



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 11, 2023
SUBJECT/REPORT NO:	Application for an Official Plan Amendment and a Zoning By-law Amendment for Lands located at 1093 Fennell Avenue East, Hamilton (PED23114) (Ward 6)
WARD(S) AFFECTED:	Ward 6
PREPARED BY:	Mark Michniak (905) 546-2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Official Plan Amendment Application UHOPA-22-019, by UrbanSolutions Planning & Land Development Consultants Inc. on behalf of 2650494 Ontario Inc. (c/o H. Haakimi, Elite MD Group), Owner**, to amend the Urban Hamilton Official Plan to redesignate the subject lands from the “District Commercial” designation to the “Mixed Use – Medium Density” designation to permit a 394 unit mixed use building with a maximum height of 12 storeys and 34 townhouse units, for lands located at 1093 Fennell Avenue East, as shown on Appendix “A” attached to Report PED23114, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment attached as Appendix “B” to Report PED23114, which has been prepared in a form satisfactory to the City Solicitor, be adopted by City Council;
 - (ii) That the proposed Official Plan Amendment 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);

- (b) That **Zoning By-law Amendment Application ZAC-22-045, by UrbanSolutions Planning & Land Development Consultants Inc. on behalf of 2650494 Ontario Inc. (c/o H. Haakimi, Elite MD Group), Owner**, for a change in zoning from the District Commercial (C6) Zone to the Mixed Use Medium Density (C5, 849, H147) Zone, to permit a 12 storey, 394 unit mixed use building and 34, two storey townhouse dwellings, for lands located at 1093 Fennell Avenue East, as shown on Appendix “A” attached to Report PED23114, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED23114, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject property by introducing the Holding symbol ‘H147’ to the proposed Mixed Use Medium Density (C5) Zone.

The Holding Provision ‘H147’ is to be removed to allow for a 12 storey mixed use building and 34, two storey townhouse dwellings, conditional upon:

- (1) The Owner enters into a conditional building permit agreement with respect to completing a Record of Site Condition or a signed Record of Site Condition (RSC) being submitted to the City of Hamilton and the Ministry of the Environment, Conservation and Parks (MECP). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MECP, and the submission of the City of Hamilton’s current RSC administration fee;
- (iii) 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 will comply with the Urban Hamilton Official Plan upon approval of Urban Hamilton Official Plan Amendment No. X.

EXECUTIVE SUMMARY

The subject lands are municipally known as 1093 Fennell Avenue East and are located on the northwest corner of Fennel Avenue East and Upper Ottawa Street in the Sunninghill Neighbourhood. Applications have been submitted to amend both the Urban

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Hamilton Official Plan (UHOP) and the City of Hamilton Zoning By-law No. 05-200. The applications are to permit the development of a 12 storey, 394 unit mixed use building and 34, two storey townhouse dwellings supported by a total of 543 parking spaces including 60 surface parking spaces. The applicant's agent has advised that the lands will be subject to a future standard or phased condominium application.

The purpose of the Official Plan Amendment is for a change in designation from the "District Commercial" designation to the "Mixed Use – Medium Density" designation.

The purpose of the Zoning By-law Amendment is for a change in zoning from the District Commercial (C6) Zone to the Mixed Use Medium Density (C5, 849, H147) Zone within the City of Hamilton Zoning By-law No. 05-200. Site specific modifications to the (C5) Zone are proposed to accommodate the development. As part of the Zoning By-law Amendment, a Holding Provision is required to be added to the subject lands with respect to completing a Record of Site Condition.

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 A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the general intent and purpose of the Urban Hamilton Official Plan; and,
- The proposed development represents good planning by, among other things, making efficient use of land and infrastructure by providing housing in an efficient urban form, and contributing to developing a complete community.

Alternatives for Consideration – See Page 27

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 Official Plan Amendment and Zoning By-law Amendment.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	2650494 Ontario Inc. (c/o H. Haakimi, Elite MD Group)
Agent:	UrbanSolutions Planning & Land Development Consultants Inc. c/o Matt Johnston.
File Number:	UHOPA-22-019 and ZAC-22-045.
Type of Application:	Urban Hamilton Official Plan Amendment and Zoning By-law Amendment.
Proposal:	To permit the development of a 12 storey, 394 unit mixed use building and 34, two storey townhouse dwellings. A total of 543 parking spaces will be provided including 60 surface parking spaces, 376 underground parking spaces, and 107 enclosed parking spaces. Access will be from both Fennell Avenue East and Upper Ottawa Street. The 12 storey building will contain 291 one bedroom units, 63 two bedroom units, 40 three bedroom units, and a minimum gross floor area for commercial uses of 2,030.0 square metres on the ground floor. A future standard or phased condominium application will be required.
Property Details	
Municipal Address:	1093 Fennell Avenue East.
Lot Area:	1.50 ha.
Servicing:	Full municipal services.
Existing Use:	Commercial plaza containing retail and restaurant uses (to be demolished).
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
A Place to Grow:	The proposal conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	“Neighbourhoods” on Schedule E – Urban Structure and “District Commercial” on Schedule E-1 – Urban Land Use Designations.
Official Plan Proposed:	“Mixed Use – Medium Density” on Schedule E-1 – Urban Land Use Designations.

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Documents	
Zoning Existing:	District Commercial (C6) Zone.
Zoning Proposed:	Mixed Use Medium Density (C5, 849, H147) Zone.
Modifications Proposed:	<p>The following modifications to the Mixed Use Medium Density (C5) Zone are proposed for the townhouse dwellings:</p> <ul style="list-style-type: none"> • To decrease the minimum rear yard from 7.5 metres to 6.5 metres; and, • To decrease the minimum interior side yard from 7.5 metres to 6.5 metres. <p>The following modifications to the Mixed Use Medium Density (C5) Zone are proposed for the multiple dwelling:</p> <ul style="list-style-type: none"> • To establish a minimum rear yard of 50.0 metres for buildings greater than 9.0 metres in height; • To establish a minimum interior side yard of 45.0 metres for buildings greater than 9.0 metres in height; and, • To increase the maximum height from 22 metres to 44.0 metres; <p>The following modifications to the Mixed Use Medium Density (C5) Zone are proposed:</p> <ul style="list-style-type: none"> • To establish a minimum commercial floor area of 2,030 square metres; and, • To establish separation distances between multiple dwellings on the same site.
Processing Details	
Received:	June 22, 2022
Deemed Complete:	July 8, 2022
Notice of Complete Application:	Sent to 128 property owners within 120 m of the subject property on July 22, 2022.
Public Notice Sign:	Posted July 22, 2022 and updated with Public Meeting date on June 14, 2023.
Notice of Public Meeting:	Sent to 128 property owners within 120 m of the subject property on June 23, 2023.
Public Comments:	Four emails expressing concern, included as Appendix "F" attached to Report PED23114, were received.
Processing Time:	385 days from receipt of application.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Commercial plaza with retail and restaurant uses.	District Commercial (C6) Zone.
Surrounding Lands:		
North	Single detached dwellings.	Low Density Residential (R1) Zone.
South	Commercial plaza, gas bar, and single detached dwellings.	District Commercial (C6) Zone and Low Density Residential (R1) Zone.
East	Commercial plaza and Hamilton Public Library Branch.	District Commercial (C6) Zone.
West	Single detached dwellings	Low Density Residential (R1) Zone.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2020)

The following policies, amongst others, apply to the proposed development.

- “1.1.1 Healthy, liveable and safe communities are sustained by:
- b) Accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;
 - c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns;

- e) Promoting the integration of land use planning, growth management, *transit-supportive* development, *intensification* and *infrastructure* planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs;

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 which:

- 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 uneconomical expansion;
- e) Support *active transportation*;
- f) Are *transit-supportive*, where transit is planned, exists or may be developed.”

The application is consistent with Policy 1.1.1 b), by accommodating a broader range and mix of residential types to meet long-term needs. The application is also consistent with Policies 1.1.3.1 and 1.1.3.2 of the PPS, which focus on growth and development within settlement areas. The proposed development is located within a settlement area with appropriate infrastructure and public service facilities and can support active transportation and transit.

Noise

“1.2.6.1 *Major facilities* and *sensitive land uses* shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of *major facilities* in accordance with provincial guidelines, standards and procedures.”

The lands front Upper Ottawa Street and Fennell Avenue East, which are identified as a major arterial road and minor arterial road, respectively, on Schedule C – Functional Road Classification in the UHOP.

Staff have reviewed an Environmental Noise Impact Study entitled “Mixed-Use Development” prepared by dBA Acoustical Consultants Inc. dated March 2022, submitted in support of the development. The study identified the acoustic mitigation requirements for this development with respect to road noise from Upper Ottawa Street and Fennell Avenue East. The report recommends the following control measures be applied to the applicant’s development concept:

- Construction of a 0.91m safety glass railing or equivalent is required for the second floor podium and twelfth floor terrace; and,
- Appropriate ventilation requirements and Warning Clauses be inserted into the Offers and Agreements of Purchase and Sale or Lease for all residential units.

Staff are generally satisfied with the findings of the study, subject to the recommended noise mitigation measures and submission of a detailed noise study which will be required and will be implemented through the future Site Plan Control application.

Human Made Hazards

“3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no adverse effects.”

The subject property was determined by Staff to require a Record of Site Condition (RSC) to be completed on the subject lands. Staff have included a Holding Provision requiring the completion of a Record of Site Condition and Notice of Acknowledgment letter from the Ministry of Environment, Conservation and Parks for the RSC or a conditional building permit agreement respecting completion of an RSC prior to the Holding Provision being lifted.

Based on the foregoing and subject to the proposed Holding Provision, the proposal is consistent with the PPS.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended)

The proposal conforms to the Guiding Principles, Section 1.2.1, as it supports the achievement of complete communities, prioritizes residential intensification to make efficient use of land and infrastructure and support transit, and supports a range and mix of housing options. The following policies, amongst others, apply to the 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;

- c) Provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.”

The proposed development is located within the delineated built boundary and it has access to municipal services. The proposed development supports achievement of complete communities by providing residential dwellings with convenient access to local stores, services, and public service facilities and in a building form that expands the range and mix of housing options.

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 (UHOP)

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and designated as “District Commercial” on Schedule E-1 – Urban Land Use Designations in the UHOP. The application was received and deemed complete prior to Ministerial approval of Official Plan Amendment No. 167. The applicant has confirmed

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that this application is to be reviewed under the Urban Hamilton Official Plan policies currently in effect, as amended by OPA No. 167.

The following policies, amongst others, apply to the subject applications.

District Commercial Designation

- “E.4.7.1 The range of retail uses are intended to serve the daily and weekly shopping needs of residents in the surrounding neighbourhoods. The District Commercial areas shall also serve as a focus for the adjacent neighbourhood(s) by creating a sense of place.
- E.4.7.2 The following uses shall be permitted on lands designated District Commercial on Schedule E-1 – Urban Land Use Designations:
- a) Commercial uses including retail stores, personal services, financial establishments, live work units, restaurants, including gas bars, car washes, and service stations;
 - b) Medical clinics and offices provided they are located above the first storey; (OPA 64)
 - c) Residential uses provided they are located above the first storey of a mixed use building; and,
 - d) Accessory uses.
- 4.7.9 Although residential development is permitted and encouraged, it is not the intent of the Plan for the District Commercial designated areas to lose the planned retail and service commercial function set out in this Plan.”

Mixed Use – Medium Density Designation

- “E.4.6.1 The range of commercial uses is intended to serve the surrounding community or series of neighbourhoods as well as provide day-to-day retail facilities and services to residents in the immediate area. These areas shall also serve as a focus for the community, creating a sense of place.
- E.4.6.4 It is also the function of areas designated Mixed Use - Medium Density to serve as vibrant people places with increased day and night activity through the introduction of residential development. Residential

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development enhances the function of these areas as transit supportive nodes and corridors.

E.4.6.5 The following uses shall be permitted on lands designated Mixed Use – Medium Density on Schedule E-1 – Urban Land Use Designations:

- a) Commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices, medical clinics, personal services, financial establishments, live-work units, artist studios, restaurants, gas bars, and drive-through facilities; (OPA 64)
- b) Notwithstanding Policy E.4.6.5 a), drive-through facilities on pedestrian focus streets shall only be permitted in accordance with Section E.4.6.29 and all other applicable policies of this Plan.
- c) Institutional uses such as hospitals, places of worship, and schools;
- d) Arts, cultural, entertainment, and recreational uses;
- e) Hotels;
- f) Multiple dwellings; and,
- g) Accessory uses.”

The proposed two storey townhouse dwellings are not a permitted use under the “District Commercial” designation which only permits residential uses in mixed use buildings and the townhouse dwellings do not have a commercial component. Therefore, an Official Plan Amendment is required to permit the proposed development. The “Mixed Use - Medium Density” designation is an appropriate designation to implement this proposal. This designation permits residential uses either as a stand alone use or in the form of a mixed use building.

Both the “District Commercial” and the “Mixed Use – Medium Density” designations seek to provide a limited amount of commercial uses to serve the surrounding neighbourhood, however the intent of the “District Commercial” designation is to support limited residential but to not lose the planned retail and service commercial function. As such, the “Mixed Use – Medium Density” designation is appropriate. In order to maintain the commercial uses currently provided on the subject property, the proposed zoning regulations for the site include a minimum gross floor area for commercial uses.

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Therefore, staff support the proposed Urban Hamilton Official Plan Amendment as both designations have similar functions and the proposal will maintain the commercial function of the site while providing increased residential.

Mixed Use – Medium Density Designation - Scale

- “E.4.6.8 Additional height up to a total of 12 storeys may be permitted without an amendment to this Plan, provided the applicant demonstrates:
- a) The development shall provide for a mix of unit sizes to accommodate a range of household sizes and income levels, to be implemented through the Zoning By-law; (OPA 167)
 - b) The development shall incorporate sustainable building and design principles including but not limited to use of locally sourced and/or recycled materials, water conservation and energy efficient techniques and low impact development approaches; (OPA 167)
 - c) There are no adverse shadow impacts created on existing residential uses within adjacent lands designated Neighbourhoods;
 - d) Buildings are progressively stepped back from adjacent areas designated Neighbourhoods. The Zoning by-law may include an angular plane requirement to set out an appropriate transition and stepping back of heights; and,
 - e) Buildings are stepped back from the street to minimize the height appearance from the street, where necessary.
- E.4.6.9 The predominant built form shall be mid rise and low rise mixed use buildings that have retail and service commercial stores at grade. Single use commercial buildings and medium density ground related housing forms shall also be permitted, except for pedestrian focus streets as listed by Policy E.4.3.1.1. (OPA 65)(OPA 142)
- E.4.6.10 Permitted uses shall be located in single or mixed use buildings.”

The proposed development consists of low rise multiple residential buildings and a mixed use mid rise building with commercial uses at grade. These building forms are permitted by the “Mixed Use Medium Density” designation.

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The proposed height of 12 storeys is permitted in the UHOP subject to the criteria set out by policy E.4.6.8. The 12 storey building is proposed to contain 394 dwelling units, which will consist of 162 one bedroom units, 129 one bedroom plus den units, 63 two bedroom units, and 40 three bedroom units. This results in 74%, 16% and 10% of one, two, and three bedroom units, respectively. This represents a mix of small to large unit types to support various household sizes and income levels.

The applicants are proposing to incorporate a stormwater management tank to mitigate impacts on municipal infrastructure during storm events, permeable pavers to assist with stormwater retention. In addition, a portion of underground parking spaces will have rough-ins for installing EV charging stations and a majority of building materials will be locally sourced. Further details of sustainable building and design features will be addressed through the future Site Plan Control Stage.

Staff have reviewed a Shadow Impact Analysis entitled “Proposed Development 570 Upper Ottawa Street, Hamilton, Ontario” prepared by KNYMH Inc. dated March 18, 2022, submitted in support of the development. The study concluded that the site orientation ensures minimal impact on the surrounding residential properties. As per the City of Hamilton assessment criteria, the adjacent residential amenity spaces on Merle Court and Rendell Boulevard on March 21 and September 21 will continue to have a minimum of three hours of continuous sunlight between 10:00 a.m. and 4:00 p.m. Staff are satisfied that development will not cause adverse impacts on existing residential uses.

Staff have reviewed an Angular Plane drawing prepared by KNYMH Inc. dated June 2, 2022 and revised November 14, 2022, submitted in support of the development. The drawing illustrates the angular plane from adjacent Neighbourhood areas. Building massing is not located within the angular plane. Yard requirements within the proposed Zoning By-law will implement this design.

Step backs from the street were not deemed necessary as the adjacent lands are designated “District Commercial” and negative impacts are not anticipated. Further consideration of the ground floor commercial and second storey podium elevations including entrance locations and architectural details to address the appearance from the street will be determined at the future Site Plan Control stage.

Mixed Use – Medium Density Designation – Design

“E.4.6.16 New development shall be designed and oriented to create comfortable, vibrant and stimulating pedestrian oriented streets within each area designated Mixed Use - Medium Density.

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- E.4.6.17 Areas designated Mixed Use - Medium Density are intended to develop in a compact urban form with a streetscape design and building arrangement that supports pedestrian use and circulation and create vibrant people places.
- E.4.6.19 To strengthen the pedestrian focus in areas where it does not currently exist, the City shall require infilling of retail, service commercial, and mixed use buildings in a physical arrangement which assists in creating a vibrant and active street environment. Such buildings shall be located up to the street along a pedestrian focus street.
- E.4.6.22 Development applications shall be encouraged to provide a mix of uses on the site.
- E.4.6.23 In the absence of a secondary plan or the designation of pedestrian focus streets, each applicant for new development shall submit a concept plan for the property that addresses how:
- a) The creation of a vibrant people place are being achieved;
 - b) The public and private realm can be improved to enhance the pedestrian experience; and,
 - c) The property may accommodate a mix of uses and how it will intensify over time including addressing such matters as:
 - i) The provision of local roads and small blocks;
 - ii) The siting and orientation of buildings which do not preclude future intensification; and,
 - iii) The ability to achieve both short term and longer term intensification.
- E.4.6.24 New development shall respect the existing built form of adjacent neighbourhoods by providing a gradation in building height and densities, and by locating and designing new development to minimize the effects of shadowing and overview on properties in adjacent neighbourhoods.”

The proposed development includes a mixed use building located near the intersection of Upper Ottawa Street and Fennell Avenue East as shown Appendix “E” attached to Report PED23114. This design will support the development of pedestrian oriented streets. The mixed use building will provide commercial uses to attract people and the placement of the building at the intersection will support the creation of a vibrant and active street environment. In addition, the placement of the mixed use building will

respect the existing built form of adjacent neighbourhoods by minimizing the effects of shadowing and overlook.

Residential Intensification

- “B.2.4.1.4 Residential intensification developments within the built-up area shall be evaluated based on the following criteria:
- a) A balanced evaluation of the criteria in b) through l), as follows;
 - b) The relationship of the proposed development to existing neighbourhood character so that it builds upon desirable established patterns and built form;
 - c) The contribution of the proposed development to maintaining and achieving a range of dwelling types and tenures;
 - d) The compatible integration of the proposed development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
 - e) The contribution of the proposed development to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
 - f) Existing and planned water, wastewater and stormwater capacity;
 - g) The incorporation and utilization of green infrastructure and sustainable design elements in the proposed development;
 - h) The contribution of the proposed development to supporting and facilitating active transportation modes;
 - i) The contribution of the development to be transit-supportive and supporting the use of existing and planned local and regional transit services;
 - j) The availability and location of existing and proposed public community facilities/services;
 - k) The ability of the development to retain and/or enhance the natural

attributes of the site and surrounding community including, but not limited to native vegetation and trees; and,

- l) Compliance of the proposed development with all other applicable policies. (OPA 167)

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) The matters listed in Policy B.2.4.1.4;
- b) Compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) The relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) The consideration of transitions in height and density to adjacent residential buildings;
- e) The relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) The provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) The ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) The ability to complement the existing functions of the neighbourhood;
- i) The conservation of cultural heritage resources; and,
- j) Infrastructure and transportation capacity and impacts.”

The proposed development represents a compatible form of infill development. It will provide a greater range of housing types and achieve the planned urban structure. The increased density will support the use of existing transit and public facilities and it will

also support active transportation as bicycle lanes are planned along Upper Ottawa Street.

The proposed development is designed with consideration for compatibility with the surrounding land uses. The 12 storey building is positioned at the greatest distance from the residential uses on adjacent properties to provide a transition that mitigates shadowing and overlook. Since this building is placed close to the sidewalk and incorporates a two storey podium, it will also enhance the streetscape along both Upper Ottawa Street and Fennell Avenue East. In addition, the majority of the parking spaces will be located underground which will also serve to improve the streetscape.

Further design details, such as landscaping, lighting, and noise mitigation, will be addressed through the future Site Plan Control stage.

Urban Design Principles

“B.3.3.2.3 Urban design should foster a sense of community pride and identity by:

- a) Respecting existing character, development patterns, built form, and landscape;
- b) Promoting quality design consistent with the locale and surrounding environment;
- c) Recognizing and protecting the cultural history of the City and its communities;
- d) Conserving and respecting the existing built heritage features of the City and its communities;
- e) Conserving, maintaining, and enhancing the natural heritage and topographic features of the City and its communities;
- f) Demonstrating sensitivity toward community identity through an understanding of the character of a place, context and setting in both the public and private realm;
- g) Contributing to the character and ambiance of the community through appropriate design of streetscapes and amenity areas;
- h) Respecting prominent sites, views, and vistas in the City; and,

- i) Incorporating public art installations as an integral part of urban design.”

The applicant prepared an Urban Design Brief, prepared by GSP Group Inc. dated June 2022, submitted in support of the development. The report found that the proposed development appropriately responds to applicable urban design policies and represents good design. The proposed 12 storey mixed use building provides a two storey podium that respects the existing character and built form, and it is located on both street edges to contribute to community character through appropriate streetscape design.

Tree Management

“C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

A Tree Conservation Plan has been prepared by OMC Landscape Architecture dated June 15, 2022, and revised March 14, 2023. A total of 81 trees have been inventoried. Of these 81 trees, 49 trees are recorded as being in “poor” structural condition and of these 49 trees, 19 are also noted to be in “poor” tree health. In addition, six trees have been identified as Norway Maple, which is considered to be an invasive species. All 81 trees have been proposed to be removed. The Tree Protection Plan has not yet been approved. This matter, along with the implementation of tree protection measures, will be addressed at the future Site Plan Control stage.

To ensure existing tree cover is maintained, one for one compensation is required for any tree (10 cm DBH or greater) that is proposed to be removed. The applicant proposes to replace 15 trees on site and provide cash-in-lieu for the remaining 66 trees. A Landscape Plan will be required at the future Site Plan Control stage to confirm compensation tree plantings and cash-in-lieu requirements.

Therefore, the proposal complies with the UHOP subject to the Official Plan Amendment.

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

The subject lands are zoned District Commercial (C6) Zone in City of Hamilton By-law No. 05-200, as shown on Appendix “A” attached to Report PED23114. The District Commercial (C6) Zone permits a limited range of commercial uses to serve the day-to-day and weekly shopping needs of residents in the immediate and surrounding neighbourhoods. Residential uses are permitted but the intent of the zone is predominantly for commercial uses. As such, the applicant has proposed a rezoning to

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a site specific Mixed Use Medium Density (C5) Zone to permit multiple dwellings with a maximum height of 12 storeys in addition to commercial uses.

The proposed zoning and zoning standards are consistent with the land designations in the UHOP. The rationale for the Zoning By-law Amendment is discussed in the Analysis and Rationale for Recommendation section, and an evaluation of the proposed modifications to the (C5) Zone is included in Appendix “D” attached to Report PED23114. The Holding Provision will address the completion of Record of Site Condition requirements for the subject lands. Once this condition has been addressed, the applicant can apply for the removal of the Holding Provision through the passing of a by-law lifting the ‘H’.

RELEVANT CONSULTATION

Department and Agencies		Response
<ul style="list-style-type: none"> • Corporate Real Estate, Planning and Economic Development Department; • Financial Planning, Administration and Policy, Corporate Services; and, • Canada Post. 		No Comment
Department	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	Development Engineering does not have any objections to the approval of this zoning amendment application. A Watermain Hydraulic Analysis is required in order to facilitate this development.	A Watermain Hydraulic Analysis on the pressure district level, and to establish the allowable discharge rate, and updating the allowable discharge rate to account for increased density on site will be required at the Site Plan Control stage.
Growth Planning Section, Growth Management Division, Planning and Economic Development Department	It should be confirmed if tenure for the subject proposal will be a Condominium and if so, there will be one corporation or multiple corporations. It is noted that multiple corporations could require the need for easements.	The Planning Justification Report, prepared by UrbanSolutions Planning & Land Development Consultants Inc. and dated June 2022, indicates condominium tenure is intended.

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Department	Comment	Staff Response
Growth Planning Section, Growth Management Division, Planning and Economic Development Department Continued	The owner and agent should be made aware that the addresses for this proposal will be determined after Conditional Site Plan Approval is granted.	This will be addressed at the future Draft Plan of Condominium stage. Addressing will be determined at the future Site Plan Control stage.
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	There are no Municipal Tree Assets located on site; therefore, a Tree Management Plan will not be required. A Landscape Plan is required.	A Landscape Plan will be required at the future Site Plan Control stage.
Waste Management Division, Public Works Department	The stacked townhouses will require front-end garbage bin service and cart collection for recycling and organic material. The multi-residential building will require front-end bin service for collection of garbage, recyclable containers, recyclable papers, and organic waste.	Location of collection areas will be determined at the Site Plan Control stage.
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department	<p>The proposed development is projected to be generally supported by the surrounding transportation network.</p> <p>Approved the Transportation Impact Study (TIS) prepared by Paradigm Transportation Solutions Limited, dated March 2022.</p> <p>To protect the existing and future pedestrian realm, cycling infrastructure and road network, the following is required:</p> <ul style="list-style-type: none"> Proposed access onto Upper Ottawa Street will be required to be limited to right-in-right-out movements only with the extension of the centre concrete median. 	<p>Median, daylight triangle dedication, and road right-of-way dedication will be addressed at the future Site Plan Control stage.</p> <p>Bicycle parking is a zoning requirement and will be provided as per Section 5 – Parking of Zoning By-law No. 05-200.</p>

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Department	Comment	Staff Response
<p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department Continued</p>	<ul style="list-style-type: none"> • 9.14 metres x 9.14 metres • daylighting triangle dedication; and, • 2.13 metres right-of-way dedication along the frontage of Upper Ottawa Street. <p>The following Transportation Demand Management measures are encouraged:</p> <ul style="list-style-type: none"> • Short-term bicycle parking; and, • Long-term bicycle parking. 	
<p>Commercial Districts and Small Business Section, Economic Development Division, Planning and Economic Development Department</p>	<p>Support projects that introduce/expand resident populations in close proximity to commercial districts/corridors.</p> <p>No concerns that the loss of commercial space on this site would impact the commercial function of the area or limit access to commercial amenities and services for residents in the area.</p> <p>To ensure commercial spaces proposed at-grade are viable for a range of potential commercial uses over the life of the development, consideration of the following is encouraged:</p> <ul style="list-style-type: none"> • A requirement for ground floor commercial spaces to have a minimum 4.5m ceiling height to provide flexibility for range of commercial activities to occupy these spaces. 	<p>Staff are in support of the proposed Official Plan and Zoning By-law Amendments. The first floor ceiling height can be accommodated within the proposed maximum building height. The proposed setbacks are consistent with the UHOP policies for the “Mixed Use Medium Density” designation, which seeks to bring buildings toward the street.</p>

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Department	Comment	Staff Response
Commercial Districts and Small Business Section, Economic Development Division, Planning and Economic Development Department Continued	<ul style="list-style-type: none"> Where possible, provide an increased setback between the sidewalk and building façade on Fennell Avenue East and Upper Ottawa Street along with additional landscaping to create the opportunity for patio spaces. 	
Landscape Architectural Services, Public Works Department	Request cash in lieu of parkland dedication.	Will be addressed at the Building Permit stage.
Alectra	For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 1-877-963-6900 ext: 25713 or visit our web site @ www.alectrautilities.com .	Noted.
Hamilton International Airport	Airport has no objection to the proposed changes with respect to the applications for Zoning By-law Amendment and UHOPA.	<p>Compliance with Airport Zoning Regulations will be reviewed at the future Site Plan Control stage.</p> <p>Compliance with Hamilton Airport Zoning (Height) Regulation is a zoning requirement and will be provided as per Section 4.17 – Airport of Zoning By-law No. 05-200.</p>
Transport Canada	<p>The lands are subject to John C. Munro Hamilton International Airport Zoning Regulations (AZR). The AZR legal land survey was present, and the clearance was evident from the AZR limitation surfaces.</p> <p>No further action is required.</p>	<p>Documentation is required to be submitted during the future Site Plan Control stage.</p> <p>Compliance with Hamilton Airport Zoning (Height) Regulation is a zoning requirement and will be provided as per Section 4.17 – Airport of Zoning By-law No. 05-200.</p>

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Public Consultation		
Theme	Comment	Staff Response
Building Setback	The proposed townhouse dwellings are located too close to the north and west property lines and will impact views and privacy.	The applicants have modified the concept to reduce the height of the townhouse dwellings from three to two storeys. The reduction in height along with the proposed setbacks will comply with the angular plane and will not create shadow impacts.
Traffic	Concern whether additional traffic generated by this development can be supported by the existing road network.	A Transportation Impact Study prepared by Paradigm Transportation Solutions Limited dated March 22, 2022 was submitted with this application. Transportation Planning staff have reviewed the report and advise that the proposed development can be supported by the surrounding transportation network.
Municipal Services	Concern whether the existing sewer and water infrastructure can support this development.	A Functional Servicing and Storm Water Management Report, prepared by Odan/Detech Group Inc. dated December 8, 2022 and Servicing & Grading Plans prepared by Odan/Detech Group Inc. dated December 8, 2022 were submitted with this application.

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Theme	Comment	Staff Response
Municipal Services Continued		Development Engineering staff have reviewed these documents and are satisfied with its findings. Detailed design will be reviewed at the future Site Plan Control stage.
Market Value	The development will have a negative impact on resale value of adjacent homes.	The City is not aware of any empirical evidence to support this claim.
Parking	The development does not contain sufficient parking for the proposed uses.	<p>The applicants are proposing 543 parking spaces which includes 60 surface parking spaces with the proposed development, which conforms to the parking requirements with the Mixed Use Medium Density (C5) Zone.</p> <p>The applicants are not requesting any modifications to the parking regulations in the parent Zoning By-law.</p>
Density	<p>The proposed development will result in overdevelopment of the site.</p> <p>The proposed development will contain too many units to be considered medium density.</p>	The proposed development complies with the residential intensification policies of the UHOP, makes efficient use of land and infrastructure by providing housing in an efficient urban form, and contributes to developing a complete community. As previously noted, the proposal complies with the applicable policies of the "Mixed Use – Medium Density" designation in the parent Zoning By-law.

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Theme	Comment	Staff Response
Public Notification	Area residents have not received proper notification of the planning applications.	Notifications were provided in accordance with the provisions of the <i>Planning Act</i> . Further details of notifications can be found in the section below.
Open Space	The proposed dwellings will not have adequate open space for future residents.	The proposed development will contain a rooftop terrace on the second storey for residents of the 12 storey multiple dwelling and outdoor amenity space will be provided for the townhouse units in conformity with the minimum amenity area requirements for dwelling units and multiple dwellings. The applicants are not requesting any modifications to the amenity area requirements.

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to property owners within 120 m of the subject property on July 22, 2022. A Public Notice Sign was posted on the property on July 22, 2022, and updated on June 14, 2023, with the Public Meeting date. Finally, Notice of the Public Meeting was given on June 23, 2023, in accordance with the requirements of the *Planning Act*.

Prior to the submission of these applications, a neighbourhood information meeting was held on May 26, 2022. A response letter summarizing the meeting prepared by UrbanSolutions Planning & Land Development Consultants Inc. dated August 18, 2022, was submitted in support of the application and can be found in Appendix “G” attached to Report PED23114.

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) (PPS);
 - (ii) It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - (iii) It complies with the Urban Hamilton Official Plan; and,
 - (iv) It represents good planning by, among other things, making efficient use of land and infrastructure by providing housing in an efficient urban form, and contributing to creating a complete community.

2. Urban Hamilton Official Plan Amendment

The purpose of the Official Plan Amendment is to redesignate the lands from the “District Commercial” designation to the “Mixed Use – Medium Density” designation.

As per the UHOP policies identified above, the proposed re-designation can be supported since the proposed development makes efficient use of land and infrastructure, provides housing in an efficient urban form, and contributes to developing complete communities. The proposed development will introduce residential intensification in an appropriate location that is compatible with the surrounding area in terms of use, scale, form and character with no privacy, overlook, sun shadow, or other negative impacts. This will support commercial uses on site as well as commercial uses and services on adjacent sites. The Zoning By-law requires that commercial uses be provided. Based on the foregoing, staff supports the requested amendment.

3. Zoning By-law Amendment

The subject lands are currently zoned District Commercial (C6) Zone in City of Hamilton By-law No. 05-200. The applicant has requested that the subject lands be rezoned to a site specific Mixed Use Medium Density (C5) Zone to facilitate development of a 12 storey, 394 unit mixed use building and 34, two storey townhouse dwellings. The proposed zone contains modifications to permit the development. The modifications are identified on pages 4 and 5 of Report PED23114 and discussed in detail in Appendix “D” attached to Report PED23114. The proposed Mixed Use Medium Density (C5, 849, H147) Zone will

permit a broader range of residential uses and a greater mix of uses. The proposed zoning modifications ensure compatibility with existing dwellings adjacent to the site. In addition, the proposal contributes to the creation of a complete community envisioned by the UHOP.

Staff are in support of this change of zoning as the proposal complies with the UHOP policies.

4. Holding Provision

An “H” Holding Provision is recommended to require a Record of Site Condition. Once this condition has been addressed, the applicant can apply for the removal of the Holding Provision through the passing of a by-law lifting the ‘H’.

ALTERNATIVES FOR CONSIDERATION

Should the applications not be approved, the subject lands will remain designated “District Commercial” and zoned District Commercial (C6) Zone. The District Commercial (C6) Zone permits a limited range of commercial uses to serve the day-to-day and weekly shopping needs of residents in the immediate and surrounding neighbourhoods and residential dwellings above the ground floor within a mixed use building.

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

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED23114 – Location Map

Appendix “B” to Report PED23114 – Draft Official Plan Amendment

Appendix “C” to Report PED23114 – Draft Zoning By-law Amendment

Appendix “D” to Report PED23114 – Zoning Modification Chart

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Appendix "E" to Report PED23114 – Concept Plan

Appendix "F" to Report PED23114 – Public Input

Appendix "G" to Report PED23114 – Neighbourhood Information Meeting Comment
Response Letter

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