



Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 3, 2023
SUBJECT/REPORT NO:	Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-23-001 and Zoning By-law Amendment Application ZAC-23-001 for Non-Decisions for Lands Located at 499 Mohawk Road East, Hamilton (PED23205) (Ward 7)
WARD(S) AFFECTED:	Ward 7
PREPARED BY:	Aminu Bello (905) 546-2424 Ext. 5264
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

In accordance with Subsection 22 (7) and 34 (11), of the *Planning Act*, an Official Plan Amendment 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-23-001 and Zoning By-law Amendment Application ZAC-23-001, which have been appealed for non-decision.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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INFORMATION

The subject property is municipally known as 499 Mohawk Road East, Hamilton (refer to Appendix “A” attached to Report PED23205). The subject property is rectangular shaped with a lot area of 3.99 hectares and is located northwest of the intersection of Upper Sherman Avenue and Mohawk Road East. The subject lands are currently occupied by commercial retailers and a surface parking lot.

Urban Hamilton Official Plan Amendment Application UHOPA-23-001 and Zoning By-law Amendment Application ZAC-23-001 were submitted by Urban Solutions Planning and Land Development Consultants Inc. (c/o Matt Johnston) on behalf of 499 Mohawk Inc. on October 24, 2022 and were deemed complete by staff on November 21, 2022. The applicant proposes to redesignate the subject lands from the District Commercial designation to the Mixed Use – Medium Density designation, in addition to a change in zoning from the District Commercial (C6) Zone to a modified Mixed Use Medium Density (C5) Zone.

The Applicant proposes development of a total of 1,995 residential dwelling units comprised of eight multiple dwelling buildings ranging in heights between eight and 25 storeys containing 1,945 dwelling units, and seven, three storey townhouse blocks containing 50 dwelling units, with on-site surface and underground parking areas, open space, and amenity areas, with access from both Mohawk Road East and Upper Sherman Avenue (refer to Appendix “B” attached to PED23205).

On October 24, 2022, the Applicant submitted technical studies/reports in support of the proposal, which were circulated to internal departments and external agencies for review and comment on November 25, 2022.

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications filed by Aird & Berlis LLP c/o Patrick J. Harrington, Agent for 499 Mohawk Inc. was received by the City Clerk’s Office on August 11, 2023, 291 days after receipt of the applications (refer to Appendix “C” attached to Report PED23205).

Official Plan Amendment

The subject lands are designated District Commercial on Schedule E-1 – Urban Land Use Designations, in the Urban Hamilton Official Plan. The submitted Urban Hamilton Official Plan Amendment is being sought to redesignate the subject lands from the District Commercial designation to the Mixed Use – Medium Density designation and establish a site specific exception to permit a maximum building height of 25 storeys.

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Issues identified through the circulation include:

- The proposal does not meet the planned land use function for the subject lands, as set out in the Urban Hamilton Official Plan;
- The proposal does not meet the intended built form of the Mixed Use – Medium Density designation set out in the Urban Hamilton Official Plan E.4.6.9.;
- The proposed residential density and building scale does not satisfy the residential intensification criteria of the Urban Hamilton Official Plan Policy B.2.4.1.4.;
- The Traffic Impact Study does not demonstrate that traffic generated from the proposal can be accommodated on the existing road network;
- A reversed Watermain Hydraulic Analysis is required to assess impacts on the municipal system resulting from the proposed development; and,
- Potential wind impacts are not acceptable at the pedestrian crosswalk located at the intersection of Upper Sherman Avenue and Mohawk Road East.

Zoning By-law Amendment

The subject property is currently zoned District Commercial (C6) Zone in the Hamilton Zoning By-law No. 05-200, as shown on Appendix “A” attached to Report PED23205. The proposed Zoning By-law Amendment would have the effect of rezoning the subject lands from the District Commercial (C6) Zone to a site-specific Mixed Use – Medium Density (C5) Zone.

A number of site-specific modifications are required to implement the proposed development, as shown on the Concept Plan in Appendix “B” attached to Report PED23205 including:

- A reduction to the minimum interior side yard and minimum rear yard;
- An increase to the maximum permitted building height;
- A reduction to the minimum required amenity area per dwelling unit;
- A reduction to the minimum building setback from a Street Line ;
- To permit multiple dwellings with no direct access from the public sidewalk;
- To permit a reduction of the minimum amenity area for Multiple Dwelling Units; and,
- To permit a maximum parking rate inclusive of visitor parking.

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Public Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the applications were sent to 171 property owners within 120 metres of the subject lands on December 1, 2022. Pursuant to the City's Public Consultation Strategy Guidelines, the Applicant prepared a Public Consultation Strategy which included a neighbourhood meeting virtually hosted by the Applicant.

A Design Review Panel Meeting was held of December 8, 2022. The technical expert panel advised on elements of the proposal, among other matters, to encourage a reduction in residential density to enhance the central open space and provide a stronger emphasis on pedestrian connections between the public and private realms.

A notice advising of the neighbourhood meeting was sent to all residents within 240 metres of the subject lands as requested by the Ward 7 Councillor. Approximately 150 people, including the Ward 7 Councillor, Applicant and their Agent attended the in-person meeting held on February 2, 2023 at the Ukrainian Catholic Church of the Resurrection (821 Upper Wentworth Street, Hamilton). At the in-person public meeting, the Applicant provided a general overview of the proposed development and facilitated opportunities for public comments and direct feedback on the proposal.

To date, staff have received a total of 52 e-mail submissions from residents regarding the proposed development (49 respondents in opposition and three respondents in support). Issues raised by the public relate to land use compatibility, increased traffic, insufficient parking, pedestrian safety, increased residential density, building height, loss of commercial space, sun shadow impacts, construction disturbance and loss of privacy resulting from the proposed development.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23205 – Location Map
Appendix "B" to Report PED23205 – Concept Plan and Building Elevations
Appendix "C" to Report PED23205 – Letter of Appeal

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