



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 16, 2021
<b>SUBJECT/REPORT NO:</b>	Application for Zoning By-law Amendment for Lands Located at 206 and 208 King Street West, Hamilton (PED21038) (Ward 2)
<b>WARD(S) AFFECTED:</b>	Ward 2
<b>PREPARED BY:</b>	Daniel Barnett (905) 546-2424 Ext. 4445
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Amended Zoning By-law Amendment Application ZAC-17-046 by A.J. Clarke and Associates (c/o Franz Kloibhofer) on behalf of King Stuart Development Inc., Owner**, for a further modification to the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone, to permit an alternative development concept, that being a 13 storey (43.75 metre) mixed use building with 123 residential units, 143.8 square metres of retail gross floor area, and 37 structured parking spaces for lands located at 206 and 208 King Street West, Hamilton, as shown on Appendix “A” to Report PED21038, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED21038, 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 “B” to Report PED21038 be added to Map No. 952 of Schedule “A” – Zoning Maps of Zoning By-law No. 05-200;

- (iii) That Schedule “D” – Holding Provisions, of Zoning By-law No. 05-200; be amended by adding the following additional Holding Provision:

H116. Notwithstanding Section 6.2 of this By-law, within lands zoned Downtown Mixed Use – Pedestrian Focus (D2, 731) Zone on Map No. 952 on Schedule “A” – Zoning Maps, and described as 206 and 208 King Street West, Hamilton, no development shall be permitted until such time as:

- a. The Owner submit and receive completion of a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MOECP) or enters into a conditional building permit agreement with respect to completing a Record of Site Condition. 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 MOECP, and submission of the City of Hamilton’s current RSC administration fee;
  - b. A Documentation and Salvage Report in accordance with the City’s Guidelines for Documentation and Salvage Reports has been submitted and implemented all to the satisfaction of the Director of Planning and Chief Planner prior to any demolition and the owner shall demonstrate that a copy of this report shall be submitted by the Owner to the Hamilton Public Library; and,
  - c. An updated Pedestrian Wind Study has been submitted and implemented 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 (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and complies with the Urban Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

The application was originally submitted prior to the updates for the Downtown Secondary Plan, however the subsequent submissions including the submission that is the subject of this report were all submitted after the Downtown Secondary plan was adopted by Council and came into effect. As the application was revised after the

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Downtown Secondary Plan was both adopted by Council and came into effect the proposed development has been evaluated in respect to the updated Downtown Secondary plan adopted by Council in 2018 and is currently in force and effect.

The subject property is municipally known as 206 and 208 King Street West, Hamilton. The Owner has amended their 2017 application and is seeking an amendment to the Downtown Mixed Use – Pedestrian Focus (D2) Zone City of Hamilton Zoning By-law No. 05-200 to permit the construction of a 13 storey (43.75 metre) (plus roof top mechanical penthouse and amenity area), mixed use building as shown on Appendix C to PED21038 containing:

- 123 dwelling units on the 2<sup>nd</sup> to 13<sup>th</sup> floors;
- 143.8 square metres of retail gross floor area on the ground floor;
- 36 parking spaces utilizing a 12 bay parking stacker system, plus one barrier free parking space located within the proposed building as shown on Appendix F to PED21038;
- 153 storage lockers;
- 123 long term bicycle parking spaces; and,
- Approximately a confirmed aggregate amenity space of 990 square metres, comprised of approximately 660 square metres of indoor amenity area and 330 square metres of outdoor amenity space.

The amended application, further amended by staff, has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

**Alternatives for Consideration – See Page 28**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

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

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Applicant/Owner:	King Stuart Developments Inc.
Agent:	A.J. Clarke and Associates (c/o Franz Kloibhofer)
File Number:	ZAC-17-046
Type of Application:	Zoning By-law Amendment
Proposal:	<p>The applicant initially applied in May, 2017 for a change to the zoning to permit the adaptive reuse of a portion of the existing building along King Street West and to construct a 120 unit, 16 storey mixed use building with a height of 54.65 metres located to the rear of the retained portion.</p> <p>36 parking spaces were proposed by way of a 12 space parking stacker system located within the proposed building and accessed from a proposed driveway and from an existing private laneway at the rear of the subject property, 24 storage lockers, and 65 long term bicycle parking spaces were proposed.</p> <p>The applicant subsequently revised the application October, 2019 in which the existing building was to be demolished and replaced with a new building. The revised proposal was for a 120 unit, 16 storey mixed use building with a height of 54.25 metres.</p> <p>36 parking spaces are proposed by way of a 12 space parking stacker system, plus one barrier free parking space located within the proposed building and accessed from a proposed driveway and from an existing private laneway at the rear of the subject property, 189 storage lockers; and 162 secure indoor bicycle parking spaces were proposed.</p>

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	<p>The applicant further revised the application in September, 2020 as follows:</p> <p>The total number of multiple dwelling units remains at 120 dwelling units, the number of storage lockers decreased to 141 storage lockers, and the long term bicycle parking spaces decreased to 130 spaces.</p> <p>As a result of comments provided by staff on the September, 2020 concept the applicant provided further minor revisions in respect to the potential uses for the commercial area in October, 2020. The revisions pertained to the potential uses of the 934 square metre commercial area on the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> floors that previously was proposed for office use to include a Financial Establishment on the 2<sup>nd</sup> floor, Office use on the 3<sup>rd</sup> floor and a Commercial School on the 4<sup>th</sup> floor. This amendment was in response to staff concerns that insufficient on-site parking was provided given the requirements in Zoning By-law 05-200 to implement the Downtown Secondary Plan which significantly reduced required parking.</p> <p>The proposed development would be deficient one parking space as 38 spaces were required while 37 parking spaces were proposed.</p> <p>The applicant provided a revised concept plan addressing staff concerns related to the height on January 19, 2021 and is the subject of this report. The following revisions were made:</p> <ul style="list-style-type: none"><li>• The height of the building was reduced from 16 storeys or 55.0 metres (15 storeys plus mechanical penthouse and roof top amenity area), to 13 storeys or 43.75 metres, (plus roof top mechanical penthouse and amenity area);</li><li>• The commercial area previously proposed on the second floor was replaced with amenity area, and the commercial area on the third and fourth floors was replaced with dwelling units, resulting in a total of 143.8 square metres of commercial gross floor area on the ground floor;</li><li>• The total number of dwelling units was increased from 120 dwelling units to 123 dwelling units. The unit breakdown is:</li></ul>
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	<ul style="list-style-type: none"> <li>○ 69 units less than 50.0 square metres; and,</li> <li>○ 54 units greater than 50.0 square metres of which, 5 are three bedroom units;</li> <li>● The number of lockers was increased to 153 (half height lockers);</li> <li>● The number of bicycle parking spaces was increased from 120 to 123; and,</li> <li>● A total of 991.17 square metres of amenity space, consisting of 660.71 square metres of indoor amenity space and 330.46 square metres of outdoor amenity space.</li> </ul>
<b>Property Details</b>	
Municipal Address:	206 and 208 King Street West
Lot Area:	857 square metres
Servicing:	Existing full municipal services.
Existing Use:	A four storey commercial building (Hamilton Store Fixtures).
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Downtown Mixed Use Area
Official Plan Proposed:	No amendment required or requested.
Secondary Plan Existing:	Downtown Mixed Use – Pedestrian Focus High Rise 2
Secondary Plan Proposed:	No amendment required or requested.
Zoning Existing:	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone

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Zoning Proposed:	Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone
Modifications Proposed:	<p>The following modifications to the D2 Zone are required to allow for the implementation of the alternative development concept to the parent D2 Zone proposed by the applicant:</p> <ul style="list-style-type: none"> <li>• To reduce the required size a barrier free parking space from 4.4 metres in width by 5.8 metres in length to 4.4 metres in width by 5.5 metres in length;</li> <li>• To increase the minimum number of required bicycle parking spaces from 0.5 per dwelling unit to 1 per dwelling unit;</li> <li>• To prohibit any portion of the building that has a stepback of less then 3.0 metres from the easterly side lot line from having windows facing the easterly side lot line, except for windows that are translucent;</li> <li>• To permit roof top indoor amenity area to exceed the maximum building height of 44.0 metres;</li> <li>• To require a minimum stepback of 3.0 metres from the easterly side lot line, except for those portions of the building that do not include clear glass windows in which case a reduction in the minimum stepback from 3.0 metres to 1.7 metres is permitted;</li> <li>• To establish a minimum 5.3 metre stepback for a mechanical penthouse and 11.2 metre stepback indoor amenity area, from the rear lot line;</li> <li>• To establish a minimum 1.7 metre stepback for a mechanical penthouse, from the easterly side lot line;</li> <li>• To permit off site manoeuvring, whereas all parking facilities are to be located on the same lot as the use requiring the parking;</li> <li>• To permit reduced parking stall size, specifically a minimum parking space size of 2.6 metres by 5.5 metres;</li> <li>• To exempt the parking spaces from the requirement that the size be increased in size when adjacent to a wall or column;</li> <li>• To permit access to on-site parking to be provided by way of a private laneway;</li> <li>• To permit parking to be provided by way of a parking stacker system;</li> <li>• To permit a private laneway to be partially utilized for the</li> </ul>

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	<p>required 6.0 metre aisle for accessing parking;</p> <ul style="list-style-type: none"> <li>• To permit a loading facility to be located in a rear yard that is not screened by a Visual Barrier from an adjacent Residential Zone;</li> <li>• To permit no on-site short term bicycle parking spaces, whereas 10 short term bicycle parking spaces are required;</li> <li>• To reduce the required stepback from Caroline Street North beyond a height of 11.0 metres from 3.0 metres to 0 metres;</li> <li>• To reduce the required stepback beyond a height of 22.0 metres from 3.0 metres to 0 metres;</li> <li>• To reduce the minimum area of the ground floor façade that is required to be comprised of clear glazed windows and doors, from 60% to 30%; and,</li> <li>• To increase the maximum ground floor height from 4.5 metres to 6.5 metres.</li> </ul>
<b>Processing Details</b>	
Received:	May 15, 2017
Deemed Complete:	May 19, 2017
Notice of Complete Application:	Sent to 872 property owners within 120 metres of the subject property on May 31, 2017.
Public Notice Sign:	Posted June 14, 2017 and updated on January 20, 2021.
Notice of Public Meeting:	Sent to 404 property owners within 120 metres of the subject property on January 29, 2021.
Public Consultation:	<p>Two separate meetings with the Central Neighbourhood Association were held in July 2015 and August 2016 prior to submission of the application.</p> <p>The applicant advised in the submitted Public Consultation Strategy that if the Notice of Complete Application generated significant public interest or if there was a request from the City, that an additional public engagement such as a public open house would be undertaken. Based on the results of the Notice of Complete Application, no public open house was deemed necessary by Planning staff.</p>

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Public Comments:	Two letters were received in response to the Notice of Complete Application. One letter expressed concern about the overall height of the building, parking and the traffic impact during construction. The second letter was not in opposition to the development but expressed concerns related to shadow impacts (see Appendix “E” to Report PED21038).
Processing Time:	1,373 days – From date of Original Submission (May 15, 2017) 137 days – From date of the October 2, 2020 Submission (Forth) 28 days – From date of the January 19, 2021 Submission

**Existing Land Use and Zoning:**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Property:</b>	Commercial	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone

**Surrounding Land Uses:**

<b>North</b>	Multiple dwelling	Downtown Residential (D5, H17, H19, H20) Zone
<b>East</b>	Restaurant	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone
<b>South</b>	Vacant lot	Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone
<b>West</b>	Mixed use	Downtown Mixed Use – Pedestrian Focus (D2, H21) Zone

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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). 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 (LPAT) 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 (i.e. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

### **Cultural Heritage**

One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to cultural heritage policies of the PPS (2020). The following policies amongst others of the PPS 2020 apply.

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be 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.”

The subject property is comprised of 206 and 208 King Street West (known formerly as the Regal Shirt Co. Ltd., and the McGregor Shirt Co. Ltd.) and is included in the City’s Inventory of Buildings of Architectural and / or Historical Interest. In 2014, the property was not listed on the City’s Register of Property of Cultural Heritage Value or Interest at the time of the Downtown Built Heritage Inventory (DBHI) was completed because it was not known how much of the original historic fabric remained under the modern cladding and the buildings original design has been so disguised by the metal cladding that its original design and character are no longer apparent.

A Cultural Heritage Impact Assessment (CHIA) dated September 14, 2016 (updated May 5, 2017) was submitted as part of the complete application in 2017. An addendum

to the CHIA was submitted in support of the revised development proposal which proposed demolition of the existing building, dated September 2019. A structural review prepared by Sigmund Soudack & Associates Inc. dated September 10, 2018 was also prepared and attached to the Addendum to the CHIA, which concluded that the building is structurally unsound and cannot be resorted to its original condition and recommended that as part of any redevelopment of the site that the existing building be demolished. Based on the review and advise of the of the Policy and Design Working Group of the Hamilton Municipal Heritage Committee (HMHC) a peer review of the structural review was not required. Policy and Design Working Group of the HMHC reviewed the CHIA addendum including the attached structural review on October 21, 2019 and accepted the report as submitted. Cultural Heritage staff are satisfied with the new development concept and revised CHIA, in particular with the scale and massing of the four storey ground related building, the use of brick and glazing, segmental windows, modern cornice and the use of glazing and panels to define the corner section.

The CHIA addendum report recommends reusing the existing beams / joists and masonry / millwork in the new development and staff also encourage the proponent to reuse the 'Radio Arts' tiles at the front entrance in a publically visible area of the new building.

As the existing building will not be preserved, the property's cultural heritage value will be conserved through the implementation of the following:

1. Preparation, submission and implementation of a Documentation and Salvage Report in accordance with the City's Guidelines for Documentation and Salvage Reports be submitted to the satisfaction of the Director of Planning and Chief Planning prior to any demolition. Furthermore, a copy of this report shall be submitted by the Owner to the Hamilton Public Library.
2. Through the adaptive reuse materials and elements of the existing building in its reconstruction where feasible. Original structural and decorative components including the beams, joists, masonry units, millwork floorboards and tiles of the existing building should be salvaged and incorporated into the design of a communal area of the building (e.g. publicly accessible area, outdoor plaza, lobby, etc.) in order to recognize and commemorate the existing structure and its manufacturing and commercial history.

The Documentation and Salvage Report will be required to be completed and implemented prior to the lifting of the proposed 'H' Holding Provision. The implementation of adaptive reuse of materials and elements of the existing building will be undertaken through the Site Plan Control application and in this regard a site plan agreement will be required.

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Noise

The PPS provides the following policy direction:

“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 subject property is located along King Street West, a major arterial road, and is less than 200 metres from Main Street West, also a major arterial road. Both roads are potential noise sources. The applicant submitted a Noise Impact Study prepared by HGC Engineering dated May 10, 2017 as part of the complete application in 2017. The noise study evaluated road noise impacts from King Street West, Main Street West, York Boulevard and Bay Street South. The study found that the sound levels, without mitigation, in the daytime range from 58 dBA on the north façade of the proposed building to 68 dBA on the south façade of the building. The noise levels at night range between 52 dBA to 61 dBA.

The noise study notes that roof top patio areas do not require any additional mitigation measures beyond a standard 1.07 metre solid guard or parapet around the perimeter. Balconies and terraces were found to be less than 4.0 metres in depth and therefore were not considered outdoor living areas.

The revised development proposal includes a terrace on the fifth floor facing King Street West and two roof top patios: one facing King Street West and the other at the rear of the building. All the terraces have depths greater than 4.0 metres. Therefore, the terraces are to be evaluated as outdoor living areas. A revised Noise Impact Study to identify any required mitigation measures is required and will be implemented at the Site Plan Control stage. An update to the Noise Impact Study will need to be completed and any noise mitigation measures implemented as part of the Site Plan Control application.

The Noise Impact Study identified a number of warning clauses and mitigation measures such as, central air conditioning, building materials and glazing standards, amongst others, that will need to be implemented. These measures will be implemented as part of the Site Plan Control application and the warning clauses will also need to be included in the Site Plan Control agreement and part of any future Plan of Condominium approval and agreement.

## Site Contamination

“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 has been used for commercial uses and the applicant is proposing to establish a sensitive land use (i.e. residential) on-site. As there is potential for site contamination an assessment through a Record of Site Condition (RSC) needs to be undertaken. A Holding Provision will be applied to the Zoning By-law Amendment requiring completion of a RSC or for the applicant to enter into an condition building permit and must be satisfied prior to any final Site Plan approval.

As the application for a change in zoning complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the PPS (2020); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, as amended.

## Urban Hamilton Official Plan

The subject property is 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 in Volume 1 of the UHOP.

The Downtown Hamilton Secondary Plan implements the policies of Volume 1 of the UHOP including the Downtown Urban Growth Centre, intensification and urban design policies. As discussed in detail below, the proposal complies with the policies of the Downtown Hamilton Secondary Plan. It is therefore staff’s opinion that the proposal complies with the applicable policies of Volume 1 of the UHOP.

## Downtown Hamilton Secondary Plan

The Downtown Hamilton Secondary Plan implements the applicable requirements of the Provincial Policy framework and parent policies of the UHOP. In this regard the following policies amongst others are applicable.

The subject property is designated “Downtown Mixed Use – Pedestrian Focus” on Map B.6.1-1 Land Use Plan and identified as “High-rise 2” on Map B.6.1-2 Maximum Building

Heights in the Downtown Hamilton Secondary Plan. The following policies amongst others apply to the proposal.

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

e) High Rise 2 – up to 30 storeys.

6.1.4.22 Not every site in the Downtown identified as High-rise 1 or High-rise 2 can accommodate a tall building or is a suitable site for a tall building. The Tall Building Guidelines and Zoning By-law, shall establish the minimum criteria for accessing the suitability of an individual site for a tall building.”

The building height will be within the maximum height required by the Zoning By-law of 44.0 metres for a mid-rise building, and will provide adequate setbacks from any future tall buildings.

The development utilizes a combination of setbacks, architectural changes, architectural elements, and changes in material to establish a mid-rise built form that is compatible with the area, establishes a distinctive base and distinctive design for the upper floors, that reflects the scale and character of the area, and provides appropriate transition to the existing buildings in the area.

### **Mid-Rise Buildings**

“6.1.4.17 The following policies shall apply to mid-rise building forms:

- a) a mid-rise building is any building greater than 6 storeys but no greater than 12 storeys in height;
- b) mid-rise buildings shall be designed to address the street with active frontages, and provide principal entrances from the public realm; Volume 2, Chapter B – Hamilton Secondary Plans Urban Hamilton Official Plan September 2019 Vol. 2 – B.6.1 11 of 36
- c) mid-rise buildings shall create an effective transition between low-rise neighbourhoods and existing or future tall buildings through the use of appropriate setbacks and setbacks in accordance with Policies B.6.1.4.31 through B.6.1.4.39 of this Plan;
- a) mid-rise buildings shall be designed to frame the street they are fronting while allowing access to sunlight to adjacent properties. This shall be

achieved through considerations given to building orientation, setbacks, stepbacks, angular plane, and relationship to grade and land uses; and,

- e) Shadow Impact Studies, Visual Impact Assessments, and Pedestrian Level Wind Studies may be required to determine potential impacts arising from mid-rise buildings.”

The proposed development is seeking to establish a building height of 13 storeys (43.75 metres). The proposed 13 storeys exceeds the 12 storey maximum height outlined in policy 6.1.4.17 a), however the Zoning By-law measures height in metres instead of storeys and establishes a height of 44.0 metres as the threshold between a mid-rise building and a tall building, on the basis of the Downtown Hamilton Secondary Plan implementing zoning assumed that a 12 storey building would be built with a first storey height of 4.5 metres and the balance of the building utilizing 3.5 metre high storeys for the balance of the building (for a total of 38.5 metres for floors 2 -12) and resulting in a height of 43 metres. As the Zoning By-law implements the policies of the Downtown Hamilton Secondary Plan and as the proposed development proposes a building height less than 44.0 metres the proposed development is consistent with the mid rise building policy in terms of height and massing. As such the proposal is considered to be a mid-rise building and not a tall building and therefore complies with the Policy 6.1.4.17 a) in respect to the maximum building height and the tall building guidelines do not apply.

The proposed development is supported by the Sun Shadow Impact Study, Cultural Heritage Impact Assessment, Infrastructure and Servicing Studies, Pedestrian Wind Review, Urban Design Brief and Planning Justification Report that were provided by the applicant in respect to Policy 6.1.4.17 e). As previously noted, the proposed development establishes a building base through the use of stepbacks, changes in material, architectural style, and architectural elements. The building base is of a height and scale that is similar to the existing buildings and incorporates grade related commercial space in support of the pedestrian oriented nature of King Street West (Policy 6.1.4.17 b) and d)).

Through the use of stepbacks, separation distances, design changes in architectural style and material between the building base and the upper portions of the building, as well as other architectural elements such as cornices, appropriate transition between the proposed development and adjacent low rise development and heritage buildings will be achieved (Policy 6.1.4.17 c)).

A revised Sun Shadow Impact Study by KHYMH Architects, dated March 30, 2020, was provided to reflect the changes in the design which was further amended June 11, 2020. The Sun Shadow Study assumed a building height of 16 storeys (55.0 metres). Based on a review of the Sun Shadow Impact Study, three hours of sun will be provided along the sidewalks of Caroline Street North and Market Street between 10:00 a.m. and

4:00 p.m. on March 21<sup>st</sup> and September 21<sup>st</sup>. The 13 storey multiple dwelling to the north will receive three hours of sun exposure during the same period and the property to the east will not be impacted by shadows from the subject property until 2:00 p.m (Policy 6.1.4.17 d) and e)). It is noted that a Sun Shadow Impact Study specifically for the proposed 13 storey (43.75 metre) building was not required because the previous study assessed a 16 storey (55.0 metre) tall building and as it was demonstrated that the previously proposed building could provide adequate sun access, and as the 13 storey building envelop falls within the modelled 16 storey envelope. Therefore, staff are satisfied that as the 13 storey (43.75 metre) will be able to achieve greater sun access for adjacent properties and the public realm.

There is the potential that a future tall building could be developed on the lands to the east, which could result in shadow impacts on the easterly facing units, particularly those located on the lower floors. Therefore, prospective purchasers and tenants of the easterly units need to be advised of potential future shadow impacts in any purchase or sale / lease or rental agreement or in any condominium agreement. This will be undertaken through the Site Plan Control and Draft Plan of Condominium applications.

A Pedestrian Wind Review prepared by RWDI Consulting Engineers & Scientists dated September 21, 2016 was submitted with the initial Zoning By-law Amendment application. The 2016 RWDI report determined that a 16 storey (55.0 metre) building will not cause any significant wind impacts on the surrounding area and suitable wind conditions are predicted at building entrances and along public sidewalks. It is noted that while the applicant has not provided a Pedestrian Wind Review specifically for the proposed 13 storey (43.75 metre) building, the previous study assessed a 16 storey (55.0 metre) tall building and as it was demonstrated that the previously proposed building would not create adverse wind impacts, staff are satisfied that a 13 storey building will create less wind impacts on adjacent properties and the public realm. The 2016 study identified that higher than desired wind activity is predicted on the roof top patio and will require the establishment of wind control measures to ensure compliance with the City guidelines respecting wind impacts. Wind control measures will be implemented at the Site Plan Control stage. Furthermore, an updated wind study or addendum to the wind study will be required at as a condition of lifting the 'H' Holding Provision to ensure that wind control measures reflect the most up to date design for the proposed development (Policy 6.1.4.17 d) and e)). The study submitted is consistent with City Guidelines respecting Pedestrian Wind Studies and the required updates to the Pedestrian Wind Study and the implementation of the wind control measures will ensure that the development will comply with the City's guidelines respecting wind impacts.

"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:



- a) Eliminating expanses of blank walls;
  - b) Integrating roof design and function with the surrounding building 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.
- 6.1.4.26 All development shall be oriented toward the surrounding streets and shall include direct pedestrian access, including barrier free access from grade level to the principal entrances.
- 6.1.4.28 All development shall:
- a) Be massed to frame streets in a way the respects and supports the adjacent street proportions;
  - b) Be compatible with the context of the surrounding neighbourhood;
  - c) Contribute to high quality spaces within the surrounding public realm; and,
  - d) Provide high quality spaces within the buildings themselves.
- 6.1.4.29 Residential development shall provide amenity space within new development in the form of private or semi-private parkettes, rooftop gardens or internalized open space within courtyard areas created by new buildings.

- 6.1.4.31 Development shall provide built form transition in scale through a variety of design methods including angular planes, location and orientation of the building and the use of setbacks and stepbacks of building mass.
- 6.1.4.32 Transition between development, and adjacent streets, parks or open spaces shall ensure access to sunlight and the sky view.
- 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,
  - c) The development is adjacent to existing or planned parks, or open spaces.”

There is an existing 13 storey multiple dwelling to the north which is separated from the proposed 13 storey (43.75 metre) building by approximately 16.0 metres. Caroline Street North provides a separation of 15.0 metres to the buildings to the west. The one storey restaurant building to the east is setback approximately 5.0 metres from the subject property and the proposed building is further transitioned through stepbacks above the fifth storey. The proposal provides sufficient transition and is similar to the built form that exists today. Finally, the proposed building is separated from the existing vacant lot to the south by King Street West creating a separation distance of approximately 20 metres. Transition to neighbouring buildings is achieved by maintaining the building base at a similar scale to what exists today and by providing stepbacks above the fifth floor thereby reducing the visual impact of the building as it is experienced from the public realm (Policies 6.1.4.31, 6.1.4.32, and 6.1.4.33).

The proposed development is oriented toward the street with at grade access to the street and has been designed to maintain the existing base height and preserve the existing King Street West streetscape (Policies 6.1.2.26, 6.1.4.28 a) and b)). The building has been designed to transition between existing buildings, provide for sun access and wind attenuation and is massed to incorporate roof top terraces and amenity areas for the benefit of the residents. Given the location along a higher order transit route at the centre of Downtown, the proposed development is consistent with the existing and planned context of King Street West. Additional measures will be taken at the Site Plan Control stage to address low impact development options and to ensure that architectural features and materials are used to incorporate the building into the

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Downtown Hamilton skyline, and ensure the final design does not include any blank walls (Policy 6.1.4.25).

The proposed development will contribute to a high quality public realm through the integration of improved sidewalk widths, integration of active uses at the ground floor, and visibility improvements with an increased daylight triangle at the corner of Caroline Street North and King Street West (Policy 6.1.4.28 c)). The development includes the provision for both indoor and outdoor amenity spaces for the benefit of the residents (Policy 6.1.4.28 d) and 6.1.4.29).

Based on the foregoing, the proposal complies with the policies of the Downtown Hamilton Secondary Plan.

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

The subject property is currently zoned Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone. To implement the proposed development, the applicant has applied to change the zoning to a site specific Downtown Mixed Use – Pedestrian Focus (D2) Zone. A total of 19 site specific modifications are required to accommodate the proposal, with the majority of the modifications required to allow for the use of a parking stacker system. The modifications to the Zoning By-law are discussed in detail in Appendix “D” to Report PED21038.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
<ul style="list-style-type: none"><li>• Transit Division, Public Works Department;</li><li>• Strategic Planning, Public Works Department;</li><li>• Recreation Planning, Healthy and Safe Communities Department; and,</li><li>• Recycling and Waste Disposal, Operations</li></ul>	No Comment or concerns with the proposal.	

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<p>Division, Public Works Department.</p>		
<ul style="list-style-type: none"> <li>• Healthy Environments Division, Public Health Services</li> </ul>	<p>Public Health staff requested that both a pest control plan and dust management plan be undertaken.</p>	<p>The pest control plan and dust management plan will be required as a condition of Site Plan approval.</p>
<ul style="list-style-type: none"> <li>• Forestry and Horticulture Section, Public Works Department</li> </ul>	<p>There are municipal tree assets on site and therefore a Tree Management Plan will be required, and a Landscape Plan is required.</p>	<p>The Tree Management Plan and Landscape Plan will be required as a condition of Site Plan approval.</p> <p>If the approved Site Plan incorporates Silva-cells, or equivalent planting measures, for street trees, then the applicant will be required to provide a detailed cost estimate for the work and securities in the full amount for these works as part of the required Site Plan agreement.</p>
<ul style="list-style-type: none"> <li>• Engineering Approvals, Planning and Economic Development Department</li> </ul>	<p>The eventual proposed shoring design must be contained entirely within private property, encroachment of tiebacks, shoring walls or slopes within the municipal right-of-way will not be permitted.</p> <p>Due to the proximity of shoring to the municipal right-of-way, the proponent will be required to entering into a Shoring Agreement.</p> <p>The City does not permit any permanent dewatering from</p>	<p>At the Site Plan Control stage, the applicant will need to identify any required tiebacks, shoring walls, and other construction details.</p> <p>At the Site Plan Control stage, the applicant will have to enter into a Shoring Agreement.</p> <p>A 5 metre by 5 metre daylight triangle is required to be dedicated at the Site Plan Control stage.</p>

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	<p>foundation drains to the municipal sewer system. The underground wall and foundation must be designed and constructed to be completely sealed and leak-proof to avoid the need for any permanent dewatering.</p> <p>Dedication of lands to achieve any required road widening and daylight triangle will be required at the Site Plan Control stage.</p>	
<ul style="list-style-type: none"> <li>• Growth Planning, Planning and Economic Development, Department</li> </ul>	<p>A single municipal address will be determined at the Site Plan application stage.</p>	<p>The municipal address will be determined at the Site Plan Control stage.</p>
<ul style="list-style-type: none"> <li>• Transportation Planning, Planning and Economic Development, Department</li> </ul>	<p>Transportation Planning cannot confirm ownership / title for the alley at the rear of the property.</p> <p>Driveway and vehicle accessibility cannot be guaranteed, granted and / or approved unit such time as the applicant can establish that access is available to the municipal right-of-way.</p> <p>Through the review of a Right-of-Way Impact Assessment a daylight triangle of 5 metres by 5 metres is required at the corner of King Street West and Caroline Street North.</p> <p>Caroline Street North between King and York is on</p>	<p>The alleyway has been determined to be privately owned. The applicant underwent legal proceedings to establish a legal right to access across the privately owned alleyway.</p> <p>The applicant has identified the required 5 metre by 5 metre daylight triangle on the concept plan and the dedication of the lands will be completed as part of the Site Plan Control process. Any encroachments into the right of way will require an encroachment agreement with the City or revisions to the design of the building.</p> <p>As part of the Site Plan Control application the applicant will need to outline their proposed access and obtain access</p>

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	<p>the list for two-way street conversion, vehicle access design should take this into consideration.</p> <p>An access permit from the Public Works Department is required for any new or changes to existing access.</p> <p>During construction, all vehicles, equipment, and materials must be kept on private property and cannot occupy the municipal sidewalk or roadway. Should occupancy of the municipal right of way be required during construction a temporary lane closure permit must be obtained. Long term occupancy of the road allowance for a period of three months or greater will require a Construction Management as part of the Site Plan Control application.</p> <p>A Transportation Demand Management Report was submitted and reviewed and noted that the TDM initiatives do not meet the objectives of the City, including a lack of short term bicycle parking spaces.</p>	<p>permits.</p> <p>As part of the Site Plan Control application a Construction Management Plan will be required.</p> <p>The applicant identified that short term bicycle parking is being proposed off-site within the Caroline Street North right-of-way. As part of the Site Plan Control application the applicant will be required to update their Transportation Demand Management Report and receive an encroachment agreement to locate short term bicycle parking within the City Boulevard.</p>
<b>Public Consultation</b>		
Issue	Comment	Staff Response
Building Height	A concern was raised that the building height, originally proposed at 16 storeys and	The Downtown Hamilton Secondary Plan identifies both the subject property and all the

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	54.65 metres, is extremely high for the area and for the surrounding neighbourhood north of King Street West.	lands bound by King Street West, Caroline Street North, York Boulevard and Bay Street North as High Rise 2 which has a maximum height of 30 storeys.  The City of Hamilton Zoning By-law No. 05-200 establishes a maximum building height of 90 metres for the subject lands and 90 to 91 metres for the area identified above.  There is also an existing 13 storey building located to the north of the subject lands.  The proposed building height of 13 storeys (43.75 metres) is permitted by both the Secondary Plan and Zoning By-law.
Insufficient Parking	A concern was raised that given the number of units and the amount of commercial and office space that the parking provided will be insufficient to meet the parking needs of the subject property. It was noted that there is a large demand for private parking spaces in the neighbourhood.	Based on the proposed use of the property a total of 35 parking spaces are required to comply with the Zoning By-law, and a total of 37 parking spaces are proposed. Therefore, sufficient parking will be provided to comply with the requirements of the Zoning By-law.
Traffic Impacts	A concern was raised that during construction traffic impacts would be created.	At the Site Plan Control stage, the applicant will need to determine if any road or sidewalk closures are required and if so the applicant will be required to receive approval of a Construction Management Plan and road closure permits in order to undertake the development.

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		<p>It is noted that traffic impacts created due to construction closures would be temporary and would not be an ongoing impact once the development is completed.</p>
<p>Shadow Impacts</p>	<p>A concern was raised respecting Sun Shadow Impacts on the adjacent buildings.</p>	<p>A Sun Shadow Impact Study was undertaken with respect to the proposed application. As noted in the analysis respecting the Downtown Hamilton Secondary Plan, the Sun Shadow study found that on the Equinox a 16 storey (55.0 metre) tall building would provide a minimum of 3 hours of sun between 10:00 a.m. and 4:00 p.m. for the buildings on the west side of Caroline Street North and the existing multiple dwelling located to the north and therefore complies with the Downtown Hamilton Secondary Plan policies, Sun Shadow guidelines, and Site Plan Guidelines. Staff are satisfied that a 13 storey (43.75 metre) tall building will be able to achieve greater sun access for adjacent properties and the public realm.</p>

**Design Review Panel**

The applicant presented to the Design Review Panel (DRP) in August 2015. The proposal presented was for a 15 storey mixed use building with 116 residential units, at grade retail, 116 bicycle parking spaces and four vehicular parking spaces accessed by a rear ramp that would be intended to be used as vehicle share spaces. The design proposed to demolish the existing building and establish a new building with a base of approximately two storeys. Both the building base and the tower incorporated modern building materials and proposed a substantial amount of glazing.

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The advise received from of the DRP included:

- Encouraging the applicant to save the existing building;
- Suggesting the use of a stacked parking system;
- Increasing the building set backs from the street to minimize impacts of the increased building height;
- Noted that the site is too small to provide setbacks and still have an appropriately sized building;
- Enhancing the pedestrian character along Caroline Street; and,
- Ensuring compatibility with the abutting uses.

Based on the advise of DRP and the applicable urban design policies and guidelines, the urban design staff of the Planning Division have worked with the applicant to revise the building design. When the applicant applied for the Zoning By-law Amendment application, they incorporated a stacked parking system into their design increasing the total number of parking spaces from four spaces to 37 parking spaces. The applicant is still proposing to demolish the existing building; however, the base of the proposed building has been revised to be comparable to the existing building in terms of height, architectural style, and materials. The proposed development includes setbacks from both the front and easterly side as well as changes in material, and other architectural features to provide compatibility with abutting uses, breaking up the massing of the building and establishing a built form that is consistent with the pedestrian character along both King Street West and Caroline Street North.

## **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 872 property owners within 120 metres of the subject property on May 31, 2017. A Public Notice sign was posted on the property on June 14, 2017 and updated on January 20, 2021. Finally, Notice of the Public Meeting was given on January 29, 2021 in accordance with the requirements of the *Planning Act*.

To date, two letters have been submitted expressing concern with the proposed development which are attached as Appendix “E” to Report PED21038 and summarized in the table above.

### **Public Consultation Strategy**

The Public Consultation Strategy included two separate meetings with the Central Neighbourhood Association, as discussed on page 9 of Report PED21038.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan; and,
  - (iii) The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
  
2. The application for Zoning By-law Amendment is for a change in zoning from the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone to Downtown Mixed Use – Pedestrian Focus (D2, 731, H17, H19, H116) Zone.

The D2 Zone permits a range of commercial uses in addition to multiple dwellings. Figure 1 of Schedule “F” – Special Figures allows for a maximum height of 90 metres and the proposed development falls within this permission at a proposed height of 43.75 metres. The proposed amendment is to establish a site specific D2 Zone to recognize the modifications necessary to permit the proposed development. The modifications are identified on page 7 of Report PED21038 and discussed in detail in Appendix “D” to Report PED21038.

Therefore, staff support the proposed Zoning By-law Amendment.

3. An “H” Holding Provision is recommended to require the Owner submit a signed Record of Site Condition (RSC) to the City of Hamilton and the MOECP for the subject property or to enter into a conditional building permit agreement with respect to completing a Record of Site Condition (RSC). 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 MOECP, and submission of the City of Hamilton’s current RSC administration fee. This is required to evaluate the impacts of the former commercial uses on the property given the proposed change to include residential uses (a sensitive land use). The applicant has undergone a Phase I Environmental Site Assessment but has not submitted their findings to the MOECP.

4. The subject property is included in the City's Inventory of Buildings of Architectural and/or Historical Interest. A CHIA was submitted and reviewed as part of the application for Zoning By-law Amendment and it was determined that as the existing building has is not structurally sound and cannot be restored to its original condition and therefore cannot be preserved as part of any redevelopment. The CHIA was reviewed and accepted by the Municipal Heritage Committee based on the advise of the Policy and Design working Group. The property's cultural heritage value shall be conserved by undertaking a Documentation and Salvage Report and adaptively reusing materials and elements of the existing building in the reconstruction. The proposed By-law includes an 'H' Holding Provision on the subject property which may be removed conditional upon the owner/applicant submitting the Documentation and Salvage Report to the satisfaction of the Director of Planning and Chief Planner. The adaptive reuse of materials and elements of the existing building in the reconstruction will be undertaken through the Site Plan Control application.
5. An update to the Pedestrian Wind Study will need to be undertaken in order to ensure that the necessary wind control measures reflect the most up to date design for the proposed development. The proposed By-law includes an 'H' Holding Provision on the subject property which may be removed conditional upon the owner/applicant submitting the updated Pedestrian Wind Study to the satisfaction of the Director of Planning and Chief Planner.
6. The subject property is currently subject to Holding Provision (H17) which outlines a number of requirements including lot size requirements, required studies that need to be undertaken, height benchmarks that cannot be exceeded, and a requirement that conditional Site Plan Approval be received, and (H19) for securing Community Benefits, before the 'H' Holding Provision can be lifted for any building exceeding 44.0 metres in height. While the proposed development will have a height of less than 44.0 metres, the existing (H17) and (H19) will be maintained on the subject lands and are being carried forward into the new site specific By-law in order to ensure that they will continue to apply to the subject lands. Carrying forward (H17) and (H19) into the new site specific By-law will ensure that a tall building cannot be built on site until these Holding Provision are applied for and lifted from the subject property. The subject property is also currently subject to Holding Provisions (H20) for demonstrating how any development having the effect of removing rental housing will have the rental housing replaced. There are no existing rental housing units on the subject lands and therefore no rental housing will be lost as a result of the proposed development. Therefore, Holding Provision (H20) is not required and is not being carried forward into the new site specific By-law.

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7. The proposed development is subject to Site Plan Control, and a detailed design and technical evaluation respecting cultural heritage, street trees, noise, grading and servicing, amongst others will be further reviewed and implemented as part of the Site Plan Control Application and a Site Plan agreement will be entered into.
8. A 5.0 metre by 5.0 metre daylight triangle at the corner of King Street West and Caroline Street North is required to be dedicated to the City of Hamilton as part of the Site Plan Control Application. It is noted that the sixth through fourteenth floors of the proposed building cantilever over the daylight triangle and therefore would encroach over property that will be owned by the City of Hamilton. The applicant will be required to enter into an encroachment agreement in order to permit part of the building to cantilever over the boulevard or will have to revise their design to not encroach over the daylight triangle. It should be noted that revisions to the design to not have the upper floors encroach will not result in compliance issues with respect to the site specific Zoning By-law.
9. On January 7, 2021 the Local Planning Appeal Tribunal issued Memorandum of Oral Decision by M.A. Sills on October 15, 2020 respecting a settlement hearing respecting the passing of Zoning By-law No. 17-240 by Council of the City of Hamilton for increase in minimum parking spaces size from 2.6 metres in width and 5.5 metres in length to 2.8 metres in width and 5.8 metres in length. The LPAT decision also outlined when an increase in parking space width is required when adjacent to a wall or column. The decision of the LPAT exempted three properties which included the subject property from the increase in parking space size and therefore the parking space size requirement of 2.6 metres by 5.5 metres would still apply. The site-specific by-law contains a modification to recognize the reduced parking space size related to the parking stacker system.

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment application be denied, the subject property could be utilized in accordance with the range of uses and provisions of the Downtown Mixed Use – Pedestrian Focus (D2, H17, H19, H20) Zone.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and 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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**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.

**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 Amendment to Zoning By-law No. 05-200

Appendix “C” – Revised Concept Plan

Appendix “D” – Zoning By-law Site Specific Modification - Chart

Appendix “E” – Public Submissions

Appendix “F” – Diagram of the Parking Stacker System