

HM/A-20:258 – 1575 Upper Ottawa St., Hamilton

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

Should the Committee approve the application, an approval should be subject to the following condition(s):

HM/A-20:258 – 1575 Upper Ottawa St., Hamilton

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit a maximum combined gross floor area for retail of 2,150 sq. m for each lot for the existing shopping centre instead of the maximum 1,500 sq. m, and to permit the minimum number of required parking spaces to be based on the “shopping centre” regulations instead of being based on individual uses as required.

Urban Hamilton Official Plan

The subject lands are identified as “Secondary Corridors” on Schedule “E” – Urban Structure and designated “Arterial Commercial” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). A range of arterial commercial uses are permitted, including land extensive retail stores such as a home improvement supply store, but does not include retail uses in general (E.4.8.2).

Official Plan Amendment No. 66 applied the Urban Site Specific Policy “UHC-5” to the subject lands, which permits retail uses to a maximum of 1,500 sq. m, office uses to a maximum of 1,767 sq. m, personal services, and financial establishments in addition to Arterial Commercial uses (Policies 1.0 and 1.1 of UHC-5, Chapter C, Volume 3).

OPA No. 66 was initiated by the owner in order to permit a greater range of commercial uses within the “Arterial Commercial” designation. These additional uses were all existing on the subject lands and were permitted in the former Zoning By-law, prior to the lands being brought into Zoning By-Law No. 05-200.

In the staff report (PED16190), it was noted that the “lands have developed into a shopping, service commercial, and office hub...rather than functioning as a regional or highway commercial use”. However, the intent of the UHOP is for the lands to be redeveloped for arterial commercial uses and so caps for the maximum combined gross floor area for retail and office uses were proposed so as not to preclude arterial commercial uses being developed on the subject lands. Staff were supportive of the OPA as it would not allow for the expansion of non-arterial uses but would rather recognize existing non-arterial uses while protecting for the full range of permitted arterial commercial uses.

With the foregoing in mind, the proposal to permit the expansion of the non-arterial retail use does not maintain the intent of the UHOP.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Arterial Commercial (C7, 600) Zone, which permits a range of arterial commercial uses, subject to the applicable provisions. In addition to the permitted uses of the C7 Zone, Special Exception 600 permits retail, personal services, and financial establishments, but restricts the combined maximum gross floor area for retail and office uses to 1,500 sq. m and 1,767 sq. m respectively, for each lot.

Variance 1

A maximum combined gross floor area for retail of 2,150 sq. m for each lot is proposed, whereas a maximum of 1,500 sq. m is permitted by the Zoning By-law. The intent of the provision is to permit some flexibility by allowing the retail use while ensuring that there is opportunity for a greater range of commercial uses, including arterial commercial uses. In the opinion of staff, the variance would narrow the range of commercial uses on site and therefore does not maintain the intent of the Zoning By-law. Staff notes that personal services and financial establishments are permitted by Special Exception 600 and the GFA is not capped, which provides flexibility for these additional non-arterial uses. As noted previously, the variance does not maintain the intent of the UHOP. The variance is not desirable or minor, as it would decrease the GFA available for arterial commercial uses which diverges from the intent of the UHOP and Zoning. Based on the foregoing, staff **does not** support the variance because the intent of the UHOP and Zoning By-law is not maintained, it is not desirable or minor in nature.

Variance 2

A variance is requested to permit the minimum number of required parking spaces to be based on the "shopping centre" regulations instead of being based on individual uses as required by the Zoning By-law.

The parking regulations of the Zoning By-law were amended through the Commercial and Mixed Use (CMU) Zoning By-law amendment; however, many of these regulations remain under appeal at the Local Planning Appeal Tribunal (LPAT, formerly the OMB) and are therefore not yet final. Once final and binding, the Zoning By-law will require the minimum number of parking spaces to be in accordance with the "shopping centre" regulations.

There are 263 existing parking spaces. The "shopping centre" regulations would require a minimum of 234 parking spaces. The existing number of parking spaces will be in conformity with the Council adopted parking space regulations of the CMU Zoning when it becomes final and binding. As a result, staff is of the opinion that the variance meets the intent of the Zoning By-law.

The variance meets the intent and purpose of the UHOP and the Zoning By-law, is desirable, and minor in nature. Accordingly, staff **supports** the variance.

Recommendation:

Having regard for the matters under subsection 45(1) of the Planning Act, staff is not satisfied that Variance 1 maintains the purpose and intent of the Official Plan and the Zoning By-law. In the opinion of staff, Variance 1 is not desirable for the appropriate development of the land, nor minor in nature. Staff recommends that **Variance 1**, as outlined in the Notice of Hearing, be **denied**; and,

Staff recommends that **Variance 2**, as outlined in the Notice of Hearing, be **approved**, because Variance 2 maintains the purpose and intent of the Official Plan and the Zoning By-law, is desirable and minor in nature.

Building Division:

1. Be advised that Amending By-law No. 17-240 was passed on November 8, 2017 which changed the zoning of this property from "M-11" and "M-12" under Hamilton Zoning By-law No. 6593 to "C7, 600" under Hamilton Zoning By-law No. 05-200. However, there are portions of Amending By-law No. 17-240 which are still under appeal to the Local Appeal Planning Tribunal (LPAT); therefore, it is not yet final. As such, the proposed development is reviewed under the regulations contained within Hamilton Zoning By-law 05-200, except where portions of these regulations are still under appeal by By-law No. 17-240 both the existing and proposed Zoning By-law regulations will be examined with the more restrictive zoning regulation being applied. An exception to this policy is for Building Permits, which are reviewed under the former existing Zoning and/or Zoning By-law regulation until such time that Amending By-law No. 17-240 comes fully into force. Once By-law No. 17-240 is approved in its entirety by the Local Appeal Planning Tribunal (LPAT), the zoning and regulations under this By-law will be applicable.
2. If Variance # 2 is approved, a minimum of two hundred and thirty-four (234) parking spaces will be required for the total gross floor area of 5,261m² for Building A (being 3,558m²), Building B (being 1,409m²) and Building C (being

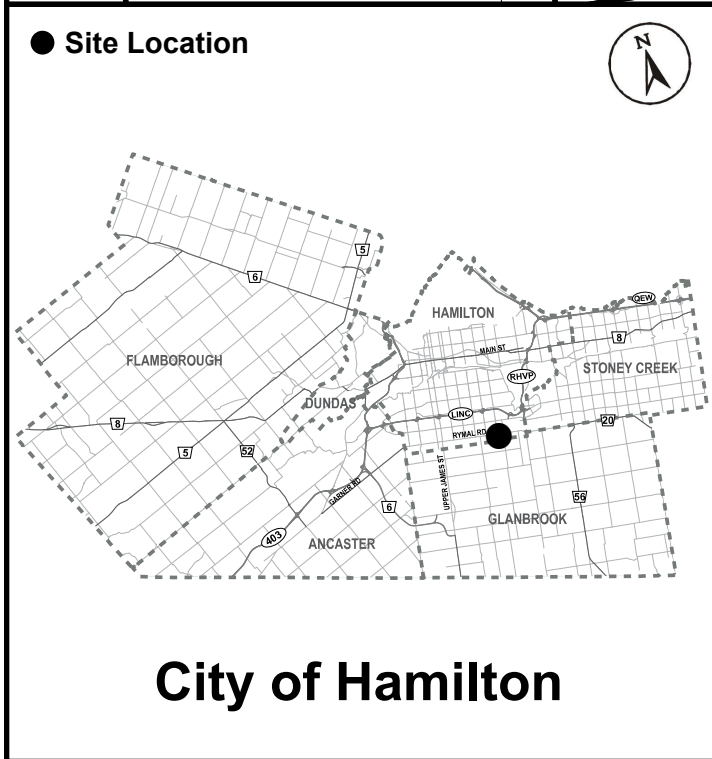
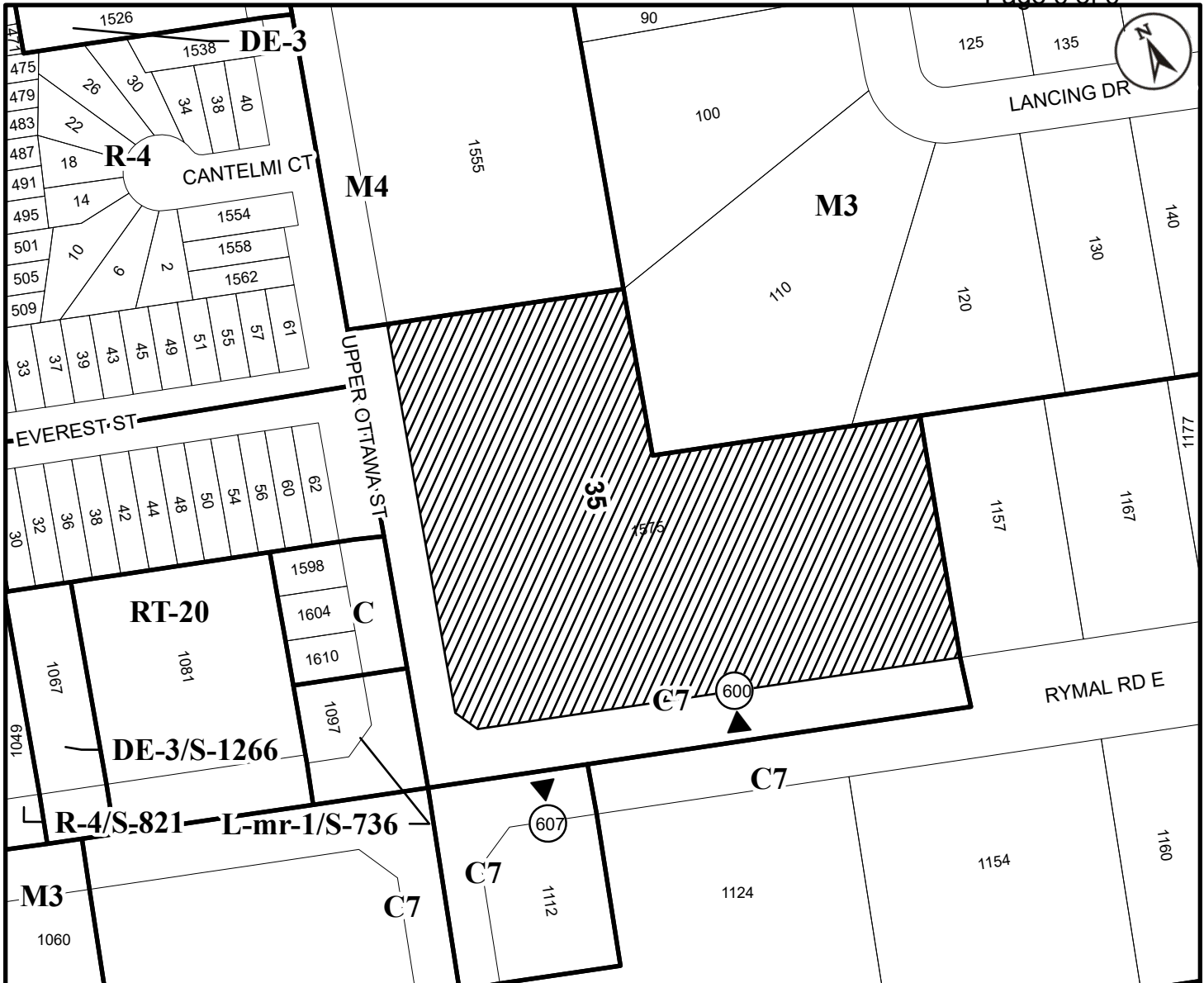
294m²). A total of two hundred and sixty-three (263) parking spaces are shown which will conform to the shopping centre parking regulations. Be advised that the Minor Variance Sketch indicates a total of 256 parking spaces being provided; however, when all the parking spaces shown are added, a total of 263 parking spaces are actually shown (composed of: 256 parking spaces being 2.7m wide x 6.0m long and 7 accessible parking spaces being 2.7m wide x 6.0m long).

3. The lands are subject to Site Plan Control.
4. Building Permit # 20-170918, issued on July 7, 2020, (Alteration to the space to remove interior walls and finishes for future tenant fit-out) remains not finalized

Development Engineering:


Development Engineering Approvals have no comments regarding the Minor Variance Application as proposed.

See attached for additional comments.




Committee of Adjustment

Subject Property

 1575 Upper Ottawa Street, Hamilton (Ward 6)

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:	HM/A-20:258
Date:	January 7, 2021
Technician:	NB
Map Not To Scale	
Appendix "A"	
 Hamilton	