



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 5, 2021
<b>SUBJECT/REPORT NO:</b>	Appeal of Phase 2 of Urban Hamilton Official Plan Amendment and Zoning By-law Amendment Applications to the Ontario Land Tribunal (OLT) for Lack of Decision for Lands Located at 354 King Street West, Hamilton (PED21178) (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Shannon McKie (905) 546-2424 Ext. 1288
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## Council Direction:

In accordance with subsections 22(7) and subsection 34(11) of the *Planning Act*, an Official Plan Amendment Application and associated Zoning By-law Amendment Application may be appealed to the Ontario Land Tribunal (OLT) after 120 days if Council has not made a decision on the Application.

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council pursuant to the *Planning Act* was passed by City Council on May 18, 2010. This Information Report was prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OLT.

The following information is provided to Planning Committee with regards to Phase 2 of Urban Hamilton Official Plan Amendment Application (UHOPA-20-003) and Zoning By-law Amendment Application (ZAR-20-008) for lands located at 354 King Street West which have been appealed to the OLT for lack of decision.

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

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

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**Information:**

The subject property is municipally known as 354 King Street West (see Appendix “A” to Report PED21178).

The subject property has a lot area of 0.7 ha (6,696.7 square metres) and is located along three frontages, being King Street West, Queen Street North and Market Street. The lands were previously occupied by an institutional use and is currently under construction for a hotel and multiple dwelling in accordance with Site Plan Control Application DA-18-096 and Minor Variance Applications HM/A-18:277 and HM/A-19:167.

**Site Plan Control Application (DA-18-096)**

The Owner received final approval of Site Plan Control Application DA-18-096 (see Appendix “B” to Report PED21178) on October 17, 2019 which permitted the development of a ten-storey hotel and a six-storey multiple dwelling with eight, two storey attached units having frontage on Market Street.

**Minor Variance Applications (HM/A-18:277 and HM/A-19:167)**

In 2018 the applicants were granted a Minor Variance to the Zoning By-law by the Committee of Adjustment to permit a maximum building height of 36.5 metres (10 storeys) for the hotel (HM/A-18:277).

In 2019, three additional variances were granted (HM/A-19:167) to permit the following:

- to recognize an interior side yard setback of 1.9 metres along the interior lot line measuring 18.7 metres;
- to permit an interior side yard setback of 0.8 metres along the interior lot line measuring 29.8 metres; and,
- to recognize minimum building height of 7.0 metres.

These Minor Variances are final and binding and will remain in effect on the lands as the Transit Oriented Corridor - Mixed Use Medium Density (TOC1, 295) Zone will remain in effect.

**Urban Hamilton Official Plan Amendment Application (UHOPA-20-003) and Zoning By-law Amendment Application (ZAR-20-008)**

Applications for an Urban Hamilton Official Plan Amendment (UHOPA-20-003) and Zoning By-law Amendment (ZAR-20-008) were submitted to allow for increases in

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height to the already approved development (DA-18-096), specifically for a 12-storey hotel and 25-storey multiple dwelling on the subject lands. Applications UHOPA-20-003 and ZAR-20-008 were submitted on December 20, 2019 by GSP Group Inc. c/o Brenda Khes on behalf of King West Crossing Ltd. and deemed complete on January 17, 2020. The Applications were required to permit:

- a 25-storey multiple dwelling;
- a 12-storey hotel;
- reduced minimum rear yard;
- reduced minimum interior side yard,
- reduced parking requirements;
- the location of the principal entrance for the multiple dwelling; and,
- the location of the driveway access.

On December 18, 2020 the Applications were amended to be considered in phases (see Appendix “E” to Report PED21178). The purpose of the first phase of the Applications was to permit a 12-storey (42.0 metre) hotel and reduced parking requirements for a hotel. The first phase was approved by Council on May 9, 2021 (Official Plan Amendment No. 149 and By-law 21-081) and the Official Plan Amendment and Zoning By-law Amendment are now final and binding and in force and effect.

The purpose of Phase 2 of the Urban Hamilton Official Plan Amendment is to add a special policy area to both the UHOP and the Ainslie Wood Westdale Secondary Plan to permit a maximum height of 25 storeys for a multiple dwelling whereas the Mixed Use - Medium Density designation of the UHOP permits a maximum building height of six storeys with additional permissions for eight storeys where specific conditions are met (Policies E.4.6.7 and E.4.6.8). The Mixed Use – Medium Density designation in the Strathcona Secondary Plan allows for a maximum building height of six storeys (Policy B.6.6.6.1 b)) with additional permissions for ten storeys where specific conditions are met (Policy B.6.6.6.1 c)).

The purpose of Phase 2 of the Zoning By-law Amendment Application is to further modify the Transit Oriented Corridor – Mixed Use Medium Density (TOC1, 295) Zone to permit:

- a maximum building height of 78.0 metres; and,
- reduced parking requirements.

The appeal of Phase 2 of the applications to the OLT was received by the City Clerk’s Office on June 30, 2021, 192 days after the receipt of the initial application (see Appendix “C” to Report PED21178).

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**PROPOSED DEVELOPMENT**

**First Submission:**

The original Applications (UHOPA-20-003/ZAR-20-008) included a 12-storey hotel and a 25-storey multiple dwelling located on the same lot (a copy of the concept plan is attached as Appendix “D” to Report PED21178). That Application was to increase the maximum building height of the hotel from ten storeys to 12 storeys and to increase the maximum building height of the multiple dwelling from six storeys to 25 storeys, along with other associated modifications to the Zoning By-law regarding parking and modifications to the minimum rear yard, interior side yard, principal entrance location, and driveway accesses.

The first proposal, as submitted, required revisions to address issues raised through the circulation of the Applications regarding the transition in scale to the Low Density Residential 3 designated lands, cultural heritage impacts, and traffic impacts.

**Second Submission:**

On December 18, 2020 the Applications were amended to be considered in phases (Appendix “E” to Report PED21178). The phased approach separated the consideration for the hotel from the multiple dwelling. The revised submission for Phase 1, being the hotel, included the request for a maximum building height of 12 storeys whereas ten storeys was permitted and for a reduction in parking requirements for a hotel use. Council approved Phase 1 of the Application on May 9, 2021 (OPA 149 and By-law 21-081).

The revised submission for Phase 2, being the multiple dwelling, included revised stepbacks at the first and seventh storey along King Street West, and at the seventh and thirteenth storey along the easterly property line. The overall height of the proposed building remained 25 storeys (78 metres).

Based on a review of the revised concept plan and related sun shadow study the applicant was advised that concerns regarding the height and massing of the 25-storey multiple dwelling and the resulting impact the Low Density Residential 3 designated lands north/west identified through the circulation of the original application remained.

**Urban Hamilton Official Plan and Zoning By-law No. 05-200**

The subject lands are identified as “Primary Corridor” and “Mixed Use - Medium Density” on Schedule “E” – Urban Structure and are designated “Mixed Use – Medium Density” on Schedule “E-1” – Urban Land Use Designations in Volume 1 of the UHOP.

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The subject lands are also designated “Mixed Use – Medium Density”, Site Specific Policy Area “L” on Map B.6.6-1 Land Use Plan of the Strathcona Secondary Plan.

The subject lands are zoned as follows:

- Phase 1: Transit Oriented Corridor – Mixed Use Medium Density (TOC1, 297, 741, H120) Zone; and,
- Phase 2: Transit Oriented Corridor – Mixed Use Medium Density (TOC1, 297) Zone.

**Public Consultation:**

In accordance with Council’s Public Participation Policy, the proposal was circulated as part of the Notice of Complete Application to 335 property owners within 120 metres of the subject lands on January 31, 2020.

A total of 66 letters were received from members of the public. The common concerns from the public included:

- height, density and shadow impact;
- compatibility and transition to the surrounding neighbourhood;
- that the proposal is not in keeping with the neighbourhood and will cause increased traffic and noise;
- visual impact of the development;
- lack of parking being proposed;
- loss of greenspace being proposed combined with the loss of mature trees and the impact this development may have on the environment;
- impact on the existing infrastructure; and,
- the overall process and public consultation methods.

There were three letters that supported higher density development on King Street West.

**APPENDICIES AND SCHEDULES ATTACHED**

- Appendix “A” to Report PED21178 – Location Map
- Appendix “B” to Report PED21178 – Final Site Plan
- Appendix “C” to Report PED21178 – Letter of Appeal from Applicant’s Solicitor
- Appendix “D” to Report PED21178 – Original Concept Plan
- Appendix “E” to Report PED21178 – Revised Concept Plan