




Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 13, 2024
SUBJECT/REPORT NO:	Appeal by SGL Planning and Design Inc. on Behalf of 1541189 Ontario Inc. for an Urban Hamilton Official Plan Amendment Application UHOPA-20-013 and Zoning By-law Amendment Application ZAC-20-017 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 210 Calvin Street, Ancaster (PED24128) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Alaina Baldassarra (905) 546-2424 Ext. 7421
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

In accordance with Subsections 22(7) and 34(11) of the *Planning Act*, an Official Plan Amendment application 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-20-013 and Zoning By-law Amendment application ZAC-20-017 submitted by SGL Planning and Design Inc. on Behalf of 1541189 Ontario Inc., which have been appealed for non-decision.

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

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

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INFORMATION

The subject property is municipally known as 210 Calvin Street (refer to Appendix “A” attached to Report PED24128). The property is approximately 5.53 hectares in area and is located on the west side of Calvin Street, on the north side of Highway No. 403, and on the west side of the Highway No. 6 / Garner Road access ramp. The subject lands currently have frontage on a city owned right-of-way which is connected to Calvin Street.

The Applicant, SGL Planning and Design Inc., on behalf of 1541189 Ontario Inc. c/o Ron Ticchiarelli applied for an Urban Hamilton Official Plan Amendment and Zoning By-law Amendment to permit 72 townhouse units, and a medium density block with up to 30 units, in the centre of the site that front onto a private road. Appendix “B” attached to Report PED24128 includes a conceptual illustration of the development proposal and the remainder of the subject lands reserved as an environmental protection area and passive recreational space. The proposed private condominium road and bridge will serve as an access to the site from the terminus of Calvin Street.

The applications were initially deemed incomplete on March 4, 2020, as a result of the applicant’s failing to include the urban design report, channel design and geofluvial assessment, floodline delineation study / hydraulic analysis, restoration plan, erosion and sediment control plan, grading plan, noise impact study and public consultation strategy. Upon receipt of the outstanding supporting documentation, the applications were deemed complete on June 11, 2020.

In addition to the submission of the development application, there were three resubmissions (October 28, 2021, June 29, 2022, and December 7, 2023) for review.

Throughout the reviews of the circulations, staff have determined that natural heritage, transportation, and engineering comments continue to be unresolved and communicated the deficiencies to the applicant. The applicants were advised again of staff’s concerns with the most recent resubmission, received December 7, 2023, through comments provided on February 8, 2024, and April 18, 2024.

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications, filed by Jennifer Meader from TMA Law, counsel for 210 Calvin Street GP Inc., identified as the owner within the appeal letter, was received by the City Clerk’s Office on May 28, 2024. The appeal was received 1,447 days after the

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date the applications were deemed complete and is included as Appendix “C” attached to Report PED24128.

Urban Hamilton Official Plan Amendment Application

The subject property is identified as “Neighbourhoods” on Schedule E – Urban Structure and is designated “Open Space” and “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in Volume 1 of the Urban Hamilton Official Plan. The property is identified as a “Core Area” and “Key Hydrologic Feature Streams” on Schedule B – Natural Heritage System in Volume 1 of the Urban Hamilton Official Plan. The property includes Site Specific Policy Area “UAN-3” in Volume 3: SPAs, Area Specific and Site Specific Policies. The site specific policy that applies to the subject lands states that an Environmental Impact Statement shall be completed to determine if there is any developable area on the subject property. The applications were 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 purpose of the Official Plan Amendment application is to modify the limits of the Core Area on the subject lands within Schedule B - Natural Heritage System of the Urban Hamilton Official Plan to allow for residential development. Should it be determined that there is developable area on the property then an additional site specific policy may be required to permit the medium density block shown on the concept plan attached as Appendix “B” to Report PED24128. The effect of the Official Plan Amendment would be to permit residential development on a condominium road.

Zoning By-law Amendment Application

The subject lands are currently zoned Deferred Development “D” Zone, as shown on Appendix “A” attached to Report PED24128. The Zoning By-law Amendment application ZAC-20-017 is proposing to change the zoning to a site specific Residential Multiple “RM6” Zone and private Open Space “O1” Zone under Town of Ancaster Zoning By-law No. 87-57.

A number of specific modifications are required to implement the proposed development, as shown on the Concept Plan in Appendix “B” attached to Report PED24128, including:

- To add a maximum number of 100 dwellings be permitted on the site;

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- To remove the following requirements:
 - The children's play area;
 - Maximum density for a multiple dwelling;
 - Minimum lot frontage and minimum lot depth for a multiple dwelling;
 - Minimum and maximum lot size for a multiple dwelling;
 - Minimum front yard setback, side yard setback and rear yard setback; and,
 - Minimum building separation and minimum planting strip requirements;
- To remove the additional permitted uses in the Private Open Space Zone and limit the permitted uses to Conservation and Open Space uses;
- To reduce the minimum number of required parking spaces to one space per unit; and,
- To increase the maximum lot coverage to 40% and maximum building height to 20 metres.

Issues identified through the circulation include:

- The proposed development does not comply with the policies of the Urban Hamilton Official Plan as follows:
 - The submitted Environmental Impact Study, Tree Management Report and Tree Preservation Plan, do not demonstrate that there are no negative impacts on the Natural Heritage System as a result of the proposed development;
 - The proposed bridge crossing Ancaster Creek appears to be within the erosion hazard limits. A preliminary design was not provided to demonstrate the impacts of the bridge on existing flooding conditions for residential properties along the creek;
 - A privately initiated environmental assessment may be required to evaluate the impact of the bridge crossing and location of the proposed infrastructure on the Natural Heritage System;
 - The storm water management strategy does not sufficiently demonstrate the impact of the development proposal on the stream and wetland located on the property and surrounding lands;
 - There is insufficient capacity within the existing sanitary pumping station to serve the proposed development and the City has not planned an upgrade to the existing pumping station;

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- The maneuverability between the proposed access (bridge) and the entranceway to the pumping station has not been sufficiently demonstrated for the access of fire trucks, and cranes used for operation and maintenance;
- An updated Hydrogeological Report is required which shall demonstrate and confirm the underground elevations and the impact of the proposed dwellings, road and servicing requirements;
- The 5.0 metre retaining walls cannot be supported as shown on the Preliminary Grading Plans as a result of concerns with maintenance and reconstruction and possible adverse impacts to the natural heritage feature; and,
- The current right-of-way adjacent to the subject lands will need to be acquired by the applicant in order for private ownership of the proposed bridge due to the maintenance of the structure.

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 19 property owners within 120 metres of the subject lands on June 26, 2020. No additional public consultation was conducted by the applicant.

To date, staff have received 153 written submissions from the public. Concerns identified include increased traffic, negative impacts to the environmental area, compatibility with the surrounding neighbourhood, insufficient infrastructure to support the proposal, neighbourhood safety, reduced access to walking trails, concern that the road extension / bridge would facilitate additional development and nuisance during construction relating to, but not limited to, dust and noise.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24128 – Location Map
Appendix "B" to Report PED24128 – Concept Plans and Building Elevations
Appendix "C" to Report PED24128 – Letter of Appeal

AB/sd