



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	August 15, 2023
<b>SUBJECT/REPORT NO:</b>	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 95, 99, 103 and 105 Highway 8, Stoney Creek (PED23173) (Ward 5)
<b>WARD AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	Johnpaul Loiacono (905) 546-2424 Ext. 5134
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Official Plan Amendment Application UHOPA-23-016, by 1826547 Ontario (c/o Sam Disanto of the Molinara Group), Owner**, to amend Volume 2: Appendix A – Secondary Plan Index Map to incorporate additional lands into the Old Town Secondary Plan, to amend the Old Town Secondary Plan to incorporate additional lands into the Secondary Plan Area, and to add a Site Specific Policy to permit the redevelopment of the subject lands for two, 44 metre (12 storey) mixed use buildings, for the lands located at 95, 99, 103 and 105 Highway 8, as shown on Appendix “A” attached to Report PED23173, be **APPROVED** on the following basis:
  - (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED23173, 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 **Amended Zoning By-law Amendment Application ZAC-23-034, by 1826547 Ontario (c/o Sam Disanto of the Molinara Group), Owner**, for a

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change in zoning from the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 862, H158) Zone, to permit two, 44 metre (12 storey) mixed use buildings, which includes 368 residential units and 1,128 square metres of ground floor leasable commercial space, for the lands located at 95, 99, 103 and 105 Highway 8, as shown on Appendix “A” attached to Report PED23173, be **APPROVED** on the following basis:

- (i) That the draft By-law attached as Appendix “C” to Report PED23173, 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) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- (iii) That this amending By-law will comply with the Urban Hamilton Official Plan upon the approval of Urban Hamilton Official Plan Amendment No. XX;
- (iv) That this amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H158’ to the proposed Mixed Use Medium Density (C5, 862) Zone:

The Holding Provision ‘H158’ is to be removed conditional upon:

- (1) The Owner submitting a Sanitary Sewer Capacity Analysis, to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (2) The Owner submitting an updated Functional Servicing Report in accordance with the City’s standards, to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (3) The Owner submitting a Watermain Hydraulic Analysis, to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (4) The Owner submitting a revised Hydrogeology Report specifying the levels of underground parking and impacts and mitigation measures for the groundwater systems, to the satisfaction of the Director of Growth Management and Chief Development Engineer;

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- (5) The Owner submitting easement document details for the privately owned rear yard catch basins to be considered as a storm outlet for the subject site and acknowledging that the future condominium corporation on the subject site will be responsible to operate, maintain and mitigate any negative impacts for the proposed storm outlets at the future condominium corporation's cost, to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (6) The Owner making satisfactory arrangements with the City's Growth Management Division and entering into an External Works Agreement with the City for the design and construction of any required improvements to the municipal infrastructure at the Owner's cost, should it be determined that upgrades are required to the municipal infrastructure to support the proposed development, all to the satisfaction of the Director of Growth Management and Chief Development Engineer;
- (7) The Owner submitting a revised Tree Protection Plan addressing the protection of the trees found within the City's right-of-way and that finalizes the justification for the removal of the identified trees, and submitting written confirmation, from the owner of 505 Berkindale Drive, for permission to encroach into the dripline of "Tree A", to the satisfaction of the Director of Planning and Chief Planner. The resubmission is also to include the applicable Tree Protection Plan review fee payable to the City of Hamilton.

## **EXECUTIVE SUMMARY**

The subject lands are municipally known as 95, 99, 103 and 105 Highway 8 and are located on the north side of Highway 8 between Donn Avenue and Grays Road. The applicant has applied for amendments to the City's Urban Hamilton Official Plan and Zoning By-law No. 05-200 to permit the lands to be developed for two, 12 storey, mixed use buildings, which includes a total of 368 residential units, 1,128 square metres of ground floor leasable commercial space and 435 vehicular parking spaces (27 surface parking spaces and 408 below grade parking spaces).

Holding Provisions are recommended for the amending By-law with regard to the functional servicing of the subject lands, including the sanitary capacity, and the submission and approval of a revised Tree Protection Plan.

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

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- It is consistent with the Provincial Policy Statement (2020);
- 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, in particular, the function, scale and design of the Mixed Use – Medium Density policies; and,
- The proposal provides a built form that is compatible with the surrounding land uses and represents good planning by, among other things, proposing an efficient urban form of development on an underutilized site.

**Alternatives for Consideration – See Page 13**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold a Public Meeting to consider an application for an Official Plan Amendment and Zoning By-law Amendment. In accordance with Section 34(10.12), if the City makes a decision on a joint Official Plan Amendment and Zoning By-law Amendment within 120 days after the receipt of the application, the City shall not refund the fee.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner/Applicant:	Molinaro Group c/o Sam Disanto
Agent:	Fothergill Planning & Development Inc. c/o Ed Fothergill
File Numbers:	UHOPA-23-016 and ZAC-23-034
Type of Applications:	Official Plan Amendment Zoning By-law Amendment
Proposal:	The purpose of the Official Plan Amendment is to amend the Old Town Secondary Plan by incorporating additional lands into the Secondary Plan area and adding a Site Specific policy to permit a maximum building height of 12 storeys.

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<b>Application Details</b>	
<b>Proposal Continued:</b>	<p>The purpose of the Zoning By-law Amendment is to modify the existing Mixed Use Medium Density (C5) Zone to permit a maximum building height of 44 metres.</p> <p>The effect of these applications is to facilitate the development of two, 12 storey, mixed use buildings with a total of 368 residential units, 1,128 square metres of commercial area and 435 vehicle parking spaces (27 surface parking spaces and 408 below grade parking spaces).</p> <p>The proposal provides for 1,586 square metres of indoor amenity space, 647 square metres of outdoor amenity spaces and 5,695 square metres of amenity space by way of the balconies and terraces. This equates to approximately 21.5 square metres of amenity space per unit. In addition, there is another 3,716 square metres of landscape area throughout the proposal, 189 long-term and 10 short-term bicycle parking spaces (see the conceptual plans attached as Appendix “D” to Report PED23173).</p>
<b>Property Details</b>	
<b>Municipal Address:</b>	95, 99, 103 and 105 Highway 8 (see Location Map attached as Appendix “A” to Report PED23173).
<b>Lot Area:</b>	±1.04 hectares (irregular).
<b>Servicing:</b>	Existing municipal services.
<b>Existing Uses:</b>	<p>95 Highway 8 is occupied by a one-storey building (financial institution) and surface parking.</p> <p>99 Highway 8 is occupied by a two-storey commercial building (office) with surface parking.</p> <p>103 and 105 Highway 8 is currently vacant (previously occupied by a lumber yard).</p>
<b>Proposed Use:</b>	Mixed use building
<b>Documents</b>	
<b>Provincial Policy Statement:</b>	The proposal is consistent with the Provincial Policy Statement (2020).
<b>A Place to Grow:</b>	The proposal conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
<b>Official Plan Existing:</b>	“Mixed Use Medium Density” on Schedule E-1 – Urban Land Use Designations.

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<b>Documents</b>	
Official Plan Proposed:	An amendment is proposed to Volume 2: Appendix A – Secondary Plan Index Map and the Old Town Secondary Plan with corresponding mapping amendments to Volume 2: Appendix A – Secondary Plan Index Map and Volume 2: Old Town Secondary Plan – Map 7.2-1 – Land Use Plan.
Secondary Plan Existing:	“Mixed Use – Medium Density” on Map B.7.2-1 Land Use Plan.
Secondary Plan Proposed:	<p>“Mixed Use – Medium Density” with Site Specific policy.</p> <p>Site Specific policy on the subject lands to permit 12 storey/44 metre tall buildings and to add additional lands (the northern portion of the subject lands) into the Secondary Plan area.</p>
Zoning Existing:	Mixed Use Medium Density (C5) Zone.
Zoning Proposed:	Mixed Use Medium Density (C5, 862, H158) Zone.
Modifications Proposed:	<p>The following modifications are being proposed to Zoning By-law No. 05-200:</p> <ul style="list-style-type: none"> <li>• To increase the maximum building height from 22 metres to 44 metres;</li> <li>• To increase the maximum allowable area for a wholly or partially enclosed area belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area from 10% to 40% of the floor area below;</li> <li>• To remove the minimum allowable setback, in relation to the floor below, for a wholly or partially enclosed area belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area, from 3 metres to 0 metres;</li> <li>• To increase the maximum allowable vertical distance (in relation to the uppermost point of the building to the uppermost point of the rooftop enclosure) for a wholly or partially enclosed area belonging to an amenity area, or portion of a building designed to provide access to a rooftop amenity area, from 3 metres to 6 metres;</li> <li>• To reduce the interior yard setback from 7.5 metres to 3.0 metres for the portion of the underground garage wall only that protrudes above the grade; and,</li> <li>• To reduce the rear yard setback from 7.5 metres to 7.0 metres for the portion of the garage wall ramp only (i.e. building will be set back a minimum of 7.5 metres).</li> </ul>

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<b>Documents</b>	
Modifications Proposed <b>Continued:</b>	Further, additional modifications are proposed by staff to preserve the angular plane by providing specific setback distances as the height of the building increases (refer to the amending By-law attached as Appendix "C" to Report PED23173 and refer to the zoning modification chart attached as Appendix "F" to Report PED23173).
<b>Processing Details</b>	
Received:	May 17, 2023
Deemed Complete:	May 18, 2023
Notice of Complete Application:	Sent to 333 property owners within 120 m of the subject lands on June 1, 2022.
Public Notice Sign:	Posted May 31, 2023.
Notice of Public Meeting:	Sent to 333 property owners within 120 m of the subject lands on August 4, 2023.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "G" attached to Report PED23173.
Public Consultation:	The following Public Consultation was completed for the proposed development: <ul style="list-style-type: none"> <li>• An Open House hosted at 191 Barton Street (Armenian Community Centre) on Wednesday, March 1, 2023;</li> <li>• A drop-in event with presentation boards illustrating the site plan, elevations, floor plans and landscape plan;</li> <li>• Each demonstration table was attended to by an applicant and/or consultant to provide information on the proposal to the public; and,</li> <li>• Notice of the Open House was prepared by T. Johns Consulting Group and sent out to 169 residences on February 16, 2023.</li> </ul>
Public Comments:	Staff have received one comment from the public (refer to Appendix "H" attached to Report PED23173).
Processing Time:	91 days from receipt of the applications.

**Existing Land Use and Zoning**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	95 Highway 8 is occupied by a one-storey building (financial institution) with surface parking.	Mixed Use Medium Density (C5).

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**Subject Lands Continued:** 99 Highway 8 is occupied by a two-storey commercial building (office) with surface parking.

103 and 105 Highway 8 are currently vacant (former lumber yard).

**Surrounding Land Uses:**

North	Single detached dwellings.	“R-4/S-1822” (Small Lot Single Family Detached) District, Modified and “R-2/S-1822” (Urban Protected Residential One and Two Family Dwellings, etc.) District, Modified.
South	Commercial plaza.	Commercial District (C6) Zone.
East	Commercial.	Mixed Use Medium Density (C5, 687) Zone.
West	Restaurant (fast food) and two single detached residential uses.	Mixed Use Medium Density (C5) Zone and “G/S-1053” (Neighbourhood Shopping Centre, etc.) District, Modified.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Planning Policy Framework**

A full policy review has been provided for the Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) (attached as Appendix “E” to Report PED23173).

**Provincial Policy Statement (2020)**

The proposal provides for the efficient use of land and resources by intensifying the existing settlement area where there are municipal water and waste services. Staff have identified a sanitary capacity concern that could require the need for infrastructure upgrades. As such, a Holding Provision has been placed in the amending By-law to protect the City’s interest with respect to the costs associated with the need to upgrade



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the public infrastructure, if applicable (refer to Appendix “C” attached to Report PED23173).

The proposal is appropriately located along a major arterial road (Highway 8) to provide a transit supportive form of development. Higher-order transit is planned along Highway 8 with the future build out of the City’s proposed B.L.A.S.T. network.

The proposal contributes to a range and mix of housing types in the immediate area, which mainly consist of low rise residential units. The applicant has committed to building 25% two-bedroom units and 3% two-bedroom plus den/three-bedroom units, which accounts for 92 and 11 units, respectively.

Based on the foregoing and subject to the Holding Provisions, the proposal is consistent with the Provincial Policy Statement (2020).

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

The subject lands are located where full municipal services are available, in proximity to local commercial uses, public services and along an existing transit route. The proposed development will contribute to creating a complete community by providing an additional housing form. The proposal also enhances the public realm through residential intensification and the overall landscape and streetscape improvements along Highway 8 that further animate the street, creating a more comfortable pedestrian-friendly environment.

There are concerns regarding the existing and planned sanitary servicing capacity that have not yet been addressed, which City staff have addressed through a Holding Provision in the amending By-law.

Based on the foregoing and subject to the Holding Provision, the proposal conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

**Urban Hamilton Official Plan**

The subject lands are designated “Mixed Use Medium Density” on Schedule E-1 – Urban Land Use Designations. A review of the applicable Official Plan policies is attached as Appendix “E” to Report PED23173. A portion of the subject lands are further found within the Old Town Secondary Plan and designated “Mixed Use Medium Density”. Note that the section along the northern portion of the subject lands is not within the Secondary Plan area. The applicant’s conceptual plans are attached as

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Appendix “F” to Report PED23173. A review of applicable policies is contained in Appendix “E” attached to Report PED23173.

The intent of the “Mixed Use Medium Density” is to permit a range of retail, commercial and residential accommodation and function as vibrant people places by increasing day and night activity with the residential component, while also enhancing the function of these areas as transit supportive corridors. As such, the proposal meets this intent by providing the requisite density to begin to establish the continuous day and night activity along this corridor and to provide the densities needed to be transit supportive.

The “Mixed Use Medium Density” policies permit heights of up to 12 storeys, which the proposal has met by providing a mix of dwelling unit sizes (the applicant has committed to providing 25% two bedroom units and 3% two bedroom plus den/three bedroom units), incorporating sustainable building design features, mitigating shadow impacts on existing residential uses, progressively stepping back the proposed building from residential uses designated “Neighbourhoods” and stepping the proposed building back from the street.

Urban Design staff have approved the Sun/Shadow Study prepared by RWDI, dated April 28, 2023, as it has met the City’s guidelines. Further, a Wind Study, also prepared by RWDI, dated March 24, 2023, was reviewed by staff where it was found that further mitigation would be needed at the detailed design stage to ensure that the amenity areas and entrances were assessed as “comfortable”. Staff note that the elements needed to provide mitigation through additional landscaping features, parapet walls, canopies and/or trellises would not impact the amending By-law and are therefore satisfied that these can be addressed at the Site Plan Control stage.

Particular attention was given to the low density residential uses to the rear and the two residential properties along Donn Avenue to the northwest of the subject lands. To ensure that the built form reflects these policies at construction, the amending By-law specifies the required setbacks as the height of the building increases (refer to the amending By-law attached as Appendix “C” to Report PED23173). With the exception of the technical reduction in the setback to accommodate items such as the garage ramp and garage wall that protrude above grade that will have no impact on the neighbouring properties, the setbacks to the building face meets or exceeds the C5 Zone regulations.

The policies of the Urban Hamilton Official Plan outline that compatibility does not mean that the same development occurs that is on abutting lands but rather that it is sensitive to the surrounding uses. Staff has determined that the built form respects the abutting properties and therefore determined it to be compatible within the surrounding area.

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The subject lands are located along a major arterial road, are currently used or were formerly used for commercial uses and are abutting other non-sensitive, commercial uses, therefore part of the compatibility review includes the requirement for an environmental site assessment (Record of Site Condition) to consider the soil and ground water conditions for a residential use and a noise study to assess the transportation and other nearby noise generators. Staff were generally satisfied with the results of the studies for the purposes of the Official Plan and Zoning By-law Amendment applications and will be further reviewed at the Site Plan Control stage.

The provided setbacks, stepbacks and courtyard allows for enhanced landscaping throughout the subject lands and amenity space on the ground floor and rooftop that exceeds the required ratio of six square metres per unit in the C5 Zone regulations. The proposal provides for 1,586 square metres of indoor amenity space, 647 square metres of outdoor amenity spaces and 5,695 square metres of amenity space by way of the balconies and terraces. This equates to over 21 square metres of amenity space per unit. In addition, there is another 3,716 square metres of landscape area proposed.

Additionally, given the new timelines imposed by Bill 109, staff have not been able to finalize and approve the Tree Protection Plan with the applicant and therefore have also added that a revised Tree Protection Plan be included in the Holding Provision. Given the species of trees in question (Manitoba Maple, Pear species and Norway Maple), which are generally not highly desirable trees in Southern Ontario, and the understanding from Forestry staff that the protection of the trees found in the municipal right-of-way is possible (i.e. that the trees' root zones will have enough space to be protected throughout construction), staff are satisfied that this matter will not impact the amending By-law and that it is appropriate to be placed in a Holding Provision to be finalized prior to the Site Plan Control stage.

Based on the foregoing, subject to the Holding Provisions, the proposal complies with the applicable policies of the Urban Hamilton Official Plan subject to the Official Plan Amendment.

### **Old Town Secondary Plan Area (Volume 2)**

The southern portion of the subject lands are designated as "Mixed Use Medium Density" in the Old Town Secondary Plan. The proposed uses are permitted, however the Plan notes that "height should not generally exceed six stories" therefore an Official Plan Amendment is required to establish a Site Specific policy for a maximum height of 12 storeys.

The policies within the Old Town Secondary Plan note that the Volume 1, "Mixed Use Medium Density" policies of the Urban Hamilton Official Plan shall also apply to the

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lands designated “Mixed Use Medium Density” found within the Old Town Secondary Plan. Therefore, with respect to the aspect of height, for the purpose of the amendment, Staff are satisfied that the proposal complies with the Volume 1 policies of the Urban Hamilton Official Plan, as noted above. In all other aspects, the proposal complies with the intent of the Old Town Secondary Plan.

The full review of the Old Town Secondary Plan policies is attached as Appendix “E” to Report PED23173.

**Zoning By-law No. 05-200**

The proposed Zoning By-law Amendment is for a change in zoning from the Mixed Use Medium Density (C5) Zone to the Mixed Use Medium Density (C5, 862, H158) Zone. The effect of this Zoning By-law Amendment will permit two, 12 storey mixed use buildings with a total of 1,128 square metres of ground floor leasable commercial space and 435 vehicular parking spaces. Modifications to the C5 Zone are required to facilitate the development and are summarized in the modification chart in Appendix “F” attached to Report PED23173.

**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 general intent and purpose of the Urban Hamilton Official Plan and will comply with the Old Town Secondary Plan, subject to the adoption of the proposed Official Plan Amendment; and,
  - (iii) The proposal represents good planning by providing, among other things, an efficient urban form of development that contributes to a complete community by providing a mix of uses and built form and density that is in keeping with the “Mixed Use Medium Density” designation policies found within the Urban Hamilton Official Plan and Old Town Secondary Plan.
  
2. The purpose of the Official Plan Amendment is to amend Volume 2: Appendix A – Secondary Plan Index Map to incorporate additional lands into the Secondary Plan Area, to amend the Old Town Secondary Plan to include a Site Specific policy to allow for a height of 12 storeys and to add the northern portion of the subject lands into the Old Town Secondary Plan. The proposed land uses are

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permitted, and the height complies with the built form policies of the Urban Hamilton Official Plan and Old Town Secondary Plan.

Therefore, staff supports the proposed Official Plan Amendment.

3. The Zoning By-law Amendment proposes to change the zoning to the “Mixed Use Medium Density” (C5, 862, H158) Zone as outlined in the table on page 6 of Report PED23173.

Staff are satisfied that the proposal meets the intent of the “Mixed Use – Medium Density” designation policies and applicable intensification policies of the Urban Hamilton Official Plan as outlined in Appendix “E” attached to Report PED23173. An analysis of the requested modifications is attached as Appendix “F” to Report PED23173.

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

4. Holding ‘H’ Provisions are proposed to be added to the subject lands for the purpose of requiring the submission of: a Sanitary Sewer Capacity Analysis and arrangement for an External Works Agreement, if it is determined that infrastructure improvements are necessary to address the capacity concern; an updated Functional Servicing Report; a Watermain Hydraulic Analysis; a revised Hydrogeology Report; and, easement document details for the privately owned rear yard catch basins’ arrangement. Additionally, a Tree Protection Plan (and review fee), along with written confirmation, from the land owner at 505 Berkindale Drive, for permission to encroach into the dripline of “Tree A”, must be submitted. Upon submission and approval of the above noted plans and studies, the Holding Provision can be lifted.

## **ALTERNATIVES FOR CONSIDERATION**

Should the applications be denied, the subject property can be used in accordance with the Mixed Use Medium Density (C5) Zone in Zoning By-law No. 05-200.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” to Report PED23173 – Location Map  
Appendix “B” to Report PED23173 – Official Plan Amendment  
Appendix “C” to Report PED23173 – Zoning By-law Amendment  
Appendix “D” to Report PED23173 – Concept Plans  
Appendix “E” to Report PED23173 – Policy Review  
Appendix “F” to Report PED23173 – Zoning Modification Chart

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Appendix "G" to Report PED23173 – Staff and Agency Comments  
Appendix "H" to Report PED23173 – Public Comments

JL:sd