



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	January 17, 2016
<b>SUBJECT:</b>	Applications for an Amendment to the Urban Hamilton Official Plan and to the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 50 Covington Street, Hamilton (PED17002) (Ward 5)
<b>WARD(S) AFFECTED:</b>	Ward 5
<b>PREPARED BY:</b>	Gerry Tchisler (905) 546-2424 Ext. 4148 Steve Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That approval be given to **Urban Hamilton Official Plan Amendment Application UHOPA-16-029, by Inderjit Dhugga, Owner**, to amend the Urban Hamilton Official Plan (UHOP) in order to establish a site specific policy to permit a Motor Vehicle Repair Garage within the Employment Area – Business Park Designation, for lands located at 50 Covington Street, as shown on Appendix “A” to Report PED17002, on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED17002, be adopted by City Council; and,
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

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- (b) That approval be given to **Amended Zoning By-law Amendment Application ZAR-16-005 by Inderjit Dhugga, Owner**, for a modification in zoning from the General Business Park (M2) Zone to the General Business Park (M2, 478) Zone, modified to permit a Motor Vehicle Repair Garage for lands located at 50 Covington Street, Hamilton, as shown on Appendix “A” to Report PED17002, on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED17002, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe; and,
  - (iii) That this By-law will be in conformity with the Urban Hamilton Official Plan, upon approval of Urban Hamilton Official Plan Amendment No. XX.

**EXECUTIVE SUMMARY**

The Applicant has applied for a Zoning By-law Amendment for site specific modifications to the General Business Park (M2) Zone to permit a Motor Vehicle Service Station, and to recognize the existing physical configuration of the subject lands, as no exterior alterations are proposed for the site or the existing single storey building. Upon review of the proposed Zoning By-law Amendment Application, it was determined that an Official Plan Amendment Application was also required in order to permit a Motor Vehicle Service Station use because the subject lands are not located on an arterial roadway. The Applicant authorized staff to proceed with an Official Plan Amendment.

The Applications can be supported, as they implement the direction of the Urban Hamilton Official Plan (UHOP), the Provincial Policy Statement (2014) and the Growth Plan for the Greater Golden Horseshoe. It is a use that can be appropriately located within the Employment Area – Business Park Designation, which currently contains many similar uses.

***Alternatives for Consideration – See Page 12***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

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

## **HISTORICAL BACKGROUND**

### **Proposal:**

In 2014, a Zoning Verification was issued in error by the City which indicated that a Motor Vehicle Service Station was a permitted use on the subject lands. As such, the Applicant purchased the subject lands with the intent of operating a Motor Vehicle Service Station. The Applicant applied for another Zoning Verification in 2015 to add emissions testing to the operation, at which point, the erroneous Zoning Verification from 2014 was discovered. The business has been operating on the subject lands since 2014.

Consequently, the Applicant has applied for a Zoning By-law Amendment for site specific modifications to the General Business Park (M2) Zone to permit a Motor Vehicle Service Station offering such services as tire changes and sales, oil changes, alignment and emissions testing. The Application also seeks to recognize the existing physical configuration of the subject lands with respect to landscaping areas, planting strips, parking facilities, loading facilities and visual barriers. No exterior alterations are proposed for the site or to the existing single storey building.

Based on the existing and proposed use of the property, City staff determined that Motor Vehicle Repair Garage is a more appropriate term than Motor Vehicle Service Station, given that the existing and proposed use does not include the sale of fuel or convenience goods. Therefore, City staff amended the Application to permit a Motor Vehicle Repair Garage. Also, upon review of the proposed Zoning By-law Amendment Application, it was determined that an Official Plan Amendment Application was required in order to permit either a Motor Vehicle Repair Garage or a Motor Vehicle Service Station use on the subject lands since Covington Street is not an arterial roadway. The Applicant authorized City staff to proceed with an Official Plan Amendment.

### **Chronology:**

January 11, 2016: Zoning By-law Amendment Application ZAR-16-005 deemed complete.

January 18, 2016: Notice of Complete Application and Preliminary Circulation for Zoning By-law Amendment Application ZAR-16-005 was sent to 50 property owners within 120 m of the subject lands.

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January 22, 2016: Public Notice sign posted on the property.

August 31, 2016: Official Plan Amendment application UHOPA-16-029 deemed complete.

December 7, 2016: Public Notice sign updated with Public Meeting date.

December 16, 2016: Circulation of Public Meeting Notice for Official Plan Amendment Application UHOPA-16-029 and Zoning By-law Amendment Application ZAR-16-005 to 50 property owners within 120 m of the subject lands.

**Details of Submitted Application:**

**Location:** 50 Covington Street, Hamilton

**Owner / Applicant:** Inderjit Dhugga

**Property Description:** Lot Area: 7163 sq m

Lot Frontage: 61 m

Lot Depth: 121 m

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Commercial – Motor Vehicle Service Station	General Business Park (M2) Zone
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Vacant Two-Storey Building	General Business Park (M2, 421) Zone, Modified
<b>South</b>	Commercial – Truck Repair Garage	General Business Park (M2) Zone
<b>East</b>	Public Utility – Hydro One Transmission Corridor	General Business Park (M2) Zone
<b>West</b>	Commercial – Printing and Mailing Service	General Business Park (M2) Zone

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## **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.

Provincial policies with respect to employment lands are more general than those in the UHOP. In particular, both the PPS 2014 and the Growth Plan permit both traditional employment uses and ancillary uses within employment lands with no locational criteria. However, as discussed below, motor vehicle repair is currently permitted within the Employment Area – Business Park Designation of the UHOP through the Motor Vehicle Service Station use which also includes a number of commercial uses and is subject to locational criteria. The Applications propose to disaggregate the Motor Vehicle Service Station use, and permit motor vehicle repair through a separate Motor Vehicle Repair Garage use which would not be subject to locational criteria (i.e. removing the ancillary component of the Motor Vehicle Service Station use and leaving only the traditional employment use in the Motor Vehicle Repair Garage).

As the Applications comply with all other policies of the UHOP, it is City staff's opinion that the applications are:

- consistent with Section 3 of the *Planning Act*,
- consistent with the Provincial Policy Statement (2014); and,
- conform 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 "Employment Areas" on Schedule "E" – Urban Structure and designated "Business Park" on Schedule "E-1" – Urban Land Use Designations. The following policies, amongst others, apply:

#### E.2.7 Employment Areas

##### Function

"E.2.7.2 Employment Areas shall provide employment through a broad range of uses, including traditional industrial uses, research and development uses, and other uses. Uses which support the businesses and employees of the employment area shall be permitted. Major retail uses or residential uses shall not be permitted. The permitted uses shall be described in more detail in Section E.5.0 – Employment Area Designations."

#### E.5.4 Employment Area - Business Park Designation

##### Function

"E.5.4.1 The range of employment uses allows for a wide variety of industrial activity and accommodates employment support uses, such as offices, that will foster the development of a prestige employment area. The Employment Area – Business Park Designation applies to the City's business parks, excluding the Airport Business Park, identified on Schedule E-1 – Urban Land Use Designations.

E.5.4.2 Lands designated Employment Area – Business Park which are undeveloped, underutilized, or within the West Hamilton Innovation District, are planned for major employment growth in accordance with the employment and density targets in Section A.2.3.2 – Employment Targets and Policy A.2.3.3.3."

The proposed Motor Vehicle Repair Garage complies with policies E.2.7.2 and E.5.4.1 in that the repair of machinery, including motor vehicles, is a traditional industrial use that involves the types of activities performed in other permitted employment uses (working with specialized tools, hydraulic and pneumatic equipment, hydrocarbon based fluids, etc.).

Permitted Uses

"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 marijuana 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.5.4.4 Ancillary uses which serve the businesses and employees of the business park as described in Policy E.5.4.3 c), shall only be permitted at locations fronting arterial roads or collector roads into the business parks.”

Currently, Policy E.5.4.3(c) permits the repair of motor vehicles in the Employment Area – Business Park Designation as an ancillary use under the Motor Vehicle Service Station use that is subject to the locational criteria of Policy E.5.4.4. However, the Motor Vehicle Service Station use also includes fuel sales and convenience retail. The proposed use does not include these functions. If the typical “gas station” functions of fuel sales and convenience retail are removed from the Motor Vehicle Service Station use, a more traditional industrial use, as mentioned above, remains and is more appropriately identified as a Motor Vehicle Repair Garage.

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An Official Plan Amendment is required in order to recognize the new term, Motor Vehicle Repair Garage. This term separates the motor vehicle repair function from the existing Motor Vehicle Service Station term which currently also includes sale of fuel and convenience goods.

The General Business Park (M2) Zone currently permits a number of similar uses to the proposed Motor Vehicle Repair Garage including “Repair Service”, “Motor Vehicle Collision Repair Establishment”, “Commercial Motor Vehicle Sales, Rental and Service Establishment” and “Equipment and Machinery Sales, Rental and Service Establishment”. These permitted uses fall under the general category of “Repair Service” listed in Policy E.5.4.3(a). The Motor Vehicle Repair Garage would also be more appropriately classified under this category. Therefore, staff support the site specific amendment to the UHOP.

### Design

“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.”

The existing single-storey building is setback approximately 10 m from Covington Street, maintaining the built line with the existing buildings to the north while sitting slightly forward compared to the building to the south. The site contains a grassed landscaped area in front of the main entrance which is flanked by two parking areas to the sides. Outdoor storage and loading areas are located at the rear of the building in keeping with the policies of the UHOP. No construction or exterior alterations are proposed to the site.

Therefore, City staff support the proposed Official Plan Amendment.

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## **RELEVANT CONSULTATION**

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

Horizon Utilities;  
Waste Management Division (Public Works Department);  
Forestry and Horticulture Section (Public Works Department); and,  
Corridor Management (Public Works Department).

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

**Transportation Planning (Public Works Department)** have requested that the Applicant provide tree planting within the municipal boulevard, 1.5 m sidewalks along both sides of the right-of-way and within the site, and to consider the built environment standards to accommodate people with disabilities. Planning staff note that a sidewalk currently exists across the frontage of the subject lands. Given that no development is proposed on the subject lands, Planning staff are of the opinion that the recommendations made by Transportation Planning are not required at this time as the Applications do not involve physical alterations to the site or the existing building, but rather the purpose of the Applications is to legalize a change in use.

## **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 50 property owners within 120 m of the subject property on January 18, 2016, requesting public input on the Zoning By-law Amendment Application. A Public Notice sign was also posted on the property on January 22, 2016, and updated on December 7, 2016 with the date of the Public Meeting, and reflecting the Official Plan Amendment. Notice of the Public Meeting was given, in accordance with the requirements of the *Planning Act* on December 16, 2016. No correspondence from the public has been received to date.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

- (1) It is recommended that the Applications be approved for the following reasons:
  - (i) The Applications are consistent with the PPS (2014) and conforms to the Growth Plan;

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- (ii) The Applications comply with the general intent of the UHOP with respect to Employment Area – Business Park Designation; and,
  - (iii) The site and the proposed use fit the character and function of the area.
- (2) Currently, the lands located at 50 Covington Street are being used for the service and repair of motor vehicles as a result of a Zoning Verification that was issued in error. The Applicant has applied for a Zoning By-law Amendment to permit the existing use as a Motor Vehicle Service Station and recognize the existing physical configuration of the subject lands with respect to landscaping areas, planting strips, parking facilities, loading facilities and visual barriers. No physical modifications are proposed for the subject lands.

Upon review of the proposed Zoning By-law Amendment Application, it was determined that an Official Plan Amendment Application was required in order to permit a Motor Vehicle Service Station use. The Applicant authorized staff to proceed with an Official Plan Amendment. Additionally, based on the existing and proposed use of the property, staff determined that Motor Vehicle Repair Garage is a more appropriate term than Motor Vehicle Service Station, given that the existing and proposed use does not include the sale of fuel or convenience goods. Therefore, City staff amended the Application to permit a Motor Vehicle Repair Garage.

- (3) The proposed amendment to the UHOP establishes a site specific policy that permits a Motor Vehicle Repair Garage on lands designated Employment Area – Business Park located at 50 Covington Street. The amendment is required as Policy E.5.4.3 permits motor vehicle repair only through the Motor Vehicle Service Station use. The term is a combination of the typical commercial gas station functions of fuel sales and convenience retail along with motor vehicle repair. Additionally, it is considered a use that is ancillary to business parks and to which the locational criteria of Policy E.5.4.4 are applied. The Applicant is not proposing fuel sales or convenience retail, and therefore a more appropriate term for the proposed use is Motor Vehicle Repair Garage. As discussed in the UHOP Policy Review Section above, this use is similar to the traditional industrial uses currently permitted in the General Business Park (M2) Zone that are considered under the “Repair Service” category of Policy E.5.4.3(a).

The classification of the Motor Vehicle Repair Garage as part of the “Repair Service” category in Policy E.5.4.3(a) would deem the use as non-ancillary and would cause that locational criteria of Policy E.5.4.4 to not apply. This is appropriate given that the intent of Policy E.5.4.4 is to restrict ancillary uses (which are commercial in nature) to specific locations within business parks to ensure that employment land is retained for traditional employment uses, and to

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ensure that commercial uses are located along major roads in locations in which they are most likely to succeed. Therefore, City staff are supportive of the Official Plan Amendment to permit a Motor Vehicle Repair Garage.

- (4) The following site specific amendments to Hamilton Zoning By-law No. 05-200 are required to implement the proposal (see Appendix "C" to Report PED17002):

Motor Vehicle Service and Repair Garage

The existing General Business Park (M2) Zone permits a number of uses similar to a Motor Vehicle Repair Garage such as "Repair Service", "Motor Vehicle Collision Repair", "Commercial Motor Vehicle Sales, Rental and Service Establishment" and "Equipment and Machinery Sales, Rental and Service Establishment". Taking the definitions of these permitted uses in concert, the M2 Zone essentially permits the repair of anything from "commercial, industrial, farm or agricultural equipment and machinery" to "commercial motor vehicles" to simply "goods or equipment". Additionally, the M2 Zone permits the "repair of damage to a motor vehicle caused by collision, accident, corrosion or age". Given that the proposed use is similar to a number of similar uses already permitted within the M2 Zone, City staff support the addition of Motor Vehicle Repair Garage as a permitted use on the subject lands.

Compliance of Existing Physical Features

A By-law provision has been added to recognize the existing configuration of the subject lands with respect to landscaping areas, planting strips, parking facilities, loading facilities and visual barriers, as the Application is to add a use with no physical changes to the site. Currently, the subject lands contain a grassed landscaped area in front of the main entrance of the existing single-storey building which is flanked by two parking areas to the sides. Approximately 20 informal parking spaces can be accommodated within the two front yard parking areas, and along the existing 12 m driveway to the rear of the property. The 0.7 hectare site also contains ample room at the rear for additional parking. Additionally, the subject lands are within an industrial area, and not adjacent to any sensitive uses. The subject lands in their current configuration generally fit the character of the surrounding industrial lands. Given that no development is being proposed, City staff support the recognition of the existing configuration of the subject lands with respect to landscaping areas, planting strips, parking facilities, loading facilities and visual barriers.

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## **ALTERNATIVES FOR CONSIDERATION**

If the Application is denied, the subject lands could only be used in accordance with the General Business Park (M2) Zone which does not permit a Motor Vehicle Repair Garage.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

## **APPENDICES AND SCHEDULES ATTACHED**

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

:GT/mo