TO: Chair and Members  
Planning Committee  

WARD(S) AFFECTED: WARD 1

COMMITTEE DATE: November 5, 2013

SUBJECT/REPORT NO: 
Appeals to the Ontario Municipal Board by Shoppers Drug Mart Limited on the City of Hamilton's Refusal or Neglect to Adopt Amendments to the Urban Hamilton Official Plan and Hamilton Zoning By-law No. 6593 for Lands Located at 41, 45, 47, 49, 55, 59 Head Street, 22, 24 Dundurn Street North, and 620, 622, 624 Main Street West (Hamilton) (PED13178) (Ward 1)

SUBMITTED BY: 
Joe-Anne Priel  
Acting General Manager  
Planning and Economic Development Department

PREPARED BY: 
Timothy Lee  
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SIGNATURE:

Council Direction:

An application may be appealed to the Ontario Municipal Board (OMB), in accordance with the Planning Act, after 180 days (Official Plan Amendment) or 120 days (Zoning By-law Amendment), if Council has not made a decision on the application(s). A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council, pursuant to the Planning Act, was passed by City Council on May 18, 2010. The following information is provided for Urban Hamilton Official Plan Amendment (OPA-12-011) and Zoning By-law Amendment (ZAC-12-028) applications, submitted by Shoppers Drug Mart Limited, for 41, 45, 47, 49, 55, 59 Head Street, 22, 24 Dundurn Street North, and 620, 622, 624 Main Street West (Hamilton), which have been appealed to the OMB for lack of decision.

Information:

This Information Report was prepared in accordance with Council’s policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB for Official Plan and Zoning By-law Amendment applications. Applications for an Official Plan Amendment and Zoning By-law Amendment were submitted by IBI Group,
Agent for Shoppers Drug Mart Limited, on August 6, 2012, and were deemed complete by the City of Hamilton on August 20, 2012.

The subject applications were circulated on August 28, 2012, where comments were received from City Departments, outside agencies, and members of the public. A Neighbourhood Community Meeting was subsequently held and hosted by the applicant on September 24, 2012, to give an opportunity for residents to review the application and concept plan (see Appendix “C”) and submit comments to City staff.

The subject lands are located at 41, 45, 47, 49, 55, 59 Head Street, 22, 24 Dundurn Street North, and 620, 622, 624 Main Street West, in the City of Hamilton, as shown on Appendix “A”, Strathcona Neighbourhood Plan. The subject lands consist of a number of properties that have been acquired to facilitate the proposed development. The revised concept plan (see Appendix “D”) identifies the following:

- Proposed relocation of the existing Tim Horton’s restaurant, including the drive-thru facility;
- Demolition and relocation commercial retail drug store and associated parking and loading bays; and,
- Street townhouse dwelling units fronting on Head Street.

The Urban Hamilton Official Plan is now in force and effect, except for the residential intensification policies and other site-specific appeals. Policies that remain under appeal and that subsequently are not in force and effect are reviewed as direction only, and for the purpose of this application, the Hamilton Official Plan policies are to be used. The subject property is designated “Mixed-Use - Medium Density” and “Neighbourhood” on Schedule E-1 - Urban Land Use Designations of the Urban Hamilton Official Plan (see Appendix “B”).

The Strathcona Secondary Plan was approved by Planning Committee on October 1, 2013, and to be ratified by Council on October 9, 2013. The subject lands are designated “Mixed-Use Medium Density - Pedestrian Predominant” (front portion along King Street) and “Low Density Residential 3” (rear portion along Head Street). In addition, the subject lands (front portion along King Street) are also within a Neighbourhood Node. An amendment to the Secondary Plan would be required, based on the proposed development.
Due to the number of properties involved, the following shows the properties and their respective zoning:

- Properties located at 620, 622, 624 Main Street West are zoned “H” (Community Shopping and Commercial) District; and,

- Properties located at 41, 45, 47, 49, 55, 59 Head Street, 22, 24 Dundurn Street North are zoned “D” (Urban Protected Residential - One and Two Family Dwelling) District.

Based on the above designation and zoning, the applicant applied for amendments to the Hamilton Official Plan and Hamilton Zoning By-law No. 6593 in order to facilitate the development. It is in the opinion of staff that although the Hamilton Official Plan has been repealed (except for policies under appeal in the Urban Hamilton Official Plan), an Official Plan Amendment to the Hamilton Official Plan and an Official Plan Amendment to the Urban Hamilton Official Plan is still required to facilitate the proposal. Currently, the applicant has not applied for an Official Plan Amendment to the Urban Hamilton Official Plan.

Staff reviewed the application against the guidance of the Hamilton Official Plan, the Urban Hamilton Official Plan, the (Planning Committee approved) Strathcona Secondary Plan, and the Transit Oriented Development (TOD) Guidelines. Due to the intent of the urban design policies within these documents, staff was not in the position to bring a Recommendation Report forward, as the concept plan had not demonstrated that urban design principles were incorporated into the design. A number of discussions were conducted between the applicant and the City of Hamilton to construct alternative designs.

Revisions to the concept plan (see Appendix “D”) were submitted to staff on August 19, 2013. The revised application was circulated to City Departments and outside agencies for revised comments. However, prior to the consideration of these revisions, staff was notified that the applicant’s solicitor, Barnet Kussner, had filed an appeal to the OMB with respect to the Official Plan Amendment and Zoning By-law applications for the subject lands for failure of Council to make a decision on the applications, in accordance with the applicable provisions of the Planning Act, on September 16, 2013, 384 days after receipt of the applications.
Appendices:

- Appendix “A”: Location Map
- Appendix “C”: Original Concept Plan of the Proposed Commercial and Residential Development
- Appendix “D”: Revised Concept Plan of the Proposed Commercial and Residential Development

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Attachs. (4)
Appendix “A” to Report PED13178 (Page 1 of 1)

Location Map

File Name/Number: ZAC-12-028/OPA-12-011
Date: August 21, 2012
Appendix “A” Scale: N.T.S.
Planner/Technician: TL/NB

Subject Property

620-624 King Street West, 22 Dundurn Street West and 41, 45, 47, 49, 55 and 59 Head Street

Ward 1 Key Map N.T.S.