



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 6, 2014
SUBJECT/REPORT NO:	Zoning By-law Amendment for Lands Located at 85 Robinson Street, 220 Park Street South and 90 Charlton Avenue West (Hamilton) (City Square) (PED14087) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Delia McPhail (905) 546-2424 Ext. 6663
SUBMITTED BY:	Neil Everson Acting General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Amended Zoning Application ZAC-13-004, by New Horizon Development (City Square) Corporation, Owner**, for a change in zoning from the “E/S-1600” (Multiple Dwellings, Lodges, Clubs, Etc.) District, Modified, to the “E/S-1600a” (Multiple Dwellings, Lodges, Clubs, Etc.) District, Modified, to modify the setbacks for the existing and proposed development, and to permit the construction of an 11-storey multiple dwelling, on lands located at 85 Robinson Street, 220 Park Street South, and 90 Charlton Avenue West (Hamilton), as shown on Appendix “A” to Report PED14087, on the following basis:

- (a) That the Draft By-law, attached as Appendix “B” to Report PED14087, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law, attached as Appendix “B” to Report PED14087, be added to District Map No. W-5 of Zoning By-law No. 6593.
- (c) That the proposal is consistent with the Provincial Policy Statement (2014) and conforms to Places to Grow and the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The proposal includes redefining the setbacks of the approved construction of the nine-storey multiple dwelling located at 90 Charlton Avenue West and 85 Robinson Street,

as well as the construction of an 11-storey multiple dwelling at the south-west corner of Robinson Street and Park Street South that will be connected by a common lobby and landscaped roof terrace to the existing approved 11-storey multiple dwelling at 85 Robinson Street.

Modifications to the provisions of Hamilton Zoning By-law No. 6593 are required to address the design details of the proposed development that will ensure compatibility with the adjacent residential uses. Other modifications include, but are not limited to, the reduction in the minimum parking stall sizes, a reduction in the provision of visitor parking spaces per dwelling unit, the elimination of loading requirements, and the broadening of the definition of landscaped area to reflect existing approvals previously granted by the Committee of Adjustment. Finally, the draft By-law repeals and replaces Zoning By-law 09-001 for housekeeping purposes.

The proposal can be supported, as it is consistent with the Provincial Policy Statement (PPS), conforms to Places to Grow, and implements the “Neighbourhoods” designation of the Urban Hamilton Official Plan. Furthermore, it is appropriately designed to ensure compatibility with the surrounding land uses.

Alternatives for Consideration – See Page 19

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 a Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject lands are situated within the Durand Neighbourhood in the former location of the Hamilton Thistle (Curling) Club, which stood on the site between 1889 and 2004. Following completion of a Heritage Impact Assessment, the building was demolished with certain identified features retained for inclusion in the future redevelopment of the site.

In 1993, Council approved Rezoning Application ZAC-93-17 allowing the redevelopment of the subject lands to proceed under two different scenarios: 1) a residential care facility with a maximum of 162 residents within the same building as a multiple dwelling, having a maximum of 119 dwelling units; or 2) two multiple dwellings, having a combined total of 200 dwelling units with street townhouse, townhouses or maisonettes along Park Street South. Following an appeal, the Ontario Municipal Board issued an

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Order, under Ontario Municipal Board File No. Z940041, to restrict the height of the second scenario to seven storeys for the building fronting Charlton Avenue West, eight storeys for the Robinson Street building, and four storeys for the townhouse/maisonette building along Park Street South. Staff note that the decision was based upon an agreed settlement between the two parties in order to avoid a full OMB Hearing.

Subsequent rezoning applications permitted the site to be redeveloped for 28 condominium townhouse units with a common courtyard (ZAC-04-60), followed by permission to construct 44 freehold townhouse units on a common element condominium road (ZAC-05-98). The building, which was listed in the City's Inventory of Buildings of Architectural and/or Historical Interest, was demolished, and, in 2006, applications for a Plan of Subdivision (25T-200617) and later a Plan of Condominium (25CDM-200609), were submitted for 44 street townhouse units. However, at the request of the applicant, the applications were not brought forward to a Public Meeting.

In January 2009, Council approved Rezoning Application ZAC-08-032, which permitted the redevelopment of the lands for three multiple dwellings: two nine-storey buildings and one four-storey building. The total number of proposed dwelling units was 156 dwelling units. These approvals were implemented through Zoning By-law 09-001.

The current Rezoning Application proposes: 1) to redefine the building setbacks to reflect the previously approved minor variances for the development and the lot line created by the recently approved Plan of Condominium for 90 Charlton Avenue West (25CDM-201210); and 2) to permit an 11-storey multiple dwelling adjacent to Park Street South that will be connected by a one-storey lobby area to the 11-storey multiple dwelling that is presently under construction.

Chronology:

- October 23, 2012: Request for Formal Consultation application FC-12-136 received.
- November 28, 2013: Request for Formal Consultation application was considered by the Development Review Committee.
- March 5, 2013: Zoning By-law Amendment Application received.
- April 3, 2013: Application was deemed complete.
- April 18, 2013: Circulation of Notice of Complete Application ZAC-13-004 to all residents within 120 m. of the subject lands.
- May 9, 2013: Applicant hosted Open House.

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October 23, 2013: Amended Application Received.

January 20, 2014: Revised Concept Plan Received to reflect required Daylight Triangle at the corner of Robinson Street and Park Street South.

April 10, 2013: Signs were updated to reflect Planning Committee Date.

April 9, 2013: Notice of Public Meeting was circulated to residents within 120 m. of the subject lands.

Details of Submitted Application

Owners: New Horizon Development (City Square) Corporation

Agent: GSP Group Inc. (Caroline Baker)

Location: 85 Robinson Street and 90 Charlton Avenue West, Hamilton

Description:

Frontage: 86.4 m. on Robinson Street
75.0 m. on Charlton Avenue West
53.0 m. on Park Street South

Depth: 94.3 m.

Lot Area: 8,000 sq. m.

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Multiple Residential, Multiple Residential Under Construction and Sales Office	“E/S-1600” (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified
<u>Surrounding Lands:</u>		
North	Multiple Residential	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District
South	Single Detached Dwellings, Municipal Park	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District; Neighbourhood Park (P1) Zone

East	Six Unit Street Townhouses	“RT-30” (Street Townhouse) District, Modified; “E” (Multiple Dwellings, Lodges, Clubs, etc.) District
West	Multiple Residential	“E” (Multiple Dwellings, Lodges, Clubs, etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The proposal is consistent with those policies that promote efficient development and land use patterns within settlement areas in Section 1.1. Policy 1.1.3 states:

“1.1.3.3 Planning authorities shall identify and promote opportunities for 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.”

Policy 1.2.6.1 states that sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse impacts from noise, among other matters.

In addition, Policy 1.4.3 requires planning authorities to provide a range of housing types and densities to meet current and future residents by:

“1.4.3 Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

b) Permitting and facilitating:

1. All forms of housing required to meet the social, health and well-being requirements of current and future residents, including special needs requirements; and,
2. All forms of residential intensification, including second units, and redevelopment in accordance with Policy 1.1.3.3.

- c) Directing the development of new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available to support current and projected needs;
- d) Promoting densities for new housing which efficiently use land, resources, infrastructure and public service facilities, and support the use of alternative transportation modes and public transit in areas where it exists or is to be developed; and,
- e) Establishing development standards for residential intensification, redevelopment and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety.”

The proposal is also respectful of the abutting residential community in regard to height, scale, and massing, in keeping with Policy 1.7.1 d), which promotes well-designed built form and cultural heritage landscapes that encourage a sense of place.

Based on the foregoing, the proposal is consistent with the policies of the PPS.

Places to Grow

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff consider the application to be consistent with the policies that manage growth and direct general intensification to the built-up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3.

Therefore, the proposal conforms to Places to Grow.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) is now in force and effect, with the exception of site-specific appeals.

The subject lands are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations. Section E.2.6 states that land uses within the Neighbourhoods designation are intended to function as complete communities, providing a range of residential dwelling types and densities, as well as local commercial and local institutional uses. Furthermore, residential intensification within Neighbourhoods is permitted, provided it occurs at an appropriate scale within suitable locations, as provided in Policies E.3.1.5, and E.3.2.13.

“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.”

In addition to the residential intensification policies found within the "Neighbourhoods" designation, Section B.2.4.1.3 identifies that 40 percent of the residential intensification target is anticipated to occur within the "Neighbourhoods" designation. Policies B.2.4.1.4 and B.2.4.2.2 provide criteria upon which intensification within the "Neighbourhoods" designation should be evaluated, such as the development's contribution to providing a range of dwelling types and tenures, its compatibility with the surrounding area (i.e. shadowing, noise, overlook), the use of innovative and creative urban design techniques, as well as transportation and infrastructure impacts, and the ability of the development to comply with all applicable policies.

The general policies of Residential uses within the "Neighbourhoods" designation include the following:

“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.”

Likewise, Policy E.3.6.1 characterizes high density residential areas by equating them with multiple dwellings in proximity to arterial roads and having a density between 100 and 500 units per hectare. The policies within Section E.3.6.4 describe these areas as located within safe and convenient walking distance to community facilities/services, including public transit, schools and other passive recreational facilities. In particular, Policy E.3.6.5 identifies proximity to the "Downtown Urban Growth Centre", among other locations within the City, shall be considered desirable for high density residential uses. Therefore, the proposal conforms to the aforementioned policies.

In terms of the scale and design of high density residential uses within the "Neighbourhoods" designation, Policy E.3.6.6 states:

“E.3.6.6 In high density residential areas, the permitted net residential densities, identified on Appendix G – Boundaries Map shall be:

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- a) Greater than 100 units per hectare and not greater than 500 units per hectare in Central Hamilton; and,
- b) High profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses. A separation distance shall generally be required and may be in the form of a suitable intervening land use, such as a medium density residential use. Where such separations cannot be achieved, transitional features such as effective screening and/or design features shall be incorporated into the design of the high density development to mitigate adverse impact on adjacent low profile residential uses.”

Within Chapter F - Implementation, Policy F.1.2.7 requires that all development or redevelopment proposals must conform to the Council-adopted Neighbourhood Plan. The Durand Neighbourhood Plan designates the subject lands and those in the vicinity "High Density Apartments". The proposal results in an overall density of 354 units per hectare (combined total of 283 dwelling units for each of the two buildings within 0.8 hectare parcel of land), which meets the density requirements of high residential areas. Staff note that although the proposal seeks to increase the height of the third tower, the previous development concept also meet the high density threshold of 100 to 500 units per hectares (195 units per hectare, i.e., 156 dwelling units/0.8 hectares).

Policy E.3.6.7 provides the evaluative framework upon which development within the high density residential category shall be based. High density development shall have direct access to a collector or major or minor arterial road, and high profile multiple dwellings shall not be immediately adjacent to low profile residential dwellings, unless separated by a medium density use. Where such separation is not possible, effective transition or screening is to be incorporated into the design to mitigate adverse impacts on adjacent low profile residential use. As detailed in the Analysis/Rationale Section of this report, staff are satisfied that the proposal will provide effective screening techniques to achieve these policy goals.

The proposed development benefits from having direct access to a collector road, namely Charlton Avenue West, and is surrounded by a mixture of residential forms at a range of densities and heights between two to 18-storeys. For example, directly opposite the subject property along Robinson Street, there are apartment buildings of eight, nine, and 11-storeys in height. The buildings along Park Street South, Charlton Avenue West and Bay Street South vary from two-storey single detached dwellings, two-and-a-half-storey townhouses, to a five-storey apartment building. Through the Site Plan review process, staff will ensure that screening is incorporated into the detailed design, so as to mitigate any potential impacts on adjacent low profile residential uses. It is, therefore, the opinion of staff that this variation allows the proposal to comfortably fit within the context of the street and complement the existing character of the area.

With respect to potential impacts on amenities of adjacent lower profile residential dwellings, the applicant submitted a shadow and design study in support of the proposal, as will be discussed in more detail in the Analysis/Rationale for Recommendation Section of this Report, staff are of the opinion that the proposal therefore satisfies the general intent of this policy requirement.

As the Urban Hamilton Official Plan (UHOP) recognizes that communities are stable, but not static, Policies B.3.3.3.1 through B.3.3.3.4 require that new development be located and organized to suit the existing neighbourhood and minimize impacts on adjacent uses - consideration being given to transitions in scale, massing, adequate privacy, minimizing wind and shadow impacts.

In referencing the goals of the Urban System and Land Use Designations found in Section E.1.0, the revised proposal promotes a design that is respectful of the character of the existing neighbourhood, creates a vibrant, liveable urban place, and provides appropriate intensification within a stable neighbourhood.

Based on the foregoing, the proposal conforms to the UHOP.

RELEVANT CONSULTATION

Agencies/Departments Having No Comments/Objections:

- Budgets, Taxation and Policy Services, Corporate Services Department.
- Recreation Division, Community Services Department.
- Waste Management Division, Public Works Department.
- Strategic Planning, Public Works Department
- Bell Canada.
- Horizon Utilities.

The following Departments and Agencies have provided comments with respect to the proposed application:

Traffic Engineering Section (Public Works Department):

Traffic Staff acknowledge that the subject property is located within an urban area that is highly serviced by transit, has access to two collector roads (Bay Street South and Charlton Avenue West) and is surrounded by a one way street system, providing suitable capacity. Based on the foregoing, the proposed change in the number of units does not significantly increase the expected yields that would warrant a traffic impact study.

Hamilton Municipal Parking System (HMPS):

The applicant is not seeking relief to the zoning by-law requirements of 0.80 spaces per dwelling unit, therefore, Hamilton Municipal Parking System staff have no concerns with the proposal. However, HMPS staff have identified that residents of multiple dwellings are not eligible for permit parking, and that there is little opportunity for overflow parking in the community, which is also highly regulated (i.e. permit parking, time limit restrictions). Based on the foregoing, HMPS staff recommend, as a condition of site plan approval, the following warning clause be included in all future purchase and sales agreements:

“It is the responsibility of the property owner/tenant to ensure that the parking provided on site is sufficient for his/her needs. Parking in the surrounding neighbourhood is highly restrictive, and on-street parking permits/time limit exemption permits are not available to multi-tenant buildings.”

Forestry and Horticulture Section, Public Works Department:

Tree management will be required for the two municipal tree assets (Linden), which have been found in good condition within the Robinson Street right-of-way. Otherwise, the gross Replacement Value of the trees (\$8,280.00) will be subject to the placement of trees as outlined on a Landscape Plan will be required to offset some/all of those costs.

Development Engineering:

Staff advise that the Site Servicing Brief submitted for the application, which addressed the proposed increase in density, was completed to the satisfaction of staff. A detailed review of the proposed servicing and grading will be carried out at the Site Plan stage of development. As a condition of Site Plan Approval, the owner will be required to dedicate a 4.57 m. x 4.57 m. daylight triangle at the southwest corner of the intersection of Robinson Street and Park Street South, to the City.

Public Consultation:

In accordance with Council's Public Participation Policy, a Notice of Complete Application was circulated to 1,422 property owners within 120 m. of the subject property on April 18, 2013. To date, a total of 63 individuals have written 48 letters that have been received by staff, with 39 letters in opposition to the proposal, one neutral, and eight letters of support. In response to the Notice of Complete Application and Pre-circulation of the original application for a 17-storey building, 33 letters were received from 25 individuals in opposition, including one petition signed by 19 individuals. Most correspondence cited concerns with respect to parking, traffic, shadowing, noise, and increased density in a neighbourhood that is already congested and densely populated.

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Additionally, several comments referenced the preference of other concept plans promoted by previous owners, including townhouses and/or a four-storey building, instead of the original proposal of a 17-storey building.

The Durand Neighbourhood Association wrote in opposition to the proposed development and mentioned a 1996 Settlement that was made with a previous landowner (LACTO), which it considered a compromised agreement that was made in order to avoid an OMB Hearing. It was the Association's opinion that the Settlement applies to subsequent owners and should not be disregarded. Among other matters, the said Settlement restricted the building heights to allow a seven-storey building fronting Charlton Avenue West, an eight-storey building on Robinson Street, and a row of four-storey townhouses at the corner of Robinson Street and Park Street South. Notwithstanding, the Association supported the rezoning in 2009 and the more recent minor variances promoted by the applicant, on the basis that the buildings provided a stepped back design. City legal counsel has reviewed the 1996 Minutes of Settlement and concluded that the Minutes should not be interpreted to bind the City, nor the applicants, to the settlement that was reached in 1996 for a different development proposal under a separate policy framework. Rather, any subsequent proposal is required to be assessed based on the merits of the proposal.

In order to clarify the proposal and respond to the public's concerns, the Applicant hosted an Open House at Ryerson Recreation Centre on May 9, 2013. The event was well attended by residents, planning staff and the Ward Councillor. Attendees at the Open House did not support any increase in height beyond that of a four-storey tower. Following the Open House, ten letters were received (two letters in opposition, one letter was neutral, and seven letters in support of an 11-storey tower, which had been proposed by the applicant at the Durand Neighbourhood Association Annual General Meeting in October 2013).

Subsequent to the application being amended from 17 storeys to 11 storeys, a notice was circulated on November 14, 2013, informing the public that the application was revised to reduce the proposed height to 11 storeys. Eight letters were received following this notice, four of which were sent by individuals who had provided letters in response to the original application, and took the opportunity to reaffirm their opposition to the proposal, and three letters represented individuals who had not previously corresponded on the matter, and were opposed. Finally, one letter was supportive of the proposed 11-storey tower.

A review of the concerns raised by members of the public is contained in the Analysis/Rationale for Recommendation Section this Report.

A Public Notice Sign was posted on the subject lands, along the Robinson Street frontage, on April 17, 2013, and a second sign was installed along Park Street South on May 6, 2013. The Applicant has reinstalled the sign along Park Street South, and

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

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 (2014) and conforms to Places to Grow and the Urban Hamilton Official Plan;
 - ii) It conforms to the approved Durand Neighbourhood Plan, which designates the property “High Density Apartments”; and,
 - iii) It is compatible with the existing pattern of development in the surrounding neighbourhood.
2. The subject lands are the location of the former Hamilton Thistle Club, located within the heart of the Durand Neighbourhood, bounded by Robinson Street, Park Street South and Charlton Avenue West. Since 2011, the site has undergone the construction of a nine-storey multiple dwelling, having a municipal address of 90 Charlton Avenue West. An 11-storey multiple dwelling located at 85 Robinson Street is currently under construction. The proposal seeks to redefine the building setbacks to reflect previously approved minor variances, in order to facilitate the phased condominium approvals for the subject lands, and to increase the height of the proposed third building from 4 to 11 storeys.
3. There are two facets to the subject application: 1) to increase the height of the proposed third tower from 4 storeys to 11 storeys; and, 2) to address zoning by-law technicalities due to the phased registration of the condominium development. The following analysis is with respect to the proposed increase in building height from 4 storeys to 11 storeys.

As discussed in the Policy Analysis section, the “Neighbourhoods” designation permits a range of residential uses and the Durand Neighbourhood Plan designates the subject lands and surrounding properties as “High Density Apartments”. The proposal conforms to this designation. The proposal results in an overall density of 354 units per hectare (combined total of 283 dwelling units for each of the two buildings within 0.8 ha. parcel of land), which is within the threshold of High Density Residential Uses (100 to 500 units per hectare), as provided in Policy E.3.6.6 a) for Central Hamilton.

4. The applicant submitted a Sun/Shadow Analysis as part of the Urban Design Report, which illustrated the extent of shadows that can be expected from the proposed development, and the as-of-right four-storey multiple dwelling at

various times of the day, throughout the year. In conjunction with the amended application, an addendum was submitted to illustrate the impacts of an 11-storey tower. According to the computer-generated model, and the shadows cast during the Spring and Fall equinoxes, there is a relatively small shadow on the southwest corner of Bay Street and Robinson for two hours in the morning and, mid-afternoon, there is less than two hours of shadow impact within the front yards of the existing multi-residential buildings on the north side of Robinson Street, and finally, in late afternoon, the majority of shadow is contained on Park Street, itself.

During the Summer Solstice, the sun is at its highest, resulting in shorter shadows that lessen the effects on adjacent properties. Shadows are contained entirely within the site, with the exception of the morning (10:00am), when the shadow is cast into a portion of the rear yards of properties to the west, and the late afternoon (4:00pm), when the shadow is cast at the intersection of Robinson Street and Park Street South. Both scenarios result in shadows that are cast for less than two hours. In contrast, the Winter Solstice results in the longest shadows of the year because the sun is lower on the horizon. The diagrams provided for this time of year also included the existing shadows cast by other buildings in the vicinity to illustrate the point that there are significant shadows in the area north of the subject lands.

Staff are satisfied that the proposed development may be supported as it does not create any shading of any existing outdoor amenity area of any lands in the vicinity of the development.

5. The proposed development is appropriately massed to respect existing street proportions and is designed to relate to the street, thereby providing a pedestrian scale. Walkways are included to provide pedestrian connections to the public sidewalks, and enhanced public safety is achieved by unobstructed view lines to the central surface parking area, at-grade patios, and the rooftop terrace. Similar to the existing building located at 90 Charlton Avenue West, the proposed development will have a strong public street presence with the building oriented to frame the public sidewalk along Robinson Street, complemented by foundation plantings around the base of the building, and deciduous trees to form a canopy over the street.

Staff are satisfied that the proposed development successfully addresses the urban design principles of the UHOP, complementing the existing functions of the neighbourhood.

6. The subject lands are located along Charlton Avenue West and within close proximity to Bay Street South, both of which are classified as "Collector Roads" on Schedule "C" – Functional Road Classification. In addition, James Street,

which is a "Minor Arterial", is approximately 280 m. of the subject lands. These major roads have been planned and are expected to handle higher traffic volumes. Furthermore, there were no concerns raised by Corridor Management with respect to the capacity of the roads in the vicinity of the subject lands, nor the ability of these routes to handle increased traffic.

The proposed development has been designed to provide the required number of parking spaces for residents; however, it has sought the reduction to the provision of visitor parking spaces from 0.16 to 0.13 spaces per apartment dwelling unit, which the previous site-specific By-law for the lands had also permitted. The effect of this reduction is that for the building located along Robinson Street, 27 visitor parking spaces would be required. Therefore, a warning clause will be included in all future purchase and sales agreements, that property owners/ tenants are to ensure that the on-site parking is sufficient for his/her needs, as parking in the area is highly restrictive, and on-street parking permits/time limit exemption permits are not available to multi-tenant buildings.

As stated earlier, the subject lands are located within close proximity to the Downtown, which is within walking distance. Also it is within walking distance of Durand Park, as well as, shops and offices along James Street South, and the Charlton Campus of St. Joseph's Healthcare. As the subject lands are also located along a bus route and within walking distance to the MacNab Street Transit Terminal and the B-Line Corridor, public transit is a viable alternative to personal automobile use. Likewise, Charlton Avenue West is an identified cycling route, connecting the subject lands to a network of other routes throughout the City. Based on the foregoing, staff are satisfied that the availability of alternative modes of transportation surrounding the subject lands will alleviate the need for off-site parking.

7. In order to implement the development as proposed (see Appendix "D"), a number of zoning modifications are required to address both the previously approved 'as-built' construction of the Phase 1 building located at 90 Charlton Avenue West, the approved construction of the building located at 85 Robinson Street (Phase 2), as well as, the third phase of the proposed development to be located at 220 Park Street South.

For the purposes of clarification, Phase 3 is effectively an addition to the Phase 2 building because there is a common lobby connecting the proposed tower to the building currently under construction. A review of the required modifications is as follows:

Permitted Uses

The Site-Specific “E/S-1703” (Multiple Dwellings, Lodges, Clubs, etc.) District would permit two apartment buildings with a maximum number of 283 dwelling units. The Phase 1 building located at 90 Charlton Avenue West would be nine storeys, as it has been constructed, but would permit a total of 79 dwelling units. The second building (Phases 2 and 3) would front Robinson Street and have two 11-storey towers with a common lobby, and a total of 204 dwelling units.

Maximum Building Height

As stated above, the “E” District permits a maximum height of 12 storeys for all buildings that are located a distance of at least 30 m. from a low density residential district, which is the case for the subject lands. The subject lands meet the above requirement and, prior to initial rezoning almost 20 years ago, could have been redeveloped to have a maximum height of 12 storeys, as-of-right. Staff do, however, note that the current maximum building height, as permitted in the existing site-specific zoning, is four-storeys.

Concerns that the design of the roofline effectively renders the proposed 11-storey tower to be greater than 11 storeys, had been raised by members of the public. It is noted that the previous amending by-law did not include a numerical value for building height, in terms of metres, and the rooftop portion, which has been constructed in the Art Deco style, includes elevator bulkhead, mechanical equipment, so it is not included in the definition of building height, according to Hamilton Zoning By-law No. 6593. As stated earlier, both the style of architecture and the sun/shadow study have been accepted by staff, and staff have no further concerns.

The UHOP, which is now in effect, implements the policies of the Growth Plan, promotes intensification and redevelopment, and supports a compact urban form to efficiently use the existing infrastructure and services. While an increase in height from 4 storeys to 11 storeys has raised concerns from surrounding residents regarding potential impacts and incompatibilities with the lower profile residential uses nearby, it is the opinion of staff that the proposed development, with the stepped back design of the 11th storey, and other urban design techniques, will complement the cultural landscape of the Durand Neighbourhood, in which varying densities exist. Moreover, the subject lands provide a transition between the high-rise multiple dwellings to the north, and the low density dwellings beyond Durand Park to the south.

Maximum Number of Dwelling Units

As stated earlier, because the towers located along Robinson Street are connected by a common lobby, they are considered to be one structure and therefore, one building. The number of units within the Phase 2 tower located at 85 Robinson Street has increased since 2009, when the passage of By-law No. 09-001 permitted 66 dwelling units, the most recent Committee of Adjustment approval of Minor Variance Application HM/A-12:231 permitted 99 dwelling units within the Phase 2 tower. The combined total number of dwelling units of Phases 2 and 3, beginning in 2009, was 90, and that rose to 151 through the said Minor Variance Application.

However, that number is based on a four-storey tower located at 220 Park Street South, and since staff now support the proposed increase in height of that tower to 1 storeys, the proposal results in a combined total of 204 dwelling units. As indicated in the preceding Policy Review and Analysis and Recommendation sections, staff are satisfied that the proposal promotes a compact urban form that respects the character of the existing neighbourhood, and proposes a density that can be satisfactorily accommodated.

Minimum Setback Requirements

The proposed front yard setbacks for the building along Robinson Street are consistent with, or similar to, those that were approved through the previous rezoning application. The setbacks of 0.7 m. for the first four storeys and 5.8 m. for the 5-11 storeys are reasonable and within the range of setbacks for existing buildings along Robinson Street, Charlton Avenue West, and Park Street South. In addition, reduced setbacks are encouraged and supported by the City of Hamilton's Site Plan Guidelines. Therefore, the proposal of reduced front yards setbacks are reasonable and can be supported, as they would not negatively impact abutting properties.

The general intent of a rear yard is to provide adequate amenity space for building inhabitants and suitable separation between buildings. Although it appears from the Concept Plan that there is a small rear yard provided for Block 1, according to the definition of rear lot line, the actual rear yard setback for the building is 19.4 m., which exceeds the minimum 11.9 m. required by Hamilton Zoning By-law 6593. The draft by-law references a minimum rear yard depth of 2.3 m. to address the underground parking structure that extends above grade and, is therefore subject to the minimum yard requirements of the building. Notwithstanding, there is sufficient amenity space in the rear and easterly side yard, and residents have the benefit of Durand Park immediately across the street, on the south side of Charlton Avenue West. In the case of Block 2, the minimum rear yard depth of 19.0 m. exceeds the 13.5 m. minimum requirement

of the “E” District. The proposal also includes a rooftop terrace, a larger amenity space in the southeast portion of the block abutting Park Street South, which will be shared amongst condominium owners.

The subject lands have an irregular shape with multiple lot lines and, since any lot line that is not considered the front or rear is considered side yard, the proposed amending by-law includes site-specific provisions to speak to the setbacks of the buildings to the appropriate lot lines. According to the “E” District provisions of Hamilton Zoning By-law 6593, the required side yard depth is dependent upon the height of the building, and the calculation also takes into consideration balconies. In the case of a street, the required side yard setback is 7.5 m., which is more than the 3.9 m. provided through the proposal for Block 2. However, as stated earlier, reduced yards adjacent to a street are supported by the City of Hamilton’s Site Plan Guidelines, and the proposed development would have side yard setbacks that are consistent with those of other multiple dwellings in the vicinity. In fact, the previous zoning by-law amendment permitted a front yard setback of 0.0 m. along Park Street South, and now the proposal requested a setback of 3.9 m. from that street.

In conclusion, the majority of the proposed yard setbacks are consistent with those reductions previously granted by the Committee of Adjustment through minor variance applications (HM/A-13:150, HM/A-13:27, HM/A-12:172, HM/A-11-277 and HM/A-11-23), with the exception of the easterly side yard setback for Block 2 and setbacks for the underground parking area. The proposed reductions may be supported, as they are appropriate for the efficient development of the lands, and will not detrimentally impact the character of the area or the amenity area of surrounding properties.

Parking Space Dimensions

The minimum parking stall size of 2.6 m. x 5.5 m. proposed is consistent with the provisions of Hamilton Zoning By-law 05-200, with the exception of two resident parking spaces in the underground parking structure for 90 Charlton Avenue West. The said spaces are shown as Units 40 and 41 on the Plan of Condominium drawing for the underground garage, and each is 2.4 m. in width, whereas 2.6 m. is required. This slight reduction of 0.2 m. is due to the ‘as-built’ condition of the supporting structure, which was approved by the Committee of Adjustment (HM/A-13:150). Planning staff have no concern with this provision, which is applicable to two existing parking spaces that are only utilized by the condominium owners/tenants of said spaces, and those individuals are most likely able to manoeuvre their vehicles according to the parking stall conditions for their respective units.

Visitor Parking Requirements

The applicant is seeking a reduction to the provision of 0.13 visitor parking spaces per dwelling unit, instead of 0.16 visitor parking spaces per dwelling unit, required by Hamilton Zoning By-law No. 6593. This ratio is consistent with the previous site-specific By-law (By-law No. 09-001) for the previous development proposal, and translates into the provision of 37, instead of the required 46, visitor parking spaces for the subject proposal. Staff continue to be satisfied that the proposed reduction can be supported based on the fact of the site's proximity to transit and alternative modes of transportation, as discussed above.

Loading Spaces

The proposal does not include the provision of a loading space for either of the two multiple dwellings, whereas the Hamilton Zoning By-law 6593 requires three loading spaces. The previously approved zoning for the property (By-law No. 09-001) removed this requirement, which is consistent with By-law 05-200, which does not require loading spaces for apartments in the Downtown. Therefore, the proposed change can be supported.

Landscaped Area

The definition of a landscaped area, in Zoning By-law No. 6593, includes lands suitable for growing vegetation that is open to the natural environment, but does not include an area on a roof. The requested change to the definition would allow the rooftop terrace and outdoor amenity area above the underground parking structure to be recognized as the landscaped area, and would also include lighting fixtures, transformers, retaining walls, and intakes within the landscaped area. Said structures could be effectively screened with vegetation that is suitable for shallow root growth above the underground parking structure. Likewise, the proposal of a rooftop garden with a combination of fencing, trellises, seating and planters, would provide the outdoor amenity space that is intended for a landscaped area. Therefore, staff are satisfied with the inclusion of this provision.

The proposed concept plan identifies the minimum landscaped open space area to be 38 percent, which exceeds the minimum 25 percent requirement of the By-law. A By-law provision that affects Block 2, specifies that only a maximum of 10 percent of the lot area may be identified as a landscaped area and be located on the roof of a building, which refers to the roof-top terrace above the common lobby between the two towers. This provision reaffirms the requirement to provide amenity area on the traditional ground level of the subject lands.

Based on the foregoing, Staff are supportive of the modifications that have been requested for the proposed development, and are of the opinion that the building design ensures compatibility with the residential uses in the area. As the provisions of Zoning By-law 09-001 are no longer relevant because they pertain to a former development concept, it is appropriate to repeal the said By-law and replace those provisions with the site-specific requirements for the previously approved and proposed development of the subject lands.

8. As stated earlier, the construction of the third tower is subject to Site Plan Control and is currently being reviewed under Preliminary Site Plan No. PSR-14-033. Although Site Plan approval of an 11-storey building cannot proceed without the implementing zoning in place, the applicant will be reminded of additional requirements at that stage of development, such as the inclusion of warning clauses regarding noise, parking requirements, reuse of salvaged artefacts, etc. Additional design considerations, such as transitional features and landscaping, will also be implemented to provide compatible integration of the proposed development with adjacent low density uses.

ALTERNATIVES FOR CONSIDERATION

Should the proposed application for an amendment to the Zoning By-law be denied, the subject lands may be used in accordance with the “E/S-1600” (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified for the development of a third, separate and distinct multiple dwelling, having four storeys and 24 dwelling units.

A new rezoning application would be required to eliminate the block line, which separates the Phase 2 building, currently under construction, from the Phase 3 building, as the buildings have been designed to have a common lobby, and are intended to function as one building with two towers. Furthermore, the City has an interest in the reuse of salvaged materials from the former Hamilton Thistle Club, which stood on the subject property between 1889 and 2004, and there remain some key artefacts (i.e. cornerstone) that were salvaged and have not been incorporated into the development that has already been approved by Site Plan Applications DA-11-017 and SPA-12-234.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.3 Promote economic opportunities with a focus on Hamilton's downtown core, all downtown areas and waterfronts.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment
- Appendix "C": Concept Plan
- Appendix "D": Architect's Rendering
- Appendix "E": Public Comments