



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	May 16, 2017
<b>SUBJECT/REPORT NO:</b>	Application for Zoning By-law Amendment for Lands Located at 95 Rymal Road West, Hamilton (PED17083) (Ward 8)
<b>WARD(S) AFFECTED:</b>	Ward 8
<b>PREPARED BY:</b>	Melanie Schneider (905) 546-2424 Ext. 1224
<b>SUBMITTED BY:</b>	Steve Robichaud Director of Planning and Chief Planner
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Amended Zoning By-law Application ZAR-16-069, by 2508629 Ontario Inc. (Dr. Meet Chande, Owner)**, for a further modification to the “C/S-706a” (Urban Protected Residential, etc.) District, Modified, in the City of Hamilton Zoning By-law No. 6593, to permit a medical clinic (optometrist) within the existing building subject to the existing requirements that a residential unit be retained, on lands located at 95 Rymal Road West (Hamilton), as shown on Appendix “A” to Report PED17083, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED17083, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (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 (Places to Grow), and complies with the Urban Hamilton Official Plan.

**EXECUTIVE SUMMARY**

The proposed Zoning By-law Amendment is for a further modification to the “C/S-706a” (Urban Protected Residential, etc.) District, Modified, to permit the conversion of the existing bank to a medical office (optometrist), and to retain the existing residential unit requirements within the existing building. Modifications proposed to the By-law include the following:

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- Change of use from the bank to a medical clinic, having a maximum gross floor area (GFA) of 76 square metres;
- Permit a parking area to be located 1.3 metres from a rear lot line; and,
- To allow the encroachment of eaves, chimneys and other minor structures of the existing building into required yard setbacks.

The application has merit and can be supported because it is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), and complies with the Urban Hamilton Official Plan (UHOP). The proposal is considered to be compatible with existing development in the area and provides for a change of use, using existing infrastructure.

***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 an application for a Zoning By-law Amendment.

**HISTORICAL BACKGROUND**

**Chronology:**

- October 11, 2016: Application ZAR-16-069 received.
- October 28, 2016: Application ZAR-16-069 deemed incomplete.
- December 16, 2016: Additional materials received and Application ZAR-16-069 deemed complete.
- January 11, 2017: Notice of Complete Application and Pre-Circulation was mailed to 86 property owners within 120 m of the subject property.
- January 11, 2017: A Public Notice sign was established on the property.
- April 19, 2017: Public Notice sign updated to reflect the date of Public Meeting.

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April 28, 2017: Circulation of Notice of Public Meeting to 86 property owners within 120 m of the subject property.

**Background:**

The subject property is located at the southwest corner of the intersection of Rymal Road West and Christie Street and is municipally known as 95 Rymal Road West, Hamilton. The subject lands are 0.1 ha in size and contain an existing bank and one residential unit within a converted single detached dwelling. Two parking spaces within a garage and three external parking spaces facing Christie Street are located on the subject lands.

By-law No. 80-171 was approved by the Ontario Municipal Board (OMB) on July 28, 1980, to permit a barbershop, having one chair and one sink, on the subject lands as a home occupation use.

Official Plan Amendment and Zoning By-law Amendment applications (OPA-11-002 and ZAR-11-005) restricted the permitted uses to the barbershop and a bank, and one residential unit. Uses were also limited to prohibit drive-through facilities on site. A Minor Variance Application (HM/A-12:129) was approved by the Committee of Adjustment in June, 2012 to permit the expansion of the bank from 56 square metres to 85 square metres, and to recognize the existing driveway and parking area setbacks from the street.

**Zoning By-law Amendment (ZAR-16-052)**

The purpose of the application is for a further modification to the “C/S-706a” (Urban Protected Residential) District, Modified, to permit the conversion of the existing bank to a medical office (optometrist) and to retain the existing residential unit within the existing building (see Appendix “C” to Report PED17083). The applicant has requested the removal of the permission for the bank in order to ensure the land use remains primarily residential; future proposed commercial uses shall be evaluated on a case by case basis. The applicant also has requested modifications to the “C/S-706a” District in order to permit the following:

- A medical office having a maximum GFA of 76 square metres in conjunction with a residential unit; and,
- A rear yard setback of 1.3 metres shall be maintained for the parking area.

Staff have amended the application to also remove the permission for the barbershop and to recognize encroachments into the required yard setbacks. No external changes to the site are proposed.

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**DETAILS OF SUBMITTED APPLICATION:**

**Owner:** 2508629 Ontario Inc.

**Agent:** AJ Clarke & Associates

**Location:** 95 Rymal Road West (Hamilton) (see Appendix “A” to Report PED17083)

**Property Size:**

Frontage	28.96 m ( Rymal Road West)
Area	0.1006 ha
Depth	34.74 m

**Servicing:** Full Municipal Services

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Financial Establishment and one Residential Dwelling Unit	“C/S-706a” (Urban Protected Residential, etc.) District, Modified
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Single Detached Dwellings	“B-1” (Suburban Agricultural and Residential, etc.) District
<b>East</b>	Medical Office (Dental and Chiropractor)	“HH/S-1169b” (Restricted Community Shopping and Commercial, etc.) District, Modified
<b>South</b>	Single Detached Dwellings	“C/S-706” (Urban Protected Residential, etc.) District, Modified
<b>West</b>	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District

## **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, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

As the application for a change in zoning complies with the Official Plan and the relevant policies pertaining to Cultural Heritage in the PPS, 2014, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the Provincial Policy Statement; and,
- Conforms to the Growth Plan for the Greater Golden Horseshoe.

### **Urban Hamilton Official Plan**

The subject lands are identified and designated as "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations, in the Urban Hamilton Official Plan (UHOP), and identified within the Built Boundary of the UHOP Appendix "G" – Boundary Map. The following policies, amongst others, apply:

#### **Neighbourhoods**

The following policies regarding the proposed local commercial uses within the Neighbourhoods designation, amongst others, apply:

"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.

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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; and,
- b) medical offices or clinic, provided it has direct access to an arterial road and is adjacent to other local commercial uses.
- c) residential uses, in accordance with Policy E.3.8.10.

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; and,
- 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 square metres.”

The applicant proposes to convert the existing financial establishment to a medical office, which intends to serve the daily and weekly needs of the surrounding neighbourhood, supported by Policy E.3.8.1. The medical clinic will have direct access to Rymal Road West, which is identified as a Major Arterial Road on Schedule “C” – Functional Road Classification of the UHOP, and is directly adjacent to existing commercial uses to the east. The existing residential unit will be maintained, which is also supported by Policy E.3.8.2, in addition to the location of the medical clinic. The intent of Policy E.3.8.4 d) directs built form of mixed use buildings larger than what is currently proposed, being a converted single detached dwelling. Accordingly, the proposal meets the general intent since the dwelling unit has a separate entrance from the medical office and the main living area is located within the second storey. The proposed medical office will occupy no more than 76 square metres to ensure the commercial component does not exceed 500 square metres (see Appendix “B” to Report PED17083).

“E.3.8.9 Development and redevelopment of local commercial uses shall:

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- 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.

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.

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; and,
- d) do not exacerbate an oversupply of retail space in the neighbourhood or along the main street.

E.3.8.17 No parking, drive-throughs, or stacking lanes should be permitted between buildings and the public sidewalk.”

As per the floor plans attached as Appendix “C” to Report PED17083, the residential unit occupies a portion of the ground floor for the purposes of access, providing parking within the attached garage, and one bedroom. Access to the unit is provided at the side of the existing building, separate from the commercial unit, which ensures minimal impact on the residential component. The subject lands also have frontage along a major arterial and minor arterial roads, being Rymal Road West and West 5<sup>th</sup> Street, respectively. The existing massing of the building is in line and consistent with the surrounding built form in terms of setbacks and height. All parking is existing, with no drive-through facilities are existing or proposed. The previous implementing By-law, No. 11-188, prohibited all drive-through facilities on site, which will be carried forward through this proposal (see Appendix “B” to Report PED17083). Landscaping on site is

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existing and will not be changed. Street furniture and pedestrian access are existing on site to maintain the pedestrian focus and create a vibrant, active street. No retail uses are proposed, which satisfies the intent of Policy E.3.8.13 d).

### Transportation

The subject property is classified on Schedule “C” Functional Road Classification Plan as having frontage on a “Major Arterial Road”, being Rymal Road East, and a “Collector Road”, being Christie Street.

Policy C.4.5.2 identifies the following provisions for the design of Major and Minor Arterial Roads:

“C.4.5.2 The road network shall be planned and implemented according to the following functional classifications and right-of-way widths:

c) Major arterial roads, subject to the following policies:

- ii) Although land accesses are permitted, they shall generally be controlled / restricted.
- iii) The primary function of a major arterial road shall be to carry relatively high volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.
- iii) The basic maximum right-of-way widths for major arterial roads shall be 45.720 metres unless otherwise specifically described in Schedule C-2 – Future Road Widenings.

e) Collector roads, subject to the following policies:

- i) The function of a collector road shall be equally shared between providing direct land accesses and the movement of moderate volumes of traffic within and through designated Employment or Neighbourhood Areas.
- ii) The basic maximum right-of-way widths for urban collector roads shall be 30.480 metres in designated Employment Areas and 26.213 metres in all other areas, unless specifically described otherwise in Schedule C- 2 – Future Road Widenings.

C.4.5.6.7 Notwithstanding Section C.4.5.6, the City shall interpret the required right-of-way widths detailed in Section C.4.5.2 and Schedule C-2 – Future Road Widenings, where applicable to denote only the basic requirement for the

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section of the road. Additional rights-of-way may be required at intersections to provide for exclusive turning lanes, daylight triangles and other special treatments to accommodate the optimum road / intersection geometric design. There may also be additional requirements for rights-of-way to provide lands for environmental considerations, the construction of bridges, overpasses, earth filled ramps, grade separations, depressed sections of roads, pathways, roundabouts, traffic control and transit priority measures, including rapid transit lanes and / or stations in accordance with Section C.4.5.7. Any such additional right-of-way requirements shall be determined at the time of design of the road facilities and shall become part of the total required right-of-way.”

Rymal Road West currently has a width of 23.1 metres whereas the ultimate width shall be 45.72 metres. Christie Street currently has a width of approximately 21.8 metres and requires an ultimate width of 26.213 metres. The lands are also located along the S Line of the BLAST Transit Network, which encourages future redevelopment of lands to include full road widenings, as per Policy C.4.5.6.7. Should the site be redeveloped in the future, a road widening will be required along the Rymal Road frontage to provide an ultimate width of 45.72 metres at the Site Plan Control stage. Access provided to the site is from Christie Street which ensures limited conflicts with higher traffic volumes on Rymal Road West.

Staff also note the following policy regarding daylight triangles:

“C.4.5.7 The City shall require the conveyance of property for appropriate daylighting triangles and corner rounding on existing roads at such times as the property is to be developed or redeveloped, as a condition of site plan approval, consent, or plan of subdivision approval, in accordance with City standards based on the intersecting roadways of the functional road classification detailed in Section C.4.5.2. Daylighting triangles at intersections shall generally be as follows:

c) Arterial to collector or arterial (Urban): 12.19 m x 12.19 m triangle.”

Should the site be redeveloped in the future, the daylight triangle shall be dedicated to the City as part of any required road widenings at the Site Plan Control stage.

Based on the foregoing, the proposal complies with the policies of the UHOP.

### **Kennedy East Neighbourhood Plan**

The subject property is designated “Single & Double” under the approved East Kennedy Neighbourhood Plan. The proposed use, in general, conforms to the designation as the existing residential use will remain as the primary use on the subject property. This

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recommendation is also consistent with the previous Zoning By-law Amendment (Application ZAR-11-005). Since the residential component will continue to remain as a primary use, the “Single & Double” designation is accurate.

**Hamilton Zoning By-law No. 6593**

A further modification to the “C/S-706a” (Urban Protected Residential, etc.) District, Modified is required to permit a medical office. The “C/S-706” District permits a barbershop and the “C/S-706a” District currently permits a bank, having a maximum gross floor area of 56 square metres in conjunction with one residential dwelling unit. To further ensure permitted uses are in keeping with the UHOP and the Neighbourhoods Designation, the use shall be restricted to a medical office and a size restriction for the medical office will be included to be no greater than 76 square metres in size and yard requirements have been included to reflect the existing dwelling on site. The previous implementing By-law, No. 11-188, includes the following provisions that will continue to be carried forward:

- A minimum rear yard of 4.4 metres;
- Prohibition of all drive-thru facilities;
- To permit a parking area 1.3 metres from the adjacent residential district; and,
- To permit 50%, or more, of a required side yard to be occupied by a parking area.

By-law No. 80-171 shall be repealed in its entirety and Section 2(a) of By-law No. 11-188 shall be repealed as it relates to the bank use. An evaluation of the proposed modifications is included in the Analysis and Rationale for Recommendation section of Report PED17083.

**RELEVANT CONSULTATION**

The following internal Departments and external Agencies had no concerns or objections with respect to the proposed applications:

- Recreation, Community and Emergency Services Department;
- Operation Support, Public Works Department;
- Corridor Management, Engineering Services, Public Works Department; and,
- Landscape Architectural Services, Public Works Department.

Transportation Management, Public Works Department staff have identified that bike lanes are required along Rymal Road West, 1.5m wide sidewalks must be provided along the public right of way and within the site, and that the site shall meet AODA standards. Staff note that no physical changes to the site are proposed and a Site Plan

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Application will not be required. Should the site be physically altered in the future, the requirements for sufficient sidewalks and bike lanes shall apply.

### **Public Consultation**

In accordance with Council's Public Participation Policy, the Zoning By-law Amendment Application was circulated as part of the Notice of Complete Application to 86 property owners within 120 m of the subject lands on January 11, 2017. To date, no public comments have been received. A Notice of Public Meeting was mailed to 86 property owners on April 28, 2017.

### **Public Consultation Strategy**

The applicant submitted a Public Consultation Strategy in support of the proposal. Based on the small scale of this application, the applicants provided contact information in their required sign to ensure members of the public were able to contact the applicants, in addition to the City's standard contact information, should the public have any concerns or require additional information. No responses have been received to date.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow), which encourages the development of compact communities within built-up areas;
  - (ii) It complies with the Local Commercial policies of the Urban Hamilton Official Plan; and,
  - (iii) The proposal represents good planning by providing a compatible development that is in keeping with existing and planned development in the surrounding area on existing services.
2. The proposed development is located adjacent to the Rymal Road / Upper James Street Community Node, which serves as a centralized area for providing a variety of services and retail, and a range of residential forms to the surrounding area in a mixed use, centralized forum. The lands are serviced by HSR Routes #35 and #44 (S Line in the BLAST network) and are located along a major arterial road to ensure the location is accessible and does not encroach into the residential neighbourhood to the west and south. The medical office can be supported by the existing property and parking provided on site, ensuring there are no concerns with

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respect to overdevelopment or parking conflicts. Based on the foregoing, the proposal complies with applicable policies of the Urban Hamilton Official Plan.

3. Staff are recommending the proposed mixed-use be placed in a site specific “C/S-706b” (Urban Protected Residential, etc.) District, Modified. The proposed zone change would maintain the overall intent of the Local Commercial policies of the Neighbourhoods Designation in the UHOP and would maintain the primary use of the residential component of the property, including implementing the “Single and Double” designation of the Kennedy East Neighbourhood Plan. The permitted bank and barbershop will be repealed, however, performance standards relating to yard setbacks, location of the parking area, and the prohibition of a drive-thru facility will be carried forward to this By-law. Additional modifications to the District are related to permitted uses and the rear yard setback based on further review of the subject lands and reflecting previous approvals.

#### Permitted Uses

In addition to the residential component within the “C/S-706a” District, Modified, the implementing Zoning By-law Amendment proposes to permit a medical office having a maximum GFA of 76 square metres in conjunction with one residential unit, instead of a bank having a maximum GFA of 54 square metres in conjunction with one residential unit and a barbershop. The previously approved bank having a GFA of 54 was further amended by a Minor Variance application, HM/A-12:129, which increased the GFA to 84 square metres. Accordingly, the medical office will operate at a smaller scale, 76 square metres, and can operate on site without external changes to the building or property while still meeting parking requirements. The remaining 8 square metres of space will be used by the residential unit on the subject lands. The proposed use will serve as a transition from the Community Node to the Neighbourhood Designation, at a scale that is compatible with the neighbourhood. The lands are also adjacent to an existing medical office to the east which ensures that the proposal is clustered with existing commercial uses. The bank and barbershop uses will be repealed to maintain the primary use of a residential unit with a small office component. A building permit will be required for the change in use from a financial establishment to a medical office, at which time the Applicant will be required to demonstrate conformity with the maximum gross floor area permissions for the non-residential use of the building.

#### Rear Yard Setback

The applicant has requested a minimum 1.3 metre rear yard setback of the parking area to be provided, except for points in ingress and egress, instead of providing a minimum 3.0 metre setback of a parking area from an adjoining residential district. This modification reflects a previously approved Minor

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Variance application, HM/A-12:129, which recognized the existing setbacks of the parking area. No physical changes are proposed and the modification will ensure no future variances will be required. The modification is reasonable and supported by staff.

#### Encroachments into Yards

The proposed Zoning By-law (see Appendix “B” to Report PED17083) includes a provision to recognize existing encroachments such as eaves, gutters, porches, chimneys, and bay windows into required yards, instead of Section 18 (3) vi) of the By-law requiring various limits of encroachments into required yards. This request is based on recognizing existing structures only, and any new structures would require conformity to this provision of the By-law. Since the request is based on recognizing existing structures, which continue to not cause conflicts on site, staff are of the opinion that the modification is reasonable and supported by staff.

#### 5. Servicing

There are existing services available to the property and no concerns have been identified by Development Engineering staff regarding the proposed uses.

### **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment Application be denied, the property would remain under the “C/S-706” and “C/S-706a” (Urban Protected Residential, etc.) Districts, Modified, which permits only a bank in conjunction with a residential unit, and a barbershop, also in accordance with Minor Variance Application HM/A-12:129.

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

#### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

#### **Economic Prosperity and Growth**

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

#### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

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**Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Proposed Amending By-law to Hamilton Zoning By-law
- Appendix "C": Concept Plan

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