

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: January 07, 2021

CASE NO(S): PL171450

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1826210 Ontario Inc.
Appellant: Centurion (Dundas) Holdings Ltd.
Appellant: Marz Homes Holdings Inc.
Appellant: Ministry of Municipal Affairs; and others
Subject: Proposed Official Plan Amendment No. 69
Municipality: City of Hamilton
OMB Case No.: PL171450
OMB File No.: PL171450
OMB Case Name: Centurion (Dundas) Holdings Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1804487 Ontario Inc.
Appellant: 1826210 Ontario Inc.
Appellant: 2294643 Ontario Inc.
Appellant: 2531083 Ontario Inc.; and others
Subject: By-law No. 17-240
Municipality: City of Hamilton
OMB Case No.: PL171450
OMB File No.: PL171451

Heard: October 15, 2020 by telephone conference call

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

West End Homebuilders
Association

Denise Baker

City of Hamilton

Patrick MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY M.A. SILLS ON OCTOBER
15, 2020 AND ORDER OF THE TRIBUNAL**

[1] This was a settlement hearing in the matter of the appeal by the West End Homebuilders' Association ("WEHA"), formerly the Hamilton-Halton Homebuilders' Association, of the passing of Zoning By-law No. 17-240 (the "ZBL") by the Council of the City of Hamilton (the "City").

[2] The appeal by WEHA pertains to provisions of the ZBL respecting the width of parking spaces, and the wording related to encroachments into a parking stall. The settlement results in modifications to the related provisions of the ZBL, as set out following:

1. Section 5.2 b) i) - Parking Stall Width – the original version of the provision required parking stalls to be 3.0 meters ("m") in width by 5.8 m in length for all parking spaces, except where parking spaces are located underground or in an above ground structure. Parking stall sizes in those locations were smaller – 2.8 m in width by 5.8 m in length.

This section has been modified to require parking stall sizes of 2.8 m in width by 5.8 m in length, regardless of location.

2. Section 5.2 b) iii) – Encroachments into the Parking Stall (Wall, column) – the original version of the provision required an increase in a parking stall width of 0.3 m in cases where a wall or column encroached.

This section has been modified to allow column, wall or other obstruction to encroach a maximum of 0.15 m into a parking stall, provided the length of the column, wall or obstruction does not exceed 1.15 m in length.

[3] Context and expert planning evidence and opinion was provided via Affidavit of Joanne Hickey-Evans. Ms. Hickey-Evans, a Registered Professional Planner employed by the City, attended on this telephone conference call.

[4] In Ms. Hickey-Evan's professional opinion the modifications being proposed to s. 5.2 b) i) and s. 5.2 b) iii) of the ZBL are appropriate and supportable.

[5] The Urban Hamilton Official Plan ("UHOP") provides the policy framework for the implementing ZBL. In this regard, the UHOP contains policies with respect to designing adequate transportation facilities, including safe, accessible and functional parking areas:

Policy B.3.3.2.7 Places that are adaptable in accommodating future changes are desirable and should be created by:

b) Encouraging design that accommodates the changing physical needs of people and their lifestyles through all stages of their lives.

Policy C. 4.5.15 Parking and loading requirements regulated through the Zoning By-law or site plan approval shall ensure adequate parking for the site, while avoiding excess parking supply that can discourage transit use and active transportation services.

Policy C4.5.19 New development on properties adjacent to major arterial and minor arterials and where necessary, collector roads, shall include provisions for sufficient parking, loading, maneuvering and off street parking.

[6] The policies within the UHOP require that the circulation network, which includes

public and private parking areas (among other elements), must be designed to be safe and accessible to all users. Because parking infrastructure is a lasting element of the built environment that is intended to serve the long-term needs of its users, the goal is to ensure that parking areas are not planned around vehicle specifications to ensure that the parking area is functional.

[7] Policies C.4.5.15 and C.4.5.19 emphasize the need for adequate parking, not only in quantity, but in functionality. The UHOP directs the ZBL to establish regulations to ensure that the parking area is functional.

[8] The proposed changes allow for a single parking stall size, regardless of whether the stall is located in an above-ground structure, a surface parking lot or within a parking garage. The uniform size approach allows for ease of administration by the removal of artificial delineation between how parking is provided based on the built form. There is otherwise, no planning basis for having different parking stall sizes.

[9] This approach achieves the City's overall goal of increasing the parking stall size to accommodate the trend in increased vehicle size which has occurred because of market preferences and generally larger vehicle specifications. The proposed changes for the columns and walls better reflect existing underground parking structure designs where columns are located at the front and rear of the stalls and walls are built along the length of the stall. The proposed modifications allow for a uniform standard to be applied to all lands subject to the ZBL.

[10] The Growth Plan for the Greater Golden Horseshoe, 2019 ("Growth Plan") and the Provincial Policy Statement, 2020 (the "PPS") do not address specific details about parking stall size.

[11] In her professional opinion, the proposed modifications to the ZBL represent good planning and are in the public interest.

[12] The Tribunal finds on the evidence of Ms. Hickey-Evans that the parking

provisions of the ZBL as proposed to be modified appropriately implements the policy intent of the UHOP, and does not offend the policies of the Growth Plan or the policy direction of the PPS.

ORDER

[13] The Tribunal Orders that the appeal against By-law No. 17-240 of the City of Hamilton is allowed in part, and By-law No. 17-240 is amended as set out in Attachment 1 to this order. In all other respects, the Tribunal orders that the appeal is dismissed.

“M.A. Sills”

M.A. SILLS
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.olt.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

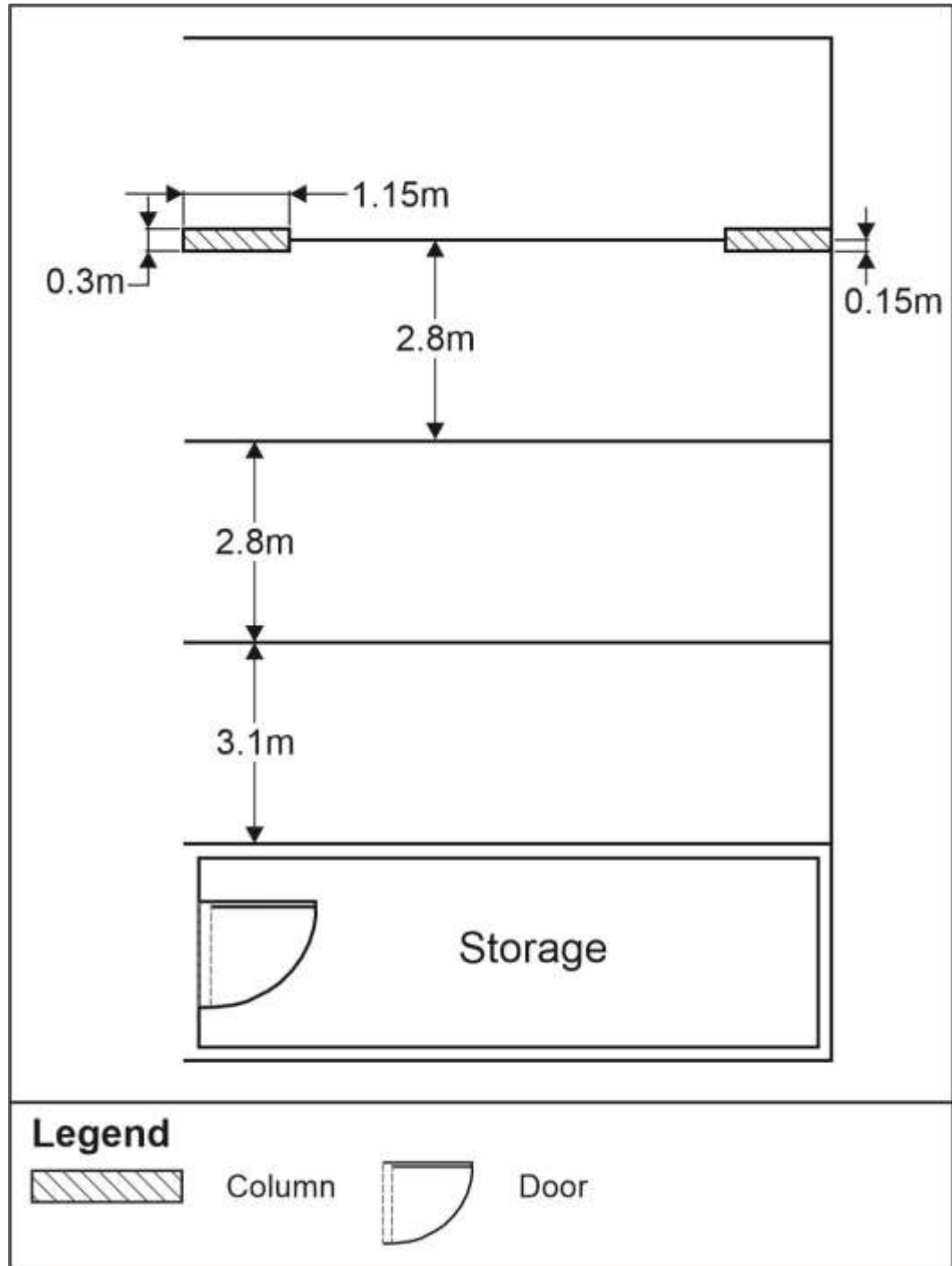
ATTACHMENT 1

- a. Subsection 5.2(b) of Zoning By-Law No. 17-240 (the “By-law”) is amended in accordance with the Zoning By-Law Amendment attached as **Schedule “A”** to the Order.
 - b. The illustration attached as “**Schedule A1**” to this Order illustrates the effect of the amendment to the By-law in **Schedule “A”**, and shall be administratively incorporated into the By-law by the City at a future date.
 - c. The amended subsection 5.2(b) of the By-law shall come into force across the entire City of Hamilton, with the exception of the following specific properties, which are further detailed as **Schedule “B”** to the Order:
 - i. 82-112 King Street East;
 - ii. 64 Main Street East; and
 - iii. 206-208 King Street West.
2. The coming into effect of subsection 5.2(b) of the By-law shall be strictly without prejudice to, and shall not have the effect of:
- a. Limiting the resolution of an appellant’s appeal;
 - b. Affecting a party’s right to seek to modify, delete or add to the unapproved associated text; or
 - c. Limiting the jurisdiction of the Tribunal to consider and approve modifications, deletions or additions on a general or site-specific basis.
3. The coming into effect of subsection 5.2(b) of the By-law is without prejudice to the positions taken by the parties to any site-specific appeal listed in paragraph 1(c) of this Order so that if those appeals proceed to a hearing, either on their own or as may be consolidated with other appeals, the City will not take the position that the Tribunal ought not to approve site-specific modifications to the affected sections, tables, definitions, maps, schedules, and associated text, on the basis that they deviate from or are inconsistent with such sections, tables,

definitions, maps, schedules, and associated text on a City-wide basis (or as approved in respect of other lands which are subject to the same sections, tables, definitions, maps, schedules, and associated text). However, this does not affect the City's right to assert that the approved sections, tables, definitions, maps, schedules, and associated text should be applied to the specific sites without modification on the basis that they constitute good planning;

4. Notwithstanding anything ordered above, the City has not conceded that any portions of the By-law that have not come into effect or that are not deemed in effect are properly under appeal and the City has reserved the right to bring motions or take any other action to have the breadth and scope of any appeal determined by the Tribunal at a future date.
5. Notwithstanding anything ordered above, the Tribunal retains jurisdiction to consider and approve modifications to any policies, schedules, and associated text approved as may be appropriate to dispose of any of the outstanding appeals before the Tribunal, in accordance with section 87 of the former *Ontario Municipal Board Act*, R.S.O. 1990, c O.28, which continues to apply in these proceedings as a result of section 1 of O Reg 101/18.
6. The Schedules which are attached to this Order shall form part of this Order.
7. The Tribunal may be spoken to should any matter arise respecting the implementation of this Order.

This is the Order of the Tribunal.



SCHEDULE "B1"



● Site Location



Key Map - Ward



Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
82-112 King St E

Date:
July 14, 2020

Appendix "A"

Scale:
N.T.S

Planner/Technician:
JHE/NB

Subject Property



82-112 King Street East
Lots 5, 6, 7 and 8 on the South Side of King Street East and Lots 27 and 28 and Part of Lot 26 on the North Side of Main Street East, Registered Plan 1431, City of Hamilton (Ward 2)



● Site Location



Key Map - Ward 2

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
PL171450 - Parking

Date:
June 22, 2020

Appendix "A"

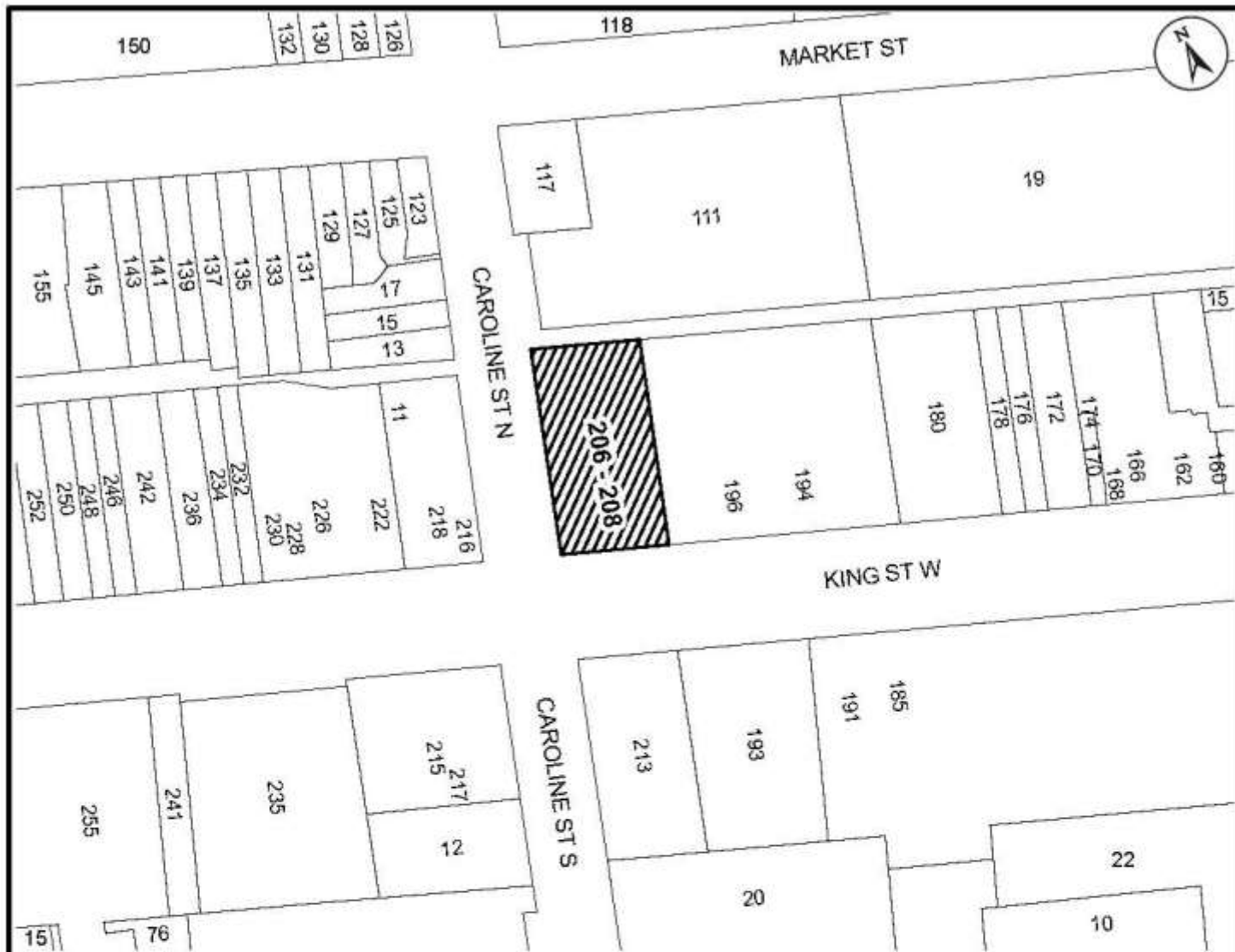
Scale:
N.T.S.

Planner/Technician:
JH/AL

Subject Property

 64 Main Street East





● Site Location



Key Map - Ward 2

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
PL171450 - Parking


Date:
June 22, 2020

Appendix "A"

Scale:
N.T.S

Planner/Technician:
JH/AL

Subject Property

 206 - 208 King Street West