



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | June 17, 2014 |
| SUBJECT/REPORT NO: | Application for Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 739 Upper Paradise Road (PED14125) (Ward 8) |
| WARD(S) AFFECTED: | Ward 8 |
| PREPARED BY: | Daniel Barnett 905-546-2424 Ext. 4445 |
| SUBMITTED BY: | Jason Thorne General Manager Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATION

That approval be given to Zoning Application ZAR-14-016, by Chris Gosopoulos, Owner, for a change in zoning from the “B” (Suburban Agriculture and Residential, etc.) District to the “C” (Urban Protected Residential, etc.) District, to facilitate the severance of a lot for the creation of two additional single detached residential lots, on lands located at 739 Upper Paradise Road (Hamilton), as shown on Appendix “A” to Report PED14125, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED14125, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the amending By-law be added to Section 19B of Zoning By-law No. 6593; and,
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS), and conforms to the Growth Plan for the Greater Golden Horseshoe and the Urban Hamilton Official Plan (UHOP).

EXECUTIVE SUMMARY

The purpose of this application is for a change in zoning to facilitate a future severance application to subdivide the existing lot to create two additional lots for a total of three lots.

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The proposal has merit and can be supported as it is consistent with the PPS, and conforms to the Growth Plan for the Greater Golden Horseshoe and the UHOP. The proposal is considered to be compatible with the existing development in the surrounding area.

Alternatives for Consideration – See Page 10

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Severance Application HM/B-14:29

On April 14, 2014, the applicant submitted an application for severance in order to divide the existing vacant property into three lots, in order to allow for the construction of three new single detached dwellings. Through the review of the severance, it was noted that the proposed lots would not comply with the “B” (Suburban Agriculture and Residential, etc.) District with respect to lot area and frontage for all three lots. As a result, given the nature and scale of the required modifications to the existing standards, and as the proposal is to establish residential lots, staff required that the applicant apply for and receive final approval of a Zoning By-law Amendment Application to rezone as a condition of consent approval (see Appendix “C”).

On May 15, 2014, the application was considered by the Committee of Adjustment. Staff comments to the Committee of Adjustment recommended that the application be approved subject to conditions. The Committee of Adjustment approved the application for severance for the creation of three lots subject to a condition of rezoning (see Appendix “D” – Condition No. 3).

Proposal

The subject property is located on the southeast corner of Upper Paradise Road and Greenshire Drive, and is zoned “B” (Suburban Agriculture and Residential, etc.) District. The lands to be conveyed (Lot 2) and the interior retained lot (Lot 3), will have a lot frontage of 12 m and a lot area of 422 sq m. The corner retained lot (Lot 1), will have a lot frontage of 13.5 m and a lot area of 402 sq m (see Appendix “E”). The corner lot,

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while wider, has a smaller lot area than the other two lots, as a result of the required dedication of a 9.14 m by 9.14 m daylight triangle.

The “B” (Suburban Agriculture and Residential, etc.) District requires a minimum lot area of 1,100 sq m and a minimum lot frontage of 20 m, to which the severed lot and the two retained lots would not conform. As such, the applicant is seeking to rezone the lands to the “C” (Urban Protected Residential, etc.) District, and which requires a minimum lot frontage of 12 m and a minimum lot area of 360 sq m. All three lots will meet or exceed these By-law provisions.

The applicant has not provided any details on the size and location of the proposed dwellings and therefore staff cannot determine if any additional site-specific modifications are required, however, staff note that the proposed lots are of a sufficient size and shape in which to permit the establishment of dwellings that are compatible to other dwellings in the area, without requiring any modifications to the By-law.

Chronology

- April 14, 2014: The applicant applied for a rezoning application to facilitate a future condition of severance approval.
- April 14, 2014: The applicant applied for a consent application in order to sever the property into two lots.
- May 2, 2014: The rezoning application was deemed complete.
- May 15, 2014: The application for severance was approved by the Committee of Adjustment.
- May 16, 2014: The applicant posted a public meeting notice sign on the property.
- May 28, 2014: Notice of Complete Application and Public Meeting Notice was mailed to 155 property owners within 120 m of the subject property.

Details of Submitted Application

- Location:** 739 Upper Paradise Road (Hamilton)
- Owner:** Chris Gotsopoulos
- Applicant:** Tuscany Homes Limited

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|-------------------------------------|-------------------------|
| <u>Property Description:</u> | <u>Frontage:</u> 32.9 m |
| | <u>Lot Depth:</u> 40 m |
| | <u>Area:</u> 1,316 sq m |

EXISTING LAND USE AND ZONING:

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|----------------------------------|--------------------------------------|---|
| <u>Subject Lands:</u> | Vacant | “B” (Suburban Agriculture and Residential, etc.) District |
| <u>Surrounding Lands:</u> | | |
| North | Single Detached Residential Dwelling | “C” (Urban Protected Residential, etc.) District |
| South | Single Detached Residential Dwelling | “C” (Urban Protected Residential, etc.) District |
| East | Single Detached Residential Dwelling | “C” (Urban Protected Residential, etc.) District |
| West | Single Detached Residential Dwelling | “R-4” (Small Lot Single Family Detached) District |

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (PPS) (2014)

The application has been reviewed with respect to the PPS policies that contribute to the development of healthy, livable, and safe communities, as contained in Section 1.1.1. The subject lands are considered to be within a Settlement Area, as defined by the PPS. As such, the application is consistent with Policy No. 1.1.3.1 with respect to focusing growth and regeneration within existing Settlement Areas. As the proposal is to facilitate a severance for the creation of two additional single detached residential dwelling within the Urban Area, the proposal is consistent with the PPS.

Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application conforms with the policies that manage growth within the built-up area, as per the policies contained in Section 2.2.2.

Urban Hamilton Official Plan (UHOP)

The subject property is designated “Neighbourhoods” on Schedule “E” – Urban Structure and Schedule “E-1” – Urban Land Use Designations. The following policies among others were considered:

“E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.

E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:

- a) Residential dwellings, including second dwelling units and housing with supports.”

As the proposal is to facilitate the creation of two additional single detached residential lots, the proposal conforms to Policy No. E.3.2.3.

“E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.”

The proposed lands to be severed, and lands to be retained, will be similar in size and scale to other residential lots in the neighbourhood, which are generally 10-13 m in width. In addition, similar sized lots exist immediately adjacent to the proposed lots on both Greenshire Drive and Upper Paradise Road. As such, staff consider that the proposed lots will enhance and be compatible to the scale and character of the existing neighbourhood and, as a result, the proposal conforms to the policies of the UHOP.

Section F of the Plan contains the consent policies:

“F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 - Urban Land Use Designation, shall be permitted provided the following conditions are met:

- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into

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consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;

- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.”

The proposed lots will enhance and be compatible to the scale and character of the residential neighbourhood and will have full municipal services and frontage on a public road.

The lots will not conform to the current Zoning By-law requirements, and as such, the applicant is seeking rezoning approval in order to amend the Zoning By-law to establish zoning in which the proposed lots will conform. Based on the above the proposal conforms to the UHOP.

Neighbourhood Plan

The subject property is designated as “Singles and Doubles” in the Gilkson Neighbourhood Plan. As the proposal is to permit the establishment of three single detached residential dwelling lots, the proposal conforms to the Gilkson Neighbourhood Plan.

RELEVANT CONSULTATION

Agencies/Departments Having no Comment or Objections

- Hamilton Municipal Parking Services

Traffic Engineering Section (Public Works Department):

In review of the severance application, Traffic Engineering staff noted that separate access is required for the retained and severed lands, and an access permit will be required. All three accesses must be from Greenshire Drive. A 0.91 m clearance from a driveway to the traffic control box is required, and if the traffic control box needs to be relocated, it will be at the applicant’s expense. Through further discussions with Traffic Engineering staff, it is also noted that an access driveway cannot be established in the required daylight triangle. It is considered that these issues can be satisfactorily accommodated though the review of the access permits.

Corporate Services (Budgets, Taxation & Policy):

In review of the severance application, Corporate Services staff noted that the owners shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

Public Consultation:

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is part of the implementation of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities.

An application for severance was submitted by the applicant at the time the rezoning application was submitted. Public notification for the severance application was mailed to all residents within 60 m (200 ft) of the property on April 29, 2014, for a meeting of the Committee of Adjustment to discuss the proposed severance, of which the proposed rezoning is intended to implement. Based on this, it was determined that no preliminary consultation was required.

Notice of Complete Application for the Zoning By-law Amendment and Public Meeting Notice was mailed to 155 property owners within 120 m of the subject property, and a public notice sign was posted on the subject lands on May 16, 2014.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS (2014), and conforms to Growth Plan for the Greater Golden Horseshoe and the UHOP.
 - ii) It is compatible with the type and form of development in the surrounding neighbourhood.
2. The subject property is located at the south east corner of Upper Paradise Road and Greenshire Drive.

The rezoning application will amend the zoning of the property from the “B” (Suburban Agriculture and Residential, etc.) District to the “C” (Urban Protected Residential, etc.) District. The use of the property as a single detached dwelling is a use permitted in both the current “B” District, and a use permitted in the proposed “C” District.

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The following provides a comparison between the requirements of the “B” (Suburban Agriculture and Residential, etc.) District and the “C” (Urban Protected Residential, etc.) District:

| | <u>“B” District (Requirements)</u> | <u>“C” District (Requirements)</u> |
|---------------------|------------------------------------|------------------------------------|
| Lot Area: | 1,100 sq m | 360 sq m |
| Lot Frontage: | 20m | 12 m |
| Front Yard Setback: | 12m | 6 m |
| Side Yard Setback: | 3m | 1.2m |
| Rear Yard Setback: | 9m | 7.5m |

A detailed analysis of the proposed changes is outlined below:

Lot Area:

The proposed rezoning for the lands to be severed and retained will exceed the minimum 360 sq m lot area requirement of the “C” (Urban Protected Residential, etc.) District, with a lot area of approximately 422 sq m for the interior lots (lots 2 & 3), and a lot area of approximately 402 sq m for the corner lot (lot 1). The proposed lot areas are similar in size to many of the other existing residential lots in the area, and therefore the proposed lots will be able to establish similar size dwellings, and will be able to maintain similar levels of parking and amenity space.

Lot Frontage:

The proposed lands to be severed and lands to be retained will conform to the lot frontage requirements of the 12 m of the “C” (Urban Protected Residential, etc.) District, with a lot frontage of 12 m for the interior lots and a lot frontage of 13.5 m for the corner lot. The lots along Greenshires Drive and Upper Paradise Road are similar in width to the proposed three lots and will therefore maintain a compatible lotting pattern and built form for the area.

Setbacks

The concept plans submitted by the applicant with respect to the application for rezoning only show the lotting pattern and do not show the dwellings that are to be established on the lots. Therefore staff cannot determine if any additional site-specific modifications are required, however, staff note that the proposed lots are of a sufficient size and shape in which to permit the establishment of dwellings that are compatible to other dwellings in the area, without requiring any modifications to the By-law. As the neighbouring properties are also zoned “C” (Urban Protected Residential, etc.) District and have the same setback requirements, the proposed lots will maintain the character of the area and will maintain adequate space for parking, access, drainage, maintenance, and amenity space.

3. The required road allowance width of Upper Paradise Road is 30.48 m. The applicant is required, as part of the severance application process, to dedicate to the City approximately 2.5 m of land along Upper Paradise Road to establish the ultimate width of Upper Paradise Road.

As Upper Paradise Road is defined as a collector road in the Urban Hamilton Official Plan, the applicant will be required, as part of the severance application process, to dedicate a 9.14 m by 9.14 m daylight triangle at the corner of Upper Paradise Road and Greenshire Drive. It is considered that the dedication would still ensure the lots can be developed as proposed, with no adverse impact on amenity or character.

There are existing watermains, sanitary sewers, and storm sewers in front of the subject lands. Each lot must be independently serviced with full municipal services. A servicing permit may be required for the installation of the services to the property line.

4. The subject property is located adjacent to Upper Paradise Road which is a potential noise source and, as such, staff are requiring that a noise warning clause, advising potential purchasers that there may be occasional noise impacts due to increased road traffic, be included within the consent agreement for the subject lands (Condition 6 in Appendix “C”).
5. The subject property meets two of the ten criteria used by the City of Hamilton and the Ministry of Tourism, Culture and Sport for determining archaeological potential:
 - 1) Within 250 m of known archaeological sites; and,
 - 2) Along historic transportation routes.

These criteria define the property as having archaeological potential. As part of the severance application, staff will require a condition that an archaeological study be undertaken.

ALTERNATIVES FOR CONSIDERATION

If the application for rezoning is denied, then the applicant will not be able to finalize severance application HM/B-14:29, but the applicant will be able to establish a single detached dwelling on the subject property.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

3.4 Enhance opportunities for administrative and operational efficiencies.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Draft By-law and Schedule A Map
- Appendix “C”: Staff Comments for Consent Application HM/B-14:29
- Appendix “D”: Decision for Consent Application HM/B-14:29
- Appendix “E”: Concept/Survey Plan

/DB