



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5  
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202  
E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

## **NOTICE OF PUBLIC HEARING** **Minor Variance**

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**You are receiving this notice because you are either:**

- Assessed owner of a property located within 60 metres of the subject property
  - Applicant/agent on file, or
  - Person likely to be interested in this application
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**APPLICATION NO.:** SC/A-21:346

**APPLICANTS:** Agent GSP Group c/o J. Liberatore  
Owner NHDG (Waterfront) Inc.

**SUBJECT PROPERTY:** Municipal address 310 Frances Ave., Stoney Creek

**ZONING BY-LAW:** Zoning By-law Stoney Creek 3692-92 and Hamilton Zoning By-law 05-200, as Amended

**ZONING:** "MUC-4 & P5" (Mixed Use Commercial & Conservation/Hazard Lands) district

**PROPOSAL:** To permit the construction of a new mixed-use development consisting of three (3) residential towers above ground floor commercial uses notwithstanding that:

1. Accessory and communal areas related to a residential use (which may include; amenity areas, fitness areas, meeting rooms, bike/vehicle parking areas, lobbies and mail areas) shall be permitted on the ground floor level whereas the by-law only permits residential uses to be located above a commercial use.
2. The amenity area required for each one-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 18.0m<sup>2</sup> per unit.
3. The amenity area required for each two-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 53.0m<sup>2</sup> per unit.
4. A minimum of 36% of the lot area shall be comprised of landscaped open space instead of the minimum required 50%.
5. Where parking spaces abut a street, a landscaped strip being 3.0m wide shall be provided between the parking spaces and the street line instead of the minimum 5.0m wide landscaped strip being required along a street.
6. A landscape strip being 3.5m wide shall be provided abutting the P5 zone instead of the minimum 9.0m wide landscape strip required to be provided abutting any non-commercial or non-industrial zoned lands.
7. Pedestrian walkways and vehicular driveways shall be permitted to cross a required landscape strip.
8. Parking for apartment dwelling units shall be provided at a rate of 1.25 parking spaces per dwelling unit instead of the minimum required 1.5 parking spaces per unit.

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## NOTES:

These variances are necessary to facilitate Site Plan Control Application DA-19-020. Please be advised that floor plans and elevations drawings have not been submitted as part of this Minor Variance application, therefore a comprehensive zoning review could not be completed at this time. As such, variances have been written as requested by the applicant. The applicant shall ensure that all other zoning regulations as noted in previous Building Division comments for DA-19-020 can be complied with

This application will be heard by the Committee as shown below:

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<b>DATE:</b>	Thursday, October 21st, 2021
<b>TIME:</b>	2:00 p.m.
<b>PLACE:</b>	Via video link or call in (see attached sheet for details) To be streamed at <a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a> for viewing purposes only

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## PUBLIC INPUT

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

**Orally:** If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

## MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit [www.hamilton.ca/committeeofadjustment](http://www.hamilton.ca/committeeofadjustment)
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

DATED: October 5th, 2021.

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Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment

*Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.*

October 21st, 2021

**SC/A-21:346 – 310 Frances Ave., Stoney Creek**

**PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT**

**Development Planning – Suburban**

The purpose of this application is to permit the construction of three high-rise mixed-use buildings which contain residential dwelling units, indoor and outdoor parking, and ground floor commercial units (See Table 1), notwithstanding the following variances:

1. That accessory and communal areas related to a residential use including: amenity areas, fitness areas, meeting rooms, bike/vehicle parking areas, lobbies and mail areas be permitted on the ground floor level, whereas Zoning By-law No. 3692-92 only permits residential uses and uses accessory to, to be located above a commercial use;
2. That an amenity area for each one-bedroom dwelling unit shall be provided at a rate of 8.8 m<sup>2</sup> per/unit, whereas Zoning By-law No. 3692-92 requires amenity area to be provided at a rate of 18.0 m<sup>2</sup>;
3. That an amenity area for each two-bedroom dwelling unit shall be provided at a rate of 8.8 m<sup>2</sup> per/unit, whereas Zoning By-law No. 3692-92 requires amenity area to be provided at a rate of 53.0 m<sup>2</sup>;
4. To permit a minimum lot area comprised of landscaping to be 36%, whereas Zoning By-law No. 3692-92 requires that 50% of the lot area be comprised of landscaping;
5. To provide a 3.0-metre-wide landscape strip along a lot line that abuts a street, whereas Zoning By-law No. 3692-92 requires a minimum 5.0-metre-wide landscape strip to be provided;
6. To provide a 3.5-metre-wide landscape strip abutting the Conservation/Hazard Land (P5) Zone, whereas Zoning By-law No. 3692-92 requires a minimum 9.0-metre-wide be provided;
7. To permit pedestrian walkways and vehicular driveways to cross a required landscape strip; and
8. That a parking rate of 1.25 parking spaces per dwelling unit be provided, whereas Zoning By-law No. 3692-92 requires a rate of 1.5 parking spaces per dwelling unit be provided.

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### Background

Prior to the consideration of the current application **SC/A-21:346**, the subject lands received approval of a Zoning By-law Amendment (**By-law 10-027**) on February 10<sup>th</sup>, 2010. This amendment required several site-specific provisions which include: a minimum density of 585 units/hectare, no maximum cap on height, and no maximum limit to the number of buildings per lot. The proposed development is currently undergoing a Site Plan Control Process through application **DA-19-020**.

### Urban Hamilton Official Plan Designation:

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Multiple dwellings and local commercial uses on the ground floor of buildings containing multiple dwellings within this designation are permitted (Volume 1 – E.3.6.2 and E.3.6.3).

### Former City of Stoney Creek By-law No. 3692-92

The subject lands are classified as Mixed Use Commercial “MUC-4” Zone, modified which permits the use of Apartment Dwelling Units above commercial uses and accessory structures thereto, subject to applicable provisions.

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

A portion of the subject lands are classified as Conservation/Hazard Land (P5) Zone which permits conservation, flood and erosion control facilities and passive recreation, subject to applicable provisions. The (P5) Zone applies to a water channel located at the south and east sides of the subject lands that is regulated by the Hamilton Conservation Authority.

### Variance 1

Zoning By-law No. 3692-92 permits apartment dwelling units and uses accessory there to, to be above commercial uses. The intent provision is to ensure that residential uses are subordinate to the principal commercial uses, while safeguarding that an appropriate street presence and direct pedestrian connections for local commercial uses are maintained.

Staff are of the opinion that the proposed variance is premature as the applicant has not provided, as noted by Building Staff, the elevations and floor layouts which would give staff the ability to complete a wholesome and comprehensive review. Staff are not satisfied that the requested variance meets the four tests as the appropriate information



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has not been provided, therefore, staff recommend denial of the variance as requested, until such a time that floor plans and elevations are provided.

#### Variances 2 and 3

Zoning By-law No. 3692-92 requires that amenity space be provided at a rate of 18.0 m<sup>2</sup> and 53.0 m<sup>2</sup> for one-bedroom and two-bedroom dwelling units respectively. The intent of these provisions is to provide for communal indoor and outdoor amenity areas which supports the recreational needs of residents and visitors.

The applicant proposes to provide amenity space at a rate of 8.8 m<sup>2</sup> for both one-bedroom and two-bedroom dwelling units. The applicant is proposing a reduction of 10.2 m<sup>2</sup>/unit and 44.2 m<sup>2</sup>/unit respectively in order to provide a total of 16,157 m<sup>2</sup> of amenity area. In their analysis they note that "the very high amenity space standards in the 'MUC' Zone within [sic] the Stoney Creek Zoning-By-Law, which are high by historical standards and are also not in line with amenity space requirements for mixed use residential requirements in Zoning By-Law 05-200". Staff note that Zoning By-law No. 05-200 is not in force and effect for the subject lands and the proposed development cannot be measured against those regulations.

While staff agree that these historical standards are particularly high, these provisions appear to have been put into place as a way of limiting the scale of residential development within the Mixed Use Commercial Zones, allowing for commercial uses to be predominate with residential being accessory in nature. Staff are of the opinion that the proposed relief is not in keeping with the intent of the Zoning By-law No. 3692-92. The requested variance is not minor in nature. Staff recommend that Variances 2 and 3 as requested be **Denied**.

#### Variance 4

Zoning By-law No. 3692-92 requires that 50% of the total lot area be comprised of landscaping and open space. The intent of this provision is to ensure that development does not completely overwhelm the lot, thereby allowing the lot to provide appropriate drainage, amenity space, and landscaping.

The applicant is proposing to reduce the required percentage of landscaped area to 36%. Staff does not support the requested reduction as the majority of the lot will be developed as hard surface. In the applicants' analysis of the four tests, it is stated that,

"Minor can not only be contemplated through a numerical calculation, but also based on an analysis and potential impact to the subject site or surrounding area. This test is not purely one of numeracy but also one demonstrating that the variances, both individually and collectively, will not result in any unacceptable adverse impact, rather than no impact at all."

Staff are of the opinion that the cumulative effect of the requested reductions to the required landscape strips and amenity areas in Variances 2-6, combined with the proposed increase of the lot coverage to 64% will collectively, result in unacceptable impacts on the surrounding neighbourhood. The intent of this provision also facilitates the

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intent of the amenity area and landscaping provisions which seek to both mitigate impact of a development on the surrounding area while providing for a higher quality of life for those that live and visit the proposed development. This purpose will be defeated if the landscaped area is reduced as requested. Variance 4 does not maintain the intent of the Zoning By-law.

#### Variance 5

Zoning By-law No. 3692-92 requires that a minimum 5-metre-wide planting strip shall be provided where a lot line abuts a street to ensure that the streetscape is not dominated by parking and to give a naturalized transition between the public and private realms.

The applicant is proposing to reduce the required landscape strip to 3.0 metres. The applicant has compared the proposed development on the subject lands with the landscape strip provided for the lands known as 461 Green Road. The applicant states: "the proposed development on the west side of Green Road was approved based on providing a 2.8m landscaped strip between the parking spaces. For the subject Site, the proposed 3.0m landscaped strip to parking areas will maintain a similar setback and contribute to a more cohesive streetscape".

Staff disagree with this comparison as the proposed development of the subject lands is not of a comparable scale and is not subject to the Stoney Creek Zoning By-law No. 05-200. The development located at 461 Green Road is a single 14 storey mixed use building with a total density of 349 units/ha. The proposal for the subject lands consists of three buildings, that are three times the height and density of the approved development at 461 Green Road. Further, the relief granted for the landscape strips at 461 Green Road was reduced from 3.0 metres to 2.8 metres whereas, the provision of the Mixed Use Commercial "MUC-4" Zone requires a minimum landscape strip of 5.0 metres. This additional landscaping is required to soften the impact that the high density built-form will have on the surrounding land uses.

Staff is not satisfied that the proposed reduction is minor in nature, it does not maintain the intent of the UHOP nor the Stoney Creek Zoning By-law No. 3692-92. Staff are of the opinion that the evidence provided by the applicant comparing the reduced landscaping requirements to the adjacent lands is not an appropriate comparison as the zoning requirements for those lands are less stringent based on the intensity of use. Staff does not support the variance as requested.

#### Variance 6

Zoning By-law No. 3692-92 requires that a minimum 9-metre-wide planting strip shall be provided where a lot line abuts any non-commercial or non industrial lands. The intent of this provision is to ensure that there is naturalized transition between high density built form and surrounding sensitive land uses which contributes to appropriate amenity space and on-site drainage.

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The applicant proposes to provide a 3.5-metre-wide landscape strip for the lot line abutting the Conservation/Hazard Land (P5) Zone. In their justification the applicant states:

"The requested reduced landscaped strip width along the southern limits of the Site to another zone continues to maintain the general intent as the size and design of the blocks adjacent to the Site were established to facilitate the storm water design and was approved following a detailed vetting by the appropriate commenting agencies. Relief from this setback is not anticipated to create any compatibility issues, and appropriate design requirements, including sufficient landscaping within the requested landscaped strip can continue to be provided on Site. Through the site plan process, the civil engineering components have been reviewed and continue to be appropriately provided for the site based on the requested Minor Variances."

Staff received comments from the Hamilton Conservation Authority (HCA) on October 14<sup>th</sup>, 2021 which indicated that they had recommended filling the subject site to an elevation of 0.79 metres and provide an appropriate setback from the "Stoney Creek Watercourse No.1" in order to prevent regular flooding. Based on the last site plan submitted to the HCA dated April 2020 it is not evident that the flood requirements have been addressed. Based on the most current information the HCA recommends that the application, as it pertains to Variance 6, is premature until a revised grading plan demonstrating an appropriate setback has been provided. Staff agree with the HCA and cannot consider this requested reduction until the appropriate information is provided. Staff recommend that Variance 6, as requested, be **Denied**.

#### Variance 7

Zoning By-law No. 3692-92 defines a landscape strip as "an area of land devoted solely to the growing of grass, ornamental shrubs or trees and may include fences and berms".

The applicant is proposing that various pedestrian connections (walkways/sidewalks) be permitted to cross required landscape strips. As the design of the subject site has not been finalized staff are of the opinion that the variance as requested be denied. Consideration of this request is premature, as a redesign of the site could be required, effecting the proposed connections.

#### Variance 8

Zoning By-law No. 3692-92 requires that parking for residential dwelling units be provided at a rate of 1.5 spaces per unit. The intent of the minimum parking requirement is to provide enough parking spaces for both residents and visitors while ensuring that there is minimal spill over of parking on the surrounding streets. .

The applicant proposes to reduce the required parking ratio to 1.25 spaces per dwelling unit. The development as currently planned will contain 1836 dwelling units; at a rate of



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1.5 spaces per dwelling unit, the development would require a total of 2755 spaces (this calculation is for the dwelling units only and does not include the commercial component of the proposed development).

Table 3

Tower #	Number of Dwelling Units	Height of Tower	Required Parking for Residential Units 1.5 spaces/unit *Does not include commercial parking requirements*	Proposed Parking for Residential Units 1.25 spaces/unit *Does not include commercial parking requirements*
1	634	159 metres	951	793
2	657	180 metres	986	821
3	545	144 metres	818	681
Total	1836	N/A	2755	2295

As shown on the Table above, at a rate of 1.25 spaces per dwelling unit the total provided parking for residential uses would be 2295 parking spaces (a difference of 16.6% or 460 spaces). Staff can consider reductions in parking, where there are appropriate amenities and public transit within proximity to a development. It is staff's opinion that the proposed reduction is not minor in nature as the subject lands are underserved by public transit. There are no bus routes, proposed LRT lines, or GO Station within a walkable distance of the subject lands. Further, the reduction of 460 spaces representing a 16.6% decrease in required parking. Staff recommends Variance 8 be **Denied** as requested.

Recommendation:

Having regard for the matters under subsection 45(1) of the *Planning Act*, staff is of the opinion that the requested variances will have an adverse affect on the surrounding lands and streetscape. As such the proposed variances do not meet the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law, the variances are not desirable for the appropriate development of the land and are not minor in nature. Staff recommends that variances, as outlined in the Notice of Hearing, be **Denied**.



**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5  
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## **NOTICE OF PUBLIC HEARING**

### **Minor Variance**

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**You are receiving this notice because you are either:**

- Assessed owner of a property located within 60 metres of the subject property
  - Applicant/agent on file, or
  - Person likely to be interested in this application
- 

<b>APPLICATION NO.:</b>	<b>SC/A-21:346</b>
<b>APPLICANTS:</b>	Agent GSP Group c/o J. Liberatore Owner NHDG (Waterfront) Inc.
<b>SUBJECT PROPERTY:</b>	Municipal address <b>310 Frances Ave., Stoney Creek</b>
<b>ZONING BY-LAW:</b>	Zoning By-law Stoney Creek 3692-92 and Hamilton Zoning By-law 05-200, as Amended
<b>ZONING:</b>	"MUC-4 & P5" (Mixed Use Commercial & Conservation/Hazard Lands) district
<b>PROPOSAL:</b>	To permit the construction of a new mixed-use development consisting of three (3) residential towers above ground floor commercial uses notwithstanding that: <ol style="list-style-type: none"> <li>1. Accessory and communal areas related to a residential use (which may include; amenity areas, fitness areas, meeting rooms, bike/vehicle parking areas, lobbies and mail areas) shall be permitted on the ground floor level whereas the by-law only permits residential uses to be located above a commercial use.</li> <li>2. The amenity area required for each one-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 18.0m<sup>2</sup> per unit.</li> <li>3. The amenity area required for each two-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 53.0m<sup>2</sup> per unit.</li> <li>4. A minimum of 36% of the lot area shall be comprised of landscaped open space instead of the minimum required 50%.</li> <li>5. A landscape strip being 6.0m wide shall be provided abutting the P5 zone instead of the minimum 9.0m wide landscape strip required to be provided abutting any non-commercial or non-industrial zoned lands.</li> <li>6. Pedestrian walkways and vehicular driveways shall be permitted within a required landscape strip and landscaped open space and may also include the following: Servicing structures and fixtures, i.e. catch basins, manholes, valve boxes etc., Existing and proposed transformers, Traffic control signs, Light standards and fixtures, Armour stone landscape walls, Site and maintenance accesses and Rain Gardens and Infiltration (clear stone) Galleries.</li> <li>7. Parking for apartment dwelling units shall be provided at a rate of 1.25 parking spaces per dwelling unit instead of the minimum required 1.5 parking spaces per unit.</li> </ol>

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NOTES:

i. These variances are necessary to facilitate Site Plan Control Application DA-19-020. Please be advised that floor plans and elevations drawings have not been submitted as part of this Minor Variance application, therefore a comprehensive zoning review could not be completed at this time. As such, variances have been written as requested by the applicant. The applicant shall ensure that all other zoning regulations as noted in previous Building Division comments for DA-19-020 can be complied with.

This application will be heard by the Committee as shown below:

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<b>DATE:</b>	<b>Thursday, December 9th, 2021</b>
<b>TIME:</b>	<b>1:40 p.m.</b>
<b>PLACE:</b>	<b>Via video link or call in (see attached sheet for details)</b>
	<b>To be streamed at</b>
	<b><a href="http://www.hamilton.ca/committeeofadjustment">www.hamilton.ca/committeeofadjustment</a></b>
	<b>for viewing purposes only</b>

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**PUBLIC INPUT**

**Written:** If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

**Orally:** If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

**MORE INFORMATION**

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- Email Committee of Adjustment staff at [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

DATED: November 23rd, 2021.

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Jamila Sheffield,  
Secretary-Treasurer  
Committee of Adjustment

*Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.*

December 9th, 2021

Amended  
SC/A-21:346 – 310 Frances Ave., Stoney Creek

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the construction of three high-rise multiple dwellings with surface parking for commercial uses and a six storey parking podium for residential and visitor parking, ground floor commercial uses, and ground floor amenity areas, notwithstanding the following variances:

1. That accessory and communal areas related to a residential use including: amenity areas, fitness areas, meeting rooms, bike/vehicle parking areas, lobbies and mail areas be permitted on the ground floor level, whereas Zoning By-law No. 3692-92 only permits residential uses and uses accessory to, to be located above a commercial use;
2. That an amenity area for each one-bedroom dwelling unit shall be provided at a rate of 8.8 m<sup>2</sup> per/unit, whereas Zoning By-law No. 3692-92 requires amenity area to be provided at a rate of 18.0 m<sup>2</sup> per/unit;
3. That an amenity area for each two-bedroom dwelling unit shall be provided at a rate of 8.8 m<sup>2</sup> per/unit, whereas Zoning By-law No. 3692-92 requires amenity area to be provided at a rate of 53.0 m<sup>2</sup> per/unit;
4. To permit a minimum lot area comprised of landscaping to be 36%, whereas Zoning By-law No. 3692-92 requires that 50% of the lot area be comprised of landscaping;
5. To provide a 6.0-metre-wide landscape strip abutting the Conservation/Hazard Land (P5) Zone, whereas Zoning By-law No. 3692-92 requires a minimum 9.0-metre-wide be provided;
6. To permit pedestrian walkways and vehicular driveways to cross a required landscape strip, and; that the following may also be permitted within the required landscape strips: servicing structures and fixtures, i.e. catch basins, manholes, valve boxes etc., existing/proposed transformers, traffic control signs, light standards/fixtures, armour stone landscape walls, site/maintenance accesses, rain gardens and infiltration (clear stone) galleries; and



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7. That a parking rate of 1.25 parking spaces per dwelling unit be provided, whereas Zoning By-law No. 3692-92 requires a rate of 1.5 parking spaces per dwelling unit be provided.

#### Background

Prior to the consideration of the current application **SC/A-21:346**, the subject lands received approval of a Zoning By-law Amendment (**By-law 10-027**) on February 10<sup>th</sup>, 2010. This amendment required several site-specific provisions which include: a minimum density of 585 units/hectare, no maximum cap on height, and no maximum limit to the number of buildings per lot. The proposed development is currently undergoing a Site Plan Control Process through application **DA-19-020**.

The current application was tabled at the October 21<sup>st</sup>, 2021 Committee of Adjustment Meeting. This afforded the applicant an opportunity to hold a public open house to provide an update on the proposed development to the surrounding community. As suggested in report **PED19115** that was presented to Planning Committee on May 14, 2019. On Thursday November 18<sup>th</sup>, 2021 staff attended the public open house hosted by the applicant and noted that the applicant presented possible revisions to the latest submission of **DA-19-020**. The applicant presented a built form that reduced the heights and unit counts of the proposed towers to 44, 38, and 32 Storeys, for a total of 1,346 units. To date, staff have not received the revised detailed plans, nor the required technical studies to support the revision presented to the public at the open house. (Table 1 reflects the site statistics of the latest submission to application **DA-19-020**).

#### Urban Hamilton Official Plan Designation

The subject lands are designated as “Neighbourhoods” in Schedule E – Urban Structure and designated “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan (UHOP). Multiple dwellings and local commercial uses on the ground floor of buildings containing multiple dwellings within this designation are permitted (Volume 1 – E.3.6.2 and E.3.6.3).

#### Former City of Stoney Creek By-law No. 3692-92

The majority of the subject lands are classified as Mixed Use Commercial “MUC-4” Zone, Modified in the Stoney Creek Zoning By-law No. 3692-92 which permits the use of Apartment Dwelling Units above commercial uses and accessory structures thereto, subject to applicable provisions.

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

A portion of the subject lands are classified as Conservation/Hazard Land (P5) Zone in the City of Hamilton Zoning By-law No. 05-200, which permits conservation, flood and erosion control facilities and passive recreation, subject to applicable provisions. The (P5)

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Zone applies to a water channel located at the south and east sides of the subject lands that is regulated by the Hamilton Conservation Authority.

#### Variance 1

Zoning By-law No. 3692-92 permits apartment dwelling units above commercial uses and uses accessory thereto. The intent of the provision is to ensure that residential uses are subordinate to the principal commercial uses, while safeguarding that appropriate street presence and direct pedestrian connections for local commercial uses are maintained.

The applicant has submitted a conceptual ground floor plan that denotes the majority of the ground floor area of the proposed development will be utilized for accessory residential uses. The regulations of the Mixed Use Commercial Zone establish that apartment dwelling units and uses accessory to may only be permitted to be above commercial uses. Staff note that the overall intent of this zone is to ensure that the apartment dwelling units service and are accessory to the principal commercial uses. The submitted ground floor plan runs contrary to this intent, as the majority of the ground floor of the proposed development is devoted accessory residential uses, not the permitted commercial uses. Staff are of the opinion that the requested variance is not minor in nature, nor does it meet the intent of the zoning by-law. Staff recommend Variance 1 as outlined in the notice of hearing be **denied**.

#### Variances 2 and 3

Zoning By-law No. 3692-92 requires that amenity space be provided at a rate of 18.0 m<sup>2</sup> and 53.0 m<sup>2</sup> for one-bedroom and two-bedroom dwelling units respectively. The intent of these provisions is to provide for adequate communal indoor and outdoor amenity areas which supports the recreational needs of residents and visitors and provides an indirect control over the scale of development.

The applicant proposes to provide amenity space at a rate of 8.8 m<sup>2</sup> for both one-bedroom and two-bedroom dwelling units. The applicant is proposing a reduction of required ratio of amenity space per dwelling unit to 10.2 m<sup>2</sup>/unit and 44.2 m<sup>2</sup>/unit respectively. Staff note that 55,031.0 m<sup>2</sup> is required based on the last formal submission received.

The applicant's analysis states, "the very high amenity space standards in the 'MUC' Zone within [sic] the Stoney Creek Zoning-By-Law, which are high by historical standards and are also not in line with amenity space requirements for mixed use residential requirements in Zoning By-Law 05-200". Staff note that Zoning By-law No. 05-200 is not in force and effect for the subject lands, therefore the proposed development cannot be measured against those regulations.

While staff agree that these historical standards are particularly high, these provisions serve as a way of limiting the scale of residential development within the Mixed Use Commercial Zones, allowing for commercial uses to be predominate with residential

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being accessory. Staff are of the opinion that the proposed relief is not in keeping with the intent of the Zoning By-law No. 3692-92. The requested variances are not minor in nature. Staff recommend that Variances 2 and 3 as requested be **Denied**.

#### Variance 4

Zoning By-law No. 3692-92 requires that 50% of the total lot area be comprised of landscaping and open space. The intent of this provision is to ensure that development does not overwhelm the lot, thereby allowing the lot to provide appropriate drainage, amenity space, and landscaping.

The applicant is proposing to reduce the required percentage of landscaped area to 36%. Staff do not support the requested reduction as the majority of the lot will be developed with hard surfaces. The applicants' analysis (submitted with the original application) of the four tests state:

"Minor can not only be contemplated through a numerical calculation, but also based on an analysis and potential impact to the subject site or surrounding area. This test is not purely one of numeracy but also one demonstrating that the variances, both individually and collectively, will not result in any unacceptable adverse impact, rather than no impact at all."

Staff are of the opinion that the cumulative effect of the requested reductions to the required landscape strips and amenity areas in Variances 2-5, combined with the proposed increase of the lot coverage to 64%; will collectively result in unacceptable impacts on the surrounding neighbourhood. The intent of this provision supports Subsection 8.8.3 (j) and (l) for providing adequate outdoor amenity space and landscaping. The minimum 50% lot coverage also limits the massing of buildings to provide adequate transition to surrounding land uses while providing a higher quality of life for those that live at, near, and visit the proposed development. Staff are therefore of the opinion that the variance is not desirable for the use of the lands and recommend that Variance 4 be **denied** as requested.

#### Variance 5

Zoning By-law No. 3692-92 requires that a minimum 9-metre-wide landscape strip shall be provided where a lot line abuts any non-commercial or non-industrial lands. The intent of this provision is to ensure that there is naturalized transition between high density built form and surrounding sensitive land uses and will contribute to appropriate amenity space and on-site drainage.

The applicant proposes to provide a 6.0-metre-wide landscape strip for the lot line abutting the Conservation/Hazard Land (P5) Zone. In their Planning Justification Report (submitted with the original application) the applicant states:

"The requested reduced landscaped strip width along the southern limits of the Site to another zone continues to maintain the general intent as the size and design of the blocks adjacent to the Site were established to facilitate the storm water design and was approved following a detailed vetting by the appropriate commenting agencies. Relief from this setback is not anticipated to create any



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compatibility issues, and appropriate design requirements, including sufficient landscaping within the requested landscaped strip can continue to be provided on Site. Through the site plan process, the civil engineering components have been reviewed and continue to be appropriately provided for the site based on the requested Minor Variances."

Staff have communicated with the Hamilton Conservation Authority (HCA) who have indicated that they are working with the applicant, specifically, on the reduction of the required landscape strip from 9.0 metres to 6.0 metres. Until the built form of the development has been determined, the impact of the reduced landscape strip is unknown, and may also require additional variances. Staff do not have sufficient information to evaluate the variance against the four tests under Section 45(1) of the Planning Act and cannot recommend approval at this time. Should the applicant wish to proceed with a decision, staff recommend that the variance be **Denied**.

#### Variance 6

Zoning By-law No. 3692-92 defines a landscape strip as "an area of land devoted solely to the growing of grass, ornamental shrubs or trees and may include fences and berms".

The applicant is proposing that various pedestrian connections (walkways/sidewalks) be permitted to cross required landscape strips. The applicant has also requested that the following be permitted to be located within the required landscape strips:

servicing structures/fixtures i.e. catch basins, manholes, valve boxes etc., existing and proposed transformers, traffic control signs, light standards/fixtures, armour stone landscape walls, site/maintenance accesses, rain gardens, and infiltration (clear stone) galleries.

As the design of the subject site has not been finalized staff are of the opinion that the variance as requested be denied. Consideration of this request is premature because conditional site plan approval has not been given. Staff have not had an opportunity to review where these fixtures will be located as the applicant has not provided an updated submission. A redesign of the site may result in a change in the intent of the approval and may affect the scope of the requested variance

#### Variance 7

Zoning By-law No. 3692-92 requires that parking for residential dwelling units be provided at a rate of 1.5 spaces per unit. The intent of the minimum parking requirement is to provide enough parking spaces for both residents and visitors while ensuring that there is minimal spill over of parking on the surrounding streets. This requirement of the By-law also limits scale of development.

The applicant proposes to reduce the required parking ratio to 1.25 spaces per dwelling unit. The development as currently planned will contain 1,836 dwelling units. At a rate of

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1.5 spaces per dwelling unit, the development would require a total of 2,755 parking spaces (this calculation is for the dwelling units only and does not include the commercial component of the proposed development).

Table 1

Tower #	Number of Dwelling Units	Height of Tower	Required Parking for Residential Units 1.5 spaces/unit *Does not include commercial parking requirements*	Proposed Parking for Residential Units 1.25 spaces/unit *Does not include commercial parking requirements*
1	634	159 metres	951	793
2	657	180 metres	986	821
3	545	144 metres	818	681
Total	1836	N/A	2755	2295

As shown on the Table 1 above, at a rate of 1.25 spaces per dwelling unit the total provided parking for residential uses would be 2295 parking spaces (a difference of 16.6% or 460 spaces). It is staff's opinion that the proposed reduction is not minor in nature as the subject lands are underserved by public transit. There are no bus routes, proposed LRT lines, or GO Station within a walkable distance of the subject lands. Further, the reduction of 460 spaces representing in a 16.6% decrease in required parking is not minor in nature. Staff can consider reductions in parking, where there are appropriate amenities and public transit within proximity to a development, however, this is not the case for this proposal. Staff recommends Variance 7 be **Denied** as requested.

#### Recommendation:

Having regard for the matters under subsection 45(1) of the *Planning Act*, staff are of the opinion that the requested variances will have an adverse affect on the surrounding lands and streetscape. As such, the proposed variances do not meet the purpose and intent of

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the Urban Hamilton Official Plan and Zoning By-law, the variances are not desirable for the appropriate development of the land and are not minor in nature. Staff recommend that the variances, as outlined in the Notice of Hearing, be **Denied**.

**Building Division:**

1. These variances are necessary to facilitate Site Plan Control Application DA-19-020. Please be advised that floor plans and elevations drawings have not been submitted as part of this Minor Variance application, therefore a comprehensive zoning review could not be completed at this time. As such, variances have been written as requested by the applicant. The applicant shall ensure that all other zoning regulations as noted in previous Building Division comments for DA-19-020 can be complied with.
2. A building permit is required in the normal manner to permit the construction of the proposed development.

**Development Engineering:**

Development Engineering has no comments on the Minor Variance proposed.

All engineering comments will be provided through Site Plan Application DA-19-020.

**See attached for additional comments.**





Committee of Adjustment  
Hamilton City Hall  
71 Main Street West, 5<sup>th</sup> floor  
Hamilton, ON L8P 4Y5  
Telephone (905) 546-2424  
ext. 4221, 3935  
Fax (905) 546-4202

**COMMITTEE OF ADJUSTMENT**  
**DECISION OF THE COMMITTEE**

**APPLICATION NO. SC/A-21:346**  
**SUBMISSION NO. A-346/21**

- APPLICATION NO.:** SC/A-21:346
- APPLICANTS:** Agent GSP Group c/o J. Liberatore  
Owner NHDG (Waterfront) Inc.
- SUBJECT PROPERTY:** Municipal address 310 Frances Ave., Stoney Creek
- ZONING BY-LAW:** Zoning By-law Stoney Creek 3692-92 and Hamilton Zoning By-law 05-200, as Amended
- ZONING:** "MUC-4 & P5" (Mixed Use Commercial & Conservation/Hazard Lands) district
- PROPOSAL:** To permit the construction of a new mixed-use development consisting of three (3) residential towers above ground floor commercial uses notwithstanding that:
1. Accessory and communal areas related to a residential use (which may include; amenity areas, fitness areas, meeting rooms, bike/vehicle parking areas, lobbies and mail areas) shall be permitted on the ground floor level whereas the by-law only permits residential uses to be located above a commercial use.
  2. The amenity area required for each one-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 18.0m<sup>2</sup> per unit.
  3. The amenity area required for each two-bedroom dwelling unit shall be provided at a rate of 8.8m<sup>2</sup> per unit instead of the minimum required amenity area of 53.0m<sup>2</sup> per unit.
  4. A minimum of 36% of the lot area shall be comprised of landscaped open space instead of the minimum required 50%.
  5. A landscape strip being 6.0m wide shall be provided abutting the P5 zone instead of the minimum 9.0m wide landscape strip required to be provided abutting any non-commercial or non-industrial zoned lands.
  6. Pedestrian walkways and vehicular driveways shall be permitted within a required landscape strip and landscaped open space and may also include the following: Servicing structures and fixtures, i.e. catch basins, manholes, valve boxes etc., Existing and proposed transformers, Traffic control signs, Light standards and fixtures, Armour stone landscape walls, Site and maintenance accesses and Rain Gardens and Infiltration (clear stone) Galleries.
  7. Parking for apartment dwelling units shall be provided at a rate of 1.25 parking spaces per dwelling unit instead of the minimum required 1.5 parking spaces per unit.

SC/A-21:346  
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That the variances, as set out above, are **DENIED** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is beyond that of a minor nature.
2. The relief granted is not desirable for the appropriate development of the land and building and is inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is not satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the denial of the application.

**DATED AT HAMILTON** this 9<sup>th</sup> day of December, 2021.

\_\_\_\_\_  
D. Smith (Chairman)

\_\_\_\_\_  
L. Gaddy

\_\_\_\_\_  
M. Switzer

\_\_\_\_\_  
N. Mieczko

\_\_\_\_\_  
B. Charters

\_\_\_\_\_  
M. Smith

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **December 29, 2021**.

**NOTE: This decision is not final and binding unless otherwise noted.**