



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 6, 2024
<b>SUBJECT/REPORT NO:</b>	Non-Statutory Public Meeting for Urban Hamilton Official Plan Amendment Application UHOPA-23-005 and Zoning By-law Amendment Application ZAC-23-006 Appealed to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1065 Paramount Drive, Stoney Creek (PED24028) (Ward 9)
<b>WARD(S) AFFECTED:</b>	Ward 9
<b>PREPARED BY:</b>	Anita Fabac (905) 546-2424 Ext. 1258 James Van Rooi (905) 546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### **RECOMMENDATION**

That Report PED24028, together with any written submissions and input from delegations received at Planning Committee, be referred to the Chief Planner and the City Solicitor to inform the City's position on the appeals to the Ontario Land Tribunal for Lack of Decision of Urban Hamilton Official Plan Amendment Application UHOPA-23-005 and Zoning By-law Amendment Application ZAC-23-006, for lands located at 1065 Paramount Drive, Stoney Creek, as shown in Appendix "A" attached to Report PED24028.

### **EXECUTIVE SUMMARY**

The subject property is municipally known as 1065 Paramount Drive (refer to Appendix "A" attached to Report PED24028), and is located north of the intersection of Paramount Drive and Mud Street on the west side of Paramount Drive

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Urban Hamilton Official Plan Amendment (UHOPA-23-005) and Zoning By-law Amendment (ZAC-23-006) applications were submitted by Arcadis on behalf of Mikmada (Paramount) Inc. on November 18, 2022, and were deemed complete on December 13, 2022. The proposal is to redesignate the subject lands from “Institutional” to “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan and from “Institutional” to “High Density Residential 1” on Map No. B.7.6-1 of the West Mountain Area (Heritage Green) Secondary Plan. A change in zoning from the Small Scale Institutional “IS” Zone to a site specific Multiple Residential “RM3” Zone is also proposed.

The applicant proposes the development of an eight storey, 181 unit multiple dwelling, 79, three and three and a half storey stacked townhouse dwellings, and 44, four storey stacked maisonette townhouse dwellings, for a total of 304 dwelling units, with 415 parking spaces with 225 of those being in one level of underground parking, 38 short term bicycle parking and 208 long term bicycle parking spaces along with two driveway accesses proposed off of Paramount Drive (refer to Appendix “B” attached to Report PED24028).

The subject property is an irregular shaped lot with a lot area of 1.61 hectares. The subject lands are currently used for agricultural purpose (soybean field).

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment, filed by Municipal Law Chambers c/o Russell Cheeseman counsel for Mikmada (Paramount) Inc., was received by the City Clerk’s Office on January 3, 2024, 411 days after the receipt of the initial applications (refer to Appendix “C” attached to Report PED24028).

Planning staff were in the process of preparing a report for consideration at a statutory public meeting at the January 16, 2024, Planning Committee meeting. However, because the appeal was filed on January 3, 2024, this did not occur as the applications were appealed by the applicant to the Ontario Land Tribunal prior to this date.

Notice of the February 6, 2024, Non-Statutory Public Meeting was sent on January 24, 2024, to 152 property owners within 120 m of the subject property, as well as the people who provided written comments on this proposal. This report, together with any written submissions and input from delegations received at the Planning Committee, will be referred to the Chief Planner and the City Solicitor to inform the City’s position on the appeals to the Ontario Land Tribunal.

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This report has also been prepared in accordance with Council’s policy for staff to advise Planning Committee and Council by way of an Information Report where an appeal for non-decision has been made to the Ontario Land Tribunal.

**Alternatives for Consideration – N/A**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal Implications: N/A

**HISTORICAL BACKGROUND**

<b>Application Details</b>	
Owner:	Mikmada Homes Inc. (c/o Adam Nesbitt)
Applicant/Agent:	Arcadis (c/o Carmen Jandu)
File Number:	UHOPA-23-005 ZAC-23-006
Type of Applications:	Urban Hamilton Official Plan Amendment Zoning By-law Amendment
Proposal:	<p>The purpose of the Official Plan Amendment is to redesignate the subject lands from “Institutional” to “Neighbourhoods” in the Urban Hamilton Official Plan and to redesignate from “Institutional” to “High Density Residential 1” in the West Mountain Area (Heritage Green) Secondary Plan.</p> <p>The purpose of the Zoning By-law Amendment is to change the zoning from the Small Scale Institutional “IS” Zone to a site specific Multiple Residential “RM3” Zone.</p> <p>The effect of these applications is to facilitate a development consisting of an eight storey, 181 unit multiple dwelling, 79, three and three and a half storey stacked townhouse dwellings and 44, four storey stacked maisonette townhouse dwellings, for a total of 304 dwelling units.</p>

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<b>Application Details</b>	
Proposal: <b>(Continued)</b>	<p>The applicant is proposing to provide 415 parking spaces with 225 of those being in one level of underground parking, 38 short term bicycle parking and 208 long term bicycle parking spaces along with two driveway accesses proposed off of Paramount Drive.</p> <p>The conceptual plans attached as Appendix “B” to Report PED24028.</p> <p>As per the second submission, the unit sizes in the multiple dwelling range from 47.1 square metres to 87.7 square metres. The floor plans indicate a breakdown of eight percent one bedroom units, 65 percent one bedroom plus den units, 13 percent two bedroom units and 13 percent two bedroom plus den units.</p>
<b>Property Details</b>	
Municipal Address:	1065 Paramount Drive, Stoney Creek
Lot Area:	±1.61 ha (Irregular).
Servicing:	Full municipal services.
Existing Use:	Vacant lands.
<b>Documents</b>	
Official Plan Existing:	“Neighbourhoods” on Schedule E – Urban Structure and “Institutional” on Schedule E-1 – Urban Land Use Designations.
Official Plan Proposed:	<p>“Neighbourhoods” on Schedule E-1 – Urban Land Use Designations.</p> <p>The applicant originally proposed to redesignate the subject lands to the “High Density Residential 1” designation in the Secondary Plan, and the proposal was prepared based on the “High Density Residential” policies of Volume 1 in the Urban Hamilton Official Plan that were in effect prior to Official Plan Amendment No. 167 coming into force and effect; however, the applications were submitted after Official Plan Amendment No. 167 came into force and effect.</p>

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<b>Documents</b>	
Official Plan Proposed <b>(Continued):</b>	As a result of Bill 150, which requires that all decisions conform to the Official Plan in effect as of November 4, 2022, staff have determined that the application should be assessed against the “Medium Density Residential” policies of Volume 1 of the Urban Hamilton Official Plan because the proposed uses and height of the multiple dwelling (i.e. 8 storeys) are consistent with the “Medium Density Residential” policies as amended by OPA No. 167.
Secondary Plan Existing:	“Institutional” on Map B.7.6-1 West Mountain Area (Heritage Green) Secondary Plan Land Use Plan.
Secondary Plan Proposed:	“High Density Residential 1” on Map B.7.6-1 West Mountain Area (Heritage Green) Secondary Plan Land Use Plan.
Zoning Existing:	Small Scale Institutional “IS” Zone.
Zoning Proposed:	Site specific Multiple Residential “RM3” Zone.
Modifications Proposed:	<p>As of the latest (second) submission, the following modifications are being requested to the Multiple Residential “RM3” Zone:</p> <ul style="list-style-type: none"> <li>• To deem the zoning boundaries as the lot lines;</li> <li>• To provide an alternate definition for stacked townhouses;</li> <li>• To provide an alternate definition for a dwelling group;</li> <li>• To reduce the minimum front yard setback for stacked townhouses to 2.5 metres (to building) and 4.5 metres (to dwelling) whereas 7.5 metres is required; and,</li> <li>• To reduce the minimum side yard setback to 3 metres for stacked townhouses, whereas 6 metres, except 7.5 metres for a flankage yard or yard abutting singles, semis, or duplexes, and 3 metres abutting a street townhouse zone, is required for townhouses; To reduce the minimum side yard setback to 6 metres for apartment buildings, whereas half the height of the building but in no case less than 6 metres, except 7.5 metres for a flankage yard, and 9 metres abutting a zone for single detached or semi-detached dwellings, is required (staff identified).</li> </ul>

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<b>Documents</b>	
<p>Modifications Proposed <b>(Continued):</b></p>	<ul style="list-style-type: none"> <li>• To reduce the minimum rear yard setback to 3 metres, whereas 6 metres, except 7.5 metres for a rear yard abutting a single, semi, duplex or street townhouse zone, is required for townhouses;</li> <li>• To reduce the minimum distance between buildings on the same lot to 8 metres between stacked townhouses and 14 metres between a stacked townhouse and an apartment building, whereas 15 metres, except 3 metres between end walls and 9 metres between end walls and rear walls, is required;</li> <li>• To increase the maximum density to 190 units per hectare, whereas 40 units, or 49 units if 100 percent of tenant parking is underground or enclosed, is permitted (staff identified);</li> <li>• To increase the maximum height to 13 metres for townhouses and 26 metres for multiple dwellings whereas 11 metres is permitted;</li> <li>• To permit the privacy area for stacked townhouses on a balcony or patio, whereas privacy area shall be adjacent to a dwelling. To reduce the minimum landscaped open space to 33 percent whereas 50 percent for townhouses and back-to-backs and 25 percent for apartments is required;</li> <li>• To remove a landscape strip requirement abutting a street whereas a 4.5 metre landscape strip is required;</li> <li>• To reduce the minimum number of parking spaces to 1.05 spaces per unit for a multiple dwelling whereas 1.6 (1.25 tenant and 0.35 visitor) spaces are required for each one bedroom unit and 1.85 (1.5 tenant and 0.35 visitor) are required for each two bedroom unit;</li> <li>• To reduce the minimum number of parking spaces to two spaces for three and a half storey stacked townhouses and 1.25 spaces for four storey stacked back-to-back townhouses whereas 2.5 spaces (two tenant and 0.5 visitor) are required for townhouse dwellings; and,</li> <li>• To reduce the parking setback to 2.0 metres for a stacked townhouse building and 1.7 metres for a multiple dwelling building, whereas 3 metres to a building is required.</li> </ul>

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<b>Documents</b>	
Modifications Proposed <b>(Continued):</b>	<ul style="list-style-type: none"> <li>• To modify the size of a loading space to 3.5 metres wide and 10 metres long whereas 3.6 metres wide and 10 metres long is required; and,</li> <li>• To decrease the width of a parking space to 2.6 metres, or 2.7 metres within a private residential garage, whereas 2.75 metres is required.</li> </ul>
<b>File Chronology</b>	
Received:	November 18, 2022
Deemed Complete:	December 13, 2022
Notice of Complete Application:	Sent to 152 property owners within 120 m of the subject lands on December 23, 2022.
Public Notice Sign:	Posted December 28, 2022.
First Submission Circulated:	January 11, 2023, to internal staff and external agencies.
Comments on First Submission:	Received between February 7, 2023, to February 15, 2023.
First Open House:	February 16, 2023.
Comment Consolidation:	Complete comment consolidation sent to the applicant on March 13, 2023.
Second Open House:	June 27, 2023.
Second Submission Received:	September 13, 2023.
Second Submission Circulated:	September 19, 2023.
Comments on Second Submission:	Received between October 10, 2023, to October 13, 2023.
Comment Consolidation:	Complete comment consolidation sent to the applicant on November 11, 2023.
Meeting with Applicant to Discuss Comments:	December 6, 2023.
Appeal Filed:	January 3, 2024, 411 days after receipt of the initial application and 113 days from the second submission.

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<b>Summary Documents:</b>	
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "E" attached to Report PED24006.
Public Consultation:	The applicant provided a comment and response summary for both open houses (attached as Appendix "G" to Report PED24028).
Public Comments:	<p>112 letters / emails expressing concern and a petition expressing concern were received (see Appendix "F" attached to Report PED24028).</p> <p>One comment in support was received.</p> <p>An online link to a petition has also been provided, at the time of preparing this report a total of 1,852 signatures have been received.</p> <p>Paper petitions were also received and contained 2,806 signatures.</p> <p>Comments received have been summarized in Appendix "F" attached to Report PED24028.</p> <p>These comments include correspondence received by the City prior to the appeal being filed to the Ontario Land Tribunal.</p>

**Existing Land Use and Zoning**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Agricultural	Small Scale Institutional "IS" Zone
<b>Surrounding Land Uses:</b>		
North	Public Elementary School	Neighbourhood Institutional (I1) Zone
South	Single detached dwellings	Single Residential "R3" Zone



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**Surrounding Land Uses:**

East	Single detached dwellings and commercial plaza	Single Residential "R2" Zone and Community Commercial (C3, 579) Zone
West	Park and Catholic Elementary School	Neighbourhood Park (P1) Zone and Neighbourhood Institutional (I1) Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended)**

At the time the appeal to the Ontario Land Tribunal had been filed the applicant had not yet demonstrated to the City's satisfaction that there was adequate infrastructure capacity to service the proposed development.

The applicant had also not yet demonstrated to the City's satisfaction the green infrastructure and sustainable design elements to be implemented to mitigate and adapt to the impacts of a changing climate, improve resilience, reduce greenhouse gas emissions, contribute to environmental sustainability as well as integrating green infrastructure and appropriate low impact development.

The applicable policies are included in Appendix "D" attached to Report PED24028.

**Urban Hamilton Official Plan and West Mountain Area (Heritage Green) Secondary Plan**

The subject lands are identified as "Neighbourhoods" on Schedule E – Urban Structure and designated "Institutional" on Schedule E-1 – Urban Land Use Designations. The subject lands are further found within the West Mountain Area (Heritage Green) Secondary Plan and designated "Institutional".

The applicant is proposing to redesignate the lands to "Neighbourhoods" on Schedule E-1 and to "High Density Residential 1" within the West Mountain Area (Heritage Green) Secondary Plan.

The development of the subject lands for residential purposes is consistent with the firm urban boundary growth management strategy adopted by Council and implemented

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through Official Plan Amendment No. 167. This strategy was adopted by Council after extensive public consultation supporting intensification and redevelopment as the preferred means for accommodating projected residential growth. However, the Urban Hamilton Official Plan policies on neighbourhood character, urban design and residential intensification provide a framework for a balanced evaluation of development proposals.

At the time the appeal to the Ontario Land Tribunal had been filed the applicant had not yet demonstrated to the City's satisfaction that there was adequate infrastructure capacity to service the proposed development.

The applicant had also not yet demonstrated to the City's satisfaction that shadow impacts had been mitigated, that there was an appropriate transition in height to the adjacent school site, and that the proposed development was compatible with existing, and future uses in the surrounding area and enhanced the character of the existing neighbourhood.

Based on the Traffic Impact Study submitted by the applicant, staff were satisfied that the proposal would not result in any adverse traffic impacts subject to the installation of a centre median island to allow left turns and for a physically separated bike lane being provided. The applicant would be responsible for the costs associated with these works.

The applicable policies are included in Appendix "D" attached to Report PED24028.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The following is a summary of Staff's outstanding concerns at the time of the appeal to the Ontario Land Tribunal:

- The multiple dwelling did not provide a mix of unit sizes to accommodate a range of household and income levels to be implemented through the Zoning By-law as there were no three bedroom units proposed within the multiple dwelling, nor was a provision included in the draft amending Zoning By-law for a mix of unit sizes.
- The development did not include sustainable building and design principles and the proposed landscaped areas, which in some cases are smaller residual areas across the site, may not be of sufficient size to allow for tree planting, pervious areas, and low impact development.

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- The shadow impacts on the adjacent sensitive land use (elementary school) had not been mitigated.

The Shadow Impact Study dated August 23, 2023, prepared by KNYMH Inc., identified shadow impacts on a play area throughout the school year, from fall to spring during the majority of the school day. The City's Sun-Shadow Study guidelines categorizes school yards as common amenity area and indicates that a minimum of 50 percent sun coverage at all times of the day measured on March 21 is required. The Shadow Impact Study demonstrates that between the hours of 9:00 a.m. to 11:26 a.m. on March 21 and September 21, one of the play areas is more than 50 percent shadowed.

Therefore, the height, orientation, design, and massing of the multiple dwelling resulted in shadow impacts on adjacent sensitive lands uses (elementary school).

- The relationship of the proposed buildings with the height, massing, and scale of nearby residential buildings had not been adequately addressed.
- The proposed development had not demonstrated compatibility with existing and future uses in the surrounding area or demonstrated how the proposal enhanced the character of the existing neighbourhood. The Albion neighbourhood has historically developed with a more suburban built form with greater building setbacks for the multiple dwellings that exist, for example at the corner of Mistywood Drive and Paramount Drive. The proposal is instead for a built form that is oriented closer to the street and the edges of the property with reduced building setbacks, as outlined on page 6 of this report.
- The Functional Servicing Report, prepared by Arcadis Professional Services (Canada) Inc. and updated September 1, 2023, had not addressed if there is sufficient available capacity within the existing municipal system to accept the increased flows from the subject lands. As such, the proponent has not demonstrated that there is adequate servicing capacity to service the proposed development or if there is a servicing capacity constraint.
- That the proposed building height for the multiple dwelling coupled with the decreases in the side yard, front yard and rear yard setbacks, and decreased landscaped area, among other requested modifications for the entire proposal, could result in an overdevelopment of the site. In addition, the proposed concept plan, proposed built form of the stacked townhouse and stacked maisonette

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dwelling units, and surface parking areas results in an internal pedestrian realm that is dominated by garages and individual driveways with limited pedestrian pathways and a high proportion of impervious areas across the site.

For members of the public who are interested in information (including how to participate in any future Ontario Land Tribunal hearings) on upcoming hearing events, as the applications have been appealed to the Ontario Land Tribunal, can stay informed by contacting the Ontario Land Tribunal website: [www.olt.gov.on.ca/case-status/](http://www.olt.gov.on.ca/case-status/).

**ALTERNATIVES FOR CONSIDERATION**

Not Applicable.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24028 - Location Map  
Appendix "B" to Report PED24028 - Concept Plans  
Appendix "C" to Report PED24028 - Letter of Appeal  
Appendix "D" to Report PED24028 - Summary of Applicable Policies  
Appendix "E" to Report PED24028 – Department and Agency Comments  
Appendix "F" to Report PED24028 – Summary of Public Comments  
Appendix "G" to Report PED24028 – Applicant Response Matrix

TV/JVR:sd