

**HM/B-16:43**

**21 Warrington St., Hamilton**

The purpose of this application is to permit the conveyance of a vacant parcel of land for future development and to retain a parcel of land for industrial purposes along with a 7.5 m access easement in favour of the conveyed lands.

Provincial Policy Statement (2014)

The application has been reviewed with respect to the Provincial Policy Statement (PPS), specifically sections 1.1-Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns. Staff are of the opinion that the application is consistent with these PPS policies.

Urban Hamilton Official Plan (UHOP)

The subject property is identified as “Employment Areas” on Schedule “E” and designated “Business Park” on Schedule “E-1” in the Urban Hamilton Official Plan. The following policies apply:

**E.5.2.7.1** The following provisions apply to all lands designated Employment Area – Industrial Land, Employment Area – Business Park, Employment Area – Airport Employment Growth District, and Employment Area – Shipping and Navigation on Schedule E-1 – Urban Land Use Designations (OPA 35):

- a) New development within Employment Area designations shall enhance the quality of the public realm along all public roads within and bounding business parks, along the Queen Elizabeth Way, the non-elevated portions of Burlington Street East and public roads between lands designated Employment Area and lands designated Neighbourhoods or Institutional within older industrial areas. The design and placement of buildings, structures, parking, loading, outside storage and assembly areas, lighting and landscaping, shall provide a safe, functional and visually attractive environment for pedestrians and vehicles.

**E.5.4.3** The following uses shall be permitted on lands designated Employment Area – Business Park on Schedule E-1 – Urban Land Use Designations:

- a) manufacturing, warehousing, repair service, building or contracting supply establishments, building and lumber supply establishments, transportation terminals, research and development, office, communication establishment, and private power generation. Salvage yards and other uses which are unsightly or otherwise incompatible with the design policies and image for business parks shall be prohibited;
- b) uses which primarily support industry, including labour association halls, conference and convention centres, trade schools, commercial motor vehicle and equipment sales, and commercial rental establishments;

- c) ancillary uses which primarily support businesses and employees within business parks, including hotels, health and recreational facilities, financial establishments, restaurants, personal services, motor vehicle service stations and washing, retail establishments, and commercial parking facilities;
- d) limited agricultural uses including only a medical marihuana growing and harvesting facility, a greenhouse and an aquaponics facility; (OPA 23)
- e) waste processing facilities and waste transfer facilities; and,
- f) accessory uses, such as limited retail and office.

**E.5.4.7** The following policies shall apply to the lands designated Employment Area – Business Park on Schedule E-1 – Urban Land Use Designations:

- a) New development and redevelopment of existing sites shall contribute to a quality image for the business park by incorporating quality building and landscaping designs in those areas adjacent to and visible from public roads, and by complementing the landscape qualities of adjacent sites.
- b) Outdoor storage and assembly areas, loading areas, and larger parking areas shall generally be located at the sides or rear of buildings, away from public roads, and shall be screened from view of the roads and adjacent properties, with appropriate landscaping or fencing.
- c) Prestige business park uses, such as offices or industrial administrative offices, shall be required to achieve higher design standards when within view of an arterial road such as Stone Church Road, Rymal Road, the Trinity Church Road Extension, Garner Road, north and south of Highway 2, and other Provincial Highways, in order to further promote and enhance the image of the business park and the City. The following criteria shall apply:
  - i) Development at these locations shall be of the highest quality design and materials within the business park.
  - ii) For developments that front, or have frontage on an arterial road, the principal façade shall incorporate windows and the main pedestrian entrance to the building. The main pedestrian entrance may be located on a collector or local road where the site configuration and building design restrict the location of the main pedestrian entrance along the arterial road.
  - iii) The façade of buildings facing expressways shall be encouraged to incorporate architectural design elements and landscaping which are attractive and emphasize a strong corporate presence.

- iv) Enhanced landscaping strips shall be required along the road frontages, and major parking areas shall be discouraged between principal buildings and roads.
- d) Building façades which are visible from arterial roads, such as Stone Church Road, Rymal Road, the Trinity Church Road Extension, Garner Road, north and south of Highway 2, other Provincial Highways, and adjacent to lands designated Neighbourhoods, Institutional or Commercial and Mixed Use shall be finished with high quality materials, which will be determined through site plan control.

The subject lands are visible from the QEW and service road and are near the QEW and Centennial Parkway junction which serves as main gateway to the City as a whole. The UHOP requires an enhanced level of landscaping and screening for properties which are visible to the QEW so as to improve the City's image for the numerous visitors to Hamilton.

**F.1.14.3.5** Consents for new lot creation for both the severed and retained lands for employment uses in the Employment designation shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan including secondary plans, where one exists;
- b) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- c) The lots are fully serviced by municipal water and wastewater systems; and,
- d) The lots have frontage on a public road.

Provided the staff recommendations on the associated variance application are implemented in full, the severance can be said to meet the intent of the UHOP policies and Zoning By-law.

It is staff's understanding that servicing to the conveyed property will be done through an easement over part 1 which runs north-south. Engineering Staff have suggested Part 3 also include a servicing easement. It is understood that barring this, services can be provided from the South Service Road.

The UHOP also requires that lots have frontage on a public road. This is to guarantee both access and the ability to provide services in perpetuity. How access for the conveyed lands will be provided is uncertain. Through discussions with several departments, it appears that a one foot reserve was removed for the service road frontage, but a clause may have been included which prevented physical driveway access to the service road.

If this is the case, it would explain why an access easement is needed on the south side of the lot. This scenario is of concern as easements for access cannot be guaranteed in

perpetuity, and it would appear access for Part 2 is provided over two separate easements with two separate ownerships which could potentially further complications.

The severance is supportable only if the applicant is able to obtain an access permit to the South Service Road.

#### 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:

- 1) Within 300 m of a primary watercourse or permanent waterbody, 200 m of a secondary watercourse or seasonal waterbody, or 300 m of a prehistoric watercourse or permanent waterbody;
- 2) In an area of sandy soil in areas of clay or stone; and,
- 3) 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 *Provincial Policy Statement* apply to the subject application. If this severance is granted, Staff require that the Committee of Adjustment attach condition #2. (CT/AE 2016-06-10)

#### City of Hamilton Zoning By-law 05-200

The subject property is zoned "M2" (General Business Park) and "M3" (Prestige Business Park) District in the City of Hamilton Zoning By-law 05-200, to which the use complies for the retained lands. Any new development for the conveyed lands will need to ensure the use is permitted.

Portions of both the conveyed and retained lands are within the M2 and M3 districts. The associated variances are as written by the applicant. Both proposed lots exceed the minimum lot size required by the By-law. The existing industrial use for the retained lands is a permitted use. Upon future development of the conveyed lands, the applicant should ensure compliance with the By-law.

#### Recommendation:

Per the request from Engineering Staff, the lands shown as Part 3 should include a servicing easement. The severance of the property is supportable as it meets the intent of the Urban Hamilton Official Plan and Zoning By-law. However, it is unclear if access will be provided through the only frontage on the South Service Road. Therefore, staff are able to recommend the application be **Approved** conditional upon an Access Permit being granted for the South Service Road.

**Condition:**

1. The applicant shall obtain an Access Permit for the conveyed lands (Part 2) for the South Service Road frontage.
2. "That the proponent shall carry out an archaeological assessment of the portion of the property conveyed and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton 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)."

**Notes:**

1. Per Engineering comments, the applicant should consider including a services easement in the easement shown as Part 3.
2. Upon future development of the conveyed lands, the applicant shall have regard for the relevant policies within the Urban Hamilton Official Plan and standards in the Zoning By-law when designing the site.