



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 8, 2014
<b>SUBJECT/REPORT NO:</b>	Application for Amendments to Glanbrook Zoning By-law No. 464 and Hamilton Zoning By-law No. 05-200 (PED14143) (Ward 11)
<b>WARD(S) AFFECTED:</b>	Ward 11
<b>PREPARED BY:</b>	Delia McPhail (905) 546-2424 Ext. 6663
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to **Zoning Application ZAC-13-024 by 1778239 Ontario Inc., Owner**, for a change in zoning from the Agricultural “A1” Zone to the Neighbourhood Institutional (I1, H53) Zone, to permit a day care facility, on lands located at 1910 Rymal Road East (Glanbrook), as shown on Appendix “A” to Report PED14143, on the following basis:

- (a) That the Draft By-law, attached as Appendix “B” to Report PED14143, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the Amending By-law, attached as Appendix “B” to Report PED14143, be added to Map No. 1594 of Zoning By-law No. 05-200;
- (c) That the Draft By-law, attached as Appendix “C” to Report PED14143, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (d) That the lands referred to in the amending By-law, attached as Appendix “C” to Report PED14143, be removed from Schedule “J” of By-law No. 464;
- (e) That the proposal is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe, the Urban Hamilton Official Plan, and the Rymal Road Secondary Plan.

## **EXECUTIVE SUMMARY**

The owners of the subject property propose to convert the existing two-storey, single detached dwelling, to a day care facility for 80 children and 15 employees. Also included in the proposal is the demolition of the existing detached garage, the construction of a one-storey 145.91 sq m rear addition to the existing dwelling, a shed, an outdoor play area in the rear yard, and a paved parking area to accommodate 19 vehicles, as shown in Appendix “D”. An “H” Holding provision has been applied to the subject lands to require the owner to apply for and receive final Site Plan approval for the subject lands. As a condition of Site Plan approval, the owner will be required to pay their proportionate share of the costs for the installation of the sanitary and storm sewers along Rymal Road East. In addition, any site alterations will require a letter of permission from the Hamilton Conservation Authority.

The proposal has merit and can be supported since the application is consistent with the Provincial Policy Statement (PPS), and conforms to the Growth Plan for the Greater Golden Horseshoe, the Urban Hamilton Official Plan (UHOP), and the Rymal Road Secondary Plan.

***Alternatives for Consideration – See Page 11***

## **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 approval of a change in Zoning.

## **HISTORICAL BACKGROUND**

### **Proposal:**

The owners of the subject property propose to convert the existing two-storey, single detached dwelling, to a day care facility for 80 children and 15 employees. Also included in the proposal is the demolition of the existing detached garage, the construction a one-storey 145.91 sq m rear addition to the existing dwelling, a shed, an outdoor play area in the rear yard, and a paved parking area to accommodate 19 vehicles, as shown on Appendix “D”.

**Chronology:**

- November 21, 2012: Request for Formal Consultation Application FC-12-147 was received.
- January 23, 2013: Request for Formal Consultation Application was considered by the Development Review Committee.
- July 2, 2013: Application to amend the Zoning By-law was received.
- July 31, 2013: Application deemed complete.
- August 12, 2013: Application circulated to internal departments and external agencies.
- August 13, 2013: Public Notice Sign posted on the property.
- August 14, 2013: Notice of Complete Application and Preliminary Circulation was sent to 53 landowners within 120 m of the subject lands.
- October 8, 2013: Applicant was advised that a Functional Servicing Report and/or Brief was required to ensure that adequate servicing capacity is available to service the proposal.
- December 18, 2013: Applicant provided a Functional Servicing Brief.
- January 10, 2014: Applicant provided the requested details concerning the sewer system design and capacity to satisfy staff that the proposal will be adequately serviced.
- May 9, 2014: Karst Assessment was received.
- June 11, 2014: Sign was updated to reflect Planning Committee date.
- June 20, 2014: Notice of Public Meeting given in accordance with the Planning Act.

**Details of Submitted Application:**

**Location:** 1910 Rymal Road East (Glanbrook)

**Owner/Applicant:** 1778239 Ontario Inc. (c/o Alex Skaljac, Anna-Maria Eleftheriou-Skaljac, Georgina Dimopoulos-Italiano)

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**Agent:** A.J. Clarke and Associates Limited (c/o Stephen Fraser)

**Property Description:** Lot Area: 0.19 ha

Lot Frontage: 45.3 m

Lot Depth: 43.3 m

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Single Detached Dwelling with Detached Garage	General Agricultural “A1” Zone

**Surrounding Land Uses:**

<b>North</b>	Vacant	Open Space (P4, H50) Zone
<b>South</b>	Single Detached Dwellings	Residential “R4-173(A)” Zone and Residential “R4-173(B)” Zone
<b>East</b>	Single Detached Dwelling	General Agricultural “A1” Zone
<b>West</b>	Single Detached Dwellings	Residential “R4-173(A)” Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (2014)**

The Application has been reviewed with respect to the Provincial Policy Statement (PPS). The proposal is consistent with those policies that promote efficient development and land use patterns within settlement areas. In accordance with Policy 1.2.6.1, a noise study will be required through the Site Plan process to ensure public health and safety because the proposed day care facility is considered a sensitive land use that is adjacent to a transportation corridor (Rymal Road). Likewise, archaeological interests will be maintained through the Site Plan stage of development, at which time an archaeological acknowledgment of the Owner that the property has been identified

has having archaeological potential, and must report any findings to the City and the Ministry of Culture, in keeping with Policy 2.6.2.

The subject property is entirely located within the Eramosa Karst Area of Natural and Scientific Interest (ANSI); therefore, the following Natural Hazard policies apply:

- “3.1.1 Development shall generally be directed to areas outside of:
- c) Hazardous sites.”

The definition of Hazardous sites is included within Section 6.0 of the PPS.

“Hazardous sites: means property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils) or unstable bedrock (karst topography).”

Furthermore, Policy 3.1.5 of the PPS states that:

- “3.1.5 Development shall not be permitted to locate in hazardous lands and hazardous sites where the use is:
- a) An institutional use including hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, day cares and schools.”

Although the subject lands have been identified within the Eramosa Karst ESA, a Karst Assessment found that no karst features (i.e. sinkpoints, springs or caves) appear to be present on the subject lands. Therefore, Natural Heritage staff and Hamilton Conservation Authority staff concur that the subject lands are not considered a hazardous site, as defined by the PPS, and that the above policies have been satisfied.

Therefore, the proposal is consistent with the policies of the PPS.

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

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff are of the opinion that the application contributes to the concept of a complete community and that it is consistent with the policies that manage growth and direct general intensification to the built-up areas, as per the Policies contained in Sections 2.2.2 and 2.2.3, for the purposes of assessing the merits of the application.

Therefore, the proposal conforms to Places to Grow.

The subject application was received prior to the Urban Hamilton Official Plan (UHOP) coming into force and effect; therefore, the policies of the Hamilton-Wentworth Official Plan, the Glanbrook Official Plan and the Rymal Road Secondary Plan apply.

### **Urban Hamilton Official Plan**

The subject lands are designated “Secondary Corridor” on Schedule “E” – Urban Structure and “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations. The land uses within the Neighbourhoods designation are intended to function as complete communities, providing a range of residential dwelling types and densities, as well as local commercial and local institutional uses. The proposed day care facility is considered a local institutional use and is, therefore, permitted within the Neighbourhoods designation.

The subject lands are located within the Eramosa Karst Area of Natural and Scientific Interest (ANSI), and Policies C.2.5.4 and C.2.5.51 prohibit new development and site alteration within or adjacent to significant areas of natural and scientific interest, among others, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Furthermore, Section 1.0 of Policy USC-1, which is specific to this area and is identified on Schedule “B-7” - Detailed Natural Heritage Features, Local Natural Area and Earth Science ANSI, states the following:

- “b) Notwithstanding Section C.2.0 – Natural Heritage System of Volume 1, the Feeder Area shall be afforded a level of protection to ensure that:
  - i) the flows of the creeks into the Core Area are substantially maintained (i.e. stream discharge including low flow and high flow characteristics and discharge response to runoff events);
  - ii) water quality is improved (i.e. primarily a reduction in sediment load); and,
  - iii) protective measures are employed to reduce the risk of contamination of surface streams by substances that would significantly impact groundwater and the Karst.
- c) Notwithstanding Section C.2.0 – Natural Heritage System of Volume 1, no development shall occur within the Feeder Area unless it can be shown, through technical studies completed to the satisfaction of the City, the Province and the Conservation Authority, that these objectives shall be met. Individuals who review these studies must have expertise in environmental hydrology and geomorphology, and civil engineering.

- d) As part of the recommendations in the Eramosa Karst ANSI report (Buck, Worthington, and Ford, 2003) a 50 m. wide buffer was applied to the boundary of the ANSI Core Area. Notwithstanding the requirements of Policy C.2.5.11 of Volume 1, any additional buffer requirements shall be identified through an Environmental Impact Statement (EIS).
- e) Within the Feeder Area of the Eramosa Karst ANSI, below grade fuel and chemical storage tanks shall not be permitted.”

The submitted Karst Assessment was reviewed by Natural Heritage staff and Hamilton Conservation Authority staff, who accept with the report’s findings that no karst features appear to be present on the subject lands, satisfying the above policies. However, because the subject lands are still located within the area regulated by the Hamilton Conservation Authority, a Letter of Permission for the proposed one-storey addition and other on-site works will be required from that agency, as a condition of Site Plan Approval.

In keeping with the Health and Public Safety Policies in Section B.3.6 of the UHOP, in order to assess and mitigate any noise impacts of Rymal Road East on the proposed sensitive land use (institutional day care facility), a noise study will be required at the Site Plan stage of development.

Furthermore, the proposal conforms to the Urban Design policies contained in Section B.3.3 by respecting the existing residential character through the adaptive re-use of the existing dwelling and a complementing addition, providing landscaped pedestrian walkways from the street, and minimizing impacts on abutting residential uses through conformity with the regulations of the Neighbourhood Institutional (I1) Zone of Hamilton Zoning By-law 05-200 (refer to Appendix “B”).

Based on the foregoing, the proposal conforms to the UHOP.

### **Rymal Road Secondary Plan**

The subject lands are designated “Low Density Residential 2h” on Map B.5.2-1 – Rymal Road Secondary Plan Land Use Plan. Under the General Residential Policies, Policy B.5.2.2.2 b) in Volume 2, states that, in addition to the Neighbourhoods policies within Volume 1:

- “5.2.2.2 b) Small scale Institutional uses, such as private schools, churches, day nurseries and other related community and institutional uses, shall be permitted in all residential designations on lots up to 0.4 ha. without an amendment to this Plan, subject to appropriate Zoning By-law amendments and Site Plan approvals.”

Since the proposed day care facility is considered to be a small scale Institutional use, which is a permitted use within the “Low Density Residential 2h” designation, an amendment to the Official Plan is not required. Furthermore, the amending By-law does not restrict the use of the lands to permit only a day care facility because the Neighbourhood Institutional (I1) Zone allows small scale institutional uses that are intended to serve the local community, which is in keeping with the Rymal Road Secondary Plan Policy 5.2.2.2 b), referred to above.

Therefore, the proposal conforms to the Rymal Road Secondary Plan.

### **RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections to the proposal:

- Recreation Division, Community Services Department.
- Hamilton Municipal Parking System.
- Forestry and Horticulture Section, Public Works Department.

The following Departments and Agencies have provided comments with respect to the proposed application:

#### **Hamilton Conservation Authority**

Staff reaffirmed comments provided at the Formal Consultation stage, indicating that the agency would not require the review of stormwater management. HCA staff has also reviewed the submitted Karst Assessment and are satisfied that there are no apparent karst hazards present on the property or in close proximity. However, because the property is located within a regulated area associated with the Eramosa Karst, a Letter of Permission from the Hamilton Conservation Authority will be required (with an associated review fee of \$200), as a condition of Site Plan Approval.

#### **Geomatics and Corridor Management Section, Public Works Department**

Staff have confirmed that Rymal Road East will be widened to a five-lane cross-section, with tentative construction set for 2014, and that the following matters will be addressed at the Site Plan stage of development: Access Permit requirements, provision of visibility triangles, as well as the relocation of any utilities, fire hydrant, tree, sign, etc., the cost of which will be borne by the applicant/owner. (NOTE: On April 15, 2014, the City acquired the portion of the subject lands necessary for the widening of Rymal Road East, referenced as Part 3 on Plan 62R-19538.)



**Budgets, Taxation and Policy Services, Corporate Services Department**

As a condition of Site Plan Approval, the applicant/owner will be required to pay a mainline fee for the Summit Park sanitary sewer in the amount of \$6,755.00.

**Waste Management Division, Public Works Department**

Operations support staff have determined that the proposal is not eligible for municipal waste collection and that the collection of garbage, recycling, organics, as well as leaf and yard waste, is required through private waste haulers. Although the submitted plans do not indicate any encroachments, the applicant/owner has been advised that any existing encroachments that are not permitted under an Encroachment Agreement must be removed, and the City's Encroachments on City Property Policy discourages encroachments onto City property.

**Public Consultation**

In accordance with the provisions of the Planning Act and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 53 property owners within 120 m of the subject lands on August 14, 2013, and a Public Notice sign was placed on the property on August 13, 2013. No letters or enquiries were made in response to the preliminary notice of circulation.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

**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, and it conforms to the Growth Plan for the Greater Golden Horseshoe, the UHOP, and the Rymal Road Secondary Plan; and,
  - ii) It is compatible with the type and form of development in the surrounding neighbourhood.
2. The subject lands are located on the south side of Rymal Road East between Dakota Boulevard and Fletcher Road, within the Rymal Road Secondary Plan Area. With the exception of the property to the east, which contains a single detached dwelling, the abutting lands were developed as part of the "Summit Park, Phase 2 Subdivision", Registered Plan 62M-1050. The lands on the north side of Rymal Road East, immediately across from the subject property, are owned by the Hamilton Conservation Authority, and are zoned Open Space (P4, H50) Zone

because they form part of the Eramosa Karst. Single detached dwellings abut the conservation lands along the north side of Rymal Road East.

3. The subject lands are located entirely within a Core Area identified on Schedule “B-7” – Detailed Natural Heritage Features, Local Natural Area Earth Science ANSI, specifically the Feeder Area of the Eramosa Karst ANSI. A Karst landscape is characterized by sink holes, sinking streams, subterranean drainage and caves, and the Feeder Area includes all of the watersheds for streams that are important to the functioning of the Karst Core Area. Based on the foregoing, the lands are regulated by the Hamilton Conservation Authority and the future development of the lands will require a Letter of Permission from that agency.

Notwithstanding the above, the applicant submitted a Karst Assessment, prepared by a professional hydrogeologist from Terra-Dynamics Consulting Inc., which concluded that no karst features (i.e. sinkpoints, springs or caves) appear to be present on the subject lands. The Karst Assessment was reviewed and accepted by both City and Hamilton Conservation Authority staff, as evidence that the subject lands are not considered a hazardous site.

4. In order to redevelop the property for a day care facility, the owners are seeking to rezone the subject lands from the Agricultural “A1” Zone under Township of Glanbrook Zoning By-law No. 464 to the Neighbourhood Institutional (I1) Zone under Hamilton Zoning By-law No. 05-200. In order to do so, one By-law is required to apply Hamilton Zoning By-law No. 05-200 to the subject lands (Appendix “B”) and a second By-law is required to remove them from the effect of Glanbrook Zoning By-law No. 464 (Appendix “C”). The Concept Plan that was submitted with the application conforms to the regulations of the Neighbourhood Institutional (I1) Zone, without the need for any variances to the By-law provisions. A total of 19 parking spaces will be provided to accommodate the 15 employees and the drop-off and pick-up of children by their parents. The proposal exceeds the three parking spaces that are required by the By-law, which is based on the ratio of one space for every 125.0 m of gross floor area which accommodates the use.
5. The proposal will be subject to Site Plan Control, at which time additional consideration will be given to such matters as landscaping, fencing, and servicing. In order to uphold the provincial interest, an acknowledgement will be added to the Undertaking of the Site Plan because the subject lands meet two of the ten criteria used for determining archaeological potential, including being in areas of pioneer EuroCanadian settlement and along historic transportation routes. Furthermore, a noise study will also be required upon the submission of a future Site Plan control application, in order to assess road noise impacts from Rymal Road East on the proposed sensitive land use. By locating the proposed play area at the rear of the

property, it is anticipated that noise and dust impacts from Rymal Road East will be minimized.

6. Growth Management staff advise that the existing 675 mm municipal sanitary sewer service on Rymal Road East was constructed under the Subdivision Agreement for Summit Park. Based on the information provided by the applicant, the sanitary sewer is currently operating at 23% capacity and, therefore, the sewer is able to accommodate the proposed change in zoning. Therefore, the Owner has been advised of the requirement to pay their proportionate share of the costs associated with the sanitary sewer and connection.

Staff have also advised that the installation of a 525 mm storm sewer along the frontage of this property will commence in 2014, and, that the redevelopment of the subject lands requires the subject property to connect to this sewer. Therefore, the owner shall pay the proportionate share of the costs associated with the storm sewer and the connection.

Furthermore, staff have requested that an “H” Holding provision be applied to the subject lands, in order to ensure that the owners pay their proportionate share of the costs associated with the sanitary and storm mainline sewers along Rymal Road East, including private drain connections. Other matters including Grading Plan, Erosion and Sedimentation Control Plan, Stormwater Management Study, and a Servicing Plan, will be included as conditions of any future Site Plan Approval.

## **ALTERNATIVES FOR CONSIDERATION**

If the application is denied, the applicant may continue to use the property as a single detached dwelling, or any of the uses permitted in the Agricultural “A1” Zone.

## **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.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.

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

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: Location Plan
- Appendix “B”: Draft Zoning By-law Amendment (By-law No. 05-200)
- Appendix “C”: Draft Zoning By-law Amendment (By-law No. 464)
- Appendix “D”: Concept Plan