



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 3, 2023
SUBJECT/REPORT NO:	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 117 Jackson Street East, Hamilton (PED23191) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Official Plan Amendment Application UHOPA-23-009, by Bousfields Inc. c/o David Falletta on behalf of DiCenzo Construction Company Limited c/o Anthony DiCenzo, owner**, to establish a Site Specific Policy Area in the Downtown Hamilton Secondary Plan to permit a 39 storey and 30 storey mixed use development on lands located at 117 Jackson Street East, as shown on Appendix "A" attached to Report PED23191, be **DENIED** on the following basis:
- (i) That the proposed Official Plan Amendment does not demonstrate adequate infrastructure capacity to service the proposed development nor how green infrastructure and sustainable design elements will be implemented to minimize impacts on air quality and climate change which will contribute to environmental sustainability and appropriate low impact development, therefore, the proposal is not consistent with the Provincial Policy Statement (2020) and does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - (ii) That the proposed amendment to the Downtown Hamilton Secondary Plan does not comply with the Urban Hamilton Official Plan and the Downtown Hamilton Secondary Plan with regards to matters including, but not limited

to, a proposed building height exceeding the height of the Niagara Escarpment and an increase of shadow impacts on a prominent public gathering space (Prince's Square – 50 Main Street East);

(b) That **Zoning By-law Amendment Application ZAC-23-024, by Bousfields Inc. c/o David Falletta on behalf of DiCenzo Construction Company Limited c/o Anthony DiCenzo, owner**, for a change in zoning from the Downtown Central Business District (D1, H17, H19, H20) Zone to a site specific Downtown Central Business District (D1, XXX), to permit the lands to be developed for a 39 and 30 storey mixed use development containing 741 dwelling units with 297 square metres of commercial floor area at grade on lands located at 117 Jackson Street East, as shown on Appendix "A" attached to Report PED23191, be **DENIED** on the following basis:

- (i) That the proposal does not demonstrate adequate infrastructure capacity to service the proposed development nor how green infrastructure and sustainable design elements will be implemented to minimize impacts on air quality and climate change which will contribute to environmental sustainability and appropriate low impact development, therefore the proposal is not consistent with the Provincial Policy Statement (2020), does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and does not comply with the Urban Hamilton Official Plan;
- (ii) That the proposed Zoning By-law amendment to the City of Hamilton Zoning By-law No. 05-200 does not comply with the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan with regards to matters including, but not limited to, a proposed building height exceeding the height of the Niagara Escarpment and an increase of shadow impacts on a prominent public gathering space (Prince's Square – 50 Main Street East);
- (iii) That the proposal is not considered to be good planning and in staff's opinion is an overdevelopment of the site based on the building height in relation to the Niagara Escarpment and the shadow impacts on a prominent public gathering space.

EXECUTIVE SUMMARY

The subject property is municipally known as 117 Jackson Street East and is located at the north east corner of Catharine Street South and Jackson Street East. It is currently utilized as a commercial surface parking lot.

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The subject property is designated “Downtown Mixed Use Area” in the Urban Hamilton Official Plan and designated “Downtown Mixed Use” within the Downtown Hamilton Secondary Plan. It is currently zoned Downtown Central Business District (D1, H17, H19, H20) Zone by Zoning By-law No. 05-200.

The applicants are proposing to develop the site with a mixed use building consisting of two towers, one 39 storeys (122 metres) in height and the second 30 storeys (96 metres) in height. The towers will be connected by a podium approximately three to four storeys in height and will contain 741 dwelling units, 297 square metres of commercial floor area at grade, 4,824 square metres of amenity area with 366 vehicle parking spaces contained within a parking structure and a total of 388 bicycle parking spaces (378 long term bicycle parking space and 10 short term bicycle parking spaces).

It is the opinion of staff that the proposed Official Plan Amendment and Zoning By-law Amendment applications do not have merit and therefore cannot be supported for the following reasons:

- The proposal is premature as the applicant has not demonstrated adequate infrastructure capacity to service the proposed development nor how green infrastructure and sustainable design elements will be implemented to minimize impacts on air quality and climate change which will contribute to environmental sustainability and implement appropriate low impact development, and therefore the proposal is not consistent with the Provincial Policy Statement (2020) nor conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) and the Urban Hamilton Official Plan;
- The proposed increase in height of 39 storeys (122 metres) whereas the existing Secondary Plan and Zoning permit 30 storeys (93 metres westerly portion and 89 metres easterly portion) . Both of the proposed towers exceed the height of the Niagara Escarpment (28.8 metres to 32.8 metres (westerly tower) and 3 metres (easterly tower) respectively). Therefore, the proposal does not comply with the general intent of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The proposed development will have an adverse visual impact from prominent locations, therefore does not comply with the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The impact of the increased height would negatively impact one of the City’s prominent gathering spaces, as identified in the Downtown Secondary Plan (Prince’s Square – 50 Main Street East) by casting new shadows beyond that

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which exists today which is not consistent with the general intent of the Downtown Hamilton Secondary Plan;

- The proposed built form and massing does not incorporate sufficient setbacks, setbacks or articulation to address the existing narrow street proportions causing adverse shadow impacts on the public realm;
- The proposed development does not align with the scale of the existing built form along Jackson Street East. Therefore, does not conform to the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The proposed development has not demonstrated that adverse wind conditions will not impact the public realm and adjacent properties and as such, has not demonstrated conformity to the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan; and,
- The proposed development is not considered to be good planning and is considered overdevelopment of the site.

Alternatives for Consideration – See Page 16

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 applications for an amendment to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Owner:	DiCenzo Construction Company Limited c/o Anthony DiCenzo
Agent:	Bousfields Inc. c/o David Falletta
File Numbers:	UHOPA-23-009 and ZAC-23-024

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Application Details	
Type of Application:	Official Plan Amendment Zoning By-law Amendment
Proposal:	<p>The purpose of the Official Plan Amendment is to amend the Downtown Hamilton Secondary Plan to add a Site Specific policy to permit an increase in maximum building height to 39 storeys and to allow new net shadows to be cast on Prince's Square (50 Main Street East).</p> <p>The purpose of the Zoning By-law Amendment is to modify the existing Downtown Central Business District (D1, H17, H19, H20) Zone to permit a maximum building height of 122 metres (39 storeys) for the easterly tower and 96 metres (30 storey) for the westerly tower, a 16.0 metres high building base façade height and to allow portions of the proposed tower to be located 0 metres from the edge of the building base.</p> <p>The effect of these applications is to facilitate a development consisting of two towers, 39 and 30 storeys in height connected by a three to four storey podium.</p> <p>The proposal provides a total of 741 dwelling units, 297 square metres of commercial floor area at grade, 4,824 square metres of amenity area, 366 vehicle parking spaces contained within a parking structure below and above ground as well as 388 bicycle parking spaces accessed from Catharine Street South (see the conceptual plans attached as Appendix "B" to Report PED23191).</p>
Property Details	
Municipal Address:	117 Jackson Street East.
Lot Area:	0.56 ha.
Servicing:	Existing full municipal services.
Existing Use:	Commercial surface parking lot.
Proposed Use:	Mixed use development.
Documents	
Provincial Policy Statement (PPS):	The proposed use of the lands is consistent with portions of the Provincial Policy Statement, however, the documents submitted by the applicant with the application have not demonstrated that adequate municipal services are available to service the proposed development.

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Documents	
Provincial Policy Statement (PPS) Continued:	Additionally, the application has not demonstrated how the proposed development will minimize the impacts on air quality and climate change and what measures the applicant is integrating within the building to ensure the development will be energy efficient.
A Place to Grow:	The proposed use generally conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, as amended, however, the development has not demonstrated that adequate municipal services are available to service the proposed development nor demonstrated how the proposed development will respond to climate change, reduce greenhouse gas emissions, contribute to environmental sustainability and integrate green infrastructure.
Official Plan Existing:	“Downtown Mixed Use Area” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan.
Downtown Hamilton Secondary Plan Existing:	“Downtown Mixed Use” on Land Use Plan Map B.6.1-1 designation and identified as “High-Rise 2” on Maximum Building Height Map B.6.1-2, in the Downtown Hamilton Secondary Plan.
Downtown Hamilton Secondary Plan Proposed:	“Downtown Mixed Use” with Site Specific policy.
Zoning Existing:	Downtown Central Business District (D1, H17, H19, H20) Zone.
Zoning Proposed:	Downtown Central Business District (D1, XXX) Zone.
Modifications	
Modifications Proposed:	<p>The Applicant requested the following modifications to Zoning By-law No. 05-200:</p> <ul style="list-style-type: none"> To increase the building base façade height from 7.5 metres to 16 metres along both Catharine Street South and Jackson Street East; To eliminate a stepback from the building base façade for up to 20 percent of each tower, whereas a minimum stepback of 3 metres is required from the building base façade; and, To increase the maximum building height to 122 metres for the eastern tower and increase the maximum building height to 96 metres for the western tower, whereas a maximum height of 89 metres for the easterly portion of the lands and 93 metres for the westerly portion of the lands is permitted.
Processing Details	
Received:	December 22, 2022.
Deemed complete:	January 20, 2023.

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Processing Details	
Notice of Complete Application:	Sent to 319 property owners within 120 metres of the subject property on February 3, 2023.
Processing Details	
Public Notice Sign:	Posted on February 8, 2023.
Notice of Public Meeting:	Sent to 319 property owners within 120 metres of the subject property on September 15, 2023. The public notice sign was updated on September 6, 2023.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "D" attached to Report PED23191.
Public Consultation:	A Virtual Public Open House was held on March 30, 2023. A summary of the virtual public open house was not provided by the applicant.
Public Comments:	One email was received asking for information about the proposed Official Plan Amendment and Zoning By-law Amendment (attached as Appendix "E" to Report PED23191).
Processing Time:	285 days from date of receipt of the application.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Surface Commercial Parking Lot	Downtown Central Business District (D1, H17, H19, H20) Zone
Surrounding Land Uses:		
North	Mixed use building and motor vehicle service station	Downtown Central Business District (D1, H17, H19, H20) Zone
South	Multiple dwellings and mixed use buildings	Downtown Central Business District (D1) Zone
East	Outdoor storage	Downtown Central Business District (D1, H17, H19, H20) Zone
West	Surface commercial parking and commercial uses	Downtown Central Business District (D1, H17, H19, H20) Zone

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) is attached in the Summary of Policy Review as Appendix “C” to Report PED23191.

Provincial Policy Statement (2020)

The proposed development has not demonstrated what green infrastructure and sustainable design elements are to be implemented, nor demonstrated that there is sufficient infrastructure capacity to service the proposed development.

A Stage 1 Archaeological Assessment was submitted as part of a complete application and the City is satisfied with the recommendations made in the report. The Provincial interest has yet to be satisfied and a letter from the Ministry is required to be submitted to the City when available.

The cultural heritage impacts were evaluated in an Urban Design Brief submitted with the application, and based on the findings the proposed design is generally compatible with adjacent heritage properties and the character of the Corktown Established Historical Neighbourhood due to the use of red and brown brick in the building base.

The principal of the land use is consistent with the Provincial Policy Statement, however, the applicant has not identified how the development will minimize negative impacts on air quality as well as climate change and promote energy efficiency. Furthermore, the proposal has not demonstrated that the Provincial Interest with respect to archaeology has been satisfied, nor has adequate servicing capacity been demonstrated.

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

The proposed development conforms to the policy directing growth to settlement areas and will add to the existing housing stock near a range of transit options, including regional transit.

There are existing municipal water and wastewater systems available, however, the applicant has not demonstrated that there is sufficient municipal service capacity to service the proposed development.

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In addition, the application does not demonstrate what green infrastructure, sustainable design elements and appropriate low impact development methods are anticipated to be implemented.

To summarize, the principal of the land use generally conforms with the policies of the Growth Plan of the Greater Golden Horseshoe, however, the applicant has not demonstrated conformity to the Growth Plan in regards to climate changes, reduce greenhouse gas emissions, contribute to environmental sustainability, integrate green infrastructure and low impact development techniques nor has it demonstrated that there is adequate servicing capacity to service the proposed development.

Urban Hamilton Official Plan (Volume 1)

The subject lands are identified as “Downtown Urban Growth Centre” on Schedule “E” – Urban Structure and designated “Downtown Mixed Use Area” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan. The subject lands are also designated “Downtown Mixed Use” on Land Use Plan Map B.6.1-1 and identified as “High Rise-2” on Maximum Building Height Map B.6.1-2 in the Downtown Hamilton Secondary Plan Secondary Plan.

A detailed analysis of the applicable Urban Hamilton Official Plan (Volume 1) policies is included in Summary of Policy Review - Appendix “C” attached to Report PED23191.

As outlined in Appendix “C” attached to Report PED23191, the proposed land use conforms to the policies of the Urban Hamilton Official Plan as mixed use buildings are permitted within the designation. Additionally, the proposed development conforms to the minimum density target for the Downtown.

The scale and massing of the proposed development does not conform to the policies related to streetscape character, transition in scale, shadow impacts, visual impacts, wind impacts, amongst others. In addition, the application has not demonstrated that the proposed development will not be adversely impacted by nearby noise sources, or that there is adequate servicing capacity to service the proposed development.

The policies of the Urban Hamilton Official Plan require that where there is potential for site contamination, due to previous uses of a property, and a more sensitive land use being proposed that a mandatory filing of a Record of Site Condition is required. A Phase One and Phase Two Environmental Assessment were submitted with the applications, however at this time a Record of Site Condition has not been filed.

Therefore, it is the opinion of staff that the proposed development does not comply with the policies of the Urban Hamilton Official Plan.

Downtown Hamilton Secondary Plan (Volume 2)

The subject property and the surrounding lands are designated as “Downtown Mixed Use” in the Downtown Hamilton Secondary Plan. A full review of the Downtown Hamilton Secondary Plan policies is included in the Summary of Policy Review attached as Appendix “C” to Report PED23191.

The intent of the Secondary Plan is to provide policy direction to ensure that the City’s pre-eminent node is developed in a manner that ensures it continues to be a location where all ages, abilities and incomes can live, work, access entertainment and culture, recreation, retail as well as institutional uses. The plan places an emphasis on building a well-connected downtown node that respects the existing built form and the views to the Niagara Escarpment.

The proposed development does not contemplate three bedroom units and therefore is not implementing the policy goal of the Downtown Hamilton Secondary Plan in respect to providing an adequate range of unit types and sizes, including those suitable for larger households with children and seniors and represent a missed opportunity in providing a greater range of unit types and sizes in an area supported by local and regional transit and in proximity to existing schools.

The Downtown Hamilton Secondary Plan emphasizes the Niagara Escarpment as an essential part of the character and appearance of the City, and the views of the Escarpment are important assets to protect. The Downtown Hamilton Secondary Plan recognizes the importance of the relationship between topography and building height on the impact to significant views of the Niagara Escarpment (policy 6.1.2 h)). Based on this principal, clear policy direction was established to restrict the height of new development to not exceed the height of the Niagara Escarpment regardless of the underlying land use designation. Appendix D of the Downtown Hamilton Secondary Plan includes the height of the Niagara Escarpment from various points throughout the Downtown and a Holding ‘H’ Provision was established to ensure no building exceeded the height of the Niagara Escarpment.

Policy 6.1.10.3 to 6.1.10.8 pertain to the importance of the Niagara Escarpment, protecting views of the Niagara Escarpment, the need for a Visual Impact Assessment to be undertaken and appropriate design measures be undertaken including reducing building height to mitigate impact on existing views. A Visual Impact Assessment was submitted with the proposed development and based on staff’s review the proposed development will have a visual impact on the Niagara Escarpment from prominent places in the City, including Sam Lawrence Park. A detailed analysis of the visual impacts is included in the Summary of Policy Review – Appendix “C” attached to Report PED23191. Therefore the proposed development does not comply with policies 6.1.2 h)

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and 6.1.10.4, and the development has not provide sufficient setbacks, setbacks and reductions in height in order to mitigate the impact of the proposed development on existing views in accordance with policy 6.1.10.8.

Detailed direction regarding height, massing and scale is provided through Maximum Building Heights Map B.6.1-2 of the Downtown Hamilton Secondary Plan. The subject lands, the lands to the north and east are identified as “High Rise 2”, the lands to the west are identified as “High Rise 1” and the lands to the south are identified as “Mid Rise. For lands identified as “High Rise 2”, tall buildings are permitted although building height is restricted to a maximum of 30 storeys.

Particular attention was given to the location of the subject property to Prince’s Square which is located in front of the Hamilton Court House located at 50 Main Street East. Prince’s Square is located approximately 130 metres from the subject lands and is identified in the Downtown Hamilton Secondary Plan as a primary gathering space which is a location where civic life occurs. The policies of the Downtown Hamilton Secondary Plan prohibit new development from casting new shadows on to primary gathering spaces between 10:00 a.m. and 4:00 p.m. at the spring and fall equinox. The Shadow Impact Study dated December 2022 prepared by Bousfields Inc. identifies new shadow impacts on Prince’s Square after 10:00 a.m., casting new shadows for approximately 51 minutes at the spring equinox and 36 minutes at the fall equinox. In the opinion of staff, the new net shadow impacts on Prince’s Square are not consistent with the policy direction provided by Policy 6.1.4.37, and in staff’s opinion is neither incremental nor minor. The proposed shadowing represents a significant portion of the time period in which the policies seek to protect against new shadowing. A detailed analysis of the shadow impacts on Prince’s Square is included in the Summary of Policy Review – Appendix “C” attached to Report PED23191. Therefore, the proposed development does not comply with the policy B.6.1.4.37 and in the opinion of staff the Official Plan Amendment to permit the development to increase the net shadows contrary to policy B.6.1.4.37 is not appropriate.

The proposed building base height is more than twice the height envisioned for the subject lands based to the existing right of way widths of Jackson Street East and Catherine Street South. The proposed development has portions of the towers located with no setbacks from the building base. This will result in shadow impacts on the Catherine Street South right-of-way.

The proposal has not demonstrated that the development will not create adverse wind impacts on adjacent lands, as well as the public realm, or that the proposed development will not create adverse visual impacts.

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Based on the foregoing, the proposed development does not conform to the Built Form, Massing, Transition in Scale, Sun Shadow, Wind Impacts, and Views and Vistas policies of the Downtown Hamilton Secondary Plan.

Design Review Panel

The development proposal was presented to the Design Review Panel on March 9, 2023, the comments from the Panel included the following:

In principle, the panel was supportive of a tall building on the subject lands based on the site's location and access to the downtown core, access to multiple modes of transit and neighbourhood amenities. However, panel members noted the City of Hamilton does have a policy which restricts the height proposed in this location. Generally, the panel acknowledged that the Downtown Hamilton Secondary Plan attempted to balance the need for additional housing with the potential negative impacts from the proposed additional height, increased shadow impacts, reduction of escarpment views, and impacts on the streetscape.

Detailed design comments regarding access, streetscaping and the public realm were provided by the Design Review Panel. If the applications are approved, specific details regarding the development will be reviewed during the Site Plan process, however, the panel's comments informed staff's evaluation of the application for Official Plan Amendment and Zoning By-law Amendment. Improvements to the vehicle access as well as the ground level residential and retail uses were recommended.

The panel agreed that the streetscape and the pedestrian realm along Jackson Street East and Catharine Street South would be the focal area of the site and recommended an enlarged sidewalk area, landscape plantings, trees, site furniture and pedestrian-scaled lighting along both street fronts.

At the time of the writing of this Report, a detailed response to the comments provided by the Design Review Panel has not been provided by the applicant.

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

The Zoning By-law Amendment is for a change from the Downtown Central Business District (D1, H17, H19, H20) Zone to a site specific Downtown Central Business District (D1, XXX) Zone. The effect of the Zoning By-law Amendment will permit a mixed use development with two towers, one with a maximum building height of 122.0 metres (39 storey) and the other with a maximum building height of 96.0 metres (30 storeys) connected by a three to four storey podium containing 741 dwelling units, 4,824 square metres of amenity area, 297 square metres of commercial floor area at grade, 366

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vehicle parking spaces in an underground and above ground structure, and 386 bicycle parking spaces.

The applicant has requested a number of site specific modifications and staff have identified additional modifications to the Downtown Central Business District (D1) Zone. The modifications required to facilitate the proposed development are summarized in the Report Fact Sheet on page 4 of Report PED23191. Analysis of the Zoning By-law Amendment is provided below in the Analysis and Rationale for Recommendation section of Report PED23191.

The existing zoning includes Holding Provision (H17) which does not permit any development to exceed a maximum height of 44.0 metres until the Holding Provision has been lifted. Lifting the holding is conditional upon the following:

- That the landowner has demonstrated that they have assembled sufficient land to achieve minimum lot area and lot frontage requirements in accordance with the Zoning By-law;
- That the landowner has demonstrated the proposal conforms to the policies of the Downtown Hamilton Secondary Plan through submission of Sun Shadow Study, Wind Study, Visual Impact Assessment, Traffic Impact Study, and Functional Servicing Report;
- That the landowner demonstrate that the proposed development does not exceed the height of the Niagara Escarpment; and,
- Conditional Site Plan approval be received which shall address matters including but not limited to Design Review Panel advice.

The proposed development exceeds the height of the Niagara Escarpment and as previously noted the proposed development will have a shadow impact on a primary gathering space which does not conform to the policies of the Downtown Hamilton Secondary Plan. Therefore, the proposed development would not satisfy the conditions for lifting the Holding Provision.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal does not have merit and cannot be supported for the following reasons:
 - The proposed development has not demonstrated that there is adequate infrastructure capacity to service the proposed development nor

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demonstrates the green infrastructure and sustainable design elements to be implemented that will minimize impacts on air quality and climate change, contribute to environmental sustainability and implement appropriate low impact development, and therefore has not demonstrated that it is consistent with the Provincial Policy Statement (2020) nor conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);

- The proposed increase in height to 39 and 30 storeys exceed the heights of the Niagara Escarpment, therefore does not comply with the general intent of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The proposed development will have an adverse visual impact from prominent locations, therefore does not comply with the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The impact of the increased height would negatively impact one of the City's prominent gathering spaces (Prince's Square – 50 Main Street East) by casting new net shadows and is not consistent with the general intent of the Downtown Hamilton Secondary Plan;
- The proposed development does not demonstrate that there is adequate infrastructure capacity to service the proposed development and does not demonstrate that appropriate green infrastructure and sustainable design elements are to be utilized in the development in accordance with the policies of the Urban Hamilton Official Plan;
- The proposed built form and massing does not incorporate sufficient setbacks, setbacks or articulation to address the existing narrow street proportions causing adverse shadow impacts on the public realm. The proposed development does not align with the scale of the existing built form along Jackson Street East. Therefore, does not conform to the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan;
- The proposed development has not demonstrated that it will not create adverse wind conditions on the public realm and adjacent properties and as such, has not demonstrated conformity to the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan; and,

OUR Vision: To be the best place to raise a child and age successfully.

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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- The proposed development is not considered to be good planning and is considered overdevelopment of the site.

2. Official Plan Amendment

The subject lands are designated “Downtown Mixed Use” by the Urban Hamilton Official Plan and identified as “High Rise 2” in the Downtown Hamilton Secondary Plan. The Official Plan Amendment proposes to amend the Secondary Plan to establish a Site Specific Policy area to facilitate the proposed development by permitting an increase in maximum building height to allow the building to exceed the height of the Niagara Escarpment and to permit new net shadows to be cast upon a prominent gathering space within the downtown (Prince’s Square).

A detailed evaluation of the policies of the Urban Hamilton Official Plan, Downtown Hamilton Secondary Plan, Shadow analysis and the Tall Building Guidelines is provided in the Summary of Policy Review in Appendix “C” attached to Report PED23191.

The general intent and vision of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan establishes the need for intensification in the Downtown on the basis that development would be in proximity to existing local and regional transit, have access to cycling infrastructure, be in proximity to existing commercial and community infrastructure as well as respects the historic character of the downtown. The need for intensification is however balanced with other consideration including the protection of the Niagara Escarpment, views of the Escarpment, and ensuring adequate access to the public realm, especially primary public gathering spaces, such as Prince’s Square is protected and maintained. It is staff’s opinion that the existing policies support appropriate levels of intensification while balancing the need for additional housing against other factors, including protecting views both to and from the Niagara Escarpment and providing an enhanced public realm. An appropriate level of development can be provided on-site using the direction of the current policies within the Downtown Hamilton Secondary Plan.

The Visual Impact Assessment submitted with the applications outlines that the proposed development will have an impact on the views of the Niagara Escarpment from prominent locations. It is the opinion of staff that a development that complies with the policies of the Downtown Hamilton Secondary Plan would result in a building of a size and scale that would reduce the visual impacts of the building on the Niagara Escarpment.

The policies of the Downtown Hamilton Secondary Plan restrict that no new shadows be cast upon primary public gathering spaces such as Prince's Square between 10:00 a.m. and 4:00 p.m. at the spring and fall equinox. Staff note that the new net shadow proposed to be cast upon Prince's Square are, in part, a result of the proposed increase in building height and massing. A reduction of the maximum building height would have the effect of reducing, if not eliminating the casting of new net shadows on a primary gather space. It is the opinion of staff that the proposed amendment to permit increased shadowing on Prince's Square is not appropriate and cannot be supported.

Therefore, the Official Plan Amendment to allow for the development to exceed the height of the Escarpment is not consistent with the general intent and vision that has been established by the City and staff do not support the proposed amendment.

3. Zoning By-law Amendment

The subject lands are zoned Downtown Central Business District (D1) Zone in Zoning By-law No. 05-200. The Zoning By-law Amendment proposes to change the zoning to a site specific Downtown Central Business District (D1, XXX) Zone as outlined in the table on page 4 of Report PED23191.

The proposed Zoning By-law Amendment is seeking zoning modifications to allow for an increase in maximum building height, increase in maximum building base façade height and to remove the required minimum setback from the building base.

In the opinion of staff, the proposed modifications do not comply with the policies of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan as outlined in the Summary of Policy Review in Appendix "C" attached to Report PED23191. As noted above, the proposed Official Plan Amendment to amend the policies of the Urban Hamilton Official Plan is not appropriate and is not supported by staff.

Therefore, staff do not support the proposed Zoning By-law Amendment.

ALTERNATIVES FOR CONSIDERATION

- 1) Should the applications be approved, staff be directed to prepare the Official Plan Amendment and amending Zoning By-law consistent with the submitted concept plans attached as Appendix "B" to Report PED23191 with the inclusion of a Holding Provision to address matters, including, but not limited to the submission

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of a Record of Site Condition, site servicing, noise, wind impacts and any other necessary agreement to implement Council's direction.

- 2) Council direct staff to negotiate revisions to the proposal with the applicant in response to the issues and concerns identified in this Report and report back to Council on the results of the discussion.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23191 – Location Map

Appendix "B" to Report PED23191 – Concept Plan

Appendix "C" to Report PED23191 – Summary of Policy Review

Appendix "D" to Report PED23191 – Department and Agency Comments

Appendix "E" to Report PED23191 – Public Comments

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