



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 3, 2018
SUBJECT/REPORT NO:	Application to Amend the City of Hamilton Zoning By-law No. 6593, for Lands Located at 1011 Fennell Avenue East (Hamilton) (Ward 6) (PED18069)
WARD(S) AFFECTED:	Ward 6
PREPARED BY:	Michael Fiorino (905) 546-2424 Ext. 4424
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAC-16-063, (Dr. A. Cattafi, Owner)**, for a modification to the “C” (Urban Protected Residential, Etc.) District, to permit limited commercial uses, being a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal services uses within the existing single detached dwelling on lands located at 1011 Fennell Avenue East (Hamilton), as shown on Appendix “A” to Report PED18069, be APPROVED, on the following basis:

- i) That the draft By-law, attached as Appendix “B” to Report PED18069, 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 (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow); and,
- iii) That the proposed change in zoning complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The proposed Zoning By-law Amendment is for a modification to the “C” (Urban Protected Residential, etc.) District, to permit limited commercial uses, being a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal service uses within the existing single detached dwelling. The modifications also recognize the existing zoning non-conformities as they relate to the existing parking location, manoeuvring space, driveway access as well as recognizing the size, location and encroachments of the existing accessory structure. Furthermore, the by-law has been amended to restrict the commercial uses within the first storey only, and restricting the existing floor below grade (cellar) and accessory structure for storage purposes.

The proposed Zoning By-law Amendment has merit, and can be supported, since the proposal is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan. The proposal is considered to be compatible with existing development in the area and provides for a compact and efficient urban form that uses existing infrastructure while being in keeping with the character of the area.

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

The subject site, totalling 464.59 sq m in area, is located east of the intersection of Fennell Avenue East and Upper Gage Avenue, on the north east corner of Fennell Avenue East and East 43rd Street, and known municipally as 1011 Fennell Avenue East (see location map attached as Appendix “A” to Report PED18069).

The subject site is used currently as a chiropractic office (home occupation) within the existing single detached residential dwelling, with an accessory building and four parking spaces at the rear of the property. The property has frontage on Fennell Avenue East, however, vehicular access to the subject land is from East 43rd Street. The applicant has submitted a Zoning By-law Amendment application to recognize the

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existing Chiropractic Office as a primary use and to permit a business or professional person's office; a photographer's or artist studio, but not including motion picture studio, and personal service uses. The existing Chiropractic Office has been operating on the subject lands since the mid 1950's. Staff note that the proposal is to permit commercial uses within the existing dwelling and no expansion of the dwelling has been proposed.

Chronology:

October 7, 2016: Zoning By-law Amendment Application ZAC-16-063 received.

November 2, 2016: Application ZAC-16-063 deemed incomplete.

July 21, 2017: Zoning By-law Amendment Application ZAC-16-063 resubmitted.

August 14, 2017: Application ZAC-16-063 deemed complete.

August 23, 2017: Circulation of Notice of Complete Application and Preliminary Circulation for ZAC-16-063 was mailed to 91 property owners within 120 metres of the subject property.

November 21, 2017: A Public Notice sign was established on the property.

March 7, 2018: Public Notice sign updated to reflect the date of Public Meeting.

March 16, 2018: Circulation of Notice of Public Meeting to 91 property owners within 120 m of the subject property.

DETAILS OF SUBMITTED APPLICATION:

Owner: Dr. A. Cattafi

Location: 1011 Fennell Avenue East (Hamilton) (see Appendix "A" to Report PED18069)

Property Description:

Frontage	14.8 m
Area	464.59 sq m
Depth	31.79 m

Services: Municipal piped water system and Sanitary Sewer system

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single Detached Dwelling with home occupation (Chiropractic Office)	“C” (Urban Protected Residential, Etc.) District
<u>Surrounding Lands:</u>		
North	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.), District
East	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.) District
South	Single Detached Dwelling	“C” (Urban Protected Residential, Etc.) District
West	Commercial Plaza with Grocery Store	“G-1” (Design Shopping Centre) District in (Force and Effect) District Commercial (C6) Zone (Council Adopted)

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

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 Official Plan analysis below.

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As the application complies with the Official Plan, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*, and,
- consistent with the Provincial Policy Statement (2014).

Growth Plan for the Greater Golden Horseshoe (2017)

The proposal conforms to the Guiding Principles, Section 1.2.1, as it is designed to support healthy and active living and meet people's needs for daily living. It also provides for a range and mix of land uses to serve and improve quality of life for people of all ages, abilities, and incomes.

Policy Section 2.2.1, 4. a) and b) provides direction on managing this growth whereby population and employment growth will be accommodated by, amongst other things:

- “a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities; and,
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes.”

In review, the subject lands are located within the Urban Boundary, in a settlement area where full municipal services are available, and will provide for a complete community through a compact design that includes a diverse range and mix of land uses with easy access to local stores and services in the area and planned transit.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (2017).

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure, designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the UHOP, and within the Built Boundary on Appendix “G” – Boundaries Map. The following policies, amongst others, are applicable to the subject application.

Neighbourhoods

- “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; 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,

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 single detached dwelling containing a home occupation (Chiropractic office) to permit a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal service uses, to serve the daily and weekly needs of the surrounding neighbourhood, and is supported by Policy E.3.8.1.

The property has frontage on Fennell Avenue East, however, vehicular access to the subject land is from East 43rd Street. In addition, the subject land is in the immediate vicinity of existing commercial uses to the west, which is also supported by Policy E.3.8.2.

The intent of Policy E.3.8.4 a) supports small, single use commercial buildings being established in a converted single detached dwelling. In addition, by locating local commercial uses within an existing dwelling this proposal will maintain the exterior façade, streetscape and character along Fennell Avenue East.

Accordingly, the proposal meets the general intent of Policy E.3.8.4 and E.3.8.8 since the building is in keeping with the existing character and the commercial use does not exceed 500 sq m.

“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.

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 attached Concept Plan, attached as Appendix “C” to Report PED18069, the dwelling is not being altered and will maintain compatibility with the surrounding area and the proposed By-law requires the commercial uses to be limited to the existing building. The existing massing of the building is in line with and consistent with the surrounding built form in terms of setbacks, scale and height. All parking will be provided on the existing driveway, with no drive-through facilities existing or proposed. The existing landscaping located within the front yard will not be altered. Pedestrian access is also provided on site and will 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 “Minor Arterial Road”, being Fennell Avenue East, and a “Local Road”, being East 43rd Street.

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

- d) Minor arterial roads, subject to the following policies:
 - i) The primary function of a minor arterial road shall be to carry moderate volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.
 - ii) Land accesses shall be permitted with some controls.
 - iii) The basic maximum right-of-way widths for minor arterial roads shall be 36.576 metres unless otherwise specifically described in Schedule C-2 – Future Road Widenings.
- f) Local roads, subject to the following policies:
 - i) The primary function of a local road shall be to provide direct land accesses. The secondary function shall be to enable the movement of low volumes of traffic to collector roads.
 - ii) The basic maximum right-of-way widths for local roads shall be 26.213 m in designated Employment Areas and 20.117 m in all other areas, unless specifically described otherwise in Schedule C-2 – Future Road Widenings;
 - iii) The City recognizes that in older urban built up areas there are existing road right-of-way widths significantly less than 20.117 m. Notwithstanding the other road right-of-way widening policies of this Plan, it is the intent of the City to increase these existing road rights-of-ways to a minimum of 15.24 m with daylight triangles at intersections instead of the minimum required 20.117 m road right-of-way width, provided all the required road facilities, municipal sidewalks and utilities can be accommodated in this reduced road right-of-way width.”

In accordance with the Urban Hamilton Official Plan, Fennell Avenue East is designated a “Minor Arterial Road” with an ultimate width of 26.213 m. As the subject section of

Fennell Avenue East currently meets this designated width, no future road widenings are anticipated along this frontage. East 43rd Street, which flanks the subject lands, is designated a “Local” road and currently meets the minimum required width of 20.12 m; as such, no widenings are required along this frontage. Staff note that if the lands are to be redeveloped in the future, the Owner will be required to dedicate to the City of Hamilton a daylight triangle or radius at the intersection of Fennell Avenue East and East 43rd Street.

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

Hamilton Zoning By-law No. 6593

The subject lands are currently zoned “C” (Urban Protected Residential, Etc.) District, in the Hamilton Zoning By-law No. 6593, as shown on Appendix “A” to Report PED18069. The applicant has requested a modification to the “C” (Urban Protected Residential, Etc.) District, in the City of Hamilton Zoning By-law No. 6593, to permit a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal service uses within the existing dwelling on lands located at 1011 Fennell Avenue East (Hamilton). Further evaluation of the proposed modifications are included in the Analysis and Rationale for Recommendation section of Report PED18069.

RELEVANT CONSULTATION

The following Departments / Agencies have no comments or objections:

- Recreation Planning, Public Works Department; and,
- Landscape Architectural Services, Public Works Department.

The following Departments and Agencies have provided comments on the application:

Forestry and Horticulture Section, Public Works Department has advised that there are municipal tree assets on the subject lands, however, as there is no proposed construction or alteration to the subject lands, no negative impacts are expected and therefore a Tree Management Plan is not anticipated or required. Furthermore, as the applicant is not proposing to redevelop the subject lands, a Landscape Plan will not be required.

Recycling & Waste Disposal Section (Public Works Department) have advised that the property is eligible for weekly collection of garbage, recycling, organics and leaf and yard waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City’s Solid Waste Management By-law No. 09-067, as amended.

Transportation Management (Public Works Department) have advised that the development must consider the needs of pedestrians with disabilities, ensure sidewalks are a minimum of 1.5 m and that the Transit Oriented Development (TOD) guidelines be implemented. Staff note that there is no proposed redevelopment of the subject lands, however, it is noted that there are existing walkways and sidewalks provided to the main entrance.

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 91 property owners within 120 m of the subject property on August 23, 2017, for the proposed Zoning By-law Amendment application.

To date, no letters or correspondence has been received from the public through this circulation.

A Public Notice Sign was posted on the property on November 21, 2017 and updated on March 7, 2018, with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on March 16, 2018.

Public Consultation Strategy

As per the statutory requirements of the *Planning Act*, the applicant submitted a Public Consultation Strategy which identified that the owner would consult with the surrounding residents. The owner has confirmed that the surrounding property owners have been consulted and made aware of the proposal. To date, no letters or correspondence has been received as a result of this consultation.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (2017);
 - ii) It complies with the Urban Hamilton Official Plan (UHOP); 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.

2. The applicant has requested a change in zoning to a site specific “C-S/1757” (Urban Protected Residential, etc.) District, Modified to permit a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal service uses within the existing single detached dwelling. A modification to the “C” District is appropriate to ensure the subject lands maintain the existing massing, character and streetscape of the surrounding properties, limits the uses to the existing dwelling only and would also allow the subject lands to be used for residential purposes. The uses are restricted to permit a business or professional person’s office; a photographer’s or artist studio, but not including motion picture studio, and personal service uses within the existing building and the proposal complies with the Local Commercial polices of the UHOP and is, in keeping with existing and planned development in the surrounding area. Staff support the proposed modification. In addition, to permit the uses within the existing dwelling, the following site specific modifications are required:

Permitted Uses

The Zoning By-law Amendment application is to permit a business or professional person’s; a photographer’s or artist studio, but not including motion picture studio and personal service uses within the existing dwelling. The amending By-law, as shown in Appendix “B” to Report PED18069, restricts the commercial uses to within the existing single detached dwelling which is a one storey bungalow with a Gross Floor Area (GFA) of 95 sq m. Staff note that the amending by-law has provided one additional square metre to allow for flexibility. The amending by-law also restricts the existing floor below grade (basement or cellar) and accessory structure for storage purposes. Accordingly, the proposed uses comply with the Local Commercial uses in Volume 1 of the UHOP, as the uses will operate at a relatively small scale and can operate on the site without external changes to the building. The proposed commercial uses will also serve as a transition from the Commercial Plaza to the west, but at a scale that is compatible with the surrounding residential neighbourhood to the north, south, and east of the subject lands. A building permit will be required for a change in use at which time the applicant will be required to demonstrate conformity with the maximum gross floor area permissions.

Setbacks

The proposed Zoning By-law (see Appendix “B” to Report PED18069) includes a provision to recognize the existing accessory structure’s front, side and rear yard setbacks. This request is based on recognizing the location of the existing accessory structure. As this is an existing situation, staff are of the opinion that the modification is reasonable and can be supported.

Encroachments into Yards

The proposed Zoning By-law (see Appendix “B” to Report PED18069) includes a provision to recognize existing encroachments such as eaves, gutters, porches, and stairs into the required yards for the dwelling and accessory structure. The modification is to recognize the existing structures only, and any new structures would require conformity to the provisions of the By-law. Staff are of the opinion that the modifications are reasonable and can be supported by staff.

Parking

Number of Parking Spaces

The required number of parking spaces for a chiropractic office is one space per 19 sq m. Staff note that this is the most restrictive parking calculation required for the proposed uses under the Zoning By-law. Zoning staff have noted that based on 94.76 sq m of GFA provided within the first storey of the dwelling, the required number of parking spaces is five spaces. The applicant is proposing to provide four parking spaces. Due to the relatively small scale of the dwelling, the reduction of one parking space is considered acceptable as the size and scale of the building will limit the number of patients / clients who can be served. The applicant is providing parking spaces located at the rear of the property, along East 43rd Street, in the existing driveway. Furthermore, the subject lands are located on a Minor Arterial road, which is serviced by the HSR route #21 and having seven day service. Staff are of the opinion that the subject lands can accommodate commercial uses on the site while providing adequate on-site parking and support this modification.

Location of Driveway

The applicant has proposed to provide parking for clients / patients within the existing driveway, which is located at the rear of the property and is accessed from East 43rd Street. The existing home occupation (Chiropractic Office) has been operating on the subject lands since the mid 1950's. Although vehicular access is from the East 43rd Street, clients / patients will not need to travel through the neighbourhood to access the site, and will therefore not create additional traffic. The existing driveway is located 0 m from the property line, separated from the adjacent property by a concrete curb. The driveway is aligned with the existing accessory structure and the requirement for additional landscaping will result in the loss of a parking space and require the widening of the access curb. As the driveway is existing, staff are of the opinion that the modification is reasonable and can be supported.

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Manoeuvring

The applicant has requested that no manoeuvring space be provided for the parking spaces. Staff note that the ingress and egress will function in the same manner as a single detached residential dwelling, with vehicles reversing onto a local road. Due to the small scale nature of the proposal, the removal of manoeuvring space is considered acceptable as the scale and intensity of the use will limit the number of patients / clients who can be served at any given time. Staff are of the opinion that the removal of manoeuvring space will not have a negative impact on traffic movement and support the modification.

3. There are existing services available to the property and no concerns have been identified by Development Engineering staff regarding the proposed uses. Staff note that if the lands are to be redeveloped in the future, the Owner will be required to dedicate to the City of Hamilton a daylight triangle or radius at the intersection of Fennell Avenue East and East 43rd Street.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment Application be denied, the property would remain under the “C” (Urban Protected Residential, etc.) District, and the existing Chiropractic office (medical clinic) would be able to remain as a home occupation only.

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.

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”: Zoning By-law Amendment to By-law No. 6593
- Appendix “C”: Concept Plan
- Appendix “D”: Survey Plan

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