



A. J. Clarke and Associates Ltd.

SURVEYORS • PLANNERS • ENGINEERS

File No. 158090

April 16th, 2018

The City of Hamilton
 Planning and Economic Development Department
 Development Planning, Heritage and Design
 71 Main Street West, 5th Floor
 Hamilton, Ontario
 L8P 4Y5

Attn: Mrs. Alissa Mahood, MCIP, RPP – Senior Project Manager – Community
 Planning

**Re: Draft Downtown Hamilton Secondary Plan – Objection Letter
 206-208 King Street West, Hamilton**

Dear Mrs. Mahood,

We represent King Stuart Developments Inc., who is subject to an agreement of purchase and sale with Hamilton Store Fixtures Limited., the owner of the lands municipally known as 206 – 208 King Street West, Hamilton. The subject lands are located on the northeast corner of the King Street West and Caroline Street North. The subject lands are also the subject of an ongoing Zoning By-law Amendment Application ZAC-17-046; which was deemed complete on June 2nd, 2017.

We are writing to express our objection to the Draft Downtown Hamilton Secondary Plan and the associated Draft policies for Zoning By-law 05-200. After review of the relevant materials available online, we have objections with the following items as it relates to the subject lands:

Building Stepbacks

The City of Hamilton's Draft Downtown Zoning By-law 05-200 incorporates new building setback requirements within Section 6.0 "Downtown Zones General Provision". These setback requirements would impose the following restrictions on the proposed development:

1. A minimum 3.0 metres stepback shall be required from the building base façade height show in Schedule "F" – Special Figure 15. The building base façade height for this section of King Street West and Carolina Street North is 16 metres and 11 metres respectively.
2. A minimum 3.0 metre stepback shall be required for any portion of a building exceeding 22.0 metres in heights from a side or rear lot line, except any flankage lot line.
3. The following additional stepback shall be required for any portion of a building exceeding 44.0 metres in height:



1. a Minimum of 9.5 metres from a lot line abutting a laneway
2. A minimum of 12.5 metres from any side or rear lot line except a flankage lot line.

If these setbacks are applied to the proposed development, the developable envelope of the building tower above 22 metres in height would be severely impacted, and the developable envelope of the tower above 44 metres in height would be virtually non-existent. This would clearly be detrimental to the feasibility of the project. Further, the existing building on the subject lands is ± 14.3 metres in height, and is built up-to the property line. The existing heritage building would need to be drastically modified in order to accommodate the required building base façade height as identified in Schedule "F" – Special Figure 15.

The purpose of the draft required building setbacks is to help mitigate any adverse impacts (shadowing, overlook, wind, servicing) the proposed development would impose on the surrounding neighbourhood. It is also to ensure that an appropriate separation distance can be achieved between towers, should adjacent lands be developed in a similar fashion. As part of the Zoning By-law Amendment process, the applicant is required to provide justification and analysis for the proposed setbacks and setbacks, with respect to separation distances and adverse impacts. Many of these reports have already been provided to the City through the Zoning By-law Amendment process and the findings of which are satisfactory.

We would request that the Draft Downtown Zoning mapping and text be modified to acknowledge the proposed building setbacks and setbacks (through special exception). We would also request that, should the above option not supported by the City, that the applicant reserve the right to amend the submitted Zoning By-law Amendment application (ZAC-17-046) to provide relief from the new Downtown Zoning provisions, in order to permit the development as proposed.

Lot Frontage and Area

The City of Hamilton's Draft Downtown Zoning By-law 05-200 also implements a 35 metre minimum frontage requirement, and a 1,575 square metre minimum lot area requirement, for all lands where a building exceeding 44 metres in height can be permitted. This provision would unduly disqualify certain lands from high density development (above 44 metres in height), based solely on a minimum lot frontage and lot area criteria. The subject lands have a lot frontage of ± 21.2 metres (King Street West) and a lot area of ± 859 square metres. The issue of insufficient lot frontage can be dealt with by referring to Caroline Street North as the frontage, this flexibility was included within Section 6.0 a) ii) of the Draft Zoning. However, the minimum lot area proposed within the Draft zoning still poses a significant barrier to redeveloping the lands. The proposed draft provisions would essentially disqualify the subject lands from developing a building above 44 metres in height, due to lot area requirements. It is our opinion that the subject lands can accommodate a proposed development of greater height, at approximately 16 storeys (58 metres); as demonstrated through the architectural design and supporting materials submitted as part of Application No. (ZAC-17-046).



A minimum requirement for lot frontage and lot area for high rise development ignores the varying site-specific characteristics and properties of the many parcels suitable for high density development in the City's Downtown. The feasibility for each parcel to accommodate a high rise development should be examined and evaluated independently, through detailed design and study, in order to determine if additional land assembly is required or if the site can support a high rise development on its own. Eliminating a large portion of the development parcels Downtown from high rise candidacy, will greatly impact the City's ability to accommodate intensification, in accordance with the Growth Plan for the Greater Golden Horseshoe (2017). This is increasingly valid for the City's Downtown, where the existing fragmented lot fabric may make land assembly more difficult.

This could be particularly impactful for parcels of land along major transportation corridors, where transit oriented development and intensification is highly encouraged through Local and Provincial planning policy. Under the Draft Downtown Zoning framework, developable parcels in a close proximity to high-order transit infrastructure may be excluded from suitable intensification, solely because they do not meet rigid frontage and/or area requirements. The subject lands are a prime example of this circumstance as they are directly adjacent to the planned B-Line of the proposed LRT.

We would request that the Draft Downtown Zoning text and mapping be modified to acknowledge the existing lot area of the subject lands as permitted for high rise development. This could be accomplished through a site-specific exception to the Downtown Zoning. We would also request that, should the above option not be agreeable to the City, that the applicant reserve the right to amend the submitted Zoning By-law Amendment application (ZAC-17-046) to provide relief from the new Downtown Zoning provisions, in order to permit the development as proposed.

Conclusion

We look forward to working collaboratively with City Staff in hopes of reaching a suitable solution to the items discussed herein. The current application under municipal review (ZAC-17-046), was deemed complete (June 2nd, 2017), well before the future implementation date of the new Downtown Zoning and Downtown Secondary Plan, and accordingly, should be reviewed against the existing policy structure under which it was submitted. I note that Staff has included a "Development Applications" Section 4, within Staff Report PED18074, which outlines that "*Projects currently in the development process will be reviewed based on the planning framework that applied at the time of application and will be looked at on a case-by-case basis*". Our office would suggest that this should be the case for this application. Should this not be possible, we would request that Staff implement a Site-Specific Exception to the new Downtown Secondary Plan and Zoning that implements the development as it is proposed. The client reserves the right to amend the submitted Zoning By-law Amendment application to address any new Zoning provisions that would impact the implementation of the proposed development.

I trust this is satisfactory and thank you for your cooperation in this matter. If you need additional information or clarification regarding the above, please do not hesitate to



contact our office. This correspondence should be considered a written submission to Council under the *Planning Act*.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Franz Kloibhofer'.

Franz Kloibhofer, MCIP, RPP
Senior Planner
A. J. Clarke and Associates Ltd.

Copy - King Stuart Developments Inc. Attn: Mr. Vernon Shaw

Copy - Councillor Farr – City of Hamilton - Hamilton City Hall, 2nd floor - 71 Main
St. West, Hamilton