



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	May 15, 2018
SUBJECT/REPORT NO:	Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 157 Gibson Avenue, Hamilton (Ward 3) (PED18101)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Amended Zoning By-law Amendment Application ZAR-17-034 by Andrew Stephen Hibrant and Cassandra Raiven Rizzi, Owners**, for a modification to the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to permit two residential buildings, one containing a duplex and one containing a single detached dwelling on one lot, for lands located at 157 Gibson Avenue, Hamilton, as shown on Appendix “A” to Report PED18101, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED18101, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law attached as Appendix “B” to Report PED18101, be added to District Map No. E21 of Zoning By-law No. 6593;
- (iii) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning;

The Holding Provision “D/S-1760-‘H’” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Holding, Modified, be removed conditional upon:

- (1) That the Owner shall apply for a Building Permit to permit internal renovations to legally establish a duplex and single detached dwelling, to the satisfaction of the City's Chief Building Official;
 - (2) That the Owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner / applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner;
 - (3) That the Owner submits and receives approval of a wastewater generation assessment, to the satisfaction of the Senior Director, Growth Management; and,
 - (4) That the Owner enter into an encroachment agreement with the City of Hamilton to permit the existing building at the rear of the property to encroach into the existing alleyway at the rear of the subject property, to the satisfaction of the Director or Engineering Services, Public Works Department.
- (iv) That the proposed change in zoning 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.

EXECUTIVE SUMMARY

The subject property consists of an existing three storey building at the front of the property that previously containing an illegal four dwelling units but has since been converted to two dwelling units and a two and a half storey building at the rear of the property containing an illegal one dwelling unit and home based businesses.

The purpose and effect of the proposed Zoning By-law Amendment, as amended, to the City of Hamilton Zoning By-law No. 6593 is for a modification to the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to permit two residential buildings, one containing a duplex and one containing a single detached dwelling, on one lot.

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SUBJECT: Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 157 Gibson Avenue, Hamilton (Ward 3) (PED18101) - Page 3 of 24

Modifications to the Zoning By-law are also required for the following:

- to recognize the existing situation with respect to two principal residential buildings on the same lot;
- to recognize the existing situation respecting setbacks, building height, lot size, eave and gutter encroachments, front yard step encroachment, front yard landscaping, and a fire escape;
- to permit reduced on-site manoeuvring;
- to reduce parking space length for one of the proposed parking spaces;
- to restrict a home occupation to a maximum of one home occupation on-site; and,
- to prohibit residential conversions.

Staff amended the proposal to include an 'H' Holding Provision to ensure that the Owner receives the necessary Building Permits, undertakes a noise study and implements any required mitigation measures, provides a wastewater generation assessment, and enter into an encroachment agreement for the encroachment of the existing carriage house into an assumed alleyway located to the rear of the subject lands. The proposed development will be permitted once the Holding Provision is removed by Council.

The application has merit and can be supported since the proposal is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan and the Greater Golden Horseshoe (2017), and complies with the UHOP.

Alternatives for Consideration – See Page 23

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 amendment to the Zoning By-law.

HISTORICAL BACKGROUND

The subject property is located on the west side of Gibson Avenue, between Cannon Street East and Barton Street East. The property is currently occupied by a residential

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building at the front of the property (easterly building) which previously contained four dwelling units but has subsequently been converted to two dwelling units and was constructed around the 1920's, and a carriage house at the rear of the property (westerly building) which contains one dwelling unit and home based businesses, which include a commercial music school and a workshop for a seamstress, and was constructed prior to 1911. There are four angled parking spaces on-site accessed from Gibson Avenue. There is a publically assumed alleyway located to the rear of the subject property however no access is currently provided from the alleyway.

1.0 Zoning Violation

The last recognized use of the property is a single detached dwelling. On October 5, 2015, City inspectors attended the subject property and on October 29, 2015 issued a Zoning Violation notice respecting an illegal conversion. Subsequent to the October 29, 2015 the applicant reduce the number of dwelling units within the front building from four dwelling units to two dwelling units. The application for Formal Consultation, Official Plan Amendment, and Zoning By-law amendment are seeking to de-convert the illegal conversion and permit a reduced number of dwelling units on-site, no other enforcement action has been taken.

2.0 Official Plan and Zoning Applications

Following the Formal Consultation meeting in March 2016, the applicant applied to amend the UHOP and for a change in Zoning. The applications were seeking the following:

- To amend the UHOP to increase the maximum residential density from 60 units per hectare to 75.3 units per hectare;
- To amend the Zoning By-law in order to permit two dwelling units within the existing easterly building and two dwelling units in the existing westerly building; and,
- The proposal included four on-site angular parking spaces;

The proposal, as originally submitted, is shown on Appendix "C" to Report PED18101.

3.0 Amended Zoning Application

To address staff concerns with the intensity of development on-site, the applicant revised the proposal on March 7, 2018, the proposed revisions are as follows:

- Reduction in the number of units in the westerly building from two to one to permit a total of three dwelling units on-site;

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SUBJECT: Application for Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 157 Gibson Avenue, Hamilton (Ward 3) (PED18101) - Page 5 of 24

- Re-orientation of the on-site parking to create three perpendicular parking spaces and one angular parking space;
- Permit the three perpendicular parking spaces to exit on to Gibson Avenue in a forward manner;
- Increase the minimum width of the four parking spaces to conform to the By-law,
- Increase the length of three of the parking spaces to conform to the By-law; and,
- Increase the minimum manoeuvring space depth for three of the parking spaces to conform to the By-law;

The proposal is shown on Appendix “D” to Report PED18101.

The revision from four dwelling units to three dwelling units reduces the maximum residential density of the proposed development from 75.3 units per hectare to 56.4 units per hectare, thereby bringing the proposed development into conformity with the low density residential policies of the UHOP. As a result, an Official Plan Amendment is no longer required and has been withdrawn.

The amended Zoning By-law Amendment will ensure that the subject property can only be used for a duplex and single detached dwelling within the existing buildings along with the range of uses permitted in the “D” (Urban Protected Residential – One and Two Family Dwelling, etc.) District. The proposed Zoning By-law Amendment also includes modifications to the Zoning By-law for the following:

- to recognize the existing situation with respect to two principal residential buildings on the same lot;
- to recognize the existing situation respecting setbacks, building height, lot size, eave and gutter encroachments, front yard step encroachment, front yard landscaping, and a fire escape;
- to permit reduced on-site manoeuvring;
- to reduce parking space length;
- to restrict a home occupation to a maximum of one home occupation on-site; and,
- to prohibit residential conversions under Section 19 of the Zoning By-law.

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Chronology

- March 23, 2017: Applications for Official Plan Amendment UHOPA-17-17 and Zoning By-law Amendment Application ZAR-17-034 were received.
- April 20, 2017: Applications UHOPA-17-17 and ZAR-17-034 deemed complete.
- May 12, 2017: Notice of Complete Application and Preliminary Circulation was sent to 262 property owners within 120 m of the subject lands.
- August 3, 2017: Public Notice Sign posted on the subject lands.
- August 9, 2017: Information letter mailed to all residents within 120 m of the subject property by the applicant.
- March 7, 2018: Revised concept plan submitted by the applicant.
- April 18, 2018: Public Notice Sign updated with Public Meeting date.
- April 27, 2018: Circulation of the Notice of Public Meeting to 262 property owners within 120 m of the subject lands.

Details of Submitted Application:

- Location:** 157 Gibson Avenue, Hamilton
- Owner / Applicant:** Andrew Stephen Hibrant and Cassandra Raiven Rizzi
- Agent:** A.J. Clarke and Associates Ltd. (c/o Franz Kloibhofer)
- Property Description:**
- | | |
|----------------------|----------------------------------|
| <u>Lot Frontage:</u> | 16.9 m |
| <u>Lot Depth:</u> | 31.7 m |
| <u>Lot Area:</u> | 531.6 sq m |
| <u>Servicing:</u> | Existing Full Municipal Services |

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single Detached Dwelling	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District

Surrounding Land Uses:

North	Single Detached Dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District
South	Single Detached Dwelling	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District
East	Single Detached Dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District
West	Single Detached and Semi Detached Dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District

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, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis provided below.

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Staff note the Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS (2014). The following policy of the PPS (2014) also applies:

“2.6.1 Significant build heritage resources and significant cultural heritage landscapes shall be conserved.”

Although the subject property is not formally recognized under the *Ontario Heritage Act* through registration or designation, the existing easterly building is an Edwardian style dwelling constructed in yellow brick, which is uncommon in respect to Hamilton style of architecture from around 1920, while the existing westerly building is constructed of concrete blocks and predates 1911. Therefore, the property is of potential cultural heritage value. Staff do have an interest in ensuring any proposed changes are sympathetic to the historical character of the building and are contextually appropriate. As the proposal is to permit a duplex and single detached dwelling within the existing buildings with no external changes, staff are satisfied that the heritage attributes of the heritage property are being conserved.

As the application for a change in zoning 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.

Growth Plan for the Greater Golden Horseshoe (2017)

The Growth Plan is focused on accommodating forecasted growth in complete communities and provides policies on managing growth. The following policies, amongst others, apply:

- “2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:
- a) The vast majority of growth will be directed to *settlement areas* that:
 - i. have a *delineated built boundary*;
 - ii. have existing or planned *municipal water and wastewater systems*; and,
 - iii. can support the achievement of complete communities.

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- 2.2.1.4 Applying the policies of this Plan will support the achievement of *complete communities* that:
- a) feature a diverse mix of land uses, including residential and employment uses, convenient access to local stores, services, and *public service facilities*;
 - c) provide a diverse range and mix of housing options, including second units and *affordable* housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes; and,
 - d) expand convenient access to:
 - i. a range of transportation options, including options for the safe, comfortable and convenient use of *active transportation*;
- 2.2.2.1 By the year 2031, and for each year thereafter, a minimum of 60% of all residential development occurring annually within each upper- or single-tier municipality will be within the *delineated built-up area*.”

The subject application is to permit two residential buildings on the same lot (a duplex and the conversion of the “coach house” to a dwelling unit) on the same lot within a settlement area. The proposed residential units will enhance the housing options and the proposal is in keeping with the existing residential character of the neighbourhood as no external renovations are proposed. The proposed development supports the achievement of complete communities by proposing a residential development that utilizes existing infrastructure including transit. Also, the subject application contributes to intensification within the delineated built-up area. Therefore, the proposal conforms to the Growth Plan.

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations. The following policies, amongst others, apply to the proposal.

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.

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- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E -1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and *housing with supports*.

Scale and Design

- E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.
- E.3.2.13 The City supports *residential intensification* on lands within the Neighbourhoods designation in accordance with Section B.2.4 – Residential Intensification Policies, F.1.14 – Division of Land, and other applicable policies.”

The proposed development is to permit two residential buildings, one containing a duplex and the other a single detached dwelling, within the existing buildings on the same lot. This will form part of the complete community and will contribute to a full range of residential dwelling types and densities (Policies E.3.2.1 and E.3.2.3). As the buildings are existing, the proposal does not change the existing streetscape character of the area and therefore the character of the area is maintained. The existing buildings have a height of three storeys and two and a half storeys, which is similar to the existing two and a half storey buildings to the north and south. Additionally, it is noted that the current zoning provisions of the “D” District permit a height of three storeys and therefore the existing buildings conform the height provisions of the By-law. Therefore, the proposal is compatible with the scale and character of the existing residential neighbourhood (Policy E.3.2.4) and supports appropriate residential intensification from the last recognized use of a single detached dwelling (Policy E.3.2.13) as discussed in greater detail under the Residential Intensification policies below.

Residential Uses – General Policies

- “E.3.3.1 Lower density residential uses and building forms shall generally be located in the interior of neighbourhood areas with high density dwelling forms and supporting uses located on the periphery of the neighbourhoods on or in close proximity to major or minor arterial roads.

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E.3.3.2 Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area.”

The subject property is located in the interior of the neighbourhood on a local road and therefore low density residential uses are appropriate for the area. As the proposal is to permit a duplex and single detached dwelling within existing buildings on the same lot, the height, massing and arrangement of the buildings will be maintained and are compatible with existing and future uses in the area.

Low Density Residential

Function

“E.3.4.1 The preferred location for low density residential uses is within the interior of neighbourhoods.

E.3.4.2 Low density residential areas are characterized by lower profile, grade-oriented built forms that generally have direct access to each unit at grade.

E.3.4.3 Uses permitted in low density residential areas include single detached, semi detached, duplex, triplex, and street townhouse dwellings.”

The use of a duplex and a single detached dwelling represent permitted uses for low density residential lands and, as previously noted, the subject property is located within the interior of the neighbourhood. The existing three storey and two and a half storey buildings represent low profile forms of development and all three units have access at grade.

Scale

“E.3.4.4 For low density residential areas the maximum net residential density shall be 60 units per hectare.

E.3.4.5 For low density residential areas, the maximum height shall be three storeys.”

The proposed duplex and single detached dwelling have a residential density of 56.4 units per net hectare and the existing buildings will maintain a height of two and a half storeys and three storeys and comply with policies E.3.4.4 and E.3.4.5.

Design

“E.3.4.6 Development in areas dominated by low density residential uses shall be designed in accordance with the following criteria:

- a) Direct access from lots to adjacent major or minor arterial roads shall be discouraged.
- c) A mix of lot widths and sizes compatible with streetscape character; and a mix of dwelling unit types and sizes compatible in exterior design, including character, scale, appearance and design features; shall be encouraged. Development shall be subject to the Zoning By-law regulations for appropriate minimum lot widths and areas, yards, heights, and other zoning regulations to ensure compatibility.”

The existing property has access from a local road and therefore does not have direct access to a major or minor arterial road. The subject property is an existing lot of record and therefore the lot size will not be changed by way of this application. Also the exterior design and placement of the buildings will not change as a result of the proposal, and the proposal will contribute to the mix of dwelling unit types in the area. The proposed Zoning By-law Amendment will establish zoning regulations to recognize the two existing buildings which are compatible with the character of the area. Therefore, the proposed development complies with the low density residential policies with respect to design.

Residential Intensification

“B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g) as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

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- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.”

While three units currently exist on the property, this was done illegally. The proposal is to increase the number of units on the site from the last recognized use of a single detached dwelling to three units (Policy B.2.4.1.1). As the proposal is to maintain the existing buildings, the existing pattern and built form will be maintained (Policy B.2.4.1.4 b)). The proposal contributes to achieving a range of dwelling types and tenures in the area (Policy B.2.4.1.4 c)), and the scale, form and character of the existing buildings will remain compatible with the surrounding area (Policy B.2.4.1.4 d)). Also the proposed development is in line with the urban structure for lands identified as Neighbourhoods (Policy B.2.4.1.4 e)) and has adequate infrastructure (subject to a Holding Provision respecting wastewater generation) and transportation capacity to meet the needs of the proposed development (Policy B.2.4.1.4 f)).

“B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;

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- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts."

The proposal does not alter the existing streetscape character in respect to height, massing and scale, nor change the existing established pattern and built form as no exterior changes to the existing buildings are proposed (Policies B.2.4.2.2 c) and d)). As a result, there will be no change with respect to shadowing, overlook, noise or lighting, and the two additional dwelling units will not significantly alter the traffic demand for the property (Policy B.2.4.2.2 b)). Based on discussions between staff and the applicant, the parking layout was revised. The revised layout improves the functionality of the parking area by increasing the size of the parking space, and improving the manoeuvrability and having only one parking space reverse onto Gibson Avenue.

The subject property currently maintains amenity space in the form of front and rear porches for the existing easterly building and a second storey deck on the southerly side of the existing westerly building. Also, there is an existing park within 300 m of the subject property, therefore adequate private and public amenity space is being provided (Policy B.2.4.2.2 f)). The proposal does not alter the existing lot pattern, setbacks or building separations (Policy B.2.4.2.2 e) and g)) and adaptively re-uses buildings with potential cultural heritage interest (Policy B.2.4.2.2 i)). Finally the property has access to adequate municipal infrastructure (subject to a Holding Provision respecting wastewater generation) and utilizes existing transportation capacity from Gibson Avenue (Policy B.2.4.2.2 j)).

Noise

"B.3.6.3.1 *Development of noise sensitive land uses*, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable provincial and municipal guidelines and standards.

B.3.6.3.7 A noise feasibility study, or detailed noise study, or both, shall be submitted as determined by the City prior to or at the time of application submission, for development of residential or other noise sensitive land uses on lands in the following locations:

- a) 100 metres of a minor arterial road, as identified on Schedule C – Functional Road Classification."

The subject property is located approximately 35 m from Birch Avenue and 64 m from Barton Street East, which are both classified as minor arterial roads in the UHOP. While the existing buildings are shielded from these potential noise sources by existing buildings, a noise study should be undertaken in order to identify noise impacts on the subject lands and any mitigation measures, including any required noise warning clauses, to be implemented. In order to ensure that a noise study is undertaken and any required mitigation measures implemented, staff amended the application to include an 'H' Holding Provision as part of the Zoning By-law Amendment, which will include a condition that requires that a noise study be undertaken and that any noise mitigation measures be implemented, to the satisfaction of the Director of Planning and Chief Planner.

Infrastructure

- "C.5.3.5 All new *development* and *redevelopment* within the *urban area* shall be connected to the City's water and wastewater system.
- C.5.3.11 The City shall ensure that any change in density can be accommodated within the municipal water and wastewater system.
- C.5.3.15 The City shall be satisfied that adequate infrastructure services can be provided prior to any *development* or intensification proceeding and, where technically and economically possible, the City shall require such services to be located underground."

There are existing water and wastewater services available to meet the servicing needs and all dwelling units will be connected to the City's water and wastewater system. The applicant is required to provide a wastewater generation assessment for the westerly building to establish an equivalent population density for City records. As a result, staff amended the application to include an 'H' Holding Provision as part of the Zoning By-law Amendment, with a condition that requires that the applicant submit a wastewater generation assessment, to the satisfaction of the Senior Director, Growth Management Division.

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

Gibson Neighbourhood Plan

The subject property is designated "Single and Double" in the Gibson Neighbourhood Plan. The proposed duplex and single detached dwelling are permitted within the "Single and Double" designation, therefore the proposal conforms to the Gibson Neighbourhood Plan.

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City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, which permits single detached dwellings, semi-detached dwellings, and duplexes, but does not permit a duplex and a single detached dwelling together on the same lot. The proposal is to modify the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District in order to permit a duplex and a single detached dwelling on the same lot within the buildings existing on the date of the passing of the By-law.

The proposed Zoning By-law Amendment also includes modifications to the Zoning By-law for the following:

- to recognize the existing situation with respect to two principal residential buildings on the same lot;
- to recognize the existing situation respecting setbacks, building height, lot size, eave and gutter encroachments, front yard step encroachment, front yard landscaping, and a fire escape;
- to permit reduced on-site manoeuvring for one of the required parking spaces;
- to reduce parking space length for one of the required parking spaces;
- to restrict a home occupation to a maximum of one home occupation on-site; and,
- to prohibit residential conversions under Section 19 of the Zoning By-law.

RELEVANT CONSULTATION

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

- Recreation Division, Community and Emergency Services Department;
- Strategic Planning, Public Works Department;
- Transportation Planning, Public Works Department;
- Operations Division, Public Works Department;
- Hamilton Light Rail Transit; and,
- Alectra Utilities (formerly Horizon Utilities).

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

Corridor Management, Public Works Department staff advised that there is no encroachment agreement to permit the westerly building to encroach onto the alleyway located to the rear of the subject property, and that an encroachment agreement will need to be completed. Planning staff are addressing the requirement for an encroachment agreement by way of a condition of lifting the 'H' Holding Provision.

Forestry and Horticulture Section, Public Works Department staff noted that there are no municipal tree conflicts, therefore no Tree Management Plan or Landscape Plan is required and Forestry and Horticulture staff have no concerns.

Public Consultation:

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation was circulated to 262 property owners within 120 m of the subject lands on May 12, 2017 requesting public input on the application. A Public Notice sign was also posted on the property on August 3, 2017 and updated on April 18, 2018 with the date of the Public Meeting.

Notice of the Public Meeting was also given in accordance with the requirements of the *Planning Act*, through the circulation to property owners within 120 m of the subject lands. At the time of the writing of this Report, no letters of correspondence have been received.

Public Consultation Strategy

The applicant engaged in a Public Consultation Strategy that consisted of sending a mail-out to residents within 120 m of the subject lands on August 9, 2017 to inform them about the development and to solicit comments from recipients. In response to the mail-out to the residents, one phone call in support was received by the applicant.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

- 1) The proposal as amended, has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS and conforms to the Growth Plan for the Greater Golden Horseshoe (2017);
 - ii) It complies with the policies of the Urban Hamilton Official Plan; and,

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- iii) The existing buildings form part of the existing character of the area, are of a size and scale that is compatible with other buildings in the area, and the proposal represents good planning.

2) **Zoning By-law Amendment**

The application for Zoning By-law Amendment is to modify the zoning from the “D” (Urban Protected Residential – One and Two Family Dwelling, etc.) District, Modified, to the “D/S-1760 – ‘H’” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Holding, Modified.

It is noted that a duplex is defined as a two family dwelling and a single detached dwelling is defined as a single family dwelling in the City of Hamilton Zoning By-law No. 6593.

Maximum Number of Residential Buildings on One Lot

The intent of the Zoning By-law Amendment is to permit two principal residential buildings on the same property consisting of a duplex within the easterly building, and a single detached dwelling within the westerly building.

The two principal residential buildings on the same property will only be permitted within the buildings existing on the date of the passing of the By-law. By restricting the use of a duplex and single detached dwelling on the same lot to the buildings existing on the date of the passing of the By-law, any future development would continue to be subject to the By-law requirements of the “D” District.

The proposed change in zoning will not permit more than three dwelling units on the subject property and will maintain the existing buildings that form part of the character of the area. The proposal constitutes a reduction in the intensity of the use of the lands from the illegal five dwelling units and home based business that are currently operating on-site. In respect to the last recognized use of a single detached dwelling, the proposed Zoning By-law Amendment represents an increase in the number of dwelling units within the existing buildings and therefore complies with the policies that encourage residential intensification throughout the built-up area.

Therefore, the proposed change in zoning is supported by staff.

Additionally, the following site specific modifications to the Zoning By-law No. 6593 are required to implement the proposal:

Lot Dimensions, Building Height and Setbacks

The site specific By-law permits a duplex and single detached dwelling on the same lot within the buildings existing on the date of the passing of the By-law.

While a duplex and single detached dwelling are permitted uses within the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, these uses are not permitted together on the same lot and as such, there are no minimum lot width and area requirements that would apply in this instance. Therefore a modification to permit a minimum lot width of 16.9 m and a minimum lot area of 520 sq m in order to recognize the existing lot is required. Furthermore, the proposed duplex and single detached dwelling are restricted to the buildings existing on the date of the passing of the By-law. A modification is also required to recognize the existing height of the buildings as three storey for the easterly building and two and a half storeys for the westerly building.

The existing setbacks of the buildings will be applied. In respect to the setback of the easterly building the existing front yard depth is 3.76 m and southerly side yard width is 0.93 m and do not conform to the setback requirements of the Zoning By-law. The northerly side yard width and rear yard depth conform to the setback requirements of the Zoning By-law. In respect to the westerly building the existing rear yard depth is 0 m and northerly side yard width is 0.1 m and do not conform to the setback requirements of the Zoning By-law. The southerly side yard width and front yard depths conform to the requirements of the Zoning By-law.

Therefore, the site specific Zoning By-law will recognize the existing lot dimensions of the subject property and the building height and setbacks of the existing buildings. Given that the existing buildings will remain unchanged, the existing streetscape character of the area will be maintained. Therefore, the proposed modifications can be supported.

Encroachments

The existing eaves and gutters on the north side of the westerly building (single detached dwelling) do not conform to the maximum side yard encroachment of not more than half the required side yard or 1 m whichever is lesser, nor do the existing eaves and gutters at the rear of the westerly building conform to the maximum rear yard encroachment of not more than 1.5 m.

The existing fire escape on the south side of the easterly building (duplex) does not conform to the maximum side yard encroachment of not more than one-third of its width or 1.0 m whichever is lesser. A modification for a maximum encroachment of 0.9 m for a fire escape will recognize the existing fire escape as

well as permit the fire escape to be replaced with a new fire escape should the existing fire escape not meet building code requirements.

The existing front stairs of the easterly building (duplex) does not conform to the minimum distance of 1.5 m from the front lot line.

The modifications are to recognize the existing situation with respect to the eaves and gutters for the westerly building which has existed at its current location for over a century and to recognize the existing situation with respect to the steps at the front of the easterly building which have exist for nearly a century.

The modification in respect to the fire escape on the south side of the easterly building is to recognize the existing situation, as well as to permit the fire escape to be replaced with a new fire escape should the existing fire escape not meet building code requirements. The proposed 0.9 m maximum encroachment will permit the existing fire escape to be maintained or allow a new fire escape to be established in its place. As a fire escape has existed on the south side of the building for nearly a century the proposed modification will not change the character of the area or create negative impacts on adjacent lands.

As the modifications are to recognize the existing eaves and gutters and the existing front steps, and as the proposal is to permit a fire escape on the south side of the existing building, the proposed modifications can be supported.

Minimum Front Yard Landscaping

A minimum of 50% of the front yard is required to be landscaped whereas 22% is currently being provided.

A minimum of 50% front yard landscaping is required in order to maintain the streetscape character of the area. The front yard consists of 22% landscaped area, which represents an existing situation that will not change as a result of the proposal. As the proposed modification is to recognize an existing situation, the modification can be supported.

Minimum On-site Manoeuvring Space

A minimum on-site manoeuvring space aisle width of 6.0 m is required whereas 3.0 m is proposed. The proposed modification is in respect to only one of the on-site parking spaces, specifically the parking space that is located closest to Gibson Avenue and would not apply to the remaining three parking spaces which are located towards the rear of the property in front of the westerly building. This

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constitutes an improvement over the existing situation in which all four parking spaces have reduced manoeuvring space.

A minimum manoeuvring space width of 6 m is required in order to access the parking spaces without creating traffic conflicts. The one parking space with a reduced on-site manoeuvring space is an angled parking space located close to Gibson Avenue. Ingress to the parking space will be in a forward manner while egress from the parking space will involve reversing out of the space to Gibson Avenue. A distance of greater than 6 m currently exists between the parking space and the municipal sidewalk and therefore adequate manoeuvring space exists between the parking space and the travelled portion of the City's right-of-way which will maintain public safety. The parking space will, therefore, maintain adequate means of ingress and egress in which to access the parking space without creating traffic conflicts.

Therefore, the proposed modification can be supported.

Minimum Parking Space Size

A minimum parking space of 2.7 m by 5.5 m is proposed for one of the four parking spaces whereas a minimum size of 2.7 m by 6.0 m is required. This constitutes an improvement over the existing situation in which all four parking spaces had deficiencies in respect to both width and length.

A minimum parking space size of 2.7 m by 6.0 m is required in order to ensure that parking is of an adequate size to accommodate a wide variety of different types of vehicles. All the proposed parking spaces conform to the minimum 2.7 m parking space width and therefore no modification is required in respect to parking space width. In respect to length, the majority of the on-site parking spaces will conform to the minimum parking space length of 6.0 m with only one of the spaces having a length of 5.5 m. A parking space with a length of 5.5 m will be able to accommodate a range of smaller types of vehicles while the remaining 6.0 m long parking spaces will be able to accommodate larger vehicles. Therefore, the proposed modification can be supported.

Restriction on Home Occupation

Section 2 (2) (H) iii) of the Zoning By-law outlines the provisions respecting a home occupation. It is noted that previous home occupations were operating in the westerly building. The provisions for home occupation specify that a home occupation can only operate in the dwelling unit however as both the easterly and westerly buildings contain dwelling units, it is possible that a home occupation could operate from both buildings. However, the operation of multiple home

occupations along with the three dwelling units would represent an over intensification of the site and therefore staff amended the application to limit the number of home occupations to a maximum of one on the subject property. As the modification is to implement the proposal, the proposed modification can be supported.

Prohibit Residential Conversion

Section 19 of Zoning By-law No. 6593 permits the residential conversion of a single detached dwelling to contain not more than two dwelling units. As such if the amending By-law does not prohibit residential conversion then the proposed single detached dwelling could be converted under Section 19 to contain two dwelling units, and thereby establish a total of four dwelling units on the subject property. A modification is therefore required to ensure that additional conversions under Section 19 do not occur. Staff are supportive of the modification.

3. In order to ensure that the four dwelling units within the easterly building and the one dwelling unit and home based business in the westerly building are legally replaced with a duplex and a single detached dwelling respectively, staff are placing an 'H' Holding Provision on the subject lands to ensure that Building Permits are applied for. The Building Permits and subsequent inspection would ensure that the additional dwelling units are removed and ensure that the duplex and single detached dwelling are legally established.

In addition, staff are placing an 'H' Holding Provision on the subject lands to ensure that a noise study is undertaken and that all mitigation measures have been implemented. This is being undertaken in order to ensure that the dwelling units conform to the Municipality's and the Ministry of the Environment and Climate Change noise criteria.

Furthermore, staff are also placing an 'H' Holding Provision on the subject lands to ensure that a wastewater generation assessment is completed. This is being required in order to ensure that wastewater generation in respect to total flows is properly calculated for City records.

Finally, staff are also placing an 'H' Holding Provision on the subject lands to ensure that an encroachment agreement is completed. This is required in order to permit the existing westerly building to be located on the existing alleyway located to the rear of the subject property.

4. Growth Management staff reviewed the Zoning By-law Amendment Application and advised that there is a 150 mm diameter watermain, a 375 mm diameter

sanitary sewer and 650 mm diameter storm sewer fronting the subject property on Gibson Avenue. Wastewater from the existing residential building with three self-contained units is being collected by the combined sewer on Gibson Avenue dated 1918, which is deemed adequate by virtue of overflows from the combined sewer to a storm relief sewer constructed circa 1982.

The applicant will be required to provide a wastewater generation assessment for the westerly building using Part 8 of the latest edition of the Code and Guide for Sewer Systems to establish an equivalent population density for City records. The submission of the wastewater generation assessment is being undertaken as a condition of lifting the 'H' Holding Provision.

In respect to water servicing based on a review of available flows within the municipal system and the approximate needs for this application, it has been determined that there are sufficient flows available within the municipal system to meet the needs of the proposed development.

As the current proposal does not involve external changes to the building nor any changes in respect to hard servicing, and as existing lateral servicing connections will not be changed as a result of this development, Growth Management staff have no concern with respect to Stormwater Management.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the subject property would remain zoned "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, in the City of Hamilton By-law No. 6593, and would be subject to the provisions of the "D" District. Furthermore the applicant would be required to bring the subject property into conformity with the provisions of the "D" District and would be required to discontinue the four dwelling units within the easterly building and one dwelling unit in the westerly building, and only use the subject property for the range of uses permitted in the "D" District.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

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Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft Amendment to Zoning By-law No. 6593
- Appendix "C": Original Concept Plan
- Appendix "D": Revised Concept Plan