



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | March 31, 2015 |
| SUBJECT/REPORT NO: | Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2) |
| WARD(S) AFFECTED: | Ward 2 |
| PREPARED BY: | Edward John Senior Project Manager (905) 546-2424 Ext. 5803 Steve Robichaud Director of Planning and Chief Planner |
| SUBMITTED BY: | Jason Thorne General Manager Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATION

That **Zoning Application ZAR-15-001, by Diamante Investments Ltd., Owner**, for changes in zoning to Hamilton Zoning By-law No. 05-200 from the Downtown Prime Retail Streets (D2) Zone, the Downtown Mixed Use (D3) Zone and the Downtown Multiple Residential (D6) Zone to a modified Downtown Prime Retail Streets (D2) Zone for lands located at 108 James Street North and 111 and 115 Hughson Street North, in order to permit a 22-storey mixed-use building, consisting of commercial and residential uses, accommodating a maximum of 106 units, and a total of 69 parking spaces provided through combination of surface (17 spaces) and stacked (52 spaces) parking, for the lands shown on Appendix “A”, be **Denied** on the following basis:

- (i) That the proposed changes in zoning are inconsistent with the Provincial Policy Statement, and contrary to the policies and intent of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan, with regard to matters including but not limited to, character, design and management of cultural heritage resources;

- (ii) The development would fail to preserve and enhance the character of the existing area, would represent an over-intensification of a mid-block site and set an unsuitable precedent for the design of tall buildings within Downtown Hamilton.

EXECUTIVE SUMMARY

The purpose of the application is to amend the City of Hamilton Zoning By-law No. 05-200 for lands located at 108 James Street North and 111 and 115 Hughson Street North in order to permit the redevelopment of a designated building (Tivoli Theatre), integrating a new 22-storey mixed-use building, including a three-storey podium. The proposal is for a maximum of 106 residential units, commercial and office uses on the first three floors, and an enclosed parking structure using a parking stacker system accessed by Hughson Street North, providing a total of 69 spaces (including 17 surface spaces). A concept plan and elevations of the proposed development have been submitted (see Appendix “B”).

The proposal should be denied, as it fails to adequately address the “Downtown Urban Mixed Use Area”, residential intensification and urban design policies of the Urban Hamilton Official Plan (UHOP) and the “Prime Retail Streets”, “Mixed Use Area” and “Medium Density Residential” designations of the Downtown Hamilton Secondary Plan. It is a form of high-density, mixed-use development that would be incompatible with the established character of the area and the proposal would represent an over-intensification of the subject lands. Furthermore, evaluation and review of matters regarding the appropriate management of cultural heritage resources remain outstanding.

Alternatives for Consideration – See Page 57

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. The application was intended to be heard at a Public Meeting on March 3, 2015. The public meeting was deferred and rescheduled to March 31, 2015. This date represents the 120th day since the application was received and therefore, in the absence of a decision of Council, on April 1, 2015, the applicant would be eligible to appeal the application to the Ontario Municipal Board for non-decision.

HISTORICAL BACKGROUND

Proposal:

The purpose of this application is permit a 22-storey mixed-use building, including a three-storey podium. There will be a maximum of 106 residential units (floors 4-22), commercial and office uses (on the first three floors), outdoor patio, and a multi-level enclosed parking structure using a parking stacker system, with a total of 69 spaces (including 17 separate surface spaces). The development is also intended to restore the existing Tivoli Theatre auditorium and based on pre-submission discussions with the applicant, the restoration of the auditorium has been linked to the rationale for the increased height and density. However, detailed information on how this will occur has not yet been provided to staff.

Chronology:

- January 15, 2014: Formal Consultation (FC-13-108).
- May 22, 2014: Presented at Design Review Panel.
- June 11, 2014: Preliminary Site Plan Review (PSR-14-055) reviewed at Development Review Committee.
- September 10, 2014: Open house and information session hosted by the applicant.
- December 1, 2014: Submission of Application ZAR-15-001 by Diamante Investments Ltd.
- December 10, 2014: Application ZAR-15-001 deemed complete.
- December 17, 2014: Circulation of Notice of Complete Application.
- February 10, 2015: Public Notice sign posted on the subject property.
- February 13, 2015: Statutory Notice of Public Meeting mailed to 345 properties.
- March 3, 2015: Public Meeting was cancelled and rescheduled to March 31, 2015 in order to allow for further consultation with the Beasley Neighbourhood Association.
- March 10, 2015: Public Notice sign on the subject property revised to reflect the new meeting date.

SUBJECT: Application for an Amendment to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 108 James Street North and 111 and 115 Hughson Street North (Hamilton) (PED15029(a)) (Ward 2) – Page 4 of 58

March 13, 2015: Statutory Notice of Public Meeting mailed to 345 properties.

Details of Submitted Application:

Location: 108 James Street North and 111 and 115 Hughson Street North (Hamilton)

Owner: Diamante Investments Ltd.

Agent: GSP Group

Property Description: Area: 0.28 ha
Frontage: 22 m (James Street North)
Depth: 92 m

Existing Land Use And Zoning:

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|------------------------------|---|--|
| <u>Subject Lands:</u> | Vacant (along James Street North), Tivoli Theatre and single detached dwelling (Hughson Street North) | Downtown Prime Retail Streets (D2) Zone, Downtown Mixed Use (D3) Zone, Downtown Multiple Residential (D6) Zone |

Surrounding Lands:

| | | |
|--------------|-------------------------------|--|
| North | Office / Retail / Residential | Downtown Prime Retail Streets (D2) Zone, Downtown Multiple Residential (D6) Zone |
| South | Offices / Commercial / Retail | Downtown Prime Retail Streets (D2) Zone, Downtown Mixed Use (D3) Zone |
| East | Residential / Commercial | Downtown Residential (D5) Zone |

West

Offices / Retail

Downtown Prime Retail
Streets (D2) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS) (2014):

Intensification

The application has been reviewed with respect to the PPS (2014). The application is generally consistent with the policies that seek to promote strong, liveable, healthy and resilient communities.

With specific regard to the policies of intensification, Policy 1.1.2 identifies that sufficient land shall be made available to accommodate an appropriate range and mix of land uses and that within Settlement areas, this land should be made available through intensification and redevelopment. The proposed mixed-use building would provide both a mixture of commercial uses (restaurant / office / retail) and residential units of varying sizes.

However, the lands are not considered to be suitably located in order to accommodate the density of uses proposed. Although the subject lands are within Downtown Hamilton, contextually, this particular location is defined by low to medium scale historically significant buildings, characterised by a consistent built edge and building typology.

Policy 1.1.3.2 provides direction on land use patterns and in part, how these land use patterns should be based on densities and a mix of land uses which efficiently use infrastructure, support active transportation and are transit supportive. With regard to the subject application, the proposed mixed-use building is located along a transit line and close to a future GO Transit Station. On this basis, the development would satisfy the above general policy intent.

The PPS (2014) provides direction to planning authorities to identify and promote opportunities for intensification and redevelopment. In particular, Policy 1.1.3.3 states that the appropriate locations and opportunities identified by planning authorities are to take into account existing building stock and the availability of suitable or planned infrastructure and public service facilities required to accommodate projected needs. As is further discussed in the review of the UHOP, the subject lands have been identified as a “Downtown Urban Growth Centre” and is therefore within an area identified to accommodate increased density.

This policy direction is however, to be read in conjunction with Policy 1.7.1, and in particular 1.7.1c) and d). This policy seeks to identify the need to maintain and where

possible enhance the vitality and viability of downtowns and main streets, and further to encourage a 'sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including *built heritage resources* and *cultural heritage landscapes*'. As discussed in more detail within the UHOP review, the development is considered to detrimentally affect the character and sense of place currently established within this portion of the Downtown.

Policy 1.1.3.5 directs municipalities to establish and implement minimum targets for intensification and redevelopment based on local conditions. As discussed in greater detail in the policy review of the Growth Plan and UHOP, the local conditions include a transit system, a designated Urban Growth Centre with a range of services and uses, existing available infrastructure, and a major transit station. The proposed mixed-use development would therefore comply with this intent.

With particular reference to housing, Policy 1.4.3 requires planning authorities to provide an appropriate range and mix of housing types and densities, and to identify intensification targets. These targets have been identified and implemented through the adoption of the Urban Hamilton Official Plan. Downtown Hamilton has been identified as an Urban Growth Centre within the Urban Structure of the Plan, and as such, is planned to accommodate 20% of the overall residential intensification and planned to achieve a density target of a minimum 250 persons and jobs per hectare measured over the entire Urban Growth Centre area. This target is measured across the entire Urban Growth Centre in recognition of the fact that due to site constraints and the varying character and context throughout the Urban Growth Centre, that not every site will be able to appropriately accommodate significant intensification.

This emphasis on residential intensification is intended to promote density that efficiently uses land, resources and infrastructure and which supports active transportation and meets the social, health and well-being requirements of current and future residents. Whilst the proposed development would contribute to the range and mix of housing types within the Downtown, it would provide a density of development in a form that would detrimentally affect the character of the existing area.

The means in which to implement and interpret where and what type of growth is appropriate, is clearly discussed in Section 4.0 of the PPS. In particular, it is important to note that the PPS states that the 'Official Plan is the most important vehicle for implementation of this Provincial Policy Statement'. As such, it is the opinion of staff that whilst the PPS gives general direction to encourage growth, the Statement should be read in its entirety, and based on the above, considerable regard must be given to the Policies of the Official Plan and in particular, those policies which consider the need to balance intensification with the established character of an area.

Cultural Heritage

With regard to Cultural Heritage Policies 2.6.1 and 2.6.3 of the PPS (2014), staff note that significant built heritage resources are to be conserved and that development and site alteration on lands adjacent to a protected heritage property is permitted only where the proposed development has been evaluated and the heritage attributes conserved.

The subject lands contain the Tivoli Theatre, which is designated under Part IV of the *Ontario Heritage Act* by municipal By-law 90-255 and By-law 04-256, and a “protected heritage property” under the Provincial Policy Statement. The designated features include the original architectural features of the lobby (protected by By-law 90-255) and auditorium (protected by By-law 04-256), including the ceilings, proscenium, colonnades, statuary, and other decorative wall elements. Excluded from the designation of the auditorium are the more recent additions such as the floor covering, seating and stage curtain.

The decision by the Council of City of Hamilton to designate the building reflects the intent of the City to conserve the building through the necessary means available to the Municipality, and to provide the opportunity, through financial incentives and allow programmes, for its continued protection.

The proponent proposes to retain and restore the former Tivoli Theatre auditorium, demolish the remaining theatre lobby and construct a 22-storey mixed-use building consisting of commercial and residential uses, with a total of 106 units and 69 parking spaces.

Under the *Ontario Heritage Act*, a Heritage Permit is required for any alterations that are likely to affect the Reasons for Designation and / or Description of Heritage Attributes defined by the Designation By-law 90-255 (extant heritage features include the lobby) and Designation By-law 04-256 (extant heritage features include interior of the auditorium). A Heritage Permit will be required for the proposed demolition of the lobby (By-law 90-255) and any changes to the remaining auditorium (By-law 04-256).

A Heritage Impact Assessment (HIA) report prepared by McCallum Sather Architects on April 25, 2014, was submitted as part of the subject application.

The HIA submitted with the application does not address the requirement for Heritage Permit approval for the removal of the existing lobby, nor does the HIA adequately address any potential impacts to the auditorium as a result of incorporating it into the proposed development, such as removal of heritage fabric to reconfigure the entrance into the auditorium. In addition, the HIA does not include a discussion of any potential impacts to the remaining built heritage resources as a result of the development, such as vibration impacts.

Further, the building located at 115 Hughson Street North is included in the *Register of Property of Cultural Heritage Value or Interest* as a non-designated property. While it is not explicitly stated in the application, the site plan and elevations would indicate that the existing building would need to be demolished to implement the proposal. The HIA does not address the identified built heritage resource located at 115 Hughson Street North, nor does it address any adjacent or surrounding cultural heritage resources, such as 121, 126-128 and 127 Hughson Street North (all included in the Register) and 37 Wilson Street (included in the Register and a candidate for designation in 2023).

Staff are of the opinion that the Zoning By-law Amendment application is premature until the removal of the lobby, protected by Municipal By-law 90-255, is addressed through the Heritage Permit process to ascertain how this heritage resource will be managed, and any potential impacts on the heritage fabric are assessed. Until such time that these have been adequately addressed, the application is not considered consistent with the PPS.

Environmental Contaminants

Policy 1.1.1(c) outlines that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Further, Policy 3.2.2 states that contaminated sites shall be remediated as necessary prior to any activity of the site associated with the proposed use, such that there will be no adverse effects.

Staff note that Phase 1 and Phase 2 Environmental Site Assessments prepared by Coffey Geotechnics Inc. and dated May 22, 2013 and August 14, 2013 respectively, have been submitted with the subject application. This information however has yet to be submitted to the Ministry of the Environment. Should the application proceed, a Holding Provision would be recommended within the amending by-law until this matter has been satisfactorily addressed.

Noise

Policy 1.2.6.1 outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety.

Staff note that a noise study titled “Tivoli Condominiums Hamilton, Ontario Noise Impact Study” dated November 7, 2014 and prepared by RWDI Air Inc. was submitted with the subject application. With regard to road noise sources, a number of measures, which include noise barriers / enclosures for the outdoor amenity areas, were recommended. With regard to the location and details of these barriers / enclosures staff will require

additional information including an indication of the barrier heights that would be required to achieve the required mitigation. Should the application proceed, this would be addressed through a Holding Provision.

With regards to the assessment of stationary noise source impacts, detailed measurements of the rooftop units on the nearby plaza is required in order to confirm the sound levels from these units and their associated impacts on the proposed development. Similar to the above, should the application proceed, the requirement for this information would be addressed through a Holding Provision.

Growth Plan for the Greater Golden Horseshoe (Places to Grow):

The Growth Plan is intended to guide decisions on a wide range of issues, including transportation, infrastructure planning, land use planning, urban form, housing, natural heritage and resource protection – in the interest of promoting economic prosperity. The vision of the document, in part, is to create urban centres characterized by vibrant and more compact settlement and development patterns, providing a diversity of opportunities for living, working and enjoying culture.

Complete Communities

This vision is to be implemented through the guiding principles contained within the Plan. Of particular note is the concept of “building compact, vibrant and complete communities”, that is, communities that optimize the existing and new infrastructure and services to support compact growth. The development, and in particular its geographical location within the Downtown, would offer the opportunity for future residents to satisfy daily and weekly needs for living and employment opportunities, availability of services, housing, recreation, education and cultural experiences.

Intensification

In managing growth, Policy 2.2.2 directs significant growth to the built-up areas through intensification, reducing dependence on the automobile through mixed-use transit-supportive design that further supports the development of a complete community. With regard to intensification, Policy 2.2.3 identifies that in general, intensification is to be encouraged and further, that intensification should in particular be focused within urban growth centres and major transit station areas. The intensification of the proposed lands, given its location within the Downtown, and coupled with the requested parking reduction, is considered to generally satisfy these objectives.

More specifically, Downtown Hamilton is identified as an “Urban Growth Centre” as defined by the Growth Plan. In accordance with Policy 2.2.4.4 such areas are therefore planned for investment focal points for a broad range of uses, serve as higher density employment areas and accommodate a significant share of population and employment growth. Similarly, Policy 3.2.3.2a) notes that transit infrastructure should in fact shape

growth and planning for high residential and employment densities that ensure the efficiency and viability of existing and planned transit service levels. The development would increase residential population in the area, as well as, introduce a number of employment opportunities within the proposed commercial units. The uses are expected to take advantage of existing transit infrastructure, in line with this Policy intent.

Density Target

Policy 2.2.4.5b) sets a minimum gross density target of 200 persons and jobs per hectare to be achieved by at least 2031 within Downtown Hamilton, which is identified as an Urban Growth Centre (UGC) within the UHOP. As noted within the UHOP discussion of this Report, this minimum target was subsequently increased by the City of Hamilton through the adoption of the UHOP to 250 persons and jobs per hectare, in recognition of the area's ability to accommodate intensification and the objective of increasing the residential population within the Downtown. The 250 persons and jobs per hectare is to be measured across the entire UGC, in recognition of the fact some areas may not redevelop as they are comprised of existing low, medium, and high density residential uses and other areas, due to their proximity to low to mid-rise residential and commercial uses, are more constrained by character and context. Intensification is neither appropriate, nor necessary on all properties within the UGC.

On this basis, staff note that the area in the vicinity of the subject lands is characterised by low to mid-rise development, consistent building lines and building typologies. As such, intensification while in general is encouraged, is not supportable, in the form proposed, at this location given the contextual constraints of the site. In addition, as the intensification target is measured across the entire UGC, redevelopment of this site is not required in order to achieve the UGC targets.

Cultural Heritage

As discussed under the PPS review, the HIA provided in support of the application is not sufficient in addressing the demolition of the lobby, does not address the identified built heritage resource located at 115 Hughson Street North, nor does it address any adjacent or surrounding cultural heritage resources, such as 121, 126-128 and 127 Hughson Street North (all included in the Register) and 37 Wilson Street (included in the Register and a candidate for designation in 2023).

On this basis, while the site is in general appropriate for contemplation of intensification, the manner and form in which it has currently been proposed is considered over-intensification and has yet to demonstrate conformity with the Cultural Heritage policies of the Growth Plan.

Urban Hamilton Official Plan:

The proposal has been evaluated against the policies of the UHOP. The Ontario Municipal Board approved the UHOP, in part, on August 16, 2013. At this time, the majority of the policies in the UHOP are now in effect, including all the policies directly relevant and referenced below. The following UHOP policies, amongst others, are applicable to the application for a Zoning By-law Amendment:

Downtown Urban Growth Centre

The subject lands are identified as “Downtown Urban Growth Centre” on Schedule “E” - Urban Structure Plan, and designated “Downtown Mixed Use Area” on Schedule “E-1” - Urban Land Use Designations.

With regard to the Urban Structure, and pursuant to Policies E.2.3.1.2 and E.2.3.1.6, (detailed in full below) the “Downtown Urban Growth Centre” in terms of its function, shall be the pre-eminent node, providing a range of uses and housing types.

“Policy E.2.3.1.2 The *Downtown Urban Growth Centre* shall be the pre-eminent node in Hamilton due to its scale, density, range of uses, function and identity by residents of the City as the Downtown and accordingly, it shall be planned for a range of uses appropriate to its role as the City's pre-eminent node.

Policy E.2.3.1.6 The *Downtown Urban Growth Centre* shall function as a residential neighbourhood with a large and diverse population. A range of housing types, including *affordable* housing and *housing with supports*, shall be encouraged as set out in the Downtown Hamilton Secondary Plan and other associated secondary plans and policies of this Plan.”

The scale of the uses encouraged within the downtown are directed through Policies E.2.3.1.9 and E.2.3.1.10 (detailed in full below), which indicate that lands within the Downtown Urban Growth Centre shall be the focus of density growth, requiring a minimum 250 persons and jobs per hectare and are to accommodate approximately 20% of the City's total overall residential intensification target.

“Policy E.2.3.1.9 The *Downtown Urban Growth Centre* shall generally have the higher density within the City with a minimum overall density of 250 persons and jobs per hectare. Overall density in excess of this target may be achievable and warranted. Increases to this density target shall be considered as part of a review of the Downtown Hamilton Secondary Plan. The density targets shall be evaluated

based, in part, on the results of the Downtown Office Strategy and the impacts on existing infrastructure and transportation networks.

Policy E.2.3.1.10 It is anticipated that the *Downtown Urban Growth Centre* will accommodate approximately 20% of the City-wide *residential intensification* over the time period of this Plan which equates to a range of 5,000 to 6,000 dwelling units.”

As discussed under the review of Places to Grow, whilst higher density is to be encouraged, it is noted that constraints both contextual and physical exist throughout the Downtown, which serves to limit the level and form of appropriate intensification that can be accommodated on an individual site basis.

As such, the manner in which intensification is to be accommodated is contemplated in a number of the design related Policies of Section E.2.3. As raised through Policies E.2.3.1.13 and E.2.3.1.14, there is a strong focus upon the pedestrian environment and an emphasis upon active transportation and transit.

“Policy E.2.3.1.13 The *Downtown Urban Growth Centre* shall be designed with a strong pedestrian focus to create a comfortable and animated pedestrian environment.

Policy E.2.3.1.14 The *Downtown Urban Growth Centre* shall be designed to accommodate all modes of transportation with a focus on transit and *active transportation* including pedestrian and cycling trips within the Downtown and between the Downtown and the surrounding Neighbourhoods.”

From the perspective of transit and active transportation, given the location of the subject lands, the availability of services and the proposed reduction in parking, the development can be considered to provide a focus upon these policy goals. Furthermore, staff consider the range of commercial activities proposed within the building, in addition to the outdoor patio, to in principle encourage increased pedestrian activity along James Street North.

However, with respect to creating a comfortable pedestrian environment, staff note a number of design related concerns. Most notably the attempt that has been made to transition the 22-storey tower with the mid to low rise development in the area through a podium and tower design. As will be discussed in more detail in the urban design review portion of this Report, it is noted that the design of the building is such that while a podium design has been implemented, it is the opinion of staff that this attempt is unsuccessful at creating a reasonable sense of enclosure, and as such, is to the detriment of the pedestrian experience.

Policy E.2.3.1.15 identifies that although parking remains a consideration for development, it acknowledges that this should increasingly be located in underground or above ground structures, in order to maximize the efficient use of land as it states:

“Policy E.2.3.1.15 Parking shall continue to be provided within the *Downtown Urban Growth Centre* to serve the needs of residents, employees, and consumers, and shall increasingly be provided in underground or above ground structures where feasible.”

Furthermore, Policies E.2.3.1.14 and Policy E.2.3.1.16 collectively emphasize that all forms of transportation are to be encouraged and that reduced parking standards shall be contemplated to encourage a broader range of uses and densities to support transit.

“Policy E.2.3.1.14 The *Downtown Urban Growth Centre* shall be designed to accommodate all modes of transportation with a focus on transit and *active transportation* including pedestrian and cycling trips within the Downtown and between the Downtown and the surrounding Neighbourhoods.

Policy E.2.3.1.16 Reduced parking requirements shall be considered to encourage a broader range of uses and densities and to support transit.”

The proposed development is considered in general to balance these parking and transportation policy objectives, through a combination of an enclosed parking structure, bicycle parking and overall density of development that would support the existing and extensive transit system. In support of the application, a Parking Study prepared by Paradigm (dated November 2014) was submitted. A number of options were discussed within the report, in addition to the above noted car and bicycle parking. This included unbundling the parking such that it would be sold separately from the unit.

The implementation of the TDM strategies would be through zoning requirements (eg. minimum bicycle storage / car parking requirements), site plan requirements (eg. warning clauses registered on title regarding limited parking availability) and the registration (if applicable) of the Condominium Plan (eg. bundling / unbundling of parking spaces).

Residential Intensification

As detailed within Section B.2.4, residential intensification is a key component in successfully redeveloping and transforming targeted areas of the City, and is pivotal in achieving the growth targets and balanced growth strategy of the UHOP. In general, intensification creates livable, vibrant, compact communities, facilitates and enhances the node and corridor structure of the City, and makes efficient use of the City's public transit network and other infrastructure.

However, it is also clearly articulated within the UHOP, that for intensification to make a positive contribution to the City and in particular to the local context in which the development is proposed, careful consideration must be given to design and compatibility with existing uses, neighbourhood character, and cultural and natural heritage resources. In particular, intensification must represent good planning and not cause unacceptable impacts.

With particular regard to the residential intensification policies, criteria in which to evaluate proposals outside of the Neighbourhoods Designation are contained within Policy B.2.4.1.4 which states:

“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.”

Balance

As noted in the above policy, acknowledgement for the need for a balanced approach in the assessment of intensification projects is required, understanding that there is potential for competing objectives that need to be evaluated accordingly. In this regard, it is considered that the proposal fails to adequately address the character and compatible integration of the development with the surrounding area as a result of the design and height of the proposed development.

Character

The property is located mid-block along the east side of James Street North, between Wilson Street and Cannon Street East at the terminus of Vine Street, with frontage of 22 m along James Street North and 34 m of frontage along Hughson Street North.

James Street North, particularly within this block and to the north, is a traditional retail street that accommodates a mixture of uses including, retail, office, convenience and service commercial uses. The character of the street is most notably created through the continuous built edge of buildings with minimal setback from the street and consistent and strong datum lines established through the predominately three-storey height of buildings within the area. It is considered that these characteristics serve to create a pedestrian friendly environment that contributes vibrancy and further enhances the character of the area.

The proposal seeks to introduce a 22-storey tower within this clearly defined character. In an attempt to mitigate the impact, the proposal introduces a step-back of 3.5 m and a change in façade treatment for the fourth and fifth storeys from James Street North. This visual break intended by this step-back is however, minimized given that the elevation of the building returns almost to its previous position (2 m from James Street North) and thus limits the overall purpose and benefit of the step-back, as it would almost appear indiscernible from several vantage points in and around the site (see Appendix “B”). It is the understanding of staff that the reason the building has been designed in this manner has been borne out of the constraints of the existing Tivoli Theatre space at the rear, the width of the site and the need to efficiently optimise the stacked parking system.

Irrespective of the constraints, it is the opinion of staff that the resulting design, accompanied with the height, scale and massing serves to erode the existing desirable character, pattern and built form of the area, and represents an over-intensification of the subject lands.

Range of Dwelling Types and Tenures

The proposed development would provide a maximum 106 condominium units ranging in size and number of bedrooms. The subject lands are located in the south-east quadrant of the Beasley Neighbourhood. The Beasley Neighbourhood consists of a wide range of dwelling types and tenures, including grade-oriented lower density singles, semis and townhouses, to larger rental and condominium high-rise developments. As such, the proposed development is considered to contribute to the current range of dwelling types and tenures.

Compatibility

Compatibility includes matters such as shadowing, overlook, noise, traffic and other nuisance considerations. With particular regard to this policy, the development must be

compatible in terms of use, scale, form and character such that it would exist in harmony with the context of the street, but does not necessarily have to be identical to, or replicate, existing adjacent buildings and built form.

Compatibility as defined by the UHOP, should ensure development is ‘mutually tolerant’ to the existing area. On this basis, the development, which is significantly different to the form and scale of its immediate surroundings, must through careful design, demonstrate successful and harmonious transition to the lower density development. As discussed through this Report, the established low to mid density character that surrounds the site is typified in a consistent built edge and building typology, which makes any transition from this built form more constrained.

The intersection to the south (Wilson Street and James Street North) and the adjacent single storey development, whilst providing some variation to the consistent step-backs and height of the streetscape, is juxtaposed with the consistency of built form that exists north along both the east and west sides of James Street North. The buildings form a defined and pedestrian scaled enclosure along James Street North, with marginal variations in height, maintaining a rhythm of predominantly two and three-storey buildings.

It is noted that creative design techniques have been employed, including changes in the materiality of the podium and tower, the former consisting of stone cladding and the latter more contemporary panelling. This visual break, combined with a step-back, to emphasise the separation of the tower and podium was incorporated into the design of the proposed building.

However, as further detailed in the Urban Design portion of this policy review, staff consider that the proposal does not provide sufficient urban design techniques in order to achieve compatible integration with the existing context and pattern and form of development. The podium design, and particularly the proposed setback, is not considered sufficient in providing a defined break between the podium and tower, and that this absence of a strong defined separation serves to obscure the existing strong key reference points and datum lines particularly in reference to the James Street North context.

With regard to functional impacts, the proposed uses would support the surrounding area, providing residential densities and commercial uses that would provide housing and employment opportunities and assist in the creation of complete communities. The proposal is not considered to create any traffic related concerns, and through the submitted shadow and wind assessments, it has been demonstrated that the proposal would generally have minimal negative impacts upon amenity. These studies are discussed in greater detail in the following sections of this Report.

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On the matter of overlook, given the mixed use nature of the area, and the fact commercial uses will be occupying the majority of the three-storey podium, it is not considered that overlook would be an issue.

With regard to parking, this is discussed in detail under a separate heading, but for the purposes of this policy, given the outstanding concerns regarding the design and location of the proposed surface parking spaces, remains premature.

In conclusion, for the purposes of compatibility, it is the opinion of staff that the proposal fails to demonstrate compatible integration.

Planned Urban Structure

As discussed earlier, the Urban Structure identifies the subject lands as within the Downtown Urban Growth Centre, which is intended to accommodate approximately 20% of the total overall residential intensification target. Given the built-up nature of the Downtown, this growth is anticipated to be achieved through higher density infill residential intensification. However, such thresholds are to be measured over the entire Urban Growth Centre boundary area (as opposed to property by property).

On this basis, it is understood that not all sites within the Downtown Urban Growth Centre are created equal, with certain areas more constrained and less appropriate for significant density changes. The subject lands are one such site that, although intensification is encouraged, has a number of constraints that serve to limit the form in which intensification is to assume. As is further discussed in the Urban Design review, the proposed design has failed to demonstrate that the intensification, in the form proposed, is appropriate from a design perspective.

Infrastructure and Transportation Capacity

With regard to infrastructure and transportation capacity, it is noted that the lands are located along a potential Rapid Transit Line (James Street North) as per Appendix “B” - Major Transportation Facilities and Routes of the UHOP, and within walking distance of the MacNab Street HSR terminal and the proposed new GO Centre at James Street North and Murray Street West. Furthermore, Schedule “C” - Functional Road Classification designates James Street North as minor arterial with the planned capacity to accommodate additional traffic demands.

With respect to servicing, staff note that there is an existing 300 mm diameter watermain, 450 mm diameter watermain and 900 mm by 1350 mm combined sewer on James Street North in front of the subject property. There is an existing 150 mm diameter watermain and 375 mm diameter combined sewer on Hughson Street North in front of the subject property.

A Functional Servicing report will be required to demonstrate the capacity of the distribution system to meet the domestic and fire requirements. The applicant will also be required to provide a wastewater generation assessment using Part 8 of the latest edition of the Code and Guide for Sewage Systems to establish an equivalent population density for consideration.

Based on the above, it is the position of staff that the proposed development does not appropriately implement the Urban Structure of the Plan and is not in conformity with the residential intensification policies of the UHOP.

Downtown Mixed Use Area

As detailed above, the site is Designated Downtown Mixed Use Area on Schedule E-1 – Urban Land Use Designations. The designation is intended to have a full range of retail, service commercial, institutional, cultural, entertainment, and office uses as well as a range of residential uses. The proposed development, given its mix of uses, would secure this overall policy intent.

Policy E.4.4.3 in particular recognizes the importance of residential density to secure the planned intent of the area, one that seeks to create ‘a vibrant people place’, as it states:

“Policy E.4.4.3 Increasing the number of people who work and live in the Downtown shall enhance the day and night activity and contribute to its planned function as a vibrant people place.”

It is the opinion of staff that opportunity exists to appropriately increase the density of the existing site, however, this should be achieved through a form and design of development that more appropriately builds upon the existing desirable pattern of development along James Street North in keeping with the intent and direction of Policy E.4.4.8, which states:

“Policy E.4.4.8 Within the area designated Downtown Mixed Use, a higher density form of housing shall be encouraged, including *affordable* housing, that may be integrated with business uses including retail and service commercial establishments on the ground floor, as further set out in the Downtown Secondary Plan.”

The UHOP defines “medium-density” as 60-100 units per hectare and “high density” as 100-200 units per hectare for the area in which the subject lands are located. The proposal is for approximately 378 units per hectare. Based on the site area (0.28 ha), approximately 28 units would achieve 100 units per hectare

In particular, in terms of the scale and design requirements of this designation, it is noted that heights are to be set out in the Secondary Plan. The policies of the Downtown Secondary Plan will be discussed later in this Report.

Policies E.4.4.10 to E.4.4.13 focus on particular design requirements and are therefore discussed later in this Report under the heading – Urban Design.

Finally, in recognition of the locational advantages available within this designation, particularly the range of services and transit, further support to the consideration of reduced parking requirements is highlighted in Policy E.4.4.14, which states:

“Policy E.4.4.14 Reduced parking requirements shall be considered in recognition of the high level of transit service to the area designated Downtown Mixed Use.”

Given the policy emphasis on this matter, staff are satisfied that contemplation of reduced parking requirements is desirable in order to achieve the City’s related policy goals pertaining to the creation of sustainable and active communities.

Urban Design

Various sections within the Official Plan provide policy guidance with respect to urban design. Considerable emphasis has been placed upon the importance of urban design in securing appropriate residential intensification, particularly when it concerns infill development that must respect and be compatible with the existing character of an area. Specific policies identifying these pertinent considerations will be reviewed in the following section.

In support of the proposed design, the application included the submission of an Urban Design Report prepared by McCallum Sather Architects Inc. (Dated November 2014) and Planning Justification Report prepared by GSP Group Inc. (Dated November 2014).

As noted above, there are specific design policies related to the Downtown Mixed Use Area. Policy E.4.4.10 notes that these areas are to be designed as pedestrian-focused areas with a high level of pedestrian comfort and amenities.

In particular it states:

“Policy E.4.4.10 The Downtown Mixed Use area shall be designed as a pedestrian focused area with a high level of pedestrian comfort and amenities. Buildings shall generally be situated close to and oriented to the street. Retail buildings shall have storefronts and other active uses opening onto the sidewalk. On the *pedestrian predominant streets*, new *development* shall enhance pedestrian comfort and street

activity and where possible increase the built block face. New *development* in other areas of the Downtown Mixed Use area should create a comfortable pedestrian environment.”

The proposed building has been designed as a podium and tower. However, as raised by staff within this Report, and acknowledged within the Urban Design Report prepared by McCallum Sather Architects (p.21 of Urban Design Report), the extent of the step-back that creates the podium is limited; and further, that it would be more desirable to set the tower back further from James Street North and to terrace the floor plate. The Design Report notes the constraints of the site, but concludes that the design approach remains effective in satisfying the prevailing policy requirements. Staff do not agree, and are of the opinion that the design is unsuccessful, and does not provide the necessary benefits to the pedestrian realm that a true podium and tower design would exert.

Height / Massing

Staff consider that the proposed height of 22 storeys, in addition to the manner in which the height is designed, fails to protect the character of the existing area. From the pedestrian perspective, the subsequent design of the podium (as a result of the site constraints) results in a significant amount of building mass at the James Street North frontage, eroding the current sense of enclosure created by the largely consistent street edge and massing of existing buildings.

This is further compounded by the fact the property is mid-block, and therefore constrained by the limiting distance requirements of the Ontario Building Code. As raised by the applicant, and through discussions with the Building Department, given the separation distances between the proposed tower and the adjacent properties, fire separation becomes a limiting consideration. As such, typically the openings within the elevations are often limited in order to satisfy this requirement. This is evident within the proposed elevations, with the north and south elevations, which are highly visible from the public realm, designed with minimal fenestration, a factor that further emphasizes the massing of the building (see Appendix “B”).

“Policy E.4.4.11 Building mass shall consider the pedestrian nature of the area designated Downtown Mixed Use. Massing techniques such as stepped back or terraced floors may be required.”

With regard to the massing discussed within Policy E.4.4.11, the less than ‘desirable’ setback of the tower from James Street North is considered to create a substantial amount of building mass which detrimentally affects the pedestrian scale of the development, with the additional proposed height overwhelming the existing streetscape.

Complete Streets / Sense of Place

It is noted that Policy E.4.4.13 focuses on the objective of complete streets that successfully accommodate the automobile, transit, pedestrians, bicycles and other forms of active transportation. While this is a global policy direction, informing larger projects such as Streetscape Master Plans, the individual merits of the proposed development are considered relatable to the larger outcome and intent of this direction.

The building will accommodate a mixture of uses, parking spaces for both cars and bicycles, with the former located and accessed to the rear of the property from Hughson Street North, and as such, is considered to generally implement the intent of Policy E.4.4.13, which states:

“Policy E.4.4.13 Streets within the Downtown Mixed Use area shall be designed to accommodate the automobile, transit and *active transportation*, including pedestrian and bicycle trips within the Downtown and from the surrounding Neighbourhoods. Along *pedestrian predominant streets*, sidewalk widths shall be maximized where possible and a broad range of sidewalk activities, permitted where space allows, to promote sidewalk cafés, sidewalk kiosks, street vendors, and performers.”

In addition to the specific design policies within the Downtown Mixed Use area, Section B.3.3 outlines more general design principles, which are to be used to guide and inform development proposals throughout the City. It must be noted that as stated in the preamble to this policy section:

“Policy B.3.3 The overall future growth and land use vision for the City is based on the development of a nodes and corridors system and is described in Chapter E – Urban Systems and Designations. The transformation of identified node and corridor areas into higher density, mixed use nodes and corridors with enhanced pedestrian environments supported by transit represents a departure from the existing character of some of these areas. In other places, the development of a node or corridor requires protecting existing built form character. Therefore, the following policies must be read in context with the function, scale, and design intent described in the policies of Chapter E – Urban Systems and Designations and other policies of this Plan.”

Policy B.3.3 acknowledges that the application of the policies contained under the Urban Design section cannot be reviewed in isolation, and instead, must be read in conjunction with the presiding policy intent as articulated within Chapter E. The presiding policy intent in the Downtown Mixed Use Area is, as discussed earlier, a focus of increased

population and improved pedestrian and transit supportable development. It is with this understanding, that the following policies have been assessed.

- “Policy B.3.3.1.4 Create communities that are transit-supportive and promote *active transportation*.”
- Policy B.3.3.1.2 Provide and create quality spaces in all public and private *development*.
- Policy B.3.3.1.3 Create pedestrian oriented places that are safe, accessible, connected, and easy to navigate for people of all abilities.”

Staff consider that globally, these policies can be achieved successfully in a building that is more responsive to the established character of the area, particularly with reference to the creation of ‘quality spaces’, and therefore are not of the opinion that these policies override a comprehensive and balanced approach to achieving intensification.

The proposed building in effect dislocates itself from the current sense of place along this section of James Street North, appearing incongruent in the streetscape. The building will be street oriented, and would also introduce a commercial patio, retail and commercial uses, lighting and entrance ways, all which will in part, serve to enhance and encourage activity between the public and private spaces, however, this would not compensate for the imposing nature of the building, which will be experienced at street level.

The building would be contrary to B.3.3.1.5 (detailed in full below), which requires development to not only be ‘compatible’ but in addition, is required to ‘enhance’ the character of the area. As discussed within this Report, it is considered that the development would neither be compatible nor enhance the character of the area. Compatibility is defined within the UHOP to be ‘mutually tolerant and capable of existing in harmony within an area’. On this basis, the absence of satisfactory transition from the lower density uses, and the subsequent massing of the project does not in the opinion of staff reflect development that is mutually tolerant or compatible and instead would be disharmonious addition to the streetscape, one that would detrimentally affect the character of the existing lower scale development that surrounds the subject lands.

With regard to enhancing the character of the existing environment and locale, staff note that the character of the area is clearly defined, established and promotes a positive pedestrian experience. As per policy B.3.3.1.5, development must result in a positive change with respect to existing character. This section of James Street North has experienced a renaissance of new commercial spaces becoming occupied and vibrancy of old and new uses harmoniously integrating into the existing and newly constructed

built fabric. The proposed building would potentially disrupt this positive pattern of development through the significant increase in height of the tower, a height which would fail to enhance the character of the area.

“Policy B.3.3.1.5 Ensure that new *development* is *compatible* with and enhances the character of the existing environment and locale.”

The form of the building, as proposed, is considered inappropriate and although would offer some innovative solutions to parking demand, and proposes to re-introduce the heritage component of the Tivoli Theatre, does so in a manner that would serve to erode the established character, contrary to Policy B.3.3.1.8 (detailed in full below).

Current urban design best practices see a reciprocal and complementary relationship between the building height and the width of the street. This relationship of building height and street width is a ratio whereby the building height is equal to the street width and has been captured as in the City’s Transit Oriented Design guidelines and the Site Plan Guidelines manual. It is based on sound urban design theory that encloses the street and creates a sense of enclosure for pedestrians, while allowing sunlight to enter the street and promoting a built form that relates and addresses the streetscape. Extension of this urban design theory allows buildings to be taller if terraced or stepped back within certain parameters, such as complying with the 45 degree angular plane approach as detailed within the City’s Transit Oriented Design guidelines.

The proposal includes intensification of commercial and residential uses, however, the proposal is not compatible with the form and function of the character of the existing community and surrounding neighbourhood. The building incorporates a step-back, but given the scale of the step-back, and the fact it is maintained for only two storeys (returning to only a modest step-back on the above floors), minimizes the visual reduction in building mass from the streetscape, one which could otherwise be achieved through design approaches such as satisfying the 45 degree angular plane.

The form of the proposed development is therefore considered to interrupt the current positive pedestrian scale of the streetscape created by the existing low to medium rise development, which effectively encloses the street. The proposed tower would punctuate this sense of enclosure and does not provide sufficient justification in either the design or function of the development, in which to account for the impact the proposed height would exert. Policy B.3.3.1.8 states:

“Policy 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.”

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A number of specific design requirements and guidelines are raised within Policies B.3.3.2.3 to B.3.3.2.5. These policies are detailed below:

- “Policy 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;
 - d) conserving and respecting the existing built heritage features 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;
 - h) respecting prominent sites, views, and vistas in the City; and,
 - i) incorporating public art installations as an integral part of urban design.”

As discussed within the Urban Structure review of this Report, and in particular in response to Policy B.2.4.1.4, the development is not considered to respect and build upon desirable patterns and character of the existing context, one defined by the existing low to medium built form. The consistent and unique character of James Street North in the vicinity of the subject lands would be detrimentally affected by the proposed development. It would fail to respect the strong and readily identifiable scale and massing of the street.

The proposal is in contrast to new developments in the immediate area, such as on Vine Street and James Street North, which is comprised of a four-storey brick building that is of a quality that is consistent with the locale and surrounding environment with respect to key aspects such as building height, building materials, building rhythm and architectural design. The proposed 22-storey development contrasts with both new and old development patterns and design on James Street North and Vine Street.

The proposal in terms of quality design has been addressed through a contemporary design approach. The podium responds to the requirement for the uses and built form to be street oriented, albeit that the tower remains a significant concern. Staff are generally receptive to the amount of glazing and choice of building material incorporated into the podium design.

The proposal's impact upon the cultural history of the area would be positive from the perspective of the retention of the Tivoli Theatre, and the intent to re-introduce the theatre use into the remaining structure auditorium (although details on how this will occur has not yet been demonstrated to staff). However, as detailed with the heritage discussion within this Report, concern remains over a number of aspects of the proposal. Firstly, the HIA has not demonstrated the justification or followed the required process in order to determine the appropriateness of the demolition of the protected foyer. Secondly, the impacts upon the surrounding heritage buildings have not been evaluated and until such point that it has conformity with the above policy requirement is premature.

It is considered that the prominent views and vistas along James Street North and the adjacent streets would be negatively affected by the proposed height, particularly given the fact the most prominent elevations of the structure (north and south), due to Ontario Building Code requirements, are less articulated and accommodate reduced amounts of fenestration. The proposed tower would protrude between 19-21 storeys above the adjacent buildings. While attempts to articulate these elevations through material changes and notches within the floor plate are noted, they are insufficient in not only reducing the visual scale and massing of the building due to the predominately solid nature of the elevations (north and south) but further, because of the negative impact they exert upon the prominent views along James Street North, from the Bay to the Escarpment.

“Policy B.3.3.2.4 Quality spaces physically and visually connect the public and private realms. Public and private *development and redevelopment* should create quality spaces by:

- a) organizing space in a logical manner through the design, placement, and construction of new buildings, streets, structures, and landscaping;

- b) recognizing that every new building or structure is part of a greater whole that contributes to the overall appearance and visual cohesiveness of the urban fabric;
- c) using materials that are consistent and compatible with the surrounding context in the design of new buildings;
- d) creating streets as public spaces that are accessible to all;
- e) creating a continuous animated street edge in urban environments;
- f) including transitional areas between the public and private spaces where possible through use of features such as landscaping, planters, porches, canopies, and / or stairs;
- g) creating public spaces that are human-scale, comfortable, and publicly visible with ample building openings and glazing;
- h) creating, reinforcing, and emphasizing important public vistas and view corridors; and,
- i) minimizing excessive street noise and stationary noise source levels through the design, placement, and construction of buildings and landscaping.”

As previously noted, the proposed building would serve to disrupt the existing visual cohesiveness of the area, detracting from the unique attributes that make this particular stretch of James Street North so welcoming and pedestrian friendly. With particular focus on the podium, staff acknowledge that it does, in part, respond positively to the James Street North frontage, maintaining commercial uses and pedestrian access from this street.

It is however, through understanding the overall appearance of the development upon the wider context that staff maintain concerns, particularly with the proposals ability to stitch together the visual cohesiveness of the urban fabric.

Indeed, although staff agree that the range of uses are consistent with those general uses identified within the “Downtown Mixed Use Area” designation of the Official Plan, they have not been designed at a pedestrian scale. Transitional elements have been contemplated through the Urban Design Report, including the materiality between the largely stone-clad podium and the more modern tower design which incorporates a

modern metal cladding and colour panelling, however, given the constraints of the site and subsequent proposed step-backs, the use of different materiality does not compensate for the lack of adequate building step-backs for the upper storeys.

It is noted further that while the outdoor patio creates a transition to the public and private areas at street level, the human scale of the proposal is detrimentally affected by the proximity of the tower to the existing low to medium scale of development along James Street North. This issue is further compounded by the minimal fenestration and glazing within the north and south elevations, serving to further reinforce the inappropriate scale and massing of the development, one that detracts, as opposed to reinforce, the existing view corridor.

Finally, with respect to mitigating street and stationary noise, it is considered that such matters may be able to be sufficiently demonstrated. However, based on the current information provided, would need to be addressed through the application a Holding Provision to ensure that the recommendations of the noise study are fully implemented.

“Policy B.3.3.2.5 Places that are safe, accessible, connected and easy to navigate shall be created by using the following design applications, where appropriate:

- c) ensuring building entrances are visible from the street and promoting shelter at entrance ways;
- d) integrating conveniently located public transit and cycling infrastructure with existing and new development;
- f) providing pedestrian-scale lighting;
- j) creating places and spaces which are publicly visible and safe.”

The location of vehicular access to the rear (Hughson Street North) and focus of pedestrian activity to James Street North is appropriate and the intent of the above policy is in principle achieved through the proposed design. However, the above design considerations, whilst important, must be considered within the overall context of the proposal.

Contrary to Policy B.3.3.2.6, staff consider that the development neither respects nor complements the defined rhythm and massing patterns which characterize James Street North. Indeed, as elaborated throughout this Report, while there are identified variations within the street with respect to building heights, the existing variations are considered minor (generally single to six-storey) creating a positive rhythm to the streetscape. The

addition of a tower of 22 storeys set back between 3.5 m and 2 m from the street edge of James Street North, would be a substantial and intrusive break to this rhythm.

“Policy B.3.3.2.6 d) complementing the existing massing patterns, rhythm, character, colour, and surrounding context;”

An important component of design is the protection of amenity and the minimization of detrimental impacts upon neighbouring buildings and public spaces. This is raised within Policy B.3.3.3.2 which states:

“Policy 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.”

Transition

The buildings immediately adjacent to the development along James Street North are three storeys in height to the north, and single storey to the south. Hughson Street North is moderately more varied with four, three and single-storey buildings.

Given the considerable difference in height between the existing buildings and the proposed building, the importance of appropriate transition in scale is integral to the success of the development. To this end, the attempt at a three-storey podium is minimized by the design of the upper floors. Following the step-back at floors four and five, the floor plate for floors 6-22 are extended back towards the podium visually limiting the step-backs provided on the floors below.

Furthermore, the subject lands are mid-block and has 22 m frontage along James Street North, the proposed design does not provide any form of step-back along the side elevations. This, in addition to the fact these (north and south) elevations have less fenestration and articulation, emphasise further the discordant addition to the streetscape that the building would represent.

Privacy

Given the context of the site and the range of uses, which include predominately commercial and office uses, it is not considered that the proposed development would result in a loss of privacy to neighbouring properties.

Shadowing / Sunlight

In support of the development, studies on the potential shadowing impacts were conducted as part of the Urban Design Report prepared by McCallum Sather Architects Inc. (dated November 2014). The study demonstrated that through the proposed narrow building design, the impact of shadowing upon the public realm and adjacent amenity areas can be mitigated to acceptable levels. However, staff do note that public sidewalks along James Street North are affected and given their function and use, additional design modification should be incorporated in order to more sensitively treat these areas and reduce shadowing impacts.

Wind

With regard to wind, the Pedestrian Level Wind Study prepared by Gradient Wind Engineering concluded that resultant wind conditions will meet the wind safety criterion in all pedestrian areas throughout the year, and will not negatively affect wind conditions in the surrounding areas. Staff note however that impacts on the amenity area provided on the fourth and fifth storeys will require additional review in order to ensure these spaces are sufficiently protected in order to achieve greater comfort levels.

Vistas and Views

Urban Design Policy B.3.3.5 recognizes the importance of views and vistas and how they form part of the overall character of an area and sense of place and identity. The policy identifies existing significant vistas, which in regard to the subject proposal, would include the Niagara Escarpment and the views towards the Bay. The potential impact upon these views has been assessed through a visual analysis, which formed part of the Urban Design Report prepared by McCallum Sather Architects Inc. (dated November 2014). It is noted that the requirement for a visual analysis is also contained within the policies of the Downtown Secondary Plan, and as such, review of this analysis is discussed in further detail under that section.

Site Design

Finally, in terms of specific site design, the following policy, amongst others, has been considered.

- “Policy 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.”

It is noted that the development provides principal entrances and façades that address street frontages, and locates access to the parking at the rear (Hughson Street North) of the property. The location and design of the rear (Hughson Street North) surface parking area remains of concern and additional evaluation on this aspect of the development requires further attention and consideration. As mentioned previously, the issue of the surface parking located along Hughson Street North is related to both concerns over urban design, site functionality and implications with respect to the loss of a heritage resource.

The aspect of glazing has been raised as a concern as it relates to the north and south elevations above the podium. However, with respect to the ground floors, it is considered that the proposed entrances to the building are defined and articulated with both glass and other materials above the podium to create visibility to and from the public sidewalk. The podium is not setback from the street such that the area benefits from a landscaped edge, but it is noted that the addition of an outdoor patio responds positively to the transition of public to private spaces.

Finally, in response to the above policy, although the proposed setbacks are not considered adequate to address the overall design intent of minimizing the scale and transition of the building, staff do not consider the issue of insufficient setback of the upper storeys to relate to a concern over sunlight to pedestrian areas.

Based on the above review of the proposal, particularly in consideration of the Residential Intensification and Urban Design policies of the UHOP, staff are of the opinion that the proposed development fails to adequately justify the scale, massing and design of the building such that it detrimentally affects the character of the area and is not compatible integration and is contrary to the policy considerations contained within the UHOP.

Cultural Heritage Resources

The wise use and management of significant cultural heritage resources is a key Provincial and City interest. Cultural heritage resources are recognized and protected through various policies of the UHOP, and are considered integral to the successful

growth of Hamilton. It is noted that downtown areas are historical centres and typically contain a high concentration of cultural heritage resources and the City shall conserve these properties and areas of cultural heritage value.

“Policy B.3.4.3.1 The City includes several downtown areas that are historical centres of the community and typically contain a high concentration of *cultural heritage resources* and associated historical streetscapes, including buildings, such as town halls, landmark institutional buildings, commercial terraces, churches, railway stations, parks, and distinctive residential areas. These downtowns are generally located within the *Downtown Urban Growth Centre* and the Community Nodes associated with the downtowns of the former municipalities of Ancaster, Dundas, Stoney Creek, and Waterdown. The City shall define downtown boundaries through secondary planning processes or other detailed planning initiatives.

Policy B.3.4.3.2 Within these downtown areas, the City shall *conserve* individual *cultural heritage properties* and areas of heritage value, including streetscape features, traditional circulation patterns, and important views, and ensure that new *development* respects and reflects the design of surrounding heritage buildings.”

A Heritage Impact Assessment report prepared by McCallum Sather Architects dated April 25, 2014, was submitted as part of the subject application. As previously discussed, the HIA submitted with the application does not address the requirement for Heritage Permit approval for the removal of the existing lobby, nor does the HIA adequately address any potential impacts to the auditorium as a result of incorporating it into the proposed development, such as removal of heritage fabric to reconfigure the entrance into the auditorium. In addition, the HIA does not include a discussion of any potential impacts to the remaining built heritage resources as a result of the development, such as vibration impacts.

Further, the building located at 115 Hughson Street North is included in the *Register of Property of Cultural Heritage Value or Interest* as a non-designated property. While it is not explicitly stated in the application, the site plan and elevations would indicate that the existing building would need to be demolished to implement the proposal. The HIA does not address the identified built heritage resource located at 115 Hughson Street North, nor does it address any adjacent or surrounding cultural heritage resources, such as 121, 126-128 and 127 Hughson Street North (all included in the Register) and 37 Wilson Street (included in the Register and a candidate for designation in 2023).

Staff are of the opinion that the Zoning By-law Amendment application is premature until the removal of the lobby, protected by municipal By-law 90-255, and other aspects of

the development are comprehensively evaluated and where necessary reviewed through the Heritage Permit process.

The following policy provides direction for new and redeveloped buildings adjacent to heritage resources:

“Policy B.3.4.3.3 New *development* or *redevelopment* in downtown areas containing heritage buildings or *adjacent* to a group of heritage buildings shall:

- a) encourage a consistent street orientation in any new building forms;
- b) maintain any established building line of existing building(s) or built form by using similar setbacks from the street;
- c) support the creation of a continuous street wall through built form on streets distinguished by commercial blocks or terraces;
- d) encourage building heights in new buildings that reflect existing built form wherever possible or encourage forms that are stepped back at upper levels to reflect established cornice lines of *adjacent* buildings or other horizontal architectural forms or features; and,
- e) reflect the character, massing, and materials of surrounding buildings.”

The redevelopment of the site seeks to reintroduce the Tivoli Theatre both in form and function. The remaining portion of the Theatre is located towards the rear of the site and has been integrated into the design of the podium and tower. However, the lobby and cultural heritage resource located at 115 Hughson Street North have not been adequately addressed through the HIA and through the Heritage Permit process, and as such, conformity with the above policy cannot be determined.

“Policy B.3.4.3.4 The City shall encourage the use of contemporary architectural styles, built forms, and materials which respect the heritage context.

Policy B.3.4.3.5 Where alterations are proposed to *built heritage* resources within the Downtown areas, the following principles shall be followed:

- a) maintain the basic relations of the horizontal divisions of the building;

- b) maintain original façade components and materials wherever possible;
- c) replicate the original parts and materials wherever possible; and,
- d) remove elements that are not part of or hide the original design.”

The existing site contains a vacant portion fronting James Street North following the partial demolition of the former Tivoli Theatre. The rear of the site contains the remaining portion of the theatre and lobby, which remains protected by the heritage designation. The vacant portion of the site has been designed as a private park designed to mimic the internal flow of the former Tivoli Theatre. On this basis, in accordance with Policy B.3.4.3.5, the above criteria is either satisfied or not applicable.

As previously noted, the applicant has linked the increase in height and density with the restoration of the auditorium. This is considered to be “Bonusing” and Section F.1.9.1 states that:

- “Policy 1.9.1 The City may permit height and densities that exceed the maximum densities of this Plan and the Zoning By-law provided:
- a) the proposed increase in height and density is in compliance with the goals and policies of this Plan, and
 - b) the community benefit provided is directly related to the increased height and density of the proposal”

For the purposes of the UHOP, a community benefit may include, but not be limited to, the protection of cultural heritage resources (Policy F.1.9.2 i)). As noted in the previous discussion with respect to residential intensification, the proposal does not comply with the goals and policies relating to compatibility and character. Furthermore, the subject lands are designated under the *Ontario Heritage Act*, which provides Council with additional tools to manage change on the subject lands through a combination of permits and financial incentives. Therefore, it is the opinion of staff that the restoration of the heritage features do not provide sufficient justification to “Bonus” the subject lands.

As discussed above, aspects of the proposal have not been satisfactorily addressed through the submitted HIA and through the heritage permit process, and as such, staff conclude that the application remains premature, and conformity with the above policies is not possible.

Travel Demand Management

The City of Hamilton is actively engaging the development community to integrate Travel Demand Management (TDM) in all current and future development applications. Staff are currently working on a draft document, however, to date, this document has no formal status and has not been adopted by Council. The importance of this approach and the ability to contemplate such measures, has however been recognized within the UHOP and in particular Policy C.4.2.4.1, which states:

“Policy C4.2.4.1 *Transportation demand management* measures may include:

- a) provision of *active transportation* features including secure bicycle storage facilities and pedestrian and cycling access to the road network facilities;
- b) supporting transit through reduced parking standards for some land uses where appropriate and making provisions for car-sharing spaces through the site plan process where feasible and appropriate; and,
- c) other measures detailed in the Transportation Master Plan and described in Section F.3.1.8 – Transportation Master Plan.”

The proposed development will incorporate a number of TDM strategies including bicycle parking and unbundling of car spaces, such that they are an optional extra to the cost of the unit. The latter point is of considerable note, as it provides the opportunity for future residents to identify the additional cost savings associated with car-free living, providing additional incentives to those potentially already considering the option.

Staff consider that the site and proposed development collectively to represent an appropriate opportunity to take advantage of the TDM approach.

Downtown Hamilton Secondary Plan

The subject lands are designated “Prime Retail Streets”, “Mixed Use” and “Medium Density” in the Downtown Hamilton Secondary Plan – Map B.6.1-1 Land Use Plan, are identified as a “Mobility Street” - Map B.6.1-5 Streets, Gateways and Public Spaces and fall within the “3-6 storeys” on Map B.6.1-4 Building Heights.

The Secondary Plan is established on six principles as detailed in Policy B.6.1.3. These can be summarized as follows: Public realm improvements; strengthen connections;

make downtown living attractive; build on existing strengths; recognize value of modest improvements and pursue carefully designed major projects.

These objectives are translated into a number of specific policy directions. Those policies, amongst others that are applicable to the application for a Zoning By-law Amendment, are discussed below.

The subject lands are a thru-lot with frontage on James Street North and Hughson Street North. With regard to James Street North, it is designated “Prime Retail Streets”. Policy 6.1.8.7 subsequently focuses on securing mixed-use buildings, oriented toward the street and providing an enhanced and vibrant streetscape.

“Policy 6.1.8.7 Prime Retail Streets

James Street and King Street, east of Catharine Street, and west of Bay Street, have been designated as Prime Retail Streets as shown on Map B.6.1-1 - Downtown Land Use Plan. Gore Park, the most significant public open space in Downtown Hamilton is located between these areas. King Street and James Street, North and South are the historical core of the Downtown shopping district and future retail *development* shall be encouraged to locate along these streets. The following policies shall apply to lands designated Prime Retail Streets on Map B.6.1-1 – Downtown Hamilton - Land Use Plan:

- a) Ground floors shall predominantly be occupied by street oriented commercial uses. Upper floors of buildings along King and James are designated for mixed uses such as office commercial, residential and live / work arrangements.
- b) Buildings shall generally be built close to the street line and shall maintain the traditional building line and height at the street to provide an uninterrupted building line at the street level.
- d) The following are to be provided for *development* proposals within the Prime Retail Streets area:
 - i) Access to buildings shall be at the street level. Ground floor façades shall have doors and windows open to the street.
 - ii) Buildings shall be built at the streetline with no setback from the property line.

- iii) Accessory surface parking shall not be accommodated along the street frontage.
- iv) New driveway access shall be at the rear of the property, and not on the public street. Alleyway access at the rear shall be utilized.”

The proposed development would satisfy the general intent of buildings being located close to the streetline for James Street North and would accommodate a mix of uses that would, in principle, maintain activity levels along the street. Pedestrian access to the building will be at street level, with doors and windows open to the street. The ground floor will be occupied with street oriented commercial uses, including an outdoor patio within the municipal right of way and the new portions of the building will also be built to the property line.

However, the public realm is considered detrimentally affected as a result of the bulk, scale and massing of the tower component. Unlike the predominant character of the street, which is typified by low to medium building heights, the development would introduce a discordant interruption to the current pattern of development through the height of the proposed tower and minimal step-backs, one that would serve to obscure the current pedestrian scale of the street.

Furthermore, although vehicular access will be to the rear of the property (from Hughson Street North), because it is a through site, the site has frontage on both James Street North and Hughson Street North. The rear portion is subject to separate designations and are discussed separately under those headings.

With respect to the identification of James Street North as a “Mobility Street”, the intent, as per Policy B.1.10.2, is to secure safe movement for pedestrians and cyclists, understanding the key traffic and transit roles of these streets. The intended function of this street is supported through the proposal. The mixed-use building will encourage significant increases in pedestrian and cycling traffic, through the increased density, addition of ground floor commercial uses and the de-emphasis on private vehicular movements.

“Policy B.6.1.10.2 Policies for Streets

- a) The Downtown Transportation Master Plan is the primary policy document for vehicular traffic (including cars, public transit and cyclists), parking, and pedestrian systems in the Downtown. All plans and improvement programs for Downtown streets including street reconstruction and public

improvements must conform to this Secondary Plan and the Downtown Transportation Master Plan.

- b) *Development and redevelopment* of the Downtown shall support the use of public transit.
- d) Walking accounts for more daily trips in Downtown Hamilton than any other mode of transportation. All streets in Downtown Hamilton shall provide a safe pedestrian realm through appropriately designed sidewalks, provision of *urban braille*, landscaping, seating areas, transit shelters and other amenities. The extent to which these amenities can be incorporated may vary from street to street.
- i) Approximately half of all motor vehicle trips in the Downtown are through trips with the origin and destination of the trip outside the Downtown. The streets that primarily accommodate this type of traffic, in addition to local trips and trips starting or ending in the Downtown have been identified as Mobility Streets in Table B.6.1.14.1 – Mobility Streets. The key traffic and transit roles of these streets shall be reflected in designs for public improvements. Mobility Streets shall accommodate either one-way or two-way traffic movements and shall provide safe movement for pedestrians and cyclists.

The following streets are Mobility Streets:

1. Bay Street;
2. James Street;
3. Main Street;
4. King Street;
5. York Boulevard / Wilson Street;
6. Cannon Street;
7. Queen Street;
8. Wellington Street; and,
9. Hunter Street.”

According to Building Heights Map B.6.1-4, a height of between three and six storeys is identified for James Street North portion of the subject lands. Policy B.6.1.5.6 which addresses height, encourages density to be achieved by complete coverage rather than building height.

“Policy B.6.1.5.6 It is the intention that density of *development* be achieved through complete site coverage rather than through building height in accordance with this Plan. All new *development* in the Downtown shall be a minimum of two storeys in height and subject to height limitations as shown on Map B.6.1-4 – Downtown Hamilton - Building Heights and in the specific policies.”

However, Policy B.6.1.5.9 permits additional height to be contemplated, where certain criteria have been satisfied, as it states:

“Policy B.6.1.5.9 Building heights may be increased above that shown on Map B.6.1-4 – Downtown Hamilton - Building Heights, provided the upper storeys are massed, stepped back, or terraced in order to ensure that the additional height, above that permitted shall not result in: increased sun shadow impacts on public sidewalks or public spaces, and shall address the following:

- a) coverage of the site, in accordance with this Plan, is achieved;
- b) sun shadow impacts on public side-walks or public spaces;
- c) wind impacts on public sidewalks; and,
- d) impacts on streetscapes and views of streetscapes, landmark structures or heritage buildings from the public sidewalks.”

And further through Policy B.6.1.5.11 and Policy B.6.1.5.12:

“Policy B.6.1.5.11 The City may permit an increase in height above the permitted height to accommodate decorative building elements such as towers or cupolas subject to the consideration for sun shadow, wind, and views listed above.

Policy B.6.1.5.12 Proposed increases in height must demonstrate design consideration for the surrounding urban form.”

The policies of the Secondary Plan ensure that additional heights proposed above and beyond those heights identified in Map B.6.1-4 are subject to careful consideration from a design and amenity perspective and demonstration of design consideration for the surrounding urban form through approaches that seek to have upper storeys massed, step-backed or terraced. The policies also maintain the preference for full site coverage

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(the proposal provides for approximately 70% lot coverage) to accommodate increased density within the prescribed heights of the Secondary Plan and ensure efficient use of the lot fabric.

The submitted shadow study which formed part of the Urban Design Report prepared by McCallum Sather Architects Inc. (Dated November 2014) concludes that as a result of the narrow design of the tower, no residential amenity areas, residential building facades or public open spaces are affected by the added shadows exceeding four hours in March, June or December. Staff have noted however, that areas of the public sidewalk along James Street North will be impacted and that further review and minimization of this impact is strongly encouraged. The Pedestrian Wind Assessment prepared by RWDI (November 2014) concludes that subject to incorporation of the recommended mitigation measures, the resultant wind conditions will meet the wind safety criterion in all pedestrian areas and will not negatively affect wind conditions in the surrounding areas.

With respect to the impact on streetscapes and the consideration of surrounding urban form, staff do not agree with the applicant's planning and design justification provided in support of the proposed development. Contextually, the site is defined by consistent low to mid-level development (predominately three storeys but planned for up to three-six storeys within Map B.6.1-4 of the Downtown Secondary Plan). The proposed building attempts to transition from this to a 22-storey tower through the incorporation of a three-storey podium. As discussed, the effectiveness of the podium design is compromised as a result of the depth of the step-back (3.5 m) from James Street North, and further by the fact the step-back is reduced at the sixth floor and above to approximately 2 m. The impact of the step-back at the fourth and fifth floor becomes less discernible as a result, and as such, creates an overwhelming mass at the street level, detrimentally affecting the streetscape. Therefore, staff consider that the proposal does not satisfy Policy B.6.1.5.9.

For the portion of the subject lands that has frontage along Hughson Street North, the designation of "Medium Density Residential" applies for 115 Hughson Street North and the designation of "Mixed Use" is applicable to the rear auditorium of the Tivoli Theatre. The following policies are applicable:

"Policy 6.1.9.4 Medium Density Residential Designation

The following policies apply to lands designated Medium Density Residential on Map B.6.1-1 - Downtown Hamilton - Land Use Plan:

- a) The Medium Density Residential designation permits stacked townhouses, low rise apartment and mid-rise apartment built forms.

- b) Medium Density Residential development shall achieve an urban character by:
 - i) street oriented buildings restoring traditional downtown character;
 - ii) an absence of direct driveway accesses to individual units; and,
 - iii) open space in new *development* provided in the form of parkettes and internalized semi-private open spaces within courtyards formed by buildings.
- c) Surface parking areas in the Medium Density Residential areas shall be located at the rear of the property or in an underground structure. There shall be no surface parking in the front yard adjacent to the street.
- d) The relationship between buildings and the street shall be reinforced by:
 - i) minimizing the shadowing of adjacent sidewalks and generation of wind impacts; and,
 - ii) ensuring that the ground levels of buildings have windows and doors that face the street.
- e) The design of new developments shall have consideration for light, view and privacy of adjacent buildings and areas. Existing patterns of streets, lanes, blocks and private or public open space shall be respected.”

With respect to the specific development proposal and the characteristics of the site, the application of the above policies is difficult, based on the understanding that the proposed new development is predominately located on the James Street North frontage, which is separately designated. The area governed by the above criteria forms part of the rear of the site, and is intended to experience little change in terms of development. The area would accommodate access arrangements and surface parking associated with the Condominium units.

The area however, remains a visible portion of the Hughson Street North frontage and therefore from both a use and design perspective, does not achieve the intent of the above policy. The development would result in the demolition of the existing building on

115 Hughson Street North and its replacement with surface parking for the proposed high-rise mixed-use building, with no edge treatment proposed along Hughson Street North. This is considered to further fragment and interrupt the streetscape, to the detriment of the urban character.

It is noted that the existing two-storey auditorium would also occupy this frontage and would lessen the impact of the surface parking, however, staff remain concerned with the impact of a parking area upon the streetscape. Given the existence of a private parking lot at 117 Hughson Street North, the addition of further surface parking spaces and subsequent absence of built form, is not considered desirable.

The following policies are applicable to the retained auditorium and portion of the podium development.

“6.1.9.5 Policies for Mixed Use Areas

- a) Mixed Use Areas are intended to serve as a buffer between intensive commercial activities and the residential areas within and around the Downtown.
- b) Mixed Use Areas shall accommodate commercial uses that are *compatible* with and shall not detract from residential development.
- c) Residential *development* in Mixed Use Areas shall conform to the Medium Density Residential designation policies.”

Given the nature of the development, and the intent to retain the auditorium and maintain largely the existing built form in its current state, the above policy is considered satisfied.

The Secondary Plan also provides detailed Urban Design guidance. In particular Policy B.6.1.7.9 states:

“Policy 6.1.7.9 New *development* in the Downtown, and *redevelopment*, shall address the urban design principles in this plan, and particularly, the following:

- a) Achieving a comfortable and intimate pedestrian environment;
- b) Ensuring that new *development* is *compatible* with existing adjacent structures and streetscapes in terms of design,

- scale, massing, setbacks, height, integration with the built form, and use;
- c) Eliminating street level parking lots and vacant properties along major streets;
 - d) Creating a sense of place through the incorporation of public art and interpretive media;
 - e) Providing “eyes on the street” and an interesting pedestrian experience by ensuring that the ground floors of all buildings have windows and doors opening onto the street or public laneways where appropriate. Entrances are to be provided at grade;
 - f) Ensuring barrier-free access from grade level;
 - g) Eliminating expanses of blank walls along street frontages; and,
 - h) Preparation of streetscaping plans for streets identified in Tables B.6.1.14.1 – Mobility Streets and B.6.1.14.2 – Secondary Streets of Section B.6.1.14 - Tables.”

As discussed throughout this Report, the development is considered to detrimentally affect the intimate and pedestrian scaled character of James Street North in the vicinity of the subject lands, and notwithstanding the tower-podium design, creates a discordant visual presence, that is incompatible with the consistent streetscape. It does not adequately transition from the adjacent structures due a combination of site constraints, insufficient setbacks, and a scale and massing of design that is a departure from the established character.

As mentioned previously, while the surface parking forms part of the overall site design, it does front onto Hughson Street North and requires the demolition of an existing building (115 Hughson Street North). On this basis, concern remains with the proposal and its ability to reconcile the intent of provision B.6.1.7.9c.)

The building has components, through the design of the podium that would in principle satisfy the intent to have ‘eyes on the street’, and provide pedestrian interaction at street level. This includes the open and predominately glazed ground floor and the provision of an outdoor patio that would integrate the private and public spaces. However, this policy intent does not override the larger design considerations that require sensitive

transition between built forms of varying heights nor should it be at the expense of best practices that should govern the design of tall buildings.

On this matter, it is noted that given the limited width of the site, the tower has minimal side yard setbacks, which has resulted in a design with minimal articulation along two of the buildings elevations (north and south). While neither of these elevations would be considered the frontage, given the aspect of the site, they are readily visible from principal vantage points along James Street North and South. While staff note that they are also not considered blank elevations, they do lack the level of fenestration and articulation that would otherwise 'lighten' the mass of the tower and add a level of visual interest that is intended by the above policy direction.

Finally, although only 17 spaces are proposed, the decision to remove the property at 115 Hughson Street North, and replace it with surface parking and access driveways is considered to further disjoint and detrimentally affect the character and rhythm of Hughson Street North.

Vistas and Views

Policy 6.1.5.10 identifies that a visual impact analysis may be required for developments that exceed height maximums. In addition, Table 6.1.14 provides a number of design objectives for James Street including:

“Table 6.1.14 Design Objective
Protection of views southward along James Street toward the Escarpment.”

Given the significant increase in height beyond that contemplated within the Secondary Plan, the applicant submitted a Visual Impact Analysis (VIA) which formed part of the Urban Design Report prepared by McCallum Sather Architects Inc. (dated November 2014).

“Policy B.6.1.5.10 Proponents may be required to submit a sun / shadow analysis, wind impact analysis or a visual impact analysis as part of the approval documentation for proposals that exceed height limitations.”

The VIA identified several strategic views, including views to and from the Escarpment and views “up” James Street and from principal public vantage points from around the site. In order to provide an accurate assessment, the analysis included digital 3D modelling, illustrating the general massing of the proposed building with photographs overlaid to highlight site context.

The VIA concludes that through the design of a podium and tower, use of similar (limestone) materials, reduced floor plates and contemporary design approach, the proposed building would create facades that provide visual connections to the streets and public spaces, and further, that the orientation of windows, entrances and balconies contribute to the successful integration and transition of this development into the streetscape.

As previously discussed, staff have concluded that the building does not achieve visual cohesiveness with the existing streetscape. The reduced glazing on the north and south elevations serve only to emphasize the inappropriate bulk, scale and massing of the tower.

Heritage

As detailed in the preamble of the Secondary Plan and more fully applicable policies cited below, successful implementation of the vision of the Plan requires careful consideration of the heritage components that exist within the area.

Concerns remain with specific relation to the below policy. While it is noted that a HIA has been submitted in support of the application, a comprehensive assessment of the Lobby or adjacent heritage resources has not been completed. On this basis conformity with the below policy is not possible.

“Policy 6.1.7.2 This Secondary Plan shall promote the conservation of significant *built heritage resources* and *cultural heritage landscapes* in accordance with Section B.3.4 – Cultural Heritage Resources Policies of Volume 1.”

It is noted that an integral component of the proposal consists of the retention of the former Tivoli auditorium and the reintroduction of the Theatre use, although information on how this will be implemented has not been provided to staff. However, as documented within this Report, a number of heritage related concerns remain, and which have yet to be sufficiently addressed in order to satisfy the below policies. The implications associated with the retention of either the lobby or the property at 115 Hughson are such that final determination of these aspects is required prior to a position being taken on the merits of the zoning by-law.

“Policy 6.1.7.6 The City / Council may require that as part of the *development* or *redevelopment* of land in the downtown that heritage properties are retained on-site and incorporated, used or *adaptively re-used* as appropriate to the proposed *development* and land use. Retention of a heritage feature on lands subject to *development* may be a requirement as a condition of *development* approval. Specifically, heritage easements under subsection 37(1) of the Ontario Heritage

Act, may be required and negotiated, as well as development agreements, respecting the care and conservation of the affected heritage property.”

In conclusion, staff do not consider the development to satisfy the policies and general intent of the Downtown Hamilton Secondary Plan.

Beasley Neighbourhood Plan

Following adoption of the Downtown Hamilton Secondary Plan, as per 6.2.3.3.1 Land use Policies, Policies applying to this Planning Area presently contained in the following plans are no longer in effect: Central Neighbourhood Plan, Central Area Plan, Durand Neighbourhood Plan, Corktown Neighbourhood Plan and Beasley Neighbourhood Plan.

Design Review Panel (DRP)

The proposal was presented to DRP on May 22, 2014. The DRP’s mandate is to provide design advice to staff and the proponent. The panel noted:

- the level of attention to detail and concern for transparency to the street and treatment of the principal entrance within the public realm. The careful articulation of the recessed entrance to the condominium as subordinate to the main entrance is commendable;
- the articulation of the façade of the tower was considered attractive however the position and height of the building was of a concern given the existing context and the limited lot width and lack of ability within the context of the proposed floor plate to articulate the north and south facades;
- It is recognized the limitations placed on the proposed development by the lot width and the relationship to the future development of neighbouring properties. However, more than ever in this location, a successful urban design solution must address the significant elevation on the north and the south which are highly visible; and,
- Although the base of the proposed building responds to the character and placement and alignment of the existing neighbouring buildings, the Panel noted that no rationale for the proposed height and placement was provided. There have been no attempts to consider terracing to reduce the impact on the street to justify an increase in height if deemed appropriate given its context of primarily three to six storey buildings.

The DRP advised that they support a solution which recognizes the scale, character and massing of the midrise zoning, and any increase in height or massing must be carefully considered in the context of positioning a building perhaps in the middle of the lot with appropriate treatment of the north and south facades.

Peer Review of Design Study

Subsequent to the Formal Consultation Meeting and the presentation to the Design Review Panel, there were pre-submission discussions with the applicant for the purpose of obtaining additional staff feedback on the proposal. To assist with these discussions, staff initiated an independent third party peer review of the proposal.

The Peer Review (Appendix “D”) concluded that:

- given the scale and visual presence, if built as proposed, the development has the potential to significantly impact the character and skyline of downtown Hamilton;
- notably, the proposed tower is not in keeping with what would typically be considered acceptable design, by tall building guidelines in other cities; and,
- without policies for tall buildings, approval of this proposed development could set a precedent for development on adjacent properties that otherwise would also not meet best practices applied in other cities.

The comments and position provided by DIALOG reaffirm and support the concerns as detailed within this Report.

Transit Oriented Development Guidelines

The Council approved TOD guidelines (August 2010) require, in conformity with the UHOP, density and a compact urban form and promotes clustering of mixed uses and higher densities within 400 m of a transit station area. It also strongly promotes supporting parking reductions in these areas in order to encourage alternative forms of transportation, day / night activities and reduce dependence on driving as the principal method of transportation.

On this basis, the proposed location (within 400 m of a transit station), and form of development (high density mixed-use) would be generally consistent with the intent of the TOD guidelines.

James Street Mobility Hub Study

The subject lands lie just outside of a recent study conducted by the City regarding the future James Street Mobility Hub. The objectives of the study were to review the Mobility Hub and identify actions that provide guidance on:

- How to better connect the GO Station to the community;
- Where to direct intensification;
- Key design principles that will be applied to new development;
- Priorities for public realm and streetscape improvements;
- The existing policy framework;
- Implementation strategies; and,
- A high level phasing plan for the Mobility Hub including phasing, priorities, and next steps.

Of particular interest to this application were the findings regarding where and how to accommodate intensification within the study area. Overall, the Study generally recommends appropriate intensification in the form of mid-rise (six to eight storeys) built form within the Mobility Hub with taller buildings (up to 12 storeys) located in Focus Area D - James Street North from Cannon Street to the GO Station. The rationale for 12 storeys was based on consultation with the public and a thorough analysis by the project consultant.

It was identified in the study that it was not appropriate to increase heights along James Street North in excess of 12 storeys due to the existing property fabric of small lot sizes (depth and width) in this area and the low rise context that exists today. Maintaining a consistent built form and massing in this area was considered to help create a well-defined and sensitive transition between the street and adjacent stable neighbourhoods.

Although the site lies just outside of the study area, those areas adjacent the site were reviewed and, as detailed in the study, intensification in the areas considered most receptive remained at a threshold of 12 storeys with the general intent of maintaining the mid-rise form (six to eight storeys).

As detailed throughout this Report, staff remain of the opinion that insufficient justification in the form of design rationale has been given in order to contemplate any heights beyond mid-rise development.

Zoning By-law 05-200

The lands are currently zoned Downtown Prime Retail Streets (D2) Zone the Downtown Mixed Use (D3) Zone and the Downtown Multiple Residential (D6) Zone. The proposal is to consolidate the subject lands under a modified Downtown Prime Retail Streets (D2)

Zone. The modifications include but not limited to an increase to the maximum permitted height, minimum composition of glazing, and reduction to required parking. The review of these modifications are discussed in the Analysis and Rationale Section of this Report.

Site Plan Guidelines

The council adopted Site Plan Guidelines (SPG) provide important guidance with respect to site and building design. Many of the guidelines reflect sentiments and policy direction contained within the UHOP policy framework.

Of particular reference to the subject application is Sections 4.4 - Massing and Building Design and Section 4.6 - Design of Buildings on Infill Sites. The guidelines note the importance of tall buildings which are located close to the street being step-backed beyond the base floors to allow sunlight to reach the street and reduce the scale of the building. As discussed within this Report, the proposed step-back of the tower in the opinion of staff, does not satisfy this policy objective as the step-back proposed is insufficient in successfully reducing the scale of the building.

Section 4.4 also addresses the issue of transition from lower to higher scale buildings, and the importance of elements such as building size, windows, cornices and roof. The proposed development is not considered to implement a building mass at the street edge that sufficiently allows for successful transition from the existing low to medium density development within the vicinity of the subject lands along James Street North. Similar Policy objectives are provided in Section 4.6, with the guidelines highlighting the need to scale new buildings with adjacent structures, acknowledging proportions of existing development and complimenting existing setbacks. The proposed tower and its massing and proportion with respect to the street edge would not compliment the existing context of the area and would not sufficiently address this policy intent.

RELEVANT CONSULTATION

Agencies / Departments Having no Comment or Objections

- Urban Forestry (Public Works)

Corridor Management (Public Works)

The Parking Study proposes 52 internal spaces and 17 ground level spaces that are to be allocated to the 106 residential units. Staff require clarification regarding the trips that would be generated by the commercial uses.

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Loading Space Requirements:

The plan submitted with this application identifies that the Hughson Street North boulevard has existing passenger vehicle and truck loading on the City's road allowance. There is an existing driveway approach ramp at the loading dock door. The use of the City's boulevard for vehicle parking requires an Agreement with the City. It is noted that there is a historic Agreement for boulevard parking however the layout proposed does not conform to the original Agreement. The Hamilton Municipal Parking office can provide additional information regarding the existing Agreement.

Staff do have concerns about the proposed loading area in the City's Hughson Street North boulevard and its viability from a safety perspective. It is suggested that the boulevard parking shown as a Loading Area be designated on Hughson Street North for truck loading rather than the use of the narrow boulevard that requires vehicles to manoeuvre within the pedestrian realm.

On this basis, any requirements for onsite loading in the Zoning By-law should consider the location and the following information:

- There appears to be a gas main under the boulevard immediately behind the municipal sidewalk. Comments should be obtained from that utility regarding vehicles parking over the gas line;
- Any heavy vehicle parking would require heavy duty asphalt and base materials in the City's boulevard;
- Concerns exist with respect to vehicles (large vehicles) manoeuvring and reversing in the narrow boulevard between the rear wall of the theatre and the pedestrian realm of the sidewalk. The existing bollards and steel cover reduce the width of the boulevard to approximately 2 m. That is not sufficient to provide vehicle parking; and,
- Standard site plan design requires that vehicles or other visual obstructions should not be parked directly adjacent to a driveway such that the vision of drivers leaving the driveway is impeded by that parked vehicle or object. The provision of a loading or parking area in the boulevard as shown will impact on available sightlines for drivers leaving the site (pedestrians approaching on the sidewalk, motorists and cyclist approaching on Hughson Street).

Planning staff have reviewed the above comments and continue to maintain concerns over the proposed surface parking and access layout.

Hamilton Municipal Parking System (Planning and Economic Development)

HMPS is concerned that the application is deficient 37 parking spaces.

Several of the parking lots in the area are already at capacity and with several of the new large buildings proposing significant parking space reductions, HMPS is concerned that parking will become problematic in the near future.

Should this application be approved, HMPS consider that tenants of this facility should be cautioned about the likelihood of parking shortages. It is recommended that as part of the purchase and sale agreement that a warning clause be implemented which notes that parking in the neighbourhood is heavily restricted. Suggested wording is as follows:

“It is the responsibility of the property owner / tenant to ensure that the parking provided onsite 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”.

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 345 individuals within 120 m of the subject lands on December 17, 2014. Following this circulation, one letter was received (see Appendix “C”).

Prior to submitting the application for a change in zoning, at the suggestion of Planning and Economic Development staff, the applicant also hosted an open house on September 10, 2014, which included a questionnaire (see Appendix “F”).

The following concerns were raised in the one letter received in response to the Notice of Complete Applications and Preliminary Circulation:

- While not a formal objection letter, the resident raised concerns with the parking and height and indicated that insufficient justification had been given in which to allow for the substantial changes to the by-law.

These concerns are discussed in detail in the Analysis and Rationale Section of this Report.

The Notice of Public Meeting was also given in accordance with the provisions of the *Planning Act*.

It is noted that the Public Meeting scheduled for March 3, 2015 was cancelled and rescheduled to March 31, 2015, in order to permit further consultation with the Beasley Neighbourhood Association. At the time of writing of this report, the meeting with the Neighbourhood Association had yet to take place. As such, a verbal update with respect to the discussions and any potential resolutions will be provided to Planning Committee at the meeting of March 31, 2015.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed change in zoning can not be supported for the following reasons:
 - (i) That the proposed change in zoning is inconsistent with the Provincial Policy Statement, and contrary to the policies and intent of the Urban Hamilton Official Plan (UHOP) and Downtown Hamilton Secondary Plan.
 - (ii) The development would fail to preserve and enhance the character of the existing area, would represent an over-intensification of the mid-block site and set an unsuitable precedent for the design of tall buildings within Downtown Hamilton.
2. The proposed development is for a 22-storey mixed-use building, including a three-storey podium. There will be a maximum of 106 units, commercial and office on the first three floors, surface parking and a structured stacked parking facility with a total of 69 spaces on lands located at 108 James Street North and 111 and 115 Hughson Street North (see Appendix “A”). A concept plan and elevations of the proposed development have been submitted (see Appendix “B”).
3. In general terms, the development approach to increasing residential densities within the downtown through a mixed-use building that incorporates sustainable TDM measures and the reintroduction of the Tivoli Theatre is both encouraged and desirable. However, as articulated within this Report, and further highlighted through previous discussions and processes embarked between the City and the applicant (including Formal Consultation, Design Review and Preliminary Site Plan evaluation), the issue pertains to the proposed form, scale height and bulk of the development, and its subsequent impact upon the established character of the area.
4. In terms of context, along James street North at this location, the area is comprised of buildings generally three storey in height with minimal setbacks to the street, creating a continuous built edge condition.

The site is mid-block along James Street North and is at the terminus of Vine Street. The subject lands is considered a through lot with frontage on both

James Street North and Hughson Street North. The built form and typology along Hughson Street North is more varied and less consistent, including a range of uses and building typologies.

The front portion of the site along James Street North is currently vacant following the partial collapse and demolition of the Tivoli Theatre. The property immediately to the south is a single-storey commercial building, and to the north is a three-storey office building (former Union Furniture building).

5. In evaluating the planning merits of the proposed development, given that the range of uses proposed are generally permitted as of right, there are three principal issues with respect to the application, that of height / built form, parking and heritage / design. Each one of these issues will be discussed separately, albeit that the issue of height and design are in many ways related.

Height / Design / Built Form

As discussed within the preceding policy review, it is clear that the Hamilton Downtown area, given its access to the comprehensive transit system and wide variety of services, should be a focus for intensification. However, as also detailed throughout the policy framework, intensification must be appropriate and respect the character of an area and be compatible.

Indeed, while it is clear that density within the UGC is to be strongly encouraged, it is recognized that development must also be cognisant of the fine urban grain. On this note, it is considered that the subject lands are located mid-block along a traditional and historic commercial street (James Street North). The built form and resultant mid-height character of the area is reinforced by the consistent setbacks and predominately consistent height of the urban fabric.

Given the historic nature of Downtown Hamilton, the existing consistent lot fabric creates a desirable established pattern of development, particularly along the portion of James Street North immediately north of the subject lands. Given this strongly defined character, contextually the site poses challenges with respect to significant changes to this pattern of development. As such, while increases in height may be contemplated, consideration of compatibility, character, design and protection of amenity is paramount.

The City of Hamilton does not have specific guidelines for tall buildings. In local municipalities that do not have specific guidelines for tall buildings, urban design professionals draw from and are guided by the City of Toronto Tall Buildings Guidelines (amongst others) when evaluating the design of Tall Buildings. These guidelines provide a number of helpful guidelines and techniques for the site design and building design of tall buildings that create buildings that are harmonious with the surrounding environment, successfully transition to sensitive

uses, minimize sun / shadow and provide adequate setbacks and step-backs for upper floors.

In general, tall buildings have been designed to include a podium, a tower, and a building top. The Podium is generally designed two to three storeys in height and typically relate to street width – mostly 1:1. The tower is generally set back significantly from the podium and is architecturally distinct so as to visually recess. Most tall buildings have a unique building top design that houses the penthouse suites and rooftop mechanicals and is generally designed as a unique signature feature of the building. The tops, much like other iconic tall buildings such as the Empire State Building is a landmark opportunity for architects and designers.

For this proposal, the tower is located mostly in-line with the podium. Parking is located within the podium component and at grade. Parking seems to dominate the design and the applicant has chosen to contain parking within the podium at grade and with a parking stacker. The parking stacker is located between the Tivoli and the commercial spaces along James Street North. The proposed design of the residential tower is related to the design and location of the parking stacker. The parking stacker prevents the residential tower from being set back in a manner that is traditionally practiced by podium / tower buildings in other municipalities.

Alternatives such as underground parking, off-site parking, or tower options that can be designed on top of the parking stacker may offer more flexibility in which to accommodate a number of design related concerns raised with respect to the current proposed development. For example, some towers will use transfer beams to shift the load of the tower or offset the upper floor columns from the lower floor columns.

Without these alternative strategies, the tower portion of the proposal is relegated to where it is shown on the proposal – at James Street North. The tower portion as proposed impacts the appearance of James Street North and is not a compatible form or design that respects the character of James Street North. The proposal is in marked contrast to the surrounding two-four storey mixed use buildings along James Street North.

Staff note that the bulk of the building along James Street can be reduced by stepping the tower, stepping back the sides, and terracing the top floors as typically practiced by the design of other tall buildings within infill, constrained sites. Unfortunately, while these strategies can visually diminish the bulk of the tower, the tower as a built-form typology remains out of context with the character of James Street North.

With regard to the impact upon amenity, the applicant provided the following studies – pedestrian level wind assessment, a sun / shadow study and a visual impact assessment.

Wind

The pedestrian level wind assessment reviewed wind conditions and concluded that despite some areas of moderate wind activity, most of the tested pedestrian areas are acceptable for the intended pedestrian activities on an annual and seasonal basis. Furthermore, no areas of the study site were found to experience conditions too windy for walking or that could be considered unsafe for elderly persons. Staff note a concern with respect to the amenity areas provided on the fourth and fifth floors, and seek to have further information with respect to the potential level of expected conditions and the design of any mitigation methods that would be provided for these areas.

Shadowing

The sun / shadow study was comprised of computer modelling based on the City's documents and best practices. It reviewed the existing and proposed conditions for different times of the year and at different times of the day. The criteria for assessment involved reviewing adjacent residential amenity areas, public open spaces, sidewalks and the face of residential buildings. The study concluded that as a result of the narrow building design, access to sunlight is protected, and minimal shadowing of neighbourhood streets, properties and open spaces will result.

Staff note that the public sidewalks would be negatively impacts along James Street North contrary to the Site Plan Guidelines. Additional study and mitigation methods will be required to ensure all shadowing created by the development satisfy the nature and intent of the Policy guidance.

Visual Impact Assessment

As previously discussed, a visual impact assessment was submitted in order to address a number of UHOP and Secondary Plan policies. The assessment evaluated the impact of the building from numerous strategic locations, including from the Escarpment, along James Street North and public vantage point surrounding area.

The assessment concluded that the proposed building would protect significant views and vistas, taking into account the size and placement of the building. Staff have reviewed the assessment and have had the information peer reviewed by DIALOG. Staff do not agree with the conclusions of the VIA prepared by McCallum Sather Architects, and instead are of the opinion that the proposed development would detrimentally affect the consistent character of the area and

introduce a tall building that would appear discordant, and establish an undesirable precedent.

Parking

The development proposes a total of 69 spaces through the provision of both surface and mechanically stacked and internal parking spaces. The total number of units is proposed at 106 and as such, the parking ratio would be 0.65 per unit. It is noted that this ratio exceeds the ratio for 98 James Street South (0.47 per unit) for the recently approved Connolly development and would offer similar TDM opportunities including unbundling of parking, bike storage, and has similar geographical opportunities with respect to transit and services. It is noted however, that concern remains with respect to the demolition of 115 Hughson Street North for the purposes of surface parking and access from both a built heritage and design perspective (visibility of the surface parking along the Hughson Street North frontage). When assessing parking, the matter should be reviewed holistically understanding not only the amount of parking, but where the parking is located and how it is accessed. As such, consideration of the parking ratio is considered premature.

Heritage

The proposal includes the adaptive re-use of a heritage property following its partial collapse / demolition, although details on how this will be implemented have not been provided to staff. Through the combination of a Heritage Impact Assessment and an Urban Design Report, the proposed development attempts to demonstrate the appropriateness of the development and how it would seek to build 'upon the collective memory' of the remaining Tivoli Theatre.

As discussed within this Report, concern has been raised with respect to the completeness and depth of the submitted Report. Most notably the absence of review and discussion of the lobby; which, according to the plans is to be demolished, and further the impact upon adjacent notable heritage properties which have not been evaluated.

Based on the absence of a complete and comprehensive Heritage Impact Assessment, contemplation of the development is considered premature.

6. Requested Zoning By-law Modifications

In addition to the height and parking modifications, a number of design related modifications are also required pertaining to height of storeys, amount of glazing and location of uses.

- (i) Height: The application is seeking to permit a 22-storey building with a maximum height of 75.1 m. The issue of the height and the rationale for

this increase has been discussed in detail within this Report. Staff are of the opinion that the permission sought is inappropriate and contrary to the policies and intent of the UHOP and Downtown Secondary Plan.

- (ii) Parking: The proposed parking ratio will be reduced to 0.65 spaces per unit, which on the basis of 106 units shall require a total of 69 spaces. While in principle there is merit in discussing reductions to the required parking, staff remain concerned with the provision of the surface spaces, which would first precipitate the review of a heritage resource (115 Hughson Street North) and the proposal to demolish the building for surface parking, and more detailed consideration of design given its location along the frontage of Hughson Street North. On this basis, the final amount and provision of parking has yet to be demonstrated and therefore is considered premature.
- (iii) Glazing: The development would require a reduction to 58% of windows and doors along the ground floor façade of James Street North and 72% along the second and third storey facades.

It is noted that through City Initiative CI-14-A, staff presented on September 3, 2014 a housekeeping amendment to reduce the standard provision of 80% to 60% in order to better reflect the intent of the by-law. This was approved by Planning Committee and Council but has subsequently been appealed and is therefore not currently in effect. However, based on this, staff consider the reduction in glazing to be minor and maintain the intent of the by-law.

- (iv) Height of Storeys: The existing By-law regulates the individual minimum and maximum heights of each storey. The development would require modifications to these heights from the required 4.5 m maximum on the ground floor storey to 5.1 m.

Staff do not have concern with these modifications on the basis that they are required to accommodate the design and datum lines of the podium.

- 7. The Public Consultation Section of this Report noted that one letter was received and a Public Open House was hosted by the applicant. The letter expressed concern over parking and height (See Appendix "C"). A review of the comments from the public is discussed below.

- (i) Parking: This issue has been discussed in detail within both the policy review and analysis section of this Report.

- (ii) Height: Similar to the discussion on parking, this Report has carefully outlined the policy background and detailed analysis of the proposed height. Staff are of the opinion that the height proposed has been designed such as to satisfy the balance of policy objectives, is compatible and will harmoniously integrate with the character of the site's existing context.

In conclusion, staff acknowledge the locational attributes of the location, and the possibility of the site being developed for the proposed uses. However, staff are not satisfied with the proposed design and in particular, the impact the proposed height will have upon the established character of the street.

ALTERNATIVES FOR CONSIDERATION

- 1) If Council are satisfied that the proposed complies with the intent of the UHOP, and therefore that an Official Plan Amendment is not required and that the proposed represents good land use planning, Council may approve the development as proposed and direct staff to prepare an implementing zoning by-law consistent with the concept plans proposed with the inclusion of a holding zone to address matters, including but not limited to: RSC; Noise; Heritage preservation; and, any necessary agreements to implement Council's direction. Should the applicant not agree with one or more of the provisions of the implementing by-law, then they would be eligible to appeal the decision to the Ontario Municipal Board.
- 2) Defer approval of the application. The application could be tabled and referred back to staff for further negotiation, and / or community consultation and to report back to Committee on the results of said consultation and / or negotiation. The applicant would be eligible to appeal to the Ontario Municipal Board for lack of a decision.

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

- 1.1 Continue to grow the non-residential tax base.

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- 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).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.
- 2.3 Enhance customer service satisfaction.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

- 3.1 Engage in a range of inter-governmental relations work that will advance partnerships and projects that benefit the City of Hamilton.
- 3.2 Build organizational capacity to ensure the City has a skilled workforce that is capable and enabled to deliver its business objectives.
- 3.3 Improve employee engagement.
- 3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Concept Plan
- Appendix "C": Public Correspondence
- Appendix "D": Peer Review
- Appendix "E": Questionnaire from Open House

:EJ/th