



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 2, 2019
SUBJECT/REPORT NO:	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 282 MacNab Street North, Hamilton (PED19071) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Mark Kehler (905) 546-2424 Ext. 4148
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Official Plan Amendment Application UHOPA-18-015 by St. Jean Properties Inc. and Durand Development Corporation, Owner**, to establish a Special Policy Area on Schedule “M-2” of the West Harbour (Setting Sail) Secondary Plan in the former City of Hamilton Official Plan to permit the development of a 13 storey, 110 unit multiple dwelling with a residential density of 847 units per gross hectare, for lands located at 282 MacNab Street North, as shown on Appendix “A” to Report PED19071, be **DENIED** on the following basis:
- (i) That the proposed amendment to the West Harbour (Setting Sail) Secondary Plan does not comply with the City of Hamilton Official Plan and the West Harbour (Setting Sail) Secondary Plan, with regards to matters including but not limited to, building height, massing, built form and compatibility with the existing character of the surrounding neighbourhood.
- (b) That **Zoning By-law Amendment Application ZAC-18-037 by St. Jean Properties Inc. and Durand Development Corporation, Owner**, for a change in zoning from the “J” (Light and Limited Heavy Industry, Etc.) District to a site specific “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District to permit a 13 storey (43.5 m), 110 unit multiple dwelling with 51 parking spaces for lands

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located at 282 MacNab Street North, Hamilton, as shown on Appendix “A” to Report PED19071, be **DENIED** on the following basis:

- (i) That the proposed change in zoning does not comply with the City of Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan, with regards to matters including but not limited to, building height, massing, built form and compatibility with the existing character of the surrounding neighbourhood.

EXECUTIVE SUMMARY

The owner, St. Jean Properties Inc. and Durand Development Corporation, has applied for an Official Plan Amendment and Zoning By-law Amendment to permit an 13 storey (43.5 m), 110 unit multiple dwelling with 51 parking spaces on lands located at 282 MacNab Street North, Hamilton.

The subject property is located within the West Harbour (Setting Sail) Secondary Plan approved by the Ontario Municipal Board in August, 2013. The purpose of the Official Plan Amendment is to establish a Special Policy Area on Schedule “M-2” of the West Harbour (Setting Sail) Secondary Plan to permit a 13 storey, 110 unit multiple dwelling with a residential density of 847 units per gross hectare.

The purpose of the Zoning By-law Amendment is to rezone the subject lands from the “J” (Light and Limited Heavy Industry, Etc.) District to a site specific “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District. Modifications to the “E” District have been requested to permit increased building height and floor area ratio and reduced front, side and rear setbacks, landscaped area, parking stall size, number of parking spaces, loading space dimensions and number of loading spaces.

The proposal does not comply with the West Harbour (Setting Sail) Secondary Plan with respect to building height and compatibility with the character of the surrounding low density residential neighbourhood. The proposed 13 storey (43.5 m) mixed use building does not comply with the policies applicable to Stable Areas and the Medium Density Residential 1 designation within the Secondary Plan.

Staff recommend the applications be denied.

Alternatives for Consideration – See Page 25

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

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Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an Application for an amendment to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND

Proposal

The subject property is located at the southeast corner of Stuart Street and MacNab Street North, two blocks north and one block west of the intersection of Barton Street West and James Street North. The property is rectangular in shape, has a lot area of approximately 0.13 ha (1,294 m²) and is municipally known as 282 MacNab Street North.

The property is currently vacant and was formerly occupied by a two storey building, three sheet metal garages, two shipping containers and a covered storage area. In the 1940s, the property was developed as a gas station and automobile service garage that operated until the early 1990s. The property was most recently used for office space and storage.

The applicant is proposing to construct a 13 storey, 43.5 m high multiple dwelling with 110 dwelling units and 51 vehicle parking spaces for residents provided on the ground level and within two levels of underground parking. No visitor parking is proposed. A bicycle storage facility is proposed at grade with capacity for 47 bicycles. The proposed building includes a one storey podium with an outdoor amenity area on the roof of the podium.

The applicant has applied to amend the West Harbour (Setting Sail) Secondary Plan to permit a maximum building height of 13 storeys and a maximum residential density of 847 units per gross hectare. The existing Medium Density Residential 1 designation applicable to the subject lands permits a maximum building height of 5 storeys and a maximum residential density of 150 units per gross hectare.

The applicant has applied for a change in zoning from the “J” (Light and Limited Heavy Industry, Etc.) District to a site specific “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District. Modifications to the “E” District have been requested to permit increased building height and floor area ratio and reduced front, side and rear setbacks, landscaped area, parking stall size, number of parking spaces, loading space dimensions and number of loading spaces.

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Chronology:

July 3, 2018: Submission of Official Plan Amendment and Zoning By-law Amendment Applications UHOPA-18-015 and ZAC-18-037.

July 25, 2018: Applications UHOPA-18-015 and ZAC-18-037 deemed incomplete.

September 25, 2018: Applications UHOPA-18-015 and ZAC-18-037 deemed complete.

October 9, 2018: Notice of Complete Application and Preliminary Circulation was sent to 184 property owners within 120 m of the subject lands.

October 9, 2018: Public Notice Sign installed on the subject lands.

November 21, 2018: Public Open House held by the applicant and agent.

March 15, 2019: Public Notice published in the Hamilton Spectator.

March 15, 2019: Circulation of the Notice of Public Meeting to 184 property owners within 120 m of the subject property.

Details of Submitted Applications:

Owner: St. Jean Properties Inc. and Durand Development Corporation

Applicant: St. Jean Properties Inc. and Durand Development Corporation

Agent: GSP Group Inc. (c/o Brenda Khes)

Location: 282 MacNab Street North (see Appendix “A” to Report PED19071)

Property Description:

<u>Lot Frontage:</u>	35.27 m (MacNab Street North)
<u>Lot Depth:</u>	36.69 m
<u>Lot Area:</u>	1,294 sq m (0.129 ha)
<u>Servicing:</u>	Existing Full Municipal Services

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Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Vacant	“J” (Light and Limited Heavy Industry, Etc.) District

Surrounding Land Uses:

North	West Harbour Go Station	“G-3”-“H” (Public Parking Lots) District - Holding
East	West Harbour Go Station and a place of worship (Romanian Orthodox Church)	“G-3”-“H” (Public Parking Lots) District - Holding and Neighbourhood Institutional (I1) Zone
South	Place of worship (Romanian Orthodox Church)	Neighbourhood Institutional (I1) Zone
West	Single detached dwellings and a one storey commercial building	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District and “J” (Light and Limited Heavy Industry, Etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2014) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, apply to the proposed development.

Settlement Areas

With respect to Settlement Areas, the PPS provides the following:

“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;
 4. *support active transportation*;
 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.”

The subject property is located within a settlement area as defined by the PPS. The proposed 110 unit multiple dwelling would contribute to the mix of land uses in the area, would efficiently use land and existing infrastructure, and represents a form of intensification. The proposal is transit-supportive by providing intensification in close proximity to the West Harbour GO Station, seeking a reduced parking requirement and providing 47 bicycle parking spaces.

Cultural Heritage and Archaeology

With respect to Cultural Heritage and Archaeology, the PPS provides the following:

- “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 area of archaeological potential unless significant archaeological resources have been conserved.
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

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The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the PPS apply to the lands. Should the applications be approved, an acknowledgement note of the archaeological requirements applicable to the site would be required at the Site Plan Control stage.

A Cultural Heritage Impact Assessment (CHIA) was submitted as part of the Urban Design Brief dated June 2018 completed by McCallum Sather. Staff have reviewed the CHIA and forwarded it to the Policy and Design Working Group of the Hamilton Municipal Heritage Committee for comment. The Working Group expressed concern that the proposed building height is not in keeping with the character of the neighbourhood, including the Romanian Orthodox Church to the south. The church is included in the City's Inventory of Buildings of Architectural and / or Historical Interest. Staff have requested the applicant respond to the concerns raised by the Working Group. As of the writing of this report, staff have not received a response.

Noise

Regarding noise, the PPS provides the following:

“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.”

The applicant submitted a Noise Impact Assessment prepared by WSP dated June 28, 2018 for the subject proposal. Due to the site's location adjacent to the West Harbour GO Station, the assessment was forwarded to Metrolinx for review. Metrolinx staff have expressed concerns that the assessment does not reflect current track design speed, does not comment on the effect of typical GO Transit operations and that vibration measurements were not conducted on the subject site. In addition, City staff are concerned that the proposed amenity area on the roof of the podium has not been assessed against the Ministry of the Environment, Conservation and Parks (MECP) guidelines for an Outdoor Living Area.

Should the applications be approved, staff recommend a revised Noise Impact Assessment be required through a Holding Provision demonstrating that the development can meet MECP noise guidelines. Any required noise mitigation measures and warning clauses would be implemented at the Site Plan Control stage.

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Human-Made Hazards

“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 the past use of the property for industrial / commercial purposes. As a result, the property is subject to environmental review to allow for the proposed multiple dwelling use. The applicant has undergone a Phase I and II Environmental Site Assessment (ESA). The Phase I ESA identified a number of potential environmental concerns including abandoned underground storage tanks, fuel lines and an out of service fuel pump, previous use as a vehicle repair garage, and the presence of poor quality fill. Further concerns were identified due to the potential migration of contaminants from off-site sources including a former CN Rail yard to the north, former street car maintenance activities to the east and potential historical fuel oil use to the south. The Phase II ESA identified contaminated surface soil fill throughout the site and gasoline / fuel contamination near the former fuel lines and pump. The Owner will be responsible for ensuring a Record of Site Condition (RSC) has been filed appropriately satisfying the MECP. Should the applications be approved, staff would request a Holding Provision requiring the provision of a Notice of Acknowledgment letter from the MECP for the RSC.

Based on the foregoing, the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (2017)

As of July 1, 2017, the provisions of the Growth Plan for the Greater Golden Horseshoe, 2017 (the Growth Plan) apply to any planning decision.

Policy 2.2.1.2(a) of the Growth Plan directs the majority of growth to settlement areas that have access to municipal water and wastewater systems and can support the achievement of complete communities. Policy 2.2.1.2(c) establishes that locations with existing or planned transit will be focus areas for growth within settlement areas and Policy 2.2.1.4 supports the achievement of complete communities through the following measures, amongst others:

- “a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;

- c) provide a diverse range and mix of housing options, including second units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.”

The subject lands are located within the Hamilton urban boundary and are fully serviced by municipal water and wastewater infrastructure. The proposal would contribute to achieving a complete community by expanding housing options within the neighbourhood. The proposed multiple dwelling would have access to a range of transportation options, including the West Harbour GO Station and future planned A-Line Rapid Transit corridor.

Also, according to Policy 2.2.2.1 of the Growth Plan, by the year 2031, and each year thereafter, a minimum of 60% of all residential development occurring within a municipality must be within the delineated built up area. This proposal represents a form of residential intensification within the built up area, consistent with the growth management policies of the Growth Plan.

Based on the foregoing, the proposal conforms with the policies of the Growth Plan.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) was approved by Council on July 9, 2009 and the Ministry of Municipal Affairs on March 16, 2011.

There was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the UHOP because at the time the Ministry was reviewing the UHOP, the Secondary Plan was still under appeal. The lands are currently identified as “Lands Subject to Non Decision 113 West Harbour Setting Sail” on Schedule E-1 of the UHOP, therefore the UHOP policies do not apply. As a result, when the UHOP came into effect on August 16, 2013, it did not affect the West Harbour (Setting Sail) Secondary Plan. Should the applications be approved, staff would request that the proposed Official Plan Amendment be included in the Secondary Plan at the time when the Ministry deals with the non-decision.

Hamilton-Wentworth Official Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the Hamilton-Wentworth Official Plan that are applicable to the subject lands remain in effect. In this regard, the subject lands are within the Urban Area of the Hamilton-Wentworth Official Plan and the following policies, amongst other, apply to the proposal.

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Urban Area

“C.3.1 A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:

- Compact urban form, including mixed use areas.

C.3.1.1 A compact higher density form, with mixed use development in identified Regional and Municipal centres and along corridors, best meets the environmental, economic principles of sustainable development.

Mixed forms of development within an Urban Area is preferable to widespread, low density residential development and scattered rural development, because:

- Growth can be accommodated by building on vacant or redeveloped land, without taking up agricultural lands or natural areas;
- Higher density development can reduce per capita servicing costs and makes more efficient use of existing services;
- Efficient and affordable public transit systems can be established;
- Effective community design can ensure people are close to recreation, natural areas, shopping and their workplace; and,
- A compact community makes walking and bicycling viable options for movement.”

Redevelopment of the subject lands for residential uses would comply with the above policy direction to encourage redevelopment of the subject lands for compact development within the Urban Area. The proposed multiple dwelling would provide for efficient use of services. As such, the proposal complies with the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the City of Hamilton Official Plan remain in effect. Schedule A of the City of Hamilton Official Plan designates the subject lands “West Harbour.” The policies of the West Harbour (Setting Sail) Secondary Plan provide more detailed designations and policy framework for this area. The following City of Hamilton Official Plan policies, amongst others, apply to the proposal.

“Subsection B.2.1 – Water Distribution

B.2.1.1 In accordance with the Regional Official Plan, Council will encourage the Region to maintain and, where necessary, improve water supply in the City. New development and / or redevelopment will only be permitted where the water supply is deemed to be adequate by the Region.

Subsection B.2.2 – Sewage Disposal

B.2.2.1 Council will encourage the Region to ensure that all new development in the City be effectively serviced by the SEWAGE DISPOSAL System. In this regard, Council will encourage the appropriate agencies to ensure that necessary improvements to, or extension of, the SEWAGE DISPOSAL System, expansions to the capacity of the Woodward Avenue Sewage Treatment Plant, and the monitoring of effluents discharged are undertaken.

Subsection B.2.3 – Storm Drainage

B.2.3.1 Council will require that all new development and / or redevelopment be connected to, and serviced by, a STORM DRAINAGE System or other appropriate system such as ditches, ‘zero run-off’, and any other technique acceptable to Council and the Conservation Authorities. Council will ensure that the extension of the STORM sewer System is at sufficient capacity to support future anticipated growth in the City. In this regard, Council will co-operate with the appropriate Conservation Authorities in any flood management studies or engineering works that may be undertaken from time to time to improve or maintain the DRAINAGE capacity of natural watercourses flowing through the City.”

There are existing services adjacent to the subject property including sanitary, storm and watermain sewers. Should the applications be approved, stormwater management, geotechnical and hydrogeological studies would be required at the Site Plan Control stage.

“Subsection 2.4.5- Solid Waste Disposal

- B.2.4.5 All uses in the City will be served by a regularly-scheduled SOLID WASTE collection through the municipal DISPOSAL service, or in the case of certain uses, through individually-contracted collection service.”

The proposed mixed use development is eligible for curbside waste collection by City Services subject to the requirements of the City’s Solid Waste Management By-law. Should the applications be approved, waste collection would be examined in greater detail at the Site Plan Control stage.

“Subsection C.7 – Residential Environmental and Housing Policy

- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.

- C.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

- iii) Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and / or physical infrastructure that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- ix) Support the concept of a RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents;
- xii) Encourage development at densities conducive to efficient operation of Public Transit and which utilizes design or construction techniques that are energy efficient;”

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The proposed multiple dwelling complies with Policies C.7.3 ix) and xii) by increasing the availability of residential units in the neighbourhood and increasing residential densities adjacent to the West Harbour GO Station.

Staff are concerned that the proposed 13 storey (43.5 m) building height fails to address the intent of Policies C.7.2 and C.7.3 iii) and v). These policies reinforce the need for new development to recognize and enhance the scale and character of the existing residential area. For reasons to be discussed later in the Secondary Plan and Analysis and Rationale for Recommendation sections of this Report, it is the opinion of staff that the proposed 13 storey (43.5 m) building height is not appropriate given the character of the existing residential area and the policy direction provided in the Official Plan.

Based on the above policy review, the proposal does not meet the intent of the City of Hamilton Official Plan with respect to matters including but not limited to building height, scale, massing, built form and recognizing and enhancing the character of the existing residential area.

West Harbour (Setting Sail) Secondary Plan (OPA No. 198)

The West Harbour (Setting Sail) Secondary Plan was approved by Council in 2005. Due to appeals to the Ontario Municipal Board (OMB), the Secondary Plan was not deemed to be in effect until the OMB issued its final decision in 2012. This decision added the Secondary Plan to the former City of Hamilton Official Plan as that was the Official Plan in effect for the former City of Hamilton at that time.

When the UHOP was brought into effect by the OMB in 2013, all of the lands within the West Harbour (Setting Sail) Secondary Plan area were noted as being subject to Non-Decision No. 113. Therefore, the operable Secondary Plan policies in effect to review against the proposed development are those policies in the West Harbour (Setting Sail) Secondary Plan OPA No. 198 instead of the UHOP (Volume 2).

The subject property is identified as “Stable Areas” on Schedule M-1 – Planning Area and Sub-Areas and is designated “Medium Density Residential 1” on Schedule M-2 – General Land Use. The lands are located within the “Zone of Noise Influence” on Schedule M-3 – Zone of Noise Influence. The following policies, amongst others, apply to the proposal.

Planning Principles

“A.6.3.2.2 Strengthen existing neighbourhoods;

- i) ensure new development respects and enhances the character of the neighbourhood;

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- ii) relocate heavy industrial uses and clean-up contaminated sites;
- iii) encourage compatible development on abandoned, vacant and under-utilized land;

Stable Areas:

A.6.3.7 Stable Areas

The Stable Areas are identified on Schedule “M-1”. They comprise the generally low density neighbourhoods that define the residential character of West Harbour. Significant physical change is not anticipated in Stable Areas. The intent of the policies in this section is to maintain and reinforce the character of existing neighbourhoods and to encourage the replacement of inappropriate industrial and commercial uses with sensitively-designed residential development.

A.6.3.7.1 Land Use

A.6.3.7.1.1 The predominant land use in Stable Areas shall be Low Density Residential, with detached, semi-detached and street townhouses being the predominant types of housing.”

The West Harbour (Setting Sail) Secondary plan identifies three areas planned for significant land use change – the Waterfront, Barton-Tiffany and the Ferguson-Wellington Corridor. The plan further identifies Corridors of Gradual Change along portions of York Boulevard, Cannon Street, Barton Street and James Street. The remainder of the secondary plan area is identified as Stable Areas, which are generally low density residential character areas in which significant physical change is not anticipated. Policy A.6.3.7.1.1 establishes that housing within Stable Areas is envisioned to consist predominantly of detached, semi-detached and street townhouse dwellings.

Consistent with Policies A.6.3.2.2 (ii) and A.6.3.7, the proposed development represents an opportunity to redevelop a contaminated commercial site. Staff are concerned however, that the proposal is not sensitively-designed residential development as described in Policy A.6.3.7.

Policy A.6.3.2.2 iii) further clarifies that the development of underutilized land should be “compatible.” Policies A.6.3.2.2 (i) and A.6.3.7 require that new development respect and enhance the character of existing neighbourhoods and encourage the replacement of inappropriate industrial and commercial uses with sensitively-designed residential development. The subject site is located at the northern edge of a stable residential

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area bounded by the CN / GO railway tracks to the north, James Street North to the east, Bay Street North to the west and Cannon Street West to the south. This area is characterized primarily by single detached, semi-detached and street townhouse dwellings together with some low rise multiple dwellings and neighbourhood institutional uses. Primarily low rise mixed use corridors exist along James Street North and Cannon Street West and there are light industrial and commercial uses near Bay Street North and Mulberry Street and across from the CN rail tracks along Stuart Street.

The immediate context includes a one storey commercial building and single detached dwellings to the west, the one storey West Harbour GO Station to the north and east, and a place of worship to the south and east. Further to the west is a six storey multiple dwelling at 50 Murray Street (also known as the “Witton Lofts”).

In the opinion of staff, the height, scale and massing of the proposed 13 storey (43.5 m) multiple dwelling does not maintain and reinforce the existing and planned low rise residential character of the area nor is it a sensitively-designed residential development given the immediate context. The proposal is taller than any surrounding buildings and its massing includes full lot coverage and limited building step backs above the first storey to reduce the visual impact of the development on the adjacent place of worship and low rise residential uses to the west, east and south. In comparison, the nearby Witton Lofts development features a lower building height and large side and rear setbacks from the primary building to adjacent properties. Overall, the scale of the proposed development is incompatible with the predominant low rise built form of the neighbourhood that forms a key component of its character.

Based on the forgoing, the proposal does not comply with Policies A.6.3.2.2 (i), A.6.3.7 and A.6.3.2.2 iii). Therefore, the proposal does not align with the “Strengthening existing neighbourhoods” planning principle and the intent of the Stable Areas component of the land use plan that new development respect and enhance the character of existing neighbourhoods.

Medium Density Residential 1

“A.6.3.3.1.13 In Medium Density Residential 1 areas:

- i) multiple dwellings are permitted;
- ii) the density of development shall be in the range of 60 – 150 units per gross hectare;
- iii) the height of buildings shall range from 3 to 5 storeys;

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- v) front yard setbacks shall be generally consistent with the setbacks of adjacent buildings;
- vii) parking areas generally shall be provided at the rear of sites or underground, with access from public streets or laneways;
- ix) the main entrances to buildings shall face public streets;
- x) private amenity space shall be provided on balconies and terraces, at the front or rear of individual ground-floor units, and/or within internal courtyards outdoors and indoors;
- xi) common amenity space shall be consolidated on the site to create useable spaces;
- xii) the design and massing of buildings shall minimize shadow and wind impacts on the public realm; and
- xiii) the design of new developments shall have respect for the light, views and privacy enjoyed by residents in adjacent buildings and areas.”

As per Policy A.6.3.3.1.13 i), the proposed multiple dwelling use is permitted in the Medium Density Residential 1 designation. The proposed parking within the ground floor and underground levels accessible from MacNab Street North complies with Policy A.6.3.3.1.13 vii). As required by Policies A.6.3.3.1.13 x) and xi), private amenity space is proposed within individual balconies and indoor and outdoor common amenity space is proposed at the second storey. The proposed primary building entrance faces MacNab Street North and complies with Policy A.6.3.3.1.13 ix).

In response to Policy A.6.3.3.1.13 xii), the applicant submitted a Sun Shadow Analysis prepared by McCallum Sather, dated June 2018 and a Pedestrian Wind Assessment prepared by Novus Environmental dated June 27, 2018. The Sun Shadow Analysis demonstrates that most of the shadowing cast by the proposed development is to the northeast, north and northwest, including over industrial lands, the CN Rail Corridor and the West Harbour GO Station. Shadows cast on the public realm would occur on portions of MacNab Street North on December 21st, March 21st, June 21st, and September 21st from 10:00 am to 12:00 pm. Longer shadows would occur on December 21st resulting in shadows on portions of Stuart Street to the northwest at 10:00 am and portions of Strachan Street East, James Street North and Simcoe Street East to the northeast at 4:00 pm.

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Staff are satisfied that the shadow impact of the development would be minimal as they would occur at low usage times during the day, for limited duration, primarily over industrial / railway lands. Limited shadow impacts are expected in the summer months. The Pedestrian Wind Assessment determined that wind conditions on MacNab Street North and Stuart Street adjacent to the development would be suitable for standing or leisurely walking year round. In the opinion of staff, the development complies with Policy A.6.3.3.1.13 xii).

In response to Policy A.6.3.3.1.13 xiii), the applicant submitted an Urban Design Brief and Visual Impact Assessment prepared by McCallum Sather, dated June 2018. Staff are concerned that the applicant's analysis has not adequately addressed issues of privacy and overlook on neighbouring properties to the south and east. Due to the difference in scale between the proposed 13 storey building and the surrounding low profile residential neighbourhood, staff are not satisfied that Policy A.6.3.3.1.13 xiii) has been addressed.

The Medium Density Residential 1 designation permits a maximum building height of five storeys and a maximum density of 150 units per gross hectare. The proposed 13 storey (43.5 m) multiple dwelling with a density of 847 units per gross hectare does not comply with A.6.3.3.1.13 ii) and iii). In addition, the proposal does not comply with Policy A.6.3.3.1.13 v) as the proposed 0 m front yard setback does not align with the existing place of worship to the south. The intent of the Medium Density Residential 1 designation applicable to the subject lands is to permit multiple dwelling forms that maintain and reinforce the character of the surrounding low density residential neighbourhood. In the opinion of staff, the proposed 13 storey multiple dwelling with no building setbacks at the first storey does not recognize and enhance the scale and character of the existing residential area.

Urban Design:

The following Urban Design policies, amongst others, apply to the proposal.

“A.6.3.3.4.1 New development, redevelopment and alterations to existing buildings in West Harbour shall respect, complement and enhance the best attributes of West Harbour and shall adhere to the following urban design principles:

- i) Create a comfortable and interesting pedestrian environment;
- ii) Respect the design, scale, massing, setbacks, height and use of neighbouring buildings, existing and anticipated by this plan;

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- iii) Generally locate surface parking at the rear or side of buildings;
- iv) Provide main entrances and windows on the street-facing walls of buildings, with entrances at grade level;”

The proposal complies with Policies A.6.3.3.4.1 iv) by providing a street oriented building with ground floor glazing and a building entrance facing the street. Parking is provided within the ground floor and below grade, out of view from the public realm, and therefore meets the intent of Policy A.6.3.3.4.1 iii).

Staff are of the opinion that the proposed 13 storey (43.5 m) building does not respect the scale, height and massing anticipated by the Secondary Plan as required by Policy A.6.3.3.4.1 ii). In the opinion of staff, the height of the podium should be increased to match the height of adjacent buildings and the front yard setback should be increased to allow for a wider pedestrian realm. Staff are not satisfied that the proposal creates a comfortable and interesting pedestrian environment as required by Policy A.6.3.3.4.1 i). This direction is particularly relevant to the site as it is adjacent to the West Harbour GO station.

James Street North Mobility Hub Study

On September 24, 2014, Hamilton City Council adopted the James Street North Mobility Hub Study. The Study was commissioned by the City of Hamilton to guide future planning and development in the area surrounding the intersection of the now constructed West Harbour GO train station and the planned City of Hamilton A-Line rapid transit corridor. This location is identified as a Gateway Hub by Metrolinx in The Big Move transportation plan for the GTHA and as a key intersection in the regional transportation network intended to support transit access and high density development. As of the writing of this report, the recommendations of the James Street North Mobility Hub Study have not been incorporated comprehensively into the Official Plan and Zoning By-law. As a Council adopted document, Staff consider the Study to be informative when considering the development potential of the subject lands.

The following Guiding Principles of the James Street North Mobility Hub Study, amongst others apply:

- “3. Walkable & Inviting Streets & Open Spaces – Streets within the Mobility Hub will be pedestrian-oriented, and accessible for people of all ages and abilities. They will be framed by animated building edges with wide sidewalks, weather protection, lighting and way-finding.

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4. Protect Existing Neighbourhoods – Stable residential neighbourhoods will be protected from undesirable development and intensification. Taller buildings will be designed and located to minimize shadowing, overlook and other adverse impacts.
5. Develop an Appropriate Scale, Form & Density – Intensification will be encouraged where appropriate through low-impact density and within close proximity to transit. Development will repair gaps in the built environment and be sensitive to community context and character, such as the existing James Street North streetwall.
7. Mix of Uses Within the Primary & Secondary Zones – Development within the Mobility Hub aims to create a vibrant mixed use community that supports existing and new transit infrastructure.”

The subject lands are located within the Primary Zone of the Mobility Hub and within Focus Area C – Station Area. The Primary Zone is the area with the greatest potential for change through redevelopment and includes the lands directly associated with the West Harbour GO Station (Focus Area C).

As per Guiding Principle 7, the proposal would add to the mix of uses within the Primary Zone of the Mobility Hub that would help support existing and new transit infrastructure.

The proposed 0 m front yard setback would limit opportunities to enhance the pedestrian realm adjacent to the development as recommended through Guiding Principle 3. In addition, staff are of the opinion that the height of the proposed podium should better reflect the width of the right-of-way and adjacent buildings to more appropriately frame the building edge.

The Study describes the Station Area as being defined by its historic architecture and proximity to adjacent stable residential neighbourhoods. It recommends the design and massing of new development respect this character while integrating opportunities for greater density where appropriate.

Staff recognize that the recommendations of the Council adopted James Street North Mobility Hub Study support increased density in the Station Area, including where appropriate, density beyond what is provided for in the West Harbour (Setting Sail) Secondary Plan. Staff are concerned however, that the proposed 13 storey (43.5 m) building height and massing that includes no building setbacks and limited step backs above the first storey does not respect the character of the adjacent stable residential neighbourhood. The Study’s recommendations were developed to balance the protection of stable residential neighbourhoods with the goal of appropriate intensification within close proximity to transit (Guiding Principles 4 and 5).

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City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned “J” (Light and Limited Heavy Industry, Etc.) District. In order to implement the proposed development, the applicant has applied to change the zoning to a site specific “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District. The applicant has requested the following site specific modifications to the “E” District zoning:

- Increased maximum building height;
- Reduced setbacks from all street and lot lines;
- Eliminated landscaped area requirement;
- Eliminated floor area ratio requirement;
- Reduced parking space size;
- Reduced parking rate; and,
- Reduced loading space dimensions and number of loading spaces.

RELEVANT CONSULTATION

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

- Recycling & Waste Disposal, Operations Division, Public Works Department;
- Transit Division, Public Works Department; and,
- Alectra Utilities (formerly Horizon Utilities Corporation).

The following Departments and Agencies have provided comments on the applications:

CN Rail advised that they have concerns regarding developing / densifying residential uses abutting their railway right of way. The applicant is advised to refer to CN’s guidelines for the development of sensitive uses in proximity to railways. CN intends to review the applicant’s noise study. As of the writing of this report, the results of this review have not been received by staff.

Metrolinx requested that the applicant demonstrate that the proposed building separation distances and setbacks would not adversely impact the development potential of the adjacent West Harbour GO lands. Metrolinx staff advised that the submitted Noise Impact Assessment does not reflect current track design speed, does not comment on typical GO transit operations and does not include vibration measurements for the subject site. Should the applications be approved, a drainage report would be required to the satisfaction of Metrolinx, construction and access would need to be coordinated to ensure access to the GO Station is maintained and fencing would need to be provided meeting GO Transit standards.

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Healthy Environments Division, Public Health Services staff have indicated that a Pest Control Plan will be required. Should the applications be approved, this matter would be a condition at the Site Plan Control stage.

Forestry and Horticulture Section, Public Works Department, noted that there are no municipal tree assets on the subject property. Should the applications be approved, a Landscape Plan for street trees would be required at the Site Plan Control stage.

Design Review Panel (DRP)

The development proposal was presented to the City's Design Review Panel (DRP) on December 13, 2018 after submission of the Official Plan Amendment and Zoning By-law Amendment applications. The mandate of the DRP is to provide design advice to staff and the proponent.

The DRP provided a number of design recommendations to staff and the applicant, including the summarized comments below, amongst others:

- The panel acknowledged that the site is a good candidate for some density due to the proximity to the GO station, but the current proposal is too high and too dense for the neighbourhood.
- The building's footprint is too large and its mass is too bulky; it does not adequately transition to the existing neighbourhood.
- The panel acknowledged that the site has some constraints due to the size of the land parcel and its surroundings; however, the panel agreed that the current proposal is too tight, squeezing too many elements into a small area.
- The front façade of the building should align with the row of existing buildings on MacNab Street North to define the street edge and achieve a consistent setback.
- The podium should have a height of two or three storeys before stepping back, for a more prominent street wall that reflects the heights of other buildings in the neighbourhood.

Applicant's Response to DRP Advice:

As of the writing of this report, the applicant has not responded to the DRP's recommendations in the form of a revised submission. The unaddressed comments provided by DRP generally align with staff's concerns regarding height and massing, setbacks and podium height.

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 184 property owners within 120 m of the subject property on October 9, 2018. A Public Notice sign was posted on the property on October 9, 2018. Finally, Notice of the Public Meeting was posted in the Hamilton Spectator in accordance with the requirements of the *Planning Act*.

To date, five letters, a petition with 205 signatures and an online petition have been submitted expressing concerns with the proposed development (refer to Appendix “C” of Report PED19071). These concerns are summarized in the Analysis and Rationale for Recommendation section of this report.

Public Consultation Strategy

In accordance with their submitted Public Consultation Strategy, the applicant held a public open house on November 21st, 2018. Invitations to the open house were mailed to residents within 120 m of the subject lands. As of the writing of this Report, the applicant has not provided documentation on the number of residents who attended the open house, the comments received and any changes to the proposal as a result of public consultation efforts. Two City staff members and the Ward Councillor attended the open house.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Official Plan and Zoning By-law amendments cannot be supported for the following reason:
 - (i) The proposal does not comply with the policies of the City of Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan, with regards to matters including, but not limited to, building height, massing, built form and compatibility with the existing character of the surrounding neighbourhood.

2. As discussed in the Official Plan analysis section of this report, staff are not in support of the proposal for the following reasons:

Building Height and Massing

The West Harbour (Setting Sail) Secondary Plan permits a maximum building height of five storeys for the subject lands. The proposed 13 storey (43.5 m) building height does not meet the intent of the West Harbour (Setting Sail) Secondary Plan that envisions building heights that recognize and enhance the scale and character of the existing residential area. The building height would exceed that of buildings existing in the surrounding area and the massing would include full lot coverage and limited building step backs to reduce visual impact on properties to the south, east and west. The proposed 0 m front yard setback does not align with adjacent properties and does not allow for an expanded pedestrian realm adjacent to the West Harbour GO Station, and the one storey podium height does not complement the building height of adjacent buildings.

Compatibility with the Character of the Surrounding Neighbourhood

The subject lands are located at the northern edge of a stable residential area consisting primarily of single detached, semi-detached and townhouse dwellings. The area context includes a six storey multiple dwelling to west that incorporates a lower overall building height and larger setbacks to adjacent residential uses. A one storey commercial building and detached dwellings exist to the west, the one storey West Harbour GO Station to the north and east and a place of worship to the south and east. The proposed 13 storey (43.5 m) building is not in keeping with the prevailing scale, massing and building heights adjacent to the subject lands and in the overall neighbourhood. In staff's opinion, the proposal does not recognize and enhance the scale and character of the existing residential area.

Therefore, staff recommend that the applications be denied.

3. Engineering

Existing servicing for the site includes a 450 mm combined storm and sanitary sewer, 750 mm storm sewer, 200 mm watermain and 1650 mm sanitary sewer on MacNab Street North.

Development Engineering staff have reviewed the Functional Servicing Report provided by the applicant and have no concerns with the Rezoning proceeding from a servicing perspective. During the Site Plan Control process, the applicant will be required to demonstrate that appropriate sewer servicing, water servicing

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stormwater management, grading, and erosion and sediment control measures are undertaken to the satisfaction of City staff.

4. In response to the circulation of the applications, correspondence has been received from four area residents and the adjacent Workers Arts and Heritage Centre. A petition in opposition to the proposal has been received from the Romanian Orthodox Church located at 278 MacNab Street North (205 signatures). An online petition has also been received. The following is a summary of the concerns expressed.

Parking – there are concerns that the proposed parking is insufficient to meet the needs of the development and will result in overflow parking onto adjacent residential streets.

Building Height – there are concerns that the development will result in increased vehicle traffic on surrounding streets.

Infrastructure – there are concerns that existing infrastructure is insufficient to meet the needs of the development.

Building Height – there are concerns that the proposed building is too high and will have adverse impacts on adjacent buildings.

Views – there are concerns that the proposed building would inhibit views and disrupt the skyline.

Compatibility with Adjacent Neighbourhood – there are concerns that the proposal is not compatible with the prevailing low density residential character of the neighbourhood.

Precedent – there is concern that approval of the proposed 13 storey multiple dwelling would set a precedent leading to the overdevelopment of the West Harbour area.

Structural Damage Due to Construction – there is concern from the adjacent Romanian Orthodox Church that vibration resulting from the construction of the proposed multiple dwelling would cause damage to their existing church building.

Shadow – there is a concern that the proposal would result in shadow impacts on nearby dwellings and on the Workers Arts and Heritage Centre.

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ALTERNATIVES FOR CONSIDERATION

- 1) Should the applications be approved, staff be directed to prepare the Official Plan Amendment and amending Zoning By-law consistent with the concept plans proposed with the inclusion of a Holding Provision to address matters, including but not limited to: RSC, noise and any other necessary agreements to implement Council's direction.
- 2) Council could direct staff to negotiate revisions to the proposal with the applicant in response to the issues and concerns identified in this Report and report back to Council on the results of the discussion.
- 3) Should the applications be denied, the lands could be developed in accordance with the "J" (Light and Limited Heavy Industry, Etc.) District.

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.

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.

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

Appendix “B” – Concept Plan

Appendix “C” – Public Submissions

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