



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 4, 2018
SUBJECT/REPORT NO:	Application to Amend the Urban Hamilton Official Plan and City of Hamilton Zoning By-law No. 05-200 for Lands located at 154 Main Street East and 49 Walnut Street South, Hamilton (PED18196) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Urban Hamilton Official Plan Amendment Application UHOPA-18-018, by 1970703 Ontario Inc., Owner**, for a re-designation from “Medium Density Residential” to “Central Business District” to facilitate a 25 storey mixed use building comprised of 267 residential dwelling units, ground floor commercial uses and structured parking for 253 vehicles by permitting a commercial parking facility and commercial uses on the ground floor, for lands located at 49 Walnut Street South, as shown on Appendix “A” to Report PED18196, be **APPROVED**, on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18196, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017).
- (b) That **Amended Zoning By-law Amendment Application ZAR-17-074 by 1970703 Ontario Inc., Owner**, for a change in zoning from the Downtown Mixed Use (D3) Zone and Downtown Multiple Residential (D6) Zone to the Downtown Central Business District (D1, 702, H107) Zone, to permit a mixed use building

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with a maximum building height of 80.0 m (25 storeys) for lands located at 154 Main Street East, and ground floor commercial and seven storeys of structured parking for 253 vehicles for lands located at 49 Walnut Street South, as shown on Appendix "A" to Report PED18196, be **APPROVED** on the following basis:

- (i) That the Draft By-law, attached as Appendix "C" to Report PED18196, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law, attached as Appendix "C" to Report PED18196, be added to Schedules 952 and 953 of Zoning By-law No. 05-200;
- (iii) That Schedule "D" – Holding Provisions, of Zoning By-law No. 05-200, be amended by adding an additional Holding Provision as follows:

For the lands zoned "Downtown Central Business District (D1, 702, H107) Zone, on Maps 952 and 953 of Schedule A – Zoning Maps, and described as 154 Main Street East and 49 Walnut Street South (Hamilton), development shall not proceed unit:

- a. The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and submission of the City of Hamilton's current RSC administration fee.
 - b. The Owner purchase the alleyway required to implement the proposed development and merge the lands on title with the balance of the lands, to the satisfaction of the Director of Planning and Chief Planner.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and will comply with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. XX.
- (c) That **Amended Zoning By-law Amendment Application ZAR-17-074 by 1970703 Ontario Inc., Owner,** for a modification to the Downtown Central Business District (D1, H17) Zone, to permit a mixed use building with a maximum building height of 80.0 m (25 storeys) for lands located at 154 Main Street East

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and ground floor commercial and seven storeys of structured parking for 253 vehicles for lands located at 49 Walnut Street South, as shown on Appendix “A” to Report PED18196, be **APPROVED** on the following basis:

- (i) That the Draft By-law, attached as Appendix “D” to Report PED18196, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law, attached as Appendix “D” to Report PED18196, be added to Schedules 952 and 953 of Zoning By-law No. 05-200;
- (iii) That Schedule “D” – Holding Provisions, of Zoning By-law No. 05-200, be amended by adding an additional Holding Provision as follows:

For the lands zoned “Downtown Central Business District (D1, 702, H107) Zone, on Maps 952 and 953 of Schedule A – Zoning Maps, and described as 154 Main Street East and 49 Walnut Street South (Hamilton), development shall not proceed unit:

- a. The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and submission of the City of Hamilton’s current RSC administration fee.
 - b. The Owner purchase the alleyway required to implement the proposed development and merge the lands on title with the balance of the lands, to the satisfaction of the Director of Planning and Chief Planner.
- (iv) That the Draft By-law, attached as Appendix “D” to Report PED18196, be brought into force and effect once By-law 18-114 (Downtown Zones) is in force and effect;
 - (v) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and will comply with the Urban Hamilton Official.

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EXECUTIVE SUMMARY

The Owner, 1970703 Ontario Inc., has applied for an Official Plan Amendment to re-designate the lands at 49 Walnut Street South in the (DTSP) from “Medium Density Residential” to “Central Business District” to facilitate a 25 storey mixed use building comprised of 267 residential dwelling units, ground floor commercial uses and structured parking for 253 vehicles by permitting a commercial parking facility and commercial uses on the ground floor. The Zoning By-law Amendment Application is for a change in zoning from the Downtown Mixed Use (D3) Zone and the Downtown Multiple Residential (D6) Zone to a site specific Downtown Central Business District (D1) Zone, to permit the following:

- For the portion of the building contained on the lands municipally known as 154 Main Street East – a mixed use building consisting of a seven storey podium with an 18 storey tower above with a total maximum height of 80.0 m (25 storeys); containing 432.9 sq m of commercial space on the ground floor and a multiple dwelling, on floors 2 to 25, includes for 267 dwelling units; and,
- For the portion of the building contained on the lands municipally known as 49 Walnut Street South - a seven storey podium will be extended southerly and will contain approximately 393 sq m of commercial space at grade and 253 parking spaces located above grade within a parking structure, of which 221 parking spaces will be accessory to 154 Main Street East and 32 spaces will be used for a commercial parking facility.

An ‘H’ Holding Provision has been included for the following:

- For the required Record of Site Condition as the previous use of the subject lands was a commercial office building.
- In order to ensure that the purchase of the alleyway is completed and lands are merged on title.

The proposed development will be permitted once the Holding Provision is removed by Council.

The applications have merit and can be supported because they are consistent with the Provincial Policy Statement (2014), conformity to the Growth Plan for the Greater Golden Horseshoe (2017), and will comply with the Urban Hamilton Official Plan subject to the Official Plan Amendment. The proposal is considered to be compatible with and complementary to the existing and planned development in the immediate area, represents good planning by providing a compact and efficient urban form, provides for

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new commercial uses at grade, and provides increased density that supports public transit investments in the Downtown.

Alternatives for Consideration – See Page 35

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 applications for an Official Plan Amendment and Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject site is located at the south east corner of Main Street East and Walnut Street South and the north east corner of Walnut Street South and Jackson Street East. The subject site is approximately 0.31 ha (3,089 sq m) in size and is comprised of three assembled properties (154 Main Street East and 49 Walnut Street South) including a portion of the public alleyway that runs between the assembled properties. The subject lands have frontage on Main Street East, Walnut Street South, and Jackson Street East, and are municipally known as 154 Main Street East and 49 Walnut Street South, Hamilton (see Appendix “A” to Report PED18196).

The lands municipally known as 154 Main Street East are currently occupied by a two storey office building. A surface commercial parking lot exists on the lands municipally known as 49 Walnut Street South.

The proposal is for a mixed use development with a seven storey podium that is 24.0 m in height for the northerly portion of the podium and 22.0 m for the southerly portion of the podium and an 18 storey tower above for a total height of 25 storeys on northerly portion of subject lands. The ground floor will contain commercial space of approximately 826 sq m with 267 dwelling units above and 3,020 sq m of amenity area. The seven storey podium will continue south and will contain ground floor commercial along Walnut Street and balance of the building will be comprised of a parking structure with a total of 253 parking spaces. This will provide parking for the mixed use building (221 parking spaces) as well as a commercial parking facility (32 parking spaces). In addition a total of 131 secured bicycle parking spaces and 12 short term bicycle parking spaces to provide alternative transportation options.

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The application for a Zoning By-law Amendment requested a change in zoning from the Downtown Mixed Use (D3) Zone and Downtown Hamilton Multiple Residential (D6) Zone to a modified Downtown Central Business District (D1) Zone for the entire property. The Downtown Central Business District (D1) Zone permits a range of commercial uses however the current DTSP policies do not permit commercial uses on the lands municipally known as 49 Walnut Street South. As a result the proposal did not comply with the policies of the DTSP. An Official Plan Amendment is required to change the designation of the lands municipally known as 49 Walnut Street South from “Medium Density Residential” to “Central Business District” in the DTSP to allow commercial uses on the ground floor and a commercial parking facility in the parking structure.

Subsequent to submission of the Zoning By-law Amendment application, Council approved the new DTSP and implementing Zoning which permit the proposed uses and scale of density. However as both the DTSP and Zoning are under appeal and not in effect, the applicant is seeking to move forward with site specific Official Plan and Zoning By-law Amendments to the current in effect policies and regulations to permit the proposed development. The proposed site specific Zoning will reflect the new Downtown Central Business District Zoning (D1) in the approved implementing zoning with site specific modifications.

Also the Zoning By-law Amendment application was amended to improve the design of the seven storey parking structure by modifying the seventh floor of the parking structure to be uncovered in order to create a better transition to the existing low rise development along Jackson Street East.

On June 4, 2018, Public Works Committee approved the closure and sale of the portion of the alleyway located between 154 Main Street East and 49 Walnut Street South. Council approved the closure and sale on June 13, 2018.

Chronology:

- June 8, 2017: Preliminary proposal presented to Design Review Panel (DRP).
- October 11, 2017: Zoning By-law Amendment Application ZAR-17-074 received.
- October 31, 2017: Zoning By-law Amendment Application ZAR-17-074 deemed incomplete.

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November 6, 2017: Zoning By-law Amendment Application ZAR-17-074 deemed complete.

November 17, 2017: Notice of Complete Application and Preliminary Circulation was sent to 95 property owners within 120 m of the subject property.

November 17, 2017: Public Notice Sign posted on site.

November 17, 2017: Applicant launched public microsite with application details.

May 9, 2018: DTSP and implementing Zoning By-law Approved by Council.

June 4, 2018: Public Works Committee approved the closure and sale of a portion the alleyway.

June 13, 2018: Council approved the closure and sale of a portion of the alleyway.

July 17, 2018 Official Plan Amendment Application UHOPA-18-018 received.

July 23, 2018 Official Plan Amendment Application UHOPA-18-018 deemed complete.

August 8, 2018: Public Notice Sign updated with Public Meeting date.

August 17, 2018: Circulation of the Notice of Public Meeting to 95 property owners within 120 m of the subject property.

Details of Submitted Applications:

Owner: 1970703 Ontario Inc.

Applicant: Brooklyn Contract Inc.

Agent: Urban Solutions Planning & Land Development Consultants Inc. (c/o Sergio Manchia)

Location: 154 Main Street East and 49 Walnut Street South

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Property Description:	Lot Frontage:	36.12 m (Main Street East) 88.23 m (Walnut Street South) 34.28 m (Jackson Street East)
	Lot Depth:	88.23 m
	Lot Area:	3,089 sq m (0.31 ha)
	Servicing:	Existing Full Municipal Services

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Two Storey Office Building and Surface Commercial Parking Lot	Downtown Mixed Use (D3) Zone (north portion) and Downtown Multiple Residential (D6) Zone (south portion) Downtown Central Business District (D1) Zone (Proposed in By-law 18-114)

Surrounding Land Uses:

North	Retail Commercial and Surface Commercial Parking Lot	Downtown Mixed Use (D3) Zone Downtown Central Business District (D1) Zone (Proposed in By-law 18-114)
East	Mixed Use Commercial and Residential	Downtown Mixed Use (D3) Zone and Downtown Multiple Residential (D6) Zone Downtown Central Business District (D1) Zone (Proposed in By-law 18-114)
South	Residential and Surface Commercial Parking Lot	Downtown Residential (D5) Zone and Downtown Multiple Residential (D6) Zone

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		Downtown Residential (D5) Zone (Proposed in By-law 18-144)
West	Commercial	Downtown Mixed Use (D3) Zone Downtown Central Business District (D1) Zone (Proposed in By-law 18-114)

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

- “1.1.3.1 *Settlement areas* shall be the focus of growth and development, and their vitality and regeneration shall be promoted.
- 1.1.3.2 Land use patterns within settlement areas shall be based on:
- a) densities and a mix of land uses which:
 - 1. efficiently use land and resources;
 - 2. are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and / or uneconomical expansion; and,
 - 5. are *transit-supportive*, where transit is planned, exists or may be developed.
 - b) a range of uses and opportunities for *intensification* and *redevelopment* in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.
- 1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.”

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The proposed development is located within the Settlement Area and efficiently uses land for new mixed use development that is compatible with the area. Adequate infrastructure and services are available to service the subject lands and the proposed development will be supported by existing schools and parks in the area as well as both existing and proposed transit service along both Main Street East and King Street East.

Cultural Heritage

Staff note the Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS (2014). The following policies of the PPS (2014) also applies:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential. Notwithstanding current surface conditions the criteria define the property as having archaeological potential. Staff will require that a written caution note be added to the site plan drawings of a future Site Plan Control Application.

On May 4, 2018 the property owner submitted a Notice of Intention to Demolish the building on the subject property. A Report respecting the Notice of Intention to Demolish was brought before the Hamilton Municipal Heritage Committee on July 19, 2018. Staff concluded that while the building is historically linked with its surroundings it does not have significant cultural heritage value to warrant immediate designation under the *Ontario Heritage Act*. As such, staff recommended that the property be removed from the Register of Property of Cultural Heritage Value or Interest. Subsequent to the July 19, 2018 Hamilton Municipal Heritage Committee (HMHC), the HMHC Report will be brought to the August 14, 2018 Planning Committee meeting and the August 17, 2018 Council meeting for approval.

Noise

- “1.6.9.1 Planning for land uses in the vicinity of *airports, rail facilities and marine facilities* shall be undertaken so that:
- a) their long-term operation and economic role is protected; and,

- b) *airports, rail facilities and marine facilities and sensitive land uses* are appropriately designed, buffered and / or separated from each other, in accordance with policy 1.2.6.

1.2.6.1 *Major facilities and sensitive land uses* should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*.”

As part of the original application for a Zoning By-law Amendment, the applicant submitted a Preliminary Environmental Noise and Vibration Impact Study by dBA Environmental Services Inc. dated October 5, 2017. The noise and vibration study reviewed the potential noise sources that might impact the subject property. Main Street East was identified as the dominate road traffic source but also considered Walnut Street South. A rail line was identified in the study but was deemed insignificant by the noise consultant in comparison to road traffic noise on Main Street East due to a separation distance of 250 m and buffering of existing buildings. As a result the rail line was not evaluated for its potential noise impacts on the proposed development. While staff concur that Main Street East would constitute the dominate noise source impacting the proposed development, staff are however of the opinion that as the railway line is less than 400 m from the subject property and as the existing building between the subject lands and the railway line are low in height, the noise impacts of the railway line should be evaluated.

Also the noise study further reviewed the noise impacts on the outdoor living area (OLA) located on the south side of the proposed tower, however additional review is required to ensure that the noise impacts on the OLA are evaluated based on the most exposed portion of the OLA and include the noise impacts of the railway line in order to properly evaluate whether mitigation measures are required.

Based on the noise sources that were evaluated it was identified that noise levels for the north façade of the building would exceed noise requirements of the Ministry of the Environment, Conservation and Parks (MECP). In order to mitigate the noise levels the study identified that mandatory noise warning clauses and central air conditioning would be required, but did not identify whether proposed walls and windows would mitigate noise impacts to conform to MECP requirement.

As a result, the noise impact study will need to be updated to ensure that the noise impacts from all potential noise sources have been evaluated and that all required noise mitigation measures are provided in order to meet MECP requirements. The updated

noise study and mitigation measures will be evaluated and implemented as part of a future Site Plan Control Application.

Environmental Site Conditions

- “3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no *adverse effects*.”

The subject property is recognized as a potentially contaminated site due to its use as a commercial office. As such, the property is subject to environmental review to allow for the proposed multiple dwelling. The applicant has undergone a Phase 1 Environmental Site Assessment, but has not yet submitted their findings to the MECP. As such, a Holding Provision is required as the provision for a Notice of Acknowledgment letter from the MECP for the RSC is a requirement.

Based on the forgoing, the proposed development is consistent with the policies of the PPS.

Growth Plan for the Greater Golden Horseshoe (2017)

The Growth Plan supports mixed use intensification within built-up urban areas, particularly in proximity to transit. As noted in Section 2.1 of the Plan:

“Better use of land and *infrastructure* can be made by directing growth to *settlement areas* and prioritizing *intensification*, with a focus on *strategic growth areas*, including *urban growth centres* and *major transit station areas*, as well as *brownfield sites* and *greyfields*....This Plan recognizes transit as a first priority for major transportation investments. It sets out a regional vision for transit, and seeks to align transit with growth by directing growth to *major transit station areas* and other *strategic growth areas*, including *urban growth centres*, and promoting transit investments in these areas.”

The following policies, amongst others, are applicable to the proposed development.

- “2.2.3.2 Urban growth centres will be planned to achieve, by 2031 or earlier, a minimum density target of:
- b) 200 residents and jobs combined per hectare for each of the...
Downtown Hamilton...urban growth centres;

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- 2.2.4.3 Major transit station areas on priority transit corridors or subway lines will be planned for a minimum density target of:
- b) 160 residents and jobs combined per hectare for those that are served by light rail transit or bus rapid transit;
- 2.2.4.9 Within all major transit station areas, development will be supported, where appropriate, by:
- a) planning for a diverse mix of uses, including second units and affordable housing, to support existing and planned transit service levels;
 - b) fostering collaboration between public and private sectors, such as joint development projects;
 - c) providing alternative development standards, such as reduced parking standards; and,
 - d) prohibiting land uses and built form that would adversely affect the achievement of transit-supportive densities.
- 2.2.4.10 Lands adjacent to or near to existing and planned frequent transit should be planned to be transit-supportive and supportive of active transportation and a range and mix of uses and activities.”

The subject site is located in Downtown Hamilton and will contribute to the density target for this identified urban growth centre that is in proximity to major transit corridors (Policies 2.2.3.2 and 2.2.4.3). It should be noted that the Growth Plan defines *major transit station areas* as, “the area including and around any existing or planned *higher order transit* station or stop within a *settlement area*; or the area including and around a major bus depot in an urban core. *Major transit station areas* generally are defined as the area within an approximate 500 m radius of a transit station, representing about a 10-minute walk”.

The subject site would be considered within a “major transit station area” pursuant to the Growth Plan, given that it is located approximately 200 m away from the future Mary Street Light Rail Transit (LRT) stop. Furthermore, the subject property is located along an existing bus route on Main Street East and approximately 100 m from existing bus routes on King Street East. The proposed mix of uses are supported by Policy 2.2.4.9. Lastly, the proposed development is transit-supportive, and the inclusion of 131 secured bicycle parking spaces and 12 short term bicycle parking spaces, supports active transportation (Policy 2.2.4.10).

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The application conforms to the Growth Plan (2017) and, in particular, the policies relating to intensification, mixing of uses, and efficient use of transit infrastructure.

Urban Hamilton Official Plan

The subject lands are identified as “Downtown Urban Growth Centre” on Schedule “E” – Urban Structure and designated “Downtown Mixed Use Area” on Schedule “E-1” – Urban Land Use Designation in the UHOP. The northerly portion of the subject lands are designated “Central Business District” and the southerly portion of the subject lands are designated “Medium Density Residential” in the current DTSP. The lands are designated “Downtown Mixed Use” in the Council Approved DTSP.

There are several policies that specifically relate to this development proposal; namely, permitted uses, scale and density, design, residential intensification and compatibility.

1.0 Downtown Mixed Use Area

The subject lands are identified as “Downtown Urban Growth Centre” on Schedule “E” – Urban Structure and designated “Downtown Mixed Use Area” on Schedule “E-1” – Urban Land Use Designations. The following policies, amongst others, apply to the proposal:

- “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 broad range of uses appropriate to its role as the City’s pre-eminent node.

- 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.

- E.4.4.2 The area designated Downtown Mixed Use shall also serve as a central focus for the City by creating a sense of place. Retail and service commercial uses are a key element in maintaining that function and ensuring the continued vibrancy of the Downtown. New commercial development shall be designed and oriented to enhance the streetlife of the Downtown.

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- 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.
- E.4.4.4 The following uses shall be permitted on lands designated Downtown Mixed Use on Schedule E-1 – Urban Land Use Designations:
- a) commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices, including major offices, personal services, live work units, artist studios, financial establishments, and restaurants;
 - e) residential uses.
- E.4.4.5 Notwithstanding Policy E.4.4.4, the full range of uses shall not be permitted throughout the lands designated Downtown Mixed Use. The Downtown Secondary Plan and zoning by-law establish more detailed land use designations and permitted uses which apply to specific areas of the Downtown.
- E.4.4.9 Permitted uses shall be located in both single and mixed use buildings.”

A broad range of uses are permitted for lands identified as “Downtown Urban Growth Centre” given its function as the pre-eminent node for the City of Hamilton, and designation as “Downtown Mixed Use”. These uses include commercial and residential uses in a single or mixed use building. The proposed development shall support the residential function of the Downtown Urban Growth Centre and at grade commercial uses will contribute to the vibrancy of the Downtown.

2.0 Scale and Density

The density and scale of development are addressed in the following UHOP policies:

- “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.

E.4.4.7 Permitted density and heights shall be set out in the secondary plan for the lands designated Downtown Mixed Use.

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 proposed 267 dwelling units establishes a residential density of approximately 864 units per hectare and therefore will contribute toward achieving the goal of establishing an overall minimum density, measured across the entire Urban Growth Centre, objective of 250 persons per hectare within the Downtown. Higher density forms of housing are encouraged within the area designated Downtown Mixed use and the specific permitted density and height is set out in the Downtown Hamilton Secondary Plan.

Based on the foregoing, staff are of the opinion that the proposal complies with the UHOP.

Downtown Hamilton Secondary Plan Review (Council Approved – May 9, 2018)

The new DTSP was approved by Council on May 9, 2018 and appealed to the Local Planning Appeal Tribunal on June 4, 2018. Within the approved Downtown Hamilton Secondary Plan, the subject property is designated “Downtown Mixed Use” on Land Use Plan Map B.6.1-1 – Land Use Plan, identified as “High-rise 2” on Map B.6.1-2 – Maximum Building Heights, and the height of the escarpment is identified as being 186.2 m above sea level on Appendix D – Draft Niagara Escarpment Height. The following policies amongst others are applicable:

1.0 Land Use

“B.6.1.6 Downtown Mixed Use Designation

Downtown Hamilton shall continue to maintain its key role as the governmental, institutional, educational, cultural, and residential centre of the City. The Downtown Mixed Use policies of the Secondary Plan are intended to support intensive, urban-scale mixed use *development*.

B.6.1.4.24 *Development* proposals for tall buildings containing residential units shall be encouraged to provide a range of unit types and unit sizes, including those suitable for larger households, and those with children and seniors.”

The proposed mixed use development with ground floor commercial, commercial parking facility and a multiple dwelling represents uses that are intended for lands designated “Downtown Mixed Use”. The proposed development will contain a mix of residential dwelling unit types including one bedroom, one bedroom plus den, two bedroom, and three bedroom units and therefore will comply with the policies that encourage a range of unit sizes.

It is noted that once the updated DTSP comes into effect commercial uses, including a commercial parking facility, will be permitted for the lands municipally known as 49 Walnut Street South.

2.0 Scale and Density

“B.6.1.4.12 Building heights are identified on Map B.6.1.2 - Downtown Hamilton Building Heights and the maximum heights for each area shall fall into the following categories:

e) High Rise 2 – up to 30 storeys.

B.6.1.4.13 All development in the Downtown shall be a minimum of two storeys in height except for lands identified as Pedestrian Focus Streets which shall be a minimum of three storeys in height.

B.6.1.4.14 Notwithstanding Policy B.6.1.4.12 and Map B.6.1-2 Building Heights, maximum building height within the Downtown Hamilton Secondary Plan area shall be no greater than the height of the top of the Escarpment as measured between Queen Street and Victoria Avenue, identified on Appendix "D – Niagara Escarpment Heights.

B.6.1.4.18 The following policies shall apply to High-rise (tall) buildings:

a) a tall building is any building that is greater than 12 storeys in height;

b) new tall buildings shall be no greater than the height of the top of the Escarpment as measured between Queen Street and Victoria Avenue.

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- c) a tall building is typically defined as having a *building base* component (also known as podium), a *tower* component and *tower top*, however, Policies B.6.1.4.18 through B.6.1.4.24 shall also apply to other typologies of a tall building;
- d) a *building base* is defined as the lower storeys of a tall building which are intended to frame the public realm with good street proportion and pedestrian scale or contains streetwall heights that respect the scale and built form character of the *existing* context through design, articulation, and use of the ground floor;
- e) a *tower* is defined as the storeys above the building base; and,
- f) the *tower top* is defined as the uppermost floors of the building including rooftop mechanical or telecommunications equipment, signage and amenity space. This portion of the building shall have a distinctive presence in Hamilton's skyline by employing interesting architectural features and roof treatments."

The proposed development of a 25 storey building will comply with the maximum building height of 30 storeys. The proposed development will have a maximum building height of 173.85 m above sea level and therefore will be below the 186.2 m height of the Niagara Escarpment. The proposed building height complies with the policies respecting maximum building height in respect to both the number of storeys and not exceeding the height of the Niagara Escarpment, and will also comply with the minimum building height requirement of the approved DTSP. Also the proposed building is designed with a podium (base) which will provide a clear transition to the tower. Also the proposed podium will frame the street with a height that will provide good street proportions. The proposed 24.0 m (northerly) and 22.0 m (southerly) height of the podium generally reflects the intended 22 m height for a podium that is identified in the Council approved Downtown Zoning respecting Main Street East and is compatible in scale to that of existing development along Main Street East. The proposed seven storey podium with a height of 22 m will also be consistent with existing development along Jackson Street East in which there is an existing seven storey building one block to the east and a nine storey building one block to the west.

3.0 Design

"B.6.1.3.1 Respect Design and Heritage

Downtown Hamilton has a rich cultural legacy. The heritage structures and spaces provide a physical history of the community. Conservation and re-

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use of these buildings not only enhances the Downtown but can serve as a catalyst for other public and private investments. Heritage buildings also provide living examples of design elements that can be reflected in new construction that complements rather than diminishes the surrounding streetscape. The Downtown Hamilton Secondary Plan policies call for a greater emphasis on urban design and heritage conservation as critical elements of downtown revitalization. To achieve these objectives development shall:

b) Ensure that new development is compatible with the design of surrounding built heritage resource buildings.

B.6.1.4.15 The siting, massing, height, and design of a building on one site shall not necessarily be a precedent for development on an adjacent or nearby site.

B.6.1.4.19 The Downtown Hamilton Tall Building Guidelines shall apply to tall building *development* and shall be used by City Staff when evaluating tall building *development* proposals.

B.6.1.4.23 All tall buildings shall meet the following requirements:

a) the *building base* shall be designed to:

- i) fit harmoniously within the context of neighbouring street wall heights. Where there is no consistent street wall height context for the area, the street wall height shall be established in a manner that maintains a comfortable pedestrian scale and appropriate street proportion;
- ii) reduce and mitigate wind impacts on the public realm, including streets, sidewalks, parks and open spaces, and privately owned publicly accessible spaces. Pedestrian level wind conditions shall be suitable for sitting and standing, with higher standards applied to parks and open spaces and *Pedestrian Focus Streets*; and,
- iii) minimize shadows, in accordance with Policies B.6.1.4.34 through B.6.1.4.39 of this Plan, to preserve the utility of sidewalks, parks, public and private open spaces, school yards and buildings, childcare centres, playgrounds, sitting areas, patios, and other similar uses.

b) the *building base* may be required to setback at grade to achieve access to sunlight on sidewalks, parks, public and private open spaces,

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schoolyards and buildings, childcare centres, playgrounds, sitting areas, patios, and other similar uses;

- c) tall building *development* shall provide setbacks from the lot line to the building face of the tower and adequate separation distance between towers on the same lot. These lot line tower setbacks shall ensure that individual tall buildings within a city block and the cumulative effect of multiple tall buildings within a block contribute to creating a strong and healthy neighbourhood by fitting in with the *existing* and/or planned context. Providing adequate space between towers shall:
- i) enhance the ability to provide a high-quality, comfortable public realm;
 - ii) protect development potential of other sites within blocks;
 - iii) provide access to sunlight on sidewalks, parks, public and private open spaces, school yards and buildings;
 - iv) provide access to natural light and a reasonable level of privacy for occupants of tall buildings;
 - v) provide pedestrian-level views of the sky between towers particularly as experienced from adjacent streets, parks and open spaces, and views between towers for occupants of tall buildings;
 - vi) limit the impacts of uncomfortable wind conditions on streets, parks, open spaces, and surrounding properties; and,
 - vii) provide appropriate transitions to adjacent lower-scale planned context, *built heritage resources*, and *cultural heritage landscapes*.
- d) as building heights increase, greater setbacks may be required from the tower to the lot line to achieve the requirements of Policy B.6.1.4.23 c); and,
- f) *development* proposals that do not comply with Policy B.6.1.4.23 c), of this Plan present significant concerns for building a strong healthy Downtown and as such shall not be approved for tall building *development*.

B.6.1.4.25 In addition to Section B.3.3 – Urban Design Policies of Volume 1, *development* in the Downtown shall achieve the following:

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- a) eliminating expanses of blank walls;
- b) integrating roof top design and function with the surrounding buildings and public spaces. This shall be achieved through:
 - i) integrating roof design with the building architecture;
 - ii) designing the tower top of tall buildings so that they are a recognizable landmark that contributes to an iconic and distinctive skyline;
 - iii) ensuring that roof top mechanical equipment, as well as stair and elevator towers, are sized and located so that they are screened from view from the street;
 - iv) developing rooftop terraces, gardens, and associated landscape areas for private amenity areas, climate enhancement and for storm water management; and,
 - v) incorporating best practices and appropriate technology to reduce energy consumption and improve air quality.

B.6.1.4.28 All development shall:

- a) be massed to frame streets in a way that respects and supports the adjacent street proportions.

B.6.1.4.29 Residential development shall provide amenity space within new developments in the form of private or semi-private parkettes, rooftop gardens or internalized open spaces within courtyard areas created by new buildings.

B.6.1.4.33 Development shall be required to provide transition in scale, within the development site, as a result of any of the following:

- a) the development is of greater intensity and scale than the adjacent existing scale, or where appropriate, the planned built form context;
- b) the development is adjacent to a cultural heritage resource or a cultural heritage landscape; or,

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c) the development is adjacent to existing or planned parks, or open spaces.

B.6.1.4.34 *Development* shall, to the satisfaction of the City, through building massing and orientation, minimize shadows on public sidewalks, parks, public and private open spaces, school yards and buildings, childcare centres, playgrounds, sitting areas, patios and other similar amenities.

B.6.1.4.35 Proposed *development* shall allow for a minimum of 3 hours of sun coverage between 10:00 a.m. and 4:00 p.m. as measured on March 21st to September 21st on public sidewalks, and public and private outdoor amenity areas such as patios, sitting areas, and other similar areas.

B.6.1.4.37 Downtown Hamilton contains a number of primary gathering spaces where civic life occurs. The quality, image, and amenity of these spaces strongly affect how people perceive the Downtown. Notwithstanding Policy B.6.1.4.35 and Policy B.6.1.4.36, development shall not cast any net new shadow between 10:00 a.m. and 4:00 p.m. as measured from March 21st to September 21st on the following parks, squares, plazas and open spaces areas that serve as Downtown's key civic gathering spaces:

e) Ferguson Station (244, 248 King Street East).

B.6.1.4.40 There shall be no vehicular surface parking along the street frontage.

B.6.1.4.41 Above-ground vehicular parking shall be fronted by permitted uses other than parking at street level and upper storeys shall be screened from view from the street.”

There are several design requirements, as noted above, that have been addressed in this development. More specifically:

- Pedestrian Environment – The proposed development includes at grade commercial uses along Main Street East and Walnut Street South, with ground floor access to the multiple dwelling on Walnut Street South. The ground floor commercial and residential lobby access and street level windows and doorway openings at grade will animate the pedestrian environment with active uses opening onto the sidewalk. Sidewalks, landscaping and street furniture will promote a high level of pedestrian comfort, and the use of podiums and stepbacks will achieve a pedestrian scale of development. Therefore, the proposal provides a comfortable scale of development for pedestrians.

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- Massing and Transition – The proposed building consists of a seven storey podium with an 18 storey tower above. The podium includes setbacks from the property line to the podium and stepbacks from the edge of the podium to the tower to create a transition in massing that responds to the context of the area. These setbacks and stepbacks are summarized from the closest point of the building to the property line as listed below:

Setbacks and Stepbacks for Northerly Portion

Property Line	Setback of Ground Floor from the Property Line	Setback of the Second to Seventh Floors from the Property Line	Stepback above Seventh Floor
Main Street East	2.0 m	1.0 m	3.0 m
Walnut Street South	2.0 m	1.0 m	2.2 m
*Jackson Street East	48.6 m	48.6 m	44.6 m
Easterly Lot Line	1.0 m	1.0 m	3.0 m

*The proposed building is “L” shaped and oriented towards Main Street East. The proposed tower is to be setback 44.6 m from Jackson Street East separated from Jackson Street East by the seven storey parking structure.

The proposed seven storey podium with a height of 24.0 m will be in line with a mid-rise scale of development and represents an appropriate transition between the adjacent low rise development, along Jackson Street East and immediately adjacent to the subject property along Main Street East, and the proposed tower. It is noted that the first two storeys of the tower will be stepped in an additional 1.0 m from the base of the tower along Walnut Street South and 0.8 m from the base of the tower along Main Street East and will be comprised of materials that will be distinct from that of the podium and the balance of the tower. This distinction is to provide a clear separate and transition between the podium and the tower which will have the effect of reducing the overall massing of the building. The use of podiums and stepbacks aligns with the policy direction respecting tall buildings providing distinctive base and tower components. In addition to the proposed stepbacks, other design techniques such as architectural elements, changes in material and colour will reduce the overall massing of the proposed development and improve the transition to adjacent buildings and will eliminate any expanses of blank walls. The massing of the podium will frame the streets of Main Street East,

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Walnut Street South and Jackson Street East and will address the historical context of the Downtown.

Setbacks for Southerly Portion

The proposed parking garage on the southerly portion of the subject lands is incorporated into the podium on the northerly portion of the lands but will maintain a maximum height of 22.0 m. The parking garage includes setbacks to the property line. These setbacks are summarized from the closest point of the building to the property line as listed below:

Property Line	Setback of Ground Floor from the Property Line	Setback of the Second to Seventh Floors from the Property Line
Walnut Street South	2.0 m	1.0 m
Jackson Street East	0.48 m	0.0 m
Easterly Lot Line	0.0 m	0.0 m

In respect to the transition between the proposed seven storey parking garage and the development along Jackson Street East, it is noted that the lands to the south are designated “Downtown Residential” on Map B.6.1-1 - Draft Land Use Plan and classified as Mid-rise on Map B.6.1.2 - Downtown Hamilton Building Heights in the Council Approved DTSP. Also there is a seven storey multiple dwelling located one block to the east at the corner of Jackson Street East and Ferguson Street South and a nine storey multiple dwelling located one block to the west at the corner of Jackson Street East and Catharine Street South. Therefore the proposed building with a height of seven storeys is in keeping with the existing character of Jackson Street East. However the existing buildings immediately to the east, south and west on Jackson Street East range from one to two storeys in height and therefore attention needs to be paid to transition between the parking garage and the existing scale of development on Jackson Street East. To address this transition, the seventh floor is to be uncovered to reduce the massing along Jackson Street East. Furthermore utilization of materials, colours and architectural elements will be incorporated to further break up the massing which will be further reviewed and implemented as part of a future Site Plan Control Application.

- **Amenity Areas** – The amenity needs of the residents for the proposed development will be met through both indoor and outdoor amenity areas. Indoor amenity facilities are provided within the building on the second floor in the form of a small cinema, lounge, fitness room, yoga studio, games room, and party room. Outdoor amenity space is provided in the form of a terrace on the second floor on

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the east side of the building and eighth floor on the south side of the building, and private balconies. Therefore the amenity needs of the residents will be met.

- Sun / Shadow Impacts – The applicant conducted a Sun Shadow Study prepared by SRM Architects Inc. dated December 12, 2017 to determine the shadow impacts of the proposed building. New net shadow impacts are identified on the sidewalks of the immediately adjacent streets of Main Street East, Walnut Street South and Jackson Street East, as well as the sidewalks of nearby streets including Catharine Street South, Ferguson Avenue North, and Bowen Street. However based on the orientation of the building (north / south), the floorplate size of the tower (907 sq m), and the proposed setbacks and stepbacks, the shadows created by the proposed building pass quickly within approximately two to three hours and will permit a minimum of three hours of sun access between 10 a.m. and 4 p.m. at the equinoxes. Also, the proposed development will not create new net shadow impacts on Ferguson Station, a key civic gathering space, between 10 a.m. and 4 p.m. at the equinoxes. As there are no new net shadow impacts on Ferguson Station and three hours of sun access are being provided between 10 a. m. and 4 p.m. at the equinoxes, the proposed development complies with the DTSP policies respecting sun shadow impacts.
- Wind Impacts – The applicant conducted a Pedestrian Level Wind Study prepared by Theakston Environmental dated October 10, 2017 to determine the wind impacts of the proposed building. The Wind Study utilized a physical model of the proposed development and pertinent surroundings to test the potential wind impacts. The study found that ground level winds at many locations will be improved with occasional localized areas of higher pedestrian level winds, resulting in wind conditions that are predicted as windy at times but generally remain comfortable and appropriate to the areas intended purpose throughout the year. The site is identified as being suitable for standing or walking under normal wind conditions. However the wind study did identify that wind conditions at the corner entrance are inappropriate to the area's intended purpose and recommended the entrance be relocated or set into the façade of the building. In respect to the outdoor living area (OLA), the Wind Study noted that the OLA on the model could not accommodate conventional probes and that as a result alternate means of assessing conditions were employed, however the details respecting the alternate means were not provided. Details as to what activities the OLA will be suitable for were not identified in the Wind Study. The Wind Study further advised that the OLA will require wind mitigation measures. Additional testing and information needs to be provided in an updated Wind Study in order to ensure that potential wind impacts are accurately identified and ensure wind mitigation measures will properly address any impacts including the corner entrance and

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OLAs. The updated Wind Study and the implementation of all mitigation measures will be addressed as part of a future Site Plan Control Application.

- Parking – The proposed development is seeking to remove existing surface parking and to establish parking in the form of a seven storey parking structure along Jackson Street East and Walnut Street South. The policies of the updated DTSP require above ground parking be fronted by permitted uses other than parking at street levels and that upper storeys be screened from view from the street. The upper floors will be contained within the proposed parking structure and the top floor will be screened from view from the street by a half wall. Ground level commercial is proposed along Walnut Street South and therefore will comply with the design policies respecting providing commercial uses at street level.

Based on the foregoing, staff are of the opinion that the proposal complies with the Council Approved Downtown Hamilton Secondary Plan.

City of Hamilton Zoning By-law No. 05-200

The subject property is currently zoned Downtown Mixed Use (D3) Zone for the portion of the lands fronting onto Main Street East (north portion) and Downtown Hamilton Multiple Residential (D6) Zone for the portion of the lands fronting onto Jackson Street East (south portion). The D3 Zone permits a range of commercial uses and multiple dwellings while the D6 Zone permits a multiple dwelling but does not permit commercial uses or a commercial parking facility. The lands zoned D3 are restricted to a maximum building height of 44.5 m and the lands zoned D6 are restricted to a maximum building height of 22 m. Site specific modifications are also required to implement the proposal and are discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or no objections to the proposal:

- Light Rail Transit (LRT);
- Recreation Division (Community and Emergency Services Department); and,
- Alectra Utilities.

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

Forestry and Horticulture Section, Public Works Department has advised that there are no municipal tree assets on site and therefore a Tree Management Plan is not required. A landscape plan is required depicting the street tree planting scheme. The required landscape plan will be required as part of the Site Plan Control Application.

Public Health Services, Health Protection Division has advised that if the development uses a cooling tower for air conditioning or other cooling needs, the owner of the development is required to register their cooling tower with Public Health Services and comply with Hamilton's Cooling Tower Registry By-law.

Operation Support Section, Public Works Department has indicated that the subject lands are eligible for municipal waste collection subject to the City's design and performance specifications. It will be up to the applicant to accommodate these specifications to receive municipal waste collection or arrange for a private collection service as an alternative. This requirement will be addressed as part of a future Site Plan Control Application.

Metrolinx has advised that the subject site is located within 300 m of CPR's Hamilton Subdivision and Hamilton Layover which carries Lakeshore Go Service. A noise and vibration study is required. A noise warning clause shall be required in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 m of the railway right-of-way to advise of potential or future noise impacts. The required noise warning clause along with other noise mitigation measures will be implemented as part of the Site Plan Control Application.

Transportation Planning, Public Works Department has advised of the ultimate road width of the following streets, Main Street East with a width of 26.22 m and Walnut Street South and Jackson Street East with a width of 15.24 m each. It is noted that based on the existing right of way widths the following dedications would be required to achieve the ultimate road width:

- approximately 2.0 metres is required along Jackson Street East;
- approximately 1.22 m along Walnut Street South; and,
- approximately 3.0 m along Main Street East.

Furthermore a 12.19 m by 12.19 m daylight triangle is required at the corner of Main Street East and Walnut Street South, and a 4.57 m by 4.57 m daylight triangle is required at the corner of Walnut Street South and Jackson Street East.

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Transportation Planning staff reviewed and commented on a Right of Way Impact Assessment provide by the applicant respecting reductions in the required road widening and daylight triangle requirements. Based on the review of the assessment it was determined that the required widenings and daylight triangles are required on the following basis:

- In order to accommodate both existing utilities and expansions of underground and aboveground services and utilities;
- To buffer sidewalks along both sides of the right of way and to provide sidewalks with a minimum width of 3.5 m;
- Future development and implementation of the street master plans for Main Street East and Jackson Street East;
- To provide visibility at intersections; and,
- To accommodate existing transit routes and bicycle routes along Jackson Street East.

Additional discussions were undertaken between Transportation Planning staff and the applicant. Transportation Planning staff provided additional comments confirming the following:

- 3.0 m be dedicated for road allowance along Main Street East;
- 0.6 m be dedicated for road allowance along Walnut Street South;
- 1.3 m be dedicated for road allowance along Jackson Street East;
- Provided the 3.0 m dedication for road allowance along Main Street East is granted, the 12.19 m by 12.19m daylight triangle at Main Street East and Walnut Street South can be waived; and,
- A 4.57 m by 4.57 m daylight triangle be dedicated for road allowance at Jackson Street East and Walnut Street South.

Transportation Planning staff advised that the rationale for the land dedication outlined above is existing 200mm gas main and Bell cables that are located within one metre of the property line on Walnut Street South and Main Street East, and it would be difficult for gas or Bell to maintain the gas main or cables if the building is too close to the property line. The City requires lands within the municipal right-of-way for underground utilities (water mains, storm sewers, combined sewers, sanitary sewers, gas, telecom fibre, cable ductwork, etc.), above ground infrastructure (traffic signal poles, hydro and street lighting poles, traffic signal control boxes) and to create an inviting, friendly and safe pedestrian environment within the public realm including the provision of street trees, bus shelters, and street furniture.

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Transportation Planning staff further advise that a survey be conducted to conform the ultimate road allowance widths to bring the right of way adjacent to the subject site up to the required widths.

It is noted that the proposed design is based on the required road widening and daylight triangles not being included. The proposed site specific By-law modifications include maximum setback which are consistent with the parent By-law and will apply to the ultimate lot lines should the required land dedications be provided. In addition minimum stepback requirements are required between the podium and the building tower. The stepbacks will need to be provided regardless of the road widening dedications to address context, transition and compatibility. Finally there is sufficient additional space within the parking structure in which to accommodate the parking in the event that the required road widening along Walnut Street South is required to be dedicated.

A Traffic Impact Brief prepared by Salvini Consulting Inc. dated September 28, 2017 was submitted which identified 61 new weekday morning peak hour trips and 69 new weekday afternoon peak hour trips. Transportation Planning accepts the findings of this report with respect to the estimated traffic generation.

Also, Transportation Planning staff advised that a Transportation Demand Management (TDM) Options report is required and that TDM initiative are strongly encouraged. A TDM report and implementation of all TDM initiatives will be required as part of a future Site Plan Control Application.

Transportation Planning staff further advised that sidewalks with a width of 3.5 m should be provided within the right of way and 1.5 m should be provide through the site. Additionally AODA regulations need to be considered along with the provision of Street Trees within the boulevard. These requirements will be addressed as part of a future Site Plan Control Application.

Design Review Panel (DRP)

The applicant attended DRP on June 8, 2017 and received advice and recommendations on the potential physical and aesthetic impacts of the proposed building, as well as advise on improving the quality of design and provide creative design responses.

DRP focused on four areas of design:

- Building Height, Massing and Scale;
- Building Design Elements;
- Access and Circulation; and,

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- Streetscape and Public Realm.

Building Height, Massing and Scale

DRP noted that the building is too broad for its height, the tower proportions along with improvements in sun access would be achieved by reducing the floorplate and perhaps increase the tower height slightly. The applicant has demonstrated through a sun shadow study that the proposed development will not create adverse impact in respect to sun shadow impacts. The applicant has increased the height of the proposed podium from three storeys to seven storeys and has introduced terraces on the second and eighth floors and have reduced the width of the building along Main Street East by increasing the setback to the easterly side lot line. A transition in material is proposed for the eighth and ninth floors that clearly separate the podium from the rest of the building. The floorplate of the tower has however increased in size from approximately 800 sq m to 907 sq m as a result of extending the depth of the tower towards Jackson Street East.

It was recommended that the ground floor be setback further along Main Street East to allow sufficient room in the boulevard for street trees, furniture and a generous sidewalk which has been accommodated in the current design.

Building Design Elements

DRP noted that the outdoor amenity area was too small and heavily shadowed by the proposed building and future development on adjacent properties. The applicant has reduced the width of the proposed tower expanding on the second floor terrace and established an additional terrace on the eighth floor.

Access and Circulation

DRP expressed a concern with respect to vehicular and pedestrian circulation on site and recommended further consideration be made to ensure that it is safe and well designed. The applicant has provided recessing for the ground floor to allow for a wider sidewalk and to provide buffering from the street in the form of landscaping. The residential entrance of the building is to be located on Walnut Street South in order to separate tenants from the heavy traffic on Main Street East. Vehicle traffic into the site will also be separated from the residential entrance of the building on Jackson Street East.

Streetscape and Public Realm

DRP advised that the building should be setback 5.0 m from the curb to permit street trees, generous sidewalks and other features, and that more detail regarding streetscaping and landscaping of the amenity areas should be provided. The ground floor along Main Street East is setback 2.3 m from the property line which is setback approximately 2.7 m from the curb along Main Street East therefore the ground floor is achieving a setback of approximately 5.0 m.

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 95 property owners within 120 m of the subject property on November 17, 2017. A Public Notice sign was posted on the property on November 17, 2017, and updated on August 8, 2018, with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act*.

To date, two letters of correspondence were received respecting the Application. These letters will be further discussed in the Analysis and Rationale for Recommendations section of the Report.

Public Consultation Strategy

The applicant prepared a Public Consultation Strategy. To engage with the public the applicant posted a sign providing the contact information of the agents firm to allow members of the public to call and make inquiries on the proposal. In addition the applicant's agent met with the Corktown Neighbourhood Association in October, 2017. A microsite was also established and became active on November 17, 2017, which included information to members of the public to access the submitted reports, studies and supporting information that was provided to the City. A total of 243 users accessed the micro site.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Official Plan Amendment and Zoning By-law Amendment application has merit and can be supported for the following reasons:
 - (i) The application is consistent with the PPS and conforms to the Growth Plan for the Greater Golden Horseshoe (2017), in terms of intensification and the development of complete communities;

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- (ii) The application complies with the Council Approved Downtown Hamilton Secondary Plan; and,
- (iii) The proposed development is compatible with existing land uses and heritage buildings in the immediate area and represents good planning by, among other things, establishing a high-rise building that has been effectively designed and massed to respect the existing predominately low-rise surrounding context, providing for the development of a complete community, and enhancing the commercial environment along Main Street East, making efficient use of existing infrastructure within the urban boundary, and supporting transportation infrastructure investments.

2. Official Plan Amendment

The in force and effect DTSP designates the lands at 49 Walnut Street South as “Medium Density Residential” which does not permit the range of commercial uses intended by the proposal. It is noted that in the Council approved DTSP, the subject lands are designated “Downtown Mixed Use” which permits commercial uses, however the Council approved DTSP is currently under appeal and therefore not in effect. The proposed Official Plan Amendment implements the vision of the Council approved DTSP and is supported by staff.

3. City of Hamilton Zoning By-law No. 05-200 (Council Approved)

The subject lands are zoned Downtown Central Business District (D1) Zone in the Council Approved City of Hamilton Zoning By-law No. 05-200.

A range of commercial uses are permitted along with a multiple dwelling and the maximum permitted building height is restricted to 91 m which is greater than the 80.0 m height that is proposed. The proposal is to establish a site specific Downtown Central Business District (D1) Zone with modifications to implement the proposal. These modifications are identified and discussed in detail within a chart format attached as Appendix “E2” to Report PED18196.

As the Downtown Central Business District (D1) Zone of the Council Approved City of Hamilton Zoning By-law No. 05-200 are not yet in effect modifications to the existing zoning are required in order to implement the proposal. The modifications for the existing City of Hamilton Zoning By-law No. 05-200 are discussed in Section 4 of the Analysis and Ractional below.

4. City of Hamilton Zoning By-law No. 05-200 (In Force and Effect)

The northerly portion of the subject lands are presently zoned Downtown Mixed Use (D3) Zone in the City of Hamilton Zoning By-law No. 05-200 (see Appendix “A” to Report PED18196). A range of commercial uses are permitted along with a multiple dwelling however the maximum permitted building height is restricted to 44.5 m which is less than the 80.0 m height that is proposed. The southerly portion of the subject lands are presently zoned Downtown Hamilton Multiple Residential (D6) Zone in the City of Hamilton Zoning By-law No. 05-200 (see Appendix “A” to Report PED18196) which permits a multiple dwelling but does not permit commercial uses and restricts the maximum building height to 22 m.

The proposed development will exceed the maximum height requirements outlined in the current DTSP. However, increases in height are permitted provided it can be demonstrated that the proposed increase in height will not create adverse impacts in respect to sun shadow, wind or street views. As was discussed in the DTSP section of this Report, the proposed development will not create adverse sun shadow or wind impacts and that the proposed podium with appropriate setbacks will ensure that the proposed building is massed to protect street views.

In addition the proposed development is in line with the both the scale of development and the intended uses proposed in the Council approved DTSP.

The proposal is to establish a site specific Downtown Central Business District (D1) Zone with modifications to implement the proposal. These modifications are identified and discussed in detail within a chart format attached as Appendix “E1” to Report PED18196.

5. As discussed in the Policy Implications and Legislated Requirements section of this Report, the subject property has the potential to be a contaminated site due to the previous commercial use of the lands and surface commercial parking lot. In addition, it is noted that the applicant has undergone a Phase I Environmental Site Assessment but has not submitted their findings to the MECP. In order to ensure that the applicant submits the findings of the Environmental Site Assessment and receives a Notice of Acknowledgement letter from the MECP, the proposed By-law will establish a 'H' Holding Provision on the subject property.
6. There are existing municipal services along Main Street East, Walnut Street South, and Jackson Street East.

The following road widenings have been identified:

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- approximately 2.0 m is required along Jackson Street East;
- approximately 1.22 m along Walnut Street South; and,
- approximately 3.0 m along Main Street East.

The following daylight triangle requirements have been identified:

- 12.19 m by 12.19 m at the intersection of Main Street East and Walnut Street South; and,
- 4.57 m by 4.57 m at the intersection of Walnut Street South and Jackson Street East.

As outlined in the Relevant Consultation Section of this Report, the proposed design is not based on the required land dedications for road widening and daylight triangles, however the modifications for maximum setback and minimum stepback will apply to the ultimate design. Furthermore as previously outlined the land dedication requirements that are being requested by City staff have been revised.

As part of the review of the Zoning By-law Amendment Application, a Functional Servicing Report was provided and Development Engineering staff are generally satisfied in respect to establishing the principal of the land use. However, at the Site Plan Control stage, an update the Functional Servicing Report including a detailed engineering analysis must be undertaken to demonstrate that servicing requirements have been satisfied. Staff will undertake a detailed review in respect to grading and drainage, stormwater management, and servicing as part of the Site Plan Control Application.

7. On June 4, 2018 the Public Works Committee approved the closure and sale of the portion of the alleyway that is located between 154 Main Street East and 49 Walnut Street South. The decision of the Public Works Committee was approved by Council on June 13, 2018. At the time of the writing of this Report, the sale and transfer of the lands has not yet been finalized and will need to be completed prior to a future Site Plan Control Application. In order to ensure sale and transfer of the lands is completed and the lands merged on title with the balance of the lands the proposed By-law will establish a 'H' Holding Provision on the subject property.
8. Following the Notice of Complete Application, staff received two letters of correspondence (see Appendix "G" to Report PED18196). One letter of correspondence requested information from the City of Hamilton on the application and approval process for Zoning By-law Amendment Application. The second letter of correspondence identified areas of concerns:

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Traffic

A concern was raised with respect to the traffic impacts of the proposed development and particularly the impact of traffic on pedestrians and those with disabilities. The applicant submitted a traffic impact letter that identified a modest increase of 60 to 70 additional peak hour trips in the morning and afternoon. In addition, the proposed development will include the establishment of wider sidewalks and will also include landscaping between the street and the sidewalk in order to separate pedestrians and vehicles. These changes will reduce traffic conflicts between pedestrians and vehicles and will improve the safety of pedestrians.

Pedestrian Study

A question was raised as to whether a pedestrian study of people in the neighbourhood was undertaken specifically with respect to the number of people with mobility issues. Staff informed the interested party that the pedestrian realm is reviewed as part of the Urban Design Brief which includes the functionality of the public realm and pedestrian experience in accordance with AODA requirements but that the Urban Design Brief does not assess the specific needs of people with mobility issues.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Official Plan Amendment and Zoning By-law Amendment Applications be denied, the subject property could be utilized in accordance with the range of uses and provisions of the Downtown Mixed Use (D3) Zone and Downtown Multiple Residential (D6) Zone. Additionally should the Zoning By-law Amendment Application be denied, then upon By-law 18-114 coming into effect the subject property could be utilized in accordance with the range of uses and provisions of the Council Approved Downtown Central Business District (D1) Zone.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" – Location Map
- Appendix "B" – Draft Official Plan Amendment
- Appendix "C" – Draft Amendment to Zoning By-law No. 05-200
- Appendix "D" – Draft Amendment to Zoning By-law No. 05-200 (Under Appeal)
- Appendix "E1" – Zoning Table (By-law Provisions – Current Zoning)
- Appendix "E2" – Zoning Table (B-law Provisions – Council Adopted)
- Appendix "F" – Revised Concept Plan
- Appendix "G" – Public Comments

DB:mo