

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**25-080-OLT Attachment 1**  
**25-081-OLT Attachment 2**

**ISSUE DATE:** April 15, 2025

**CASE NO(S).:**

OLT-24-000827

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

|                          |  |
|--------------------------|--|
| Applicant and Appellant: | Greenhill Plaza Limited & Medallion Development Inc.                                 |
| Subject:                 | Request to amend the Official Plan – Failure to adopt the requested amendment        |
| Description:             | To permit the development of four residential towers, commercial space, and parking. |
| Reference Number:        | UHOPA-22-016   |
| Property Address:        | 399 Greenhill Avenue   |
| Municipality/UT:         | Hamilton   |
| OLT Case No.:            | OLT-24-000827  |
| OLT Lead Case No.:       | OLT-24-000827  |
| OLT Case Name:           | Greenhill Plaza Limited & Medallion Development 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: | Greenhill Plaza Limited & Medallion Development Inc.                                 |
| Subject:                 | Application to amend the Zoning By-law – Refusal or neglect to make a decision       |
| Description:             | To permit the development of four residential towers, commercial space, and parking. |
| Reference Number:        | ZAC-22-030   |
| Property Address:        | 399 Greenhill Avenue   |
| Municipality/UT:         | Hamilton   |
| OLT Case No.:            | OLT-24-000828  |
| OLT Lead Case No.:       | OLT-24-000827  |
| OLT Case Name:           | Greenhill Plaza Limited & Medallion Development Inc. v. Hamilton (City)              |

**Heard:** March 31, 2025, by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

Greenhill Plaza Limited and Medallion  
Developments Inc.

B. Ruddick

City of Hamilton

P. Maloney

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. deBOER ON MARCH 31,  
2025 AND ORDER OF THE TRIBUNAL**

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[Link to Order](#)

**INTRODUCTION**

[1] The Tribunal had originally scheduled a seven-day hearing on the merits of the appeals by Greenhill Plaza Limited and Medallion Development Inc. (“Appellants”) under ss. 22(7) and 34(11) of the *Planning Act* (“Act”) due to the City of Hamilton’s (“City”) refusal of the Appellants’ Official Plan Amendment (“OPA”) application and Zoning By-law Amendment (“ZBA”) application (collectively “Applications”) for the lands municipally known as 399 Greenhill Avenue, in the City (“Subject Lands”).

[2] Prior to the commencement of the hearing, the Tribunal received correspondence from the Parties advising that a settlement had been reached on the issues and requesting that the scheduled hearing be converted to a hearing on the merits of the settlement proposal.

[3] In accordance with Rule 12 of the Tribunal’s *Rules of Practice and Procedure*, the Tribunal convened the proceedings to a hearing on the terms of the settlement.

[4] When considering appeals filed pursuant to ss. 22(7) and 34(11) of the Act, the Tribunal must have regard to matters of provincial interest, as set out in s. 2 of the Act. Decisions of the Tribunal affecting planning matters must conform to the Provincial Planning Statement, 2024 (“PPS 2024”), to the Urban Hamilton Official Plan (“UHOP”) and to the City Zoning By-law No. 05-200 (“ZBL”).

[5] In consideration of the statutory requirements listed above, the Tribunal must be satisfied that the Applications are in the public interest and represents good land use planning.

### **HISTORY OF THE APPLICATIONS**

[6] The Applications were submitted to the City on April 7, 2022. The Applications were deemed complete on April 27, 2022.

[7] The Applications were then reviewed by the City’s Design Review Panel (“DRP”) on June 9, 2022.

[8] A virtual community meeting was held on October 6, 2022, concerning the Applications. Comments were received by the Appellants and these comments were summarized and included in the City’s Staff Report (“Staff Report”) dated June 18, 2022.

[9] A resubmission of materials of the proposed OPA and ZBA were received by the City on April 12, 2023. Due to the comments that were received from the DRP, the public, and City staff, several revisions were made to the resubmitted Applications.

[10] On June 18, 2024, the Applications were brought before the City’s Planning Committee with a Staff Report recommending approval of the Applications. The City’s Planning Committee adopted the Staff Report’s recommendations with one modification.

[11] The Applications were presented to City Council at its meeting on June 26, 2024. The vote of City Council resulted in a tie, thus, defeating the approval of the Applications.

[12] The Appellants appealed the decision of City Council on July 24, 2024.

## **SUBJECT LANDS AND SURROUNDING AREA**

[13] The Subject Lands are located at the northwest corner of Greenhill Avenue and Mount Albion Road. The Subject Lands are approximately 300 metres (“m”) east of the Red Hill Valley Parkway in the Red Hill neighbourhood.

[14] The Subject Lands are of irregular shape and have an approximate total area of 1.45 hectares. The Subject Lands have frontages on three streets. Greenhill Avenue has a frontage of approximately 173 m. Harrisford Street has a frontage of approximately 39 m and Mount Albion Road has an approximate frontage of 120 m. All three streets provide vehicular access to the Subject Lands.

[15] Currently on the Subject Lands is a one-storey commercial plaza. There is a second-storey office component above a portion of the plaza. The ground level has an approximate total leasable area of approximately 3,600 square metres (“sq m”). The total leasable area of the second-storey office space is approximately 429 sq m. The building coverage is approximately 25% of the total lot area.

[16] The Red Hill neighbourhood is predominantly residential with some commercial and institutional uses included in the area. The Red Hill neighbourhood is generally bound by Red Hill Valley Parkway to the west, Glendale Golf Club to the south, a generally north-south open space area to the east (“Greenhill Open Space”), and King Street East to the north.

[17] The residential component of the Red Hill neighbourhood is characterized by a mix of single and semi-detached homes, townhomes, and apartment buildings of up to

12 storeys in height. The 12-storey buildings in the area include two existing 11 and 12-storey buildings to the immediate north of the Subject Lands and another existing 12-storey building at the southwest corner of Greenhill Avenue and Mount Albion Road.

## **SUBMISSIONS**

[18] The Parties presented Stephanie Kwast to provide expert opinion evidence concerning the matter before the Tribunal. Ms. Kwast was qualified to provide expert opinion evidence in the area of land use planning in regard to this matter.

[19] The following were submitted and approved as exhibits to the hearing event;

- Exhibit 1 – Affidavit of Stephanie Kwast, consisting of 659 pages; and
- Exhibit 2 – Joint Document Book, consisting of 1838 pages.

[20] Ms. Kwast took the Tribunal through a brief history of the Applications and the surrounding area, as outlined above.

## **Settlement Proposal**

[21] It was Ms. Kwast's opinion that the settlement proposal before the Tribunal will result in the demolition of the existing plaza. Replacing the plaza would be a mix of low and mid-rise form buildings surrounding a centrally located open space. Two 12-storey purpose-built rental buildings and two four-storey stacked back-to-back townhouse blocks are proposed for the Subject Lands.

[22] The 12-storey building at the western most portion of the Subject Lands ("Building A") will be oriented east to west along the Greenhill Avenue frontage. Building A will contain approximately 1,410 sq m of non-residential ground floor area ("GFA") at grade, which is to provide retail services for Building A and its residents.

[23] The second 12-storey building is located to the east of Building A (“Building B”) and is oriented in a north-south fashion, with frontage on Greenhill Avenue. Building B will contain exclusively residential units. The four-storey stacked townhouse blocks are located adjacent to the Mount Albion Road frontage.

[24] The settlement proposal before the Tribunal includes a total of 546 residential units. A breakdown of the key details of the settlement are listed below:

|   | <b>Settlement Proposal</b>  |
|---|---|
| <b>Total Site Area</b>  | 14,521 sq m   |
| <b>Net Site Area (excludes daylight triangle and road widening)</b>   | 14,269 sq m   |
| <b>Building Height</b>  | 36.5 m + 5.5 m mechanical penthouse (Building A and Building B)<br>12.0 m (stacked back-to-back townhouses) |
| <b>Total GFA</b><br>• Residential GFA<br>• Non-residential GFA<br>• Below-grade GFA   | 41,759 sq m<br>38,508 sq m<br>1,140 sq m<br>1,841 sq m  |
| <b>Total dwelling units</b><br>• Bachelor<br>• One-bedroom<br>• Two-bedroom<br>• Three-bedroom<br>• Townhouse (two-bedroom) | 546 units<br>43 (8%)<br>233 (43%)<br>190 (35%)<br>28 (5%)<br>52 (9%)  |
| <b>Total Amenity Area</b>   | 3,025 sq m  |
| <b>Total Parking Spaces</b><br>• Residential<br>• Visitor and Non-residential   | 510 spaces<br>428 spaces<br>82 spaces   |
| <b>Total Bicycle Parking Spaces</b><br>• Residential<br>• Non-residential   | 441 spaces<br>436 spaces (382 long term, 54 short term)<br>5 spaces (2 long term, 3 short term)             |
| <b>Total Loading Spaces</b>   | 2   |

### *Planning Act*

[25] It was Ms. Kwast’s opinion that the settlement proposal before the Tribunal has appropriate regard to matters of provincial interest as required by s. 2 of the Act. The settlement proposal before the Tribunal will facilitate an orderly development of a safe

and healthy community. The inclusion of holding provisions in the ZBA provides conditions that the Appellants must satisfy before continuing with the development process. These provisions include conditions pertaining to:

- Wind;
- Transportation;
- Municipal servicing;
- Tree preservation;
- Noise; and
- A Record of Site Condition.

[26] Ms. Kwast continued with her opinion that the settlement proposal will provide a range of housing types – including affordable housing – and includes 190 two-bedroom rental units and 28 three-bedroom rental units.

[27] Ms. Kwast opined that the settlement proposal appropriately balances the public and private interests by providing needed housing options and providing needed rental housing while redeveloping the Subject Lands.

[28] It was Ms. Kwast's opinion that the Subject Lands are within the City's Built-up Area and has a designation of Neighbourhoods in the UHOP. The settlement proposal is of a built form that is well designed and provides for safe and accessible public spaces. As such, it was her opinion that the settlement proposal has appropriate regard for matters of provincial interest as required by s. 2 of the Act.

*PPS 2024*

[29] Concerning the PPS 2024, it was Ms. Kwast's opinion that the settlement proposal before the Tribunal is consistent with the PPS 2024, and in particular, Policies 2.1.6, 2.3.1.2, and 2.3.1.3.

[30] Pertaining to Policy 2.1.6 of the PPS 2024, Ms. Kwast opined that the settlement proposal will help support the achievement of complete communities by providing a range and mix of housing types, including retail space. The new buildings will be designed to meet the current *Accessibility for Ontarians with Disabilities Act, 2005* standards.

[31] Policy 2.2.1 of the PPS 2024 states that planning authorities shall provide a range and mix of housing options and densities. The settlement proposal seeks to redevelop an underutilized commercial plaza by constructing a total of 546 residential units while keeps commercial uses available. It was Ms. Kwast's opinion that the settlement proposal meets the objectives of Policy 2.2.1 by providing a mix of housing that is needed while still providing commercial/retail opportunities.

[32] Concerning Policy 2.3.1.2 of the PPS 2024, it was Ms. Kwast's opinion that the settlement proposal makes efficient use of the Subject Lands, optimizes the existing and planned infrastructure, and supports public transportation. The replacing of a large surface parking area with housing supports local transportation network options by providing on-site bicycle parks spaces and pedestrian walkways which will connect to the adjacent municipal sidewalks.

[33] Policy 2.3.1.3 of the PPS 2024 states that intensification redevelopment should occur in a manner that supports complete communities. It was Ms. Kwast's opinion that the settlement proposal before the Tribunal will provide a range of housing options and include a new supply of rental housing units while keeping retail available to help support a whole community.



[34] Ms. Kwast opined that the settlement proposal before the Tribunal is consistent with the PPS 2024.

*UHOP*

[35] Ms. Kwast explained to the Tribunal that the UHOP came into effect August 16, 2013. A comprehensive review of the UHOP came into effect with the modifications through Official Plan Amendment 167 ("OPA 167") of November 4, 2022. As such, it was Ms. Kwast's opinion that the OPA before the Tribunal is only for two specific Policies, being Policies E 3.8.9(a) and E 3.8.14(b).

[36] Policy E 3.8.9(a) of the UHOP states that a development and redevelopment of local commercial uses shall "front and have access to a major arterial, minor arterial or collector road." It was Ms. Kwast's opinion that the Subject Lands front and have access via local roads. She continued to opine that the requested change to permit frontage and access via a local road will conform to the UHOP.

[37] Policy E 3.8.14(b) of the UHOP states that new local commercial buildings or uses in areas other than those referred to in Policy E. 3.8.13 shall "provide a principal entrance facing the arterial and collector road." Ms. Kwast opined that the frontage is on a local road and not on an arterial or collector road. The Subject Lands have been exempted from Policy E 3.8.14(b) by City staff as it is the intent of the City to change the section of Greenhill Avenue west of Mount Albion Road from a designation of a local road to designation of a collector road. Ms. Kwast stated that it is the intent of City staff to make this change through a future housekeeping amendment.

[38] It was Ms. Kwast's opinion that the changes to Policies E 3.8.9(a) and E 3.8.14(b) make the settlement proposal before the Tribunal conform to the UHOP.

*ZBL*

[39] Ms. Kwast stated that City staff recommended that the ZBL be amended for the zoning category from C3 – Community Commercial to (C5) Mixed Use Medium Density. Along with this recommended zoning change, City staff recommended an exception (“Exception 897”) and a holding provision (“H172”) be added to the ZBA. Exception 897 allows for minor changes to items such as porch encroachment, visual barriers, parking abutting a residential zone, loading spaces, and visitor parking. H172 would be in place until the owner of the Subject Lands had satisfied the City’s conditions, which are listed in paragraph [25] above.

[40] It was Ms. Kwast’s opinion that these recommended changes by City staff were appropriate and that the final draft of the ZBA before the Tribunal conformed to the ZBL. Mr. Kwast continued with her opinion that the ZBA before the Tribunal will result in a development that will be compatible with the surrounding area while providing an appropriate level of commercial/retail space uses to accommodate a range of tenants and uses.

[41] Ms. Kwast noted that, during the process of the Applications, the City brought into effect Zoning By-law No. 24-052, which requires a different allocation of total parking spaces. As a result of this, Ms. Kwast opined that the ZBA before the Tribunal reflects this new allocation. It was Ms. Kwast’s opinion that the final draft before the Tribunal conforms to both Zoning By-law No. 05-200 and Zoning By-law No. 24-052, and that the settlement proposal before the Tribunal should be approved.

*Participant Statement*

[42] On the day of the hearing, the Tribunal received an updated Participant Statement from Fayne Downie. The Tribunal allowed the Parties time to review the updated Participant Statement and review the issues raised by the Participant. It was Ms. Kwast’s opinion that the Participant’s concerns have been mitigated and that the type of retail space that is permitted through the OPA and ZBA process will allow for

most of the existing types of retailers to return to the commercial areas of the Subject Lands. The amount of retail space has increased by 45% compared to the original proposal. Ms. Kwast opined that the concerns of the Participant had been taken into consideration, as shown in the increased commercial space made available in finalizing the settlement proposal before the Tribunal.

[43] Concerning the Participant's issues with parking, it was Ms. Kwast's opinion that the settlement proposal before the Tribunal conforms to the updated parking permissions and includes an additional eight new parking spaces along the north-south driveway to provide more parking to be located close to the retail space. Ms. Kwast continued with her opinion that more details of the parking spaces can be completed through the site plan approval process.

#### *Overall Opinion*

[44] In conclusion, it was Ms. Kwast's opinion that the settlement proposal before the Tribunal has regard for matters of provincial interest as per s. 2 of the *Planning Act* and is consistent with the PPS 2024. The settlement proposal conforms to the UHOP and conforms to both Zoning By-law No. 05-200 and Zoning Bylaw No. 24-052. The settlement proposal will provide a significant amount of new housing options and will be in a built form that is compatible with the existing area and respects the character of the surrounding neighbourhood. The settlement proposal will make an efficient use of existing municipal services and will achieve an appropriate balance of housing and commercial/retail uses on the Subject Lands. The settlement proposal before the Tribunal is in the public interest and represents good land use planning.

### **ANALYSIS AND FINDINGS**

[45] The Tribunal accepts the uncontested opinion evidence of Ms. Kwast and finds that the proposed OPA and ZBA have appropriate regard for matters of provincial interest pursuant to s. 2 of the *Planning Act*.

[46] The proposed OPA and ZBA are consistent with the PPS 2024 as they will facilitate the intensification of an underutilized site while making use of existing municipal services. The proposed instruments conform with the Policies of the UHOP and the ZBL and will facilitate a development that will contribute to a wide range of housing types. The Tribunal further finds that the ZBA allows for built forms and a site configuration that is compatible with the surrounding area regarding use and scale.

[47] The Tribunal finds that the design of the proposed development represents an appropriate intensification of a currently underutilized site and incorporates a compatible built form with the neighbourhood.

[48] The Tribunal reviewed the Participant's concerns with the Parties. The Tribunal finds that the Parties have addressed these concerns by the site design changes that have taken place, and in particular, the total amount of commercial/retail space that will be provided. Any further Participant concerns can be addressed through the site plan approval process.

[49] The Tribunal finds that the OPA and ZBA, as presented, represent good land use planning, and should be approved.

## ORDER

[50] **THE TRIBUNAL ORDERS THAT** the appeal of the City of Hamilton Urban Hamilton Official Plan is allowed, in part, and Official Plan Amendment No. 211 to the Urban Hamilton Official Plan is approved, as set out to **Attachment 1** to this Order.

[51] **THE TRIBUNAL FURTHER ORDERS THAT** the appeal of the City of Hamilton Zoning By-law No. 05-200 is allowed, in part, as set out in **Attachment 2** to this Order. The Tribunal authorizes the municipal clerk of the City of Hamilton to assign a number to this By-law for record keeping purposes.

[52] The Tribunal Member may be spoken to if any issues arise implementing this Order.

*“S. deBoer”*

S. deBOER  
MEMBER

### **Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://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

### Urban Hamilton Official Plan Amendment No. 211

The following text, together with Appendix "A", Volume 3: Map 2 – Urban Site Specific Key Map attached hereto, constitutes Official Plan No. 211 to the Urban Hamilton Official Plan.

#### 1.0 Purpose and Effect:

The purpose and effect of this Amendment is to amend the Urban Hamilton Official Plan to permit the development of ground floor local commercial uses on a local road.

#### 2.0 Location:

The lands affected by this Amendment are known municipally as 399 Greenhill Avenue, in the former City of Hamilton.

#### 3.0 Basis:

The basis for permitting this Amendment is as follows:

- The proposed development maintains the consistent use of the subject lands for local commercial along Greenhill Avenue, located at the intersection of a Collector Road.
- The proposed development complies with the general intent of the Urban Hamilton Official Plan.
- The Amendment is consistent with the Provincial Planning Statement, 2024.

#### 4.0 Actual Changes:

##### 4.1 Volume 3 – Special Policy Areas, Area Specific Policies, and Site Specific Policies

**Text**4.1.1 Chapter C – Urban Site Specific Policies

- a. That Volume 3: Chapter C – Urban Site Specific Policies be amended by adding a new Site Specific Policy, as follows:

**“UHN-38 Lands located at 399 Greenhill Avenue, former City of Hamilton**

- 1.0 Notwithstanding policy E.3.8.9 a) of Volume 1, the development of local commercial uses on the subject lands shall be permitted to front and have access to a local road.
- 2.0 Policy E.3.8.14 b) of Volume 1 shall not apply.”

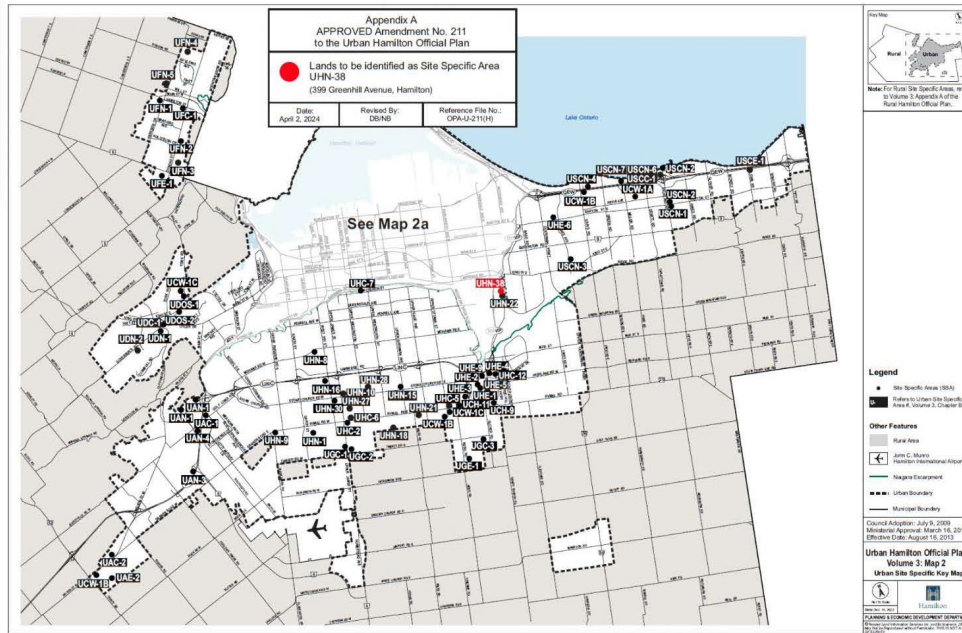
**Maps and Appendices**4.1.2 Map

- a. That Volume 3: Map 2 – Urban Site Specific Key Map be amended by identifying the subject lands as UHN-38, 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. 25-080-OLT, pursuant to the Decision / Order of the Ontario Land Tribunal issued in Case No. OLT-24-000827 on the 15<sup>th</sup> day of April, 2025.





## ATTACHMENT 2

### CITY OF HAMILTON

#### BY-LAW NO. 25-081-OLT

To Amend Zoning By-law No. 05-200, Respecting Lands Located at 399 Greenhill Avenue,  
Hamilton

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Schedule. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Hamilton", and is the successor of the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS**, the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

OLT-24-000827 15th April

**AND WHEREAS** the Ontario Land Tribunal, in its Decision/Order No. XXX, dated XX day of XXX, 20\_, approved the amendment to Zoning By-law No. 05-200 as herein provided;

**AND WHEREAS** this By-law will be in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. 211.

**NOW THEREFORE** the Ontario Land Tribunal amends Zoning By-law No. 05-200 as follows:

1. That Map Nos. 1245 and 1298 of Schedule "A" to Zoning Maps are amended by changing the zoning from the Community Commercial (C3) Zone to the Mixed Use Medium Density (C5, 897, H172) Zone, for the lands identified on Schedule "A" to this By-law.

2. That Schedule "C" – Special Exceptions is amended by adding the following new Special Exception:

"897. Within the lands zoned Mixed Use Medium Density (C5) Zone on Map Nos. 1245 and 1298 of Schedule "A" – Zone Maps and described as 399 Greenhill Avenue, the following provisions shall apply:

- a) Notwithstanding Section 4.6 d) and in addition to Section 4.19, the following regulations shall apply:

- |                       |   |
|-----------------------|---|
| i) Porch Encroachment | A porch, deck, stairs or canopy may encroach into a required yard to a maximum of 2.5 metres adjacent to Mount Albion Road, and a canopy may encroach into a required yard to a |
|-----------------------|---|

maximum of 2.0 metres adjacent to Greenhill Avenue and Harrisford Street.

ii) Visual Barrier

For the northerly lot line shared with 30 and 40 Harrisford Street, a fence with a height of 1.0 metres existing on the date of the passing of this By-law shall be considered a Visual Barrier for the purpose of compliance with Section 4.19

b) Notwithstanding Section 5.3.1 d), 5.5.1 a) iii) and in addition to 5.7.1 a), the following regulations shall apply:

i) Parking Abuts a Residential Zone

- A) A minimum 1.5 metre wide landscape strip which shall contain a Visual Barrier in accordance with Section 4.19 of this By-law.
- B) Notwithstanding i) A) above, for the lot line shared with 30 and 40 Harrisford Street, a minimum 1.5 metre wide landscape strip and a fence with a height of 1.0 metres existing on the date of the passing of this By-law shall be considered a Visual Barrier.

ii) Loading Spaces

A loading space may be located in a yard abutting a Residential Zone for the northerly lot line shared with 30 and 40 Harrisford Street and, a fence with a height of 1.0 metres existing on the date of the passing of this By-law shall be considered a Visual Barrier for the purpose of compliance with Section 5.5.1 a) iii).

iii) Shared Visitor and Non-Residential Parking Spaces

Visitor parking spaces and non-residential parking spaces may be shared and provided on a non-exclusive basis, and such parking spaces may be used towards the calculation of minimum required visitor parking spaces and non-residential parking spaces in Section 5.7.1 a)

- c) Notwithstanding Section 10.5.1, 10.5.1.1 i) 1, 10.5.3 a), 10.5.3 b), 10.5.3.d) i), ii), and iii), 10.5.3 g) v) 2., and 10.5.3 g) vii), and in addition to Section 10.5.3 j), the following regulations shall apply:




- |   |   |
|---|---|
| i) Permitted Uses                         | <p>A) Notwithstanding the list of permitted uses in Section 10.5.1, only the following uses shall be permitted:</p> <ul style="list-style-type: none"> <li>Day Nursery</li> <li>Dwelling Unit(s)</li> <li>Financial Establishment</li> <li>Multiple Dwelling</li> <li>Office</li> <li>Personal Service</li> <li>Restaurant</li> <li>Retail</li> <li>Veterinary Service</li> </ul> |
| ii) Restriction of Uses within a Building | <p>A) Section 10.5.1.1 i) 1, shall not apply for the lands included in Block 2 of Special Figure No. 40 of Schedule "F" - Special Figures.</p> <p>B) Section 10.5.1.1 i) 1), shall not apply to dwelling units that do not front a street line for the lands included in Block 1 of Special Figure No. 40 of Schedule "F" – Special Figure.</p>                                   |
| iii) Minimum Setback from a Street Line   | <p>A) In accordance with Special Figure No. 40 of Schedule "F" – Special Figures.</p> <p>B) Notwithstanding Section iii) A), above, floor area with a maximum depth of 1.5 metres shall be permitted to project into the required building setback above a height of 13.5 metres above grade.</p>   |
| iv) Minimum Rear Yard                     | In accordance with Special Figure No. 40 of Schedule "F" – Special Figures.   |
| v) Minimum North Side Yard Setback        | In accordance with Special Figure No. 40 of Schedule "F" – Special Figures.   |

- |       |   |   |
|-------|---|---|
| vi)   | Minimum Building Height                   | <p>A) Minimum 7.5 metre façade height for any portion of a building along a street line.</p> <p>B) Notwithstanding vi) A) above, a 5.0 metre minimum facade height for any portion of a building along the Harrisford Street line and for a portion of a building fronting onto Greenhill Avenue located within 17.0 metres of the Harrisford Street line shall be permitted.</p>                 |
| vii)  | Maximum Building Height                   | <p>A) 12.0 metres</p> <p>B) Notwithstanding vii) A) above, building heights may exceed 12.0 metres in accordance with Special Figure No. 40 of Schedule "F" – Special Figures.</p>  |
| viii) | Principal Entrance                        | <p>A) A principal entrance is required within the ground floor façade that is setback closest to a street, for the lands included in Block 1, of Special Figure No. 40 of Schedule "F" – Special Figures.</p> <p>B) A principal entrance shall require direct access from the public sidewalk, for the lands included in Block 2, of Special Figure No. 40 of Schedule "F" – Special Figures.</p> |
| ix)   | Visual Barrier                            | <p>A fence with a height of 1.0 metre existing on the date of the passing of this By-law shall be considered a Visual Barrier in accordance with the requirements of Section 4.19 of this By-law for the northerly lot line shared with 30 and 40 Harrisford Street.</p>  |
| x)    | Percentage of two and three Bedroom Units | <p>A minimum of 30 percent of the dwelling units shall have two bedrooms and a minimum of 5 percent of the dwelling units shall have three or more bedrooms.</p>  |

- xi) Non-Residential Gross Floor Area
        - A) A minimum of 1,400 square metres of gross floor area for non-residential uses shall be provided on Block 1 of Special Figure No. 40 of Schedule "F" - Special Figures.
        - B) Non-residential uses required by xi) A) above shall only include the following uses: Day Nursery, Financial Establishment, Office, Personal Service, Restaurant, Retail, Veterinary Service.
  - d) The following regulations shall apply:
    - i) Minimum Required Number of Electric Vehicle Parking Spaces (as defined in By-law 24-052)
        - A minimum of 25% of all provided parking spaces, excluding visitor and non-residential parking spaces, or the requirement of Section 5 of By-law 05-200, whichever is lesser.
3. That Schedule "D" – Holding Provisions be amended by adding the following Holding Provision:
- "172. Notwithstanding Section 10.5 of this By-law, within lands zoned Mixed Use Medium Density (C5) Zone, on Map Nos. 1245 and 1298 of Schedule "A" – Zoning Maps and described as 399 Greenhill Avenue, Hamilton, no development shall be permitted until such time as:
- a) The owner submits and receives approval of a Tree Protection Plan (and applicable review fee), to the satisfaction of the Director of Heritage and Urban Design.
  - b) The owner submits a signed Record of Site Condition to the satisfaction of the Director of Development Planning or enters into a conditional building permit agreement with respect to completing a Record of Site Condition. The Record of Site Condition must include 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.
  - c) The owner submits and receives approval of an updated Pedestrian Wind Study, to the satisfaction of the Director of Heritage and Urban Design.
  - d) The owner submits and receives approval of an updated Environmental Noise Study, to the satisfaction of the Director of Development Planning.

- e) The Owner submits to the City's Director of Development Engineering for review and acceptance, a revised Functional Servicing Report which demonstrates:
    - i. That through a sanitary sewer capacity analysis, there is a suitable sanitary sewer outlet with sufficient capacity available, including but not limited to improvements to the existing sanitary sewer on Harrisford Street to support the proposed increase in wastewater capacity in accordance with the City's standards.
    - ii. The owner enters into and registers 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 accordance with the recommendations of the sanitary sewer capacity analysis.
    - iii. That the owner submits an updated Watermain Hydraulic Analysis (WHA) identifying the modelled system pressures at pressure district levels under various boundary conditions and demand scenarios, to demonstrate that the municipal system can provide for required flows to support the proposed development.
  - f) The owner submits and receives approval of an updated Transportation Impact Study, prepared by a qualified Professional Traffic Engineer, to the satisfaction of the Director of Transportation Planning and Parking."
4. That Schedule "F" – Special Figures be amended by adding Special Figure 40: Building Heights and Setbacks for 399 Greenhill Avenue 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 Mixed Use Medium Density (C5, 897, H172) Zone subject to the special requirements referred to in Section No. 2, 3 and 4 of this By-law.
  6. That By-law No. 25 - <sup>081-OLT</sup> shall come into force and be deemed to come into force in accordance with Sub-section 34(26)(b) of the *Planning Act* and as described in Decision/Order No. XXX, dated XX day of XXX, 2025.  
 OLT-25-000827    15th    April

APPROVED this 15th day of April 2025.

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| <p>This is Schedule "A" to By-law No. 25-081-OLT</p> <p>Passed the 15th day of April, 2025</p> <p>_____<br/>Mayor</p> <p>_____<br/>Clerk</p>   |  |
| <p><b>Schedule "A"</b></p> <p><b>Map forming Part of</b></p> <p><b>By-law No. 25-081-OLT</b></p> <p><b>to Amend By-law No. 05-200</b></p> <p><b>Map 1245, 1298</b></p>   |  |
| <p><b>Subject Property</b></p> <p>399 Greenhill Avenue, Hamilton (Ward 5)</p> <p> Change in zoning from the Community Commercial (C3) Zone to the Mixed Use Medium Density (C5, 897, H172) Zone</p> |  |
| <p>Scale:<br/>N.T.S.</p>   | <p>File Name/Number:<br/>ZAC-22-030/UHOPA-22-016</p> |
| <p>Date:<br/>April 11, 2024</p>  | <p>Planner/Technician:<br/>DB/NB</p>                 |
| <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>  |  |
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