



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 16, 2015
SUBJECT/REPORT NO:	Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 201 Robert Street and 166 Ferguson Avenue North (PED15081) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Greg Macdonald Senior Planner (905) 546-2424 Ext. 4283 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

Council Direction:

An application for an Amendment to the Official Plan and Amendment to the Zoning By-law may be appealed to the Ontario Municipal Board (OMB), in accordance with the *Planning Act*, after 180 days if Council has not made a decision on the application or alternatively, if the application is denied by City Council. A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council pursuant to the *Planning Act* was passed by City Council on May 18, 2010. The following information is provided for Official Plan Amendment Application OPA-14-017 and Zoning By-law Amendment Application ZAR-14-035 for 201 Robert Street and 166 Ferguson Avenue North (Hamilton), which has been appealed to the OMB for lack of decision.

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Information:

This Information Report was prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB.

The subject lands are located at 201 Robert Street and 166 Ferguson Avenue North, in the City of Hamilton, as shown on Appendix "A". The lands are currently occupied by a vacant industrial property (166 Ferguson Avenue North) and vacant land (201 Robert Street).

The balance of the lands is used for existing parking associated with Hamilton General Hospital located at 237 Barton Street East. An application for an Official Plan Amendment and Zoning By-law Amendment was submitted by 201 Robert Street Limited on October 3, 2014. The applications were for a Site Specific Amendment to the West Harbour Secondary Plan to permit a parking area as a permitted use in addition to the uses permitted in the "Medium Density Residential 1" and "Medium Density Residential 2" designations of the West Harbour Secondary Plan, and for a Site Specific Zoning By-law Amendment to permit a parking area in addition to the uses permitted in the "DE-2-'H'/S-1569" (Multiple Dwelling – Holding) District, Modified. Site specific modifications with respect to parking space size to allow architectural features within a planting strip, and to exempt the proposed parking lot from the restriction of the 'H'Holding provision, were included. The application was deemed complete on November 3, 2014.

The subject lands are designated "West Harbour" in the City of Hamilton Official Plan and are located within the West Harbour Secondary Plan Area.

The subject lands are designated "Medium Density Residential 1" and "Medium Density Residential 2" in the West Harbour Secondary Plan. The proposed use of the lands for a parking area is not permitted in the "Medium Density Residential 1" and "Medium Density Residential 2" designations, and, as such, an application to amend the West Harbour Secondary Plan was submitted to establish a parking area as a permitted use.

The subject lands are zoned "DE-2-'H'/S-1569" (Multiple Dwelling – Holding) District, Modified, in the City of Hamilton Zoning By-law No. 6593, which permits multiple dwellings among other residential uses, but does not permit a public parking lot, and as such, an application to amend the City of Hamilton Zoning By-law No. 6593 was submitted to establish a parking area as a permitted use.

The proposed parking area is to accommodate staff parking for an institutional use, and more specifically, is required to replace parking that is being redeveloped in order to

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facilitate the new McMaster Children's Health Centre at Hamilton General Hospital. The applicant also demonstrated that the parking was necessary for the orderly operations of the hospital.

Notice of Compete Application and Pre-Circulation was circulated to the public on November 21, 2014. The application was circulated for comments by various departments and agencies on November 12, 2014. Comments were received from various departments, outside agencies, and members of the public. The comments received from City Departments did not raise any major areas of concern. The comments from the public expressed concerns with the further expansion of parking in the area, the traffic, poor aesthetics, noise, pollution, further deterioration of the neighbourhood, preservation of the residential character of the area, and a loss of green space.

The applications were brought before a Statutory Public Meeting of the Planning Committee on April 14, 2015 where they were tabled to the May 5, 2015 Planning Committee meeting. At the meeting on May 5, 2015, Planning Committee denied the applications, for the following reasons:

- 1) The proposal does not maintain the policies and goals of the Official Plan including the Secondary Plan;
- 2) The proposal runs counter to the planned function for these lands;
- 3) The proposal does not contribute to the implementation of the Official Plan vision for these lands and the neighbourhood;
- 4) The proposal is incompatible with surrounding residential uses;
- 5) The proposal does not represent good planning; and,
- 6) The introduction of asphalt surface parking at this location is disruptive to the existing and planned urban fabric and to the revitalization of the surrounding residential neighbourhood.

The denial of the Official Plan Amendment and Zoning By-law Amendment were scheduled to be brought before Council on May 13, 2015 for the decision to be ratified. Before this could occur, the applicant filed an appeal to the OMB with respect to the applications for the failure of Council to make a decision on the applications, in accordance with the applicable provisions of the *Planning Act*. The appeal was filed on May 7, 2015, 216 days after the receipt of the applications.

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Appendices:

- Appendix "A": Location Map
- Appendix "B": West Harbour (Setting Sail) Secondary Plan – Schedule M-2 (General Land Use)
- Appendix "C": Concept Plan

:GM/th