




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 9, 2024
SUBJECT/REPORT NO:	Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 101 Hunter Street East, Hamilton (PED24112) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Official Plan Amendment Application UHOPA-21-007, by Bousfields Inc. c/o Ashley Paton on behalf of 75 Catharine Holding Inc. c/o Paul Kemper, Owner**, to change the Maximum Building Height category from “Mid-rise” to “High-rise 2” on Map B.6.1-2 of the Downtown Hamilton Secondary Plan, to permit a 28 storey mixed use development, for lands located at 101 Hunter Street East, as shown on Appendix “A” attached to Report PED24112, be **APPROVED** on the following basis
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED24112, be adopted by City Council;
 - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- (b) That **Amended Zoning By-law Amendment Application ZAC-21-014, by Bousfields Inc. c/o Ashley Paton on behalf of 75 Catharine Holding Inc. c/o Paul Kemper, Owner**, for a change in zoning from the Downtown Central Business District (D1) Zone to the Downtown Central Business District (D1, 846,

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H146) Zone, to permit a 92.5 metre (28 storey) mixed use development containing 293 dwelling units, 349 square metres of ground floor commercial area, and 102 parking spaces, for lands located at 101 Hunter Street East, Hamilton, as shown on Appendix “A” attached to Report PED24112, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED24112, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), and will comply with the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan upon approval of Official Plan Amendment No. XXX;
- (iii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by including the Holding “H” to the proposed Downtown Central Business District (D1, 846, H146) Zone;

The Holding Provision “H146” is to be removed conditional upon:

- (1) That the owner submits a signed Record of Site Condition to the satisfaction of the Director of Development Planning or enters into a conditional building permit agreement with respect to completing a Record of Site Condition. The Record of Site Condition must include a notice of acknowledgement of the Record of Site Condition by the Ministry of the Environment, Conservation and Parks, and submission of the City of Hamilton’s current Record of Site Condition administration fee;
- (2) That the owner submits and receives approval of an updated Acoustical Study to confirm the appropriate mitigation measures and warning clauses, to the satisfaction of the Director of Development Planning;
- (3) That the owner agrees in a signed Site Plan Agreement, to provide notice to any subsequent owner, as well as any prospective purchasers or tenants that the dwellings are located in a Class 4 area, and to agree to register this notice and any/all warning clauses on title and include them in any purchase and sale and in

- any lease or rental agreement, to the satisfaction of the Director of Development Planning;
- (4) That the owner submits and receives approval of a Commemorative Strategy, to the satisfaction of the Director of Heritage and Urban Design;
- (5) That the owner submits and receives approval of either a signed permission from the adjacent property owner at 111 Hunter Street East to remove and/or impact trees on their property or an updated Tree Protection Plan demonstrating that trees on adjacent lands will not be impacted by the proposed development, all to the satisfaction of the Director of Development Planning;
- (c) That approval be given for a modification to the Downtown Central Business District (D1) Zone in the Hamilton Zoning By-law No. 05-200, to permit a 92.5 metre (28 storey) mixed use development for lands located at 101 Hunter Street East, Hamilton, as shown on Appendix "A" attached to Report PED24112, subject to the following:
- (i) That the draft By-law, attached as Appendix "I" to Report PED24112, be held in abeyance until such time as By-law No. 24-052, being a By-law to establish the Parking Regulations Zones is in force and effect;
- (ii) That staff be directed to bring forward the draft By-law, attached as Appendix "I" to Report PED24112, for enactment by City Council, once By-law No. 24-052 is in force and effect;
- (d) That in accordance with the delegated authority to the Director of Planning and Chief Planner outlined in Report PED18074, the subject lands have been designated Class 4 Area in accordance with the Ministry of the Environment, Conservation and Parks NPC-300 Guidelines, to be implemented as part of a future Site Plan Control application and in accordance with the concept plans attached as Appendix "D" to Report PED24112.

EXECUTIVE SUMMARY

The subject site is municipally known as 101 Hunter Street in Hamilton. It is located at the intersection of Hunter Street East and Catharine Street South. The applicant has applied for an Urban Hamilton Official Plan Amendment and a Zoning By-law Amendment to facilitate the development of a 92.5 metre (28 storey) mixed use development containing 293 dwelling units, 349 square metres of ground floor

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commercial area, and 102 parking spaces located both below ground and above ground within the proposed building.

The purpose of the Official Plan Amendment is to amend the Urban Hamilton Official Plan to change the Maximum Building Height category identified in Map B.6.1-2 of the Downtown Hamilton Secondary Plan from “Mid-rise” to “High-rise 2”, to increase the maximum permitted height from 12 storeys up to 30 storeys.

The purpose of the Amended Zoning By-law Amendment is to rezone the subject site from the Downtown Central Business District (D1) Zone to the Downtown Central Business District (D1, 846, H146) Zone, under the City of Hamilton Zoning By-law No. 05-200 to allow the proposed development. Site specific modifications to the Downtown Central Business District (D1) Zone are required to accommodate the proposed development, which are discussed in detail in Appendix “E” attached to Report PED24112.

The proposal has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the general intent of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan, upon approval of the Official Plan Amendment; and,
- The development represents good planning, as it will provide a compact and efficient built form that is compatible with the character of the area.

Alternatives for Consideration – See Page 14

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 an application for an Official Plan Amendment and Zoning By-law Amendment.

HISTORICAL BACKGROUND

Application Details	
Owner:	75 Catharine Holding Inc. c/o Paul Kemper.
Applicant/Agent:	Bousfield Inc. c/o Ashley Paton.
File Number:	UHOPA-21-007 and ZAC-21-014.
Type of Applications:	Urban Hamilton Official Plan Amendment and Zoning By-law Amendment.
Proposal:	<p>To demolish the existing two storey commercial office building to permit the creation of a 28 storey mixed use building with a four storey building base. The proposed tower above the four storey building base will be setback 9.5 metres from the northerly lot line, 9.8 metres from the easterly lot line, 1.3 metres from the building base along Hunter Street East and 1.5 metres from the building base along Catharine Street South.</p> <p>The Concept Plan attached as Appendix “D” to Report PED24112 includes a mixed use building containing 293 multiple dwelling units of which 240 units are studio and one bedroom units, 50 units will be two bedroom units, and three units will be three or more bedroom units. Additionally, 349 square metres of ground floor commercial area contained within two commercial units are proposed, fronting onto Hunter Street East and Catharine Street South. The proposed development will include 102 parking spaces located below grade and within a portion of the proposed building base. Additionally, 175 long term bicycle parking spaces and 10 short term bicycle parking spaces are proposed.</p> <p>A total of 1,955 square metres of amenity space is provided on site, approximately 6.6 square metres per unit. The indoor and outdoor amenity area is provided on the fifth storey in addition to individual private balconies.</p>

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Application Details	
Proposal: (Continued)	<p>Access to the proposed parking is provided from Hunter Street East. No access is proposed from the alleyway to the north.</p> <p>As the proposed development includes sensitive land uses and is in proximity to idling GO Trains, a stationary noise source, a reclassification with respect to noise from Class 1 to Class 4 is required.</p>
Property Details	
Municipal Address:	101 Hunter Street East.
Lot Area:	1,759 square metres (0.1759 hectares).
Servicing:	Full municipal services.
Existing Use:	Commercial office building.
Documents	
Provincial Policy Statement:	The proposal is consistent with the Provincial Policy Statement (2020).
A Place to Grow:	The proposal conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	“Downtown Mixed Use Area” on Schedule “E-1” – Land Use Designations.
Secondary Plan Existing:	“Downtown Mixed Use” on Map B.6.1-1 Land Use Plan, Downtown Hamilton Secondary Plan. “Mid-rise” on Map B.6.1-2 Maximum Building Heights, Downtown Hamilton Secondary Plan.
Official Plan Proposed:	“High-rise 2” on Map B.6.1-2 Maximum Building Heights, Downtown Hamilton Secondary Plan.
Zoning Existing:	Downtown Central Business District (D1) Zone.
Zoning Proposed:	Downtown Central Business District (D1, 846, H146) Zone.

Documents	
<p>Modifications Proposed:</p>	<p>The following modifications have been requested by the applicant:</p> <ul style="list-style-type: none"> • To permit a minimum setback of 1.3 metres at a height of 16.6 metres for a building base façade along Hunter Street East, whereas a minimum setback of 3.0 metres is required at a height of 16.0 metres along Hunter Street East. • To permit a minimum setback of 1.5 metres at a height of 16.6 metres for a building base façade along Catharine Street South, whereas a minimum setback of 3.0 metres is required at a height of 7.5 metres along Catharine Street South; • To permit no minimum setback from the hypotenuse of a daylight triangle; • To permit a minimum 8.3 metre setback to an enclosed balcony or 9.8 metres to a wall without an enclosed balcony for any portion of a building exceeding 16.6 metres in height from the easterly lot line, whereas a minimum 12.5 metre setback is required for any portion of a building exceeding 44.0 metres in height; • To permit a bicycle parking area on the ground floor between a parking facility and a street, instead of requiring a permitted use other than parking to be located on the ground floor between a parking facility and a street; • To increase the maximum building height from 44.0 metres to 92.5 metres or 190.2 metres above sea level, whichever is the lesser; and, • To increase the maximum lot coverage from 85 percent to 91 percent. <p>The following modifications have been included by staff:</p> <ul style="list-style-type: none"> • To permit a minimum setback of 9.5 metres for any portion of a building exceeding 16.6 metres in height from the northerly lot line, whereas a minimum setback of 9.5 metres is required for any portion of a building exceeding 44.0 metres in height.

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Documents	
Modifications Proposed: (Continued)	<ul style="list-style-type: none"> To require that a minimum of 16.8 percent of the dwelling units shall have two or more bedrooms, and that a minimum of 1 percent of the dwelling units shall have three or more bedrooms. <p>The following modifications to the Council adopted Parking Regulations (By-law No. 24-052) have been included in a By-law to be held in abeyance until By-law No. 24-052 is in force and effect (see Appendix “I” attached to Report PED24112):</p> <ul style="list-style-type: none"> To permit a minimum of 25% of the parking spaces provided to be Electric Vehicle Parking spaces; and, To reduce the minimum required long term bicycle parking spaces from 0.7 per unit to 0.6 per unit for a Dwelling Unit, Mixed Use and a Multiple Dwelling. <p>A complete analysis of the proposed modifications is attached as Appendix “E” to Report PED24112.</p>
Processing Details	
Received:	March 17, 2021.
Deemed Complete	April 9, 2021.
Notice of Complete Application:	Sent to 101 property owners within 120 metres of the subject lands on April 19, 2021.
Public Notice Sign:	Posted April 21, 2021, and updated on June 12, 2024.
Notice of Public Meeting:	Sent to 71 property owners within 120 metres of the subject lands on June 21, 2024.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix “G” attached to Report PED24112.
Public Consultation:	<p>A virtual public meeting was held by the applicant on April 28, 2021. Approximately 150 notices were mailed to residents on April 7, 2021. A total of eight residents attended.</p> <p>A summary of the virtual public meeting is attached as Appendix “J” to Report PED24112.</p>

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Processing Details	
Public Comments:	Two letters / emails expressing concern for the proposed development were received (see Appendix “H” attached to Report PED24112).
Processing Time:	1,173 days from receipt of application.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Commercial office and surface parking lot.	Downtown Central Business District (D1) Zone.

Surrounding Land Uses:

North	Alleyway and multiple dwelling.	Downtown Central Business District (D1) Zone.
South	Raised railway track.	“J/S-409” (Light and Limited Heavy Industrial Etc.) District, Modified.
East	Semi-detached dwelling.	Downtown Central Business District (D1) Zone.
West	Surface parking lot.	Downtown Central Business District (D1) 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)

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) in Appendix “F” attached to Report PED24112.

Provincial Policy Statement (2020)

The proposal provides for the efficient use of land and resources by directing growth towards the existing settlement area where there are existing municipal water and wastewater services. The development of a multiple dwelling with ground floor

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commercial uses is an efficient use of land and represents an appropriate development of the site which will contribute to the completion of the surrounding neighbourhood. The proposed development is located within proximity to existing local and regional transit, including higher-order transit. Therefore, the proposed development is transit supportive. The subject lands are within walking distance of commercial services within the Downtown area, and within proximity of existing parks and schools. The proposal also contributes to the range and mix of housing types in the immediate area and to the creation of a complete community.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement (2020).

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

The proposal conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), as the proposed development directs growth to an existing settlement area and within an urban growth centre. The proposed development is located within proximity to existing local transit routes, within walking distance to future light rail transit along King Street East, and in proximity to existing regional transit, supporting both local and regional transit systems. The proposed development is in proximity to existing commercial and institutional uses, including municipal parks and schools. The proposed development will be serviced by municipal water and wastewater services. The proposed development will support the achievement of complete communities by providing commercial services and by increasing the supply of residential dwelling units including units for larger households.

Based on the foregoing, the proposal conforms to the applicable policies of A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan

The subject lands are identified as “Downtown Urban Growth Centre” and designated “Downtown Mixed Use Area” in the Urban Hamilton Official Plan. The subject lands are designated “Downtown Mixed Use” and identified as “Mid-rise” in the Downtown Hamilton Secondary Plan. The applicant is proposing to change the Maximum Building Height category for the subject lands from “Mid-rise” to “High-rise 2” to permit an increase in the maximum building height from 12 storeys to up to 30 storeys. A detailed review of the applicable Official Plan policies is attached as Appendix “F” to Report PED24112.

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Lands designated “Downtown Mixed Use” in the Downtown Hamilton Secondary Plan permit a mixed use development including ground related commercial uses and multiple dwelling units. A more compact built form with a higher scale and density are anticipated within the Downtown and therefore the proposed development is consistent with the general intent of the policies of the Downtown Hamilton Secondary Plan. The applicant has demonstrated through the submission of a Sun Shadow Study, Wind Study, Visual Impact Assessment, Urban Design Brief, Transportation Impact Study and Functional Servicing Report that the proposed 28 storey mixed use building, including a four storey building base, will not exceed the height of the Niagara Escarpment, will not create adverse sun shadow impacts on the public realm, on adjacent land uses, or on any primary gathering place. The proposed built form will not create any adverse wind impacts on the public realm or on any sensitive areas on adjacent properties. The proposal will not result in any adverse traffic or servicing impacts. Therefore, the proposed tall building development is consistent with the Tall Building Guidelines and meets the intent of the Downtown Hamilton Secondary Plan.

The policies of the Urban Hamilton Official Plan require that development of noise sensitive lands uses in proximity to transportation noise sources and stationary noise sources comply with applicable provincial and municipal guidelines and standards. A Noise Study prepared by SLR dated January 2021 and addenda dated March 2022 and September 2022, along with a peer review prepared by RWDI dated March 3, 2023, and updated on November 28, 2023, demonstrates that the proposed development will comply with the in effect provincial guidelines, subject to re-classification of the subject lands to a Class 4 area and through the use of enclosed balconies and other noise mitigation measures. A peer review prepared by RWDI did note caution with respect to the potential impact of low frequency noise, which can impact the proposed development, however RWDI noted that Provincial guidelines do not contemplate the influence of low frequency sound or provide direction on how to design for it. An updated Noise Study will be required to confirm the appropriate mitigation measures and warning clauses have been included in the study, because of the findings of the RWDI Peer Review, as a condition of the proposed Holding Provision.

Based on the foregoing and subject to the Official Plan Amendment and Holding Provision, the proposal complies with the general intent and purpose of the Urban Hamilton Official Plan, the Downtown Hamilton Secondary Plan, and the Tall Building Guidelines.

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

The proposed amended Zoning By-law Amendment is for a change in zoning from the Downtown Central Business District (D1) Zone to the Downtown Central Business District (D1, 846, H146) Zone. The effect of the Zoning By-law Amendment will permit a

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92.5 metre (28 storey) mixed use building consisting of 293 dwelling units and 349 square metres of ground floor commercial space. Modifications to the Downtown Central Business District (D1) Zone are required to facilitate the development and are summarized in the Report Fact Table above and the modification chart in Appendix “E” attached to Report PED24112.

Staff also completed a review of the proposal against the Council approved parking regulations recently adopted through By-law No. 24-052. These regulations are currently not in force and effect as the By-law is subject to appeals to the Ontario Land Tribunal. Accordingly, staff have included a second By-law that includes the necessary modifications to By-law No. 24-052, which is to be held in abeyance until such time as the appeals are resolved and By-law No. 24-052 is in force and effect (see Appendix “I” attached to Report PED24112). All requested modifications are summarized in the modification chart in Appendix “E” attached to Report PED24112.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - (ii) It complies with the general intent and purpose of the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan, subject to the Official Plan Amendment; and,
 - (iii) The proposal represents good planning by providing a compact urban form of development that contributes to the creation of a complete community by providing a mix of uses and a built form that is in keeping with the “Downtown Mixed Use” designation policies found within the Urban Hamilton Official Plan and Downtown Hamilton Secondary Plan and meets the Tall Building Guidelines.

2. The purpose of the Official Plan Amendment is to change the Maximum Building Height category on Map B.6.1-2 of the Downtown Hamilton Secondary Plan from “Mid-rise” to “High-rise 2” to permit an increase in the maximum permitted building height from 12 storeys to up to 30 storeys for the subject lands. The proposed increase in height to permit up to 30 storeys will not exceed the height of the Niagara Escarpment.

The proximity of the subject lands to existing local and regional transit, to future light rail transit, and to existing commercial and institutional uses supports intensification of the subject lands. The proposed development is located approximately 70 metres from the low rise residential neighbourhood located to the south which includes an elevated rail corridor, which provides a physical separation and buffering between the proposal and the neighbourhood to the south. The proposed tower will also be adequately stepped back from the lands to the east, which will protect the privacy of the adjacent land uses.

The applicant has also demonstrated that adequate sun access will be maintained for the public realm, adjacent lands, and nearby primary gathering spaces. Furthermore, the applicant has demonstrated that the proposed development will not result in adverse wind impacts either on the public realm or on adjacent private lands.

Therefore, staff supports the proposed Official Plan Amendment.

3. The Amended Zoning By-law Amendment is for a change in zoning from Downtown Central Business District (D1) Zone to the Downtown Central Business District (D1, 846, H146) Zone. Additional modifications to the Downtown Central Business District (D1) Zone are identified beginning on page 7 of Report PED24112 and discussed in detail in Appendix "E" attached to Report PED24112.

The proposed zoning establishes a built form that is consistent with the scale and massing of buildings that are existing or planned for the area. The proposal will not exceed the height of the Niagara Escarpment and will not create adverse shadowing, wind, privacy overlook, traffic, or noise impacts.

Therefore, staff support the proposed amendment to the Zoning By-law.

4. Holding Provision

A Holding 'H' Provision is proposed to be added to the subject lands to ensure that the owner submits and receives approval of an updated Noise Study, Site Plan Agreement, a Commemorative Strategy, submits a Record of Site Condition and submits either signed permission to remove or impact a tree on the adjacent lands or submit an updated Tree Protection Plan demonstrating that the tree will not be negatively impacted.

5. Class 4 Area Classification

The subject property is in proximity to a stationary noise source in the form of idling trains, which results in noise levels that exceed provincial guidelines. The Environmental Noise Assessment prepared by SLR dated January 2021 and addenda dated March 2022 and September 20, 2022, recommends that the lands be re-classified as Class 4 in accordance with NPC-300 Provincial guidelines. The noise levels identified will exceed the noise levels permissible under Class 4 and therefore will require additional physical mitigation in the form of enclosed noise buffer balconies. As the noise levels exceeded the permissible levels under Class 4 and given the extensive technical expertise required to evaluate proposed mitigation measures, a peer review of the Environmental Noise Assessment was required and undertaken by RWDI in responses provided on March 3, 2023, and November 28, 2023. The findings of the peer review confirmed that enclosed balconies would achieve compliance with provincial criteria, and staff have accepted the findings of the noise study.

As per Report PED18074, Council directed that the Director of Planning and Chief Planner be authorized to designate an area or specific site as Class 4 in accordance with the NPC-300 Guidelines for lands within the Downtown Hamilton Secondary Plan where a noise study required as a condition of development approval recommends that an area be Class 4 the study has been approved by the Director of Planning and Chief Planner. As the subject lands are located within the Downtown Hamilton Secondary Plan, delegated authority on the re-classification from Class 1 to Class 4 has been given to the Director of Planning and Chief Planner and will be undertaken separately from the applications for Official Plan Amendment and Zoning By-law Amendment.

ALTERNATIVES FOR CONSIDERATION

Should the applications be denied, the subject property can be developed in accordance with the Downtown Central Business District (D1) Zone, in the City of Hamilton Zoning By-law No. 05-200, to a maximum height of 44.0 metres (12 storeys).

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24112 – Location Map
Appendix "B" to Report PED24112 – Official Plan Amendment
Appendix "C" to Report PED24112 – Zoning By-law Amendment
Appendix "D" to Report PED24112 – Concept Plan
Appendix "E" to Report PED24112 – Zoning Modification Chart
Appendix "F" to Report PED24112 – Summary of Policy Review

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Appendix "G" to Report PED24112 – Department and Agency Comments
Appendix "H" to Report PED24112 – Summary of Public Comments Received
Appendix "I" to Report PED24112 – Held in Abeyance Zoning By-law Amendment
Appendix "J" to Report PED24112 – Summary of Applicant Virtual Public Meeting

DB/sd