



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 5, 2022
SUBJECT/REPORT NO:	Applications for Official Plan Amendment and Zoning By-law Amendment for Lands Located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Jennifer Allen (905) 546-2424 Ext. 4672
SUBMITTED BY:	Stephen Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Amended Official Plan Amendment Application UHOPA-20-008 by UrbanSolutions Planning and Land Development Consultants Inc. c/o Sergio Manchia, on behalf of 467052 Ontario Limited c/o Steve Joyce, Owner**, to redesignate a portion of the subject lands from “Low Density Residential” and a portion of the subject lands from “Local Commercial” to “Mixed Use” with a Special Policy Area in the City of Hamilton Official Plan, to permit a seven storey mixed use building with commercial uses on the ground floor, professional offices and professional medical offices on the second floor and residential dwelling units on the upper storeys, for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, as shown on Appendix “A” attached to Report PED22062, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED22062, be adopted by City Council;
 - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2020) and conforms to the Growth Plan for the Greater Golden Horseshoe 2019, as amended;

SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 2 of 38

- (b) That **Amended Zoning By-law Amendment Application ZAC-20-013 by UrbanSolutions Planning and Land Development Consultants Inc. c/o Sergio Manchia, on behalf of 467052 Ontario Limited c/o Steve Joyce, Owner**, for a change in zoning from the “JJ/S-378” (Restricted Light Industrial) District, Modified, “H” (Community Shopping and Commercial, Etc.) District, “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified and “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to a site specific Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone to permit a mixed use building with a maximum building height of 25 metres (seven storeys) with 845.64 square metres of ground floor commercial space, 749.52 square metres of office on the second floor, 79 residential dwelling units on the upper floors and a total of 86 parking spaces for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, as shown on Appendix “A” attached to Report PED22062, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED22062, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) 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 City of Hamilton Official Plan upon approval of Official Plan Amendment No. _____;
 - (iii) That Schedule “D” – Holding Provisions, of Zoning By-law No. 05-200; be amended by adding the following Holding Provisions as follows:
 - H124. Notwithstanding Section 10.5a of this By-law, within lands zoned Mixed Use Medium Density – Pedestrian Focus (C5a) Zone on Map No. 952 on Schedule “A” – Zoning Maps, and described as 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton, no development shall be permitted until such time as:
 - 1. The Owner submit and receive completion of a signed Record of Site Condition 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

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 3 of 38

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;

2. The Owner agrees in a signed Site Plan Agreement to implement all required noise mitigation measures identified in the Environmental Noise Feasibility Study dated November 22, 2019 by RWDI and updated July 26, 2021, to the satisfaction of the Director of Planning and Chief Planner;
 3. The Owner agrees in a signed Site Plan Agreement, to provide notice to any subsequent owner, as well as any prospective purchasers or tenants that the dwellings are located in a Class 4 Area, and to agree to register this notice and any / all warning clauses on title, and include them in any purchase and sale and in any lease or rental agreement, to the satisfaction of the Director of Planning and Chief Planner;
- (c) That Council deem the lands at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North (see Appendix "A" attached to Report PED22062) as a Class 4 Area pursuant to the Ministry of the Environment, Conservation and Parks' (MECP) Noise Guidelines NPC-300 (Stationary and Transportation Sources – Approval and Planning), and that the Class 4 Area designation apply only to the development proposal attached as Appendix "E" to Report PED22062 with the requirement that all noise mitigation and warning clauses be secured through the Holding Provision attached to the implementing Zoning By-law as specified in Section (b)(iii) b, and c. outlined above;
- (d) That upon finalization of the amending By-law, the subject lands be redesignated from "Single and Double" and "Commercial" to "Commercial and Apartments" in the Beasley Neighbourhood Plan.

EXECUTIVE SUMMARY

The subject lands are municipally known as 222, 226 and 228 Barton Street East and 255, 261, 263 and 265 Wellington Street North. UrbanSolutions Planning and Land Development Consultants Inc., (c/o Sergio Manchia) on behalf of 467052 Ontario Limited c/o Steve Joyce, Owners, has applied for amendments to the City of Hamilton Official Plan and Zoning By-law No. 6593 to permit a seven storey mixed use building with 845.64 square metres of ground floor commercial space, 749.52 square metres of office on the second floor and 79 residential dwelling units on the upper floors. A total

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 4 of 38

of 86 parking spaces will be provided at grade and within an underground parking structure.

The purpose of the Official Plan Amendment is to redesignate the lands from “Low Density Residential” and “Local Commercial” to “Mixed Use” with a Special Policy Area within the West Harbour (Setting Sail) Secondary Plan to permit a seven storey mixed use building with commercial uses on the ground floor, professional offices and professional medical offices on the second floor and residential dwelling units on the upper storeys.

The purpose of the Zoning By-law Amendment is to remove the subject lands from Zoning By-law No. 6593 with multiple properties zoned “JJ/S-378” (Restricted Light Industrial) District, Modified, “H” (Community Shopping and Commercial, Etc.) District, “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified and “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District and add the lands to Zoning By-law No. 05-200 as Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone.

The following modifications to the C5a Zone are required:

- An increased setback from a street line from 3.0 metres to 3.7 metres;
- An increased building height from 22.0 metres to 25.0 metres;
- An increased first storey height from 4.5 metres to 5.4 metres;
- Modified fenestration requirements on the ground floor façade;
- A maximum gross floor area for a Medical Clinic being 505 square metres; and,
- A reduced parking requirement for Office from 1 parking space per 30 square metres and Medical Clinic from 1 parking space per 16 square metres to 1 parking space per 27 square metres for both an Office and Medical Clinic.

Based on the subject property being located in proximity to stationary noise sources (Hamilton General Hospital) the applicant is seeking to have the subject property classified as a Class 4 Area pursuant to the Ministry of the Environment, Conservation and Parks (MECP) Noise Guidelines NPC-300.

The proposal has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to the Growth Plan for the Greater Golden Horseshoe, 2019, as amended (Growth Plan);
- It complies with the general intent of the City of Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan; and,

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 5 of 38

- The proposed development is compatible with and complementary to the existing and planned development in the immediate area, represents good planning by providing a compact and efficient urban form, provides an alternative housing form in the area and supports developing a complete community.

Alternatives for Consideration – See Page 37

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting to consider an Application for an amendment to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	467052 Ontario Limited c/o Steve Joyce (Owner).
File Number:	UHOPA-20-008 and ZAC-20-013.
Type of Application:	City of Hamilton Official Plan Amendment and Zoning By-law Amendment.
Proposal:	<p>To permit a seven storey (25.0 metres) mixed use building with a three storey podium to the west and south to create a transition in scale to the adjacent properties. The building will consist of 845.64 square metres of ground floor commercial space, 749.52 square metres of professional offices and professional medical offices on the second floor and 79 residential dwelling units on the upper floors.</p> <p>A total of 86 parking spaces will be provided at grade and within an underground parking structure. Vehicle access to the proposed development will be provided along Barton Street East and Wellington Street North. Fourteen short term bicycle parking spaces and 56 long term bicycle parking spaces are also proposed.</p>

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 6 of 38

Application Details	
Proposal (Continued):	The Applicant submitted a revised proposal on February 5, 2021 that included minor modifications to the concept plan that addressed staff comments related to visibility triangles, snow storage, bicycle parking location, landscape strips and waste storage location (see Appendix “E” attached to Report PED22062).
Property Details	
Municipal Address:	222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North.
Lot Area:	Approximately 3,374.1 square metres (0.34 hectares).
Servicing:	Existing full municipal services.
Existing Use:	The subject lands are vacant. The semi-detached dwellings located at 255 and 257 Wellington Street North were demolished in 2019.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
A Place to Grow:	The proposal conforms to the Growth Plan.
Official Plan Existing:	<p>“Urban Area” in the Hamilton-Wentworth Official Plan.</p> <p>“Central Policy Area” in the City of Hamilton Official Plan.</p> <p>Multiple properties which are designated as follows on Schedule M-2: General Land Use of the West Harbour (Setting Sail) Secondary Plan:</p> <ul style="list-style-type: none"> • Part of 222 Barton Street East is designated “Mixed Use” in the West Harbour (Setting Sail) Secondary Plan; and, • Part of 222 Barton Street East, 226 Barton Street East, 228 Barton Street East and 265 Wellington Street North are designated “Local Commercial” in the West Harbour (Setting Sail) Secondary Plan.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 7 of 38

Documents	
Official Plan Existing (Continued):	<ul style="list-style-type: none"> 255, 257, 261 and 263 Wellington Street North are designated “Low Density Residential” in the West Harbour (Setting Sail) Secondary Plan. <p>“Ferguson-Wellington Corridor” on Schedule M-1: Planning Areas and Sub-Areas and within the Zone of Noise Influence on Schedule M-3: Zone of Noise Influence of the West Harbour (Setting Sail) Secondary Plan.</p>
Official Plan Proposed:	“Mixed Use” in the West Harbour (Setting Sail) Secondary Plan.
Zoning Existing:	<p>Multiple properties which are zoned as follows:</p> <ul style="list-style-type: none"> Part of 222 Barton Street East is zoned “JJ/S-378” (Restricted Light Industrial) District, Modified; Part of 222 Barton Street East, 226 and 228 Barton Street East and 265 Wellington Street North are zoned “H” (Community Shopping and Commercial, Etc.) District; 261 and 263 Wellington Street North are zoned “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified; and, 255 and 257 Wellington Street North are zoned “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.
Zoning Proposed:	Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone.
Modifications Proposed:	<p>Applicant requested modifications:</p> <ul style="list-style-type: none"> To permit a maximum building setback of 10.5 metres from the Barton Street East Street Line, whereas a maximum of 3.0 metres is permitted; and, To permit a maximum building height of 25.0 metres; whereas a maximum building height of 22.0 metres is permitted.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 8 of 38

Documents	
<p>Modifications Proposed (Continued):</p>	<ul style="list-style-type: none"> • To permit a minimum of 50% of the area of the ground floor façade facing the street to be composed of doors and windows whereas a minimum of 60% is required; • To permit the first storey to have a maximum height of 5.6 metres, whereas a maximum height of 4.5 metres is permitted; • To establish a maximum gross floor area for a Medical Clinic of 505 square metres; and, • To permit a parking ratio of 1 space per 27.0 square metres for Office and Medical Clinic. <p>Staff recommended modifications:</p> <ul style="list-style-type: none"> • To permit a maximum building setback of 3.7 metres from the Barton Street East street line, whereas a maximum of 3.0 metres is permitted (as supported by the applicant). <p>(see Appendix “D” attached to Report PED22062).</p> <p>Staff have also included Holding Provisions in the amending Zoning By-law related to the requirements for a Record of Site Condition, noise mitigation measures and warning clauses. These requirements are discussed in detail in the Analysis and Rationale for Recommendation section of this Report.</p>
Processing Details	
Received:	December 20, 2019.
Deemed Complete:	January 17, 2020.
Notice of Complete Application:	Sent to 84 property owners within 120 metres of the subject property on January 31, 2020.
Public Notice Sign:	Posted January 28, 2020 and updated with public meeting date on March 9, 2022.
Notice of Public Meeting:	Sent to 84 property owners within 120 metres of the subject property on March 18, 2022.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 9 of 38

Processing Details	
Public Consultation:	No Public Open House was held by the applicant. The applicant prepared a website available to the public which generated a total of 161 users between November 2020 and January 2021. As of February 2021, no public correspondence was received by the Applicant regarding the applications.
Public Comments:	Staff received one email requesting information and expressing concern for the development and one email expressing no concerns with the proposal (see Appendix “F” attached to Report PED22062).
Processing Time:	836 days from date of receipt of initial Application, and 422 days from receipt of the revised proposal.

Existing Land Use and Zoning:

	Existing Land Use	Existing Zoning
Subject Property:	Vacant Land	“JJ/S-378” (Restricted Light Industrial) District, Modified; “H” (Community Shopping and Commercial, Etc.) District; “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified; and, “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

Surrounding Land Uses:

North	Motor vehicle service station and Hamilton Health Sciences building.	“H” (Community Shopping and Commercial, Etc.) District, and “K” (Heavy Industry) District.
East	Vacant land, single and semi detached dwellings, and a two storey institutional building.	Mixed Use Medium Density – Pedestrian Focus (C5a, 307) Zone and “H” Community Shopping and Commercial, Etc.) District.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 10 of 38

Surrounding Land Uses:

South	Single and semi detached dwellings.	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, and “H-H/S-1569b” (Community Shopping and Commercial, Etc.) District, Modified.
West	Surface parking lots and restaurants.	“JJ/S-378” (Light and Limited Heavy Industrial, Etc.) District, Modified, and “H-H/S-1569b” (Community Shopping and Commercial, Etc.) District, Modified.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2020)

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others apply to the proposal.

- “1.1.3.1 *Settlement areas* shall be the focus of growth and development.
- 1.1.3.2 Land use patterns within settlement areas shall be based on densities and a mix of land uses:
- a) Efficiently use land and resources;
 - b) Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomic expansion;
 - e) Support active transportation; and,
 - f) Are transit-supportive, where transit is planned, exists or may be development;

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 11 of 38**

- 1.1.3.4 Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety.”

The proposed development is located within a settlement area as defined by the PPS. The proposed mixed use building will contribute to a mix of land uses in the area, is an efficient use of land and represents an appropriate redevelopment of the site. The subject lands are supported by public transit and in proximity to public open spaces and amenities including Hamilton General Hospital, Jackie Washington Rotary Park, Beasley Park and various commercial uses along Barton Street East (Policy 1.1.3.2). The subject property is in proximity to a stationary noise source (Hamilton General Hospital). The necessary measures will be taken to mitigate any risk to public health and safety (Policy 1.1.3.4).

Cultural Heritage and Archaeology

The City of Hamilton Official Plan has not been updated with respect to the cultural heritage policies of the PPS. 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;
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved; and,
- 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 meets two of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for determining archaeological potential:

- 1) In areas of pioneer EuroCanadian Settlement; and,
- 2) Along historic transportation routes.

SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 12 of 38

Notwithstanding current surface conditions the criteria define the property as having archaeological potential. Staff will require that a written caution note be added to the site plan drawings at the Site Plan Control stage (Policy 2.6.2).

The subject property is adjacent to 276 Wellington Street North, a property included on the City's Inventory of Buildings of Architectural and/or Historical Interest. In addition, the property is located within the historic Beasley neighbourhood and within the Wellington Street North Cultural Heritage Landscape. Based on the submitted Urban Design Brief, Cultural Heritage staff are satisfied the proposed scale, materials and overall design of the proposed seven storey mixed use building is contextually appropriate to the prevailing character of the neighbourhood and Wellington Street North Cultural Heritage Landscape.

The semi detached dwelling at 255 and 257 Wellington Street North was constructed in the mid to late 19th century. The dwellings were not in a condition to be considered for retention and were demolished in 2019 (Policy 2.6.3).

Noise

"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 lands are close to existing transportation noise sources and existing stationary noise sources in the area. A Functional Noise Study was prepared by RWDI dated November 22, 2019 and updated July 23, 2021 and submitted with the applications.

The following chart outlines the MECP requirements respecting Transportation Noise sources:

Time Period	Location	Assessment Location	Noise Level Criteria
0700 to 2300	Outdoor Living Area	Outdoor	55 dBA
Anytime	Living Area	Indoor	45 dBA
0700 to 2300	Bedrooms	Indoor	45 dBA
2300 to 0700	Bedrooms	Indoor	40 dBA

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 13 of 38

The following chart outlines the MECP requirements respecting Stationary Noise sources for a Class 1 and Class 4 Area:

Time Period	Location	Assessment Location	Class 1	Class 4
0700 - 1900	Outdoor Living Area	Outdoor	50 dBA	55 dBA
0700 - 2300	Dwelling Unit	Plane of Window / Wall	50 dBA	60 dBA
2300 - 0700	Dwelling Unit	Plane of Window / Wall	45 dBA	55 dBA

The Noise Feasibility Study identified two potential transportation noise sources being Barton Street East and Wellington Street North, and one stationary noise source being the Hamilton General Hospital.

The Noise Feasibility Study identified that the daytime and night time noise levels from the transportation noise sources are predicted to meet guideline limits subject to using mitigation measures but will require noise warning clauses which will be addressed at the Site Plan Control stage and Draft Plan of Condominium, if applicable.

The study also identified off-site continuous stationary noise sources from Hamilton General Hospital which exceed the NPC-300 Class 1 limits. A 15 dB reduction in sound level for the stationary sources using mitigation measures would result in compliance with Class 1 limits, however the required sound reduction would require significant mitigation measures at the source of the noise (Hamilton General Hospital). The study indicated that mitigation measures at the source included a series of silencers and acoustic barriers which would be financially prohibitive and may not be structurally possible. Alternatively, the proposed development would need to be redesigned to have blank walls along Barton Street East and Wellington Street East which is contrary to the design principles of the West Harbour (Setting Sail) Secondary Plan. The Applicant is therefore seeking to have the subject property re-classified from a Class 1 Area to a Class 4 Area pursuant to the MECP Noise Guidelines NPC-300. The Class 4 designation will allow for on-site mitigation measures without requiring mitigation at the source and altering the current hospital operations.

The Noise Feasibility Study identifies that night time noise levels exceed Class 4 limits (55 dBA) by up to 3 dB for certain portions of the proposed building being the northern façade of the west wing and the northern and eastern façade of the building. Enclosed buffer windows and balconies as described in NPC-300 is the recommended approach for noise mitigation and considered feasible to meet Class 4 limits.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 14 of 38

The noise mitigation measures that will be implemented for the proposed development respecting both transportation noise sources and stationary noise sources are as follows:

- Standard Building materials, required under the Ontario Building Code for windows and exterior walls;
- Enclosed buffer windows and balconies;
- Centralized air conditioning will need to be provided in order to allow windows to remain closed and centralized air conditioning will need to be provided;
- A warning clause advising prospective purchasers and tenants that sound levels due to increased road traffic may exceed the MECP requirements;
- A warning clause advising prospective purchasers and tenants that centralized air conditioning is being established in order to allow windows and exterior doors to remain closed; and,
- A warning clause advising prospective purchasers and tenants that the property has been deemed a Class 4 Area.

The implementation of noise mitigation measures related to transportation and stationary noise sources have been incorporated into a Holding Provision and will be undertaken through the Site Plan Control application and if applicable a future Draft Plan of Condominium.

Site Contamination

The PPS provides the following policy direction:

“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 proposed mixed use building will establish a more sensitive land use (residential) on a site where there is potential for site contamination due to the previous uses. A Phase 1 and Phase 2 Environmental Site Assessment (ESA) was conducted by Landtek Limited for the subject lands.

Based on the findings of the Phase 2 ESA, the soil exceeds the applicable O. Reg 153/04 requirements for a sensitive land use. Therefore, a Record of Site Condition is required and will be filed once further study and/or remediation has been completed.

An ‘H’ Holding Provision will be applied to the Zoning By-law Amendment requiring completion of an RSC or for the applicant to enter into a conditional building permit and must be satisfied prior to final Site Plan approval.

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 15 of 38**

Based on the above, and subject to the proposed holding provision, the proposal is consistent with the policies of the PPS (2020).

Growth Plan for the Greater Golden Horseshoe 2019, as amended

The proposal conforms to the Guiding Principles, Section 1.2.1 of the Growth Plan, as it supports the achievement of complete communities, provides residential intensification to make efficient use of land and infrastructure, supports a range and mix of housing options, meets people’s needs for daily living, supports transit viability, and improves the integration of land use planning with planning and investment in infrastructure. The following policies, amongst others, apply to this proposal.

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

- a. The vast majority of growth will be directed to *settlement areas* that:
 - i. Have a *delineated built boundary*;
 - ii. Have existing or planned *municipal water and wastewater systems*; and,
 - iii. Can support the achievement of *complete communities*;
- c. Within *settlement areas*, growth will be focused in:
 - i. *Delineated built-up areas*;
 - ii. *Strategic growth areas*;
 - iii. Locations with existing or planned transit, with a priority on *higher order transit* where it exists or is planned; and,
 - iv. Areas with existing or planned *public service facilities*;

2.2.1.4 Applying the policies of this Plan will support the achievement of *complete communities* that:

- a. Feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and *public service facilities*; and,
- c. Provide a diverse range and mix of housing options, including second units and *affordable* housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.”

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 16 of 38**

The subject lands are located within the City of Hamilton urban boundary and are fully serviced by municipal water and wastewater infrastructure (Policy 2.2.1.2 a) and c)).

The proposal contributes toward providing a diverse range and mix of housing options and makes use of existing municipal services. The proposal represents a form of residential intensification within the built-up area, in a location serviced by existing transit routes along Barton Street East and with access to local stores and services (Policy 2.2.1.4 a) and c)).

Based on the foregoing, the proposal conforms with the applicable policies of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) was approved by Council on July 9, 2009 and the Ministry of Municipal Affairs on March 16, 2011.

There was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the UHOP because at the time the Ministry was reviewing the UHOP, the Secondary Plan was still under appeal. The lands are currently identified as “Lands Subject to Non Decision 113 West Harbour Setting Sail” on Schedule E-1 of the UHOP, therefore the UHOP policies do not apply. As a result, when the UHOP came into effect on August 16, 2013, it did not affect the West Harbour (Setting Sail) Secondary Plan. Should the Applications be approved, staff would request that the proposed Official Plan Amendment changes be included in the Secondary Plan at the time when the Ministry deals with the non-decision.

Hamilton-Wentworth Official Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the Hamilton-Wentworth Official Plan that are applicable to the subject lands remain in effect. In this regard, the subject lands are within the Urban Area of the Hamilton-Wentworth Official Plan and the following policies, amongst other, apply to the proposal.

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 17 of 38**

Urban Area

“C.3.1 A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:

- Compact urban form, including mixed use areas.

C.3.1.1 A compact higher density form, with mixed use development in identified Regional and Municipal centres and along corridors, best meets the environmental, economic principles of sustainable development.

Mixed forms of development within an Urban Area is preferable to widespread, low density residential development and scattered rural development, because:

- Growth can be accommodated by building on vacant or redeveloped lands, without taking up agricultural or natural areas;
- Higher density development can reduce per capita servicing costs and makes more efficient use of existing services;
- Efficient and affordable public transit systems can be established;
- Effective community design can ensure people are close to recreation, natural areas, shopping and their workplace; and,
- A compact community makes walking and bicycling viable options for movement.”

The proposal complies with the direction to encourage redevelopment of the subject lands for compact development within the Urban Area. The proposed mixed use building will contribute to a compact built form and represents a form of residential intensification in proximity to existing recreation, shopping and workplaces, and public transit systems.

Based on the foregoing, the proposal complies with the policies of the Hamilton-Wentworth Official Plan.

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City of Hamilton Official Plan

The subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the City of Hamilton Official Plan remain in effect. Schedule A of the City of Hamilton Official Plan designates the subject lands as “Central Policy Area”. The policies of the West Harbour (Setting Sail) Secondary Plan provide more detailed designations and policy framework for this area. The following policies, amongst others, apply to the proposal.

“Subsection A.2.8 - Central Policy Area

A.2.8.1 To promote the CENTRAL POLICY AREA as a multi-use node for both the City and the Region, a wide range of uses will be permitted where compatibility among adjacent uses can be achieved. The primary uses permitted in the CENTRAL POLICY AREA, as shown on Schedule "A", will be for the following uses:

- i) Commercial Uses such as, but not limited to, retail department stores; food, specialty and general merchandising establishments; personal services; head and branch offices and public administration offices; hotels; mixed commercial and residential uses; and in keeping with the Commercial policies set out in Subsection A.2.2 of this Plan; and,
- ii) Residential Uses of various housing types, including, but not limited to, single family detached, semi-detached, townhouses and apartments, and in keeping with the Residential policies set out primarily in Subsection A.2.9.3, as well as in Subsections A.2.1 and C.7 of this plan;

Subsection B.2.1 – Water Distribution

B.2.1.1 In accordance with the Regional Official Plan, Council will encourage the Region to maintain and, where necessary, improve water supply in the City. New development and / or redevelopment will only be permitted where the water supply is deemed to be adequate by the Region.

Subsection B.2.2 – Sewage Disposal

B.2.2.1 Council will encourage the Region to ensure that all new development in the City be effectively serviced by the SEWAGE DISPOSAL System. In this regard, Council will encourage the appropriate agencies to ensure that necessary improvements to, or extension of, the SEWAGE DISPOSAL

**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 19 of 38**

System, expansions to the capacity of the Woodward Avenue Sewage Treatment Plant, and the monitoring of effluents discharged are undertaken.

Subsection B.2.3 – Storm Drainage

B.2.3.1 Council will require that all new development and / or redevelopment be connected to, and serviced by, a STORM DRAINAGE System or other appropriate system such as ditches, 'zero run-off', and any other technique acceptable to Council and the Conservation Authorities. Council will ensure that the extension of the STORM sewer System is at sufficient capacity to support future anticipated growth in the City. In this regard, Council will co-operate with the appropriate Conservation Authorities in any flood management studies or engineering works that may be undertaken from time to time to improve or maintain the DRAINAGE capacity of natural watercourses flowing through the City."

A Functional Servicing Report dated December 2019 and revised January 2021 by S. Llewellyn & Associated Limited was submitted in support of the applications. While no concerns were identified with respect to establishing the principal of the land use for the subject property, a revised Functional Servicing Report will be required at the Site Plan Control stage to address storm water management, water demand and required fire flow.

"Subsection B.2.4 - Solid Waste Disposal

B.2.4.5 All uses in the City will be served by a regularly-scheduled SOLID WASTE collection through the municipal DISPOSAL service, or in the case of certain uses, through individually-contracted collection service."

The proposed residential use is eligible for municipal waste collection but is subject to meeting the requirements of the City's Solid Waste Management By-law. The Applicant has not demonstrated that the proposed site layout will meet the City's requirements. The Applicant has been advised that waste collection will be examined in greater detail at the Site Plan Control stage. Should the Applicant be unable to meet the City's requirements for municipal waste collection then waste collection will be required to be provided by way of a private waste hauler. If waste collection will be provided by way of a private waste hauler then prospective purchasers and tenants will be required to be notified through a warning clause included in all purchase and sale or lease and rental agreements and the owner will need to agree to include this warning clause in a signed undertaking as part of the Site Plan Control Application and if applicable a future Draft Plan of Condominium.

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 20 of 38**

“Subsection C.7 – Residential Environmental and Housing Policy

- C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value;
- C.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:
- iii) Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and / or physical infrastructure that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
 - v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
 - ix) Support the concept of a RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton Residents; and,
 - xii) Encourage development at densities conducive to the efficient operation of Public Transit and which utilizes designs or construction techniques that are energy efficient.”

The proposed development will establish a new residential development that will contribute to a range of tenure options for the area and contribute to providing a diversity of dwelling forms and housing options on a vacant parcel of land (Policy 7.3 iii), v) and ix)).

The building maintains a three storey massing along the west and south limits of the subject lands with a seven storey building at the corner of Wellington Street North and Barton Street East. The proposed stepbacks above the three storey podium create a built form that is compatible with the adjacent residential area with adequate

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 21 of 38**

separation to the seven storey building to protect adjacent properties from privacy and overview impacts. The seven storey height is appropriate based on massing, setbacks and lot coverage and will not create adverse shadow impacts on the surrounding area (Policy 7.3 iii) and v)).

The proposed development is located in proximity to existing public transit routes and will therefore establish a form of development that will be conducive to the efficient operation of public transit (Policy C.7.3 xii).

Based on the foregoing, the proposal complies with the City of Hamilton Official Plan with respect to the applicable policy direction of Sections B and C.

West Harbour (Setting Sail) Secondary Plan (OPA No. 198)

The West Harbour (Setting Sail) Secondary Plan was approved by Council in 2005. Due to appeals to the Ontario Municipal Board (OMB) (now Ontario Land Tribunal (OLT)), the Secondary Plan was not deemed to be in effect until the OLT issued its final decision in 2012. This decision added the Secondary Plan to the former City of Hamilton Official Plan as that was the Official Plan in effect for the former City of Hamilton at that time.

When the UHOP was brought into effect by the OLT in 2013, the lands within the West Harbour (Setting Sail) Secondary Plan area were noted as being subject to Non-Decision No. 113. Therefore, the operable Secondary Plan policies in effect to review against the proposed development are those policies in the Setting Sail Secondary Plan OPA No. 198, instead of the UHOP (Volume 2).

The subject lands are designated “Ferguson-Wellington Corridor” on Schedule M-1 – Planning Area and Sub-Areas. Part of 222 Barton Street East is designated “Mixed Use”, part of 222 Barton Street East, 226 and 228 Barton Street East and 265 Wellington Street North are designated “Local Commercial” and 255, 257, 261 and 263 Wellington Street North are designated “Low Density Residential” on Schedule M-2 – General Land Use in the West Harbour (Setting Sail) Secondary Plan.

The following policies, among others, apply to the proposal.

General Policies

“A.6.3.3.1.2 The City will ensure development and redevelopment in neighbourhoods and lands surrounding West Harbour respect the type, scale and character of development identified in this plan; and,

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 22 of 38

A.6.3.3.1.9 To encourage a broad mix of household types at varying income levels, West Harbour shall accommodate a diversity of housing types, including detached and semi-detached dwellings, and multiple dwellings.”

The proposed seven storey mixed use building represents a development that will respect the scale and character of the surrounding neighbourhood. The three storey podium is effective in providing an appropriate transition in scale to adjacent buildings with materials that respect the adjacent residential streetscape along Wellington Street North (A.6.3.3.1.2). The development promotes a range of housing types in West Harbour (A.6.3.3.1.9).

Low Density Residential

“A.6.3.3.1.12 In Low Density Residential areas:

- i) The scale, type and character of new development shall generally reflect existing low density development in the neighbourhood;
- ii) Single detached, semi-detached and street townhouses are permitted;
- iii) The density of development shall range from 25 to 60 units per gross hectare;
- iv) Existing grid patterns of streets, blocks, and open space, and/or those proposed by this plan, shall be respected; and,
- v) Lot dimensions and building setbacks shall be generally consistent with other Low Density Residential properties in the neighbourhood.”

A portion of the subject lands being 255, 257, 261 and 263 Wellington Street North are designated “Low Density Residential” in the West Harbour (Setting Sail) Secondary Plan. The scale and type of the proposed mixed use is not permitted under Policy A.6.3.3.1.12 ii) and iii), therefore, an Official Plan Amendment is required to change the designation of this portion of the subject lands from “Low Density Residential” to “Mixed Use”.

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 23 of 38**

“A.6.3.3.1.19 In Local Commercial areas:

- i) Commercial uses, such as retail stores, restaurants, take-out restaurants, banks, professional offices and personal services, are permitted;
- ii) Other uses, including office and residential, are permitted and encouraged above the ground floor;
- v) The maximum height of buildings shall be four storeys;
- vi) Front yard setbacks shall be consistent with the setbacks of adjacent buildings;
- vii) For streets where a road allowance widening is required, the setback under the zoning by-law must be taken from the widened road allowance;
- viii) Buildings shall be oriented to a public street, with main entrances on a street, with barrier free access at street level;
- ix) Parking shall be located at the rear or side of buildings; and,
- x) Loading and service areas shall be located at the rear of buildings wherever feasible.”

A portion of the subject lands being part of 222 Barton Street East, 226 and 228 Barton Street East and 265 Wellington Street North are designated “Local Commercial” in the West Harbour (Setting Sail) Secondary Plan. The “Local Commercial” designation permits ground floor commercial uses in accordance with Policy A.6.3.3.1.19 i) and office and residential uses above the ground floor as per Policy A.6.3.3.1.19 ii). However, the Local Commercial designation limits the maximum building height to four storeys (Policy A.6.3.3.1.19 v)), therefore an Official Plan Amendment is required to permit a maximum height of seven storeys.

“A.6.3.3.1.17 In Mixed Use areas:

- i) Apartment buildings and apartment buildings with ground-floor, street related commercial and/or community uses are permitted and encouraged;

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 24 of 38**

- ii) The range of commercial uses permitted on the ground floor shall include retail stores, restaurants, take-out restaurants, business and personal services, and professional offices;
- iv) The density and height of development shall be governed by the maximum heights identified on Schedule “M-4”;
- vi) Buildings generally shall be built close to or at the front property line, subject to the development satisfying sightline requirements entering the public road allowance;
- vii) For streets where a road allowance widening is required, the setback under the zoning by-law must be taken from the widened road allowance;
- viii) Ground-floor uses shall have their main entrances on the street with barrier free access, at grade;
- ix) Parking areas shall be provided at the rear of sites, underground and/or in above-grade structures behind buildings, with access from public streets or laneways;
- xi) Front yard parking shall not be permitted;
- xii) Private amenity space shall be provided on balconies and terraces and/or within internal courtyards outdoors and indoors;
- xiii) Common amenity space shall be consolidated to create useable spaces;
- xiv) The design and massing of buildings shall minimize shadow and wind impacts on the public realm; and,
- xv) The design of new developments shall have respect for the light, views and privacy enjoyed by residents in adjacent buildings and areas.”

The “Mixed Use” designation permits apartment buildings with ground floor commercial uses (A.6.3.3.1.17 i)). The allowable height and density is not prescribed for the “Mixed Use” designation of the West Harbour Secondary Plan (A.6.3.3.1.17 iv)). The commercial uses for the proposed mixed use building shall comply with the uses

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 25 of 38**

permitted in Policy A.6.3.3.1.17 ii). A special policy area is required to permit professional medical offices, to permit any professional offices or professional medical offices on the second floor and to limit the maximum building height to seven storeys.

A 3.1 metre road widening dedication has been taken from the Wellington Street North right of way (Policy A.6.3.3.1.17 vii) (see Appendix “E” attached to Report PED22062). The proposed mixed use building will be built close to the front and flankage property line with direct access to the ground floor commercial uses from the street (Policy A.6.3.3.1.17 vi) and viii)). The required parking for the proposed development will be provided within one level of an underground parking structure and a surface parking area at the rear of the site (Policy A.6.3.3.1.17 ix) and xi)).

Private amenity space provided as balconies / terraces is not feasible for the proposed development due to traffic and stationary noise levels as discussed throughout Report PED22062, although indoor common amenity space will be provided within the proposed building (Policy A.6.3.3.1.17 xi) and xiii)). The proposed development does not create any adverse shadows on the public realm or surrounding area and maintains sufficient setbacks to adjacent buildings to respect light access and privacy for residents (Policy A.6.3.3.1.17 xiv) and xv)).

“A.6.3.3.4 Urban Design

A.6.3.3.4.1 New development, redevelopment and alterations to existing buildings in West Harbour shall respect, complement and enhance the best attributes of West Harbour and shall adhere to the following urban design principles:

- i) Create a comfortable and interesting pedestrian environment;
- ii) Respect the design, scale, massing, setbacks, height and use of neighbouring buildings, existing and anticipated by this plan;
- iii) Generally locate surface parking at the rear or side of buildings;
- iv) Provide main entrances and windows on the street-facing walls of buildings, with entrances at grade level; and,
- v) Ensure barrier-free access from grade level in commercial mixed use developments;

A.6.3.3.4.4 The integration of public art into the design of buildings and open spaces is strongly encouraged.”

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 26 of 38**

The proposed development will establish active uses along Barton Street East and Wellington Street North with minimal setback to the street, direct pedestrian connections at grade, and sufficient glazing on the façades facing the street to contribute to a comfortable pedestrian environment (A.6.3.3.4.1 i), iv) and v)). Further, surface parking for the development is located at the rear of the building (A.6.3.3.4.1 iii)).

The proposed seven storey mixed use building represents an appropriate scale for the surrounding area. The building maintains a three storey massing along the west and south limits of the subject lands with a seven storey building at the corner of Wellington Street North and Barton Street East. The three storey massing provides an appropriate transition in scale to the one and two storey dwellings along Wellington Street North and one storey commercial uses along Barton Street East, east of Wellington Street North. While the proposed seven storey building will be taller than existing buildings in the immediate vicinity, the proposed design allows for adequate separation to adjacent buildings, incorporates stepbacks to the seven storey height and focuses the massing at the corner of Barton Street East and Wellington Street North. As a result of the site layout and massing there are no adverse shadow impacts (A.6.3.3.4.1 ii)).

Based on the foregoing, the proposal complies with the policies of the West Harbour (Setting Sail) Secondary Plan, subject to the change in designation from “Low Density Residential” and “Local Commercial” to “Mixed Use” with a Special Policy Area. Therefore, the proposed Official Plan Amendment has merit and can be supported.

Beasley Neighbourhood Plan

222, 226 and 228 Barton Street East and 265 Wellington Street North are designated “Commercial” and 255, 257, 261 and 263 Wellington Street North are designated “Single and Double” in the Beasley Neighbourhood Plan.

The Beasley Neighbourhood Plan identifies the subject lands as “Residential” (referred to as Single Detached and Semi Detached in the policies) and “Commercial” (referred to as Mixed Uses (Commercial and/ or Residential) in the policies). The following policies, among others, apply to the proposal.

“4.3.1 Single Detached and Semi Detached

This designation covers most of the interior of Beasley Neighbourhood. It is intended to re-affirm the lower density character of Beasley Neighbourhood. This designation will promote greater stability by encouraging residential redevelopment on vacant parcels of land within the built-up low density blocks

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 27 of 38**

at low residential densities. Areas previously designated for high density residential are now designated Single Detached and Semi Detached. As well, the incompatible industrial and automotive-related uses have been designated Single-Detached and Semi-Detached.

Within the Single Detached and Semi-Detached designation, attached row housing will be permitted provided the lot width is similar to that of single- and semi-detached units, it is in a form compatible to adjacent dwellings and is oriented towards the street. Any new residential construction shall not exceed a height of two and a half storeys.

4.3.6 Commercial

The scope of the Commercial designation in Beasley Neighbourhood has been narrowed. This is in part because of the desire to encourage more Residential uses. As well, the Commercial "reach" of the downtown in other municipal planning documents has had the effect of undermining the stability of the existing residential community. By restricting the Commercial designation to the area immediately surrounding Gore Park, Hamilton's downtown would be more focused and dissipate the negative and destabilizing effects of land use planning uncertainty on the surrounding residential neighbourhood.

4.3.5 Mixed Uses - Commercial and/or Residential

An important planning principle is to facilitate a number of different but compatible land uses in close proximity or within a specific property, i.e., "mixed use developments". Areas of mixed uses and mixed use developments can involve many uses but it is the commercial/residential combination which offers the greatest positive economic and social effect at the neighbourhood level as each use reinforces the viability of the other.

Extensive use of the Mixed Uses designation recognizes the importance of facilitating greater residential development in Beasley Neighbourhood and allows for flexibility in potential redevelopment opportunities. The logic is compelling as with more people in the neighbourhood, the viability of local commercial businesses would be enhanced which provide a further draw for people to move into the neighbourhood."

The subject development is proposed on a consolidated parcel of vacant land which has multiple designations within the Beasley Neighbourhood Plan. The mixed use building is appropriate for providing a transition to the adjacent low density residential uses along Wellington Street North and allowing for the continuation of at grade

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 28 of 38

commercial uses along Barton Street East. The proposed mixed use building will establish a range of housing forms in the area and contribute to a complete community with connection to surrounding commercial and institutional uses.

Based on the foregoing, the proposal complies with the policies of the Beasley Neighbourhood Plan, subject to the change in designation from “Single and Double” and “Commercial” to “Commercial and Apartments” (Mixed Uses – Commercial and/or Residential in the Neighbourhood Plan policies) as outlined in the Recommendations section of Report PED22062.

City of Hamilton Zoning By-law No. 6593

The subject lands currently contain multiple properties which are zoned as follows:

- Part of 222 Barton Street East is zoned “JJ/S-378” (Restricted Light Industrial) District, Modified;
- Part of 222 Barton Street East, 226 Barton Street East, 228 Barton Street East and 265 Wellington Street North are zoned “H” (Community Shopping and Commercial, Etc.) District;
- 261 and 263 Wellington Street North are zoned “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified; and,
- 255 and 257 Wellington Street North are zoned “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

While the “JJ/S-378”, “H”, and “H/S-1259” Districts permit some commercial uses, the “D” District does not permit any commercial uses. A multiple dwelling is not permitted in any of the Zoning Districts. A Zoning By-law Amendment is required to permit the proposed mixed use building and the Applicant is proposing to remove the subject lands from Zoning By-law No. 6593 to add the subject lands to a more appropriate zone under Zoning By-law No. 05-200.

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

The Applicant is proposing to add the subject lands to Zoning By-law No. 05-200 as Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone to permit a seven storey mixed use building. Modifications to the parent C5a Zone will be required to implement the proposal which are outlined in the Report Fact Sheet above and are discussed in detail in Appendix “D” attached to Report PED22062.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 29 of 38

RELEVANT CONSULTATION

Departments and Agencies		
	<ul style="list-style-type: none"> • Recreation, Healthy and Safe Communities; and, • Landscape Architectural Services, Strategic Planning Division, Public Works Department. 	No Comment.
	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	No further comments on stormwater management, sanitary servicing, minor storm servicing, and water servicing at the Official Plan and Zoning By-law Amendment stage. These matters will be reviewed at the time of detailed design during the Site Plan Control stage.	Updated stormwater management and sanitary servicing studies will be required at the Site Plan Control Stage.
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	Forestry approves the Tree Management Plan revision #3 dated 01/28/21. Amendments to the submitted Landscape Plan dated 01/28/21 are required.	These matters will be addressed at the Site Plan Control stage.
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department	Transportation Planning generally supports the proposed development. The safety review component of the Traffic Impact Study has been forwarded to Transportation Operations and Maintenance staff who did not identify any concerns. In order to protect the existing and future pedestrian realm, cycling infrastructure and road network, Transportation Planning shall require the following: <ul style="list-style-type: none"> • A pavement marking design for Barton Street East to allow for left-turns into the proposed development; and, • Parking stalls are not permitted to be located within 6.0 metres of the municipal right-of-way at the driveway access to Wellington Street North. 	These matters will be addressed at the Site Plan Control stage.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 30 of 38

Departments and Agencies		
	Comment	Staff Response
Waste Management Operations Section, Environmental Services Division, Public Works Department	<p>This development is eligible for municipal waste collection service subject to meeting the City's requirements for serviceability.</p> <p>A private waste hauler will be required if the property will be generating more than the allowable waste collection limit.</p>	This matter will be addressed at the Site Plan Control stage.
Healthy Environments Division, Healthy and Safe Communities Department	Recommend opportunity for urban agriculture such as edible landscaping and roof top gardens.	Noted.

Public Consultation		
Issue	Comment	Staff Response
Parking	There is concern about the number of parking spaces for the commercial uses and the proportion of surface parking area on site.	<p>The surface parking area will be limited as the majority of the parking will be underground, and the surface parking area will be screened from the street by the proposed building.</p> <p>Staff are not supportive of the modified parking ratio for the Medical Clinic and requests the applicant provide parking in accordance with the Zoning By-law.</p>

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 31 of 38**

Public Consultation		
Issue	Comment	Staff Response
Building design and materials	There is concern the proposed design of the building reflects an institutional character.	The applicant has revised the colour of brick used for the podium to better reflect the neighbouring residential streetscape. The material treatment will be further evaluated at the Site Plan Control stage.
Bicycle Parking	There is concern about the location of the bicycle parking on site.	The Applicant has revised the initial concept plan to provide pedestrian connections between the proposed bicycle parking and the building entrance.
Snow Storage	There is concern about no provision for snow storage.	The applicant has revised the initial concept plan to include the snow storage location.
Street trees and green space	There is concern that insufficient street trees and green space is being provided on site.	Landscaped areas will be provided between the surface parking area and the rear and side property lines. Street trees will be provided along the Barton Street East and Wellington Street North street lines. This will be further evaluated at the Site Plan Control stage.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 32 of 38

Public Consultation		
Issue	Comment	Staff Response
Access to adjacent alleyway	Concern was raised about maintaining access to the acquired alleyway.	The Owner has received approval for permanent closure of the east / west alleyway and part of the north / south alleyway abutting the subject lands (refer to Report PW16053 and PW19033). Access to the north / south alleyway will be maintained from Robert Street for residents with properties along Wellington 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 84 property owners within 120 metres of the subject property on January 31, 2020. A Public Notice sign was posted on the property on August 7, 2020 and updated on March 9, 2022. Finally, Notice of the Public Meeting was given on March 18, 2022 in accordance with the requirements of the *Planning Act*.

One email requesting information and expressing concern and one email expressing no concerns with the proposal were received (see Appendix “F” attached to Report PED22062).

Design Review Panel

The Applicant presented the original proposal for a seven storey mixed use commercial / residential building containing consisting of a 79 dwelling units and commercial uses on the ground and second floor to the City’s Design Review Panel (DRP) on August 13, 2020. The DRP provided advice to City staff on a number of design recommendations including the below summarized comments, amongst others:

- The proposed massing is indicative of a tower on a podium design, when the proposal is for a mid-rise development. The panel recommended providing a

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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 33 of 38**

consistent mid-rise building height along the entire Barton Street East frontage with stepbacks to reduce shadow impacts;

- Recommended further evaluation of the massing and material strategy to better reflect a mid-rise condition, suggesting an integrated material strategy to unify the built form with one material applied to the overall massing and reduce the institutional character of the proposal;
- The three storey building height along the southerly portion of the Wellington Street North frontage is effective at providing a transition to the adjacent residential uses to the south. The transition could be further improved by choosing materials that reflect the residential character of the adjacent dwellings and providing a consistent setback to match the existing streetscape along Wellington Street North;
- Recommended considering higher quality materials such as brick and masonry to better complement the character of the area and reduce the institutional feel of the development;
- Recommended removal of one driveway access to improve the pedestrian environment and provide more commercial frontage; and,
- Recommended including outdoor amenity area at grade or on the rooftop.

The Applicant's Response to DRP advice is summarized as follows:

- When evaluating different massing options, it was determined by the applicant that a consistent building height along Barton Street East would cast the same shadow at the intersection of Barton Street East and Wellington Street North;
- Shifting the tower component further west will not allow for a smooth transition from the seven storey building to the podium and will create an elevated gap at the corner of Barton Street East and Wellington Street North;
- The elevation drawings have been updated to reinforce the articulation of the seven storey building and the podium with materials reflective of the residential character of the neighbouring streetscape;
- The building materials and landscape design will be further evaluated at the Site Plan Control stage; and,

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 34 of 38

- Two vehicle access points are necessary to provide a functioning internal route for service vehicles including waste collection vehicles.

Public Consultation Strategy

The Applicants submitted a Public Consultation Strategy with the initial submission of the Application. The Applicant proposed to create a website accessible to the public for the proposed development.

The website generated a total of 161 users between November 2020 and January 2021. As of February 2021, no public correspondence was received by the Applicant regarding the Applications.

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 Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan, and complies with the general intent of the West Harbour (Setting Sail) Secondary Plan upon approval of the Official Plan Amendment; and,
 - (iii) The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, increasing the supply of housing units, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

2. Official Plan Amendment

The proposed Official Plan Amendment seeks to change the designation of the subject lands from “Low Density Residential” and “Local Commercial” to “Mixed Use” in the West Harbour (Setting Sail) Secondary Plan to permit a seven storey mixed use building with commercial uses on the ground floor, professional offices and professional medical offices on the second floor and residential dwelling units on the upper storeys.

As outlined in detail in the Policy Implication and Legislated Requirements section of Report PED22062, the proposed change in designation facilitates a form of

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development that is compatible with the scale and character of the area. The proposed change in designation is appropriate for the subject lands.

The change in designation is being undertaken on a consolidated parcel of land which will be of sufficient size to accommodate a mixed use building that will be of a size and scale that is compatible with the area. The proposed seven storey building utilizes setbacks above the third storey to provide an appropriate transition in scale to adjacent properties with sufficient building separation to mitigate any privacy concerns. The proposed seven storey building will not create adverse shadow impacts on the surrounding area.

Therefore, the proposed Official Plan Amendment has merit can be supported.

3. Zoning By-law Amendment

The purpose of the Application for Zoning By-law Amendment is to remove the subject lands from Zoning By-law No. 6593 and add the lands to Zoning By-law No. 05-200 as Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone. The existing “JJ/S-378” (Restricted Light Industrial) District, Modified, “H” (Community Shopping and Commercial, Etc.) District, “H/S-1259” (Community Shopping and Commercial, Etc.) District, Modified and “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District under Zoning By-law No. 6593 do not permit the use and scale of the proposed mixed use development.

The proposed site specific Mixed Use Medium Density – Pedestrian Focus (C5a, 774, H124) Zone permits various commercial uses including office uses and dwelling units above the ground floor. Modifications to the C5a Zone are to permit the proposed seven storey mixed use building with a maximum building height of 25.0 metres, reduced glazing on the front façade and an increased height for the first storey. The Applicant requested an increased setback of 10.5 metres from the Barton Street street line. With the Applicant’s agreement, Staff have amended the By-law attached as Appendix “C” to Report PED22062 to allow for a 3.7 metres setback in accordance with the submitted Concept Plan. The modifications are discussed in greater detail in Appendix “D” attached to Report PED22062.

The proposed development complies with the general intent of the City of Hamilton Official Plan and West Harbour (Setting Sail) Secondary Plan subject to the OPA being approved. It contributes to a complete community by providing additional housing forms in the surrounding area and provides a built form that is compatible with the scale and character of the area.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 36 of 38

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

4. Class 4 Designation – MECP Noise Guidelines NPC-300

The Applicant is seeking permission from Council to change the classification of the subject lands from a Class 1 Area to a Class 4 Area pursuant to the MECP Noise Guidelines NPC-300 in order to address compliance with respect to stationary noise sources located in proximity to the subject lands.

As outlined in detail in the Policy Implications and Legislated Requirements section of Report PED22062, staff agree that mitigating noise at the source is not feasible and that noise mitigation measures required to mitigate noise from the façade of the buildings is not practical or feasible. Therefore, staff recommend a change from Class 1 Area to Class 4 Area. The change from Class 1 Area to Class 4 Area is to be applied to the entirety of the subject lands in order to apply a consistent standard for the entire development subject to this specific proposal.

As outlined in detail in the Policy Implications and Legislated Requirements section of Report PED22062, the proposed change in classification of the subject lands from a Class 1 Area to a Class 4 Area will not adversely impact the residents of the proposed development, subject to the implementation of all required noise mitigation measures and warning clauses, as well as informing all prospective purchasers and tenants that the lands have been classified as Class 4 required at the Site Plan Control stage and if applicable a future Draft Plan of Condominium.

To ensure that all noise mitigation measures are implemented at the Site Plan Control stage, an ‘H’ Holding Provision is included in the proposed By-law (attached as Appendix “C” to Report PED22062) which will be removed upon the owner/applicant implementing all required noise mitigation measures identified in the Acoustical Study dated November 22, 2019 by RWDI and updated July 23, 2021 through a Site Plan Agreement, to the satisfaction of the Director of Planning and Chief Planner.

Additionally an ‘H’ Holding Provision is to be included requiring that the owner agree to advise prospective purchasers and tenants that the dwellings are located in a Class 4 Area and to register this notice and any and all noise warning clauses on title and include the notice and noise warning clauses in any purchase and sale and in any lease or rental agreements, to the satisfaction of the Director of Planning and Chief Planner.

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SUBJECT: Applications for Official Plan Amendment and Zoning By-law Amendment for lands located at 222, 226 and 228 Barton Street East and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton (PED22062) (Ward 2) Page 37 of 38

5. Holding Provision

An 'H' Holding Provision is recommended to address the following:

- To require the Owner to submit a signed Record of Site Condition (RSC) to the City of Hamilton and MECP for the subject property or to enter into a conditional building permit agreement with respect to completing a Record of Site Condition. 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 2 Environmental Site Assessment.
- To require the Owner/Applicant to agree in a signed Site Plan Agreement to implement all required noise mitigation measures identified in the Acoustical Study dated November 22, 2019 by RWDI and updated July 23, 2021, to the satisfaction of the Director of Planning and Chief Planner.

Additionally an 'H' Holding Provision is to be included requiring that the owner agree as part of a Site Plan Agreement to advise prospective purchasers and tenants that the dwellings are located in a Class 4 Area and to register this notice and any and all noise warning clauses on title and include the notice and noise warning clauses in any purchase and sale and in any lease or rental agreements, to the satisfaction of the Director of Planning and Chief Planner.

ALTERNATIVES FOR CONSIDERATION

Should the Applications be denied, the subject lands can be used in accordance with the respective "JJ/S-378" (Restricted Light Industrial) District, Modified, "H" (Community Shopping and Commercial, Etc.) District, H/S-1259 (Community Shopping and Commercial, Etc.) District, Modified and D (Urban Protected Residential – One and Two Family Dwellings, Etc.) District in the City of Hamilton Zoning By-law No. 6593.

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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**SUBJECT: Applications for Official Plan Amendment and Zoning By-law
Amendment for lands located at 222, 226 and 228 Barton Street East
and 255, 257, 261, 263 and 265 Wellington Street North, Hamilton
(PED22062) (Ward 2) Page 38 of 38**

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 Official Plan Amendment

Appendix "C" – Draft Amendment to Zoning By-law No. 05-200

Appendix "D" – Zoning By-law Site Specific Modification

Appendix "E" – Chart Revised Concept Plan and Elevations

Appendix "F" – Public Submissions

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