



Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 16, 2024
SUBJECT/REPORT NO:	Appeal of Urban Hamilton Official Plan Amendment Application UHOPA-22-005 and Zoning By-law Amendment Application ZAC-22-012 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 200 Market Street and 55 Queen Street North, Hamilton (PED24055) (Ward 1)
WARD(S) AFFECTED:	Ward 1
PREPARED BY:	Alaina Baldassarra (905) 546-2424 Ext. 7421
SUBMITTED BY:	Steve Robichaud 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 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-22-005 and Zoning By-law Amendment application ZAC-22-012, which have been appealed for non-decision.

OUR Vision: To be the best place to raise a child and age successfully.

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

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

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INFORMATION

The subject property is municipally known as 200 Market Street and 55 Queen Street North (refer to Appendix “A” attached to Report PED24055). The subject property is approximately 0.79 hectares in area and is located on the west side of Queen Street North, on the south side of Napier Street and on the north side of Market Street. The subject lands have frontage on three public streets and are used as a surface parking lot.

The Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications were originally submitted by GSP Group Inc. c/o Brenda Khes on behalf of Hamilton Queen and Market Inc. on December 21, 2021, and deemed complete on January 19, 2022. The initial proposal was for a multiple dwelling with four towers (two 15 storeys and two 27 storeys) on a three storey podium with an outdoor rooftop amenity area. The proposed development included two levels of underground parking and three levels of podium parking for a total of 161 resident parking spaces, 152 visitor parking spaces and 56 commercial parking spaces.

A.J. Clarke and Associates Ltd. c/o Ryan Ferrari on behalf of Hamilton Queen and Market Inc., submitted revised Urban Hamilton Official Plan Amendment (UHOPA-22-005) and Zoning By-law Amendment (ZAC-22-012) applications on December 22, 2023, to permit a mixed-use multiple dwelling with a six to seven storey podium and two towers with a height of 41 and 39 storeys.

The appeal of the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment applications, filed by WeirFoulds LLP c/o Denise Baker, counsel for Hamilton Queen and Market Inc., was received by the City Clerk’s Office on January 19, 2024, 759 days after the receipt of the initial applications and 28 days after the December 22, 2023, submission, included as Appendix “C” attached to Report PED24055.

PROPOSED DEVELOPMENT

The revised proposal is for a mixed-use multiple dwelling with a six to seven storey podium and two towers with a height of 41 to 39 storeys, with 1,072 residential dwelling units, 1,012 square metres of commercial space, 324 parking spaces and 549 long term bicycle parking spaces. The proposed driveway entrance on Napier Street will provide access to the surface parking area and drop-off facilities, underground parking garage, loading area and waste facilities. Market Street will provide a secondary access for the

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30 parking spaces proposed within the podium. The development also includes lay-by parking proposed on Napier Street, Market Street and Queen Street North.

Urban Hamilton Official Plan Amendment Application

The subject property is identified as “Neighbourhoods” on Schedule E – Urban Structure and is designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. The proposed development is considered “High Density Residential” within the “Neighbourhoods” designation. The application was received and deemed complete prior to Ministerial approval of Official Plan Amendment No. 167, however, as per *Bill 150*, any decision must conform to the Official Plan in effect on November 4, 2022. As a result, the proposed development will require a site specific modification to Volume 1 of the Urban Hamilton Official Plan to permit a building height taller than the Niagara Escarpment.

The subject lands are located within the Strathcona Secondary Plan and are designated “High Density Residential” on Map B.6.6-1 Land Use Plan. Queen Street North is identified as a “Minor Arterial Road” and includes an “Existing Signed Bike Route” on Napier Street on Map B.6.6-2: Transportation Classification Plan.

The current “High Density Residential” designation permits a maximum building height of 10 storeys. The application is requesting a site specific modification to increase the maximum building height to 39 and 41 storeys. As per the designation, a maximum net residential density range shall be greater than 100 units per net hectare and not greater than 300 units per net hectare. The application is requesting a site specific modification to increase the net residential density to 1,375 units per hectare.

Zoning By-law Amendment Application

The subject lands are currently zoned “J/S-1208” (Light and Limited Heavy Industry, Etc.) District, Modified, and “E-3/S-1208” and “E-3/2-1208a” (High Density Multiple Dwellings) District, Modified, as shown on Appendix “A” attached to Report PED24055. Zoning By-law Amendment application ZAC-22-012 is proposing to change the zoning to a site specific Downtown Mixed Use – Pedestrian Focus (D2) Zone under Hamilton Zoning By-law No. 05-200.

A number of specific modifications are required to implement the proposed development, as shown on the Concept Plan in Appendix “B” attached to Report PED24055, including:

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- To identify a specified street to be deemed the Front Lot Line whereas for a corner lot the shorter lot line would be deemed the Front Lot Line;
- To reduce the minimum amount of required parking to 324 parking spaces whereas a minimum of 460 parking spaces are required;
- To require a minimum setback of 8.0 metres for any portion of a building 13.4 metres or less;
- To permit residential on the ground floor of Napier Street and Market Street whereas the By-law does not permit residential units on the ground floor except for the purposes of access, accessory office, and utility areas;
- To add a special figure to the Zoning By-law to identify the maximum building height and minimum setbacks for the proposed building; and,
- To require a minimum number of three bedroom units whereas there is no minimum requirement for three bedroom units.

Strathcona Neighbourhood Plan

The subject property is identified as “Medium Density Apartments” and “High Density Apartments” in the Strathcona Neighbourhood Plan. The proposed development would require an amendment to the Neighbourhood Plan modifying a portion of the property from “Medium Density Apartments” to “High Density Apartments”.

Issues identified through the circulation include:

- The proposed development does not comply with the policies of the Urban Hamilton Official Plan as follows:
 - The proposed building height exceeds the height of the Niagara Escarpment. Using the City of Hamilton Downtown Secondary Plan as a guide, given it measures the Escarpment height at Queen Street North, the maximum building height on the east side of Queen Street North is 190 metres at its highest point. As per the elevations submitted with the applications, the proposed height of the tallest tower is 229.96 metres which exceeds the height of the Niagara Escarpment;
 - A Visual Impact Assessment was not included in the resubmission package;
 - Compatibility with the surrounding neighbourhood due to the proposed height, building setbacks and limited landscaping;
 - Incomplete Wind Study which needs to address outstanding concerns with the proposed development;

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- Incomplete Sun/Shadow Study which must assess additional shadows to Victoria Park and Gary Hill Memorial Park. In addition, the Napier Street sidewalk does not obtain a minimum amount of three hours of sunlight as a result of the development;
- An illustration of the concrete bus landing pad to be constructed within the municipal right-of-way is required; and,
- The proposed podium is taller than the width of the road, which creates concerns with compatibility of the surrounding neighbourhood.

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 295 property owners within 120 metres of the subject lands on February 3, 2022. Pursuant to the City's Public Consultation Strategy Guidelines, the applicant held a Virtual Open House on March 22, 2022. A summary was not provided by the applicant with information regarding the attendance or concerns / comments received by attendees.

To date staff have received 35 submissions from the public for the initial proposal. Concerns identified include increased traffic, increased density, possible servicing impacts, compatibility with the surrounding neighbourhood, height and massing of the proposal, setbacks and publicly accessible greenspace, increased wind impacts on public spaces, increased crime, the number of parking spaces proposed for each residential unit mix of the building and additional shadowing in the neighbourhood.

The applicant has not undertaken additional Public Consultation for the revised submission received on December 22, 2023.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24055 – Location Map
Appendix "B" to Report PED24055 – Concept Plans and Building Elevations
Appendix "C" to Report PED24055 – Letter of Appeal

AB/sd