



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 10, 2018
<b>SUBJECT/REPORT NO:</b>	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 21 Mill Street North, Flamborough (PED18145) (Ward 15)
<b>WARD AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Alaina Baldassarra (905) 546-2424 Ext. 7421
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Amended Zoning By-law Amendment Application ZAR-18-011 by 2570850 Ontario Inc. c/o Scott Birmingham (Owner)**, for a modification to the Neighbourhood Institutional (I1) Zone to permit an office use for the lands located at 21 Mill Street North (Flamborough), as shown on Appendix “A” to Report PED18145 be **APPROVED** on the following basis:
- (i) That the Draft By-law, attached as Appendix “B” to Report PED18145, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed modification in zoning is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and complies with the Urban Hamilton Official Plan.
- (b) That approval be given for a modification to the Mixed Use Medium Density - Pedestrian Focus (C5a) Zone to the Mixed Use Medium Density – Pedestrian Focus (C5a, 695) Zone, to permit the redevelopment of the existing building for an office use, for the lands located at 21 Mill Street North (Flamborough), as shown on Appendix “A” to Report PED18145 be **APPROVED** on the following basis:

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- (i) That the Draft By-law, attached as Appendix “C” to Report PED18145, be held in abeyance until such time as By-law 17-240 (Commercial and Mixed Use Zones) is in force and effect; and,
- (ii) That staff be directed to bring forward the draft By-law, attached as Appendix “C” to Report PED18145, for enactment by City Council, once By-law No. 17-240 is in force and effect.

## **EXECUTIVE SUMMARY**

The owner has applied for a Zoning By-law Amendment for a modification to the Neighbourhood Institutional (I1) Zone to permit an office use in an existing building. The subject lands are included in the City Initiated Commercial and Mixed Use Zoning and are proposed to be zoned in By-law 17-240 as Mixed Use Medium Density - Pedestrian Focus (C5a) Zone. The proposal complies with the new (C5a) Zone, except for the size of the parking stalls and the aisle width abutting a public laneway. As such, staff are recommending that the (C5a) Zone be amended to implement the redevelopment proposal.

The application has merit and can be supported because it 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 and complementary to the existing and planned development in the immediate area, represents good planning by making efficient use of an existing historical building and supports the local economy in Waterdown.

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

## **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 an amendment to the Zoning By-law.

## **HISTORICAL BACKGROUND**

The subject site, 1,461 sq m in area, is located north of the intersection of Dundas Street East and Mill Street North, on the west side of Mill Street North, and known

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municipally as 21 Mill Street North (see Location Map attached as Appendix “A” to Report PED18145).

The subject site is located within the Mill Street Conservation Heritage District and designated under Part V of the *Ontario Heritage Act*. The existing building on the subject site is currently vacant, and the previous use of the building was for a day care. The property has frontage and vehicular access on Mill Street North and from the alleyway to the side.

The proposal is to modify the Neighbourhood Institutional (I1) zone to permit an office use within the existing building and recognize the setbacks of the existing building. The proposed Zoning By-law Amendment Application as submitted requested modifications to the Zoning By-law requirements to remove the required planting strip located in front of the parking area and permit a parking space within 0.2 m from the property line. The applicant will be meeting these zoning requirements and as such these modifications are no longer required. The applicant has also requested that the two small parking spaces at the south west portion of the subject lands be recognized, however, staff do not support the requested modification.

The subject lands were included in the new city-initiated Commercial and Mixed Use zoning which was passed on November 8, 2017 by Council (By-law 17-240). The Commercial and Mixed Use Zones were appealed to the Local Planning Appeal Tribunal (LPAT), and accordingly, are not final and binding. A By-law has been prepared to modify the (C5a) zoning to implement the proposal. The draft By-law modifies the required parking stall size and required drive aisle width when abutting a public laneway to recognize the existing situation on-site.

**Chronology:**

December 22, 2017: Zoning By-law Amendment Application ZAC-18-011 received.

January 18, 2018: Zoning By-law Amendment Application ZAC-18-011 deemed complete.

February 6, 2018: A Public Notice sign was posted on the subject property.

March 16, 2018: Notice of Complete Application and Preliminary Circulation was sent to 188 property owners within 120 m of the subject property.

June 13, 2018: Public Notice sign updated to reflect the date of Public Meeting.

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June 22, 2018: Circulation of Notice of Public Meeting to 188 property owners within 120 m of the subject property.

**Details of Submitted Application:**

**Location:** 21 Mill Street North, Flamborough

**Owner / Applicant:** 2570850 Ontario Inc. c/o Scott Birmingham

**Agent:** A.J. Clarke and Associates c/o Franz Kloibhofer

**Property Description:**

<u>Lot Frontage:</u>	36 m
<u>Lot Depth:</u>	40 m
<u>Lot Area:</u>	1,461 sq m
<u>Servicing:</u>	Existing Full Municipal Services

**Existing Land Use and Zoning:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b>Subject Lands:</b>	Currently Vacant (formerly a Day Care)	Neighbourhood Institutional (I1) Zone
<b>Surrounding Lands:</b>		
<b>North</b>	Commercial uses such as a library and office use	Business District (BD) Zone
<b>East</b>	Commercial uses such as retail, medical uses	Business District (BD) Zone
<b>South</b>	Commercial uses such as retail, restaurants, banks	Business District (BD) Zone
<b>West</b>	Commercial uses such as retail, restaurants	Business District (BD) Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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.

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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.

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 built heritage resources and significant cultural heritage landscapes shall be conserved.”

The existing building on the subject property was constructed in 1865 as the Wesleyan Methodist Church (and later Waterdown Alliance Church). The subject property is located within the Mill Street Heritage Conservation District and designated under Part V of the *Ontario Heritage Act* (By-law No. 96-34-H). Where new construction and/or alterations or additions to existing structures are proposed in a Heritage Conservation District, key consideration is given to the visual and physical impacts on the built fabric, landscape features, and the wider public realm.

The proponent proposes to use the existing building for office uses and reconfigure the interior layout. Additionally, the applicant proposes a minor change to the exterior of the property to remove the current playground structure and replace with additional parking spaces. There are no changes proposed to the building exterior that have been noted. Therefore, the building will be conserved. Notwithstanding that the interior is not protected under the subject property’s Heritage Designation By-law, staff encouraged the applicant to consider incorporating reusable interior heritage features into the proposed new layout, if possible. A heritage permit will be required for any exterior modifications.

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*;
- Consistent with the Provincial Policy Statement; and,
- Consistent with the Growth Plan for the Greater Golden Horseshoe (2017).

**Urban Hamilton Official Plan (UHOP)**

The subject lands are identified as a “Community Node” on Schedule “E” – Urban Structure and designated “Mixed Use – Medium Density (Pedestrian Predominant)” on Schedule “E-1” – Urban Land Use Designations.

The following policies, amongst others, apply.

- “B.3.4.1.4 Encourage the rehabilitation, renovation, and restoration of built heritage resources in order that they remain in active use.
- B.3.4.2.1 The City of Hamilton shall, in partnership with others where appropriate:
- h) *Conserve* the character of areas of cultural heritage significance, including designated heritage conservation districts and *cultural heritage landscapes*, by encouraging those land uses, development and *site alteration* activities that protect, maintain and enhance these areas within the City.”

As discussed in the Provincial Planning policy section, the built Cultural Heritage concerns have been satisfactorily addressed.

- “E.4.6.3 Newer areas designated Mixed Use - Medium Density shall evolve over time into compact, mixed use people places where people can live, work, and shop.
- E.4.6.4 It is also the function of areas designated Mixed Use - Medium Density to serve as vibrant people places with increased day and night activity through the introduction of residential development. Residential development enhances the function of these areas as transit supportive nodes and corridors.
- E.4.6.5 The following uses shall be permitted on lands designated Mixed Use - Medium Density on Schedule E-1 – Urban Land Use Designations:
- a) commercial uses such as retail stores, *auto and home centres*, *home improvement supply stores*, offices, medical clinics, personal services, financial establishments, live-work units, artist studios, restaurants, gas bars, and drive-through facilities;
  - b) Notwithstanding Policy E.4.6.5 a), drive-through facilities on pedestrian predominant focus streets shall only be permitted in accordance with Section E.4.6.29 and all other applicable policies of this Plan.”

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E.4.6.10 Permitted uses shall be located in single or mixed use buildings.”

The owner is requesting to modify the current zoning to permit an office use on the subject lands. An office is a permitted use in the Mixed Use Medium Density designation. The office use will be located within the existing 606 m<sup>2</sup> heritage building on the subject property. As noted above, no exterior alterations are proposed to the building and minor modifications are proposed to the parking area. The applicant is proposing to remove the existing outdoor play area and replace it with additional parking spaces. The policies permit an office use in a mixed use area to promote the creation of a complete community. The subject property is located in close proximity to retail uses, restaurants, medical clinics and residential uses on the periphery of the mixed use medium density node. In addition, the additional office use contributes to the mix of uses in the area while maintaining the current institutional uses permitted on the subject lands and is compatible with the adjacent uses. Therefore, the proposal complies with the Urban Hamilton Official Plan.

**Hamilton Zoning By-law No. 05-200**

The subject property is currently zoned Neighbourhood Institutional (I1) Zone which permits Community Garden, Day Nursery, Educational Establishment, Emergency Shelter, Museum, Place of Worship, Residential Care Facility, Retirement Home, a range of residential uses and Urban Farm.

The proposal requires modifications to the Neighbourhood Institutional (I1) Zone in order to permit an Office use whereas the By-law does not permit an Office use and recognize the existing setbacks for the existing building.

New Commercial and Mixed Use (CMU) Zones in the Zoning By-law No. 05-200 have been Council adopted but are appealed to the Local Planning Appeal Tribunal. The subject lands are zoned Mixed Use Medium Density - Pedestrian Focus (C5a) Zone in the new Commercial and Mixed Use Zones. The proposed use is permitted as-of-right in the new zoning. In anticipation of the resolution at the Local Planning Appeal Tribunal, a By-law has been prepared with this report (see Appendix “C” to Report PED18145) for a change in zoning from Mixed Use Medium Density – Pedestrian Focus (C5a) zone to the Mixed Use Medium Density – Pedestrian Focus (C5a, 695) Zone. The draft by-law will be held in abeyance until the CMU Zones are in force and effect, at which time the by-law will be brought forward to City Council for enactment. An analysis of the site specific modifications is included in the Analysis and Rationale for Recommendation section below.

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## **RELEVANT CONSULTATION**

The following Departments/Agencies have no comments or objections:

- Operations Support, Public Works Department;
- Strategic Planning, Public Works Department;
- Niagara Escarpment Commission;
- Horizon Utilities;
- Forestry and Horticulture Section, Public Works Department; and,
- Halton Conservation Authority.

The following Department provided comments on the application:

**Transportation Planning, Planning and Economic Development Department** has advised that the owner is to consider the requirements of the Council Approved Pedestrian Mobility Plan including considering the needs of Pedestrians with disabilities and buffered sidewalks. As well, for information purposes, the applicant is advised that Mill Street North has bike lanes and the owner should consider the requirements of the Aldershot Master Plan.

### **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 188 property owners within 120 m of the subject property on March 16, 2018, for the proposed Zoning By-law Amendment application.

To date, one letter of correspondence has been received from the public through this circulation (see Appendix “E” to Report PED18145) and is summarized in the Analysis and Rationale section.

A Public Notice Sign was posted on the property on February 6, 2018 and updated on June 13, 2018, with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on June 22, 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 mail out an information letter to the surrounding neighbours in addition to requirements of the *Planning Act*. The agent has confirmed that the letters were mailed out to the surrounding neighbours and the City received a copy of the mail out. As a result of the mail out, the agent has advised that they have had further consultation with interested property owners. To

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date, the City has not received any letters or correspondence as a result of the applicant initiated community 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 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;
  - iii) The proposal provides for the sympathetic adaptive reuse of a designated heritage building; and,
  - iv) The existing building forms part of the existing character of the area, the proposed use is compatible with other uses in the area and represents good planning.
2. **Zoning By-law Amendment**

The application for a Zoning By-Law Amendment is to change the zoning from Neighbourhood Institutional (I1) Zone to Neighbourhood Institutional (I1, 694) Zone.

The intent of the Zoning By-law Amendment is to permit an office use within the existing building and recognizing the setbacks for the existing building. The proposed use will be located within the existing heritage designated building with no changes to the building. The subject lands are located within the Mixed-Use Medium Density designation which supports a range of office, commercial, residential and institutional uses. As well, the proposed use is compatible with the surrounding uses which currently include a range of commercial uses. In addition, the subject lands have been rezoned to Mixed Use Medium Density - Pedestrian Focus (C5a) Zone, which permits the office use. Therefore, staff are supportive of the proposed Zoning By-law Amendment.

### **Vacuum Clause**

In addition to permitting an office use on the subject lands, the site specific amendment includes a vacuum clause to recognize the existing building setbacks, lot area, lot width and building height whereas the current zone does not have any general zoning provisions as it relates to institutional uses. Staff are

supportive of the modification since the proposed amendment will allow for the recognition of the existing situation on the subject property.

In addition, a provision has been added to the site specific amendment to recognize existing parking stall sizes and aisle width. The subject lands are currently in a transitional period since it is being changed from the current institutional zone to a commercial and mixed use zone. As the subject lands are designated under the *Ontario Heritage Act*, Staff are supportive of recognizing the existing parking stall size and aisle width. Finally, since the property will be rezoned to the Mixed Use Medium Density – Pedestrian Focus (C5a) zone, the proposed Vacuum Clause as part of the Commercial and Mixed Use rezoning will recognize the existing situation on-site.

The subject lands have been incorporated into Zoning By-law No. 05-200 under the Commercial and Mixed Use Zones, which were adopted by Council under by-law No. 17-240, but has been appealed to the Local Planning Appeal Tribunal. As part of the CMU Zones, the subject lands have been placed in the Mixed Use Medium Density – Pedestrian Focus (C5a) Zone. The following modifications to the (C5a) Zone are required:

#### Parking Stall Size

As part of the City-initiated Commercial and Mixed Use Zoning, there were modifications to parking stall sizes. A standard parking stall is now required to be 3.0 m wide and 5.8 m long. In addition, a barrier free parking space is to be 4.4 m in width and 5.8 m in length. Accordingly, modifications are required to permit a standard parking stall size of 2.6 m in width and 5.5 m in length and a barrier free parking stall size of 4.4 m in width and 5.5 m in length. The modifications are required to recognize the existing parking spaces and provide flexibility for adding additional parking spaces onsite if required that would be the same size as the existing stalls. The flexibility in parking space sizes encourages the adaptive reuse of the designated building. Accordingly, the modifications support the conservation and adaptive reuse of the heritage building. Therefore, staff are supportive of the requested modifications.

The applicant has submitted a concept plan showing the two existing parking spaces on the south western portion of the site (as seen on Appendix “D” of Report PED18145). One of the current parking space sizes has a minimum length of 4.96 m and width of 2.6 m. The second parking space size has a minimum length of 4.73 m with a width of 2.6 m. These parking spaces are smaller than the current parking stall size minimum requirement. The applicant has requested that these parking stalls be recognized. Staff are concerned that cars could overhang into the public laneway as a result of the reduced length. In

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addition, these parking spaces are not required to meet the minimum parking requirements on site. Therefore, staff are not supportive of an amendment to recognize the existing two parking spaces at the south western portion of the property and recommend that these spaces be removed.

#### Parking Aisle Width

The applicant has requested no minimum aisle width when abutting a public laneway whereas the by-law requires that a 6 m aisle width be provided. The reduced aisle width is located along north side of the building for the existing parking spaces. Therefore, the proposed modification to the aisle width is to recognize the existing situation. These parking spaces would be surplus to the required parking. Accordingly, the existing parking supports the proposed use while limiting the impact on the surrounding area. Given the high demand for parking in the surrounding area, the additional parking spaces provide an opportunity to meet all parking demands on-site. As well, since the existing building is designated under the *Ontario Heritage Act*, there is limited opportunity to relocate the existing building. Therefore, staff are supportive of the modification.

To implement the above mentioned modifications in the Council adopted C5a zone, it is recommended that the lands be placed in a modified Mixed Use Medium Density – Pedestrian Focus (C5a, 695) Zone (see Appendix “C” to Report PED18145).

3. There are existing services available to the subject site. In addition, the applicants have provided a Fire Flow Assessment. The municipal water system has the capacity to provide the required domestic and fire demands for the development. Staff are satisfied with the information as provided. Please note that it is the applicant’s responsibility to ensure compliance with the above at the development stage. Additionally, the applicant should consult with the fire department to ensure adequate hydrant coverage for the proposed development.
4. As previously noted, the applicant is proposing to rezone the property to permit an office use within the existing building. The only changes exterior to the building is to remove the existing playground on-site and replace it with parking spaces. In May, 2018, Heritage Permit Application HP2018-014 was approved for the removal of the chimney, the installation of an air conditioning unit and repair of the parking area. Any additional site alterations will require a heritage permit. The current proposal would require a Minor Site Plan Application.
5. A total of one letter was received from the public. The letter noted parking concerns for the proposed office use and possible negative impacts to the

surrounding area. Staff note that the applicant has provided more than the minimum number of parking spaces required on site. Therefore, the proposal will be able to meet all parking on site as required by the Zoning By-law. In addition, staff note that the subject lands are located within proximity to public transit which provides an alternative mode of transportation to the subject site.

## **ALTERNATIVES FOR CONSIDERATION**

Should the application be denied, the subject property would remain Neighbourhood Institutional (I1) Zone in the City of Hamilton Zoning By-law No. 05-200. For information purposes, depending on the decision of the Local Planning Appeals Tribunal, the property could be rezoned to Mixed Use Medium Density – Pedestrian Focus (C5a) Zone which permits the office use.

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

### **Economic Prosperity and Growth**

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

### **Built Environment and Infrastructure**

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

### **Culture and Diversity**

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

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Zoning By-law Amendment to By-law No. 05-200

Appendix “C” – Concept Plan

Appendix “D” – Survey Plan

Appendix “E” – Public Comment