



Hamilton

**STAFF COMMENTS**

**HEARING DATE: October 8, 2024**

A-24:109 – 64 Main Street East, Hamilton

**Recommendation:**

Development Planning - Approve Variance 2, Deny Variances 1 and 3, Variances 4 and 5 are unnecessary

**Proposed Conditions:**

**Proposed Notes:**



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## Development Planning:

### Background

To facilitate the construction of a 19 storey multiple dwelling containing a total of 272 dwelling units and commercial space.

Staff note this Minor Variance application is to facilitate Site Plan application DA-17-064, which received conditional approval on September 7, 2017. Related Minor Variance application HM/A-17:106 was approved on August 10, 2017.

### Analysis

#### Urban Hamilton Official Plan

The subject lands are identified as “Downtown Urban Growth Centre” in Schedule E – Urban Structure and are designated “Downtown Mixed Use Area” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policies E.2.3.1.6 and E.4.4.4, amongst others, are applicable and permit the proposed multiple dwelling and commercial uses.

#### Downtown Hamilton Secondary Plan

The subject lands are designated “Downtown Mixed Use” on Land Use Plan Map B.6.1-1 and are identified as “Low Rise 2” on Maximum Building Heights Map B.6.1-2 of the Downtown Hamilton Secondary Plan. Policies, B.6.1.3.1, B.6.1.4.5, B.6.1.4.12, B.6.1.4.16, B.6.1.4.32, B.6.1.4.33, B.6.1.4.37 and B.6.1.6.1 amongst others, are applicable and permit the proposed multiple dwelling and commercial uses.

Policy B.6.1.4.16 states:

*“6.1.4.16 For lands identified as Low-rise 2 on Map B.6.1.2 – Downtown Hamilton Building Heights, increases in height to a maximum of 12 storeys (mid-rise), may be permitted without an amendment to this Plan, subject to the following:*

- a) meeting the principles, objectives and policies of this Plan, in particular, Policy B.6.1.4.14 and Policies B.6.1.4.31 through B.6.1.4.39;*
- b) demonstrating how the proposed building and site design relate to and is compatible with the existing and/or planned context of the area;*
- c) demonstrating how the proposed building and site relate to topography, the Niagara Escarpment, and other buildings in the area;*



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*d) demonstrating how any impacts on streetscapes and views of streetscapes, landmark structures or cultural heritage resources from public sidewalks or public spaces will be mitigated;*

*e) demonstrating how the proposed development mitigates impacts to on-site or adjacent cultural heritage resources; and,*

*f) in order to demonstrate the considerations listed above, proponents may be required to submit all of the following studies, in addition to any other studies identified as part of the Formal Consultation required under Section F – Implementation of Volume 1, as part of a development application:*

*i) Shadow Impact Study;*

*ii) Pedestrian Wind Impact Study;*

*iii) Visual Impact Assessment;*

*iv) Transportation Studies, including, but not limited to: 1. Transportation Impact Study; 2. Cycling Route Analysis; 3. Pedestrian Route and Sidewalk Analysis; 4. Neighbourhood Traffic Calming Options Report; 5. Transit Assessment; and, 6. Transportation Demand Management Options Report.*

*v) Infrastructure and Servicing Study;*

*vi) Cultural Heritage Impact Assessment;*

*vii) Urban Design Brief; and,*

*viii) Planning Justification Report.”*

Staff note that while the subject lands are identified as “Low Rise 2” on Map B.6.1-2, Policy 6.1.4.5 of the Downtown Hamilton Secondary Plan recognizes maximum building heights permitted by the Zoning By-law which existed on the effective date of the Zoning By-law where heights exceed the maximum permitted heights as shown on Map B.6.1-2. In this case, a maximum height of 54 metres was granted through the approval of Minor Variance application HM/A-17:106.

However, staff note that a further increase to 59 metres is being requested through Variance 3 of this application. As the intent of Policy 6.1.4.5 is to recognize existing heights and permissions, and also based upon shadow impacts discussed below, staff are of the opinion that Variance 3 does not meet the intent of the Downtown Hamilton Secondary Policy as it is requesting a further increase to the maximum building height permitted.



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Policy B.6.1.4.33 states:

*“6.1.4.33 Development shall be required to provide transition in scale, within the development site, as a result of any of the following:*

- a) the development is of greater intensity and scale than the adjacent existing scale, or where appropriate, the planned built form context;*
- b) the development is adjacent to a cultural heritage resource or a cultural heritage landscape; or,*
- c) the development is adjacent to existing or planned parks, or open spaces.*

Policy B.6.1.4.37 states:

*“6.1.4.37 Downtown Hamilton contains a number of primary gathering spaces where civic life occurs. The quality, image, and amenity of these spaces strongly affect how people perceive the Downtown. Notwithstanding Policy B.6.1.4.35 and Policy B.6.1.4.36, development shall not cast any net new shadow between 10:00 a.m. and 4:00 p.m. as measured from March 21st to September 21st on the following parks, squares, plazas and open spaces areas that serve as Downtown’s key civic gathering spaces:*

- a) Gore Park;*
- b) Prince’s Square (50 Main Street East);*
- c) Hamilton City Hall Forecourt (71 Main Street West);*
- d) Whitehern Museum (41 Jackson Street West); and,*
- e) Ferguson Station (244, 248 King Street East)”.*

Based upon the Sun Shadow Study dated July 9, 2024, prepared by Studio JCI, staff are of the opinion the requested variance does not maintain the intent of the Downtown Hamilton Secondary Plan. The Sun Shadow Study shows an increase in shadowed area on Prince’s Square between the hours of 10:00 a.m. and 4:00 p.m. on March 21<sup>st</sup>, June 21<sup>st</sup>, and September 21<sup>st</sup> as a result of the requested increase in maximum building height and reduced stepbacks.

Additionally, staff note that Variance 1 requests that no building stepbacks be required, providing for no transition between neighbouring properties and built forms. This does not meet the intent of Policy 6.1.4.33 and contributes to the increased shadowing, in conjunction with the proposed increased height.



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Based upon the above, staff are of the opinion that Variances 1 and 3 do not meet the intent of the Urban Hamilton Official Plan nor Downtown Hamilton Secondary Plan.

**Corktown Neighbourhood Plan**

The subject lands are identified as “Commercial” on Map 6702 within the Corktown Neighbourhood Plan.

**Archaeology**

Staff comments addressed as part of DA-17-064.

**Cultural Heritage**

The property known as 64 Main Street East is located within the Corktown Established Historical Neighborhood. The subject is located near a concentration of properties of cultural heritage value or interest listed on the City’s Municipal Heritage Register.

Additionally, the subject property is located adjacent to 110-122 King Street East and 45 Main Street East, two properties designated under Part IV of the *Ontario Heritage Act* and a “protected heritage property” under the Provincial Policy Statement. Accordingly, Section 2.6.3 of the Provincial Policy Statement applies.

The proponent proposes to facilitate the construction of a multiple dwelling containing a total of 272 dwelling units and ground floor commercial space.

Staff comments have been addressed as part of DA-17-064.

While staff are mostly supportive of the proposal, staff suggest that a podium base at the northeast corner of the building be continued along the north and east facades to be in keeping with the commercial character of the streetscape along Main Street East (i.e. larger windows, storefront entrances). Additionally, a portion of the John Street Façade could benefit from a transition in materials at grade to create a podium.

Staff are supportive of the proposed brick cladding on the upper storeys, which are compatible with and sympathetic to the character of the Corktown Established Historical Neighbourhood.



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**HEARING DATE: October 8, 2024**

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

The subject lands are zoned Downtown Central Business District (D1) Zone in City of Hamilton Zoning By-law No. 05-200. The proposed mixed-use development consisting of a multiple dwelling and commercial space is a permitted use.

**Variations 1 and 3**

1. A building setback shall not be provided whereas the Zoning By-law requires a minimum setback of 3.0 metres from a side lot line or a rear lot line for a building exceeding 22.0 metres in height and whereas the Zoning By-law requires additional setbacks of 9.5 metres from a lot line abutting a laneway and 12.5 metres from all side and rear lot lines for a building exceeding 44.0 metres in height.

The intent of this provision is to establish a sufficient transition in scale between high or mid-rise buildings and neighbouring low-rise buildings to minimize potential negative impacts, for example shadowing, wind, and overlook.

3. A maximum building height of 59.0 metres shall be permitted instead of the maximum 54.0 metre building height permitted.

The intent of this provision is to minimize the impact of tall buildings in terms of shadowing on neighbouring properties and visual impacts on the surrounding area, notably in relation to the height of the Niagara Escarpment and shadowing on primary gathering spaces, such as Prince's Square.

Policy 6.1.4.37 of the Downtown Hamilton Secondary Plan states that development shall not cast any net new shadow between 10:00 a.m. and 4:00 p.m. as measured from March 21<sup>st</sup> to September 21<sup>st</sup> on public gathering places, such as Prince's Square, and Gore Park.

The Sun Shadow Study dated July 9, 2024, prepared by Studio JCI shows an increase in shadowed area on Prince's Square between the hours of 10:00 a.m. and 4:00 p.m. on March 21<sup>st</sup>, June 21<sup>st</sup>, and September 21<sup>st</sup> as a result of the requested increase in maximum building height and reduced setbacks. Therefore, staff are of the opinion that the requested variations do not maintain the intent of the Urban Hamilton Official Plan, Downtown Hamilton Secondary Plan and Zoning By-law, are not desirable for the proposed development and are not considered minor in nature. Staff do not support Variations 1 and 3.



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**Variance 2**

2. A minimum lot area of 1,100 square metres shall be permitted instead of the minimum 1,575 square metre lot area required.

The intent of this provision is to ensure lots are of a sufficient size to support development.

Staff note that the subject property currently has a lot area of 1,266 square metres with right-of-way dedications reducing the lot area. Staff further note that the reduced lot area is a direct result of the right-of-way dedications to the City and the lot is still considered developable. Staff support the variance.

**Variance 4**

4. No visual barrier shall be permitted to be maintained for the loading door accessed from the Bowen Street line whereas the Zoning By-law requires that screening from view by a visual barrier is provided when abutting a street.

The intent of this provision is to ensure loading areas are visually screened from the view of an abutting street.

Staff are of the opinion that Variance 8 of previously approved Minor Variance application HM/A-17:106 provides the requested relief to address Variance 4 of this current Minor Variance application.

Minor Variance application HM/A-17:106, Variance 8 reads as follows:

*“8. The loading door accessed from Bowen Street shall not be screened from view instead of providing a Visual Barrier to screen the loading door from view from the street.”*

Therefore, it is Planning staff’s opinion that Variance 4 is not necessary.

**Variance 5**

5. A minimum of 74 parking spaces shall be permitted instead of the minimum 108 parking spaces required.

The intent of this provision is to ensure sufficient on-site parking is provided for residents of the development.



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Staff note that pursuant to Ontario Land Tribunal order OLT-24-000544, issued September 25, 2024, the unappealed portions of By-laws No. 24-051 and 24-052 are now in force and effect retroactive to April 10, 2024. Consequently, Variance 5 is no longer required as the subject property is located within Parking Rate Area 1, which requires no minimum parking for residential uses.

Based on the foregoing, staff are of the opinion that Variance 2 meets the four tests of a minor variance whereas Variances 1 and 3 do not and Variances 4 and 5 are unnecessary. **Staff recommend approval of Variance 2, denial of Variances 1 and 3 whereas Variances 4 and 5 are not required.**

**Zoning:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	see attached
Notes:	

**Development Engineering:**

Recommendation:	Approve
Proposed Conditions:	





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Comments:	Development Engineering has no objection to the minor variance as proposed. Detailed grading and servicing conditions will be handled through Site Plan application DA-17-064.
Notes:	

## **Building Engineering:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the construction of the proposed of a multiple dwelling containing a total of 272 dwelling units and ground floor commercial space.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

## **Transportation Planning:**

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

Please Note: Public comment will be posted separately, if applicable.



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

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E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**To:** Jamila Sheffield, Secretary-Treasurer, Committee of Adjustment

**From:** Victoria Brito, Zoning Examiner – Zoning and Committee of Adjustment

**Email:** Victoria.brito@hamilton.ca

**File Number:** A-24:109

**Address:** 64 Main Street East, Hamilton

**Subject:** Committee of Adjustment File Comments – October 8, 2024

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Recommendation	Comments Only
Proposed Conditions:	
Comments:	<ul style="list-style-type: none"> <li>• The Notice shall be amended by removing variance #5 and adding the new variance: <i>A minimum of four (4) accessible parking spaces shall be permitted instead of the minimum six (6) accessible parking spaces required.</i></li> <li>• The Notice shall be amended by replacing the note: <i>The applicant has not visually shown the required 136 long-term bicycle parking spaces; as such, further variances may be required.</i> <i>With:</i> <i>The applicant has not visually shown the minimum required short-term and long-term bicycle parking spaces; as such, further variances may be required.</i></li> <li>• The Notice shall be amended by removing the following Note: <i>The applicant has requested variances to the new proposed regulations under By-laws 24-051; however, please note that the additional requested variances are not required as this development is covered by the Transitional Clause per Policy ZON-065.</i></li> </ul>



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## COMMITTEE OF ADJUSTMENT

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

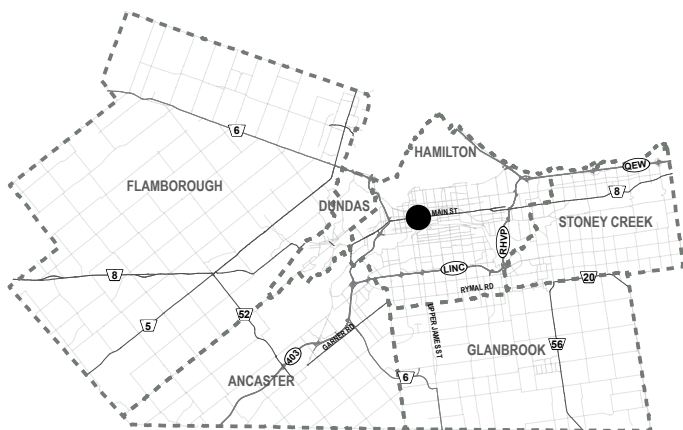
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	<ul style="list-style-type: none"><li>• If a portion of the underground parking lot projects off-site into the proposed road widening along Main Street East., further variances shall be required.</li><li>• Please be advised that the Electric Vehicle Parking requirements under By-law 24-052, remain under appeal and are not covered under Section 1.12 of the “Transitional Provisions” of the Hamilton Zoning By-law 05-200. At present, a review of the Electric Parking requirements has not been included in the following zoning chart. If the remaining portions of By-law 24-052 become final before issuance of a building permit, the Electric Vehicle Parking requirements will be applicable upon review for such building permit.</li><li>• The variances are required to facilitate Site Plan Control Application DA-17-067.</li></ul>
Notes:	



● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property



64 Main Street East, Hamilton  
(Ward 2)

File Name/Number:  
A-24:109

Date:  
September 26, 2024

Technician:  
SH

Scale:  
N.T.S.

Appendix "A"



**Hamilton**