

## Ontario Land Tribunal

Tribunal ontarien de l'aménagement  
du territoire

**24-091-OLT Schedule "A"**

**24-092-OLT Schedule "B"**

**24-093-OLT Schedule "C"**

**24-094-OLT Schedule "D"**

**ISSUE DATE:** March 07, 2024

**CASE NO(S):**

OLT-22-004822

OLT-22-004724



**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:

1583123 Ontario Inc.

Subject:

Official Plan Amendment

Description:

To permit development of six-storey  
residential apartment building containing 116  
dwelling units

Property Address:

3064, 3070, 3078 and 3084 Regional Road  
56

Municipality/UT:

Hamilton

Municipal File No.:

UHOPA-22-023

OLT Case No.:

OLT-22-004822

OLT Lead Case No.:

OLT-22-004822

OLT Case Name:

1583123 Ontario Inc. v. Hamilton (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:

1583123 Ontario Inc.

Subject:

Zoning Bylaw Amendment

Description:

To permit development of six-storey  
residential apartment building containing 116  
dwelling units

Property Address:

3064, 3070, 3078 and 3084 Regional Road  
56

Municipality/UT:

Hamilton

Municipal File No.:

ZAC-22-050

OLT Case No.:

OLT-22-004823

OLT Lead Case No.:

OLT-22-004822

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1583123 Ontario Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the development of a five-storey residential apartment building and sixth-storey amenity space
Property Address:	3160, 3168, 3180 & 3190 Regional Road 56
Municipality/UT:	Hamilton
Reference Number:	UHOPA-22-024
OLT Case No.:	OLT-22-004724
OLT Lead Case No.:	OLT-22-004724
OLT Case Name:	1583123 Ontario Inc. v. Hamilton (City)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1583123 Ontario Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of a five-storey residential apartment building and sixth-storey amenity space
Property Address:	3160, 3168, 3180 & 3190 Regional Road 56
Municipality/UT:	Hamilton
Reference Number:	ZAC-22-051
OLT Case No.:	OLT-22-004725
OLT Lead Case No.:	OLT-22-004724

**Heard:** February 27, 2024, by Video Hearing

## **APPEARANCES:**

### **Parties**

1583123 Ontario Inc.

City of Hamilton

### **Counsel**

Jennifer Meader

Patrick MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY KURTIS SMITH ON  
FEBRUARY 27, 2024, AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] 1583123 Ontario Inc. (“Applicant”/ “Appellant”) and the City of Hamilton (“City”) reached Settlements regarding the two residential condominium building developments that are proposed for 3064, 3070, 3078, and 3084 Regional Road 56 (“Windwood 3”) and 3160, 3168, 3180, and 3190 Regional Road 56 (“Windwood 4”) (together, the “Subject Lands”).

[2] The Subject Lands are currently occupied by vacant residential/commercial buildings and accessory structures, all proposed to be demolished to facilitate the Proposed Developments.

[3] The Decision for these matters issued on June 1, 2023 outlined the reasons the two matters are being heard together.

[4] To support the Settlement Proposals, the Appellant called David Aston, a land use planner who, upon review of his Curriculum Vitae and Acknowledgement of Expert’s Duty Form (**Exhibit 1, page 21-26**), was qualified on consent by the Tribunal to provide opinion evidence in land use planning.

**SETTLEMENT PROPOSALS**

[5] The Proposed Developments for Windwood 3 and Windwood 4 are very similar but have distinctive differences:

	<b>Windwood 3</b>	<b>Windwood 4</b>
Site Area	0.54 Hectares	0.61 Hectares
Frontage	Corner lot Viking Dr: 69 metres Regional Road 56: 82 metres	Regional Road 56: 97 metres
Vehicle Access	Viking Drive	Regional Road 56, through the first storey of the proposed building.
Height	Six-storey	Six-storeys, with stepbacks for the rear portion of the building reducing to five and four storeys
Residential Units	121 (mix of one bedroom, one bedroom plus den, and two bedroom)	162 (mix of one bedroom, one bedroom plus den, and two bedroom)
Commercial Units	N/A	Five ground floor flex-commercial space (initially intended for residential)
Parking	Mix of underground and surface parking	Mix of underground and surface parking
Amenity space	Private balconies or patios provided for each unit.	Private balconies or patios provided for each unit.
Common amenity space	Outside at grade, roof top and indoor space within the first floor.	Outside at grade and indoor space within the first floor.
Services	Full municipal services	Full municipal services.
Sidewalks	Internal sidewalks connecting to Regional Road 56 and Viking Drive.	Internal sidewalks connecting to Regional Road 56.

[6] To facilitate the Proposed Developments, the Appellant and City executed a Minutes of Settlement (**Exhibit 3**).

[7] The Official Plan Amendments (“OPAs”) (**Schedule A and C**) purpose and effect will create a new site-specific policy within the Binbrook Village Secondary Plan (“BVSS”) to permit the development of residential uses on the ground floor and buildings heights of six-storeys on the Subject Lands.

[8] In addition to the OPA, Zoning By-law Amendments (“ZBAs”) are required. The ZBA (**Schedule B and D**) will permit special provisions on the Subject Lands to permit multiple dwelling, reduced setbacks, dwelling units on the ground floor and updated provisions regarding entrances to facilitate the ground floor dwelling units.

[9] A crucial addition to the ZBA to enable the Settlement Proposal, is the inclusion of the Holding Provision that prevents any development until such time as:

The Owner submits and receives approval of a revised Functional Servicing Report in accordance with City initiated Binbrook Sanitary Pumping Station performance assessment study, demonstrating that the existing sanitary infrastructure including pumping station has adequate capacity to support this development to the satisfaction of the Director, Growth Management and Chief Development Engineer.

## PLANNING EVIDENCE

[10] Mr. Aston provided the Tribunal with oral and written evidence (**Exhibit 1**) to support his findings that the OPAs and ZBAs represent good planning, have regard to s. 2 of the *Planning Act* (“Act”), are consistent with the Provincial Policy Statement (“PPS”), conform to the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”), conform to the City’s Official Plan (“COP”) and the BVSS, and that the site-specific ZBAs are appropriate and maintain the intent of the City’s Zoning By-law (“ZBL”).

[11] The above-mentioned planning documents relating to the Settlement Proposals have several common elements and are implemented through the OPAs and ZBAs, including:

- a. Providing a new range of housing options;
- b. Supporting residential intensification and infill development within the built-up area;
- c. Pedestrian oriented and within close walking distance to a range of commercial and service uses;
- d. The inclusion of future commercial units (flex spaces);
- e. Appropriate and desirable urban design including stepbacks to existing low density residential;
- f. The efficient and optimal use of land and infrastructure; and
- g. The holding provision and site plan process will ensure the implementation of the Proposed Development.

## FINDINGS

[12] The Tribunal accepts the uncontested planning evidence and opinions of Mr. Aston and is satisfied that the OPAs and ZBAs represent good planning, have regard for matters of provincial interest, are consistent with the PPS, conform to the Growth Plan, COP and BVSS, and constitute appropriate site-specific amendments to the City's ZBL.

[13] The Tribunal further notes that the inclusion of the holding provision is pivotal in the approval of these matters, to ensure the orderly development of the lands within the Binbrook community. Additionally, the Tribunal commends the Appellant on providing commercial/residential flex space on the ground floor of Windwood 4. The study prepared by Urban Metrics (**Exhibit 2, Tab 32**) indicates that the commercial space is

not needed at this time. However, inclusion of the five flex units within Windwood 4 will allow the development to adapt to future needs of the neighbourhood.

## ORDER

[14] **THE TRIBUNAL ORDERS** that the Appeals are allowed in part, and:

1. In relation to the Windwood 3 Appeals (3064, 3070, 3078, and 3084 Regional Road 56):
  - a. The City of Hamilton Official Plan is amended as set out in the attached **Schedule “A”**; and
  - b. The City of Hamilton Zoning By-law No. 05-200 is amended as set out in the attached **Schedule “B”**.
2. In relation to the Windwood 4 Appeals (3160, 3168, 3180, and 3190 Regional Road 56):
  - a. The City of Hamilton Official Plan is amended as set out in the attached **Schedule “C”**; and
  - b. The City of Hamilton Zoning By-law No. 05-200 is amended as set out in the attached **Schedule “D”**.

- [15] The Clerk of the City of Hamilton may format and number the amendments for record keeping purposes.

*"Kurtis Smith"*

KURTIS SMITH  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.



**SCHEDULE A**  
**BY-LAW NO. 24-091-OLT**

**Urban Hamilton Official Plan Amendment No. 199**

The following text, together with Appendix “A” attached hereto, constitutes Official Plan Amendment No. 199 to the Urban Hamilton Official Plan.

**1.0 Purpose and Effect:**

The purpose and effect of this Amendment is to create a new Site Specific Policy within the Binbrook Village Secondary Plan to permit the development of a multiple dwelling with residential uses on the ground floor and a building height of six storeys on the subject lands.

**2.0 Location:**

The lands affected by this Amendment are known municipally as 3064, 3070, 3078, 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, in the former Township of Glanbrook.

**3.0 Basis:**

The basis for permitting this Amendment is:

- The proposed development maintains the general intent of the Urban Hamilton Official Plan and Binbrook Village Secondary Plan;
- The proposed development implements the Residential Intensification policies of the Urban Hamilton Official Plan by increasing residential density in the area and providing a mix of unit types; and,
- The Amendment is consistent with the Provincial Policy Statement, 2020 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

#### 4.0 **Actual Changes:**

#### 4.1 **Volume 2 – Secondary Plans**

##### ***Text***

##### 4.1.1 **Chapter B.5.0 – Glanbrook Secondary Plans – Section B.5.1 – Binbrook Village Secondary Plan**

- a. That Volume 2: Chapter B.5.0 – Glanbrook Secondary Plans, Section B.5.1 – Binbrook Village Secondary Plan be amended by adding a new Site Specific Policy, as follows:

##### **“Site Specific Policy – Area V**

B.5.1.13.22 For lands identified as Site Specific Policy – Area V on Map B.5.1-1 - Binbrook Village – Land Use Plan, designated “Mixed Use – Medium Density – Pedestrian Focus”, and known municipally as 3064, 3070, 3078, 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, the following policies shall apply:

- a) Notwithstanding Policy E.4.3.4 d) of Volume 1, residential uses shall be permitted on the ground floor of a building facing a *pedestrian focus street*; and,
- b) Notwithstanding Policy B.5.1.5.1 h), building heights shall not exceed six storeys.”

##### ***Maps***

##### 4.2.2 **Map**

- a. That Volume 2: Map B.5.1-1 Binbrook Village Secondary Plan – Land Use Plan be amended by: identifying the subject lands as Site Specific Policy – Area V as shown on Appendix “A”, attached to this Amendment.

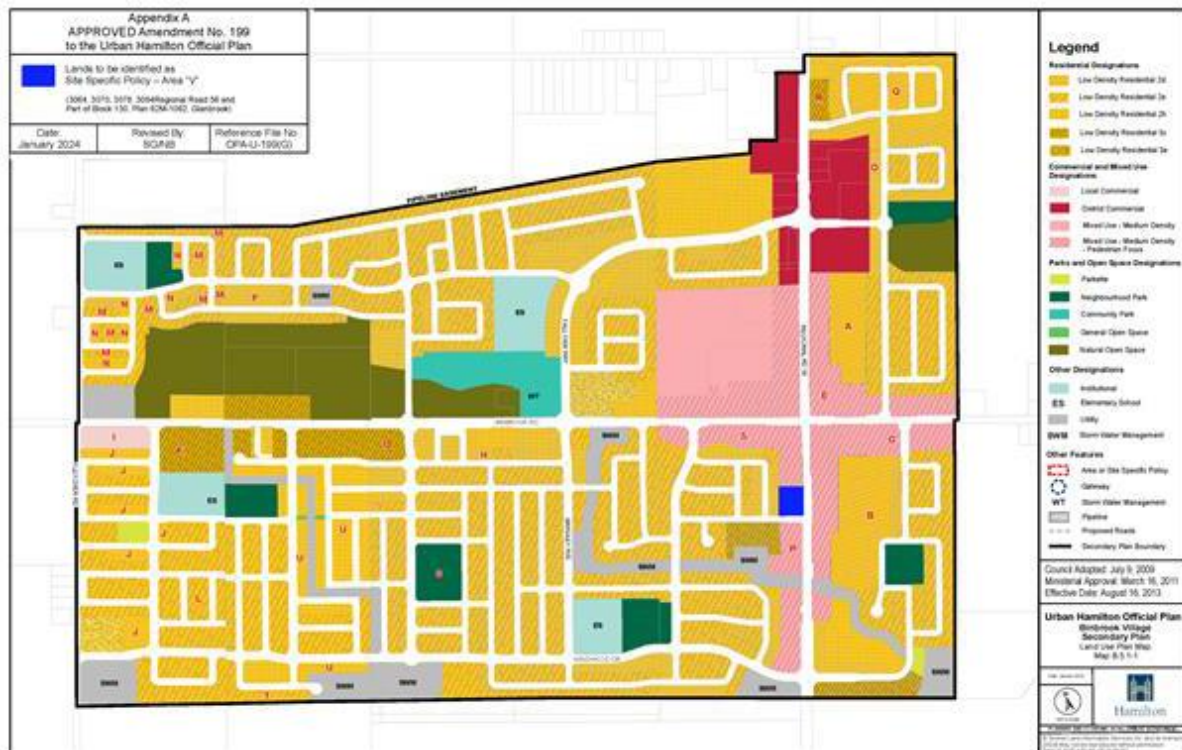
#### 5.0 **Implementation:**

An implementing Zoning By-Law Amendment and Site Plan will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule “1” to By-law No 24-091-OLT \_\_\_\_\_ passed on the 7<sup>th</sup> day of March, 2024.

## The City of Hamilton

OLT Case No. OLT-22-004822



**SCHEDULE B****CITY OF HAMILTON****BY-LAW NO. 24-092-OLT**

**To Amend Zoning By-law No. 05-200 with Respect to Lands Located at 3064, 3070, 3078, and 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, Glanbrook**

**AND WHEREAS** this By-law conforms with the Urban Hamilton Official Plan upon adoption of Official Plan Amendment No. 199;

**NOW THEREFORE** Council amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zoning Maps, Map No. 1934 is amended by changing the zoning from the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to the Mixed Use Medium Density - Pedestrian Focus (C5a, 889, H167) Zone, for the lands known as 3064, 3070, 3078, 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, the extent and boundaries of which are shown on Schedule "A" to this By-law.
2. That Schedule "C": Special Exceptions is amended by adding the following new Special Exception:
  - "889. Within the lands zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 889, H167) Zone, identified on Map No. 1934 of Schedule "A" – Zoning Maps and described as 3064, 3070, 3078, 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, Glanbrook, the following special provisions shall apply:
    - a) In addition to Section 10.5a.1, the following use shall also be permitted:

Multiple Dwelling
    - b) Notwithstanding Section 10.5a.1.1 ii) 2., Dwelling Unit(s) shall be permitted on the ground floor.
    - c) Notwithstanding Sections 10.5a.3 a) i), b), d) ii) and iii), and h) vi) and ix), the following regulations shall apply:

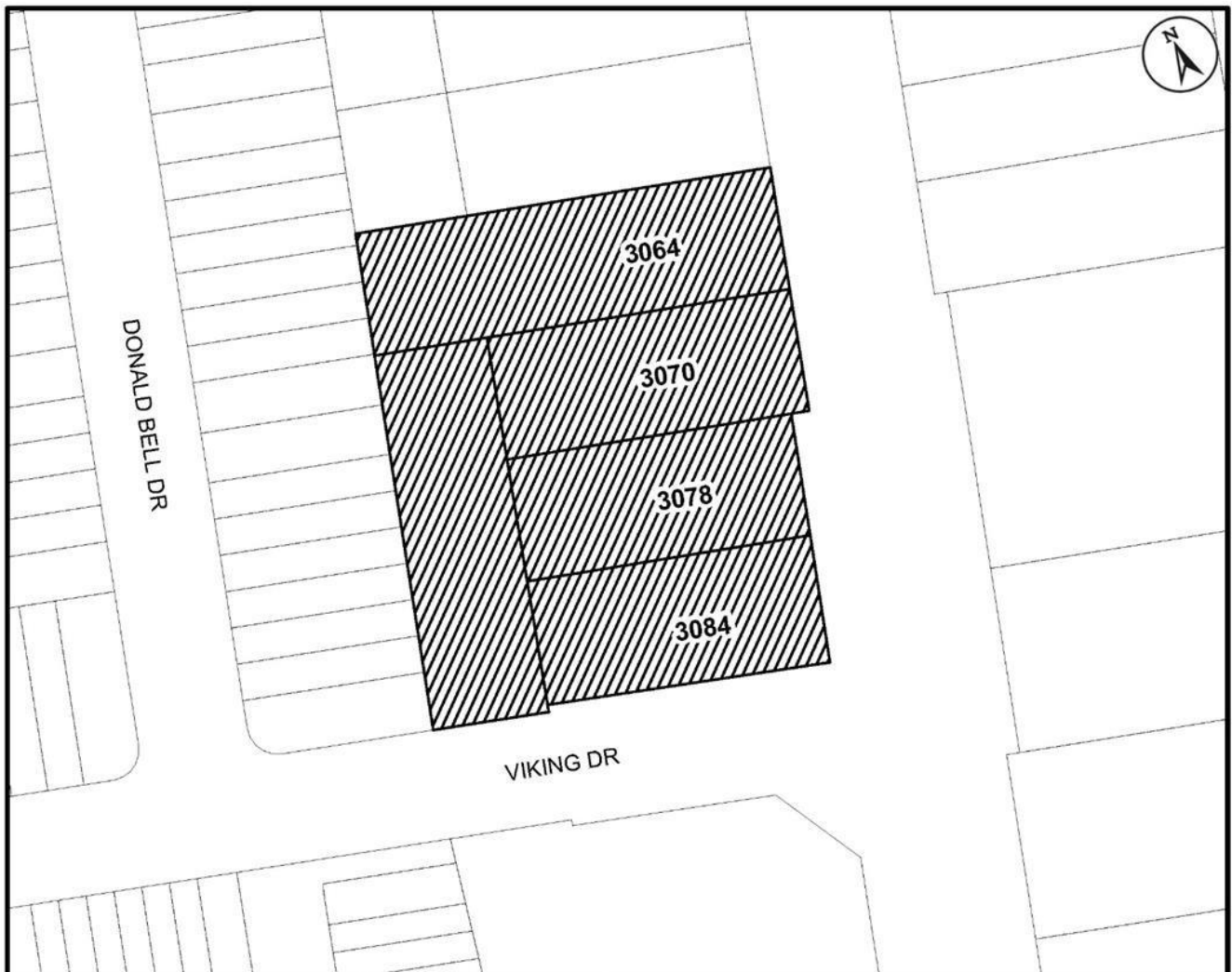
- |  |   |
|--|---|
| a) Maximum Building Setback from a Street Line | i) 3.6 metres, except 10 metres from Viking Drive.  |
| b) Minimum Rear Yard                           | 7.0 metres.   |
| d) Building Height                             | ii) Maximum 20.0 metres.<br><br>iii) In addition to Section 10.5a.3 d) i), and notwithstanding subsection ii) above, any building height above 11.0 metres may be equivalently increased as the yard increases beyond the minimum yard requirement established in subsection b) above and Section 10.5a.3 c) when abutting a Residential or Institutional Zone to a maximum of 20.0 metres.   |
| h) Built form for New Development              | vi) A minimum of one principal entrance, and a minimum of one principal entrance for each commercial unit along the ground floor façade facing the front lot line, shall be provided: <ol style="list-style-type: none"> <li>1. Within the ground floor façade that is set back closest to a street; and,</li> <li>2. Shall be accessible from the building façade with direct access from the public sidewalk.</li> </ol><br>ix) A minimum of 35% of the area of the ground floor façade facing the street shall be composed of doors and windows. |

3. That Schedule “D” – Holding Provisions be amended by adding the additional Holding Provision as follows:

“167. Notwithstanding Section 10.5a of this By-law, within lands zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 889, H167) Zone, identified on Map No. 1934 of Schedule A – Zoning Maps and described as 3064, 3070, 3078, 3084 Regional Road 56, and Part of Block 130, Plan 62M-1062, no development shall be permitted until such time as:

- a) The Owner submits and receives approval of a revised Functional Servicing Report (FSR) in accordance with City initiated Binbrook Sanitary Pumping Station performance assessment study, demonstrating that the existing sanitary infrastructure including pumping station has adequate capacity to support this development, to the satisfaction of the Director, Growth Management and Chief Development Engineer.

**APPROVED by Ontario Land Tribunal** this 7th day of March, 2024



This is Schedule "A" to By-law No. 24-092-OLT

Passed the 7<sup>th</sup> day of March, 2024

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Mayor

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Clerk


## Schedule "A"

Map forming Part of  
By-law No. 24-092-OLT

to Amend By-law No. 05-200  
Map 1934

### Subject Property

3064, 3070, 3078, 3084 Regional Road 56  
and Part of Block 130, Plan 62M-1062

 Change in Zoning from the Mixed Use Medium Density – Pedestrian Focus (C5a, 570) Zone to the Mixed Use Medium Density – Pedestrian Focus (C5a, 889, H167) Zone

Scale:  
N.T.S

File Name/Number:  
ZAC-22-050

Date:  
January 19, 2024

Planner/Technician:  
SG/NB



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

**SCHEDULE C  
BY-LAW NO. 24-093-OLT**

**Urban Hamilton Official Plan Amendment No. 200**

The following text, together with Appendix “A” attached hereto, constitutes Official Plan Amendment No. 200 to the Urban Hamilton Official Plan.

**1.0 Purpose and Effect:**

The purpose and effect of this Amendment is to create a new Site Specific Policy within the Binbrook Village Secondary Plan to permit the development of a multiple dwelling with residential uses on the ground floor and a building height of six storeys on the subject lands.

**2.0 Location:**

The lands affected by this Amendment are known municipally as 3160, 3168, 3180, and 3190 Regional Road 56, in the former Township of Glanbrook.

**3.0 Basis:**

The basis for permitting this Amendment is:

- The proposed development maintains the general intent of the Urban Hamilton Official Plan and Binbrook Village Secondary Plan;
- The proposed development implements the Residential Intensification policies of the Urban Hamilton Official Plan by increasing residential density in the area and providing a mix of unit types; and,
- The Amendment is consistent with the Provincial Policy Statement, 2020 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2019, as amended.

**4.0 Actual Changes:**

**4.1 Volume 2 – Secondary Plans**

***Text***

**4.1.1 Chapter B.5.0 – Glanbrook Secondary Plans – Section B.5.1 – Binbrook Village Secondary Plan**



- a. That Volume 2: Chapter B.5.0 – Glanbrook Secondary Plans, Section B.5.1 – Binbrook Village Secondary Plan be amended by adding a new Site Specific Policy, as follows:

**“Site Specific Policy – Area W**

- B.5.1.13.23 For lands identified as Site Specific Policy – Area W on Map B.5.1-1 - Binbrook Village – Land Use Plan, designated “Mixed Use – Medium Density – Pedestrian Focus”, and known municipally as 3160, 3168, 3180, and 3190 Regional Road 56, the following policies shall apply:
- a) Notwithstanding Policy E.4.3.4 d) of Volume 1, residential uses shall be permitted on the ground floor of a building facing a *pedestrian focus street*, and,
  - b) Notwithstanding Policy B.5.1.5.1 h), building heights shall not exceed six storeys.”

***Maps***

4.1.2 Map

- a. That Volume 2: Map B.5.1-1 Binbrook Village Secondary Plan – Land Use Plan be amended by identifying the subject lands as Site Specific Policy – Area W as shown on Appendix “A”, attached to this Amendment.

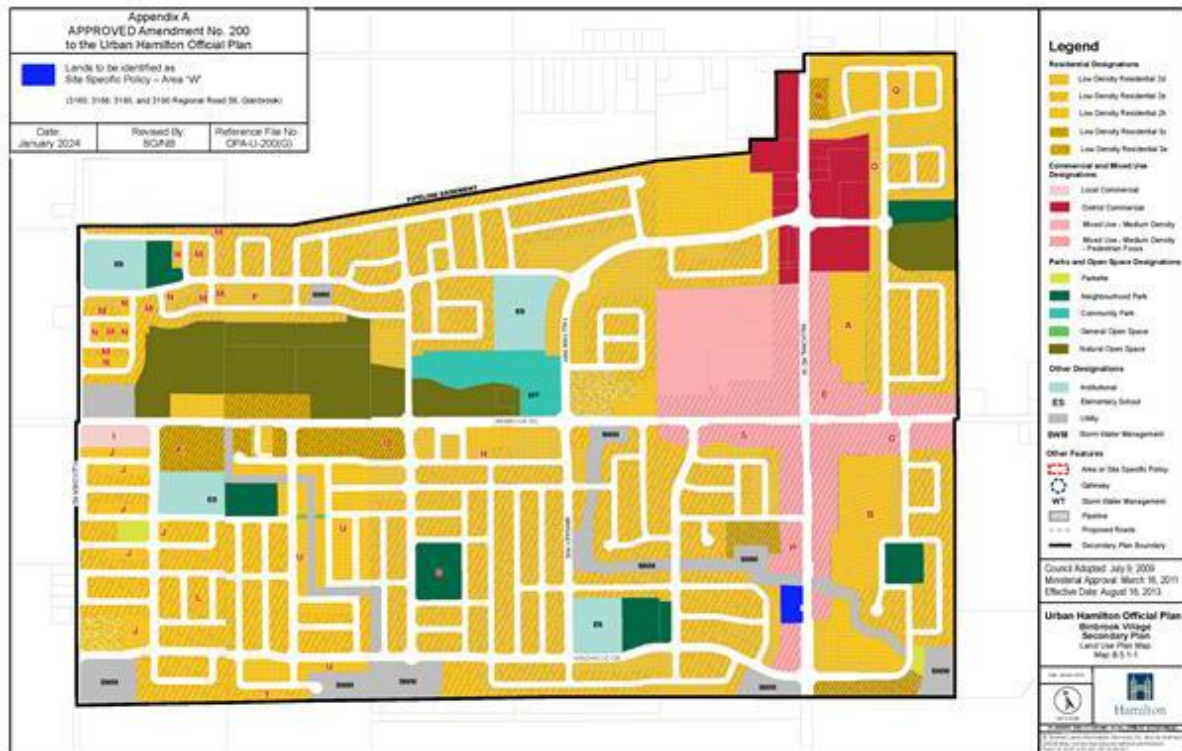
**5.0 Implementation:**

An implementing Zoning By-Law Amendment and Site Plan will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule “1” to By-law No. 24-093-OLT passed on the 7<sup>th</sup> day of March, 2024.

## The City of Hamilton

OLT Case No. OLT-22-004724



**SCHEDULE D****CITY OF HAMILTON****BY-LAW NO. 24-094-OLT****To Amend Zoning By-law No. 05-200 with Respect to Lands Located at 3160, 3168, 3180, and 3190 Regional Road 56, Glanbrook**

**AND WHEREAS** this By-law conforms with the Urban Hamilton Official Plan upon adoption of Official Plan Amendment No. 200;

**NOW THEREFORE** Council amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zoning Maps, Map No. 1956 is amended by changing the zoning from the Mixed Use Medium Density - Pedestrian Focus (C5a, 570) Zone to the Mixed Use Medium Density - Pedestrian Focus (C5a, 890, H168) Zone, for the lands known as 3160, 3168, 3180, and 3190 Regional Road 56, the extent and boundaries of which are shown on Schedule "A" to this By-law.
2. That Schedule "C": Special Exceptions is amended by adding the following new Special Exception:
  - "890. Within the lands zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 890, H168) Zone, identified on Map No. 1956 of Schedule "A" – Zoning Maps and described as 3160, 3168, 3180, and 3190 Regional Road 56, Glanbrook, the following special provisions shall apply:
    - a) In addition to Section 10.5a.1, the following use shall also be permitted:

Multiple Dwelling
    - b) Notwithstanding Section 10.5a.1.1 ii) 2., Dwelling Unit(s) shall be permitted on the ground floor.
    - c) Notwithstanding Sections 10.5a.3 c), d) ii) and iii), and h) vi) ix) and x), the following regulations shall apply:

- |    |                                |   |
|----|--------------------------------|---|
| c) | Minimum Side Yard              | 5.0 metres.   |
| d) | Building Height                | ii) Maximum 21.5 metres.<br><br>iii) In addition to Section 10.5a.3 d) i) and notwithstanding subsection ii) above, any building height above the 4 <sup>th</sup> storey shall be stepped back from the rear lot line at least 3.0 metres for the 5 <sup>th</sup> storey and at least 3.0 metres for the 6 <sup>th</sup> storey when abutting a Residential Zone to a maximum building height of 21.5 metres  |
| h) | Built form for New Development | vi) A minimum of one principal entrance, and a minimum of one principal entrance for each commercial unit along the ground floor façade facing the front lot line, shall be provided: <ul style="list-style-type: none"> <li>3. Within the ground floor façade that is set back closest to a street; and,</li> <li>4. Shall be accessible from the building façade with direct access from the public sidewalk.</li> </ul> ix) A minimum of 35% of the area of the ground floor façade facing the street shall be composed of doors and windows.<br><br>x) The first storey shall have a minimum height of 3.6 metres and a maximum height of 5.5 metres. |

3. That Schedule “D” – Holding Provisions be amended by adding the additional Holding Provision as follows:

- “168. Notwithstanding Section 10.5a of this By-law, within lands zoned Mixed Use Medium Density - Pedestrian Focus (C5a, 890, H168) Zone, identified on Map No. 1956 of Schedule A – Zoning Maps and described as 3160, 3168, 3180, and 3190 Regional Road 56, no development shall be permitted until such time as:
- a) The Owner submits and receives approval of a revised Functional Servicing Report (FSR) in accordance with City initiated Binbrook Sanitary Pumping Station performance assessment study, demonstrating that the existing sanitary infrastructure including pumping station has adequate capacity to support this development, to the satisfaction of the Director, Growth Management and Chief Development Engineer.

**APPROVED by Ontario Land Tribunal** this 7<sup>th</sup> day of March, 2024



This Is Schedule "A" to By-law No. 24-094-OLT

Passed the ..7th..... day of .....March....., 2024

Mayor

Cleric

## Schedule "A"

**Map forming Part of By-law  
No. 24-094-OLT**

**to Amend By-law No. 05-200  
Map 1956**

### Subject Property

3160, 3168, 3180, 3190 Regional Road 56

Change in Zoning from the Mixed Use Medium  
Density - Pedestrian Focus (CSa, 570) Zone to the  
Mixed Use Medium Density - Pedestrian Focus  
(C5a, 890, H168)Zone

scale:  
N.T.S

File Name/Number:  
ZAC-22-051

Date:  
January 16, 2024

Planner/Technician:  
SG/NB



Hamilton