



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 8, 2014
SUBJECT/REPORT NO:	Application for Amendment to City of Hamilton Zoning By-law No. 6593 and Vacant Land Condominium for Lands Located at 1187-1201 Upper James Street (Hamilton) (PED14137) (Ward 7)
WARD(S) AFFECTED:	Ward 7
PREPARED BY:	Edward John (905) 546-2424 Ext. 5803
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Zoning Application ZAC-07-084, by 1163133 Ontario Ltd., (Oscar Kichi)**, Owner, for a change in zoning to Hamilton Zoning By-law No. 6593 from the “HH” (Restricted Community Shopping & Commercial) District and the “AA” (Agricultural) District to the “HH” (Restricted Community Shopping & Commercial) District, Modified, in order to permit a commercial plaza including a 4-storey hotel and commercial (retail/restaurant) buildings, as shown on Appendix “A”, on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED14137, that has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the change in zoning is in conformity with the Urban Hamilton Official Plan (UHOP).
- (b) That approval be given to **Draft Plan of Vacant Land Condominium 25CDM-201401, 1163133 Ontario Ltd., (Oscar Kichi)**, Owner, to create five (5) Blocks. Blocks 1-4 will be developed as commercial units and Block 5 will be developed as a common element (private) roadway and parking, subject to the following conditions:
- (i) That this approval applies to the plan prepared by B.J. Clarke, Ontario Land Surveyor, dated January 28, 2014, showing the following condominium elements: one (1) block for a roadway and parking, and four

- (4) blocks for commercial units, attached as Appendix “D” to Report PED14137;
- (ii) That the Owner apply for and receive final approval of a Site Plan Application (DA-14-044), and the final plan of condominium complies in all respects with the approved Site Plan, to the satisfaction of the Manager of Development Planning, Heritage and Urban Design;
 - (iii) The Owner covenants and agrees that no plan of condominium shall be registered on the lands of the Draft Plan until the Owner has provided the Director of Planning with a list certified by an Ontario Land Surveyor showing the net area and width of each lot and block created by registration of the condominium plan, including the gross area of the plan to be registered, and that the Director of Planning has confirmed to the Owner that the lots and blocks within the plan comply with the City’s requirements for zoning;
 - (iv) The Owner agrees to establish sufficient easements and rights of way on title, in favour of all individual unit owners, in order to ensure access and use of parking within the site is on a shared basis, all to the satisfaction of the Director of Planning;
 - (v) The Owner agrees to establish sufficient easements, in order to secure a watermain and public walkway to serve the residential lands to the rear (Adam Estates), all to the satisfaction of the Director of Planning and Senior Director of Growth Management;
 - (vi) That prior to registration, the owner demonstrate, to the satisfaction of the Director of Planning, that the lands have been merged in title;
 - (vii) That the Owner provides the Manager of Design and Construction with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider, approved by the Canadian Radio and Telecommunication Commission (CRTC), that adequate telecommunication service will be provided to the condominium, including 9-1-1 emergency calling service that identifies, at a minimum, the caller’s name and location information;
 - (viii) That the Owner satisfies any conditions, financial or otherwise, of the City of Hamilton;
 - (ix) That the final plan comply with all applicable provisions of Zoning By-law No. 6593;

- (x) That the Owner receives final approval of Zoning Application ZAC-07-084 to the satisfaction of the Director of Planning.

EXECUTIVE SUMMARY

The purpose of the application is for approval of a Draft Plan of Vacant Land Condominium, and changes in zoning in order to permit a 4-storey hotel and additional commercial buildings and associated parking, on the lands fronting Upper James Street (see Appendix “A”). A Site Plan indicating the proposed location of the buildings has been submitted (see Appendix “C”).

It is noted that all the proposed buildings are to be located within the portion of the subject lands zoned “HH” (Restricted Community Shopping and Commercial) District, and, as such, all are uses permitted as of right. The application therefore is to approve only the change in zoning for a remnant parcel of the lands zoned “AA” (Agricultural) District, which is proposed to accommodate associated parking for the commercial uses. In addition, a number of by-law provisions are being amended in order to allow the proposed commercial buildings to be located closer to the street (Upper James Street) and to modify the stall sizes for parking spaces.

The proposal can be supported, as it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), and implements the “Arterial Commercial” designation of the UHOP. It is a form of commercial development that achieves a number of desirable urban design objectives and would be compatible with surrounding existing commercial and residential development.

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 and Vacant Land Condominium.

HISTORICAL BACKGROUND

Proposal:

The subject application was originally submitted in November 2007, at which time a six (6) storey hotel and associated commercial uses were proposed. The application has since been revised and now constitutes a four (4) storey hotel located towards the rear of the site, and two new buildings, along with one existing building, to be built fronting onto Upper James Street. Parking associated with all uses shall be shared; however, it is noted that the lands will be subject to a vacant land condominium in which to separate tenure of the various commercial buildings.

Chronology:

November 30, 2007: Notice of Complete Application.

January 29, 2014: Application formally amended and Public Notice Sign on site updated.

May 1, 2014: Notice of Complete Application for a Draft Plan of Condominium (Vacant).

June 20, 2014: Notice of Public Meeting.

Details of Submitted Application:

Location: 1187 - 1201 Upper James Street

Owner: 1163133 Ontario Ltd., (Oscar Kichi) Owner

Agent: Chamberlain Architect Services Ltd.

Property Description:

Area:	13,894 sq m
Frontage:	94 m
Depth:	134 m

Existing Land Use And Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Commercial Plaza	“HH” (Restricted Community Shopping and Commercial) District

Surrounding Lands:

North	Commercial Plaza	“HH” (Restricted Community Shopping and Commercial) District, Modified
South	Commercial Plaza	“HH” (Restricted Community Shopping and Commercial) District, Modified
East	Low Density Residential Housing	“C” (Urban Protected Residential, etc.) District
West	Hotel and Commercial uses	“HH” (Restricted Community Shopping and Commercial) District, Modified

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

The application has been reviewed with respect to the PPS 2014. The application is consistent with the policies that focus on growth in Settlement Areas (Policy 1.1.3.1).

Places to Grow: Growth Plan for the Greater Golden Horseshoe:

The proposal implements Policy 2.2.2.1 with respect to directing new growth to the built-up areas through intensification, and by contributing to complete communities with a diverse mix of land uses.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Urban Hamilton Official Plan:

The UHOP designates the subject lands as “Arterial Commercial” on Schedule “E-1” - Urban Land Use Designations. The following policies, among others, are applicable to the subject lands:

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With particular reference to the “Arterial Commercial” designation the following goals shall apply:

“E.4.8.1 The range of permitted uses is intended to cater to the travelling or drive-by consumer. As well, the designation is intended to accommodate a limited range of land extensive retail stores which require outdoor storage or sales.”

It is noted that a number of the existing and proposed uses on site, which include restaurant and hotel, conform to this objective. However, staff note that general retail uses are proposed which are specifically prohibited in this designation, as per Policy E.4.8.3.

Notwithstanding this, as previously mentioned, the existing “HH” (Restricted Community Shopping and Commercial) District currently applies to all but the remnant parcel of the site, and as such, would as of right; allow uses not consistent with the Arterial Commercial Designation.

Staff note that review of the comprehensive zoning by-law, as it pertains to commercial uses, is underway, and that uses for this area will ultimately be drawn into compliance with the Official Plan through that process.

However, until such time, Policy F.1.12 applies, in which existing amendments to zoning provisions to non-complying uses can be contemplated without amendment to the Official Plan. As such, the consideration of reduced setbacks, parking and loading requirements, and other related performance standards for those uses currently permitted within the Zoning By-law, is considered consistent and in conformity with the Official Plan.

The proposal to change the zoning of the remnant “AA” (Agricultural) District is similarly considered in conformity with the Official Plan, as it is to be solely used for parking purposes consistent with the current “Arterial Commercial” Designation. Given the dimension of the remnant parcel, staff are satisfied that no uses inconsistent with the Official Plan Designation could be established on this parcel of land.

Finally, it is noted that Upper James Street is designated a “Primary Corridor” at this location and, as such, is intended to be served by higher order transit and host retail and mixed use forms as per Policies E.2.4.8 and E.2.4.10.

Neighbourhood Plan:

The subject property is designated “Commercial”, in the Jerome Neighbourhood Plan to which the proposed uses comply.

RELEVANT CONSULTATION

The following external and internal departments have no comments:

- Hamilton Municipal Parking Services
- Urban Forestry
- Community Planning
- Bell Canada

Corridor Management has a few minor detailed technical recommendations relating to access and site circulation, which will be reviewed further at the Site Plan Control Stage.

PUBLIC CONSULTATION

In accordance with the provisions of the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation of the original application was sent to 55 property owners within 120 m of the subject lands on November 30, 2007. Following this circulation, no letters were received.

The application was subsequently amended on January 29, 2014, and recirculated to 77 property owners within 120 m of the subject lands. Following this circulation, one letter from a neighbouring land owner was received. The letter pertained to a current Draft Plan of Subdivision and the intent to secure watermain looping through the site (see Appendix “E”). This issue is discussed in more detail in the Analysis/Rationale Section of the Report.

Finally, additional notice of complete application for the proposed Draft Plan of Condominium was circulated to 72 property owners within 120 m of the subject lands. Following this circulation, no letters were received.

The Notice of Public Meeting was also circulated in accordance with the provisions of the Planning Act.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed changes in zoning have merit and can be supported for the following reasons:
 - (i) They are consistent with the Provincial Policy Statement (PPS) and conform to Places to Grow (Growth Plan for the Greater Golden Horseshoe);

- (ii) They conform to the Urban Hamilton Official Plan (UHOP) and in particular the “Arterial Commercial” designation and the “Commercial” designation of the Jerome Neighbourhood Plan; and,
 - (iii) The proposed development is considered to be compatible with the existing and planned development in the immediate area.
2. The proposed revised development consists of a four-storey hotel and a total of four commercial units, each in separate buildings. A total of 220 parking spaces have been proposed in the form of surface parking located principally internal of the site.
3. In evaluating the planning merits of the proposed development, staff note that all uses are currently permitted upon the subject lands, save and except a small remnant strip of land zoned “AA” (Agricultural) District. This portion of land, located south east of the property, is proposed to accommodate a number of at-grade (surface) parking spaces. As discussed in the policy review section, the “Arterial Commercial” designation encourages a mix of commercial uses directed towards the travelling public.

Given the designation of a “Primary Corridor”, no comments or concerns from either a safety or a level-of-service perspective were raised by the Public Works Department about the capacity of the road infrastructure, or the ability of the infrastructure to handle increased traffic.

The use of the lands for the purpose of accessory parking therefore supports the continued operation of the commercially designated lands, and maintains the character and intent of the applicable Zoning and Official Plan designations.

In addition to the proposed zoning amendment for the remnant parcel of land, requests to amend the performance standards to the existing “HH” (Restricted Community Shopping and Commercial) District, are proposed. These are discussed in more detail in the following By-law review.

Based on the above, staff are satisfied that the subject lands are an appropriate location for the proposed uses, and that sufficient buffering, building setbacks, and building design, will be in place to ensure compatibility with existing and future land uses in the area, in particular, the residential development to the rear of the subject lands.

4. The development of lands as proposed would be subject to Site Plan Control, in accordance with Site Plan Control By-law No. 03-294. Final review of matters such as grading, drainage, storm water management, servicing, landscaping, tree preservation, final parking access locations and parking layout, fencing, and

final architectural design, will be addressed at the Site Plan Control stage of development.

5. **By-law Review**

In order to implement the development, as proposed (see Appendix “C”), a number of zoning modifications are required, many of which relate to the location of the proposed buildings with respect to setbacks and the parking configuration, with respect to driveway locations and parking stall sizes. A review of the required modifications is as follows:

Setbacks

Following the required road widenings, the proposed building would have a 0 m setback from Upper James Street. The provision of buildings with a greater street presence satisfy general urban design principles, particularly as this would permit the parking to be predominately located internal of the site. Based on this objective, staff are supportive of the modification.

Staff note that the proposed hotel is intended to be setback a minimum 15 m from the rear lot line, which would exceed the existing 6 m requirement within the current by-law provisions. Given that lower density residential development exists to the rear, staff are seeking to ensure the setback is maintained, and have therefore included a by-law provision to that effect (see Appendix “B”).

Parking and Loading

The proposed commercial plaza would continue to function as such, however, the Draft Plan of Condominium would effectively create four separate ownership titles. The parking would continue to operate as if the property remained in one ownership, with facilities being shared. In order to permit this to occur, the By-law will be amended to acknowledge the functionality of the site, and a corresponding Condominium Condition has been recommended to ensure adequate easements and rights of way are established, in order to ensure each separate unit has access to the provided parking (see Appendix “B” and Draft Plan of Condominium Condition (iv)).

A reduction to the stall sizes consistent to that existing in By-law No. 05-200 (5.5 x 2.6 m) have been requested. As this standard has been approved in similar type developments throughout Hamilton, staff are supportive of this modification.

With respect to loading requirements, the length of the required loading spaces is requested to be amended from 18 m to 9 m. Given the size of the proposed buildings, their intended use, and the availability of circulation space on site, staff are satisfied that the requested reductions would continue to satisfactorily accommodate all loading requirements.

Location of Outdoor Patio

As indicated in the attached concept plan, the hotel is proposed to benefit from a modest patio area to the rear of the building attached to the hotel lounge. Given the location of the residential uses to the rear, this would not be permitted in the current By-law. Staff are of the opinion, that given the size and scale of the patio, and the fact that it would be set back over 12 m from the rear lot line, that it would exert minimal impact on the residential area. To ensure the size and setback of the patio is maintained, the amending By-law will only permit a patio with a maximum area of 30 sq m, and a setback from the rear lot line of 12 m (see Appendix “B”).

6. Engineering Issues

It is noted through the circulation that the Public Works Department is seeking to establish an easement over the property in order to provide for a watermain. The watermain is in favour of the residential development to the rear, for the purpose of establishing watermain looping, and more adequate water pressure. In addition, it was noted through review of the residential subdivision (Adam Estates), that this should combine with a walkway in order to provide pedestrian connection to the transit and service corridor of Upper James Street.

Currently, discussions as to the location and feasibility of the easement are continuing, and are likely to be resolved through the Site Plan process and secured through the recommended Draft Plan of Condominium Condition (Condition (v)). There are a number of options available with respect to the location and size of the easement. On this basis, staff are satisfied that the resolution could be satisfactorily resolved through this process.

Additional comments conclude that an 18.2 m road allowance from the centreline is required. This road widening is to be taken at Site Plan stage, and there are existing water, storm, and sanitary sewers available to service the site.

7. Public Comments

One letter from the owner of the residential lands to rear has been received. The comments pertain to securing the required watermain as discussed in the engineering comments above. As detailed, discussions to secure this watermain are ongoing with the owner of the subject lands, and staff anticipate that this will be resolved through the approval of the Site Plan Application, and through Draft Plan Approval Condition (v).

ALTERNATIVES FOR CONSIDERATION

Should the applications be denied, the lands could be developed for the range of uses currently permitted within the “HH” (Restricted Community Shopping and Commercial) District and the “AA” (Agricultural) District.

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

1.1 Continue to grow the non-residential tax base.

1. 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 Zoning By-law Amendment
- Appendix "C": Concept Plans
- Appendix "D": Condominium Plan
- Appendix "E": Public Comments

:EJ/tp