



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 1, 2015
SUBJECT/REPORT NO:	Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 224 John Street North, Hamilton (PED15099) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett Planner 2 (905) 546-2424 Ext. 4445 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 **Amended Zoning Application ZAC-12-044 by Kyle C. Nelson, Owner**, for a change of Zoning from the “L-MR-2” (Planned Development) District, to the “D/S-1722” (Urban Protected Residential – One and Two Family Dwelling, etc.) District Modified, to permit the development of a second dwelling unit within an existing semi-detached dwelling, for lands located at 224 John Street (Hamilton), as shown on Appendix “A” to Report PED15099, on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED15099, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as “D/S-1722”;
 - (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe.

- (iv) That the proposed change in Zoning is in conformity with the City of Hamilton Official Plan and West Harbour Secondary Plan.

EXECUTIVE SUMMARY

The proposed Zoning By-law Amendment is to permit the establishment of a second dwelling unit within the existing semi-detached dwelling unit on the lands located at 224 John Street North.

The subject lands are currently zoned “L-MR-2” (Planned Development) District. The zone does not permit a semi-detached dwelling nor does it permit the conversion of a semi-detached dwelling unit to permit a second dwelling. The lands are proposed to be rezoned to the “D” (Urban Protected Residential – One and Two Family Dwelling, etc.) District, with modifications to accommodate matters including the provision of an additional unit, as well as, recognition of the existing building’s front and side yard setbacks. Staff are supportive of the change in zoning.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe, implements the intent of the City of Hamilton Official Plan, and implements the general intent of the Low Density Residential designation of the West Harbour Secondary Plan. The proposal is considered to be compatible with the existing development in the surrounding area.

Alternatives for Consideration – See Page 18

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: None

Staffing: None

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

HISTORICAL BACKGROUND

Proposal

The subject property is located on the east side of John Street North, between Robert Street and Barton Street East. The subject lands contain one half of an existing semi-detached dwelling, and the applicant wishes to legalize an existing second dwelling unit.

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Prior to October, 2011 the subject property was illegally converted to contain a total of three dwelling units within the existing semi-detached dwelling. Subsequent to the illegal conversion and prior to October, 2011, a zoning violation notice was issued against the property. The applicant initially explored the possibility of legalizing the three dwelling units but subsequently chose to pursue the legalization of the accessory unit within the existing semi-detached dwelling.

In August 2012, the applicant submitted a rezoning application to permit a second dwelling unit to be located wholly within the cellar of the semi-detached dwelling unit, while maintaining the ground floor and second floor of the unit for the principal dwelling (see Appendix "C"). In reviewing the application, staff identified concerns with respect to the habitability of the second dwelling unit, as well as safety concerns for residents of the second unit that was to be located in the cellar. The concerns respecting the habitability and safety of the unit included, but were not limited, to the following:

- i) The second dwelling unit would only have one means of egress by way of the sole entrance located at the rear of the building. The windows would be small in size and located in narrow window wells which significantly limit their ability to be used as a means of egress; and,
- ii) The second dwelling unit would only provide three small windows located in window wells that are carved out of the paved driveway. As these windows are proposed to be located within window wells, the windows would provide only limited natural lighting and ventilation for the unit. Finally, while windows would be located in the kitchen, bathroom, and bedroom, no window would be located within the living room which is contrary to the Building code requirements for habitable rooms.

Based on these concerns, staff were of the opinion that the proposed rezoning to establish a second dwelling unit located in the cellar did not represent good planning, was not consistent with the PPS, and did not comply with the policies of the City of Hamilton Official Plan. Staff advised the applicant to consider relocating the second dwelling unit in order to avoid locating the dwelling unit wholly within the cellar.

In December, 2014, the applicant submitted revised plans and formally amended the Zoning application to relocate the second dwelling unit on the second floor of the existing semi-detached dwelling unit, while the principal unit would occupy the ground floor and cellar, which would therefore not create a unit that would be located wholly within a cellar (see Appendix "D").

The revised proposal would require minor alterations to the interior of the existing building but would not require any physical alterations to the exterior of the existing building apart from the legalization of an existing external staircase and doorway located at the rear of the building and which provides access to the second storey unit.

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For both the original proposal and the revised proposal, the removal of an existing accessory building is required in order to accommodate two parking spaces in the rear yard, to provide one space for each of the two dwelling units.

Chronology: Order to Comply

<u>October 26, 2011:</u>	Development Review Committee Meeting for Formal Consultation Application FC-11-113.
<u>August 27, 2012:</u>	Zoning By-law Amendment Application (ZAR-12-044) submitted to establish a second unit within the cellar of one half of an existing semi-detached dwelling.
<u>September 26, 2012:</u>	Zoning By-law Amendment Application (ZAR-12-044) deemed to be incomplete.
<u>November 23, 2012:</u>	Zoning By-law Amendment Application (ZAR-12-044) deemed complete.
<u>December 19, 2012:</u>	Notice of Complete Application and Preliminary Circulation was circulated to all property owners within 120 m of the subject property.
<u>December 19, 2012:</u>	The Public Notice sign was posted on the subject property.
<u>December 27, 2012:</u>	The Ontario Municipal Board (OMB) issued a decision that brought the West Harbour Secondary Plan (City of Hamilton Official Plan Amendment No. 198) into force and effect.
<u>August 16, 2013:</u>	UHOP came into force and effect, and lands within the West Harbour Secondary Plan noted as being subject to Non-Decision 113.
<u>December 15, 2014:</u>	The applicant submitted revised plans for the establishment of a second unit on the second floor of one half of an existing semi-detached dwelling. Zoning Application ZAC-12-044 formally amended.
<u>August 5, 2015:</u>	The Public Notice Sign was updated to advise the date of the meeting.
<u>August 14, 2015:</u>	Notice of Public Meeting was mailed to all property owners within 120 m of the subject property.

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Details of Submitted Application:

Owner/Applicant: Kyle C. Nelson

Location: 224 John Street North (Hamilton)

Description: Frontage: 6.9 m
 Depth: 45.1 m
 Lot Area: 311.2 sq m (0.03 ha)

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	One half of an existing semi-detached dwelling	"L-MR-2" (Planned Development) District
<u>Surrounding Lands:</u>		
North	Other half of an existing semi-detached dwelling	"L-MR-2" (Planned Development) District
South	Residential Dwelling	"L-MR-2" (Planned Development) District
East	Warehouse	"L-MR-2" (Planned Development) District
West	Automotive Repair Garage	"H" (Community Shopping and Commercial) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

The application has been reviewed with respect to the Provincial Policy Statement (PPS).

"1.1.3.1 *Settlement areas* shall be the focus of growth and development, and their vitality and regeneration shall be promoted."

The proposal will establish an additional dwelling unit within the Urban Area and therefore the proposal will focus growth and development within the Settlement Area.

“1.1.3.2 Land use patterns within *settlement areas* shall be based on:

- a) densities and a mix of land uses which:
 - 1. efficiently use land and resources;
 - 2. are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
- b) a range of uses and opportunities for *intensification* and *redevelopment* in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.”

The proposal efficiently uses land by adding an additional residential unit. The proposal utilizes existing infrastructure and increases the residential density of the subject lands which are currently served by existing transit opportunities.

“1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.”

The subject lands are suitably located near the downtown which offers extensive access to public transit. The proposal promotes an opportunity for intensification that respects the built form of the existing building stock and is serviced by existing infrastructure and public services.

“1.1.3.4 Appropriate development standards should be promoted which facilitate *intensification*, *redevelopment* and compact form, while avoiding or mitigating risks to public health and safety.”

The revised proposal to establish a second dwelling unit on the second floor of one half of an existing semi-detached dwelling facilitates intensification and compact form, while avoiding risks to public health and safety. Policy 1.1.3.4 supports the staff proposed site specific modification that prohibits the second dwelling unit from being located wholly within a cellar, which would have the potential of creating safety concerns for residents of the unit. Therefore, the proposal is consistent with the PPS.

Provincial Growth Plan for the Greater Golden Horseshoe:

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow).

“2.2.2 Managing Growth

1. Population and employment growth will be accommodated by:
 - a. Directing a significant portion of new growth to the built-up areas of the community through intensification.
 - b. Focusing intensification in intensification areas.”

The establishment of an additional dwelling unit within the built-up area with access to public transportation, meets the intent of this policy. The subject property is located along a public transit route and is in close proximity of another transit route along Barton Street East, therefore the proposal is suitably located to utilize and support transit services. Based on the above, the proposal conforms to the policies of the Provincial Growth Plan for the Greater Golden Horseshoe.

Hamilton-Wentworth Official Plan:

The subject application was submitted prior to the UHOP being brought into effect. Furthermore, the subject lands are not included within the UHOP as they are part of Non-Decision No. 113. This means that the policies of the Hamilton-Wentworth Official Plan applicable to the subject lands remain in effect. In this regard, the subject lands are within the Urban Area of the Hamilton-Wentworth Official Plan.

- “C.3.1** A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:
- Compact urban form, including mixed use areas.”

The proposal would conform to the policies that seek to accommodate new residential housing in the urban area. As the proposal is to establish the additional unit within one-half of an existing semi-detached dwelling, the proposal represents a compact urban form. Therefore the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject application was submitted prior to the UHOP being brought into effect and prior to the West Harbour Secondary Plan coming into effect. Furthermore, the subject lands are not included within the UHOP as they are part of Non-Decision No. 113. As a result, the policies of the City of Hamilton Official Plan remain in effect.

The subject lands are included within the West Harbour Secondary Plan. The “West Harbour” designation in the City of Hamilton Official Plan does not contain specific policies but rather is utilized to note that the area is subject to the West Harbour Secondary Plan. While the policies of Section A (Land Use and Management Strategy) are no longer in effect due to the establishment of the “West Harbour” designation, the subject application was submitted prior to the change and therefore the policies of Section A (Land Use and Management Strategy) remain the determinative policy regime for the subject application. In this regard, the subject lands are designated Central Policy Area in the City of Hamilton Official Plan, and have been reviewed under the following policies which, amongst others, are applicable:

- “A.2.8.1 To promote the Central Policy Area as a multi-use node for both the City and the Region, a wide range of uses will be permitted where compatibility among adjacent uses can be achieved. The primary uses permitted in the Central Policy Area, as shown on Schedule “A”, will be for the following uses:
- ii) Residential Uses of various housing types, including but not limited to, single-family detached, semi-detached, townhouses and apartments, and in keeping with the Residential policies set out primarily in Subsection A.2.9.3, as well as in Subsections A.2.1 and C.7 of this Plan.”

As the proposal is to establish one additional residential unit within one half of an existing semi-detached dwelling, the proposal conforms to the policy A.2.8.1.

- “A.2.1.1 The primary uses permitted in the areas designated on Schedule “A” as residential will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.
- A.2.1.8 It is the intent of Council that a variety of housing styles, types and densities be available in all Residential areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.”

The proposal to establish one additional residential unit, within one half of an existing semi-detached dwelling, will not alter the existing built form of the building and will maintain a similar density to the existing development in the surrounding area.

The remaining policies of the City of Hamilton Official Plan from Section B (Servicing Strategy) and Section C (Amenity and Design Strategy) are still in effect and are applicable. In this regard, the following policies, amongst others, would apply:

- “C.7.2 Varieties of Residential types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient space to maintain privacy, amenity and value.
- C.7.3 Council will encourage a Residential Environment of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:
- i) Encourage the maintenance, renovation and rehabilitation of Residential properties, subject to the provisions of Subsection C.5;
 - iii) Support Residential development such as infilling, redevelopment and the conservation of non-residential structures that makes more efficient use of existing building stock and/or physical infrastructure that recognizes and enhances the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;
 - viii) Support the concept of accessory apartments as-of-right in all areas of the City as regulated by the Zoning By-law; and,
 - xiii) Support residential and neighbourhood development that respect safety concerns.”

The proposal supports the concept of permitting accessory apartments as-of-right and encourages the maintenance, renovation and rehabilitation of an existing residential dwelling, by establishing a second dwelling unit within an existing building, which would make more efficient use of the existing infrastructure, public infrastructure, and better utilizes an existing building.

The proposal supports residential development that makes more efficient use of the existing building stock, while not altering the scale and character of the existing residential area. It will maintain the existing lot size, building height, massing, coverage, and setbacks of the property.

There will be no physical change to the exterior of the existing building apart from the legalization of an existing external staircase and doorway to the second floor located at the rear of the dwelling. The existing shared driveway on the south side of the building will be maintained. The proposed parking area for two spaces in order to serve the two dwelling units will replace an existing accessory building in the rear yard. As such there will be no changes to the existing natural vegetation along the street and only minor reduction in landscaped area at the rear of the property to accommodate the proposed parking.

Given that the proposal will not physically alter the exterior of the building apart from the legalization of an existing external staircase and doorway to the second floor (located at the rear of the dwelling) and parking in the rear accessed by the existing shared driveway, the proposed redevelopment will not affect the existing situation as it pertains to privacy and overview.

The policies of the City of Hamilton Official Plan support residential development that is of an adequate physical condition and respects safety concerns, which supports the staff proposed site specific modification that prohibits a dwelling unit from being located wholly within a cellar which would have the potential of creating safety concerns for residents of the unit.

Based on the above, the proposal complies with the policies of the City of Hamilton Official Plan.

West Harbour (Setting Sail) Secondary Plan

The application for rezoning was submitted prior to the West Harbour (Setting Sail) Secondary Plan coming into effect. Therefore, the policies of the West Harbour (Setting Sail) Secondary Plan are not determinative in review of the application. Therefore, for information and administrative purposes staff note the following:

The subject property is designated “Low Density Residential” on Schedule M-2: – General Land Use. The following policies, amongst others, are applicable:

“A.6.3.3.1.2 The City will ensure development and redevelopment in neighbourhoods and lands surrounding West Harbour respect the type, scale and character of development identified in this plan.”

The proposed development intends to renovate an existing half of a semi-detached dwelling from an illegal triplex in order establish a second dwelling unit with no exterior changes proposed other than legalizing a rear stair case and doorway, and parking at the rear. The built form of the existing dwelling is of a similar scale and character to that of surrounding buildings, which consist largely of buildings that are low in profile (height), tend to be built at or close to the front and side property lines, and tend to be

located on narrow lots. Therefore the proposal is consistent with the scale and character of the neighbourhood.

“A.6.3.3.1.9 To encourage a broad mix of housing types at varying income levels, West Harbour shall accommodate a diversity of housing types, including detached and semi-detached dwellings, and multiple dwellings.”

The application would legalize the establishment of an additional dwelling unit on the subject lands. By providing an accessory unit within the existing dwelling, there is opportunity to, increases the supply of affordable housing and therefore provide for a broad mix of housing types.

“A.6.3.3.1.12 In Low Density Residential areas:

- i) The scale, type and character of new development shall generally reflect existing low density development in the neighbourhood;
- ii) Single detached, semi-detached and street townhouses are permitted;
- iii) The density of development shall range from 25 to 60 units per gross hectare; and,
- v) Lot dimensions and building setbacks shall be generally consistent with other Low Density Residential properties in the neighbourhood.”

The existing neighbourhood is comprised primarily of low profile, small scale, residential uses located on small lots, that are generally two to two and a half storeys in height, located close to the front lot line and side lot lines, and vary in type from one unit buildings, two-unit buildings, and row housing. The existing dwelling is located close to the front lot line and is in line with the dwellings along the east side of John Street North. The establishment of a second dwelling unit within the existing two-storey semi-detached dwelling will continue to reflect the scale, type and character of the neighbourhood. No external changes are proposed for the existing building other than the legalization of existing stairs and entrance to the second floor unit located at the rear of the dwelling. The existing shared driveway access will be maintained, and an existing accessory building will be removed and replaced with two parking spaces in the rear yard.

Given that most properties along John Street North do not have driveway access to the rear yard, the proposed parking at the rear of the existing dwelling will be atypical for the area. The subject property is a deep lot that can easily accommodate a small parking area. The property to the south has rear yard parking and the property to the east maintains a large scale parking area, thereby minimizing the impact on these neighbouring properties. While rear parking is not typical in the area, the proposed two

parking spaces are not expected to impact the surrounding properties, due to the fact that the parking area is small in size and occupies only a modest portion of the overall rear yard.

A range of built forms are permitted in Policy A.6.3.3.1.12 ii) including single detached, semi-detached, and street townhouses. As the proposal is to permit an accessory apartment within one half of an existing semi-detached dwelling, the use of the property falls within the range of uses outlined in Policy A.6.3.3.1.12 ii) of the West Harbour Secondary Plan.

The policies of the West Harbour Secondary Plan establish a density of development with a range of 25 to 60 units per gross hectare. The proposal to add a second dwelling unit on the subject lands would constitute a density of approximately 52 units per gross hectare and therefore the proposed development complies with the density range envisioned for the area.

Therefore, based on the above, the proposal is considered to meet the general intent of the West Harbour Secondary Plan.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) is not yet in effect for the lands located within the West Harbour (Setting Sail) Secondary Plan, however the UHOP reflects the direction of Council. Therefore, the following policies are noted for information purposes only:

“B.3.2.4.4 Second dwelling units shall be permitted within single and semi-detached dwellings in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, and shall be subject to zoning regulations.”

The UHOP permits second dwelling units within semi-detached dwellings subject to appropriate zoning regulations in areas designated Neighbourhoods, therefore, Policy B.3.2.4.4 supports the proposal.

Neighbourhood Plan:

Pursuant to Policy A.6.3.3.1.1 of the West Harbour Secondary Plan, the portions of the Beasley Neighbourhood Plan that are within the West Harbour Secondary Plan are no longer in effect.

However, as the application was submitted prior to the West Harbour Secondary Plan being brought into effect the Beasley Neighbourhood Plan, policies were in effect at the time the application was submitted. As such staff note the following:

The subject property is designated “Medium Density Apartments” in the Beasley Neighbourhood Plan. Policy 4.3.4 of the Beasley Neighbourhood Plan states “Six to eight storeys is a desirable maximum height for apartment buildings in this designation.”

The proposed development seeks to establish a second dwelling unit within one half of a semi-detached dwelling which does not conform to the envisioned medium density apartment use that was envisioned for the lands through the Beasley Neighbourhood Plan. No formal amendment is required to the Neighbourhood Plan as it is no longer in effect, however staff note that the modest increase in density is more in keeping with the current vision for the area as articulated through the recent secondary planning process conducted and subsequently approved for the area.

RELEVANT CONSULTATION

Hamilton Municipal Parking Services (Planning and Economic Development Department)

Hamilton Municipal Parking Service (HMPS) staff expressed uncertainty of how motorists would be able to access the parking spaces in the rear. HMPS staff did note that if the spaces at the rear can reasonably be accessed than HMPS staff would not have a concern with respect to the proposed rezoning.

The parking at the rear is accessed by way of a mutual shared driveway access between 224 John Street North and 222 John Street North, ensuring adequate access.

Traffic Engineering Section (Public Works Department)

Comments from Traffic Engineering staff noted that the report submitted by the Applicant notes a rear yard width of 7.6 m, whereas the survey plan shows a rear yard width of 6.9 m. Traffic Engineering staff noted that there is an existing right of way established for the laneway between 222 and 224 John Street North for access purposes. Traffic Engineering staff did not express any objections the proposed rezoning.

Operations Division (Public Works Department)

Comments from Operation Division staff note that the subject property is eligible for weekly garbage collection.

Forestry and Horticulture Section (Public Works Department)

Comments from Forestry and Horticulture staff noted that there are no municipal tree assets located on the road allowance of this proposed development.

Public Consultation:

In accordance with Council's Public Participation Policy, the application was pre-circulated as part of the Notice of Complete Application, to 458 property owners within 120 m of the subject lands, on December 19, 2012. One letter of correspondence was submitted to staff with respect to the proposed rezoning application. The issues raised concerned the effect that the proposal will have on the value of the area, and the impact that the proposal will have with respect to criminal activity in the area (see Appendix "E"). These issues have been highlighted and addressed in the Analysis and Rationale for Recommendation section of this Report. Notice of Public Meeting was given in accordance with the requirements of the *Planning Act* through circulation to property owners within 120 m of the subject lands. In addition, a Public Notice Sign was posted on the property on December 19, 2012 and updated on July 15, 2015.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. 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 Places to Grow Plan;
 - ii) It complies with the general intent of the City of Hamilton Official Plan;
 - iii) It complies with the general intent of the West Harbour Secondary Plan, by maintaining a Low Density form of development and the scale and character of the neighbourhood; and,
 - iv) It is compatible with the type and form of development in the surrounding neighbourhood.
2. **Zoning By-Law Amendment**

The site-specific by-law will permit the establishment of a second dwelling unit within an existing semi-detached dwelling unit and prohibit a dwelling unit from being located wholly within a cellar. Site-specific modifications are required to implement the proposal. These modifications will be discussed in greater detail below.

Change in Zoning

The change in zoning from the "L-MR-2" (Planned Development) District to the "D/S-1722" (Urban Protected Residential – One and Two Family Dwelling, etc.) District, Modified implements the policies of the West Harbour Secondary Plan. The "L-MR-2" District does not establish any permitted uses, but instead

identifies potential future uses which include townhouses, maisonette dwellings, and multiple dwellings which are required to be implemented through a change in zoning. As previously discussed, the vision for the area has changed, and as such these uses would not comply with the policies of the West Secondary Plan, which designates the subject lands as “Harbour Low Density Residential” and which permits only singles, semi-detached, and street townhouses. It is proposed to change the Zoning from the “L-MR-2” to “D/S-1722” District and will permit one additional dwelling unit with the existing semi-detached dwelling. The proposed development constitutes a minor form of intensification that is consistent with the built form, scale and character of the surrounding neighbourhood and implements the vision of the secondary plan. Therefore, the proposed change in zoning has merit and can be supported.

Section 19 Conversion

The direction of the UHOP is to permit second dwelling units in single detached and semi-detached dwellings subject to zoning regulations. Section 19 of the City of Hamilton Zoning By-law currently permits the conversion of any single detached dwelling to contain not more than two dwelling units subject to specific requirements, but does not allow the conversion of a semi-detached dwelling. These zoning regulations pre-date the policies of the UHOP, and the UHOP policies permit the conversion of single detached and semi-detached dwelling units to contain second dwelling units. The site-specific modification to modify Section 19 in order to permit the conversion of a semi-detached dwelling unit to contain not more than two dwelling units is therefore consistent with the policy direction envisioned in the UHOP.

In order to convert the existing semi-detached dwelling under Section 19 of the City of Hamilton Zoning By-law, the following modifications to the Section 19 requirements will be required.

Exterior Changes

The requirements of Section 19 do not permit any external change other than an exterior exit. The second dwelling unit on the second floor has an exterior exit on the second floor and a stairway that permits access to the this exterior exit. Both the exterior exit and access stairway were established illegally when the dwelling was illegally converted to a three unit dwelling, and therefore a modification is required to legally permit the exterior change. The exterior change is located to the rear of the existing building and as such will not alter the streetscape character of the area. On this basis staff consider the modification has merit and can be supported.

Front Yard Landscaping

The requirements of Section 19 require that not less than 50% of the gross area of the front yard to be used for landscaped area. The intent of this provision is to prevent the use of the front yard for parking for the second unit and thereby maintain the streetscape. The existing building is located in close proximity to the front lot line, the existing porch is located at the front lot line, and the existing shared access driveway is located in the side yard. Therefore, the entire front yard is comprised of either the building or the access driveway. Subsequently it is not possible to provide both parking and the required 50% of the front yard for landscaping. In reviewing this staff have balanced the need for parking with that for landscaping and given that it is an existing situation of the area, staff consider the modification has merit and can be supported.

Location of a Second Dwelling Unit

In order to ensure that the proposed second dwelling unit is habitable, is of a high quality, and is safe, the proposed second dwelling unit shall not be located completely within a cellar. A cellar is defined as the portion of a building which is partly below adjacent ground but which has more than one half of the clear height from the top of its floor to the underside of its finished ceiling below adjacent ground. This provision pre-dates the updates to the Ontario Building Code which allow for residential units in a cellar. The conversion policies under Section 19 of the Zoning By-law exclude the area of a cellar from being used as living quarters. As the proposed second dwelling unit will be established by way of a Section 19 conversion the proposed dwelling unit will be subject to provisions of Section 19 which regulate conversions. This will ensure that the proposed dwelling unit is of a high quality and the safety of the residents is protected.

Modifications Recognizing the Existing Building and Lot

The existing lot width of 6.9 m and existing lot area of 311.2 sq m does not comply with the require lot width of 18 m and lot area requirement of 540 sq m in the "D" (Urban Protected Residential – One and Two Family Dwelling, etc.) District. The existing lot is not being altered and modifications to the "D" District are required to recognize the existing situation with respect to the lot width of 6.9 m and lot area of 311.2 sq m.

The existing dwelling is located 1.82 m from the front lot line, 0 m from the northerly side lot line, and an existing front porch is setback 0 m from the front lot line, which does not comply with the minimum 6 m front yard setback, minimum 1.2 m side yard setback, and maximum 3 m front yard setback encroachment for a porch which is also not permitted within 1.5 m of the front lot line. The existing

building will be maintained as part of the proposed development and will maintain the existing front yard and northerly side yard setback, and existing porch encroachment. The modifications to the “D” District are required to recognize the existing situation and can be supported.

Parking Space Dimensions

The parking layout proposed by the applicant seeks to establish parking spaces in the rear yard that are 5.5 m long and 2.6 m wide which does not conform to the by-law requirements of 6 m long and 2.7 m wide. The parking space size proposed by the applicant is consistent with the minimum parking space size proposed in the new City of Hamilton Zoning By-law 05-200 which permits parking spaces that are 5.5 m long and 2.6 m wide. Therefore, it is the opinion of staff that the proposed modification has merit and can be supported.

Access Driveway Width

The proposed parking area will be accessed by way of a shared driveway with the adjacent property to the south (222 John Street North). The existing shared driveway width is 2.7m wide which does not comply with the minimum access driveway width requirement of 2.8m. The proposed reduction in width of 0.1m will not preclude the access of a vehicle to the parking spaces located at the rear and as the access driveway would only be for the access of a limited number of vehicles the proposed reduction will not lead to traffic conflicts. Therefore, it is the opinion of staff that the proposed modification has merit and can be supported.

3. There is an existing 150 mm diameter watermain, a 450 mm diameter combined sewer and a 1350 mm storm sewer on John Street North adjacent to the subject lands to service this property. The applicant will be required, as part of their building permit application, to demonstrate that their existing connection to these services is sufficient to service both dwelling units or upgrade the services to an appropriate standard.
4. The subject lands are located adjacent to John Street North and within 90 m of Barton Street East both of which are potential noise sources. As the subject proposal contemplates an accessory dwelling unit within an existing semi-detached dwelling, it does not trigger the requirement for the completion of a noise study. The applicant is however advised that they should include the following noise warning clause within all offers and agreements of purchase and sale or lease for all units:

“Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the

sound levels may exceed the Municipality's and the Ministry of the Environment's noise criteria."

5. Following the notice of complete application, staff received one letter of objection (see Appendix "E"). The interested party noted that the neighbourhood where the subject property is located has had issues with respect to crime. The interested party raised concern that the proposed rezoning to establish two dwelling units within a semi-detached dwelling would further devalue the area by creating an additional dwelling unit in an area currently containing a number of low income housing.

Establishing additional housing furthers the City of Hamilton's goal of establishing and maintaining appropriate levels of affordable housing.

The proposed additional dwelling unit is to be located within the existing semi-detached dwelling unit and will therefore not alter the existing built form or character of the area. The proposal to add one additional dwelling unit will not impact the value of the area. There is no empirical data or evidence to suggest that the proposal will devalue properties in the area.

ALTERNATIVES FOR CONSIDERATION

If the application for Zoning By-law Amendment is denied, the applicant would not be able to convert the semi-detached dwelling into two units but can continue to maintain the existing semi-detached dwelling unit.

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

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

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft By-law and Schedule A Map
- Appendix "C": Original Concept Plan

**SUBJECT: Application for Amendment to the City of Hamilton Zoning By-law
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- Appendix “D”: Revised Concept Plan
- Appendix “E”: Letters from Adjacent Residents

DB/th