

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: January 07, 2025

CASE NO(S): OLT-24-000051

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

Applicant and Appellant:	Mikmada (Paramount) Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the amendment of the Official Plan and the Comprehensive Zoning By- law
Reference Number:	UHOPA-23-005
Property Address:	1065 Paramount Drive
Municipality:	Hamilton
OLT Case No.:	OLT-24-000051
OLT Lead Case No.:	OLT-24-000051
OLT Case Name:	Mikmada (Paramount) 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:	Mikmada (Paramount) Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the amendment of the Official Plan and the Comprehensive Zoning By- law
Reference Number:	ZAC-23-006
Property Address:	1065 Paramount Drive
Municipality/UT:	Hamilton
OLT Case No.:	OLT-24-000052
OLT Lead Case No.:	OLT-24-000051

Heard:

October 1-3, 2024 by Video Hearing

APPEARANCES:**Parties**

Mikmada (Paramount) Inc.

City of Hamilton

CounselRussell Cheeseman
Stephanie Fleming

Peter Krysiak

DECISION DELIVERED BY C.I. MOLINARI AND YASNA FAGHANI AND ORDER OF THE TRIBUNAL

[Link to the Order](#)**INTRODUCTION AND BACKGROUND**

[1] The matter before the Tribunal is related to Appeals filed by Mikmada (Paramount) Inc. (“Appellant”) pursuant to s. 22 (7) and 34 (11) of the *Planning Act* (“Act”) with respect to the failure of the City of Hamilton (“City”) to make a decision within the statutory timeframes on Official Plan Amendment (“OPA”) and Zoning By-law Amendment (“ZBA”) applications (together “Applications”), for the property known municipally as 1065 Paramount Drive (“Property”).

[2] The Applications were revised through a series of resubmissions to the City resulting in a proposal for the development of a medium density, eight-storey apartment building with 191 units, and 123 stacked townhouse units with one level of underground parking and a total of 409 parking spaces (“Revised Proposal”). Counsel for the Appellant advised that, at the request of the City, the apartment building was relocated to the north end of the Property to allow for a transition from the single detached dwellings to the south.

THE PROPERTY AND SURROUNDING CONTEXT

[3] The Property is currently vacant, is relatively level and cleared of vegetation, and has an area of approximately 16,250 square metres with approximately 205 metres of frontage on Paramount Drive.

[4] The Property is located in the Heritage Green Community in the former City of Stoney Creek area of the City in an established mixed-use area, varying in land uses and built form. The surrounding area includes a mix of commercial plazas, institutional uses, parks, and residential uses ranging from single detached dwellings, three-storey townhouses, and three-storey walk-up apartment buildings.

[5] As shown below in 'Figure 3.1 Site Context Map' from the Joint Document Book, the Property is bordered by Paramount Drive to the east, Billy Green Elementary School ("Billy Green School") to the north, Albion Estates Park ("Park") and St. Paul Elementary School ("St. Paul School") to the west, and four single detached dwellings to the south. Across Paramount Drive to the east are low density dwellings and a commercial plaza featuring a variety of businesses, including: medical uses, a day care, a dental clinic, restaurant, retail shop, martial arts facility, veterinary clinic, and other uses.



[6] Along the south end of the Property there is an existing asphalt walkway connecting St. Paul School to Paramount Drive, although there is no easement registered to formally recognize the walkway. This walkway is proposed to be maintained and incorporated into the Site Plan for the proposed development.

[7] Along the north property line is a City-owned 3 m wide strip of land located between the Property and Billy Green School, over which the Appellant is proposing to

build a sidewalk connecting the Park to Paramount Drive. Such sidewalk is proposed to be incorporated into the Site Plan for the proposed development.

[8] The Property is connected to the City's existing key transportation corridors being only 360 m from the intersection of Mud Street West and Paramount Drive. Mud Street West is a designated arterial road leading to the Red Hill Valley Parkway and the Lincoln M. Alexander Parkway that connect to the greater provincial highway network via Queen Elizabeth Way and Highway No. 403.

[9] There are two bus stops along the Paramount Drive frontage of the Property with access to intra-regional transit with routes operating 7 days a week, from early morning until after midnight.

REQUIRED APPROVALS

[10] The Revised Proposal seeks to amend the Urban Hamilton Official Plan ("UHOP") designation from 'Institutional' to 'Neighbourhoods' as the 'Institutional' designation permits low density residential uses but does not allow medium density residential uses.

[11] Furthermore, the Revised Proposal requires an amendment to the West Mountain Area (Heritage Green) Secondary Plan ("Secondary Plan") designation from 'Institutional' to 'Medium Density Residential'.

[12] The City of Stoney Creek Zoning By-law No. 3692-92 ("ZBL") zones the Property 'Small Scale Institutional' ("IS") which does not permit residential uses. The Revised Proposal seeks to amend the ZBL to 'Multiple Residential "RM3" Zone' with site-specific provisions for step backs on the apartment building, including a minimum number of family-friendly units and a Holding Symbol to address external sanitary servicing requirements.

LEGISLATIVE FRAMEWORK

[13] When considering appeals filed pursuant to s. 22 (7) and 34 (11) of the Act, the Tribunal must have regard to the matters of provincial interest as set out in s. 2 of the Act, and to the decision, if any, of the City and the information considered in making the decision, as required by s. 2.1(1) of the Act. Although these appeals relate to a non-decision by the City, it is noted that the City does not support the Revised Proposal and is in opposition to its approval.

[14] Further, s. 3 (5) of the Act requires decisions of the Tribunal affecting planning matters to be consistent with the policy statements and conform or not conflict with the provincial plans that are in effect on the date of the decision.

[15] As of October 20, 2024, the Provincial Policy Statement, 2020 (“PPS 2020”) and the Growth Plan for the Greater Golden Horseshoe are no longer in effect, and the Provincial Planning Statement, 2024 (“PPS 2024”) is in effect. In this respect, the Tribunal must be satisfied that the Revised Proposal is consistent with the PPS 2024.

[16] The Tribunal must also be satisfied that the ZBA, as part of the Revised Proposal, conforms with the UHOP, and that the Revised Proposal represents good land use planning and is in the public interest.

PARTIES AND PARTICIPANTS

[17] It is noted that the only Parties to the appeals are the Appellant and the City.

[18] A number of Participants provided statements with concerns related to neighbourhood character and compatibility, sunlight and shadowing, height, massing and scale, adequacy of infrastructure, traffic, congestion, density, parking, green space, privacy and overlook, transit, impacts on Billy Green School and the students, public interest, consistency with the PPS 2020, and conformity with the UHOP. Additional concerns relate to crime, public safety and mental health, population estimations,

property values, construction concerns including pollution, traffic, noise, and risk to nearby foundations among other concerns.

WITNESSES

[19] The Tribunal qualified the following witnesses to provide expert opinion evidence in their respective areas of expertise, as noted:

For the Appellant:

- John Ariens – Land Use Planning
- Przemyslaw Myszkowski – Architecture and Urban Design
- Erica Bayley – Transportation Engineering and Transportation Planning

For the City:

- James Van Rooi – Land Use Planning
- John Paul Morgan – Solar Power, Electrical Engineering, with a special expertise in solar power, light and indirect light

[20] Mr. Ariens, Mr. Myszkowski, Ms. Bayley and Mr. Van Rooi were qualified on consent of the Parties.

[21] With respect to Mr. Morgan's qualifications, Mr. Cheeseman objected to Mr. Morgan being tendered as an expert witness qualified to prepare a Sun Shadow Study as he is not a registered architect, a professional engineer, a registered professional planner, or a landscape architect, by whom the City's Sun Shadow Study guidelines ("Sun Shadow Guidelines") require such studies to be prepared.

[22] Mr. Krysiak proffered that, given Mr. Morgan had been previously qualified by the Tribunal, and the City, who authored the Sun Shadow Guidelines, considers him qualified, he should be qualified to author a Sun Shadow Study.

[23] After considering submissions from both Parties, the Tribunal ruled that, despite not being one of the listed professionals considered qualified to author a Sun Shadow Study, Mr. Morgan be qualified as noted in paragraph [19], with the caveat that the

Appellant can argue as to the weight to be given to Mr. Morgan's evidence and his Sun Shadow Study.

AGREED FACTS AND ISSUES

[24] The witnesses agreed on a number of issues. Most notably, they agreed that the Property is an ideal candidate for intensification given its proximity to parks, schools, shopping, and transit, that there are no transportation issues, and that, based on the proposed built form, the 'Medium Density' designation is the appropriate Secondary Plan designation for the Property.

[25] Furthermore, the witnesses agreed that the Revised Proposal has regard for matters of provincial interest as set out in s. 2 of the Act and is consistent with the PPS 2024, which encourages the redevelopment of underutilized institutional lands and promotes a diverse range of housing.

[26] The contentious issues relate to the scale and height of the proposed eight-storey apartment building, the potential impacts on the overall neighbourhood character, and the potential adverse shadow impacts on the adjacent Billy Green School.

EVIDENCE / ANALYSIS / FINDINGS

[27] For the reasons that follow, the Tribunal allows the Appeals and approves the OPA and ZBA instruments as appended to the Decision.

Scale and Height of Apartment Building / Neighbourhood Character

[28] Mr. Ariens testified that the apartment building conforms to s. B.2.4.1.4 of the UHOP. This section sets out a number of criteria required for evaluation of residential intensification developments within a built-up area of the City. Criteria d) requires, in part, "the *compatible* integration of the proposed development with the surrounding area in terms of use, scale, form and character." He testified that 'compatibility' is defined in the UHOP as "land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area" and that the definition adds that

‘compatibility’ should not be narrowly interpreted to mean “the same as” or even “being similar to”. He stated that, in terms of massing, the Urban Design Brief detailed how the apartment building is located so that there is integration within the surrounding context. The longer façade of the building is oriented to Billy Green Park and the shorter façade is oriented along the street frontage and adjacent to institutional lands. In addition, the citing of the townhouse blocks provides transition in scale between the higher building and the surrounding neighbourhood built form.

[29] In addition, Mr. Ariens stated that, although the UHOP and Secondary Plan do not address angular planes, the City-wide Corridor Planning Principles and Design Guidelines (“Design Guidelines”) recommend that the heights of new buildings adjacent to low-rise residential should be within a 45-degree angular plane, starting from a line at grade, parallel to the front property line at 80% of the arterial street right-of-way width. He testified that the apartment building complies with the 45-degree angular plane from Paramount Drive as determined in the Design Guidelines, which would be regulated in the proposed ZBA. He furthered that the apartment building is stepped down, from eight storeys along the rear property line to four storeys as the building approaches Paramount Drive, helping to mitigate overlook.

[30] Mr. Van Rooi disagreed with Mr. Ariens regarding compatibility of the apartment building with the surrounding area. He testified that there are currently no apartment buildings in the neighbourhood and that the highest building in the area north of Mud Street West is three storeys. He further stated that the UHOP directs proposed apartment buildings with six or more storeys to Community Nodes and Corridors, and that the Property is not within either.

[31] Mr. Van Rooi proffered that, as per Schedule E of the UHOP, the Property was not adjacent to any Primary or Secondary Corridors or within a Node and was therefore not in an area where the City promotes intensification and higher density development.

[32] On cross-examination however, Mr. Van Rooi acknowledged that policy B.2.4.1.3 c) of the UHOP states that “30% of the *residential intensification* target is

anticipated to occur within the Neighbourhoods as illustrated on Schedule E – Urban Structure” and that the Property is within the ‘Neighbourhoods’ area on Schedule E.

[33] Mr. Van Rooi cited UHOP residential intensification policy B.2.4.1.4 d) which is one of a list of criteria for developments to be evaluated against and addresses the compatible integration of the development with the surrounding area in terms of use, scale, form, and character. He testified that the apartment building would result in a sudden change in building height that could disrupt the visual harmony of the neighborhood. He furthered that the proposed height, density, massing, and setbacks of the apartment building would disrupt the established pattern of the existing surrounding development.

[34] Mr. Van Rooi equated character to height by stating that, “[w]ith respect to character, the existing surrounding residential, institutional and commercial buildings consist of low-rise built forms being mainly one to two storeys in height”. He opined that the Revised Proposal does not conform to the design policies of the UHOP and is not compatible with the surrounding area in terms of scale, massing, form and character and the Revised Proposal’s height, orientation, design, and massing overshadows adjacent sensitive land uses. He proffered that compatibility does not necessarily mean being identical to existing adjacent development but being in keeping with the surrounding context of the area. It was his opinion that the apartment building would have a greater mass and height than the surrounding properties, resulting in a stark contrast in scale and massing which could disrupt the visual harmony of the neighborhood.

[35] Mr. Van Rooi’s opined that the apartment building does not comply with B.2.4.1.4 d) as it does not maintain nor enhance the established pattern of the neighbourhood, is not integrated well in terms of scale, form, and use, and that introducing a medium-density development of this height and scale would alter the land use pattern of the area.

[36] On cross-examination, Mr. Van Rooi did not proffer compelling evidence that the City’s Urban Design department had concerns with the height, size, or scale of the

proposed apartment building. He agreed with Counsel for the Appellant that the building's angular plane met the 45-degree angular plane recommendation in the Design Guidelines.

[37] Additionally, on cross-examination, Mr. Van Rooi agreed that policy B.2.4.1.4 requires a "balanced evaluation" of several criteria, not just criterion d). He acknowledged that the criteria include maintaining and achieving a range of dwelling types, building upon desirable established patterns and built forms, having the infrastructure and transit capacity to support the development, among other criteria. He agreed that this balancing approach means not placing greater weight to one criterion over the others.

[38] Counsel for the City submitted that since the apartment building is not in a Community Node or Corridor, the City did "not want to focus this degree of intensity" on the Property. He further submitted that if the Tribunal approved the appeals, it would create a precedent for "intensifying every location in the City" and that the City "would lose agency over how it wants to develop in the future".

Finding

[39] The Tribunal prefers the evidence of Mr. Ariens and is not convinced that the neighbourhood character and compatibility is determined based solely on the height and mass of a built form. The Revised Proposal employs mitigation measures to address these matters including step-backs of the apartment building as it approaches Paramount Drive and providing lower-rise townhouses on the remainder of the Property resulting in a development that will integrate well with the surrounding land uses with regards to scale, form, and use.

[40] There was no evidence put forth to suggest that an apartment building should not be located in a 'Neighbourhoods' area outside of a 'Corridor' or 'Community Node' on Schedule E of the UHOP, and the UHOP explicitly provides for 30% of the residential intensification target to occur within the 'Neighbourhoods'. The Tribunal accepts that the building has been designed to integrate with the neighbourhood context and there was

no urban design evidence from the City challenging the built form of the apartment building. Furthermore, the Tribunal did not hear any evidence regarding a lack of transportation or infrastructure capacity, or any parking issues related to the apartment building.

[41] Furthermore, the Tribunal does not agree with Counsel for the City that by allowing the development of this apartment building, a precedent would be established that a building of eight storeys or higher can occur “in any location in the City”. This assertion is speculative. Each development application is evaluated based on its own unique circumstances and applicable policies, and determined based on its own merits.

Shadow Impacts on Billy Green School

[42] The Sun Shadow Guidelines, prepared by the City, require a Sun Shadow study to demonstrate the impact of proposed developments in terms of sun and daylight access to the surrounding context including common amenity areas such as “public plazas, parks, open spaces, school yards, and playgrounds”, and to demonstrate how they will be mitigated. Shadows from proposed developments must “allow for a minimum of 50% sun coverage at all times of the day, as measured on March 21st”.

[43] The Parties agreed that the apartment building would not impact the properties to the west, south or east and the focus of the evidence was on the shadow impact, if any, on Billy Green School.

[44] Mr. Myszkowski advised that his Sun Shadow Study concluded that peak shadow coverage on the Billy Green School school yard on March 21st is 8.7% at the 10:26 a.m. test period and is clear of the school yard by the 4:26 p.m. test time. Based on this evidence, he found that the shadows met the Sun Shadow Guidelines minimum 50% requirement on March 21st.

[45] Mr. Myszkowski noted that there was disagreement between the Parties’ witnesses regarding how to interpret the Sun Shadow Guidelines as they relate to school yards. He proffered that the Sun Shadow Guidelines do not differentiate between

total school yard areas and an individual fenced play area ("Pen"), such as for kindergarten students. However, he concluded that the shadows also met the Sun Shadow Guidelines minimum 50% requirement on the individual Pens on March 21st.

[46] It was Mr. Myszkowski's opinion that the Revised Proposal is consistent with the Sun Shadow Guidelines.

[47] Mr. Morgan's Sun Shadow Study addressed the classrooms and potential solar panels on the roof of the Billy Green School as well as the school yards and did not address shadowing on March 21st.

[48] Mr. Morgan referenced the Appellant's Sun Shadow Study graphic illustrating that the Revised Proposal would render the south Pen entirely in shadow on March 21st for a period of time. It was Mr. Morgan's opinion that the Revised Proposal therefore does not meet 'a plain reading' of the Sun Shadow Guidelines. He proffered this opinion based on an interpretation that each Pen or area of the school yard is required to meet the Sun Shadow Guidelines rather than the entirety of the school yard. He also drew a comparison of the Revised Proposal to an as-of-right potential development proposal under the current IS zoning and opined that such a proposal would not cast a shadow on the Pen.

[49] On cross-examination, Mr. Morgan proffered that he had not visited the Property and had not spoken to anyone at the Hamilton Wentworth District School Board ("School Board"). He agreed that, if the Pens were to be relocated, the conclusions of the Appellant's Sun Shadow Study would be different.

[50] Of note, Mr. Ariens testified that he had spoken with the School Board about the potential relocation of the south Pen and that the School Board was open to the suggestion but would consider it at the Site Plan stage.

[51] Mr. Morgan acknowledged that he agreed with the findings of the Appellant's Sun Shadow Study and that the test is whether it meets the requirements of the Sun Shadow Guidelines.

Finding

[52] The Agreed Statement of Fact and Revised Issues List refined the shadow issues to only that of shadowing on the school yard of the Billy Green School and noted that the Property is an ideal site for residential intensification with a Medium Density Residential designation. The City's Sun Shadow Study does not assume these areas of agreement and needlessly addresses the potential loss of solar energy generation and increased heating costs, while not addressing shadow impacts on March 21st as required by the Sun Shadow Guidelines.

[53] The Tribunal is left with only the Appellant's Sun Shadow Study which finds that the Revised Proposal meets the Sun Shadow Guidelines. The Tribunal finds that it is not intuitive nor reasonable to interpret the Sun Shadow Guidelines to require all Pens of a school yard to meet the March 21st requirements, but that they apply to the entirety of the school yard. If the intention of the Sun Shadow Guidelines was to analyze the impact of Shadows on each individual play area, the City could have included language in that regard when drafting the Guidelines. In that respect, the Tribunal finds that the Revised Proposal meets the plain reading of the Sun Shadow Guidelines.

[54] Further, as a review agency, the School Board did not submit comments of concern to the City on the Applications, was notably absent from the merit hearing and did not seek Party or Participant status in the appeals. As discussed earlier, the School Board appears willing to consider the relocation of the south Pen. The Tribunal finds this to be a mitigating factor to any potential shadow impacts.

Transportation

[55] Although transportation was not identified as an issue in dispute, the Appellant undertook a Transportation Impact Study and Parking Study ("TIS") at the request of the City to address concerns of the residents and Participants. The TIS found that there are no adverse traffic impacts due to the following reasons: existing traffic calming measures, existing restricted parking along Paramount Drive, and Paramount Drive

being classified as a major collector road designed to accommodate 8,000 vehicles per day. Further, the number of proposed parking spaces exceed the ZBL requirements.

SUMMARY FINDINGS

[56] In addition to the findings related to the scale and height of the apartment building, neighbourhood character, and the shadow impacts on Billy Green School, the Tribunal finds that the Revised Proposal has regard to the applicable matters of provincial interest pursuant to s. 2 of the Act and is consistent with the PPS 2024. It is located within a settlement area with transit service within convenient walking distance, and provides for intensification, higher densities, an efficient use of land and infrastructure, and a range and mix of housing types. Further, the Revised Proposal conforms to the UHOP, represents good land use planning and is in the public interest.

ORDER

[57] **THE TRIBUNAL ORDERS THAT** the appeals are allowed and the Urban Hamilton Official Plan and the City of Stoney Creek Zoning By-law No. 3692-92 are amended as set out in **Attachments 1 and 2** to this Order. The Tribunal authorizes the municipal clerk of the City of Hamilton to assign numbers to the official plan amendment and zoning by-law for record keeping purposes.

“C.I. Molinari”

C.I. MOLINARI
MEMBER

“Yasna Faghani”

YASNA FAGHANI
MEMBER

Ontario Land Tribunal

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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. X

The following text, together with:

Appendix "A"	Volume 1: Schedule E-1 – Urban Land Use Designations
Appendix "B"	Volume 2: Map B.7.6-1 – West Mountain Area (Heritage Green) Secondary Plan – Land Use Plan

attached hereto, constitutes Official Plan Amendment No. "X" 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 by redesignating the subject lands from "Institutional" to "Neighbourhoods" and amend the West Mountain Area (Heritage Green) Secondary Plan by redesignating the subject lands from "Institutional" to "Medium Density Residential 3" and adding a new Site Specific Policy to permit the development of multiple dwelling with a maximum density of 197 units per hectare.

2.0 **Location:**

The lands affected by this Amendment are known municipally as 1065 Paramount Drive, in the former City of Stoney Creek.

3.0 **Basis:**

The basis for permitting this Amendment is:

- The proposed development is consistent with and implements the Residential Intensification policies of the Urban Hamilton Official Plan;
- The proposed development supports the policies of the Urban Hamilton Official Plan and West Mountain Area (Heritage Green) Secondary Plan, as it contributes to a range and mix of housing forms at a scale that is compatible with the immediate area; and,
- The Amendment is consistent with the Provincial Planning Statement, 2024.

4.0 Actual Changes:

4.1 Volume 1 – Parent Plan

Schedules and Appendices

4.1.1 Schedule E-1– Urban Land Use Designations

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

4.2 Volume 2 – Secondary Plans

Text

4.2.1 Chapter B.7.0 – Stoney Creek Secondary Plans – Section B.7.6 – West Mountain Area (Heritage Green) Secondary Plan

- a. That Volume 2: Chapter B.7.0 –Stoney Creek Secondary Plans, Section B.7.6.9 – West Mountain Area (Heritage Green) Secondary Plan be amended by adding a new Site Specific Policy, as follows:

“Site Specific Policy – Area X

- B.7.6.9.X Notwithstanding Policy 7.6.2.3 b) of Volume 2, for lands located at 1065 Paramount Drive, designated as ‘Medium Density Residential 3’ and identified as Site Specific Policy - Area X on Map B.7.6-1 – West Mountain Area (Heritage Green) Secondary Plan – Land Use Plan, the maximum density shall be 197 units per net residential hectare.

Maps

4.2.2 Map

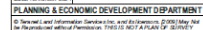
- a. That Volume 2: Map B.7.6-1 – West Mountain Area (Heritage Green) Secondary Plan – Land Use Plan be amended by:
 - i) redesignating lands from “Institutional” to “Medium Density Residential 3”; and,
 - ii) identifying the subject lands as Site Specific Policy – Area “X”,

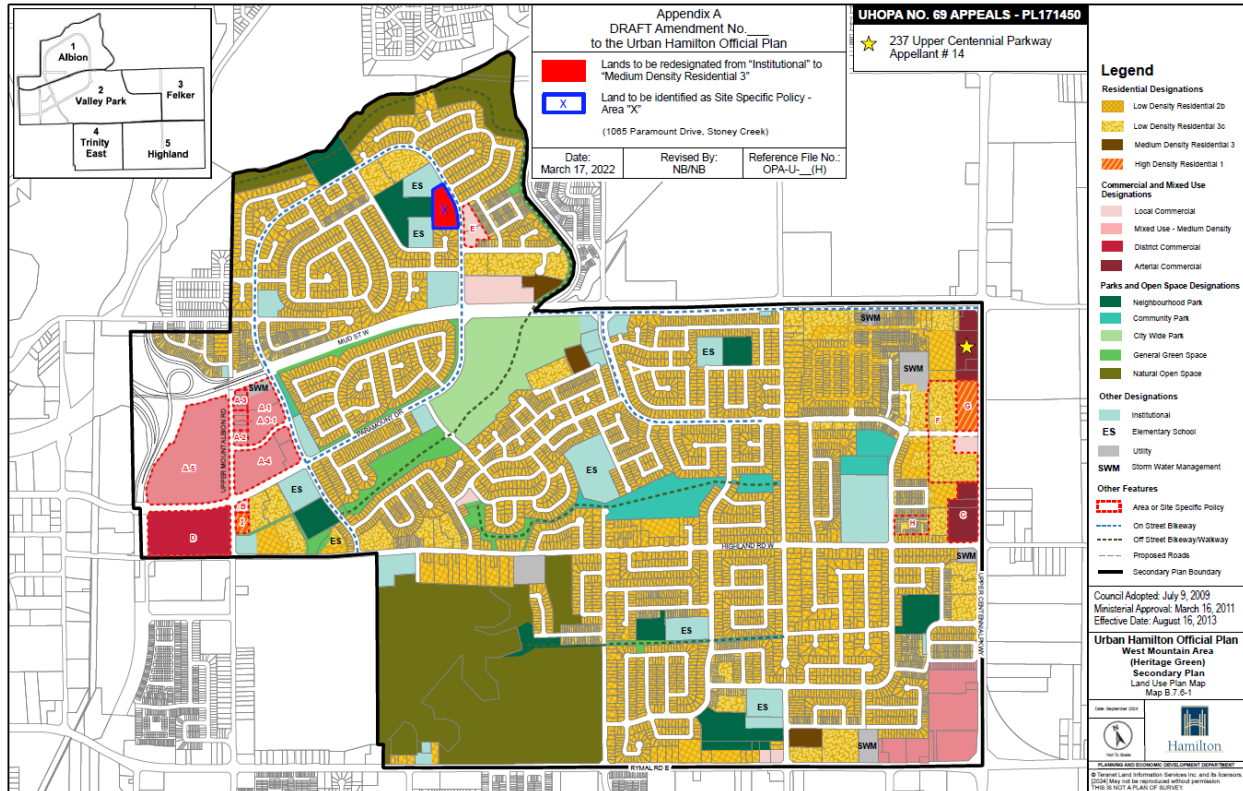
as shown on Appendix "B", attached to this Amendment.

4.0 Implementation:

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

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. OLT-24-000051 on the ____th day of ___, 2024.





Attachment 2

CITY OF HAMILTON

BY-LAW NO. 24-XXXX-OLT

To amend Zoning By-law No. 3692-92, Respecting the lands located at 1065 Paramount Drive (Stoney Creek)

WHEREAS the Ontario Land Tribunal in its Decision/Order for Case Nos. OLT-24-000051 and OLT-24-000052, approved the amendment to Zoning By-law No. 3692-92 (Stoney Creek) as herein provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No.____; and,

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. XXXX Schedule A, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-XX(H)" Zone for the lands known as 1065 Paramount Drive, Stoney Creek the extent and boundaries of which are shown on Schedule "A" to this By-law.
2. That subsection 6.10.7, "Special Exemptions" of Section 6.10, Multiple Residential "RM3" Zone, to Zoning By-law 3692-92 (Stoney Creek) adding a new Special Exemption, "RM3-XX(H)" Modified, Holding.

"Section 6.10 "RM3-XX(H)" (See Schedule "A" Map No. XXXX)

For the purpose of the definitions contained in Part 2 and the regulations contained in Sections 4.10, 4.13, 4.19, 6.1, and 6.10 of the City of Stoney Creek Zoning By-law No. 3692-92, as amended by this By-law, the boundary of the RM3-XX(H) Zone, shall be deemed to be the lot lines for this purpose, and the regulations of the RM3-XX(H) Zone shall be from the boundaries of this zone.

That in addition to the requirements of Part 2 of Zoning By-law 3692-92, the following definitions shall apply to those lands Zoned "RM3-XX(H)" of this By-law:

Dwelling – Stacked Townhouse

Means a building divided vertically and horizontally, not more than two dwelling units in height, containing not less than three and not more than eighteen dwelling units, with a separate outside entrance to each unit at grade.

Dwelling Group

Means a group of more than one maisonette, townhouse, stacked townhouse or apartment or any combination thereof.

Family Friendly Units

Means dwelling units of any building type that have 2 or more bedrooms.

3. Notwithstanding the provisions of Paragraph (a) and (c) of Subsection 4.9.1 Minimum "Loading Regulations – General Applications", the following shall apply:
 - (a) Location- All loading spaces required for any use permitted by the By-law shall be exterior loading spaces provided on the same lot upon which the use is located and shall not be located within a front yard or a required flankage side yard;
 - (b) Dimensions - Each loading space shall not be less than 13 metres long and 3.5 metres wide and have a vertical clearance of not less than 4.3 metres;
4. In addition to the provisions of Subsection 4.19 "Yard Encroachments", and notwithstanding the provisions of Paragraph (d) of Subsection 4.19 Yard Encroachments, the following shall apply:
 - (a) A retaining wall may be a permitted encroachment in any required yard.
 - (b) Balconies, canopies, unenclosed porches and decks may project into any required front yard 2.0 metres.
5. Notwithstanding the provisions of Paragraph (a) and (b) of Subsection 4.10.3 and the provisions of Paragraph (d) of Section 6.1.8 "Parking Restrictions in Residential Zones" of Zoning By-law 3692-92, on those lands zoned "RM3-XX(H)" by this By-law, the following shall apply:
 - (a) Parking Spaces shall have a minimum width of not less than 2.7 metres and a length of not less than 5.8 metres and a parking space within a private residential garage shall not be less than 2.7 metres in width or less than 5.8 metres in length.
6. Notwithstanding the provisions of Section 4.10.9, the provisions of Section 6.1.8 (c) and the provisions of Paragraphs (a), and (e), of Subsection 6.10.5 "Regulations for Parking" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-XX(H)" by this By-law, Section 6.10.5 (a) shall be deleted and replaced with the following:

(a) Minimum Number of Parking Spaces	Apartment Unit: 1 spaces per unit 3.5 Storey Stacked Townhouse, Maisonette or Townhouse: 2 spaces per unit
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4 Storey Stacked Townhouse: 1.36
spaces per unit

(e) Where there is a grouping of 3 or more parking spaces, no parking space shall be provided closer than 2.0 meters to a building for a Stacked Townhouse on the same lot, except when located in a private garage or underground garage.

7. Notwithstanding the provisions of Section 6.10.2 "Permitted Uses or Each Lot" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-XX(H)" by this By-law Stacked Townhouse is added as a permitted use.
8. In addition to the provisions of Section 6.10.3 and notwithstanding the provisions of Paragraphs (c), (d), (f), (i), (j), (l), (m)1. and 4., of Section 6.10.3 of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-XX(H), Zone Modified, Holding by this By-law, the following shall apply:

(a) Minimum Front Yard	Maisonette, Townhouse, Stacked Townhouse: 4.5 metres
	May include exhaust vents and intake vents with a maximum height of 0.15m
	Apartment Building: 9.4 m, except Floors 4 to 6: 16.0 metres Floor 7: 19.0 metres Floor 8: 21.0 metres
(b) Minimum Side yard	Maisonette, Townhouse, Stacked Townhouse: 3.0 metres May include exhaust vents and intake vents with a maximum height of 0.15 metres
(c) Minimum Rear Yard	Stacked Townhouse: 3.5 metres
(d) Maximum Density	197 units per hectare
(e) Maximum Building Height	Stacked Townhouse: 13.0 metres Apartment Building: 28.0 metres
(f) Privacy Area	Stacked Townhouse: Private Amenity Space may be provided on a balcony or patio and shall have a minimum depth of 1.5 metres.

- | | |
|---|--|
| (g) Minimum Landscape Open Space | 1. Not less than 41% of the lot area for the dwelling group.



4. A landscape strip abutting a street line is not required. |
| (h) Minimum Number of Family Friendly Units within the Dwelling Group | 150 units |

9. The Holding "H" symbol may be removed from those lands zoned "RM3-XX(H)" at such time as the following condition is satisfied:
1. The demonstration that there is adequate water and sanitary capacity to service the proposed development, to the satisfaction of the Senior Director, Growth Management.
10. 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 Multiple Residential "RM3-XX" Zone, subject to the special requirements referred to in Section No. 2 of this By-law.
11. That the Clerk be authorized and directed to proceed with the giving of notice of the passing of this By-law in accordance with the "Planning Act".
12. That this By-law No. 23-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 the date of passage of this By-law or as otherwise provided by the said Sub-section.

PASSED this ____ day of _____, 2024

A. Horwath
Mayor

M. Trennum
City Clerk

	
<p>This is Schedule "A" to By-law No. 24-</p> <p>Passed the day of, 2024</p>	<p>-----</p> <p>Mayor</p> <p>-----</p> <p>Clerk</p>
<p>Schedule "A"</p> <p>Map forming Part of</p> <p>By-law No. 24-_____</p> <p>to Amend By-law No. 3692-92</p>	
<p>Subject Property</p> <p>1065 Paramount Drive, Stoney Creek (Ward 9)</p> <p> Change in zoning from Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-XX(H)" Zone</p>	
<p>Scale: N.T.S</p>	<p>File Name/Number: ZAC-23-006/UHOPA-23-005</p>
<p>Date: November 8, 2024</p>	<p>Planner/Technician: JVR/NB</p>
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>	
