



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	March 20, 2018
<b>SUBJECT/REPORT NO:</b>	Appeal to the Ontario Municipal Board (OMB) for Lack of Decision for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 195 Wellington Street South, Hamilton (Ward 2) (PED18054)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Adam Lucas (905) 546-2424, Ext 7856
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning Division
<b>SIGNATURE:</b>	

## Council Direction:

In accordance with subsection 34(11) of the *Planning Act*, a Zoning By-law Amendment Application may be appealed to the Ontario Municipal Board (OMB) after 120 days if Council has not made a decision on the application.

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. This Information Report has been 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 following information is provided for Planning Committee's information with regards to Zoning By-law Amendment Application ZAC-14-003 which has been appealed to the OMB for lack of decision.

## Information:

The subject lands municipally known as 195 Wellington Street South, are located south of Young Street, north of Charlton Avenue East and west of the Claremont Access (see location map attached as Appendix "A" to Report PED18054).

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The subject lands are surrounded to the north by Corktown Park and part of the Escarpment Rail Trail; to the east by Claremont Access Open Space; to the south by the Escarpment Open Space; and to the west by low rise residential and Corktown Park. The subject lands currently contain a three storey multiple dwelling consisting of 142 rental dwelling units and 140 surface parking spaces. The applicant proposes to demolish 32 existing rental dwelling units as part of the proposed development on the subject lands.

**Applications:**

Original Zoning By-law Amendment Application:

The purpose of Zoning By-law Amendment Application ZAC-14-003 is to change the zoning of the subject lands from “E” (Multiple Dwellings, Lodges, Clubs, etc.) District to a site specific “E-3” (High Density Multiple Dwelling) District in the City of Hamilton Zoning By-law No. 6593, in order to permit a 20 storey tower addition to the existing multiple dwelling on site, resulting in a total of 326 dwelling units from the existing 142 dwelling units. The Zoning By-law Amendment Application was submitted on February 3, 2014 and deemed to be complete on February 28, 2014.

Second Submission (November 30, 2015):

In response to staff and agency concerns with respect to the height and massing of the tower, a revised proposal was submitted. More specifically, the said concerns were in regards to the visual impact to the views of the Niagara Escarpment and compatibility issues with the adjacent low rise residential area to the west. The revised proposal incorporated the following changes:

- reduced height of the tower from 20 storeys to 19 storeys;
- reduced floor plate of the top two floors from 896 sq m to 818 sq m;
- reduced size of the mechanical penthouse from 64 sq m to 59.5 m;
- removal of three bedroom units and an increase in the total number of dwelling units to 358 dwellings units; and,
- reduced number of parking spaces from 223 parking spaces to 218 provided on the subject lands.

In addition, the applicant provided additional renderings which compared the proposal relative to an ‘as-of-right’ development (i.e. eight storeys) on the property from a visual impact perspective.

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Third Submission (September 2016):

In response to staff and agency continued concerns with respect to the height and massing of the proposed tower, its impact on views of the Niagara Escarpment and compatibility with the adjacent area, another revision was submitted which reduced the height of the tower to 17 storeys and the overall unit count for the site to 330 dwelling units. Further changes were also incorporated which included the use of muted coloration and stepbacks for the mechanical penthouse and the provision of glazing for the upper two storeys along the northerly and southerly building sections. Moreover, additional illustrations were provided showing views of the proposal in the context of the Escarpment and adjacent area.

Fourth Submission (February 14, 2017):

The applicant provided revised submissions to address the outstanding concerns. The height of the building remained at 17 storeys, while material changes were proposed to the exterior of the tower.

In August 2017, the applicants presented revised drawings of the proposal at a meeting in an attempt to address the continued concerns of staff and agencies respecting the height and massing of the tower from a visual impact and compatibility perspective. More specifically, a portion of the tower was reduced from 17 storeys to eight storeys which reduced the overall massing of the building from a visual impact perspective on the Niagara Escarpment. However, no formal submission of these revised drawings was submitted.

On October 19, 2017, Niagara Escarpment Commission (NEC) staff brought forward a report to the Commission in opposition to the proposal for the development of a 17 storey building, and requested that the development proceed on the basis of the as-of-right zoning (i.e. eight storeys). The applicant requested deferral of the Commission's consideration of this application which was granted.

The subject lands are identified as "Neighbourhoods" on Schedule "E" – Urban Structure and designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations of the Urban Hamilton Official Plan (UHOP).

The subject lands are currently zoned "E" (Multiple Dwellings, Lodges, Clubs, Etc.) District in the City of Hamilton Zoning By-law No. 6593. This zoning permits the existing use of the land as a three storey multiple dwelling. An amendment to the City of Hamilton Zoning By-law No. 6593 is required in order to increase the maximum permitted height, number of dwellings units and the gross floor area, and to permit a

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number of other site specific development standards as necessary to accommodate the proposal.

**Public Consultation:**

Three pieces of correspondence were received from residents as a result of the public circulation of the application. All of the correspondence indicated concerns with respect to compatibility with the adjacent area, loss of sunlight, wind impacts, impacts on existing views and displacement of existing residents as a result of the proposed construction.

City staff have provided many comments on the various submissions received to date. The applicant has been advised that staff do not support the proposal as submitted and that a redesign to the proposed tower that takes into account compatibility with the adjacent low rise residential area to the west and views of the escarpment would be required prior to further consideration of the application. To date, staff are awaiting a revised submission that addresses staff / agency concerns.

The appeal to the OMB was received by the Clerks' office on November 27, 2017, which is 1,393 days after receipt of the initial application.

**APPENCIES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Concept Plan
- Appendix "C": Appeal Letter

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