



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 7, 2015
SUBJECT / REPORT NO:	Modifications to City of Hamilton Zoning By-law No. 6593 Regarding Parking Exemptions for Certain Commercial Uses Along the James Street North and South Corridors and the “H” District Zone in the Former City of Hamilton (PED15085) (Wards 1 to 8)
WARD(S) AFFECTED:	Wards 1 to 8
PREPARED BY:	Peter De Iulio Senior Project Manager (905) 546-2424, Ext. 1345 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY: SIGNATURE:	Jason Thorne General Manager Planning and Economic Development Department

RECOMMENDATION

- (a) That approval be given to **City Initiative CI-15-C** for modifications to City of Hamilton Zoning By-law No. 6593;
- (b) That the attached draft By-law, marked as Appendix “A” to Report PED15085, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (c) That the changes proposed to the By-law, in Appendix “A” to Report PED15085, are minor in nature and that any changes made after holding a public meeting on July 7, 2015, that Council determines that no further notice is required prior to the passing of the proposed By-law, pursuant to Section (34)17 of the *Planning Act*.

EXECUTIVE SUMMARY

Subsequent to the staff report on the modifications and updates amendments to the former municipal Zoning By-laws and Hamilton Zoning By-law No. 05-200 on March 3 2015, Planning Committee directed staff to include the James Street corridor and lands

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that are currently zoned “H” District in the former City of Hamilton as areas for exempting certain commercial uses from providing additional parking when a change of use occurs within an existing building. This provision now exists for the Downtown Zones in Zoning By-law No. 05-200 (Downtown Hamilton), as well as certain commercial Zones in the former downtowns in Ancaster, Dundas, Stoney Creek and Waterdown, and the Barton Village, Concession Street, Locke Street, Ottawa Street and Westdale Business Improvement Areas (BIA’s). The proposed changes for the James Street corridor and “H” District zoned properties are considered desirable and appropriate.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N / A

Staffing: N / A

Legal: As required by the *Planning Act*, Council will hold at least one Public Meeting to consider an amendment to the Zoning By-law.

As this is a City-initiated Zoning By-law Amendment, no notification by mail or sign on the property was required, as per Council policies.

HISTORICAL BACKGROUND

The first phase of City of Hamilton Zoning By-law No. 05-200 was approved by Council on May 25, 2005. Among other matters, the first phase included the Downtown Zones and parking regulations. Subsection 5.6 b) of the By-law contains a regulation that exempts owners from providing additional parking when there is a change in use in an existing building. This clause has been modified several times over the years (By-law Nos. 06-324, 10-076, 12-132 and 14-238).

On March 11, 2015, Council approved By-law Nos. 15-067 (Ancaster), 15-068 (Dundas), 15-069 (Flamborough), 15-071 (Hamilton) and 15-073 (Stoney Creek), to incorporate a similar exemption into the Zoning By-laws of the former municipalities for the former downtowns (Ancaster, Dundas, Stoney Creek and Waterdown), as well as the Business Improvement Areas (BIA’s) in Hamilton (Barton Village, Concession Street, Locke Street, Ottawa Street and Westdale). These By-laws are now in force and effect.

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On May 5, 2015, the Planning Committee approved the following motion:

“(ii) Relaxed Parking Requirements for James Street North and James Street South commercially designated properties (Added Item)

(Farr/Collins)

- (a) That staff be directed to report back on zoning by-law amendments to provide for relaxed parking requirements for change of certain commercial use applications in the James Street North and James Street South commercially zoned properties;
- (b) That a rebate be considered for fees paid for applications submitted between now and when the staff report respecting the proposed zoning amendments is presented to the Planning Committee.”

This motion was amended by Council on May 13, 2015 to read as follows:

- “(a) That staff be directed to report back on zoning by-law amendments to provide for relaxed parking requirements for change of certain commercial use applications in the James Street North and James Street South commercially zoned properties, **as well as properties zoned “H” District in the former City of Hamilton;**
- (b) That a rebate be considered for fees paid for applications submitted between now and when the staff report respecting the proposed zoning amendments is presented to the Planning Committee.”

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Official Plan Policies and Zoning By-law Regulations

1.1 James Street North and South Corridors

James Street North

The properties along James Street North, between Cannon Street and Guise Street, are designated “West Harbour” on Schedule “A” – Land Use Concept, and “Mixed Use”, “Local Commercial” and “Prime Retail” on Schedule “M-2” – General Land Use Plan, West Harbour Secondary Plan in the City of Hamilton Official Plan, as amended by Official Plan Amendment #198 approved by the Ontario Municipal Board on June 26, 2012. The proposed modification in zoning conforms with the Hamilton Official Plan and West Harbour Secondary Plan.

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The lands are designated “Primary Corridor” on Schedule “E” – Urban Structure, and “Neighbourhoods” and “Mixed Use – Medium Density” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The properties subject to this amendment are also located within the West Harbour (Setting Sail) Secondary Plan area. These properties are designated “Local Commercial”, “Mixed Use – Medium Density” and “Prime Retail.” However, the Secondary Plan is still subject to non-decision in the UHOP, therefore, the policies of Amendment No. 198 to the Hamilton Official Plan currently apply. The proposed modifications in zoning would conform with the Urban Hamilton Official Plan and West Harbour Secondary Plan.

The following commercial Zones in Hamilton Zoning By-law No. 6593 apply to the various properties within this portion of James Street, with some properties having site-specific provisions:

“G” (Neighbourhood Shopping Centre, etc.) District; and,
“H” (Community Shopping and Commercial, etc.) District.

James Street South

The properties along James Street South, between Hunter Street and Forest Avenue, are designated “Primary Corridor” and “Neighbourhoods” on Schedule “E” – Urban Structure and “Mixed Use – Medium Density” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). The proposed modification in zoning would conform with the Urban Hamilton Official Plan and West Harbour Secondary Plan.

The following commercial Zones in Hamilton Zoning By-law No. 6593 apply to the various properties within this portion of James Street, with some properties having site-specific provisions:

“I” (Central Business District, etc.) District; and,
“CR-3” (Commercial – Residential) District.

1.2 “H” District Properties

These properties are designated “Primary Corridor”, “Secondary Corridor”, “Community Node” and “Neighbourhoods” on Schedule “E” – Urban Structure and “Mixed Use – Medium Density”, “District Commercial”, “Arterial Commercial” and “Neighbourhoods” on Schedule “E-1” – Urban Land Uses Designations in the UHOP. Commercial uses are permitted in all these designations.

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Provincial Policy Statement (2014)

This initiative has been reviewed with respect to the Provincial Policy Statement (PPS). Policy 1.1.3.1 states that settlement areas shall be the focus of growth, and their vitality and regeneration shall be promoted. This initiative is consistent with the general intent of the PPS.

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

Section 2.2.2 of the Plan identifies the following policies to manage future growth:

- “a) directing a significant portion of new growth to the built-up areas of the community through intensification;
- d) reducing dependence on the automobile through the development of mixed-use, *transit-supportive*, pedestrian-friendly urban environments; and,
- h) encouraging cities and towns to develop as complete communities with a diverse mix of land uses, a range of employment and housing types, high quality open space and easy access to local stores and services;”

This initiative conforms to the general intent of the Provincial Growth Plan.

RELEVANT CONSULTATION

Consultation has been undertaken with the Building Division to ensure the appropriate section of the By-law has been amended.

Notice of the Amendment has been posted in the Hamilton Spectator, as per the *Planning Act*.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

James Street Corridor

Zoning By-law No. 05-200 contains a regulation that recognizes the existing number of parking spaces for existing buildings and only requires additional parking spaces for the increased gross floor area where an addition or expansion occurs to an existing building in the Downtown Zones of Hamilton, as well as a hospital or place of worship in any Zone. Subsection 5.6 b) of Zoning By-law No. 05-200 states:

“Notwithstanding Subsection a) above, for any permitted use or uses within any Downtown Zone located in all or part of a building existing on the effective date of

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this By-law, no parking spaces are required provided that the number of parking spaces which existed on the effective date of this By-law shall continue to be provided and maintained. Where an addition or expansion of an existing building is proposed, the parking requirements of Section 5.6 a) above, shall only apply to the use or uses contained within the increased gross floor area.”

As indicated in the Historical Background Section of this Report, this regulation was recently incorporated into the former municipal By-laws for the historic downtown areas in Ancaster, Dundas, Stoney Creek and Waterdown, as well as the Business Improvement Areas in Hamilton (Barton Village, Concession Street, Locke Street, Ottawa Street and Westdale).

Similar to Downtown and these other commercial areas, and as an extension of Downtown, the James Street corridor experiences a similar situation where uses change without changes to the building, but zoning regulations have been identified as a barrier for small businesses with respect to the parking requirements for existing buildings.

Staff recommend that Section 18A, Parking and Loading Requirements, of Hamilton Zoning By-law No. 6593 be amended by adding a new clause as follows:

“(45) Notwithstanding Section 18A(3) and Table 7 and Section 18A(36)(1)(a), the provisions of Subsection 18A(1) shall not apply to any permitted commercial use(s), except “Medical Office” which includes “Doctor, Dentist, Osteopath and Drugless Practitioner,” located in all or part of a building existing on the effective date of this By-law, within the areas shown on Schedules “U” – James Street North and “U” – James Street South, attached as Schedules “A1” and “A2” to this By-law, no parking spaces are required provided that the number of parking spaces which existed on the effective date of this By-law shall continue to be provided and maintained. Where an addition or expansion of an existing building is proposed, the parking requirements of Section 18A(1) above, shall only apply to the commercial use or uses contained within the increased gross floor area.”

Staff note that the commercial properties on James Street North from Cannon Street to Liuna Station, as well as a few other properties between Strachan Street and Burlington Street are all zoned “H” District and, as a result, are not included in the above noted Schedules since they are included in the clause discussed below.

“H” District Properties

There are other commercial areas throughout the former City of Hamilton where the change of a commercial use within an existing building has triggered the need to apply for a minor variance, particularly along the Barton Street, Cannon Street, King Street,

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Main Street and Kenilworth Avenue corridors to name a few. These areas are predominantly zoned “H” (Community Shopping and Commercial, etc.) District in Hamilton Zoning By-law No. 6593 and are identified on Appendix “B” to this Report. Many of these areas are within Community Improvement Project Areas established through By-law No. 11-272, as amended by By-law No. 13-028, which provides property owners access to programs and initiatives to stimulate private sector investment, property maintenance and revitalization within these areas.

Staff recommend that Section 18A, Parking and Loading Requirements, of Hamilton Zoning By-law No. 6593 be amended by adding a new clause as follows:

“(46) Notwithstanding Section 18A(3) and Table 7 and Section 18A(36)(1)(a), the provisions of Subsection 18A(1) shall not apply to any permitted commercial use(s), except “Medical Office” which includes “Doctor, Dentist, Osteopath and Drugless Practitioner,” located in all or part of a building existing on the effective date of this By-law that is zoned “H” (Community Shopping and Commercial, etc.) District or a site specific “H” District, except those properties identified on Schedule “R”, no parking spaces are required provided that the number of parking spaces which existed on the effective date of this By-law shall continue to be provided and maintained. Where an addition or expansion of an existing building is proposed, the parking requirements of Section 18A(1) above, shall only apply to the commercial use or uses contained within the increased gross floor area.”

These modifications support the “Open for Business” mandate and allow for the adaptive reuse of buildings along very important corridors and established commercial areas or pockets. Staff support the modifications since adequate public and parking facilities exist in the James Street corridor to accommodate parking and most of the other areas either have private or public parking lots or are well served by public transit. Based on the foregoing, staff recommend that the draft By-law attached as Appendix “A” to this report, be forwarded to Council for approval.

ALTERNATIVES FOR CONSIDERATION

If the proposed By-law amendment is not approved, business / property owners will be required to apply for relief from the parking provisions through the Committee of Adjustment.

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.

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

- Appendix “A”: Draft Amendment to Hamilton Zoning By-law No. 6593
- Appendix “B”: “H” District Properties

:PD/th