



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 14, 2018
SUBJECT/REPORT NO:	Application for an Amendment to the City of Hamilton Zoning By-law No. 6593 for Lands Located at 517 Stone Church Road West, Hamilton (PED18188) (Ward 8)
WARD(S) AFFECTED:	Ward 8
PREPARED BY:	Anthony Cicchi (905) 546-2424 Ext. 2266
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Zoning By-law Amendment Application ZAR-17-075 by Nicholas Legault and Josee Pregent, Owners**, for a further modification to the “D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, in the City of Hamilton Zoning By-law No. 6593 to permit an accessory unit (second dwelling unit) within an existing semi detached dwelling, on lands located at 517 Stone Church Road West, Hamilton, as shown on Appendix “A” to Report PED18188, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED18188, 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 PED18188, be added to District Map No. W27c of Zoning By-law No. 6593;
 - (iii) 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 proposed Zoning By-law Amendment to the City of Hamilton Zoning By-law No. 6593 is for a further modification to the “D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified, in order to legalize an existing second dwelling unit within one half of the existing one storey semi detached dwelling.

Modifications to the Zoning By-law are also required to allow for a reduction in the number of required on site parking spaces to recognize an existing situation. In addition, the site specific amending by-law will apply performance standards for floor area, building setbacks and height to ensure that the second dwelling unit is permitted in the existing building only.

The Application 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.

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 amendment to the Zoning By-law.

HISTORICAL BACKGROUND

The subject property is located on the south side of Stone Church Road West, east of Courtland Avenue, and is occupied by one half of an existing one storey, semi detached dwelling, along with one parking space within the front yard, accessed from Stone Church Road West. The proposed second unit to be legalized is located in the basement of the existing building, with access being given at the rear of the dwelling.

The last recognized use of the property is as a semi detached dwelling. On March 3, 2016, the owner attempted to legalize the second dwelling unit through an Application to the Committee of Adjustment (HM/A-16:77). The Application was not supported by Planning staff as the scope of the variances, including physical alterations to add additional front yard parking, were deemed not to be consistent with the established surrounding character and streetscape. The Application was denied by the Committee.

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As noted in the decision, the reason for the denial was that the proposal would be more appropriately addressed through an Application for a Zoning By-law Amendment.

On October 23, 2017, the applicant applied for a Zoning By-law Amendment in order to legalize the second dwelling unit within the existing building, with site specific modifications.

Chronology

- October 23, 2017: Zoning By-law Amendment Application ZAR-17-075 was received.
- November 10, 2017: Application ZAR-17-075 deemed complete.
- November 24, 2017: Notice of Complete Application and Preliminary Circulation was sent to 209 property owners within 120 m of the subject lands.
- December 15, 2017: Public Notice Sign posted on the subject lands.
- July 18, 2018: Public Notice Sign updated with Public Meeting date.
- July 27, 2018: Circulation of the Notice of Public Meeting to 209 property owners within 120 m of the subject lands.

Details of Submitted Application:

Location: 517 Stone Church Road West, Hamilton

Owner / Applicant: Nicholas Legault and Josee Pregent

Agent: Webb Planning Consultants c/o James Webb

Property Description:

<u>Lot Frontage:</u>	9.1 m (517 Stone Church Road West, 18.2 m for 515-517 Stone Church Road West)
<u>Lot Depth:</u>	36.7 m
<u>Lot Area:</u>	339 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/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified

Surrounding Land Uses:

North	Townhouses	“DE/S-231” (Low Density Multiple Dwellings) District, Modified
South	Single Detached Dwelling	“B-2” (Suburban Residential) District
East	Semi Detached Dwelling	“D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified
West	Semi Detached Dwelling	“D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified

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 that follows.

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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)

As of July 1, 2017, the policies of the Growth Plan for the Greater Golden Horseshoe, 2017 apply to any Planning decision.

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.

2.2.1.4 Applying the policies of this Plan will support the achievement of *complete communities* that:

- 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.”

The proposal is to legalize an existing second dwelling unit within one half of a semi detached dwelling within a settlement area. The proposed additional residential unit 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.

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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:

- “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.
- 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*.
- B.3.2.4.4 Second dwelling units shall be permitted within single and semi detached dwellings in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, and shall be subject to zoning regulations.”

The UHOP permits second dwelling units within semi detached dwellings subject to appropriate zoning regulations in areas designated Neighbourhoods, therefore, Policy B.3.2.4.4 supports the proposal.

Low Density Residential

- “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 addition of a secondary unit within a semi detached dwelling represents a permitted use for low density residential lands. The existing one storey dwelling represents a low profile form of development with both units having access by way of separate direct access on the north and west sides of the building at grade. No external renovations are proposed for this property to facilitate the second dwelling unit. Therefore, the proposed

development complies with the low density residential policies with respect to function and is supported under policy B.3.2.4.4.

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;
- 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."

As the proposal is to legalize an existing second dwelling unit within an existing semi detached dwelling, the existing pattern and built form will be maintained (Policy B.2.4.1.4 b)). The proposed second dwelling unit represents a use that is compatible with the other residential uses in the area which are also developed with semi detached units. The proposal contributes to maintaining and achieving a range of dwelling types and tenures in the area through an additional unit (Policy B.2.4.1.4 c)), and as the external appearance will remain unchanged, the scale, form and character of the existing building will remain compatible with the surrounding area (Policy B.2.4.1.4 d)). Also, the proposed development is in line with the planned urban structure for lands identified as Neighbourhoods (Policy B.2.4.1.4 e)) and has adequate infrastructure and transportation capacity to meet the needs of the proposed development (Policy B.2.4.1.4 f)).

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"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;
- 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 in respect to height, massing and scale nor change the existing established pattern and built form as no exterior changes to the existing building are proposed (Policy B.2.4.2.2 c)). As a result, there will be no change with respect to shadowing, overlook, noise or lighting (Policy B.2.4.2.2 b)). The proposal does not alter the existing lot pattern, and the existing streetscape will be maintained (Policy B.2.4.2.2 e) and g)). Finally, the property has access to adequate municipal infrastructure and utilizes existing transportation capacity (Policy B.2.4.2.2 j)).

Therefore, based on the above, the proposal to legalize an existing second dwelling unit within an existing semi detached dwelling complies with the policies of the UHOP.

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Falkirk East Neighbourhood Plan

“F.1.2.7 Neighbourhood plans are policies adopted by council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations, and policies in the Neighbourhood Plan.

F.1.2.8 Any amendment to the Neighbourhood Plan must be evaluated using the provisions of Policies F.1.1.3 and F.1.1.4 and shall require a formal Council decision to enact the amendment.”

The subject property is designated “Single and Double” in the Falkirk East Neighbourhood Plan. The proposed additional unit is a conversion of an existing semi detached unit and maintains the primary use of the dwelling. As such, the proposal complies with the Neighbourhood Plan.

City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned “D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified, which permits single detached dwellings, semi detached dwellings, duplexes, and includes a site specific By-law provision that prohibits row dwellings. The proposal requires further modification to the existing site specific “D” (Urban Protected Residential – One and Two Family Dwelling, etc.) District.

Modifications to the Zoning By-law are also required to implement the proposal. An analysis of the site specific modifications is included in the Analysis and Rationale for Recommendation section below.

RELEVANT CONSULTATION

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

- Forestry and Horticulture, Public Works Department

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

Operations Division, Public Works Department note that the development is eligible for municipal waste collection services, subject to meeting the City's requirements.

Transportation Planning, Planning and Economic Development Department note that Stone Church Road West is classified as a Minor Arterial Road with an anticipated road allowance width of 30.48 m. As the current road allowance width is 30.60 m, a road widening is not needed. Transportation Planning also noted that the sidewalks within the municipal right-of-way should have a minimum width of 1.5 m. Planning staff note there are existing sidewalks along Stone Church Road West which are not being altered as part of the Zoning By-law Amendment Application.

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 209 property owners within 120 m of the subject lands on November 24, 2017 requesting public input on the Application. A Public Notice sign was also posted on the property on December 15, 2017 and updated on July 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, one letter of correspondence has been received (Appendix "C" to Report PED18188) and is discussed in the Analysis and Rationale for Recommendation section.

Public Consultation Strategy

The applicant engaged in a Public Consultation Strategy that consisted of providing a written summary of the proposal to the adjacent landowners. Through discussion with the applicant regarding their public consultation strategy and given the nature of the Application, this level of consultation is considered to be adequate.

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; and,
 - iii) The proposal maintains the existing character of the area, is compatible with the surrounding area, and represents good planning.

2. **Zoning By-law Amendment**

The Application for a Zoning By-law Amendment is to change the zoning from the “D/S-198” (Urban Protected Residential – One and Two Family Dwelling, etc.) District, Modified to the “D/S-198a” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified to legalize an existing second dwelling unit within one half of an existing semi detached dwelling. The Zoning By-law will restrict the use to the building existing on the day of the passing of the By-law and to a maximum of two units. By restricting the use to no more than two units and to the existing building, any future redevelopment would continue to be subject to the By-law requirements of the “D” District.

The proposed change in zoning will maintain the existing building while increasing the number of permitted dwelling units within an existing building. The proposal complies with the policies that promote intensification on the interior of neighbourhoods along major transportation routes and supports policy B.3.2.4.4 of the UHOP which permits second dwelling units in semi detached dwellings.

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

Section 19 Conversion

The direction of the UHOP is to permit second dwelling units in single detached and semi detached dwellings subject to zoning regulations. Section 19 of the City of Hamilton Zoning By-law currently permits the conversion of any single detached dwelling to contain not more than two dwelling units subject to specific requirements, but does not allow the conversion of a semi detached dwelling. These zoning regulations pre-date the policies of the UHOP, and the UHOP policies permit the conversion of single detached and semi detached dwelling units to contain second dwelling units and that through the residential zoning project, appropriate zoning regulations will be developed to permit accessory units / secondary suites throughout the entire urban area. The site-specific modification to modify Section 19 in order to permit the conversion of a semi detached dwelling unit to contain not more than two dwelling units is therefore consistent with the policy direction envisioned in the UHOP.

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In order to convert the existing semi detached dwelling under Section 19 of the City of Hamilton Zoning By-law, the following modifications to the Section 19 requirements will be required:

Exterior Changes

The requirements of Section 19 do not permit any external change other than an exterior exit. The second dwelling unit in the basement has an exterior exit on the ground floor and a stairway that permits access to this exterior exit. Both the exterior exit and access stairway were established illegally when the dwelling was converted to a two unit dwelling without a building permit and in contravention of the Zoning By-law. A modification is required to permit the exterior change. The intent of the by-law regulations is to maintain the character of the neighbourhood and minimize external modifications such as access doors, balconies / fire escapes, etc. that would provide visual indicators that the dwelling had been converted. The exterior change is located to the south side of the existing building and as such will not alter the streetscape character of the area. On this basis staff consider that the modification has merit and can be supported.

Building Area, Height and Setbacks

As a secondary dwelling unit is not a use permitted within the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, there are no minimum gross floor area, building height, front yard setback, side yard setback, or rear yard setback requirements that would apply to the proposed use. Therefore, the site specific Zoning By-law will recognize the existing gross floor area, the building height and setbacks of the existing building. Given that the existing condition of the building would remain unchanged, the streetscape character of the area will be maintained. Therefore, the proposed modification can be supported.

Required Parking Spaces

One parking space is to be provided within the required front yard.

The current Zoning By-law requires that one parking space is to be provided for each dwelling unit on the lands. The Zoning By-law amendment aims to eliminate the requirement for parking for the secondary unit. The existing parking situation on the subject property provides one parking space in the front yard. There is not sufficient space to provide the required parking for the second unit without having the parked vehicle encroach on the sidewalks and City right of way. As the proposal will be unable to meet the requirement for one parking space per unit, a site specific amendment is being proposed to recognize the

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deficiency of one parking space for additional parking per unit. In lieu of the required second parking space, on street parking is available on both McIntosh Avenue and Courtland Avenue to the east and west of the subject lands, respectively. In addition, a reduction in parking can be supported due to the subject lands being located on a transit route. The existing parking situation will not alter the exterior of the site, therefore maintaining the existing built form and character of the area. As the proposed modification is to recognize the existing situation with respect to parking space requirements, the proposed modification can be supported.

Correspondence Received from Property Owners

Following the notice of Complete Application, staff received one letter of objection (see Appendix “E” to Report PED18188). The interested party noted that the neighbourhood where the subject property is located has had issues with respect to traffic from existing residents. The interested party raised concern that the proposed rezoning to establish two dwelling units within a semi detached dwelling would place additional constraints on the servicing of the area.

The proposed additional dwelling unit is to be located within the existing semi detached dwelling unit and will not impact the existing servicing of the neighbourhood. In addition, on street parking is available on both McIntosh Avenue and Courtland Avenue.

ALTERNATIVES FOR CONSIDERATION

Should the Application be denied, the subject property would remain zoned “D/S-198” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified, in the City of Hamilton By-law No. 6593, and would be subject to the provisions of the site specific zoning. Furthermore the applicant would be required to adhere to the Order to Comply and would be required to discontinue the use of the existing building as a triplex.

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.

Healthy and Safe Communities

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Built Environment and Infrastructure

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Our People and Performance

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APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Draft Amendment to Zoning By-law No. 6593
- Appendix "C": Correspondence Received from Property Owners
- Appendix "D": Concept Plan