

INFORMATION REPORT

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | September 5, 2023 |
| SUBJECT/REPORT NO: | Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-002 and Zoning By-law Amendment Application ZAC-22-005 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 487 Shaver Road, Ancaster (PED23089(a)) (Ward 12) |
| WARD(S) AFFECTED: | Ward 12 |
| PREPARED BY: | Mark Michniak (905) 546-2424 Ext. 1224 |
| SUBMITTED BY: | Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

COUNCIL DIRECTION

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

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

The following information is provided for Planning Committee's information with regards to Urban Hamilton Official Plan Amendment Application UHOPA-22-002 and Zoning By-law Amendment Application ZAC-22-005, which have been appealed for non-decision.

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INFORMATION

The subject lands are municipally known as 487 Shaver Road, Ancaster and are located on the east side of Shaver Road between Garner Road West and Wilson Street West (refer to Appendix “A” to Report PED23089(a)).

Urban Hamilton Official Plan Amendment application UHOPA-22-002 and Zoning By-law Amendment application ZAC-22-005 were submitted by GSP Group Inc. (c/o Brenda Khes) on behalf of Shaver Road M.D. Holdings Inc., owner, on October 27, 2021 and were deemed complete on November 17, 2021.

The Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications were considered by the Planning Committee during the meeting of June 13, 2023. Staff recommended approval of the Urban Hamilton Official Plan Amendment application, however, Staff did not support the applicant’s proposed Zoning By-law Amendment as it is not compatible with the surrounding area. In its place, Staff recommended approval of an amended Zoning By-law Amendment.

Staff found that the Urban Hamilton Official Plan Amendment and amended Zoning By-law Amendment had merit and could be supported for the following reasons:

- They are consistent with the Provincial Policy Statement (2020) (PPS);
- They conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- They comply with the Urban Hamilton Official Plan and the Shaver Neighbourhood Secondary Plan, subject to the recommended Official Plan Amendment; and,
- The staff amended development is compatible with the existing land uses in the immediate area, represents good planning by, among other things, providing a compact and efficient urban form, and supports developing a complete community.

The Planning Committee accepted Staff recommendations.

On July 13, 2023, 624 days after the receipt of the application, an appeal of the Official Plan Amendment and Zoning By-law Amendment applications, filed by WeirFoulds LLP (c/o Denise Baker), agent for Shaver Road M.D. Holdings Inc., for non-decision was received (refer to Appendix “C” to Report PED22089(a)).

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The By-laws enacting the Urban Hamilton Official Plan Amendment and amended Zoning By-law Amendment were subsequently approved by City Council at the meeting on July 14, 2023. The Notice of Passing was given on July 27, 2023.

PROPOSED DEVELOPMENT

The applicant proposed 36, four storey stacked townhouse dwelling units with 45 surface parking spaces (refer to Appendix “B” to Report PED23089(a)). The stacked townhouse dwellings proposed by the applicant are oriented along the southern property line, immediately adjacent to a City of Hamilton Public Works yard. The development proposal includes minimum side yard and rear yard setbacks of 1.8 metres, respectively.

The Applicant submitted the following studies/reports in support of the proposal on October 27, 2021:

- Formal Consultation Document;
- Application for Official Plan Amendment and Application for Zoning By-law Amendment;
- Site Plan Concept;
- Cover Letter;
- Adequate Water Services Form;
- Functional Servicing Report;
- Geotechnical Investigation Report;
- Landscape Plan;
- Environmental Noise Impact Study;
- Phase One Environmental Site Assessment;
- Phase Two Environmental Site Assessment;
- Planning Justification Report;
- Architectural Drawings;
- Record of Site Condition;
- Topographic Survey;
- Existing Conditions, Proposed Site Plan, Tree Inventory & Preservation Plan;
- Tree Inventory and Preservation Plan; and
- Watermain Hydraulic Analysis.

These reports and studies were circulated to internal and external review agencies for comment on November 25, 2021.

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The Applicant submitted the following studies/reports in support of the proposal on June 3, 2022:

- Response to Planning Comments Brief;
- Site Plan Concept;
- Building A – Architectural Drawings;
- Building B – Architectural Drawings;
- Building C – Architectural Drawings;
- Building D – Architectural Drawings;
- Environmental Noise Impact Study; and,
- Noise Study Addendum.

These reports and studies were circulated to internal and external review agencies for comment on June 13, 2022.

The Applicant submitted the following studies/reports in support of the proposal on August 26, 2022:

- Cover Letter;
- Revised Draft Zoning By-law;
- Architectural Drawings;
- Adequate Water Services Form;
- Functional Servicing Report;
- Landscape Plan;
- Response to City of Hamilton Planning and Economic Development Department;
- Functional Servicing Plan;
- Site Plan Concept;
- Tree Inventory and Preservation Plan; and,
- Existing Conditions, Proposed Site Plan, Tree Inventory & Preservation Plan.

These reports and studies were circulated to internal and external review agencies for comment on August 31, 2022.

The Applicant submitted the following studies/reports in support of the proposal on November 7, 2022:

- List Concept Layout and Next Steps; and,
- Site Plan Concept.

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The Applicant submitted the following studies/reports in support of the proposal on November 30, 2022:

- Cover Letter;
- Draft Revised Official Plan Amendment;
- Architectural Drawings;
- Civil Engineering Drawings Comment Response;
- Functional Servicing Plan;
- Development Engineering Response Letter;
- Functional Servicing Report;
- Hydrogeological Investigation and Water Balance;
- Landscape Plan;
- Adequate Water Services Form;
- Site Concept Plan;
- Existing Conditions, Proposed Site Plan, Tree Inventory & Preservation Plan; and,
- Tree Inventory and Preservation Plan.

These reports and studies were circulated to internal and external review agencies for comment on December 12, 2022.

The Applicant submitted the following studies/reports in support of the proposal on February 24, 2023:

- Cover Letter;
- Draft Revised Official Plan Amendment;
- Draft Revised Zoning By-law Amendment;
- Comment Response Matrix;
- Architectural Drawings;
- Functional Servicing Report;
- Functional Servicing Plan;
- Hydrogeological Investigation and Water Balance;
- Landscape Plan;
- Site Concept Plan;
- Sustainability Measures;
- Existing Conditions, Proposed Site Plan, Tree Inventory & Preservation Plan;
- Tree Inventory and Preservation Plan; and,
- Baseline Residential Water Survey.

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These reports and studies were circulated to internal and external review agencies for comment on March 1, 2023.

The Applicant submitted the following studies/reports in support of the proposal on April 14, 2023:

- Transportation Brief

These reports and studies were circulated to internal and external review agencies for comment on April 14, 2023.

Staff recommended approval of the Urban Hamilton Official Plan Amendment application, however, Staff did not support the applicant's proposed Zoning By-law Amendment as it is not compatible with the surrounding area. In its place, Staff recommended approval of an amended Zoning By-law Amendment.

OFFICIAL PLAN AMENDMENT APPLICATION

The property is designated "Neighbourhoods" on Schedule E – Urban Structure and designated as "Neighbourhoods" on Schedule E-1 – Urban Land Use Designations within the Urban Hamilton Official Plan. Additionally, the lands are designated "Medium Density Residential 2a" within the Shaver Neighbourhood Secondary Plan. The applicant requested an Urban Hamilton Official Plan Amendment application to amend the Shaver Neighbourhood Secondary Plan to redesignate the subject lands from "Medium Density Residential 2a" to "Medium Density Residential 2b" and to establish a Site Specific Policy within the Shaver Neighbourhood Secondary Plan. The effect of the Site Specific Policy would permit a 36 unit stacked townhouse development with a maximum density of 80 units per hectare and a maximum height of four storeys.

ZONING BY-LAW AMENDMENT APPLICATION

The property is zoned Rural Commercial "C5-243" Zone, Modified, within the Town of Ancaster Zoning By-law 87-57. The applicant requested a Zoning By-law Amendment application to rezone the property from the Rural Commercial "C5-243" Zone, Modified, to a Residential Multiple "RM5" Zone, Modified. Staff do not support the applicant's proposal as the proposed side yard, rear yard, and planting strip regulations do not ensure compatible integration with the surrounding developments. Accordingly, staff recommended approval of an amended Residential Multiple "RM5-716" Zone, Modified at the June 13, 2023 Planning Committee meeting.

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A number of site specific modifications were proposed by staff to facilitate the development of stacked townhouses, including:

- To modify the definition of multi-plex dwelling to allow for stacked townhouses;
- To reduce the minimum lot area from 0.5 hectares to 0.44 hectares;
- To increase the maximum density from 50 units per hectare to 80 units per hectare;
- To reduce the minimum lot frontage from 45 metres to 30.0 metres;
- To reduce the minimum front yard from 10.5 metres to 3.0 metres;
- To reduce the minimum side yard from 9 metres to 5.5 metres and 6.0 metres;
- To reduce the minimum rear yard from 9 metres to 5.5 metres;
- To reduce the minimum planting strip from 3.0 metres to 1.5 metres on the southerly lot line;
- To increase the maximum height from 10.5 metres to 14.5 metres;
- To reduce the minimum landscaping from 50 percent to 41 percent including children's play area;
- To remove the requirement for enclosed or underground parking;
- To reduce the minimum parking from 2 parking spaces per unit and 0.66 visitor parking spaces per unit to 1 parking space per unit and 0.25 visitor parking spaces per unit; and,
- To reduce the accessory building setback from 1.5 metres to 1.0 metres on the southerly lot line.

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 metres of the subject property on December 3, 2021. A Public Notice Sign was posted on the property on December 7, 2021 and updated on May 17, 2023 with the Public Meeting date. Finally, Notice of the Public Meeting was given on May 12, 2023 in accordance with the requirements of the *Planning Act*.

The applicant submitted a Public Consultation Strategy with the supporting materials. A micro-site for the project was created by the applicant to provide project information and collect feedback. The applicant did not receive any feedback as a result of their consultation.

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APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23089(a) – Location Map

Appendix "B" to Report PED23089(a) – Site Plan Concept and Elevations

Appendix "C" to Report PED23089(a) – Letter of Appeal