



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 3, 2016
SUBJECT:	Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Known as 701 Upper James Street, Hamilton (PED16101) (Ward 7)
WARD(S) AFFECTED:	Ward 7
PREPARED BY:	Gerry Tchisler Planner II (905) 546-2424 Ext. 4148 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That approval be given to **Amended Zoning By-law Amendment application ZAC-15-044 by GSP Group Inc. (c/o Sarah Knoll) on behalf of Barry Goldman**, for a change in zoning from the “C” (Urban Protected Residential, etc.) District to the “C/S-1733-‘H’” (Urban Protected Residential, etc.) District, Holding, Modified, to permit a Personal Service Use for lands located at 701 Upper James Street, Hamilton, as shown on Appendix “A” to Report PED16101, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED16101, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe, and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The applicant has applied for a Zoning By-law Amendment for site specific modifications to permit a Personal Service Use on lands located at 701 Upper James Street. The

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modifications also recognize the existing non-conformities with the “C” (Urban Protected Residential, etc.) District zoning as it relates to parking, side yard widths and driveway access. The Personal Service Use will operate on the 129 sq m ground floor of the existing single detached dwelling providing goods and services such as wellness consultations, massage therapy, chiropractic services, personal yoga instruction and accessory retail. An existing residential dwelling unit will be retained on the second storey and a total of four on-site parking spaces will be provided. A Holding Provision is included in the amending by-law to secure a future Site Plan Control application for parking and landscaping works required within the front yard.

The proposed Zoning By-law Amendment has merit and can be supported as it complies with the Urban Hamilton Official Plan (UHOP). It is an appropriately scaled use that fits the commercial character of the area and will provide personal services serving the daily and weekly needs of the surrounding neighbourhoods.

Alternatives for Consideration – See Page 13

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 a Zoning By-law Amendment application.

HISTORICAL BACKGROUND

Proposal:

The applicant has applied for a Zoning By-law Amendment for site specific modifications to permit a Personal Service Use within the existing building on lands located at 701 Upper James Street. The modifications also recognize the existing non-conformities with the “C” (Urban Protected Residential, etc.) District zoning as it relates to parking, side yard widths and driveway access. The Personal Service Use will operate on the 129 sq m ground floor of the existing single detached dwelling providing goods and services such as wellness consultations, massage therapy, chiropractic, personal yoga instruction and accessory retail. An existing residential dwelling unit will be retained on the second storey and a total of on-site four parking spaces will be provided.

The subject lands have been illegally used as a yoga studio since May 2012 with a residential dwelling unit above. Currently, the entire front yard is used as an asphalt parking area for four vehicles accessed by two driveways. An additional parking space is provided within the north side yard which serves the residential dwelling unit.

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Staff have worked with the applicant to amend the proposal to close one driveway access, re-arrange the existing parking spaces from an east-west alignment to a north-south alignment (removing once space) and to reinstate sodding and curbing on a portion of the paved area. A Holding Provision was also added to the amending By-law which can be removed at such time that the owner / applicant applies for and receives final approval of a Site Plan Control application. The Site Plan Control application is required to review and secure the proposed changes to the front yard area.

Chronology:

- August 10, 2015: Zoning By-law Amendment application ZAC-15-044 deemed complete.
- August 21, 2015: Notice of Complete Application and Preliminary Circulation was sent to 136 property owners within 120 m of the subject lands.
- August 24, 2015: Public notice sign posted on the property.
- April 6, 2016: Public notice sign updated with Public Meeting date.
- April 15, 2016: Circulation of Public Meeting Notice for Zoning By-law Amendment application ZAC-15-044 sent to 136 property owners within 120 m of the subject lands.

Details of Submitted Application:

Location: 701 Upper James Street, Hamilton

Owner: Barry Goldman

Applicant / Agent: GSP Group Inc. (Sarah Knoll)

Property Description: Lot Area: 500 sq m

Lot Frontage: 15.24 m

Lot Depth: 33.23 m

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Residential and Commercial - Single, Detached Dwelling	“C” (Urban Protected Residential, etc.) District

Surrounding Lands:

North	Residential – Single Detached Dwelling	“C” (Urban Protected Residential, etc.) District
South	Residential - Single Detached Dwelling	“C” (Urban Protected Residential, etc.) District
East	Residential - Single Detached Dwelling	“C” (Urban Protected Residential, etc.) District
West	Various Residential and Converted Commercial	“H” (Community Shopping and Commercial) District / S-1281

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3), the Provincial Policy Statement (PPS 2014), the Growth Plan for the Greater Golden Horseshoe (the Growth Plan) and the Greenbelt Plan. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The *Places to Grow Act* and the *Greenbelt Act* require that all municipal land use decisions made under the *Planning Act* conform to the Growth Plan and the Greenbelt Plan.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Urban Hamilton Official Plan (UHOP) analysis below.

As the application for a change in zoning complies with the UHOP, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*,
- consistent with the Provincial Policy Statement (2014); and,
- conforms to the Growth Plan for the Greater Golden Horseshoe.

Urban Hamilton Official Plan

The proposal has been evaluated against the policies of the UHOP. The subject lands are identified as being along the Upper James Street "Primary Corridor" on Schedule "E" – Urban Structure and designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations. The following policies, amongst others, apply:

Urban Structure

Function

- "E.2.4.3 Urban Corridors shall be the location for a range of higher density land uses along the corridor, including mixed uses where feasible, supported by higher order transit on the Primary Corridors.
- E.2.4.6 Urban Corridors shall function as commercial spines providing retail stores and commercial services that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods. Small scale retail stores that cater to a broader regional market may be also permitted."

Scale

- "E.2.4.10 The built form along the Urban Corridors shall generally consist of low to mid rise forms, but will vary along the length of the corridors with some areas permitted to accommodate high density and high rise built form. The Primary Corridors shall have a greater proportion of the corridor length in retail and mixed use forms, while the Secondary Corridors shall generally accommodate retail and mixed use forms in small clusters along the corridors with medium density housing located between the clusters.
- E.2.4.11 Urban Corridors shall be a focus for intensification through the Neighbourhoods which they traverse. However, it is anticipated that intensification will also occur within the surrounding Neighbourhoods, particularly on sites along other arterial roads that are not designated as Urban Corridors."

The proposed Personal Service Use will provide wellness consultations, massage therapy, chiropractic services, personal yoga instruction and accessory retail which will serve the daily and weekly needs of local residents as per Policy E.2.4.6. Additionally, this part of Upper James Street already partially serves as a commercial spine due to the quantity of existing converted commercial uses as well as the “H” (Community Shopping and Commercial, etc.) District zoning on the opposite side of the street. This zoning was established under City Initiative 92-D through By-law 92-244, passed on September 29, 1992. The By-law rezoned the west side of Upper James Street, from Wembley Road to South Bend Road West, from “C” (Urban Protected Residential, etc.) District to “H/S-1281-‘H’” (Community Shopping and Commercial, etc.) District, Holding, Modified.

Although no building alterations are proposed, the subject lands are occupied by an existing one and a half storey single detached dwelling which maintains the low rise built form of the surrounding properties. Permitting a commercial use on the ground floor of this building with residential above contributes to increasing the proportion of mixed use buildings along the Primary Corridor and allows for intensification of the type and scale that is consistent with the surrounding commercial and residential uses as per Policy E.2.4.3, E.2.4.10 and E.2.4.11.

E.3.0 Neighbourhoods Designation

Function

- “E.3.2.1 Areas designated Neighbourhoods shall function as *complete communities*, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.
- E.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.”

Complete communities are defined in the UHOP as follows:

“Complete communities meet people’s needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided (Growth Plan, 2006).”

The proposed Personal Service Use contributes to the goal of creating complete communities by providing a greater range of goods and services within close proximity of area residents and along public transit routes. In order to achieve complete communities, local commercial uses, among others, are listed as a permitted use within

the Neighbourhoods designation as per Policy E.3.2.3. The following Local Commercial policies, among others, are applicable to the proposal:

Function

- “E.3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the Neighbourhoods designation.
- E.3.8.2 The following uses shall be permitted:
- a) retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, medical office, business office, professional office, motor vehicle service station, personal service, place of worship, repair service, restaurant, studio, art gallery, tradesperson shop, and veterinary service;
 - b) medical offices or clinic, provided it has direct access to an arterial road and is adjacent to other local commercial uses; and,
 - c) residential uses, in accordance with Policy E.3.8.10.
- E.3.8.10 Residential units located in the same building as local commercial uses shall generally be located above the ground floor. Some components of the residential use may be located in ground floor areas in the rear of buildings. All commercial space shall be located on the ground floor with the primary entrances to the commercial space through the principal façade of the building.”

The proposed Personal Service Use will provide wellness consultations, massage therapy, chiropractic services, personal yoga instruction and accessory retail serving the daily and weekly needs of local residents as per Policies E.3.8.1 and E.3.8.2. Additionally, as stipulated in Policy E.3.8.10, the existing residential dwelling unit will be retained and located on the second floor, with the commercial space being located on the ground floor and accessed via the principal façade of the building.

Scale

- “E.3.8.4 Local commercial uses may be permitted in the following built forms:
- a) small single-use buildings such as those occupied by a convenience store or a medical office;
 - d) multiple storey buildings with the local commercial uses on the ground floor and residential units above.

- E.3.8.8 Local commercial uses shall comply with the following provisions:
- a) The gross floor area for any individual office shall not exceed 500 sq m.
 - b) The total maximum gross floor area and height for a development located on a particular site shall be determined through secondary plans or corridor studies where applicable, and Zoning By-laws.”

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.”

The proposed Personal Service Use will occupy 129 sq m of the ground floor of the existing one and a half storey building with a residential unit on the second floor as per Policies E.3.8.4 and E.3.8.8. The proposal complies with Policy E.3.8.9(a) as the subject lands have direct access to Upper James Street, a major arterial as identified on UHOP Schedule C. Additionally, compliance with Policies E.3.8.9(b) and (c) is achieved through amendments to the proposal that staff have negotiated with the applicant. This includes rearrangement of the parking spaces to provide additional manoeuvring space and removing the obstruction of the wheelchair ramp and walkway to the front door, removal of one of the existing driveways, and reinstatement of curbing and sodding on a portion of the currently paved areas. These changes will improve the functionality of the parking area and improve the pedestrian environment along Upper James Street. They will be reviewed in greater detail through a future Site Plan Control application.

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

- E.3.8.13 New local commercial buildings or uses which could result in strip commercial development shall not be permitted, but new local commercial buildings or uses may be permitted within or as an expansion of an existing main street area provided such buildings or uses:
- a) are located up to the street or in line with other buildings along the main street;

- b) strengthen the pedestrian focus of the main street and assist in creating a vibrant and active street;
- c) provide an active storefront along the street with the main entrance of each building or store and substantial fenestration facing onto the street; and,
- d) do not exacerbate an oversupply of retail space in the neighbourhood or along the main street.

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.”

Although Policy E.3.8.13 does not permit new commercial uses which could result in strip commercial development, Policy E.2.4.6 stipulates that Urban Corridors “...shall function as commercial spines providing retail stores and commercial services that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods.” Much of this stretch of Upper James Street is already characterized by strip commercial development as a result of City Initiative 92-D discussed above. The proposal maintains this character and seeks to continue using lands which have previously served this purpose.

The subject lands are not located within a main street area and therefore the provisions of Policy E.3.8.14 apply. The proposed Personal Service Use will be located in an existing building located approximately 10.82 m from the road allowance, maintaining the built line with the three buildings to the south and setback slightly farther back compared to the two buildings to the north. The windows, signage and the principal entrance are located on the front façade facing an arterial road and having direct access to the sidewalk. As such, the proposal complies with Policy E.3.8.14.

The intent behind policy E.3.8.17 is to maintain a pedestrian-friendly, residential environment in stable residential areas that are characterized by landscaped front yards and minimal paving. The subject lands are located in a somewhat unique situation as they front onto a major arterial road that is identified as a Primary Corridor, are in the vicinity of many commercial and converted commercial uses, and are designated as Neighbourhoods on Schedule E-1 of the UHOP. Although parking *should* not be permitted between the building and public sidewalk as per Policy E.3.8.17, staff are of the opinion that the negotiated amendments to the proposal will be compatible with the existing character of the area, improve the existing situation by removing some existing asphalt and replacing it with landscaping, and removing one driveway and reinstating curbing.

The above analysis has reviewed the relevant policies contained within the UHOP as they apply to the subject lands. Staff are of the opinion that the application complies with the UHOP.

RELEVANT CONSULTATION

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

- Horizon Utilities
- Waste Management Division (Public Works Department)
- Recreation Planning (Community and Emergency Services Department)
- Hamilton Municipal Parking System (Planning and Economic Development Department)
- Forestry and Horticulture Section (Public Works Department)

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

Transportation Management (Public Works) have requested that the applicant provide a Transportation Demand Management (TDM) report, trees within the boulevard, a 2 m wide buffer to the sidewalk, and a barrier free design for pedestrians with disabilities. Additionally, as the subject lands are located along the future A-Line rapid transit corridor, they have requested that the proposed development follow the City's Transit Oriented Development (TOD) guidelines and make the site more pedestrian-friendly. Since the proposal does not include any expansion of the existing floor area and the proposed Personal Service Use is small scale in nature, (occupying only 129 sq m), Planning staff are of the opinion that a TDM report should not be required. Planning staff have worked with the applicant to amend the proposal to improve the pedestrian environment. This includes replacing some of the existing paved area with sod, removing a driveway and reinstating curbing, and rearranging the parking spaces to remove obstruction of the wheelchair ramp and walkway to the

entrance. These modifications will be further reviewed and secured through a future Site Plan Control application.

Corridor Management (Public Works) identified that rearranging the parking from an east-west alignment to a north-south alignment would increase the manoeuvring space on site and permit vehicles to manoeuvre wholly on site without the need to use the municipal boulevard. This would permit the southern driveway to be closed, some paved areas to be replaced with sod and remove the obstruction of the wheelchair ramp and walkway to the entrance. Planning staff have worked with the applicant to amend the proposal to reflect these comments. This work will be reviewed in greater detail and secured through a future Site Plan Control application.

Public Consultation

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 136 property owners within 120 m of the subject property on August 21, 2015, requesting public input on the application. A Public Notice sign was also posted on the property on August 24, 2015 and updated on April 6, 2016 with the date of the Public Meeting. Notice of the Public Meeting was given, in accordance with the requirements of the *Planning Act* on April 15, 2016. No correspondence from the public has been received to date.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the PPS and conforms to the Growth Plan;
 - (ii) It complies with key policies of the UHOP with respect to the Primary Corridor and the Neighbourhoods designations; and,
 - (iii) It is an appropriately scaled use that fits the commercial character of the area and will provide personal services serving the daily and weekly needs of the surrounding neighbourhoods.
2. Currently, the lands located at 701 Upper James contain a single detached dwelling which has a residential dwelling unit on the second floor and an illegally established yoga studio on the ground floor. The proposed amendment will permit a Personal Service Use on the ground floor providing goods and services such as wellness consultations, massage therapy, chiropractic services, personal yoga instruction and accessory retail. The existing residential dwelling unit will be retained on the second floor. Three parking spaces will be provided for the

Personal Service Use and one space for the residential use whereas the by-law requires that a minimum of two parking spaces be provided for the entire site.

Staff have worked with the applicant to amend the proposal to rearrange the parking spaces from an east-west to a north-south orientation, remove the southern driveway, reinstate curbing and reinstate sod on some of the existing paved areas. These changes will provide for better automobile manoeuvrability on site (without encroaching on the municipal boulevard), remove the obstruction of the wheelchair ramp and walkway to the entrance, and improve the pedestrian environment and streetscape. A concept plan for the proposed development has been submitted (see Appendix "C" to Report PED16101).

3. The following site specific amendments to Hamilton Zoning By-law No. 6593 are required to implement the proposal (see Appendix "B" to Report PED16101):

Personal Service Use

The "C" (Urban Protected Residential, etc.) District does not permit commercial uses. The addition of this use within the existing building to the zone will permit the establishment of the proposed commercial use which will provide wellness consultations, massage therapy, chiropractic services, personal yoga instruction and accessory retail. This is an appropriate use for the subject lands as it complies with the Local Commercial policies of the Neighbourhoods land use designation, as discussed in the UHOP policy analysis above. Therefore, staff support this change.

Side Yards

The "C" (Urban Protected Residential, etc.) District requires a minimum side yard width of 1.2 m for the single detached dwelling. Additionally, Hamilton Zoning By-law No. 6593 requires that accessory structures located in the rear yard must be setback a minimum of 0.45 m from the nearest lot line. The existing single detached dwelling is located 0.95 m away from the southerly lot line and the existing accessory structure (shed) in the rear yard is located 0.4 m from the rear lot line. The applicant has requested that these setbacks be recognized through this application. Staff support this change as this is the result of an existing situation which is characteristic of many properties in the area.

Parking Space Dimensions

Hamilton Zoning By-law No. 6593 requires that parking spaces have a minimum width of 2.7 m and minimum length of 6.0 m. The parking space within the northerly side yard will have a minimum width of 2.6 m and a minimum length of 5.5 m. Although this modification is also the result of an existing situation, such reductions in dimensions are typical amongst newer developments where smaller dimensions are required to balance the need for developable land while providing

the required number of parking spaces that are still functional. Therefore, staff support this modification.

Front Yard Parking

Hamilton Zoning By-law No. 6593 does not permit any part of a parking area to be located within the front yard of a lot in a residential district. There are four existing parking spaces located within the front yard of the subject lands. Large, paved front parking areas are characteristic of this stretch of Upper James Street as many residential uses have been converted to commercial. As discussed above, staff have worked with the applicant to rearrange the front yard parking area to increase manoeuvrability, improve the pedestrian environment, and remove the obstruction of the wheelchair ramp and walkway to the entrance. This work includes removing the southerly driveway, reinstating curbing, and reinstating sod on a portion of the existing paved areas. Planning staff are of the opinion that the proposed modifications to the front yard will greatly improve upon the existing aesthetic and urban design qualities of the subject lands. Therefore, staff support this modification.

Driveway Location

Since a significant road widening has already been taken from the subject lands, the curb cut and a portion of the driveway is located within the road allowance. As a result, this minor technical modification is necessary to permit the property to be accessed via the municipal boulevard. Therefore, staff support this modification.

4. A Holding Provision will be applied to the subject lands which can be removed at such time that the owner / applicant applies for and receives final approval of a Site Plan Control application. This application is required to review and secure the proposed changes to the front yard parking area discussed above.
5. The Public Works Department has identified that there are two public watermain and a combined sewer within the Upper James Street road allowance that service the subject lands. They have requested that the applicant provide a Waste Water Generation Assessment for the existing and proposed uses. The applicant has provided the Assessment to the satisfaction of the Department. No capacity issues have been identified and the Public Works Department has no further concerns with this application.

ALTERNATIVES FOR CONSIDERATION

If the application is denied, the lands at 701 Upper James Street will remain in the “C” (Urban Protected Residential, etc.) District and will be permitted to be used in accordance with the provisions of that district.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1:

A Prosperous and 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:

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

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Zoning By-law Amendment
- Appendix “C”: Concept Plan

:GT