



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	September 19, 2014
<b>SUBJECT/REPORT NO:</b>	Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for the Lands Located at 2791 King Street East (Hamilton) (PED14158) (Ward 5)
<b>WARD(S) AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	Joe Muto (905) 546-2424 Ext. 7859
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That approval be given to amended **Zoning Application ZAR-14-007 by 1298089 Ontario Inc. (Mohinder Lamba), Owner**, for a modification in zoning to the “AA/S-1712”-‘H’ (“Agricultural” – ‘Holding’) District, Modified, of Hamilton Zoning By-law No. 6593, to allow a stand-alone parking lot in conjunction with the proposed medical/office use located at 2803 King Street East, for the lands located at 2791 King Street East, Hamilton, as shown on Appendix “A”, on the following basis:

- a) That the draft By-law, attached as Appendix “B” to Report PED14158, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- b) That the change in zoning is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe and the Urban Hamilton Official Plan;
- c) That upon finalization of the implementing By-law, the Greenford Neighbourhood Plan be amended to change the designation from “Commercial Residential Conservation” to “Commercial”.

**EXECUTIVE SUMMARY**

The purpose of this application is to amend Hamilton Zoning By-law No. 6593 in order to permit parking on the subject lands know municipally as 2791 King Street East, in conjunction with the future medical and office uses for the lands located at

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2803 King Street East (see Appendix “A”). Two concept plans for the proposed medical/office building on the neighbouring lands have been submitted, but both concepts rely on the use of the subject lands (2791 King Street East) for parking. The two concepts vary only as it relates to the location of the proposed medical and office use building on the site, but the concepts have not been fully vetted (see Appendices “C” and “D”).

The applicant has recently acquired the subject lands from the City of Hamilton. The applicant intends on redeveloping their adjacent lands at 2803 King Street East for medical and related office uses with the provision of additional parking on the subject lands.

With respect to the proposed parking lot on the subject lands, staff are not supportive of the proposed concept plans as submitted, as it relates to the parking area at 2791 King Street East. Instead, staff recommend removal of the proposed parking spaces within the boulevard, in order that additional landscaping can be provided abutting the adjacent residential uses at 2787 King Street East and 15 Owen Place, as well as, along the street frontage on both Owen Place and King Street East. The applicant was advised of this, and was not supportive of the modification by staff. Nonetheless, staff have drafted the implementing By-law with Holding (H) provisions for a parking agreement and for Site Plan Control in order to address only one row of parking (rather than two) and additional landscaping/planting strip requirements based on the standard requirements in Zoning By-law No. 6593 for parking lots.

The proposal, as amended by staff, has merit and can be supported since it is consistent with the Provincial Policy Statement, and conforms with the Growth Plan for the Greater Golden Horseshoe (Places to Grow) and the Urban Hamilton Official Plan.

***Alternatives for Consideration - See Page 20.***

**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**

### **Proposal:**

The applicant has applied for a change in zoning on the property at 2791 King Street East, from the “AA” (Agricultural) District to a site specific “AA” (Agricultural) District in Hamilton Zoning By-law No. 6593. However, after reviewing the proposal, staff are recommending changes to the proposal and have included a Holding (H) provision with the site specific request, in order to permit parking on the lands known municipally as 2791 King Street, to be used in conjunction with the proposed redevelopment of the lands located at 2803 King Street East.

### **Chronology:**

- April 17, 2013: Formal Consultation application (FC-13-027) is considered at the Development Review Committee.
- February 7, 2014: Application ZAR-14-007 is received.
- February 28, 2014: Application ZAR-14-007 is deemed complete.
- March 14, 2014: Circulation of Notice of Complete Application and Preliminary Circulation to 94 property owners within 120 m of the subject lands.
- March 21, 2014: Public Notice Sign erected on property.
- August 7, 2014: Public Notice Sign updated to reflect Public Meeting date.
- August 29, 2014: Notice of Public Meeting is mailed to all residents within 120 m of the subject lands in accordance with the Planning Act.

### **Details of Submitted Application:**

**Location:** 2791 King Street East (Hamilton)  
**Owner:** Punjab Auto Sales Inc. c/o Mohinder Lamba  
**Agent:** DeFilippis Design c/o Nick DeFilippis

**Property Description:** Area: 659.30 sq m  
Frontage: 15.011 m  
Flankage: 38.228 m  
Depth: 45.802 m

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**Existing Land Use And Zoning:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Vacant	“AA” (Agricultural) District

**Surrounding Lands:**

<b>North</b>	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.) District
<b>South</b>	Townhouse Units	“G/S-966a” Neighbourhood Shopping Centre, Etc.) District, Modified
<b>East</b>	Used Automotive Sales Lot and Police Station	“HH” (Restricted Community Shopping and Commercial) District and “E-2/S-34a” (Multiple Dwellings) District, Modified
<b>West</b>	Single Detached Dwelling	“AA” (Agricultural) District

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (2014):**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The PPS identifies that healthy, liveable communities are sustained by promoting efficient development and land use patterns which sustain the financial well-being of the Province and Municipalities over the long run.

As amended, the application is consistent with Policy 1.1.1 and 1.1.3 of the PPS, in that it promotes cost-effective and safe development patterns and standards. Further, it assists in promoting an opportunity for intensification and redevelopment for adjacent lands also owned by the applicant at 2803 King Street East.

The proposed parking area ensures that additional parking can assist in providing staff parking for the proposed medical/office use for the lands at 2803 King Street East. Based on the foregoing, the proposal, as amended, is consistent with the PPS.

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

Places to Grow is formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the Places to Grow Act, 2005,

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by the Province of Ontario. The Plan's main objective is to provide direction in developing communities with a better mix of housing, jobs, shops and services in close proximity to each other.

Policy 2.2.3 of the Plan identifies general intensification policies. More specifically, and in keeping with the PPS, this policy identifies that all municipalities will develop and implement, through Official Plans and other supporting documents, a strategy and policies to phase in and achieve intensification. The subject lands are to assist in the accommodation of parking for the proposed medical/office use located on the lands on the east side of Owen Place, municipally known as 2803 King Street East.

Based on the foregoing, as amended, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe.

**Urban Hamilton Official Plan (UHOP):**

The subject property is designated "Neighbourhoods" on Schedule 'E' – Urban Structure and on Schedule 'E-1' – Urban Land Use Designations. The designation permits uses such as residential dwellings, open space and parks, local community facilities/services and local commercial uses. The general policy goals of the "Neighbourhoods" designation are to develop mixed-use, friendly neighbourhoods, where people can live, work, shop, learn and play. Staff are of the opinion that the proposed parking lot, as amended, is considered to be compatible with the surrounding area and is in keeping with the intent of this designation.

The following policies, among others, are applicable to the subject lands:

**"B.3.3 Urban Design Policies**

Urban design is directly concerned with shaping the physical form of the urban areas of the City and plays a vital role in upgrading and maintaining a city's civic image, economic potential, and quality of life. Good planning practice recognizes the important role of urban design in providing value and identity to a community. The design and placement of buildings, infrastructure, open spaces, landscaping and other community amenities, as well as how these features are connected and work together, affects how people live and interact with each other. Attention to physical design creates attractive, lively and safe communities where people want to live and visit and where businesses want to establish and grow. A city that values good urban design is a city that is successful socially, economically, and environmentally.

The intent of this Plan is to create compact and interconnected, pedestrian oriented, and transit-supportive communities within which all people can attain a high quality of life. Achieving this vision requires careful attention to urban design in both the public and private realms with attention to how those realms work together. The public

realm is associated with planning and design issues in areas such as roads, sidewalks, plazas, parks, and open space, owned by the City and other public agencies. The private realm includes areas within private property boundaries, which may or may not be open to the public but, are physically and visibly connected to the public realm. The policies of this section direct design in both the public and private realms.”

#### “E.2.6 Neighbourhoods

Neighbourhoods are where the majority of Hamiltonians live, learn, shop, socialize, and play. A key component of Hamilton’s urban structure, the Neighbourhoods element is an all encompassing element representing the concept of complete community at the structural level. Neighbourhoods occupy the greatest proportion of the City, containing a mix of low, medium and high rise residential areas; various types of roads, parks, open spaces and commercial areas; and institutions such as schools and places of worship.”

#### “E.3.1 Policy Goals

The following goals apply to the Neighbourhoods land use designation:

- 3.1.2 Develop neighbourhoods as part of a complete community, where people can live, work, shop, learn, and play.
- 3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution.
- 3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
  - d) local commercial uses.
- 3.2.7 The City shall require quality urban and architectural design. Development of lands within the Neighbourhoods designation shall be designed to be safe, efficient, pedestrian oriented, and attractive, and shall comply with the following criteria:
  - b) Garages, parking areas (author’s emphasis) and driveways along the public street shall not be dominant. Surface parking between a building and a public street (excluding a public alley) shall be minimized.
  - c) Adequate and direct pedestrian access and linkages to community facilities/services and local commercial uses shall be provided.

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- d) Development shall improve existing landscape features and overall landscape character of the surrounding area.
- e) Development shall comply with Section B.3.3 – Urban Design Policies and all other applicable policies.”

As noted in Urban Design Policy Section B.3.3 above, the proposed parking area, as amended, meets the applicable goals and principles in that chapter as the proposal will be reviewed at the Site Plan stage to ensure that it will respect the existing landscape character, and is compatible with other uses in the immediate area. More specifically, as amended, the proposed parking area will meet the intent of Policy 3.3.10 of the UHOP as it relates to design criteria for parking areas. This will be applied through Site Plan control.

Based on the above, the proposed parking area would be considered a permitted use as per the UHOP policies.

The subject lands have been identified as having archeological potential, and the following polices apply:

“F.3.2.4 Archaeological Assessments

F.3.2.4.1 Any required archaeological assessment must be conducted by an archaeologist licensed under the Ontario Heritage Act and shall be submitted to the City for final approval and to the Province for review and compliance to licensing provisions and archaeological assessment standards and guidelines.

The archaeological assessment:

- a) shall be prepared following the terms and conditions set out in the provincial guidelines; and,
- b) shall provide conservation-related recommendations, including, but not restricted to subsequent processes and procedures for the *conservation* and management of archaeological resources prior to, during and post development and/or *site alteration*-related activities. This may address further archaeological test-excavation and evaluation prior to the determination of a final resource management strategy and the submission of any further reports required by the Province or City. Such recommended processes and procedures for archaeological management shall be implemented through a variety of measures including but not limited to the mitigation, preservation, and/or resource

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excavation, removal and documentation, of all *archaeological resources*, to the satisfaction of the City and approval by the Province.”

As identified in the Analysis and Rationale for Recommendation Section below, an archeological acknowledgement will be required through the Site Plan undertaking.

As per the “Local Commercial” policies under the “Neighbourhoods” designation, the following design criteria would apply to the subject lands:

“Design

E.3.8.9 *Development and redevelopment* of local commercial uses shall:

- a) front and have access to a major arterial, minor arterial, or collector road;
- b) provide safe and convenient access for pedestrians and cyclists; and,
- c) be *compatible* with the surrounding area in terms of design, massing, height, setbacks, on-site parking, noise impact, landscaping, and lighting.

E.3.8.11 New local commercial uses shall be planned and designed to be integrated with and easily accessible from the surrounding neighbourhood.

E.3.8.12 New local commercial uses and properties shall be clustered and generally located at intersections with arterial and collector roads.

E.3.8.14 New local commercial buildings or uses in areas other than those referred to in E.3.8.3.13 shall:

- a) be located close to the street to create a strong pedestrian orientation particularly along adjoining collector roads;
- b) provide a principal entrance facing the arterial and collector road;
- c) provide direct access from the sidewalk;
- d) provide windows and signage facing the street; and,
- e) provide for a consistent minimum setback.

E.3.8.17 No parking, drive-throughs, or stacking lanes should be permitted between buildings and the public sidewalk.”

Staff are of the opinion that it is the intent of the UHOP that proposed parking areas be developed in a fashion which improves the overall landscape character, and is safe and attractive with respect to the public realm. As originally submitted, the parking area with insufficient landscaping and 25 parking spaces did not meet the intent of this policy. However, as amended by staff, the proposed parking area would



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include increased landscaping so that the parking lot would not dominate the public street, as well as, provide appropriate pedestrian access thereby, respecting neighbouring residential properties. The proposed parking area will be implemented through Site Plan control to ensure that detailed landscaping will be provided including appropriate plantings and an appropriate visual barrier.

As amended, the proposal ensures that additional parking can be provided in a safe fashion in conjunction with appropriate landscape buffering to facilitate the future redevelopment of the lands located at 2803 King Street East. Therefore, as amended, the proposal conforms to the UHOP.

**Neighbourhood Plan:**

The subject lands are identified as “Commercial Residential Conservation” in the Greenford Neighbourhood Plan. This designation was put in place in 1988 and the intent of the designation was to permit the use of existing buildings for compatible office and limited retail uses in the interim, prior to the maximum road widening which would eliminate the dwelling in existence in 1988. As a result, the lands were obtained by the City, and through the required road widening, the dwelling was demolished. Therefore, the intent of the designation is no longer applicable and the neighbourhood plan should be amended to “Commercial”.

**Hamilton Zoning By-law No. 6593:**

The subject lands are zoned as “AA” (Agricultural) District in Zoning By-law No. 6593. This Zone permits a variety of agricultural and residential uses, including but not limited to; a single detached dwelling, a foster home, a retirement home, a residential care facility, a day nursery, a public hospital, a children’s residence, or a private stable. On this basis, a Zoning By-law Amendment is required to permit the parking area. The proposed parking area, as amended, meets the intent of the By-law and the Urban Hamilton Official Plan as it encourages appropriate redevelopment for any underutilized parcel of land at a major intersection.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Taxation, Corporate Services Department; and,
- Horizon Utilities.

**Forestry and Horticulture Section, Public Works Department** have assessed the application and plans identifying the proposed changes in zoning in order to permit a parking lot to support the future commercial use at 2803 King Street East (the northeast corner of Owen Place and King Street East) and advise that there are no

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Urban Forestry tree conflicts. Previous correspondence of April 16, 2013 (for the Formal Consultation Application FC-13-027) highlighted that there were various Municipal Tree Assets located on the road allowance of the proposed development site. It is noted that all of these trees have subsequently been removed as part of a City road widening program and, therefore, a Tree Management Plan will no longer be required.

However, the Forestry and Horticulture Section will require a detailed Landscape Planting Plan prepared by a Certified Landscape Architect, to be submitted showing the placement of trees on internal and external City property.

In conclusion, there are no longer any Municipal Tree Assets located on the road allowance of the proposed development site and, therefore, Tree Management will not be required. However, a Landscape Planting Plan prepared and signed by a certified Landscape Architect will be required. This plan must be submitted for review and comment by the Forestry and Horticulture Section.

Staff advise that through the Site Plan Control process, the applicant will be required to submit a Landscape Plan as a condition of approval. Staff are satisfied that the Site Plan Control process and review will address their concerns.

**Corporate Assets and Strategic Planning Division, Public Works Department**, has advised that The City's Encroachments on City Property Policy (the "Policy") discourages encroachments on City Property. They advise the applicant that all proposed buildings and other structures (including awnings, eaves and canopies), landscaping, fences, etc., must be constructed within the legal boundaries of the private property. They further advise that any encroachments existing as of today's date that are not permitted under an Encroachment Agreement must be removed. However, in this regard, rather than two agreements (one for encroachment and one for commercial boulevard parking), the latter would be applicable as this matter had been deferred to Hamilton Municipal Parking System.

**Hamilton Municipal Parking System** has advised that the application, as proposed, would require the applicant to enter into a "Commercial Boulevard Parking Agreement" subject to the policy document (see Appendix "G") with the City for the parking spaces encroaching on the City right-of-way. Subject to the parking spaces being approved, the Commercial Boulevard Parking Agreement program acknowledges the use of the Municipal Road Allowance for the purpose of establishing parking, however, it gives the City the ability to alter and/or eliminate these parking spaces at any time, should it become necessary to do so.

In regards to these comments, Planning staff are still of the opinion that the proposed row of parking within the City's right-of-way is not appropriate and would be better served as a landscaping/planting area as, it is considered a temporary measure, and

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does not address the long term parking for the adjacent proposal at 2803 King Street West. Therefore, Planning staff are of the opinion that, as revised, the proposed parking area with one row and landscaping is more appropriate and is in keeping with the neighbourhood character.

**Geomatics and Corridor Management Section, Engineering Services Division, Public Works Department**, requests that the applicant provide an access width of 7.5 m with a 7 m curve radii, and recommend that a 1-1.5 m bump out be provided for the parking spaces at the north end of the subject lands. They further advise that any redundant accesses must be removed and the curb/sidewalk restored to the satisfaction of the Director of Road and Maintenance. They will require a minimum 1.2 m clearance between an access and any adjacent tree, fire hydrant or utility pole. Any relocation or removal required will be at the expense of the applicant. They also advise that 5 m x 5 m visibility triangles will be required between the access limits and the ultimate road allowance limits of Owen Place in which the maximum height of any objects or mature vegetation cannot exceed a height of 0.70 m above the corresponding perpendicular centreline elevation of the adjacent streets.

Based on the technical standards noted in the above comments, it is the opinion of Planning staff that the original proposal is an over-development of the lands and not appropriate for the area. As such, and as reviewed in more detail in the Analysis and Rationale for Recommendation Section of this Report, staff have revised the implementing By-law in order to remove the encroachment and mitigate the concern of over-development.

## **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 was sent to 94 property owners within 120 metres of the subject lands on March 14, 2014. One letter of concern was submitted by the neighbouring resident at 2787 King Street East (see Appendix “E”). The letter is discussed in the Analysis/Rationale for Recommendation section below. The Notice of Public Meeting was also circulated in accordance with the provisions of the Planning Act.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. As amended, the proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow);
  - (ii) It conforms to the policies of the Urban Hamilton Official Plan; and,

- (iii) The proposed parking lot addresses parking demand for the proposed medical/office redevelopment at 2803 King Street East, as shown on Appendices “C” and “D”.
2. The proposed parking lot is to facilitate the future development of a medical/office use on the lands at 2803 King Street East, which is also owned by the applicant. To date, no formal Site Plan Application has been submitted for these lands. However, the proposed medical/office proposal (File No. FC-12-118) was considered at the Development Review Committee (DRC) on October 24, 2012. That Formal Consultation only included the proposed medical/office development for the lands at 2803 King Street East. Through that process, the applicant was advised that the use was permitted and that a Site Plan Control application would be required. Staff further advised that the future 9 metre road widening and the provision of additional parking spaces for the proposed use would need to be addressed.

In December 2012, the City declared the property at 2791 King Street East as surplus through Report No. PED12243. The applicant was successful in purchasing the lands at 2791 King Street East from the City. A subsequent Development Review Committee meeting was held on April 17, 2013 (File No. FC-13-027). The Formal Consultation application was for both the proposed parking lot in conjunction with the proposed redevelopment at 2803 King Street East. At both the October 2012 and April 2013 Formal Consultation meetings, the applicant had shown the proposed building with a height of three to four storeys. Staff did not endorse the concept plans at the April, 2013 DRC meeting due to parking related concerns nor does staff endorse the concept plans included with this application (see Appendix “C” and “D”). As indicated, the development of 2803 King Street East will require the submission of a Site Plan Control Application at which time the appropriateness of the development would be evaluated with respect to, but limited to, matters such as Zoning By-law conformity, urban design, site access, character and interface with the existing residential uses.

The Zoning application which was submitted for the proposed parking lot was for a total of 25 parking spaces, with one metre of landscaped area along the westerly lot line, 2.0 m along the northerly lot line, with ten of the parking spaces’ associated manoeuvring areas and frontage landscaping completely within the City’s road allowance.

Hamilton Zoning By-law No. 6593 requires that medical office uses provide a parking standard of one space for every 19 sq m of floor area.

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After reviewing the proposal for 2791 King Street East, against the circulated comments received, and the policy framework, staff are of the opinion that the proposed parking lot, as submitted, represents an over-development of the subject lands.

The proposed three-storey medical/office building at 2803 King Street East, as identified as Options 1 and 2 (see Appendices “C” and “D”), has a total floor area of 1314 sq m, which therefore requires 70 parking spaces. Option 1 shows a total of 33 parking spaces, of which the manoeuvring area and 18 parking spaces are partially located in the required road widening and therefore within the future road allowance. Therefore, only 25 parking spaces can be provided on the property. As amended, the proposed parking lot at 2791 King Street East would establish a total of 12 parking spaces as a result of the required road widening, 12.19 m daylight triangle dedication and landscaped buffer areas. Therefore, providing a total of 27 parking spaces on the lands owned by the applicant.

Staff are of the opinion that based on Options 1 and 2, the proposed development on 2803 King Street East is also an over-development of the lands, as with either option there would not be an appropriate amount of parking. Staff are of the opinion that this application does not preclude future development as the implementing Zoning By-law has been drafted to only allow parking on the subject lands in conjunction with appropriately planned development on the lands at 2803 King Street East (i.e. a medical office building with a total gross floor area of 513 sq m). The proposed development concept for 2803 King Street should be re-evaluated to address the concern of over-development and ensure appropriate policy is provided. Options may include reducing the gross floor area of the proposed medical/office building or providing underground parking.

3. In support of the staff amendment to remove parking from within the City’s road allowance, the Encroachments of City Property Policy (see Appendix “F”) has also been reviewed. In reviewing the Policy against the original submission, for 2791 King Street East, which identified ten parking spaces within the City’s right-of-way, staff are of the opinion that the original proposal to provide parking in the right-of-way does not meet the intent of this Policy. As mentioned above, the Public Works Department has deferred the requirement of an Encroachment Agreement as Hamilton Municipal Parking System as it would address the encroachment concerns through a Commercial Boulevard Parking Agreement. The Commercial Boulevard Parking Agreement is generally prepared through the development or building processes, and in most cases are entered into so as to recognize existing situations.

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The Commercial Boulevard Parking Agreement is not intended to encourage encroachments onto City property, and staff are of the opinion that an encroachment of this nature is neither reasonable nor feasible. Further, staff are of the opinion that proposed vehicles parked within the right-of-way is not in the public interest. The Policy does not make reference to parking areas as being a scenario where the City can enter into an encroachment agreement (see Appendix “F” – Page 3). As well, the Commercial Boulevard Parking Agreement is governed by the following: *Policy Respecting the Licencing of Portions of Road Allowance (Former City Streets/Roadways) for Parking Purposes Adjacent to Commercial, Institutional, Industrial or Multiple Residential Properties* (see Appendix “G”). This policy document specifies that the City will investigate proposals for appropriateness. Staff are of the opinion that the Policies are generally for existing situations which are considered minor. This leads staff to the conclusion that it is not the intent of the Policies (see Appendices “F” and “G”) to allow new parking facilities within the City’s road allowance, as it is generally not in the public’s interest, nor does it provide a safe scenario to the public nor address the required long-term parking concerns for proposed development at 2803 King Street East.

Staff are supporting an amended proposal as it meets the intent of the applicable planning instruments and City Policies. Specifically, it provides for an additional number of parking spaces to support some form of appropriately planned medical/office development on neighbouring lands on private property, and addresses good planning and design principles through the provision of enhanced landscaping and planting along the street lines, as well as providing a visual barrier in conjunction with planting strips along the neighbouring residential uses at 2787 King Street East and 15 Owen Place.

**4. Zoning By-law Amendment:**

The applicant has requested amendments to City of Hamilton Zoning By-law No. 6593 in order to permit the proposed parking lot use. Staff are recommending further amendments based on staff’s review of the application in order to address the public interest and good planning. The lands are currently zoned “AA” (Agricultural) District. The property was formerly owned by the City and deemed surplus in 2012. The applicant was successful in acquiring the lands and subsequently applied for a Formal Consultation application, wherein the City advised that a rezoning application was required in order to proceed with the proposed parking lot use. The proposed rezoning is considered routine and not complex as it will permit only the proposed use within the existing zoning District. The decision to retain the “AA” (Agricultural) District would still provide opportunity for redevelopment of the lands for future uses (i.e. single detached dwelling) without the need of a subsequent rezoning exercise, or alternatively will be rezoned to implement

the UHOP as part of the comprehensive 05-200 Zoning By-law work programme.

**Adding Parking Lot Use:**

The applicant has requested that the subject lands include the parking lot use, whereas the “AA” (Agricultural) District does not allow one. Staff have included the use in the site-specific implementing By-law. The parking area is intended to be used only by staff of the future medical/office redevelopment and will be accessed through the signalized intersection/pedestrian crossing at Owen Place and King Street East. While the Zoning By-law cannot restrict the use of this parking area by staff only, the proposal would be implemented as a condition of Site Plan approval to required appropriate signage indicating “Staff Only” parking. The proposed parking lot is considered acceptable as amended as it provides an opportunity to facilitate redevelopment of the adjacent lands for medical/office uses which will generate employment opportunities and improve upon the existing street character within the neighbourhood.

**Recognize Existing Lot:**

The subject lands is an existing lot of record and, therefore, the implementing zoning has been crafted so as to eliminate the requirements for minimum lot area and minimum lot width. The subject lands were part of a larger tract of land used for agricultural purposes, and the current Zone remained on the parcel notwithstanding that the Official Plan has them designated for urban uses. Staff are of the opinion that removing these provisions are minor, as it allows for the lands to be redeveloped, and are in keeping with the intent of the UHOP, and the character of the neighbourhood.

**Parking Space and Aisle Dimensions:**

The applicant has also requested modification to the parking space size. Specifically, the parking space size will be a minimum width of 2.6 m and a minimum length of 5.5 m, whereas the By-law requires a width of 2.7 m by a length of 6.0 m. This proposed dimension is consistent with the requirement in Hamilton Zoning By-law No. 05-200. The relief being sought is minor and staff are supportive of the modification. Staff have also included a provision for an aisle width of 5.5 m, whereas the By-law No. 6593 requires at least 6.0 metres for two-way ingress and egress. Staff will ensure that these measures are incorporated and maintained through the Site Plan Control process.

**Enhanced Landscaping and Fencing:**

Through staff review of the proposed parking lot concept and the abutting residents' concerns (see Section 6 below), staff have incorporated enhanced provisions for landscaping and planting requirements in conjunction with a visual barrier, which is in keeping with the intent of Sections 18A(11) and (12) of the By-law, which requires not less than 1.5 metres from the adjoining residential district boundary; and, not closer to the street line than the minimum depth of the front yard required to be provided in the adjoining residential district for that portion of the parking area within 3.0 metres of a residential district when there are five or more parking spaces. In keeping with good planning practice and Site Plan functionality, as well as, addressing the residents' concerns, staff have included provisions relating to the proposed use, setbacks, landscaping and visual barrier (privacy fence).

The provision of a 2.0 m wide landscape/planting strip along the King Street East and Owen Place lot lines, and a 2.5 m wide landscape/planning strip along the abutting 2787 King Street East and 15 Owen Place, in conjunction with a visual barrier (privacy fence) will be required as outlined in the draft Implementing Zoning By-law (see Appendix "B"). Staff are of the opinion that the provisions are reasonable as is mitigates any potential impact and the proposed zoning by-law regulation will ensure that development is in keeping with the character of the neighbourhood including the transition between the neighbouring residential uses and the proposed parking lot. Further, given that the subject property is a corner lot, it functions as a gateway and, as a result, additional landscaping and plantings will be required along the street edges of the development.

**Parking Area Adjoining Residential District:**

In order to provide for the parking area, as amended, staff are recommending that the yard setback provision be removed, whereas the By-law requires a 3.0 m setback from an adjoining residential district and not closer to the street line than the minimum depth of the front yard required for the abutting lands. The accessory parking provisions in Section 18A (11)(b) of the By-law provides that when a parking lot of five or more parking spaces are being provided, that it not be located closer to the street line than the minimum depth of the front yard to be provided in the adjoining residential District for that portion of the parking area within 3.0 m of a residential District. Staff are of the opinion that the modification to remove this provision is reasonable given that additional landscape/planning strip provisions have been recommended by staff which appropriately set back the parking lot spaces from the neighbouring residential uses, as well as, the provision of a visual barrier.



**Holding (H) Provision:**

While a building permit would not be required for development of the proposed parking lot, Site Plan control would still apply. The requirement of a Holding (H) provision for Site Plan control and for an off-site parking agreement has been applied. This is because a building permit is not required to lay out a surface parking lot. Site Plan control will ensure the appropriate review and design for the proposed parking area as it relates to landscaping, stormwater management, access/manoeuvring and lighting. Further, since the proposed parking area is for future uses on the neighbouring lands, Hamilton By-law No. 05-200 identifies that such scenarios would require the owner to register the parking agreement on title. The Holding (H) provision can be lifted at such time as the owner has applied for and received final approval of Site Plan Control and has finalized a parking agreement between the City and the land owner of the subject lands so as to register the parking agreement on title (see Appendix “B”). With respect to the parking agreement provision, this approach is consistent with Hamilton Zoning By-law No. 05-200 where off-site required parking is proposed.

5. There is a municipal watermain and separate storm and sanitary sewers fronting and flanking the properties on King Street East and Owen Place. The designated road allowance width of King Street East is 36.58 m and according to survey plan P 919, the road allowance widening will occur on the north side of this section of King Street East only. The City previously acquired a portion of the necessary road widening known as Part 3 on Reference Plan 62R-9221. However, the Owner should be aware that as a condition of future Site Plan approval for the lands at 2803 King Street East, an additional widening of approximately 10.72 metres will be required across the entire frontage of the property on King Street East in order to establish this designated width. The lands at 2791 King Street East will also be impacted slightly by this widening by approximately 1.0 to 1.5 metres along King Street East and by approximately 2 m for the daylighting triangle hypotenuse. The implementing Zoning By-law has addressed these additional requirements.

In addition, the dedication of a 12.19 m x 12.19 m daylighting triangle at the intersection of King Street East and Owen Place will be required from the widened limits of the intersection. The applicant/owner will be responsible for all costs related to the preparation and registration of legal documents and a Reference Plan for the road widening.

They also advise that in addition to the above noted widening, the following items, among others, will also be conditions of the future Site Plan Control application: submission of a detailed grading plan based on geodetic datum; a servicing plan; an erosion and sedimentation control plan; a stormwater

management design to address quality and quantity of run-off; water demand calculations for fire and domestic usage; and, wastewater calculations, as applicable, to the future use of the property.

6. In regards to Archaeology, the subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential, being:
- (i) In an area of sandy soil in areas of clay or stone;
  - (ii) In the vicinity of distinctive or unusual landforms; and,
  - (iii) Along historic transportation routes.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the PPS apply to the subject property. As part of the Formal Consultation Application, it was identified that an acknowledgment be added to the future Site Plan Approval, which is as follows:

**“Acknowledgement:** The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-Specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Tourism, Culture and Sport. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).”

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Staff are satisfied that the above noted acknowledgement on the future Site Plan undertaking will appropriately address any archaeological concerns related to this parcel of land.

7. As per the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 94 property owners within 120 m of the subject lands on March 14, 2014, and a Public Notice sign was posted on the property on March 24, 2014. In total, one letter was received from the abutting neighbour to the west (see Appendix “F”). The overall issues are generally summarized as follows:

- Noise and air pollution;
- Proposed distance between the parking lot and the neighbouring lands;
- Pedestrian safety and potential damage to home;
- Lack of fencing between the proposed parking lot and neighbouring lands;
- Lighting spillover from the parking lot to the neighbouring lands; and,
- Potential impact on property value.

**Noise and Air Pollution:**

With respect to the concerns regarding noise and air pollution, the proposed lands are currently in a heavily traversed area consisting of pedestrian, transit and automobile activity. Staff have included provisions in the implementing By-law which includes the requirement for fencing (visual barrier), and separation through planting strips to ensure compatibility between the proposed parking area and the adjacent residential use.

**Proposed Parking Lot and the Neighbouring Lands:**

The letter raised concerns with respect to the proximity of the proposed parking lot and the loss of privacy. Staff have addressed these concerns by incorporating provisions into the implementing By-law, including one less row of parking, as well as, additional landscaping and planting in conjunction with a visual barrier to buffer the proposed parking lot use.

**Pedestrian Safety and Potential Damage:**

The letter raised concerns with respect to potential damage to their property due to the proximity of the parking lot. Staff have recommended an

amendment to the proposal which would only include one row of parking, thereby eliminating the loss of sightlines associated with vehicular access and potential conflict with pedestrians and have included the requirement for a visual barrier adjacent to the residential properties.

**Lack of Fencing:**

Staff have addressed the concerns with respect to fencing. Staff have incorporated a provision into the implementing By-law which requires a visual barrier in conjunction with landscaping and planting strips along the periphery of the parking lot adjacent to the residential properties. The letter requests a concrete or brick wall for a visual barrier. The proposed material for the visual barrier will be appropriately determined at the Site Plan review stage. As per Zoning By-law No. 6593, a visual barrier may consist of one or more of the following materials: wood, stone, bricks, mortar, fabricated metal or other similarly solid material.

**Lighting Spill Over:**

The proposed parking lot would be subject to the Site Plan Approval process, wherein the applicant will be required to submit a Site Lighting Plan to ensure that light does not spillover onto the sensitive residential uses in order to alleviate any impact to amenity areas, as well as, to assess that there is no impact on the vehicles travelling on King Street East or Owen Place. Staff are of the opinion that the concern respecting lighting can be addressed through the Site Plan Control process.

**Property Value:**

No data currently exists regarding the decrease of property value. Staff are of the opinion that the proposed parking lot would not have a negative impact on residential property values as the existing neighbourhood has a mix of residential and commercial uses in the immediate area.

**ALTERNATIVES FOR CONSIDERATION**

If the application is denied, the lands could only be used for a single detached dwelling, a foster home, a retirement home, a residential care facility, a day nursery, a public hospital, a children's residence, or a private stable or any accessory use thereto. Alternatively, if the application is permitted as originally submitted with two rows of parking and reduced landscaping, the applicant will be required to enter into an Encroachment Agreement and Commercial Boulevard Parking Agreement with the City. It would be recommended that a Holding (H) provision be implemented through the draft Zoning By-law to assure that these agreements are entered into.

## **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.

## **APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: Location Map.
- Appendix “B”: Draft Zoning By-law Amendment.
- Appendix “C”: Conceptual Plan – Option 1.
- Appendix “D”: Conceptual Plan – Option 2.
- Appendix “E”: Resident Letter.
- Appendix “F”: City of Hamilton Encroachment Agreement Policy.
- Appendix “G”: Policy Respecting the Licencing of Portions of Road Allowance (Former City Streets/Roadways) for Parking Purposes Adjacent to Commercial, Institutional, Industrial or Multiple Residential Properties.

JM:tp