




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2025
SUBJECT/REPORT NO:	Minister's Zoning Order Request for Twenty Road West and Airport Employment Growth District Lands (PED25046)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Charlie Toman (905) 546-2424 Ext. 5863 Melanie Pham (905) 546-2424 Ext. 6685 Neil Stoop (905) 546-2424 Ext. 5764
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the City of Hamilton oppose the request for Mayoral support for the proposed Minister's Zoning Order request submitted by the Upper West Side Landowners Group attached as Appendix A to Report PED25046;
- (b) That the Director of Planning and Chief Planner be authorized and directed to submit a letter to the Upper West Side Landowners Group, copying the Ministry of Municipal Affairs and Housing, confirming the City's opposition to the proposed Minister's Zoning Order request, and attaching the rationale provided in this report; and,
- (c) That should the Ministry of Municipal Affairs and Housing consider the Minister's Zoning Order request attached as Appendix A to Report PED25046, this report will form the basis of staff's submission on any Environmental Registry of Ontario posting.

EXECUTIVE SUMMARY

On December 17, 2024, the Upper West Side Landowners Group submitted a request to Mayor Horwath requesting the City's support of a proposed Minister's Zoning Order request to the Minister of Municipal Affairs and Housing, to allow the development of approximately 5,000 new residential dwellings and between 4-5 million square feet of employment uses. As part of the request, the applicant has stated that up to 10% of the total dwelling units (up to 500 units) would be affordable, in accordance with a signed Memorandum of Understanding with Habitat for Humanity Hamilton. The letter to the Mayor and proposed Minister's Zoning Order request to the Province is attached as Appendix A to Report PED24046.

The requested Minister's Zoning Order would constitute both an urban boundary expansion of approximately 90 hectares as well as the conversion of approximately 99 hectares of employment lands within the Airport Employment Growth District Secondary Plan to residential and other uses. Appendix B to Report PED25046 overlays the proposed Minister's Zoning Order with the current zoning.

The lands are subject to multiple Official Plan Amendment applications by the same proponent which are currently under appeal at the Ontario Land Tribunal. The status of these applications is summarized in the background section of this report. The proposed Minister's Zoning Order differs from what is proposed through these applications. Staff note that the Upper West Side Landowners Group has submitted several iterations of a community plan in recent years resulting in a lack of clarity on what is proposed.

Staff have concerns with the proposed Minister's Zoning Order including maintaining the City's firm urban boundary growth strategy, preservation of significant employment lands and future employment growth in the Airport Employment Growth District Secondary Plan, land use conflicts between proposed residential uses on the subject lands and the Hamilton International Airport, infrastructure system capacity and delivery, and protection of natural heritage features.

Staff recommend that Council oppose the Minister's Zoning Order request which circumvents existing applications and removes opportunities for a full review and consideration of applications under appeal by City staff and Council, external review agencies, Indigenous communities, the public and the Ontario Land Tribunal.

Alternatives for Consideration – See Page 20

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Should the requested Minister's Zoning Order be approved by the Province the City would need to reevaluate and potentially complete new land use studies within and surrounding the subject lands.

Staffing: N/A

Legal: There is an existing appeal before the Ontario Land Tribunal requesting that substantially the same lands under the Minister's Zoning Order be added to the City's urban boundary via an Official Plan Amendment. Council and staff should be aware that the contents of this report, any public comments by Council or staff, and submissions to an Environmental Registry of Ontario posting would form part of the public record and may be referenced in the hearing on the Official Plan Amendments. Any discussion of the existing appeals as they relate to the Minister's Zoning Order request should be considered in camera.

HISTORICAL BACKGROUND

Minister's Zoning Order

The Minister of Municipal Affairs and Housing has full discretion to decide whether to consider and approve or deny a Minister's Zoning Order request. The Province has a zoning order framework which states that Minister's Zoning Order requests will be considered if it meets one of two criteria;

- It delivers on a provincial priority that is supported by a minister; or,
- Is supported by the municipality through Council resolution or letter from the Mayor where strong mayor powers have been designated.

The province can approve a Ministers Zoning Order even if it does not comply with a local Official Plan or the Provincial Planning Statement. This means that the Ministry of Municipal Affairs and Housing may consider and approve the request without municipal support. As of the date of drafting this report staff from the Ministry have confirmed that they have not received the Minister's Zoning Order request from the Upper West Side Landowners Group.

Planning Applications submitted for the Subject Lands

Over the past two decades there have been several Official Plan Amendment applications and Ontario Land Tribunal appeals considered respecting the subject

lands. A detailed chronology of past planning decisions and applications is included in Appendix D to Report PED25046. Recent applications relevant to the current Minister's Zoning Order Request include:

1.1 Urban Boundary Expansion Applications

On August 12, 2020, three Official Plan Amendment applications (UHOPA-20-018, UHOPA-20-019 and UHOPA-20-20) were submitted to expand Hamilton's urban boundary to include parts of the subject lands. In addition, the applications proposed to amend the City's Noise Exposure Forecast (NEF) contour policies to allow sensitive land uses under 30+ NEF whereas the City's Urban and Rural Hamilton Official Plans restrict sensitive land uses to under 28+ NEF. At the time of submission, the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe limited privately initiated urban boundary expansion applications to under 40 hectares.

Shortly after the adoption of Bill 185 by the Province, which enabled appeals on urban boundary expansion applications, the applicant appealed these three applications to the Ontario Land Tribunal for lack of decision. This appeal was discussed in Report PED24142 which was received by Planning Committee on July 9, 2024. City Council subsequently provided direction to oppose the applications at the Ontario Land Tribunal on November 27, 2024. A merit hearing is yet to be scheduled.

1.2 Upper West Side Secondary Plan Application

Following the expansion to the urban boundary which occurred in November 2022 (which was later reversed by Bill 150 in December 2023), a policy framework and Secondary Plan Guidelines for Urban Expansion Areas were developed to establish requirements for the creation of a Secondary Plan, for any area designated as "Urban Expansion Area" within the Urban Hamilton Official Plan. Council approved the policy framework and Guidelines on July 14, 2023 (PED23144).

An Official Plan Amendment application to establish a new Secondary Plan over most of the subject lands was subsequently submitted by the Upper West Side Landowners Group in November of 2023. The City deemed the application incomplete, and the proponent appealed the City's decision to deem the application incomplete on January 18, 2024. A merit hearing has not yet been scheduled for the Ontario Land Tribunal to make a ruling on whether the application is complete.

1.3 Official Plan Amendment Application to Remove Firm Urban Boundary Growth Policies

An Official Plan Amendment application submitted on March 21, 2024, requested to, among other things, remove the City's firm urban boundary expansion growth strategy by decreasing the City's intensification target from 80% to 60%, and proposed to amend the City's NEF Contour polices to not allow sensitive land uses below 30+ NEF instead of 28+ NEF. The application was deemed incomplete, and the applicant appealed the City's decision to deem the application incomplete on April 9, 2024. A merit hearing is yet to be scheduled.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Planning Act

Section 47 of the *Planning Act* enables the Minister of Municipal Affairs and Housing to issue Zoning orders which supersede municipal Zoning By-laws. Under this authority, the Minister can make orders that do not comply with the Provincial Planning Statement, Provincial Plans, and municipal Official Plans. Section 47 also provides power to the Minister to, by order, issue draft plan of subdivision approval and to exempt specific lands from Site Plan Control and/or require landowners to enter into development agreements with a municipality respecting a specific development. Decisions made by the Minister under Section 47 cannot be appealed to the Ontario Land Tribunal.

Provincial Planning Statement, 2024

The Provincial policy framework is established through the *Planning Act* (Section 3) and the Provincial Planning Statement. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Planning Statement; however, as discussed above Minister's Zoning Orders do not have to be consistent with the Provincial Planning Statement.

The following Provincial Planning Statement policies relate to the proposed Minister's Zoning Order:

- "2.1.3 At the time of creating a new official plan and each official plan update, sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of at least 20 years, but not more than 30 years, informed by provincial guidance. Planning for infrastructure, public service facilities, strategic growth areas and employment areas may extend beyond this time horizon.

Where the Minister of Municipal Affairs and Housing has made a zoning order, the resulting development potential shall be in addition to projected needs over the planning horizon established in the official plan. At the time of the municipality's next official plan update, this additional growth shall be incorporated into the official plan and related infrastructure plans."

The Urban Hamilton Official Plan implements a firm urban boundary growth strategy to accommodate the City's forecasted population, household and employment growth to the year 2051 primarily through redevelopment and intensification of the built up area. The proposed Minister's Zoning Order would allow the development of approximately 5,000 additional dwelling households, resulting in Hamilton's forecasted household growth increasing from 332,800 by 2051 to 337,800.

Staff have reviewed the requested Minister's Zoning Order against the Provincial Planning Statement and have identified several potential conflicts and/or inconsistencies with the following sections (amongst others):

- Settlement area expansion (2.3.2);
- Rural areas (2.5);
- Employment areas (2.8.2);
- Infrastructure and public service facilities (3.1);
- Airport, rail and marine facilities (3.4);
- Land use compatibility (3.5);
- Sewage, water and stormwater (3.6);
- Natural heritage (4.1);
- Water (4.2); and,
- Engagement with Indigenous communities (6.2.3), the public (6.2.4) and school boards (6.2.5).

The above Provincial Planning Statement policies are provided in Appendix E to Report PED25046.

Rural Hamilton Official Plan

As illustrated in Appendix G to Report PED25046, the requested Minister's Zoning Order proposes urban residential and commercial lands on lands designated Rural and Open Space on Schedule D in the Rural Hamilton Official Plan.

The Rural Hamilton Official Plan states the Rural designation is classified as having lower capability for agriculture due to a range of factors; however, the intent of the Official Plan is to protect and maintain agricultural uses as the primary and predominant

land use and to protect farm operations from incompatible forms of development to preserve these lands for agricultural use. Neither of these designations allow urban uses; however, as discussed Minister's Zoning Orders do not have to comply with local Official Plans.

The requested Minister's Zoning Order does not include three properties that front onto Twenty Road West and numerous landlocked parcels of land east of Glancaster Road and abutting the requested Minister's Zoning Order lands. If the requested Minister's Zoning Order is approved, these lands would remain designated Rural in the Rural Hamilton Official Plan.

Urban Hamilton Official Plan

As illustrated in Appendix G to Report PED25046, the requested Minister's Zoning Order proposes residential uses on lands designated Employment Areas in Schedule E – Urban Structure, and designated Airport Employment Growth District on Schedule E-1 of the Urban Hamilton Official Plan.

The general intent of Employment Areas in the Urban Hamilton Official Plan is to be the primary employment generators in the City and the location of diverse areas of employment. Furthermore, Policy E.2.8.2 of the Urban Hamilton Official Plan states that "Employment Areas shall provide for a diverse range of employment opportunities in proximity to the City's major infrastructure including the Port, the Airport, and the highway and transit network." The Urban Hamilton Official Plan states that conversion of employment lands to non-employment uses may only be considered through a Municipality Initiated Comprehensive Review.

As discussed in this report the requested Minister's Zoning Order does not comply with several policies of the Urban Hamilton Official Plan, including the Employment Area policies.

Airport Employment Growth District Secondary Plan

The Airport Employment Growth District Secondary Plan guides development on 1,204 hectares of land in the vicinity of the John C. Munro Airport to provide for a major business park development. The intent of the Secondary Plan is to ensure future development:

“effectively integrates with and complements the existing John C. Munro Hamilton International Airport; effectively integrates with the residential development abutting Garner Road/ Twenty Road; recognizes and allows for certain land uses to continue until such time that they are developed; as well as

respects and enhances the prominent natural areas throughout the Secondary Plan Area.”

The creation of the Airport Employment Growth District Secondary Plan was supported by studies and community engagement based on the underlying assumption that the prevailing land use within the Secondary Plan area would support employment uses that compliment and integrate with the airport, and that residential uses, over the long term, would be phased out of the employment areas. The proposed Minister's Zoning Order does not align with the vision of the Airport Employment Growth District Secondary Plan and additional residential land uses were not considered in supporting studies such as the Airport Employment Growth District Transportation Master Plan and the Storm Water Master Plan.

As illustrated in Appendix B to Report PED25046, the requested Minister's Zoning Order proposes to establish residential uses on lands within the Secondary Plan area currently designated for Business Park uses. The lands subject to the proposed Minister's Zoning Order which are part of the Secondary Plan are designated Airport Light Industrial, Airport Prestige Business and Natural Open Space.

Hamilton International Airport Master Plan

On October 25, 2023, City Council approved the John C. Munro Hamilton International Airport 2023-2043 Master Plan which provides a 20-year vision for the development of the airport and establishes a development concept that supports its long term operational and business objectives. The Airport Master Plan serves as a planning framework and management tool to assist airport management in making informed and strategic decisions about the need and timing for infrastructure improvements over the horizon of the Master Plan, while protecting land for future growth and development.

The Master Plan identifies the future extension of Runway 06-24 by up to 914 metres (3,000 feet) towards the southwest and 152 metres (500 feet) towards the northeast to provide redundancy and flexibility in the use of runway 12-30 as well as enable unrestricted utilization of larger aircraft including the Boeing 737-800. The Master Plan includes updated NEF contours that reflect, among other changes, this extension, which is illustrated in Appendix C to Report PED25046 and increases the area of land above both 28+ and 30+ NEF contours. The Airport Master Plan recommends that the City maintain its position of using NEF 28 contours to restrict residential development. The 28+ NEF contour is more restrictive than the 30+ NEF contour which is a required provincial threshold.

It is important to note that both the City's Urban and Rural Hamilton Official Plans have not been updated yet to reflect these new contours, but an Official Plan Amendment is

planned once there is more clarity around the timing of the implementation of the capital improvements to the Airport. In the meantime, the Airport Master Plan states that the City needs to also consider the new NEF contours when assessing land use planning matters near the airport. The proposed residential land uses within the Minister's Zoning Order conflict with the Airport Master Plan.

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

The requested Minister's Zoning Order includes lands currently zoned Rural (A2) Zone, Open Space (P4) Zone, Conservation / Hazard Land (P5) Zone, Airport Light Industrial (M10) Zone and Airport Prestige Business (M11) Zone under City of Hamilton Zoning By-law No. 05-200. There are also several Holding Provisions and special exceptions that apply to these lands.

As illustrated in Appendix B to Report PED25046, the proposal is to rezone the lands to a mix of Low Density Residential – Small Lot (R1a) Zone, Mid-Rise Residential (R3) Zone, and Mixed Use High Density (C4) Zone and to expand the amount of land zoned Conservation/Hazard (P5) Zone.

Staff have reviewed the proposed zoning regulations for these lands (see Appendix A to Report PED25046) against Zoning By-law No. 05-200 regulations and identified several modifications. With respect to the proposed Small Lot Residential (R1a) Zone, modifications are proposed to several existing zoning regulations to allow more intensive residential development, including:

- Decreasing the minimum lot area for Single Detached, Duplex and Triplex Dwellings from 270 m² to 220 m²;
- Decreasing the minimum side yard setback for Single Detached, Duplex and Triplex Dwellings from 1.2 m to 0.6 m;
- Decreasing the minimum rear yard setback for Single Detached, Duplex and Triplex Dwellings from 7.5 m to 6 m;
- Increasing the maximum building height for Single Detached, Duplex Dwelling, Triplex and Street Townhouses Dwellings from 10.5 m to 13 m;
- Decreasing the minimum lot width for Street Townhouses Dwellings from 6 m to 4.8 m; and,
- Decreasing the minimum lot area for a Street Townhouse Dwelling from 180 m² to 96 m².

With respect to the proposed Conservation / Hazard Land (P5) Zone, "Non-motorized Pedestrian Trails" has been proposed as an additional permitted use. City of Hamilton Zoning By-law No. 05-200 limits permitted uses within this zone to "Conservation of land", "Flood and Erosion Control Facilities", and "Passive Recreation". The new use is

not defined in the proposed Minister's Zoning Order and Planning staff have concerns with the potential for this use to negatively impact natural heritage features, without a clear understanding of what will be proposed.

The proposed Mid-Rise Residential (R3) Zone does not exist within City of Hamilton Zoning By-law No. 05-200. The lands proposed to be zoned Mixed-Use High Density (C4-1) only permits low density residential uses and a Supermarket / Grocery Store which does not align with the intent of the C4 Zone in City of Hamilton Zoning By-law No. 05-200.

The proposed Minister's Zoning Order also does not include any Holding Provisions. The existing Airport Light Industrial (M10) and Airport Prestige Business (M11) Zones within the Airport Employment Growth District are subject to Holding Provision 47 under City of Hamilton Zoning By-law No. 05-200 which requires the lands have access to adequate municipal water, wastewater, and transportation infrastructure in accordance with the respective master plans approved for the Airport Employment Growth District.

When a Zoning By-law Amendment application is made to the City seeking modifications to the City's standard zoning regulations, Planning staff require justification which can include development concepts, engineering drawings and urban design reports to demonstrate that the modifications are desirable and comply with the City's Official Plan. In addition, Planning staff work with an applicant to make refinements to their proposed Zoning By-law Amendment to ensure any modification does not conflict with existing standards to avoid compliance issues at the Site Plan or Building Permit stage. No justification was provided in the proposed Minister's Zoning Order and if the requested Minister's Zoning Order is approved, Planning staff anticipate future issues interpreting and applying these zoning regulations.

RELEVANT CONSULTATION

City Departments

Staff from within Planning, Economic Development, Housing Secretariat, Growth Management, Climate Change Initiatives, Transportation Planning, Public Works and Legal Services were consulted in the drafting of this report, recommendations, and appendices.

Ministry of Municipal Affairs and Housing

City staff have contacted Ministry of Municipal Affairs and Housing staff and confirmed that as of the writing of this report the Upper West Side Landowners Group had not submitted its Minister's Zoning Order request.

Public Notification and Comments

The Draft Framework for Processing and Evaluating Urban Boundary Expansion applications directs the City to notify interested residents of privately initiated urban boundary expansion applications and to share application material on the City's webpage. In keeping with this direction, staff sent an e-mail to residents who had requested to be notified of urban boundary expansion matters and provided information on the Minister's Zoning Order request on the City's website. Should the Ministry of Municipal Affairs and Housing make a posting on the Environmental Registry of Ontario seeking comments on this Minister's Zoning Order request, staff will direct the public to make any submissions directly to the Province through the Registry.

In response to media reports of the Minister's Zoning Order request, the City Clerk has received 20 e-mail submissions (see Appendix F to Report PED25046). All written submissions are opposed to the request, raising concerns including that:

- The urban expansion is not necessary to meet Provincial housing targets which can be accommodated within the urban boundary;
- Urban boundary expansion will contribute to the City's infrastructure deficit and will increase property taxes;
- The proposed urban boundary expansion will negatively impact the City's farmland; and,
- City Council has previously voted no to urban boundary expansions.

Indigenous Consultation

The applicant invited local Indigenous communities to a neighbourhood meeting in 2023 for the Secondary Plan application. It is staff's opinion that this consultation is insufficient as there were no direct conversations with Indigenous communities and the zoning in the proposed Minister's Zoning Order differs from the Secondary Plan application. Staff also note that the Secondary Plan Guidelines required further consultation steps associated with the planning process that were not completed.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

City staff have reviewed the requested Minister's Zoning Order and have identified several issues should the proposed Minister's Zoning Order be approved, which are outlined below.

In considering these issues, it is important to note that the proponent's requested Minister's Zoning Order map does not match what was included in their Secondary Plan

application, meaning that the studies submitted in support of the Secondary Plan do not align with the proposed zoning. Discrepancies between the two plans include:

- The Minister's Zoning Order request does not include any neighbourhood or community parks;
- The Minister's Zoning Order request does not include two elementary school sites; and,
- Residential land uses within the Secondary Plan are predominantly medium density with 7,463 total dwellings, whereas the Minister's Zoning Order is predominantly low density with approximately 5,000 total dwellings.

2.1 By-passes Current Planning Applications and Processes

As discussed in the background section and Appendix D to Report PED25046, the Upper West Side Landowners Group has submitted several planning applications to the City that are at varying stages of review, including appeals to the Ontario Land Tribunal. The requested Minister's Zoning Order would circumvent these applications, removing formal required public meetings under the *Planning Act*, and reducing the opportunities for a full review and consideration of the development by City staff and Council, external review agencies, Indigenous communities, the public, and Ontario Land Tribunal.

The size of the requested Minister's Zoning Order and impacts to the City's growth policies including the Airport Growth Employment District Secondary Plan should not be understated. Establishing a new residential community in the proposed manner through a Minister's Zoning Order does not represent good community planning or city building.

2.2 Conflicts with City's Firm Urban Boundary Growth Strategy

The requested Minister's Zoning Order would allow urban development of approximately 90 hectares of land currently designated "Rural" and "Open Space" in the Rural Hamilton Official Plan, resulting in an urban boundary expansion.

City Council has approved a firm urban boundary expansion growth strategy in the Urban Hamilton Official Plan and the City is actively implementing land use policy and zoning changes, incentive programs, and process improvements to meet the City's housing needs within the existing urban boundary.

The requested Minister's Zoning Order conflicts with the City's growth strategy, redirecting residential development away from the City's built-up area through residential intensification to a new greenfield area outside of Hamilton's urban boundary.

Delivery of Affordable Housing

The applicant is proposing that up to 10% (500 units) of affordable dwellings within the requested Minister's Zoning Order lands which is significant in building a healthy housing continuum. For context, the City's Housing Sustainability and Investment Roadmap has a goal of 350 new affordable market rental units each year (there is no target in place for affordable home ownership).

However, based on the information provided with the requested Minister's Zoning Order, staff have concerns that there is no mechanism in place to ensure that the 10% affordable dwellings proposed are delivered. Specifically:

- The applicant's submission states that an accompanying agreement to the Minister's Zoning Order request has been prepared to be signed by Upper West Side Landowners Group and the City of Hamilton in exchange for the City supporting the request; however, no agreement was included in the submission; and,
- There are no requirements written into proposed Minister's Zoning Order development regulations establishing minimum (or maximum) affordability requirements. Staff note that Section 47 of the *Planning Act* provides the Minister with the power to require inclusionary zoning policies as part of a Minister's Zoning Order.

In addition, staff note that a copy of the Memorandum of Understanding between the Upper West Side Landowners Group and Habitat for Humanity Hamilton offering first right of refusal to purchase a minimum of 2% (100 units) has not been provided.

It is important to note that the City plans for and secures different housing types and tenures across the housing continuum through *Planning Act* approvals, incentive programs, and partnerships that align with and support the City's planning goals and objectives. Development of affordable housing should not be an either/or proposition.

2.3 Loss of Strategically Important Employment Lands and Impacts to the Airport Employment Growth District Secondary Plan.

Our Future Hamilton, the City of Hamilton's 25 year community vision, has six priorities. Economic Prosperity and Growth is one of the priorities. It speaks to employment, in particular, "Employment Opportunities"; stating that the City should "Inspire diverse employment opportunities in Hamilton so people can work locally rather than commute to a job in another city".

The Land Needs Assessment completed by Lorus and Associates as part of the City's Growth Related Integrated Development Strategy (GRIDS2) process found that the City

had an anticipated approximately 60 hectare surplus of employment lands to the year 2051. Through Reports PED17010(k) and PED17010(p), Council approved the conversion of 58.9 hectares of designated employment lands to community uses, effectively consuming the identified surplus.

It is important to note that the Land Needs Assessment was based on the previous Provincial Policy Statement and Growth Plan (including its employment forecast for Hamilton). As discussed in Report PED24203, the City will need to undertake a comprehensive review and update to its employment land policies and mapping in response to the new Provincial Planning Statement and Bill 97 which changed the definition of what constitutes an 'Area of Employment'. Generally, these legislative changes make it more challenging for the City to designate and protect lands for employment uses.

The requested Minister's Zoning Order would directly result in the loss of approximately 99 hectares of employment zoned lands within the Airport Employment Growth District Secondary Plan. The expansion of residential land uses into the Airport Employment Growth District also has the potential to limit future employment growth within the surrounding areas by creating new land use compatibility issues in the remaining Airport Employment Growth District.

The submission states that the proposed Minister's Zoning Order would result in approximately 4 to 5 million square feet (approximately 370,000-470,000 square metres) of employment space. Staff dispute this estimate as the lands within the proposed Minister's Zoning Order include only 13.97 hectares (139,700 square metres) of land designated for employment uses, which is less than the stated amount of potential new buildable employment floor area. There is also no zoning proposed for these lands which indicates it may be a mapping error in the proposed Minister's Zoning Order request. It is unclear if the applicant is referring to existing designated employment lands located outside of the subject lands.

If approved, it is anticipated that the conversion would negatively impact the City's ability to accommodate forecasted employment land needs to the year 2051.

2.4 Orderly Development & Land Use Compatibility Issues

Staff have reviewed the proposed Minister's Zoning Order map prepared by the Upper West Side Landowners Group and have identified several issues with the land use plan that do not support orderly development and create land use compatibility issues between employment and residential uses. Generally, it appears that the lands within the requested Minister's Zoning Order are based on whether the current landowners are participating as part of the landowner's group, with other properties being excluded.

This does not represent good community planning and would create several challenges including with the coordination and development of supporting infrastructure should the Minister's Zoning Order be approved.

In addition, staff have concerns with the lack of Holding Provisions in the proposed Minister's Zoning Order request which, if approved by the Province, would not allow the City to achieve orderly staging of development including ensuring adequate infrastructure and community services and facilities are available to support new development. Current zoning for the lands within the Airport Employment Growth District includes Holding Provisions.

2.5 Impact on Natural Heritage Systems

Included in the proposed submission is a Subwatershed and Stormwater Management Overview Report and Environmental Impact Study from November 2023 which were submitted to the City as part of the Secondary Plan application which was deemed incomplete and therefore never reviewed. As noted earlier, the Secondary Plan application does not match the proposed Minister's Zoning Order.

The following preliminary issues have been identified by natural heritage staff with the 2023 Environmental Impact Statement (EIS):

- **Wetland compensation:** Unevaluated wetlands have been observed within the Study area and the EIS focuses on off-setting/compensating these wetlands to create a consolidated Natural Heritage System. This approach does not consider the intent of natural heritage policies within the Provincial Planning Statement or City Official Plans which supports preserving and enhancing habitat that currently exists (including connectivity and functionality) for the long-term.
- **Timing of surveys:** Field inventories have been completed between 2018 and 2020 to characterize the features and their functions. Based on the City's Council adopted EIS Guidelines (revised March 2015), surveys are to be updated if they are more than 5 years old.
- **Existing Natural Heritage System:** The current Natural Heritage System has not been taken into consideration as features have been proposed to be removed/realigned/recreated to create a new natural heritage system.
- **No Negative Impact Test:** Any development or site alteration must demonstrate that it does not negatively impact natural heritage features or their functions. Based on the Concept Plan provided within the EIS, several features/functions will be impacted (altered or removed). This may result in:
 - Loss of canopy cover (vegetation will be removed, creating new gaps);
 - Fragmentation of the features and their functions;
 - Creation of new edges to increase vulnerability to invasive species;

- Decreased biodiversity;
- Wildlife habitat loss; and,
- Further human disturbance (encroachment, dumping, greater exposure to wildlife to predation by pets).

Natural heritage staff have also advised that the 2023 Subwatershed Study and Stormwater Master Plan provided is not based on an approved Terms of Reference and appears to be missing a number of items required under the Urban Hamilton Official Plan including characterization studies (i.e., aquatic habitat, terrestrial surveys, water quality), goals and objectives of the Plan, a recommended Subwatershed Plan, and an implementation and monitoring plan overview report.

A Minister's Zoning Order process does not provide an opportunity for the City and external review agencies like Niagara Peninsula Conservation Authority to discuss and collaborate to resolve issues, meaning that if the Minister's Zoning Order is approved natural heritage areas will not be appropriately zoned and protected from development.

2.6 Lack of Community Amenities and Schools

The requested Minister's Zoning Order does not include any parkland or school sites to support the approximately 5,000 new residential dwellings proposed. This does not comply with the Urban Hamilton Official Plan Open Space policies to establish and maintain an integrated parks and recreation system to contribute to achieving environmental, social, economic, health and aesthetic benefits for Hamilton residents.

This also conflicts with the Upper West Side Landowner's Group Secondary Plan application which had identified two elementary school sites, three neighbourhood parks and one community park. If approved, the Minister's Zoning Order would be applicable law for any building permit application submitted within the subject lands, which means that even if the applicant states in their submission to the Province that their intent is to provide public parks and school sites, the requested zoning would not compel them to do so.

The Hamilton Wentworth Catholic District School Board had commented on the applicant's 2020 urban boundary expansion applications that one new elementary school would be required to support residential development of the lands. No comments were provided at that time from the Hamilton Wentworth District School Board. Staff note that the urban boundary expansion application did not include residential development within the Airport Employment Growth District Secondary Plan area.

2.7 Impacts to the Operation and Future Expansion of the Hamilton International Airport

The requested Minister's Zoning Order to allow residential uses in proximity of the airport and to allow sensitive land uses up to 30+ NEF contours instead of 28+ NEF contours currently required would have the potential to negatively impact the Hamilton International Airport's current operations and future expansion plans. The recently approved Hamilton International Airport Master Plan proposes expansions to the airport's runways which would result in the subject lands being more impacted by noise from aircraft. This means that approval of the requested Minister's Zoning Order would directly conflict with and potentially restrict the Airport's future expansion plans.

The Hamilton International Airport and Tradeport have previously commented that allowing residential development above the 28 NEF contour could negatively impact the Airport's ability to maintain and grow its position as a gateway hub for logistics, distribution and goods movement, such as limiting its key strategic advantage as a 24/7 unrestricted cargo airport.

The Hamilton International Airport had also previously commented that it was not in favour of the applicant's 2020 urban boundary expansion applications as they were incompatible with current and future growth plans and operations. Staff note that the requested Minister's Zoning Order would allow residential uses closer to the airport than what was submitted in the 2020 applications.

2.8 Impact on Implementation of Hamilton's Climate Action Strategy

Hamilton's Climate Action Strategy is a community-wide strategy that includes the Community Energy and Emissions Plan (focused on mitigation via greenhouse gas emission reductions), and the Climate Change Impact Adaptation Plan (focused on adapting to the climate impacts already emerging in our community). These plans were built on technical modelling used to establish targets and corresponding actions to realize the Strategy's overarching goal of creating a climate resilient community that achieves net zero carbon by 2050 or sooner. The Strategy was approved by City Council in August 2022.

The proposed development will hinder the successful implementation of Hamilton's Climate Action Strategy. The Strategy's modelled pathway to net zero relies on building higher density communities (for instance, by 2050, limit to 20% the number of single-detached homes in Hamilton's housing stock) which, in turn, supports the creation of more complete communities with population levels that can support core amenities close to residents. This shift to higher density neighbourhoods also avoids the need to expand the urban area into surrounding farmland and natural areas / open spaces,

ensuring that these areas continue to provide prime agricultural land for local food production, natural attenuation of stormwater flows, and local species habitat and other ecosystem services essential to enhancing local climate resilience.

Modelled targets also include increasing transit use to 15% of trips by 2050 and supporting a shift to walking and biking for 50% of short trips in the urban area by 2050. Modelling also assumes a decline in private vehicle trips by 9% relative to 2016 per person by 2050, and a decrease in vehicular trip length by 6% from 2016 levels by 2050. These transportation-related targets require building higher density neighbourhoods that are connected to existing public transit and active transportation networks.

2.9 Water and Wastewater Servicing Infrastructure Capacity

The proposed Minister's Zoning Order request has referenced a Water and Wastewater Servicing Overview Report and Subwatershed and Stormwater Management Overview Report all completed in 2023 and submitted to the City as part of the Upper West Side Secondary Plan application which was deemed incomplete. As it was incomplete, the supporting materials have not been reviewed by City staff, and as discussed in this report, the requested Minister's Zoning Order plan does not align with the Secondary Plan application.

In response to the proposed Minister's Zoning Order request, Growth Management staff have undertaken a preliminary review of the proposal and, in addition to flagging discrepancies between the proposed Minister's Zoning Order and technical submissions made in support of the Secondary Plan application, have identified the following concerns and issues:

- The impact of growth in the subject area on available capacity in the water and wastewater systems that is currently allocated to intensification within the current urban boundary;
- Approving the Minister's Zoning Order in this area may trigger the need for significant upgrades to downstream sanitary sewer infrastructure to ensure planned intensification can proceed to 2051, as well as surrounding water infrastructure in the pressure district; and,
- The determination of cost allocation of upgrades normally attributed to Development Charges would be complex given Council's recent adoption of the 2024 Development Charge By-Law which stipulates: "Downstream and/or upstream water and wastewater infrastructure located within Urban Area A (current urban area) required to support development within Urban Area B (any new areas added to the urban boundary) would be a direct developer responsibility".

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.

2.10 Transportation and Transit

In support of the proposed Minister's Zoning Order request, the applicant has referenced a Master Transportation Study completed in 2023 and submitted to the City as part of the Secondary Plan application which was deemed incomplete.

Transportation Planning have undertaken a preliminary review of the proposal and have identified the following high-level concerns and issues:

- The addition of low-density housing in this area without a pathway to provide transit service contributes to increased auto-dependency and vehicle-kilometres travelled, which is an inefficient transportation system;
- The interface between residential and employment uses creates potential conflicts with trucks and a new community, including along the western portion of Collector 6N and Garth Street;
- Nothing submitted identifies the phasing of improvements and enhancements to support the proposed urban boundary expansion; and,
- Most of the infrastructure identified in the plan is new infrastructure. The feasibility of connecting to Twenty Road West, as well as the expansion of that roadway has not been clearly addressed given the constraint of the hydro corridor running parallel to this roadway, as well as natural heritage constraints near Upper James Street.

City of Hamilton Transit staff have also reviewed the proposal and note that while Hamilton Street Railway's (Re)Designed network is not yet approved, new and extended routes planned for the surrounding area will require further investment for extensions along Garth Street, Glancaster Road, Dickenson Road, and the new east-west street bisecting the parcel. An estimated 12,000 additional annual service hours will be required to divert routes in the area to serve the neighbourhood as designed. Using a recent Canadian Urban Transit Association operating factor, this represents approximately \$1.5 million (2023\$) in additional operating costs each year.

Next Steps

Should the recommendations of this report be approved, the Director of Planning and Chief Planner will send a letter to the Upper West Side Landowners Group, copying the Ministry of Municipal Affairs and Housing, stating the City's objection to the request for a proposed Minister's Zoning Order.

Should the Upper West Side Landowners Group still decide to submit a Minister's Zoning Order request to the province, this report will form the basis of staff's submission on any Environmental Registry of Ontario posting. Staff will provide Council with a

briefing note and Communication Update upon any Environmental Registry of Ontario postings.

ALTERNATIVES FOR CONSIDERATION

Council can choose to pass a motion providing support for the requested Minister's Zoning Order. This option is not recommended based on the number of issues identified by staff with the proposal.

Should Council direct staff to proceed with this option, staff recommend that the City first pursue confirmation of the details of the agreement referenced in the Upper West Side Landowners Group submission respecting the provision of affordable housing to ensure that commitment from the applicant is delivered upon.

APPENDICES AND SCHEDULES ATTACHED

- Appendix A to Report PED25046 – Upper West Side Landowners Group Mayor Request Package
- Appendix B to Report PED25046 – Requested Minister's Zoning Order Overlaid with Current Zoning
- Appendix C to Report PED25046 – NEF Contour Comparison
- Appendix D to Report PED25046 – Timeline of Planning Applications and Land Use Decisions
- Appendix E to Report PED25046 – Summary of Provincial MZO Framework and PPS Policies
- Appendix F to Report PED25046 – Public Emails
- Appendix G to Report PED25046 – Requested Minister's Zoning Order Overlaid with RHOP, Schedule D
- Appendix H to Report PED25046 – Requested Minister's Zoning Order Overlaid with UHOP, Schedule E

CT/NS/MP