

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire

24-098-OLT Attachment 1
24-099-OLT Attachment 2



ISSUE DATE: May 27, 2024

CASE NO(S).:

OLT-22-004546

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

Applicant/Appellant:	LJM Developments (Queenston) Inc.
Subject:	Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
Description:	OPA to facilitate a 16 storey 316 unit residential development
Reference Number:	UHOPA-22-009
Property Address:	651 Queenston Road
Municipality/UT:	City of Hamilton
OLT Case No.:	OLT-22-004546
OLT Lead Case No.:	OLT-22-004546
OLT Case Name:	LJM Developments (Queenston) Inc. v. Hamilton (City)

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

Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	ZBA to facilitate a 16 storey 316 unit residential development
Reference Number:	ZAC-22-018
Property Address:	651 Queenston Road
Municipality/UT:	City of Hamilton
OLT Case No.:	OLT-22-004547
OLT Lead Case No.:	OLT-22-004546

Heard:

April 23, 2024 by video hearing

APPEARANCES:**Parties****Counsel**

LJM Developments (Queenston) Inc.

R. Cheeseman
S. Fleming

City of Hamilton

P. MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY T.F. NG ON APRIL 23, 2024
AND ORDER OF THE TRIBUNAL**

[Link to Order](#)**INTRODUCTION**

[1] The matter before the Tribunal is an appeal filed by LJM Developments (Queenston) Inc. (the “Appellant”) against the City of Hamilton (the “City”) appealing the City Council’s non-decision within the prescribed time of an Official Plan Amendment (“OPA”) and a Zoning by-law Amendment (“ZBA”) applications to facilitate a 16-storey, 316 units residential development on property municipally known as 651 Queenston Road (the “subject property”/“subject site”).

[2] The matter has been set down for settlement, as the City and the Appellant have settled the matter through a Minutes of Settlement (the “Settlement Proposal”).

[3] The Participant, Peter Trzebiatowski, requested an upgrade to Party status at the eleventh hour, after the City and the Appellant had settled the matter. Mr. Trzebiatowski alleged that he was caught off guard by the settlement. He claimed that the original height proposed was eight storeys and also then said the 16-storey proposal was now 17 storeys and that he then had to upgrade in order to be in a better position to question and challenge the settlement. He claimed that he was not informed of the settlement as a Participant.

[4] The Appellant's counsel, Mr. Cheeseman, replied that the original proposal was for 16 storeys and the settlement provided a 17-storey height. The settlement itself was achieved back in December 2023. The Tribunal, on January 9, 2024, gave Notice of a Settlement Hearing date of March 5, 2024 (which was later adjourned to April 23, 2024). Mr. Trzebiatowski was copied on the January 9, 2024 email providing notice. In fact, Mr. Cheeseman said that the settlement documents were served by way of email dated February 27, 2024 to Mr. Trzebiatowski and that it was too late for Mr. Trzebiatowski to request a change in status as his Participant status was granted a year ago, in April 2023. There was no indication then that he required Party status in the proceedings. Further, the latest request was not accompanied by a Party status request form as required.

[5] The Tribunal ascertained that Mr. Trzebiatowski lived about a football field's length away from the subject property. He is the sole Participant in this proceeding. When questioned, Mr. Trzebiatowski could not satisfactorily answer how the development would affect his interest; he did not say what new issues he would bring to the Tribunal's attention. He did not cogently answer why he did not request Party status in April 2023, nor did he explain why his presence as a party was necessary to enable the Tribunal to adjudicate the issues completely.

[6] Having ascertained that Mr. Trzebiatowski was not prejudiced, the Tribunal denied his request as his presence was not necessary to completely adjudicate the issues in this proceeding. From a reading of his Participant statement, his general concerns related to the building's height and scale on the neighbourhood.

[7] Franz Kloibhofer, the Appellant's planner, testified, and the Tribunal qualified him to provide opinion evidence in land use planning matters. His Affidavit, sworn February 27, 2024, was marked as Exhibit 1, and the Document Book was marked as Exhibit 2.

[8] The Tribunal having considered the uncontested testimony of Mr. Kloibhofer, the Settlement Proposal, and the materials filed, allows the appeal in part for the reasons set out below.

PLANNING EVIDENCE

[9] Mr. Kloibhofer took the Tribunal through the relevant policy framework: a) the Provincial Policy Statement, 2020 (“PPS”); b) the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (“Growth Plan”); c) the Urban Hamilton Official Plan (“UHOP”); d) the Centennial Neighbourhood Secondary Plan (“CNSP”); e) and the City Zoning By-law No. 05-200 (“ZBL”). He opined that the Settlement Proposal represents good land use planning.

SITE CONTEXT

[10] The subject site is located at the northwest corner of the intersection of Queenston Road and Nash Road North. The subject site consists of a rectangular shaped lot, having an area of approximately 3,283 square metres, with approximately 47 metres of frontage along Queenston Road and 44 metres of frontage along Nash Road North.

[11] The subject property is currently vacant, with no existing buildings or structures on-site. There is some existing vegetation scattered around the site, including a mix of low-lying shrubbery and a limited number of trees. However, the majority of the site consists of grass and paved areas.

[12] The neighbouring properties in the immediate vicinity of the subject site are briefly described below:

- To the north: A commercial property with a three-storey residential apartment dwelling;
- To the east: Commercial;

- To the south: Commercial; and
- To the west: Commercial.

[13] In recent years, the City has proposed a Light Rail Transit (“LRT”) rail route. The proposed Hamilton LRT route is 14 kilometres long with 17 transit stops that are separated from vehicular traffic to provide frequent, safe, and reliable service. The LRT western terminus is located at McMaster University, and traverses King Street through the Downtown Core, along Main Street East, and Queenston Road. The subject property is directly adjacent to the future Nash LRT station at the intersection of Nash Road and Queenston Road. The eastern terminus of the LRT is located at the Eastgate Square Regional retail mall, which is one transit stop east of the subject property.

[14] Included within the scope of the Hamilton LRT is a complete revitalization of both the public and private utilities along the proposed transit route, including sewers, watermains, gas mains, hydro lines, telecommunications, and restored sidewalks and roads. These infrastructure upgrades and improvements are required to support sustainable growth along these corridors. Accordingly, these upgrades are required to provide sufficient capacity for the anticipated increase in density and development across the City.

[15] The subject property is within close proximity to various recreational spaces. Sam Manson Park is a neighbourhood park located just to the northeast of the subject property and is approximately 6 hectares (“ha”) in size. In addition, three smaller neighbourhood parks are located to the south of the subject property, which are accessible via Nash Road. Approximately 1 kilometre to the west is the Redhill Valley Trail. Other public amenities, such as schools, are located south of the subject property. A nearby public library is also located just east of the subject site.

[16] The subject property is particularly well served by transit, recreational, educational and commercial services.

APPLICATION

[17] In January 2022, an OPA and a ZBA Application were submitted to the City and deemed complete on February 16, 2022.

[18] The purpose of the submitted applications is to obtain the necessary UHOP and ZBL amendments to permit the proposed use, and to establish appropriate site-specific performance standards to implement the overall development scheme.

[19] Since the appeal was launched, a settlement was reached to redesign the proposed building. The development proposed is as follows:

- The effect of the proposed OPA and ZBA is to permit the development of a 17-storey mixed use building containing 319 dwelling units and 417 square metres of commercial gross floor area at-grade. The unit breakdown is as follows:
 - Studio – 30 Units;
 - 1 Bedroom and 1 Bedroom + Den – 196 Units;
 - 2 Bedroom – 86 Units; and
 - 3 Bedroom – 7 Units.

[20] A total of 241 parking spaces are proposed in support of the redevelopment, 13 of which will be barrier free. The parking spaces will be incorporated into the underground parking garage. In addition, 264 long term bicycle storage spaces will be provided in support of the redevelopment.

[21] Both indoor and outdoor amenities will be provided for a total of 894 square metres of amenity area. The outdoor amenity area will be provided on the roof of the proposed redevelopment.

[22] Most of the residential units will be located above grade. However, four units will be located at-grade fronting onto Nash Road North. Retail space is proposed along the Queenston Road frontage.

[23] Overall, the revised proposal addresses matters related to massing, unit mix, on-site bicycle parking and ground floor commercial uses.

[24] The requisite OPA and ZBA instruments that implement the above noted redevelopment are included as Exhibits “B” and “C” within Mr. Kloibhofer’s Affidavit (Exhibit 1).

ANALYSIS

[25] The Tribunal agrees with Mr. Kloibhofer that the Settlement Proposal has regard for the matters of provincial interest set out in s. 2 of the *Planning Act*. The Tribunal finds that the Settlement Proposal has regard in particular to: ss. 2 (h) the orderly development of safe and healthy communities; (j) the adequate provision of a full range of housing; (p) the appropriate location of growth and development; (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians; and (r) the promotion of built form that is well-designed and encourages a sense of place.

Provincial Policy Statement, 2020

[26] The Tribunal agrees with Mr. Kloibhofer that the Settlement Proposal represents building upon efficient development patterns to accommodate a range of housing types through intensification ensuring that necessary infrastructure is in place to meet current needs (s. 1.1.1).

[27] The development facilitates the housing needs of the City by providing for intensification along a key development corridor through intensification and redevelopment to accommodate an appropriate range and mix of employment

opportunities, housing and other land uses to meet projected needs for a time horizon of up to 25 years (s. 1.1.2).

[28] Section 1.1.1.2 provides for land use patterns within settlement areas that efficiently uses land, resources, infrastructure facilities and can support active transportation and transit. The subject property is located within a settlement area, along an existing right of way and will be complemented with municipal services adequate to support new development. The development builds positively upon the future development pattern by way of providing for a diverse mix of additional housing units, on site amenity space, and bicycle storage nearby a range of shopping and recreational areas.

[29] The development contributes to promoting a range and mix of housing to meet the needs of people at all stages of life and to support healthy and complete communities. The proposed redevelopment will contribute a range of dwelling units to the community (s. 1.4.1).

[30] The Settlement Proposal provides for mixed use intensification in a compact built form within the urban area in a liveable safe community, and promotes active transportation and transit. The Settlement Proposal is consistent with the PPS policies that speak to a full range and mix of housing options policies. The Tribunal finds that the proposed development is consistent with the PPS.

The Growth Plan

[31] In Mr. Kloibhofer's opinion, the Settlement Proposal conforms with the Growth Plan, particularly in ss. 2.2.1.2; 2.2.1; 2.2.2; 2.2.6.1; 2.2.6.2; 2.2.4.3; and 3.2.1.

[32] The Tribunal acknowledges that the Settlement Proposal conforms to these policies. The development proposal represents a compact and efficient land use pattern that contributes to the vision of a complete community.

[33] The development is situated within a planned community with the provision for a range housing types, access to recreation, as well as the incorporating provisions for nearby commercial uses. Accordingly, the proposed development will contribute to a complete community.

[34] The Settlement Proposal will assist in facilitating the Growth Plan targets for allocating residential redevelopment within the delineated built-up area of the City. The Settlement Proposal is an appropriate location to direct additional growth and intensification within the established settlement area boundary. The subject property will take advantage of existing and planned services to service this development.

[35] Section 2.2.4.3 speaks to major transit station areas on priority transit corridors or subway lines, which will be planned to a minimum density target of 160 residents and jobs combined per hectare for those that are served by light rail or bus rapid transit.

[36] The Tribunal notes that the Settlement Proposal introduces a compact urban form on the subject property in a transit-supportive manner within a built-up area, along a planned priority transit corridor and a strategic growth area. This will assist the City in achieving its growth and intensification targets. The Tribunal finds that the Settlement Proposal conforms to the Growth Plan.

Findings

[37] The proposed development on the subject site represents an appropriate form of intensification in a suitable location. The proposed intensification is in keeping with the policy directions in the PPS, the Growth Plan, the UHOP and the CNSP, that support intensification on sites within built-up urban areas well served by municipal infrastructure and transit.

Urban Hamilton Official Plan

[38] Mr. Kloibhofer stated that Volume 2 of the UHOP contains all the secondary plans within the urban area, of which the CNSP is applicable to the subject property.

[39] The subject property is identified as a Sub-Regional Service Node on Schedule E and designated Mixed Use – Medium Density on Schedule E-1 and is further identified as being situated on a Higher Order Transit Corridor identified as a Primary Corridor on Schedule E of the UHOP.

[40] Chapter B – Communities of the UHOP provides policy direction for the ongoing support and creation of strong communities. The UHOP defines strong communities as being complete, healthy, diverse, and vibrant. The physical extent of the urban area is defined by the urban boundary, indicating where growth and development should occur. Those lands within the urban boundary are serviced by municipal infrastructure, including roads, transit, and sewage and water services.

[41] The UHOP encourages intensification throughout the entire built-up area in order to achieve the density targets as outlined in the Growth Plan. Furthermore, 40% of the planned intensification is intended to be accommodated along Urban Nodes and Corridors, to which the proposed development is located. The Settlement Proposal contributes positively to the future residential intensification that is planned to take place along Urban Corridors, such as Queenston Road.

[42] The policies within Volume 1 Chapter B-Section 2.4 provide policy directives for Residential Intensification. Residential Intensification is a key component to the overall growth strategy of the City. As per s. 2.4.1.1 of the UHOP, residential intensification shall be encouraged throughout the entire built-up area. Further, s. 2.4.1.2 states that strategic growth areas shall include Urban Nodes and Major Transit Station Areas (“MTSA”). Urban Nodes and Urban Corridors shall be planned to accommodate approximately 40% of the residential intensification target as per s. 2.4.1.3b).

[43] Section 2.4.1.4 speaks to how residential intensification developments shall be evaluated, which includes desirable built form, relationship to the existing neighbourhoods, infrastructure capacity, providing for a range of dwelling types and tenures, sustainable development, supporting active transportation, and transit supportive developments.

[44] The Tribunal agrees with Mr. Kloibhofer that the proposed development conforms to these policies and supports the overall residential intensification as the subject property is within the built-up area, along a Primary Corridor, and within a Sub-Regional Service Node, therefore being a prime location for a high-density residential development.

[45] Mr. Kloibhofer explained that s. E.2.0 relates to the Urban Structure within the City. These policies speak to Urban Nodes, Urban Corridors, and MTSA's being the focus of intensification and urbanization activities. Further, these areas are intended to provide a vibrant pedestrian environment and facilitate active transportation, which will evolve with higher residential densities and mixed use development to achieve their planned functions. The Tribunal finds that the Settlement Proposal achieves these broad goals contained in s. E.2.0.

[46] Under the CNSP, this neighbourhood is intended to accommodate a major shift from a traditionally auto-oriented corridor to mixed use and transit-oriented neighbourhood. The Settlement Proposal will assist in advancing the goals and objectives of the CNSP by developing a vacant property into a transit-oriented development. With respect to the built form, the existing Queenston Road corridor already contains existing mid-rise multiple dwellings with planned development of up to nine storeys permitted to the west of the subject property, and up to 17 storeys and greater permitted to the east toward Eastgate Square. Accordingly, the Settlement Proposal enhances and builds upon both the existing neighbourhood character. The Settlement Proposal will build upon the desirable development pattern being a transit-oriented development pattern that is envisioned along the Queenston Road corridor.

[47] The proposed development will contribute to the overall density targets contained in the CNSP. With respect to the tenure of dwellings, the Settlement Proposal is intended to create units as part of a condominium in a desirable location adjacent to transit, public amenities, and commercial uses. The development includes units which range from studio apartments to three-bedroom units, thereby providing a greater range of units available within this neighbourhood.

[48] The proposed development considers the provision of a transit supportive compact built form along a major planned transit route. The proposed development will support the surrounding commercial uses as the Settlement Proposal will allocate additional density to the existing neighbourhood. In other respects, the development features a reduced parking requirement and bicycle spaces to encourage the use of active transit modes as opposed to strictly motor vehicles. The development contributes to the overall planned density of the Centennial Neighbourhoods. Accordingly, the Settlement Proposal contributes to the planned urban structure in s. E.2.0.

[49] Appropriate holding conditions have been included in the Zoning By-law to ensure that there is adequate capacity to support the proposed development. The studies are supportive of the proposed development, and no negative impacts are anticipated from the perspective of infrastructure or transportation capacity.

[50] The Tribunal finds that the development conforms to the intent and policy direction of the UHOP and the Residential Intensification criteria outlined above. The subject property is located in an ideal location to accommodate additional residential intensification beyond what is contemplated with the UHOP.

Urban Nodes

[51] Section 2.3 of the UHOP provides policy directive for Urban Nodes, including the policies for Sub-Regional Service Nodes within s. E.2.3.2, which are applicable to the subject site as it is located within the Centennial Sub-Regional Service Node ("Centennial Node").

[52] The Settlement Proposal will contribute to the planned overall density of the Centennial Node, and the proposed Nash LRT Station, by accommodating additional density on the subject site along a major planned transit corridor. The development thereby promotes the utilization of public transit. The Growth Plan requires a minimum targeted density of 160 persons and jobs per hectare along the length of the transit corridor, and as such, the proposed density contributes the planned target density while maintaining the Residential Intensification criteria of the UHOP.

Urban Corridors

[53] Section E.2.4 of the UHOP provides policy directives for Urban Corridors, which are applicable to the subject site as it is classified as a Primary Corridor.

[54] With respect to the above noted policies, the proposed development is located within a Primary Corridor, which is intended to be serviced by higher order transit in the planned Hamilton LRT. The Settlement Proposal contributes to providing for a range of high-density uses along this particular Primary Corridor. The increase in density is desirable as the additional allocation of density along a planned higher order transit route will allow future residents to move across the City via public transit, instead of motor vehicles. The proposed development is a mixed use development with commercial uses at-grade along Queenston Road, which is intended to function as a commercial spine. These commercial uses cater to the weekly and daily needs of the residents.

Commercial and Mixed Use – High Density

[55] The proposed OPA is intended to redesignate the subject property to a Commercial and Mixed Use – High Density Designation.

[56] Section E.4.5.2 Areas designated Mixed Use – High Density shall serve as a focus for surrounding communities, creating a sense of place for those communities.

Retail and service commercial uses are a key element in maintaining that function and ensuring the continued vibrancy of Sub-Regional Service Nodes.

[57] The proposed OPA will contribute to the overall vitality of the Centennial Neighbourhoods by providing for additional density to support the range of commercial uses that currently exist, surrounding the subject property.

[58] The proposed development will contribute to the range of building heights, and densities found within Centennial Neighbourhood. The proposed development facilitates the achievement of the minimum targeted densities of 150 persons and jobs per hectare envisioned by the CNSP.

[59] The development represents an efficient and appropriate use of vacant lands and municipal services within a planned neighbourhood. The proposed multiple dwelling and associated density will contribute to the overall availability diversity and density of housing options in the area. The proposed development will support the Hamilton LRT and will be well serviced with Transit, and local amenities.

[60] The Tribunal agrees with Mr. Kloibhofer that the OPA is being requested in relation to the Land Use Designation of the UHOP. The proposed amendment is in keeping with the principles of sustainable development by allocating additional density directly adjacent to a planned major transit station. The proposed development represents a desirable built form and use given the surrounding context. The Settlement Proposal does not result in any unreasonable impacts to the community, environment, or economy. The Tribunal finds that the proposed OPA conforms to the UHOP.

Centennial Neighbourhood Secondary Plan

[61] The subject property is located within the CNSP. The policies applicable to the subject site are contained within Volume 2 Chapter B-Section 6.7.

[62] Mr. Kloibhofer stated that the proposed OPA will redesignate the subject property from Mixed Use – Medium Density to Mixed Use – High Density, with Site Specific Policy Area N to permit the proposed development with a maximum height of 17 storeys.

[63] The proposed development is located within the Sub-Regional Service Node, which is intended to accommodate a majority of the intensification for the CNSP. The subject property is also adjacent to a planned rapid transit station.

[64] Section 6.7.2.1 generally speaks to the principles of the CNSP, which is to protect and enhance natural areas and parks, create vibrant safe streetscapes, provide opportunities and spaces for people to meet, relax and socialize, promote active transportation, provide for mixed use development and intensification, promote transit oriented development and a variety of housing choices, protect existing neighbourhoods from incompatible development, provide sustainable infrastructure, and improve the public realm and recreational choices.

[65] The proposed development conforms as it contributes to a vibrant streetscape on an otherwise vacant property, the utilization of public transit and sustainable modes of transportation, and active transportation, including pedestrians and cycling.

[66] Section 6.7.3.1 speaks to land use within the Secondary Plan Areas, including supporting and implementing Map B.6.7.1 – Centennial Neighbourhoods Land Use Plan, protecting and enhancing residential areas, supporting a mix of housing types and tenures for residents in all stages of life, ensuring land use compatibility, directing intensification to the Sub-Regional Node, encouraging residential infill, promote appropriate development in proximity to higher order transit, support the regional shopping centre and mixed use redevelopment, and community facilities to service the current and future residents.

[67] The proposed development supports the land use policies as the proposed development is located within the Sub-Regional Service Node, which is intended to accommodate a majority of the intensification of the Centennial Neighbourhoods. This high-density land use is appropriately located within the neighbourhood, with no perceived

shadow or overlook impacts to the nearby low-density residential neighbourhood. The proposed development contributes to an aesthetically pleasing urban realm, which supports active transportation, and the proposed higher order transit. Overall, the proposed development supports the goal of transitioning the neighbourhood to a mixed use, transit-oriented neighbourhood.

[68] The proposed development is located along a prominent corridor which is intended to be improved by the future rapid transit service. With respect to urban design, an Urban Design Brief was submitted. Overall, the proposed development is intended to foster a comfortable pedestrian environment with streetscaping and the inclusion of sidewalk, plantings, and fenestrations along both street frontages. High quality urban design aspects have been included at-grade along the street level, including individual entrances, and porches on the ground floor units improving pedestrian interaction and providing for convenient access to the street. The street will be landscaped with private trees to enhance pedestrian experience along the street.

[69] The proposed development has been designed with multiple stepbacks to mitigate any shadowing or overlook to adjacent properties, with no anticipated impacts to surrounding properties. The proposed tower portion of the building has been located at the intersection of Nash Road North and Queenston Road, a gateway location at the intersection of two arterial roads. The proposed development features a mid-rise podium to minimize the impacts and to integrate with the neighbouring parcels. Respecting this matter, the high-density land use proposed for the subject site is appropriately located within this neighbourhood. As the proposed development is located approximately 91 metres south of the nearest low-density use, there are no perceived impacts to the nearby residential neighbourhood with respect to shadowing and overlook. The development contributes to the planned urban environment by providing for an aesthetically pleasing street wall along Queenston and Nash Road.

[70] The proposed development is located adjacent to a planned bicycle route along Nash Road, and the planned Hamilton LRT route. The proposal supports cycling to and

from the subject property by providing 264 bicycle parking spaces (248 long term, and 16 visitor spaces), in accordance with the Zoning By-law.

[71] The subject property is situated directly adjacent to the Nash LRT Station. Accordingly, the proposed development is transit supportive and allocates an appropriate density and height within the planned Transit Station Area.

[72] The proposed development conforms to the general active transportation and transit policies of the CNSP.

[73] The subject property is intended to accommodate a total net density of 971 units per hectare. In addition, supporting studies such as a traffic study and a functional servicing report have been submitted concurrently to support the Settlement Proposal. The studies identify no negative impact from a traffic perspective, and a holding provision has been applied to the subject property to ensure sufficient infrastructure capacity is in place to support the development.

[74] A ZBA is necessary to facilitate the increase in height with required step backs in order to minimize impacts relating to shadow and overlook adjacent to the properties to the north and west of the subject property.

[75] The proposed design facilitates a vibrant public realm with street trees and plantings, along with ground floor units with direct access to the public sidewalk, encouraging walking and cycling. A preliminary landscape plan has been submitted in support of the proposed development, and further measures to encourage a pedestrian-oriented streetscape will be provided through a Landscape Plan during the site plan stage of development.

[76] The subject property is located within a higher order transit station area. Therefore, the subject site is in a desirable location and the increase in density and height can be supported given the access to transit and the local amenities that are within walking distance from the subject property. The Tribunal finds that the proposed OPA conforms to

the relevant policies contained in Volume 1 of the UHOP, as well as the policies contained within the CNSP.

Corridor Planning Design Guidelines (2012)

[77] In 2012, the City adopted a series of corridor design guidelines to facilitate best practices relating to certain corridors within the City. The subject property is located adjacent to the Queenston Road Primary Corridor, and as such, the Corridor Planning Design Guidelines ("CDG"), which nevertheless are outdated, are applicable.

[78] The CNSP requires new development to be consistent with the Design Principles contained within the CDG. It should be noted that the Design Principles are not determinative, but informative when considering any new development.

[79] The proposed development presents an opportunity to convert a vacant property into a transit supportive high-density development that is appropriate for a rapid transit corridor, with a high quality built form and urban design. Based upon the size of the parcel, the subject site may accommodate a building taller than 12 storeys. The proposed development is a 17-storey building with multiple setbacks provided within the mid-rise podium to the residential tower, which has been designed in accordance with the urban design policies within both Volumes 1 and 2 of the UHOP. Although the angular plan is in excess of these guidelines along the street lines, there are multiple key policy regime changes that necessitate the increased height and density of the proposed development. In support of the development, an angular plan study was completed along with an urban design report and sun/shadow study. These reports and studies support the proposed development and note that it does not pose a significant impact on adjacent properties, given they are primarily commercial land uses with large surface parking area.

[80] Mr. Kloibhofer opined that the exceedance on angular plane is appropriate as the policies need to balance the provision of a range of housing with direct access to higher order transit, and the planned context of the area. The proposed development strikes a balance by considering a mid-rise podium that generally meets the CDG, while

incorporating additional density within an appropriately massed 17-storey tower towards a prominent corner of the site. Given the surrounding context, the proposed development is generally consistent with the overall goals and objectives contained within the CDG.

Zoning By-law No. 05-200

[81] The proposed ZBA is to amend the ZBL. In 2016 and 2018, the City passed a series of Zoning By-law Amendments which added new Transit Oriented Corridor (“TOC”) Zones.

[82] The subject property is currently zoned Transit Oriented Corridor 1 (TOC1) Zone. The proposed ZBA would rezone the subject property to the Mixed Use – High Density (TOC4, 892, H169) Zone with site specific provisions to permit the proposed development with a holding provision.

[83] Under Section 11.4 of the ZBL, the TOC4 Zone is applied within the Centennial Node, along major arterial roads that functions as a Higher Order Transit Corridor. The TOC4 Zone provides for a range of uses and higher densities to support the area as a major transit hub.

[84] The Special Exception will permit the development of the proposed 17-storey mixed use building containing 319 dwelling units and 417 square metres of commercial gross floor area at-grade. This Special Exception will permit a maximum building height of 55 metres along with additional provisions for setbacks to achieve the desired built form through Schedule B.

Holding Provision

[85] To ensure that various matters such as servicing conditions and site contamination are addressed, a Holding Provision is proposed on the subject property.

[86] Mr. Kloibhofer reviewed the provisions within the draft ZBA in accordance with the proposed development and he opined that the performance standards will give effect to the desired built form, density, and height in conformity with the general intent of the UHOP and the CNSP.

[87] In addition to the performance standards contained within the ZBL, the Holding Provisions are to be placed upon the subject property such that no development shall be permitted until they are satisfied.

[88] The Holding Provisions in his opinion are appropriate to support the orderly development of the future mixed use high-density development. The Holding Provisions are appropriate to ensure the orderly development of the Centennial Neighbourhood, and that the proposed development will have sufficient regard for servicing and infrastructure capacity. Any items relating to the Holding Provisions must be provided through the future Site Plan Control Application, which is an appropriate mechanism to ensure that all holding conditions are satisfied prior to their removal.

[89] The Tribunal finds that the ZBA conforms to the UHOP and CNSP.

CONCLUSION

[90] The Tribunal finds that the proposed development within the urban built-up boundary will promote intensification on this under-utilized subject property. The subject site is well served by public transit and has access to municipal infrastructure and services. Queenston Road is within a Higher Order Transit Corridor and a strategic growth area identified under the Growth Plan. The Tribunal agrees with Mr. Kloibhofer and finds that the Settlement Proposal represents good planning, and that the proposed OPA and ZBA have regard for the matters of provincial interest set out in s. 2 of the *Planning Act*; is consistent with the PPS; conforms to the Growth Plan, the policies of the UHOP and the CNSP.

[91] The mixed use development, with a range and mix of residential unit sizes and retail commercial uses, together with enhancement of the public realm and streetscape, will contribute to a complete community in the Centennial Neighbourhood area. The Tribunal finds that the architectural plans for the proposed development show that a lot of thought and consideration has gone into the planning details. The Settlement Proposal achieves compatibility with the built form of the existing and planned development in this neighbourhood without any negative impacts on adjacent properties.

[92] The Settlement Proposal's urban design perspectives complement and reinforce the urban structure of mid-rise and tall buildings along the Queenston Road Primary Corridor. The Tribunal notes the building design incorporated features to maintain compatibility with the existing and planned built context of the area, the enhancement of the public realm, streetscapes and open amenity spaces provided. The development will provide an increase of residential units and assist the City in meeting its density targets. The dwellings will be invaluable to boost the residential supply in this Secondary Plan Area identified for higher growth and density, while being transit supportive by increasing future ridership.

[93] The Settlement Proposal will lead to active public transportation uses and less dependence on the automobile. This proposed development is beneficial since an under-utilized parcel is developed to attract residential, retail, and commercial usages. The Tribunal finds that the Settlement Proposal answers the need to meet housing and employment targets.

[94] The Settlement Proposal results in a development that is appropriate, with a well designed built form, scale, height and massing. The Tribunal finds the proposed development represents good planning and is in the public interest.

ORDER

[95] **THE TRIBUNAL ORDERS** that the appeals are allowed in part.

1. The Official Plan for the City of Hamilton is amended, as set out in **Attachment 1** to this Order.
2. The Zoning By-law No. 05-200 is hereby amended in the manner set out in **Attachment 2** to this Order. The Tribunal authorizes the Municipal Clerk to assign a number to this By-law for record keeping purposes.

“T.F. Ng”

T.F. NG
MEMBER

Ontario Land Tribunal

Website: 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.

ATTACHMENT 1

BY-LAW NO. 24-098-OLT

Urban Hamilton Official Plan Amendment No. 201

The following text, together with:

Appendix "A"	Volume 1: Schedule E-1 – Urban Land Use Designations
Appendix "B"	Volume 2: Map.6.7-1 – Centennial Neighbourhoods Secondary Plan – Land Use Plan
Appendix "C"	Volume 2: Map.6.7-2 – Centennial Neighbourhoods Secondary Plan – Maximum Building Heights in the Node
Appendix "D"	Volume 2: Map B.6.7-4 – Centennial Neighbourhoods Secondary Plan – Area and Site Specific Policy Area

attached hereto, constitutes Official Plan Amendment No. 201 to the Urban Hamilton Official Plan.

1.0 **Purpose and Effect:**

The purpose and effect of this Amendment is to redesignate the subject lands, to Mixed Use – High Density, establish a Site Specific Policy Area and amend the maximum building height identification within the Centennial Neighbourhoods Secondary Plan to permit the development of a mixed use multiple dwelling with a maximum building height of 17 storeys.

2.0 **Location:**

The lands affected by this Amendment are known municipally as 651 Queenston Road, in the former City of Hamilton.

3.0 **Basis:**

The basis for permitting this Amendment is:

- The proposed development supports the policies of the Urban Hamilton Official Plan and Centennial Neighbourhoods Secondary Plan, as it contributes to a range and mix of housing forms adjacent to a priority transit corridor and makes efficient use of urban lands.
- The proposed development implements the Residential Intensification policies

Urban Hamilton Official Plan Amendment No. 201	Page 1 of 3	
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of the Urban Hamilton Official Plan by providing residential uses along a Primary Corridor, adjacent to existing services, and in proximity to existing transit, community amenities, and supporting commercial uses; 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 1 – Parent Plan

Schedules and Appendices

4.1.1 Schedule

- a. That Volume 1: Schedule E-1 – Urban Land Use Designations be amended by redesignating the subject lands from the “Mixed Use - Medium Density” designation to the “Mixed Use – High Density” designation, as shown on Appendix “A”, attached to this Amendment.

4.2 Volume 2 – Secondary Plans

Text

4.1.1 Chapter B.6.0 – Hamilton Secondary Plans – Section B.6.7 – Centennial Neighbourhood Secondary Plan

- a. That Volume 2: Chapter B.6.0 – Hamilton Secondary Plans, Section B.6.7 – Centennial Neighbourhoods Secondary Plan be amended by adding a new Site Specific Policy, as follows:

“Site Specific Policy – Area N

B.6.7.18.14 For lands identified as Site Specific Policy – Area N on Map B.6.7-4 – Centennial Neighbourhoods Secondary Plan - Area and Site Specific Policy Area, designated “Mixed Use – High Density”, and known municipally as 651 Queenston Road, the following policy shall apply:

- a) In accordance with Policy B.6.7.7.4 a), and notwithstanding Policy B.6.7.7.4 d), the maximum permitted height shall be 17 storeys.”

Maps

Urban Hamilton Official Plan Amendment No. 201	Page 2 of 3	
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4.2.2 Map

- a. That Volume 2: Map B.6.7-1 – Centennial Neighbourhoods Secondary Plan – Land Use Plan be amended by redesignating the subject lands from “Mixed Use – Medium Density” to “Mixed Use – High Density”, as shown on Appendix “B”, attached to this Amendment.
- b. That Volume 2: Map B.6.7-2 – Centennial Neighbourhoods Secondary Plan – Maximum Building Heights in the Node be amended by identifying the subject lands as “Greater than 15 Storeys” and indicating “17” on the property, as shown on Appendix “C”, attached to this Amendment.
- c. That Volume 2: Map B.6.7-4 – Centennial Neighbourhoods Secondary Plan – Area and Site Specific Policy Area, be amended by identifying the subject lands as Site Specific Policy - Area N, as shown on Appendix “D”, attached to the Amendment.

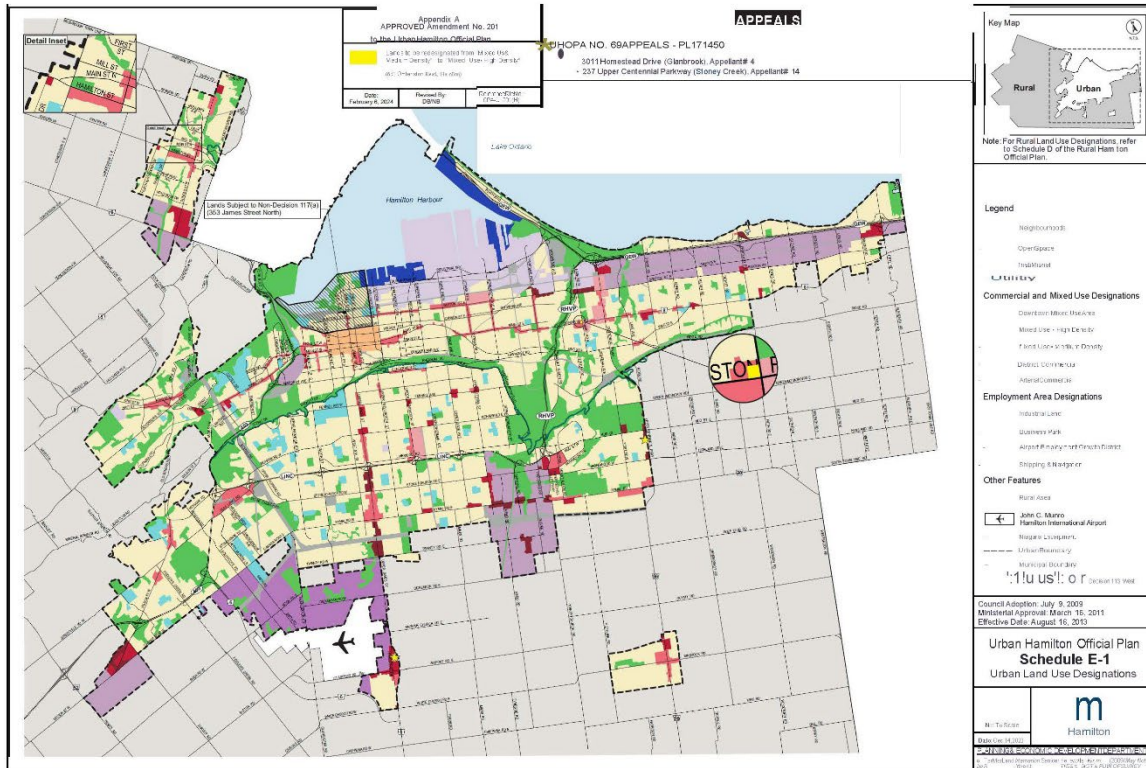
5.0 **Implementation:**

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

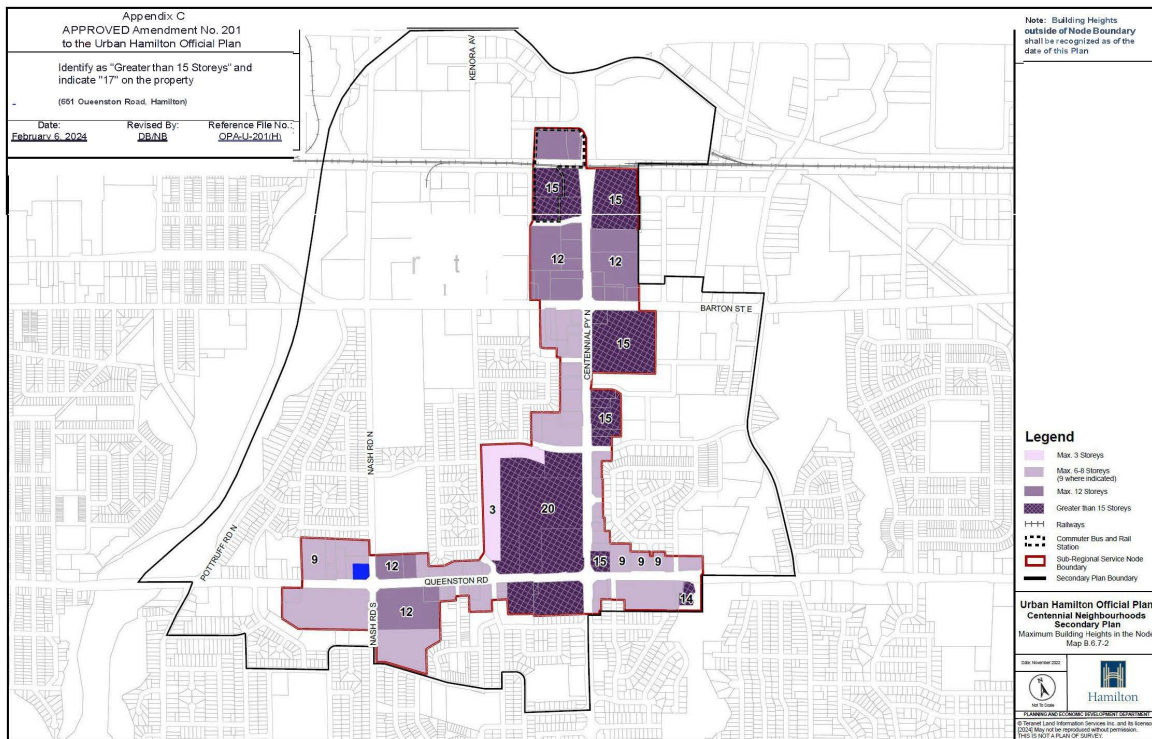
24-098-OLT

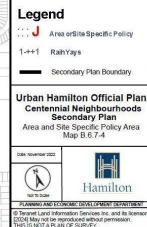
This Official Plan Amendment is Schedule “1” to By-law No._____, pursuant to the Decision / Order of the Ontario Land Tribunal issued in Case No. XXX on the 27th day of May 2024.

OLT-22-004546









ATTACHMENT 2

Authority: Item XX, Planning Committee
Report (PED24XXX)
CM: February 28th, 2024
Ward: 5

CITY OF HAMILTON

BY-LAW NO. 24- 099-OLT

To amend Zoning By-law No. 05-200 with respect to lands located at 651
Queenston Road, Hamilton

22-004547

WHEREAS the Ontario Land Tribunal, in its Decision/Order No. OLT-~~XX-XXX~~, dated the **27th** day of **May**, 2024 approved the amendment to Zoning By-law No. 05-200, as herein provided;

AND WHEREAS this By-law conforms to the Urban Hamilton Official Plan, as amended by Official Plan Amendment No. 201.

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

1. That Map No. 1142 of Schedule "A" – Zoning Maps is amended by changing the zoning from the Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone to the Transit Oriented Corridor Mixed Use High Density (TOC4, 892, H169) Zone, for those lands identified as 651 Queenston Road, the extent and boundaries of which are shown on Schedule "A" attached to and forming part of this By-law.
2. That Schedule "C" – Special Exceptions is amended by adding the following new Special Exception:

"892. Within the lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, on Map No. 1142 of Schedule "A" – Zoning Maps and described as 651 Queenston Road, the following special provisions shall apply:

 - a) Notwithstanding Section 4.6 e), a balcony may encroach into any required yard to a maximum of 1.8 metres.
 - b) Notwithstanding Section 11.4.1.1 i) 1. A., Dwelling Unit(s), Mixed Use and any use accessory thereto shall not be permitted on the ground floor fronting Queenston Road
 - c) In addition to Section 11.4.1.1 i) 1. A., Dwelling Unit(s), Mixed Use and any use accessory thereto are restricted from fronting onto Queenston Road on the ground floor, not including the hypotenuse of a daylight triangle.

**To amend Zoning By-law No. 05-200 with respect to lands located at
651 Queenston Road, Hamilton**

- d) In addition to Section 11.4.3, and notwithstanding Sections 11.4.3 a), b), d) and g) x), the following regulations shall apply:
- | | | |
|------|-------------------------------------|---|
| i) | Building Setback from a Street Line | Shall be in accordance with Figure 39 of Schedule F – Special Figures. |
| ii) | Minimum Rear Yard | Shall be in accordance with Figure 39 of Schedule F – Special Figures. |
| iii) | Building Height | <ol style="list-style-type: none"> 1. Shall be in accordance with Figure 39 of Schedule F – Special Figures. 2. In addition to the definition of Building Height, any wholly enclosed or partially enclosed amenity area, or any portion of a building designed to provide access to a rooftop amenity area shall be permitted to project above the uppermost point of the building, subject to the following regulations: <ol style="list-style-type: none"> A. The wholly enclosed or partially enclosed amenity area shall not exceed 266 square metres of gross floor area. B. The wholly enclosed or partially enclosed amenity area shall be setback 7.25 metres from the hypotenuse of a daylight triangle. C. The wholly enclosed or partially enclosed amenity area, or portion of a building designed to provide access to a rooftop amenity area shall not be greater than 5.0 metres in vertical distance from the uppermost point of the building to the uppermost point of the rooftop enclosure. |

**To amend Zoning By-law No. 05-200 with respect to lands located at
651 Queenston Road, Hamilton**

- iv) Built Form for New Development
 - 1. The first storey shall have a minimum height of 3.5 metres and a maximum height of 4.5 metres.
 - 2. A minimum of 20% of the west elevations shall be composed of windows and glazing.
 - 3. A minimum of two cladding materials shall be used for the 2nd to 6th storeys of the west elevation located within 5.0 metres of the westerly lot line.
 - v) Percentage of two and three Bedroom Units Within Dwelling Unit(s), Mixed Use
 - 1. A minimum of 26.8 percent of the Dwelling Unit(s), Mixed Use shall be units with two bedrooms, and a minimum of 2% of the Dwelling Unit(s), Mixed Use shall be units with three or more bedrooms.
 - 2. Where the application of the requirement in Subsection d) v) 1. above results in a numeric fraction, fractions shall be rounded up to the nearest whole number.
3. That Schedule "D" – Holding Provisions be amended by adding the additional Holding Provision as follows:
- "169. Notwithstanding Section 11.4 of this By-law, within lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4, 892) Zone, on Map No. 1142 of Schedule "A" – Zoning Maps and described as 651 Queenston Road, no development shall be permitted until such time as:
- a) The owner completes a Record of Site Condition to the satisfaction of the Director of Development Planning, including a notice of acknowledgement of the Record of Site Condition by the Ministry of the Environment, Conservation and Parks, and submission of the City of Hamilton's current Record of Site Condition administration fee.
 - b) The owner submits to the Director of Development Engineering for review and acceptance, a revised Functional Servicing Report to demonstrate:
 - i) That there is a suitable sanitary sewer outlet with sufficient capacity available, including but not limited to improvements to the existing sanitary sewer/trunk sewer systems along Nash Road North from

**To amend Zoning By-law No. 05-200 with respect to lands located at
651 Queenston Road, Hamilton**

Queenston Road to Red Hill Valley Ramp in accordance with Centennial Neighbourhood Water Distribution and Wastewater Collection Servicing Study, to service the proposed development.

- ii) That the owner acknowledges and agrees that, as part of the future Site Plan Control application, the owner will enter into and register an External Works Agreement with the City on the title of the lands for the design and construction of any required sanitary sewer improvements to the municipal infrastructures identified in the Centennial Neighbourhood Water Distribution and Wastewater Collection Servicing Study, in accordance with the City's Financial Policy to support this development.
 - c) That the owner/developer acknowledges and agrees that development within the subject site cannot proceed until the City completes the Centennial Neighbourhood Water Distribution and Wastewater Collection Servicing Study and the required sanitary sewer improvements to the municipal infrastructure are in place and operational, all to the satisfaction of the Director of Development Engineering.
4. That Schedule "F" – Special Figures be amended by adding Figure 39: Building Heights and Setbacks for 651 Queenston Road as shown on Schedule "B" to this By-law.
 5. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the provisions of the Transit Oriented Corridor Mixed Use High Density (TOC4, 891, H169) Zone subject to the special requirements referred to in Section No. 2, 3 and 4 of this By-law.

099-OLT

That this By-law No. 24-~~XX~~-OLT shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the *Planning Act*, either upon date of passage of this By-law or as otherwise provided in the said Sub-section.




PASSED and ENACTED this 27th day of May, 2024.

A. Horwath
Mayor

J. Pilon
Acting City Clerk

ZAC-22-018

To amend Zoning By-law No. 05-200 with respect to lands located at
651 Queenston Road, Hamilton

	
<p>This is Schedule "A" to By-law No. 24-099-OLT</p> <p>Passed the 27th day of May, 2024</p> <p>_____ Mayor</p> <p>_____ Clerk</p>	
<p>Schedule "A"</p> <p>Map forming Part of By-law No. 24-099-OLT</p> <p>to Amend By-law No. 05-200 Map 1142</p>	
<p>Scale: N.T.S.</p> <p>Date: February 6, 2024</p>	<p>File Name/Number: ZAC-22-018/UHOPA-22-009</p> <p>Planner/Technician: DB/NB</p> <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>
<p>Subject Property 651 Queenston Road, Hamilton</p> <p> Change in zoning from the Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone to the Transit Oriented Corridor Mixed Use High Density (TOC4, 892, H169) Zone</p>	
<p> Hamilton</p>	

To amend Zoning By-law No. 05-200 with respect to lands located at
651 Queenston Road, Hamilton

