As such, staff would be supportive of a means to exempt planning applications that have commenced prior to municipal adoption of inclusionary official plan policies and/or zoning by-laws.

Clear and well defined transition regulations are required with specific timeframes and parameters such that any ambiguity is avoided.

**Recommendation:**

The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to municipal adoption of implementing inclusionary zoning Official Plan policies and / or Zoning By-laws.

# 11.1

# CITY OF HAMILTON

## MOTION

Planning Committee: February 16, 2021

**MOVED BY COUNCILLOR J. FARR.....**

**SECONDED BY COUNCILLOR .....**

**Implementation of Permit Parking on the West Side of Wellington Street North, between Barton Street East and Cannon Street East, Hamilton (Ward 2)**

WHEREAS, on November 27, 2019 Council approved Report PED19187 On Street Parking Permits – Wellington Street North (Ward 2) which recommended a number of changes to parking restrictions on Wellington Street North including the removal of the NO PARKING restrictions and installation of bump-outs, which have now been implemented;

WHEREAS Report PED19187 did not recommend permit parking due to the fact that permits would not provide an exemption to the No Parking on a Through Street between 2 a.m. and 7 a.m. parking regulation, so would be of limited value;

WHEREAS it has been observed that following the installation of bump-outs, the parking created is not being utilized to its full benefit and the introduction of permit parking would fulfill a long standing desire by residents for permit parking; and,

WHEREAS, Public Works has expressed concerns that added parking will reduce their ability to meet Council approved levels of service during snow clearing and street sweeping operations, given the width and one-way configuration of the streets, and have other potential consequences such as vehicle damage, blocked in vehicles and no storage space for accumulating snow;

THEREFORE, BE IT RESOLVED:

- (a) That staff be authorized and directed to implement full time permit parking on the west side of Wellington Street North, between Barton Street East and Cannon Street East, Hamilton; and,
- (b) That communication be provided in writing to any person requesting a parking permit on the west side of Wellington Street North between Barton Street East and Cannon Street East, that during and following snow events, vehicles may be

**Motion respecting the Implementation of Permit Parking on the West Side of Wellington Street North, between Barton Street East and Cannon Street East, Hamilton (Ward 2)**  
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blocked in for extended periods and the clearing of windows may not be possible in the absence of overnight parking restrictions.