



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 30, 2024
<b>SUBJECT/REPORT NO:</b>	Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Alaina Baldassarra (905) 546-2424 Ext. 7421
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## COUNCIL DIRECTION

In accordance with Subsections 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 by the applicant 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 of Council's non-decision, 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-20-027 and Zoning By-law Amendment application ZAC-20-042, which have been appealed for non-decision.

---

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.

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 2 of 7**

---

**INFORMATION**

The subject property is municipally known as 1629, 1635, 1637 and 1655 Main Street West, Hamilton (refer to Appendix “A” attached to Report PED24066). The property is approximately 0.69 hectares in area and is located south of Main Street West, on the west side of Rifle Range Road, and on the east side of Ewen Road. The subject lands have frontage on three public streets and are located in close proximity to an active industrial use to the south at 45 Ewen Road.

The current Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications were submitted by GSP Group Inc. c/o Brenda Khes on behalf of 2480545 Ontario Inc. (The “Company”) deemed complete on December 1, 2020. The proposal is for a new mixed use building with a total of 583 residential units, approximately 1,355 square metres of commercial space and 268 residential parking spaces inclusive of visitor parking for the residential units as well as 39 parking spaces for the commercial uses. The cover letter provided by the agent stated that the multiple dwelling would be geared to students.

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications, filed by Kagan, Shastri, DeMelo, Winer, Park, counsel for 2480545 Ontario Inc. (The “Company”), was received by the City Clerk’s Office on February 12, 2024, 1,168 days after the application was deemed complete, included as Appendix “C” attached to Report PED24066. After the appeal was received for the subject lands, the appellants indicated that the appeal may be heard in conjunction with the appeals regarding Urban Hamilton Official Plan Amendment (UHOPA-23-008) and Zoning By-law Amendment (ZAC-23-020) for lands located at 17 Ewen Road, Hamilton (which also were appealed for a lack of decision).

**PROPOSED DEVELOPMENT**

The applicant has proposed a mixed use building organized into three towers (16, 21 and 24 storeys) inclusive of a three storey podium. A copy of the proposed development is attached as Appendix “B” to Report PED24066. In addition, the development contains a midrise tower component connecting the three towers that starts on level six and extends a total of six storeys in height. The building includes 583 residential units (948 beds), 268 residential parking spaces inclusive of visitor parking spaces and 39 commercial parking spaces within an underground parking garage and 3,280 square metres of residential amenity space. A rooftop amenity area is included on the fourth floor and a green roof area on the remainder of the proposed podium. The proposal

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 3 of 7**

---

includes a commercial terrace area along Main Street West, and the driveway entrance for the parking facilities and drop off areas is proposed from Rifle Range Road.

The proposed development is located in close proximity to an existing industrial use at 45 Ewen Road. As a result, concerns regarding the compatibility between an active industrial land use and the proposed sensitive land use were identified. The owner of 45 Ewen Road (existing industrial) has provided comments advising of concerns with the proposed development.

### **Urban Hamilton Official Plan Amendment Application**

The subject property is identified as “Neighbourhoods” and “Secondary Corridor” on Schedule E – Urban Structure and is designated “Mixed Use – Medium Density” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. The application was received and deemed complete prior to Ministerial approval of Official Plan Amendment No. 167, however, as per *Bill 150*, any decision must conform to the Official Plan in effect on November 4, 2022.

The subject lands are located within the Ainslie Wood Westdale Secondary Plan and are designated “Mixed Use - Medium Density” on Map B.6.2-1 Land Use Plan. The application is requesting to add a site specific policy area to increase the maximum height and maximum density on the subject lands. The proposal is also requesting to increase the maximum building height to 24 storeys whereas the Ainslie Wood Westdale Secondary Plan permits a maximum building height of three storeys. In addition, the applicant is proposing to increase the maximum density on the subject lands to 844 units per hectare whereas the Zoning By-law permits a maximum density of 30 to 49 units per hectare.

The subject property is identified as “Commercial” and “Industrial” in the Ainslie Wood Neighbourhood Plan. Since the application has been appealed, a future housekeeping amendment will be required to apply the appropriate identification based on the decision at the Ontario Land Tribunal.

### **Zoning By-law Amendment Application**

The subject lands are currently zoned Mixed Use Medium Density (C5, 304, 570) Zone and Mixed Use Medium Density (C5, 570) Zone as shown on Appendix “A” attached to Report PED24066. The proposed commercial uses and multiple dwelling are permitted uses on the subject lands. The applications indicate that the proposal would be geared to student accommodation.

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 4 of 7**

---

Modifications are required to implement the proposal, as shown on the Concept Plan in Appendix “B” attached to Report PED24066, including:

- Reduction in the minimum rear yard setback to 0.5 metres from 7.5 metres;
- Reduction in the interior side yard setback when abutting an institutional or residential zone to 3.5 metres from 7.5 metres;
- Increase in the maximum building height to 70.5 metres from 11.0 metres in height;
- Removal of a visual barrier along a lot line abutting a residential or institutional zone whereas a visual barrier is currently required along a lot line abutting a residential or institutional zone;
- Reduction in the amount of parking spaces to 0.4 spaces per unit or 0.25 spaces per bed from the minimum requirement identified in Section 5.6 c) of Zoning By-law No. 05-200 which requires a minimum of the following for a multiple dwelling:
  - 0 parking spaces per unit for dwelling units one to 12 that are less than 50.0 square metres in gross floor area;
  - 0.3 parking spaces per unit for dwelling units 13 or more that are less than 50.0 square metres in gross floor area;
  - 0 parking spaces per unit for dwelling units one to 12 that are more than 50.0 square metres in gross floor area;
  - 0.5 parking spaces per unit for dwelling units 13 to 50 that are more than 50.0 square metres in gross floor area;
  - 0.7 parking spaces per unit for dwelling units 51 or more that are more than 50.0 square metres in gross floor area;
  - 0 parking spaces per unit for dwelling units one to 12 that are three bedrooms or more;
  - 0.3 parking spaces per unit for dwelling units 13 or more that are three bedrooms or more; and,
- Adding a special figure to identify the location of the three towers on top of the podium.

Issues identified through the circulation include:

- The proposed development does not comply with the policies of the Urban Hamilton Official Plan as follows:
  - The proposed development does not comply with the City-Wide Corridor Guidelines as it is not meeting the angular plane along requirements which would negatively impact the development by increasing the shadows on-site and within the public right-of-way. In addition, the proposed development is not appropriate based on the current

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 5 of 7**

---

streetscape and neighbourhood character. In addition to the angular plane concern, the proposed building is 110 metres in length whereas the guidelines require that any building that is 60 metres or more in length and taller than 11 metres should have a midblock break. The purpose of the midblock break is to reduce the canyon effect including negative wind impacts and increase the amount of light reaching the street. The proposed building is 110 metres in length and taller than 11 metres but does not currently provide an appropriate mid-block break which would have a negative impact on the public realm as identified above. For context, the tall building guidelines discourages buildings that are more than 70 metres in length and recommends the design incorporate a break in the mass after 40 metres in length to provide articulation and/or changes in materials;

- Does not meet the intent of the Tall Building Guidelines. The Tall Buildings Guidelines require tower massing to step back a minimum of 3.0 metres from the building base, to improve street wall definition, recess tall building elements from pedestrian views and minimize wind effects (Section 4.3.2). Tower A and part of Tower C do not fully comply with this requirement and the Visual Impact Assessment identified a negative impact on the public street. As well, the Tall Building Guidelines require a maximum floor plate for the towers of 750 square metres. The floor plates for Tower B (782 square metres) and Tower C (791 square metres) of the proposed development exceed the standard set in the Tall Building Guidelines which would have a negative impact by increasing the amount of shadows and could negatively impact the skyline views in the neighbourhood;
- The interface between the proposed multiple dwelling and the proposed student residence to the south (vacant parcel at 17 Ewen Road), specifically regarding the three storey garage façade where it faces another property. It was recommended that the applicants also consider increased tower separation from the southern property line;
- Tower height and relationship with the three storey podium. The overall scale of the project is not in character with the surrounding neighbourhood and does not provide appropriate stepbacks to reduce the impact of the street wall along Main Street West;
- The Visual Impact Assessment identified concerns regarding a negative impact on street views as a result of the proposed development as it relates to the skyline. The proposed built form increases the scale of the building, raising concerns about implementing a pedestrian scale and visual compatibility with the contextual low-rise built form in the area;

---

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.

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 6 of 7**

---

- The Wind Study identified uncomfortable wind levels on public sidewalks surrounding the subject site. A redesign of the massing should ensure that the public realm is not affected by wind effects and supports a comfortable pedestrian environment. This can include mitigating measures such as stepbacks, canopy's and landscaping. The surrounding area includes outdoor patios and high level public transit line facilities in the immediate area which should be accompanied by comfortable public facilities;
- Based on the information provided as part of the Shadow Study, the proposed development does not provide the appropriate amount of light on the public sidewalk or on the subject lands and negatively impacts the ability for landscaping to grow within the public right-of-way. As a result of the proposed built form, the site would not meet the minimum five hours identified in the City-Wide Corridor Guidelines and the minimum three hours referenced in the Tall Building Guidelines. In addition, the proposed development would not allow for 50% sunlight on the proposed commercial terraces on Main Street West. In addition, insufficient information was provided to determine the full extent of the development's impact on the surrounding area;
- The proposed setback along Ewen Road and Rifle Range Road is insufficient to allow landscaping and pedestrian amenities. Staff recommends that a setback of 3.0 metres be provided along Ewen Road and 1.5 metres along Rifle Range Road to reduce the negative impact on trees along Main Street West due to a limited amount of direct sun access. The building slab should be more porous to allow for adequate tree growing conditions and appropriate streetscaping; and,
- Noise impacts on the residential uses from the existing industrial use to the south. As part of the circulation, the industrial use to the south identified that the property would need to be classified as a Class 4 area in accordance with the NPC-300 Guidelines. Additional information is required to determine if a Class 4 designation is appropriate.

## **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 64 property owners within 120 metres of the subject lands on December 11, 2020. Based on the current documents, no neighbourhood meetings occurred for the proposed development.

**SUBJECT: Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-20-027 and Zoning By-law Amendment Application ZAC-20-042 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 1629, 1635, 1637 and 1655 Main Street West, Hamilton (PED24066) (Ward 1) - Page 7 of 7**

---

To date staff have received five written submissions, which raised concerns regarding building height and massing, traffic, student residence use, street parking, quality of life, compatibility with the surrounding neighbourhood, air quality impacts from the proposed residential structure on the existing industrial use, and noise issues as a result of industrial use.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED24066 – Location Map

Appendix "B" to Report PED24066 – Concept Plans and Building Elevations

Appendix "C" to Report PED24066 – Letter of Appeal

AB/sd