



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 14, 2019
SUBJECT/REPORT NO:	Site Plan Control Application for 310 Frances Avenue (PED19115) (Ward 10)
WARD(S) AFFECTED:	Ward 10
PREPARED BY:	Melanie Schneider (905) 546-2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Report PED19115 (Site Plan Control Application DA-19-020 for lands located at 310 Frances Avenue) be received;
- (b) That Site Plan Control Application DA-19-020 for the proposed development of three tall buildings having heights of 48, 54, and 59 storeys and a total of 1,836 residential units be referred back to the Applicant for revisions to the proposal on the following basis:
 - i) The proposal does not implement the policies of the Urban Hamilton Official Plan related to Urban Design;
 - ii) Insufficient information has been provided to determine sanitary and watermain services are available to accommodate the proposed development proposed at a density greater than 250 persons per hectare;
 - iii) The proposal does not address concerns related to shadow, overlook and privacy for adjacent townhouse dwellings on Frances Avenue;
 - iv) The proposal has not demonstrated appropriate transitions in building massing and height; and,

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- v) The proposal does not provide satisfactory transitions in the form of intervening land uses, visual barriers or separation distance.

EXECUTIVE SUMMARY

This Report is in response to Delegation requests made at the April 16, 2019 Planning Committee with respect to Site Plan Control Application DA-19-020 for lands located at 310 Frances Avenue, Stoney Creek (see Appendix “A” to Report PED19115). Based on discussions at the Planning Committee meeting, Council adopted the following motion on April 24, 2019:

- (a) That staff be directed to report back to the Planning Committee on the proposed developments on the subject property, 310 Frances Avenue, with the Minutes of the Design Review Panel, and any studies required for future Site Plan approval, with staff recommendations for consideration by the Planning Committee; and,
- (b) That staff consult with the Ward Councillor to provide proper public notice.

The purpose of this Report is to:

- Provide a status update on the file, including a summary of all comments made to date by applicable City and regulatory agencies.
- Summarize all comments made on the development application by the Design Review Panel (DRP) at their meeting of April 11, 2019.
- Provide public access to Studies provided by the applicant in support of the proposed development in digital format to the public and Planning Committee.
- Provide a brief history and relevant background information regarding the subject lands.

HISTORICAL BACKGROUND

Background History

Development Applications OPA-08-019, ZAC-08-079

On February 10, 2010, City Council approved Official Plan Amendment and Zoning By-law Amendment applications for a change in zoning from the Residential Multiple “RM5-7” Zone, Modified, to the Mixed Use Commercial “MUC-4” Zone, Modified on the subject lands. The Official Plan Amendment was made under the Stoney Creek Official Plan as the UHOP was not in force and effect at that time. The policy modifications allowed for a mixed use development with the following key site-specific provisions:

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- No maximum building height;
- Minimum 585 dwelling units; and,
- No maximum lot coverage.

These modifications are consistent with the policy framework established through the South Shore Estates Draft Plan of Subdivision from the 1970's, which anticipated a total of 2,222 units within the subdivision. Through the 2010 approval, the Green Millen Shores Draft Plan of Subdivision anticipated 233 dwelling units, with the balance of undeveloped units to be accommodated on the subject lands, by establishing the minimum 585 dwelling unit zoning requirement.

Site Plan Control Application DA-19-020

On December 20, 2018, the owner of 310 Frances Avenue submitted Site Plan Control Application DA-19-020, which proposes to construct a tall building composed of three towers being 48, 54, and 59 storeys in height, 2,409 parking spaces within a four storey podium and two levels of underground parking, 400 sq m of commercial space, and a total of 1,836 dwelling units, eight of which are proposed as ground-related units (see Appendix "B" to Report PED19115). Driveway accesses are proposed from Frances Avenue and a common rooftop amenity space above the podium structure has been proposed.

As part of the submission, the following studies and plans were received (see Appendix "C" to Report PED19115):

- Grading Plan;
- Servicing Plan;
- Erosion and Siltation Control Plan;
- Stormwater Management Brief;
- Water / Wastewater Generation Report;
- Shadow Impact Analysis;
- Traffic Impact Study;
- Wind Assessment; and,
- Environmental Noise Impact Study.

Staff have conducted a review of these studies, which is outlined in Appendix "D" to Report PED19115.

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). Section 41(6) of the *Planning Act* states that “nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.”

Based on the above established parameters, the focus of the Site Plan Control Application is directed towards the design of the development as it implements the intent of the applicable Official Plan policies, Zoning By-law, and Site Plan Guidelines.

The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

As the Site Plan Control application complies with the Official Plan and the relevant policies in the PPS, 2014, it is staff’s opinion that the application is:

- Consistent with Sections 3 and 41(6) of the *Planning Act*; and,
- Consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2017)

The proposal conforms to the Guiding Principles, Section 1.2.1 of the Growth Plan, as it is designed to prioritize intensification and higher densities. In addition, the Growth Plan provides direction for residential uses under the following policies:

“2.2.1.2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- c) within settlement areas, growth will be focused in:
 - i. delineated built-up areas;

- ii. strategic growth areas;
 - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and
 - iv. areas with existing or planned public service facilities;
- d) development will be directed to settlement areas, except where the policies of this Plan permit otherwise;
- 2.2.1.4. Applying the policies of this Plan will support the achievement of complete communities that:
- a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- 2.2.1.7 New development taking place in designated greenfield areas will be planned, designated, zoned and designed in a manner that:
- a) supports the achievement of complete communities;
 - b) supports active transportation; and
 - c) encourages the integration and sustained viability of transit services.
- 2.2.1.2. The designated greenfield area of each upper- or single-tier municipality will be planned to achieve within the horizon of this Plan a minimum density target that is not less than 80 residents and jobs combined per hectare.

The subject lands are identified outside of the Built Boundary, as shown on Appendix “G” of the UHOP. The proposed development will contribute residential growth needed to support complete communities with an approximate density of 1,376 residents and jobs per hectare.

Based on the foregoing, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhood” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The following policies, amongst others, apply to the application:

Neighbourhoods

- “E.3.6.3 Local commercial uses may also be permitted on the ground floor of buildings containing multiple dwellings, provided the provisions of Section E.3.8 – Local Commercial are satisfied.
- E.3.6.4 High density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities/services, including public transit, schools, and active or passive recreational facilities.
- E.3.6.7 Development within the high density residential category shall be evaluated on the basis of the following criteria:
- a) Development should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may be permitted indirect access to a collector or major or minor arterial roads from a local road upon which only a small number of low density residential dwellings are fronting on the local road.
 - b) High profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses. A separation distance shall generally be required and may be in the form of a suitable intervening land use, such as a medium density residential use. Where such separations cannot be achieved, transitional features such as effective screening and/or design features shall be incorporated into the design of the high density development to mitigate adverse impact on adjacent low profile residential uses.
 - d) Development shall:
 - i) provide adequate landscaping, amenity features, on-site parking, and buffering where required;
 - ii) be compatible with existing and future uses in the surrounding area in terms of heights, massing, and an arrangement of buildings and structures; and,
 - iii) provide adequate access to the property, designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.”

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The current design of the development provides 400 sq m of commercial use on the ground floor of the proposed podium structure. The development is not located within convenient walking distance of community facilities and services, public transit, or schools. The lands are, however, within walking distance of passive recreational facilities including Edgelake Park to the west and the Waterfront Trail to the north. The Hamilton Street Railway (HSR) has provided comments on the development application which identify that the area is currently serviced by Trans Cab with monitoring to determine if improved public transit should be extended to this area.

The subject lands are located adjacent to North Service Road, which is designated as a Minor Arterial Road on Schedule "C" – Functional Road Classification of the UHOP. Access to North Service Road is provided by Green Road, which is designated as a Local Road. This portion of Green Road does not contain low density residential dwellings which ensures Policy E.6.7 is met.

Two storey block townhouses and two storey street townhouse dwellings are located to the north and west of the subject lands, respectively. The current design of the development does not provide an intervening land use to transition from the high profile building to the adjacent low profile residential uses and has not demonstrated that the height and massing of the development is compatible with existing uses in the area. In addition, adequate buffering and landscaping has not been provided at the ground level. Extensive amenity features have been proposed above the four storey podium.

The proposed development is seeking a reduction of parking from 2,763 spaces to 2,409 spaces (2,387 residential spaces and 22 commercial parking spaces). The applicants have provided a Parking Justification Study as part of the Traffic Impact Study (TIS) prepared by Paradigm Transportation Solutions Ltd, dated December 2018, in support of the parking reduction. The rationale provided by the applicant is not supported by staff and revisions are required to the study before staff can evaluate a request for parking reduction. Additional comments regarding the Parking study have been outlined in Appendix "D" to Report PED19115.

Further, a preliminary review of the TIS has been conducted by staff which identifies that additional information is required in support of the development. Additional details regarding traffic infrastructure such as turn lanes, traffic signals, and configuration of site access is required to ensure the development minimizes conflicts between pedestrians and traffic.

Urban Design

Section B.3.3 of the UHOP provides Urban Design direction for new development. Some of the key policies, amongst others, include the following:

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“B.3.3.1.3 Create pedestrian oriented places that are safe, accessible, connected, and easy to navigate for people of all abilities.

B.3.3.1.4 Create communities that are transit-supportive and promote active transportation.

B.3.3.1.5 Ensure that new development is compatible with and enhances the character of the existing environment and locale.

B.3.3.2.4 Quality spaces physically and visually connect the public and private realms. Public and private development and redevelopment should create quality spaces by:

- a) organizing space in a logical manner through the design, placement, and construction of new buildings, streets, structures, and landscaping;
- b) recognizing that every new building or structure is part of a greater whole that contributes to the overall appearance and visual cohesiveness of the urban fabric;
- c) using materials that are consistent and compatible with the surrounding context in the design of new buildings;
- d) creating streets as public spaces that are accessible to all;
- e) creating a continuous animated street edge in urban environments;
- f) including transitional areas between the public and private spaces where possible through use of features such as landscaping, planters, porches, canopies, and/or stairs;
- g) creating public spaces that are human-scale, comfortable, and publicly visible with ample building openings and glazing;
- h) creating, reinforcing, and emphasizing important public vistas and view corridors; and,
- i) minimizing excessive street noise and stationary noise source levels through the design, placement, and construction of buildings and landscaping.”

The development proposes pedestrian oriented uses at the ground level of the development including eight ground related units along Green Road and 400 sq m of commercial floor area at the intersection of Green Road and Frances Avenue. The

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proposed 1,836 units will provide for population needed to support transit infrastructure. However, additional information is required from the applicant to demonstrate compatibility between the existing uses and the proposed development, including the design and placement of tower component.

“B.3.3.2.6 Where it has been determined through the policies of this Plan that compatibility with the surrounding areas is desirable, new development and redevelopment should enhance the character of the existing environment by:

- a) complementing and animating existing surroundings through building design and placement as well as through placement of pedestrian amenities;

B.3.3.3.2 New development shall be designed to minimize impact on neighbouring buildings and public spaces by:

- a) creating transitions in scale to neighbouring buildings;
- b) ensuring adequate privacy and sunlight to neighbouring properties; and,
- c) minimizing the impacts of shadows and wind conditions.”

The applicant is required through the Site Plan Control process to ensure the above noted policies have been met. In support, the applicant has submitted a Shadow Impact Analysis prepared by KNYMH Inc., dated December 19, 2018 and a Pedestrian Wind Assessment, prepared by RWDI, dated June 7, 2018 to demonstrate that the objectives of the Urban Design policies have been met (see Appendix “C” to Report PED19115). Additionally, the proposal was presented to the Design Review Panel on April 11, 2019 for feedback in context of how to best address these policies (see Appendix “E” to Report PED19115). A summary of staff’s comments, which state that insufficient details have been provided for both documents, has been outlined in Appendix “D” to Report PED19115. Additional information such as specific mitigation measures to wind impacts, and existing shadows within the neighbourhood, have not been provided to ensure that the development minimizes shadow and wind conditions.

Road and Railway Traffic Noise and Vibration

“B.3.6.3.7 A noise feasibility study, or detailed noise study, or both, shall be submitted as determined by the City prior to or at the time of application submission, for development of residential or other noise sensitive land uses on lands in the following locations:

- a) 100 metres of a minor arterial road, as identified on Schedule C – Functional Road Classification;

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- c) 400 metres of a truck route;
- d) 400 metres of an existing or proposed parkway or provincial highway (controlled access), as identified on Schedule C – Functional Road Classification;”

The subject lands are adjacent to North Service Road, which is identified as a minor arterial road on Schedule “C” – Functional Road Classification of the UHOP and is approximately 25 metres from the QEW, a Provincial Highway and a truck route. An Environmental Noise Impact Study has been submitted for staff’s review as part of the application (see Appendix “C” to Report PED19115). A summary of staff’s comments, which require additional clarification from the applicant, has been outlined in Appendix “D” to Report PED19115.

Natural Heritage System – Core Areas

C.2.3 It is the intent of this policy to preserve and enhance Core Areas and to ensure that any development or site alteration within or adjacent to them shall not negatively impact their natural features or their ecological functions.

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas have been identified adjacent to the subject property. In this case, the Core Areas have been identified as Stoney Creek Watercourse 1 (regulated by the Hamilton Conservation Authority; HCA), Community Beach Ponds Environmentally Significant Area (ESA) and Lake Ontario.

Due to the size of the proposed development and the amount of glass/window surface there is concern that the function of the adjacent Core Areas may be impacted per Policy C.2.3 of the UHOP. These impacts include bird-window collisions, potential predation of local wildlife by pets, dumping and the introduction of invasive species within the ESA. Staff have requested that the owner demonstrate that the development meets bird friendly design best practices. A Bird Impact Assessment discussing the direct and indirect impacts on birds as well as implementation of specific bird-friendly design elements that will be incorporated into the development is required to address this comment (see Appendix “D” to Report PED19115). The Assessment will be required with the next comprehensive submission from the applicant.

Traffic Management

C.4.5.12 The City shall require transportation impact studies to assess the impact of proposed developments on current travel patterns and/or future transportation requirements. These studies shall be submitted as part of

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applications for Official Plan amendments, subdivision approvals, major rezoning and major site plan approvals.

- C.4.5.19 New development on properties adjacent to major arterial and minor arterials and where necessary, collector roads, shall include provisions for sufficient parking, loading, manoeuvring and off-street parking.”

The applicant has submitted a Traffic Impact Study (TIS) prepared by Paradigm Transportation Solutions Ltd., dated December 2018, in support of the proposed development. A copy of the report has been included in Appendix “C” to Report PED19115. Preliminary staff comments note that revisions to the TIS are required to meet Ministry of Transportation terms of reference.

A Parking Justification Study has been provided to support a reduction in parking from 1.5 parking spaces per unit to 1.3 parking spaces, which includes visitor parking. The rationale provided by the applicant is not supported by staff and revisions are required to the study before staff can evaluate a request for a parking reduction. Additional comments have been outlined in Appendix “D” to Report PED19115.

Based on the foregoing, the proposal, as currently proposed, does not comply with the UHOP.

Stoney Creek Zoning By-law No. 3692-92

The subject lands are zoned Mixed Use Commercial “MUC-4” Zone, modified in the former City of Stoney Creek Zoning By-law No. 3692-92. This zone permits mixed use developments in the form of commercial uses on the ground floor with residential uses above.

Through review of the application, staff have identified the following non-conformities to the “MUC-4” Zone, modified:

- Minimum rear yard setback of 0.681 m to Tower 1, whereas a minimum setback of 3.0 m is required;
- Minimum amenity space of 33,169.3 sq m, of which 1,806 sq m is proposed as a combined indoor amenity area, whereas 55,031 sq m of amenity area is required;
- Minimum landscaped open space of 20%, whereas 50% landscaped open space is required;
- Minimum 1.1 m landscaped strip along Frances Avenue and 0.6 m wide landscaped strip, whereas a minimum 5.0 m wide landscaped strip adjacent to a street is required;
- Minimum 3.6 m landscaped strip adjacent to another lot, whereas a minimum 9.0 m landscaped strip adjacent to another lot is required;

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- Minimum 2,387 residential parking spaces and 22 commercial parking spaces, whereas 2,763 residential parking spaces and 1 parking space for every 28 sq m of commercial parking spaces is required;
- To permit consolidated residential and commercial driveway access whereas commercial and residential parking shall be separate with separate points of ingress and egress; and,
- To permit residential uses, including associated amenity areas on the ground floor, whereas residential uses shall be located above the ground floor.

The scope of these non-conformities could be considered by the Committee of Adjustment through a Minor Variance application, given the variances meet the following tests under Section 45(1) of the *Planning Act*:

- The variance meets the general intent and purpose of the Official Plan;
- The variance meets the general intent and purpose of the Zoning By-law;
- The variance is desirable for the appropriate use of the land; and,
- The variance is considered minor in nature.

The impact of the variances is integral to the evaluation of the above noted tests. Accordingly, the scale of these variances may not be appropriate for this site but may be appropriate for another development. Staff have not indicated whether these variances can be supported from a Planning perspective as revisions and further evaluation is needed to address some of the other issues that been identified through the review process. Once the list of all variances has been finalized, staff will be coordinating with the local Ward Councillor and the applicants to determine how best to engage with the public. This engagement may be in the form of an information letter, or a public open house hosted by the Ward Councillor and / or the applicant.

RELEVANT CONSULTATION

Design Review Panel

The proposal was presented by the applicants to the DRP on April 11, 2019. DRP provided technical feedback from a design perspective which encouraged breaking up the main podium into separate towers and providing additional uses at the ground level. A full copy of the meeting minutes has been included in Appendix "E" to Report PED19115. The applicant has not formally submitted a revised proposal and continues to dialogue with staff on the design of the proposal.

Public Input

Several delegations were made at the April 16, 2019 Planning Committee in response to the proposed development. Overall, the following concerns were raised by the delegations:

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- Departure from the original approved development concept, approved on February 10, 2010;
- Opposition to proposed density;
- Opposition to proposed height;
- Development out of scale with the surrounding neighbourhood;
- Reduction of provided parking as on-street parking in the neighbourhood cannot be accommodated;
- Adjacent properties will be negatively impacted by shadow;
- Stormwater management impacts;
- Impacts on migratory bird patterns; and,
- Traffic congestion.

Section 41(6) of the *Planning Act* does not give City Council, or its designates, the authority to limit the height and density of proposed buildings through the Site Plan application process. The intent of the Site Plan Control process is to evaluate the details of development as it implements applicable Official Plan policies, the Zoning By-law, and meets appropriate design guidelines not limited to planning, engineering and transportation perspectives. The concerns noted above will be addressed through the technical review of the Site Plan Control Application based on this lens.

Two of the delegations submitted materials in support of the development per the following items:

- Suburban neighbourhoods can function in harmony with high rise developments;
- Development will provide condo ownership and rental opportunities;
- Encourage affordable home ownership;
- Development will encourage job growth;
- Encourage transit services in the area; and,
- Development includes high quality landscaping.

All of the comments above will be considered as part of the final approved Site Plan process.

Development Review Team Meeting

On April 24, 2019, the Ward Councillor and City staff met with the applicants to discuss the technical review of the application. A summary of staff's comments, which include all commenting agencies and departments, has been included in Appendix "D" to Report PED19115. The following key issues have been raised by staff as concerns for the development:

- Site servicing (sanitary sewers, watermain capacity and stormwater management, see Appendix "D" to Report PED19115);

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- Traffic Impact;
- Parking;
- Site Design;
- Bird Friendly Design;
- Shadow Impact;
- Wind Impact; and,
- Noise Impact.

Based on the above, the development has been referred back to the applicant for revisions to the site design and adjustments to the technical studies. Staff have scheduled meetings with the applicants to address these concerns. A revised proposal that addresses these comments has not been received to date.

Next Steps

Based on the concerns from staff and commenting agencies, as well as feedback from the public, staff are not in a position to issue Conditional Approval of the proposal in its current form. The applicant will be working with staff to refine the development proposal per applicable policies and guidelines. Once the development has been adjusted, detailed revisions to the supporting studies will be requested for staff's review. Staff will again coordinate with the local Ward Councillor regarding on-going public engagement as part of subsequent submissions.

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.

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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.

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" – Site Plan & Elevations
- Appendix "C" – Technical Studies
- Appendix "D" – Comment Summary
- Appendix "E" – DRP Minutes