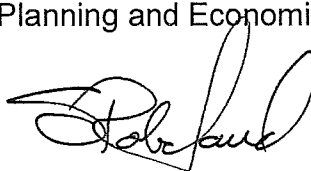




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	June 18, 2019
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 116 and 120 Barnesdale Avenue North (PED19117) (Ward 3)
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(S)

- (a) That **Zoning By-law Amendment Application ZAC-19-014 by MIGMAR c/o Miguel Lima, Owner**, for a modification to the "C" (Urban Protected Residential, Etc.) District for the westerly portion of the subject lands in order to permit the two existing semi detached dwelling units to be on separate lots (Block 1), and for a change in zoning from the "C" (Urban Protected Residential, Etc.) District to a site specific Neighbourhood Commercial (C2) Zone for the easterly portion of the subject lands to permit amenity area, an accessory structure, and a parking lot on the lands proposed to be severed to create a separate lot (Block 2), and these lands will be used in conjunction with adjacent lands known as 760 Barton Street East (Block 3), for lands located at 116 and 120 Barnesdale Avenue North, Hamilton, as shown on Appendix "A" to Report PED19117, be **DENIED** on the following basis:
- (i) That the proposed changes in zoning are not consistent with the Provincial Policy Statement, do not conform with the Growth Plan (2019), and do not comply with the policies and intent of the Urban Hamilton Official Plan (UHOP).

- (ii) The proposal would establish a parcel of land that does not have adequate access to a public road, does not have adequate access to municipal services and is not considered to be good planning.

EXECUTIVE SUMMARY

The subject lands are located on the east side of Barnesdale Avenue North, south of Barton Street East. The property abuts a partially privately owned alleyway to the north. The subject lands consist of a single lot which contains two existing semi detached dwelling units fronting Barnesdale Avenue North.

Block 1

The proposal is to amend the existing "C" District zoning to permit the existing legal non-conforming semi detached dwelling units on the westerly portion of the subject lands having frontage on Barnesdale Avenue North, shown as Block 1 on Appendix "A" to Report PED19117.

The proposed Zoning By-law Amendment is to facilitate the future severance of the Block 1 lands from the Block 2 lands, and to facilitate the future severance of the Block 1 lands into two parcels establishing separate lots for the two existing semi detached dwelling units located along Barnesdale Avenue North.

Block 2 and 3

A site specific Neighbourhood Commercial (C2) Zone is proposed on the easterly portion of the lands (Block 2) to permit amenity space, an accessory structure and parking associated with Luso Canadian Charitable Society located at 760 Barton Street East (Block 3), shown as Blocks 2 and 3 on Appendix "A" to Report PED19117. Access to these lands is proposed from an alleyway that is partially under private ownership and therefore access cannot be guaranteed.

The proposed Zoning By-law Amendment is to facilitate the future severance of the Block 2 lands from the Block 1 lands, and to establish a parcel of land located at the rear of the two existing semi detached dwelling units and will have frontage of 1.37 m on Edward Street.

The establishment of a separate commercially zoned property within the neighbourhood is not compatible with the surrounding neighbourhood and does not comply with the policies of the UHOP.

The effect of the application will be to facilitate a future severance. The creation of a parcel of land that does not have adequate frontage on a municipal road and does not

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have adequate access to municipal services does not comply with the policies of the UHOP, does not conform to the land division criteria under the *Planning Act*, and does not represent good planning.

Alternatives for Consideration – See Page 19

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

Proposal

The subject property is located on the east side of Barnesdale Avenue North, south of Barton Street East. The subject lands are zoned “C” (Urban Protected Residential, Etc.) District. The property abuts a partially privately owned alleyway to the north. The subject lands consist of a single lot which contains two existing legal non-conforming semi detached dwelling units in that a semi detached dwelling is not permitted in the “C” (Urban Protected Residential, Etc.) District.

The applicant submitted a Zoning By-law Amendment to establish split zoning for the subject lands (see Appendix “B” to Report PED19117). The proposed Zoning By-law Amendment is to facilitate future severances to create three separate lots.

Block 1

The application seeks to rezone a portion of the lands along Barnesdale Avenue North from the “C” (Urban Protected Residential, Etc.) District to a site specific “C” (Urban Protected, Residential, Etc.) District to permit the existing semi detached dwellings units. Two of the proposed three lots will be for each of the semi detached dwelling units.

Block 2

The application also seeks to rezone the rear portion of the lands from the “C” (Urban Protected Residential, Etc.) District to a site specific Neighbourhood Commercial (C2) Zone. The proposed zoning is seeking to permit an amenity area (basketball court), an accessory structure (gazebo), and nine parking spaces, for the Luso Canadian Charitable

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Society located at 760 Barton Street East. The third of the proposed three lots will be for the proposed commercial lands.

There is an existing paved alleyway located to the north of the subject property that extends from Barnesdale Avenue North to the west to Lott Ridge to the east, however the majority of the alleyway is not assumed by the City. As shown on Appendix "D" to Report PED19117 the alleyway located to the north of the subject lands is private on both the westerly and easterly portions of the alleyway. The only portion of the alleyway assumed by the City is the central portion of the alleyway. As a result, access to the subject property by way of the alleyway cannot be guaranteed.

In review of the proposed application staff has discussed with the applicant alternative options that do not result in create a lot for Block 2 that does not have adequate street frontage, including:

- Purchasing the portion of the alleyway that separate Block 2 from 760 Barton Street East and merging the lands in title; and,
- Preserving the frontage on Barnesdale Avenue North for Block 2 by keeping the lands tied to one of the semi detached dwellings and establishing a long term lease over the Block 2 lands in favour of 760 Barton Street East.

Staff have received no correspondence from the applicant advising that an alternative to establishing a separate lot for Block 2 is accepted.

Chronology

<u>January 31, 2019:</u>	Submission of Zoning By-law Amendment application (ZAC-19-014).
<u>February 25, 2019:</u>	Application ZAC-19-014 deemed complete.
<u>March 4, 2019:</u>	Notice of Complete Application and Pre-circulation was mailed to 366 property owners within 120m of the subject property.
<u>March 12, 2019:</u>	Public Notice Sign installed on the subject lands.
<u>May 22, 2019:</u>	Notice of Public meeting posted in Hamilton Spectator.
<u>May 31, 2019:</u>	Circulation of the Notice of Public Meeting mailed to 366 property owners within 120m of the subject property.

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Details of Submitted Applications:

Owner: MIGMAR – c/o Miguel Lima

Applicant: IBI Group – c/o Julia Redfearn

Agent: IBI Group – c/o Julia Redfearn

Location: 116-120 Barnesdale Avenue North, Hamilton (see Appendix "A" to Report PED19117)

Property Description:

<u>Lot Frontage:</u>	14.63 m (Barnesdale Avenue South); and, 1.37m (Edward Street)
<u>Lot Depth:</u>	75.68 m (as measured from Barnesdale Avenue South)
<u>Lot Area:</u>	1,136.5 sq m
<u>Servicing:</u>	Existing Full Municipal Services (Barnesdale)

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Semi detached dwelling units	"C" (Urban Protected Residential Etc.) District

Surrounding Land Uses:

North	Mixed use – commercial and residential uses	Neighbourhood Commercial (C2) Zone
East	Single detached dwellings	"C" (Urban Protected Residential Etc.) District
South	Single detached and semi detached dwellings	"C" (Urban Protected Residential Etc.) District
West	Place of worship	Neighbourhood Institutional (I1) Zone

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Planning Act

The Provincial *Planning Act*, under Section “51 and 53” establishes the criteria for lot creation. The following sub sections apply:

- “3 (5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board commission of agency of the government, including the Tribunal, in respect to the exercise of any authority that affects a planning matter,
- (a) Shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and,
 - (b) Shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be.
- 51(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
 - (f) the dimensions and shapes of the proposed lots;
 - (i) the adequacy of utilities and municipal services.
- 53(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51(24) and has the same powers as the approval authority has under subsection 51(25) with respect to the approval of a plan of subdivision and subsections 51(26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent.”

As per Subsection 53(12) the criteria outlined in Subsection 51(24) apply to application of consent. Subsection 51(24) requires that when considering division of land regard shall be had to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality.

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The application is to facilitate a future severance to establish a parcel at the rear of the subject property the existing frontage of 1.37 m on a municipal road for access. The safety of users is impacted as a 1.37 m access is not sufficient for persons with disabilities and emergency vehicles.

As discussed further in this report, the proposal to establish a lot at the rear of the subject property is not consistent with the Provincial Policy Statement and therefore the proposal does not comply with Subsection 3(5) of the *Planning Act*.

The applicant is proposing primary access to Block "2" on Appendix "A" to Report PED19117 be by way of the existing alleyway to the north. As portions of the alleyway are privately owned, access from the alleyway cannot be guaranteed in perpetuity. The alleyway does not represent a safe means of ingress and egress for persons with disabilities and it may not be maintained nor may snow removal occur and a property accessed only from an alleyway would present difficulties for emergency vehicles to not only locate the property but also to gain access to the property.

Subsection 51(24) (c) requires that a consent to subdivide land conform to the Official Plan, Subsection 51(24) (f) requires that regard be had for the dimensions and shapes of the proposed lot, and Subsection 51(24) (i) requires that there be adequate utilities and municipal services. As discussed further in this Report, the proposal to establish a lot at the rear of the subject property does not comply with the Official Plan. The proposed flag shaped lot and the proposed 1.37 m lot frontage are insufficient to provide adequate access and servicing to the proposed property.

Therefore, the proposal to develop the rear portion of the subject lands that do not have sufficient frontage and access, does not have regard for the criteria for lot creation under Section 51(24) of the *Planning Act*.

Provincial Policy Statement (2014)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2014) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS. The following policies, amongst others, apply to the proposed development.

Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

- "1.1.1 a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;

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- 1.1.1 c) avoid development and land use patterns which may cause environmental or public health and safety concerns;
- 1.1.1 f) improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society;

Settlement Areas

- 1.1.3.1 Settlement areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted.”

The proposed Zoning By-law Amendment is to facilitate the creation of a lot that does not have sufficient lot frontage and access. The proposal creates public safety concerns with respect to the accessibility of emergency vehicles and limited and guaranteed access to the subject lands for persons with disabilities (Policies 1.1.1 c) and f)).

While the subject lands are within a settlement area, the proposal is to establish land uses on a parcel of land that does not avoid the creation of Public Health and Safety concerns. Therefore, the proposal is not consistent with the PPS.

Cultural Heritage and Archaeology

With respect to Cultural Heritage and Archaeology, the PPS provides the following:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or area of archaeological potential unless significant archaeological resources have been conserved.
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the PPS apply to the proposal. The subject property is:

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- 1) In areas of pioneer EuroCanadian settlement; and,
- 2) Along historic transportation routes.

Should the Zoning By-law Amendment be approved, a written caution advising of the archaeological potential of the subject lands will need to be included as part of any future application.

The subject property is adjacent to 740 Barton Street East and 728-732 Barton Street East (Church of the Holy Spirit) which are properties included in the City's Inventory of Buildings of Architectural and/or Historical Interest. As the proposal is to retain the existing semi detached dwelling units and establish parking and amenity area, for the lands at 760 Barton Street East, the heritage value of the adjacent properties will be conserved.

Noise

Regarding noise, the PPS provides the following:

- "1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities."

The subject is located approximately 40 m from Barton Street East, a potential noise source. The proposed Zoning By-law Amendment is to permit the two existing semi detached dwellings units. No additional residential dwelling units are proposed, nor are there any changes proposed to the existing units. Therefore, the proposal will not alter the existing situation with respect to noise impacts on the existing dwelling units. The proposed parking and amenity area on the rear portion of the lands are not uses that are expected to generate significant levels of noise.

While the subject lands are within a settlement area, the proposal is to establish land uses on a parcel of land that does not avoid the creation of Public Health and Safety concerns. Therefore, the subject proposal is not consistent with the PPS, with regards to Policy 1.1.1 a), c) and f) and 1.1.3.1.

Growth Plan for the Greater Golden Horseshoe (2019)

The application was reviewed with respect to the policies of the Growth Plan for the Greater Golden Horseshoe (2019) (Growth Plan). The following policies, amongst others, apply to the proposed development.

"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;
- c) within settlement areas, growth will be focused in:
 - i. delineated built-up areas;
 - ii. strategic growth areas;
 - iii. locations with existing or planned transit; with a priority on higher order-transit where it exists or is planned; and,
 - iv. areas with existing or planned public service facilities."

The application is to facilitate the creation of three separate lots to accommodate the two existing semi detached dwelling units and to permit parking and amenity area on the rear portion of the lands. The subject lands are within a settlement area (Policy 2.2.1.2 c)).

The proposal is to establish a lot that does not have sufficient frontage and will not have sufficient access to existing municipal water and wastewater systems (Policy 2.2.1.2 a)).

Based on the foregoing, the proposal does not conform to the policies of the Growth Plan.

Urban Hamilton Official Plan (UHOP)

Neighbourhoods Designation

The subject property is identified as "Neighbourhoods" on Schedule "E" – Urban Structures and designated "Neighbourhoods" on Schedule "E-1" Urban Land Use Designations in the UHOP. The following policies, amongst others, apply:

- "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*;
 - d) local commercial uses.

- E.3.2.7 The City shall require quality urban and architectural design. Development of lands within the Neighbourhoods designation shall be designed to be safe, efficient, pedestrian oriented, and attractive, and shall comply with the following criteria:
- c) Adequate and direct pedestrian access and linkages to community facilities / services and local commercial uses shall be provided.
- E.3.4.3 Uses permitted in low density areas include single detached, semi detached, duplex, triplex and street townhouse dwellings.
- E.3.4.4 For low density residential areas the maximum net residential density shall be 60 units per hectare.
- E.3.8.2 The following uses shall be permitted:
- a) Retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, office, motor vehicle service station, personal service, place of worship, repair service, restaurant, studio, art gallery, tradesperson shop, and veterinary service;
- c) Residential uses, in accordance with Policy E.3.8.10.
- E.3.8.9 Development and redevelopment of local commercial uses shall:
- a) Front and have access to a major arterial, minor arterial, or collector road;
- b) Provide safe and convenient access for pedestrians and cyclists; and,
- c) Be compatible with the surrounding area in terms of design, massing, height, setbacks, on-site parking, noise impact, landscaping, and lighting.
- E.3.8.11 New local commercial uses shall be planned and designed to be integrated with and easily accessible from the surrounding neighbourhood.
- E.3.8.12 New local commercial uses and properties shall be clustered and generally located at intersections with arterial and collector roads."

The proposal to recognize the existing semi detached dwelling units with a density of approximately 41.5 units per hectare on the front portion of the subject property complies

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with the policies of the Neighbourhoods Designation (Policies E.2.3.3, E.3.4.3 and E.3.4.4).

The proposal to establish commercial zoning for the rear portion of the lands, that does not front onto a major arterial, minor arterial, or collector road, nor located at the intersection of an arterial and collector road and does not provide safe and convenient access for pedestrians and cyclists does not comply with the UHOP. As the proposed local commercial uses are to be located to the rear of property with limited frontage on a street, it will not be integrated with or easily accessible from the surrounding neighbourhood. The limitations on accessibility based on the frontage and use of the alleyway would negatively impact the functionality of any commercial use established on-site.

While the applicant has advised that the intention is to utilize the lands for parking and recreation uses that will be accessory to the property at 760 Barton Street East, because the lands will remain a separate parcel of land it cannot be guaranteed that the lands will always remain associated with 760 Barton Street East. The Zoning By-law cannot tie two parcels of land together in common ownership and to establish a permanent interest in the lands, approval for an easement and/or long term lease would require approval from the Committee of Adjustment. Block 2 lands could be sold which would create pressure to establish a residential or commercial use for the lands without adequate frontage. A standalone commercial use without adequate frontage on a municipal road and which is surrounded by existing low density residential uses would not be compatible with the surrounding area (Policy E.3.8.9, E.3.8.11, and E.3.8.12).

The proposal also creates safety concerns due to limited accessibility for emergency vehicles and pedestrians (Policy E.3.2.7).

Integrated Transportation Network

"C.4.5.6.8 No development or redevelopment shall be permitted which does not front on a public road of an acceptable standard of construction.

C.4.5.8.4 New development or redevelopment shall only be permitted on a property that has direct frontage on a publicly assumed road constructed to municipal standards.

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."

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The proposal is to allow for development with 1.37 m of frontage on Edward Street and proposes access by way of a portion of an alleyway that is privately owned. As the alleyway is privately owned access cannot be guaranteed and furthermore an alleyway does not constitute a public road. The 1.37 m of frontage on Edward Street is not of sufficient width to allow vehicle access to the subject lands including emergency vehicles, nor is 1.37 m of frontage sufficient to provide pedestrian access that complies with the accessibility standards for persons with disabilities. Therefore, the proposal does not comply with Policies C.4.5.6.8 and C.4.5.8.4.

There are no municipal water and wastewater services along the alleyway nor will municipal services be extended along the alleyway. While there are municipal services along Edward Street, the 1.37m of frontage is not sufficient to connect the proposed lot to the City's water and wastewater system. Therefore, the proposal does not comply with Policy C.5.3.5.

Lot Creation – Urban Area

"F.1.14.3.1 Consent for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use Designation, shall be permitted provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road.

F.1.14.3.3 Consents for new lot creation for both the severed and retained lands for mixed uses, commercial, institutional or open space in the Neighbourhoods designation shall be permitted provided the following conditions are met;

- a) The lots comply with the policies of this plan including secondary plans, where one exists;

- b) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- c) The lots are fully serviced by municipal water and wastewater systems; and,
- d) The lots have frontage on a public road.”

For the purpose of the proposed lot creation to establish two separate lots for the two existing semi detached dwellings Policy F.1.14.3.1 has been met.

The proposed lot creation to divide the rear portion of the subject lands from the existing semi detached dwelling units at the front of the property, does not fulfil the requirement of Policy F.1.14.3.3, as it:

- establishes a commercial lot at the rear of existing low density residential lots and therefore does not comply with the land use compatibility policies of the UHOP;
- does not conform to the transportation and infrastructure policies of the UHOP;
- would not be serviceable by municipal water or wastewater systems; and,
- would not have adequate frontage on a public road.

The proposal does not comply with the conditions for lot creation in the UHOP (Policy F.1.14.3.3).

Therefore, the proposal does not comply with the UHOP.

Stipley Neighbourhood Plan

The subject lands are designated “Single and Double” within the Stipley Neighbourhood Plan.

The existing semi detached dwelling units would conform to the “Single and Double” designation of the Stipley Neighbourhood Plan. The proposed parking and recreation uses associated with a commercial use would not conform to the “Single and Double” designation within the Stipley Neighbourhood Plan and therefore would require an amendment if the application is approved.

City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned “C” (Urban Protected Residential, Etc.) District. Semi detached dwelling units are not permitted in the “C” (Urban Protected Residential, Etc.) District, nor are accessory parking and recreation uses associated with a commercial use.

Block 1

While the existing semi detached dwellings on the same lot are legal non-conforming, the proposal to create separate lots for the semi detached dwellings impacts the existing legal non-conforming status. Therefore, in order to recognize the existing semi detached dwelling units the applicant has applied to establish a site specific "C" (Urban Protected Residential, Etc.) District for the front portion of the subject lands. The applicant has requested eight site specific modifications to accommodate the proposal:

Proposed modifications to legalize the existing building and use:

- permit a semi detached dwelling unit;
- reduced minimum front yard setback;
- reduced minimum side yard setback;
- increased maximum encroachment of a porch;
- reduced minimum side yard setback for an accessory building; and,
- no on-site parking.

Proposed modifications to facilitate the future severance of the lands:

- reduced minimum lot area; and,
- reduced minimum lot width.

In order to permit the accessory parking and recreation uses associated with a commercial use, the applicant has applied to change the zoning to a site specific Neighbourhood Commercial (C2) Zone under the City of Hamilton Zoning By-law No. 05-200. The applicant has requested nine site specific modifications to accommodate the proposal:

- restrict the use of the lands to amenity area, accessory structures and parking accessory to the property at 760 Barton Street East;
- reduced minimum lot area;
- reduced minimum width of a planting strip;
- require a visual barrier;
- prohibit outdoor storage;
- minimum on-site parking;
- minimum on-site barrier free parking;
- reduced minimum parking space size; and,
- reduced minimum parking space size for barrier free parking.

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Staff have also identified that an additional modification is also required regarding the minimum lot width and lot frontage on a street to recognize the existing 1.37 m of frontage for Block 2 on Edward Street.

RELEVANT CONSULTATION

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

- Strategic Planning Section, Public Works Department;
- Transportation Planning Services (TPS), Planning and Economic Development Department;
- Alectra Utilities; and,
- Forestry and Horticultural, Public Works Department.

The following comments were received:

Recycling and Waste Disposal, Operations Division, Public Works Department staff advised that there will be no change in municipal waste disposal collection services for the existing semi detached dwelling units at 116 and 120 Barnesdale Avenue North.

Health Protection, Public Health Services Department staff advised that they promote making it easier to walk, cycle or use public transit which has a positive influence on physical activity, safety, and air quality and ultimately health and quality of life. They also encourage the provision of short term bicycle parking for visitors.

Geomatics and Corridor Management, Public Works Department staff outlined the status of the east / west laneway running from Barnesdale Avenue North to Lottridge Street. The status of the alleyway varies, from west to east, the westerly 45.0 m of the alleyway are classified as private, the next 15.0 m is part of 754 Barton Street East, the next 30.0 m the alleyway is assumed by the City, the next 30.0 m are part of the properties at 764, 766 and 770 Barton Street East, and the easterly 30.0 m are classified as private (see Appendix "D" to Report PED19117).

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 366 property owners within 120 m of the subject property on March 4, 2019. A Public Notice sign was posted on the property on March 12, 2019. Finally, Notice of the Public Meeting was given by way of newspaper in accordance with the requirements of the *Planning Act*.

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To date, one letter has been submitted requesting additional details and expressing an interest in attending the Public Meeting.

Public Consultation Strategy

The applicant and their agent plan to meet with the local Ward Councillor to discuss the proposed development. Despite the applicant indicating that they would consult with the Ward Councillor on community engagement on this application, at the time of preparation of this Report, the meeting has not been scheduled.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The proposed Zoning By-law Amendment cannot be supported for the following reasons:
 - (i) The proposed changes in zoning are not consistent with the Provincial Policy Statement, do not conform with the Growth Plan (2019), and do not comply with the policies and intent of the Urban Hamilton Official Plan (UHOP); and,
 - (ii) The proposal would establish a parcel of land that does not have adequate access to a public road, does not have adequate access to municipal services and is not considered to be good planning.

These issues have been discussed in greater detail throughout Report PED19117 and are summarized below.

2. The proposed changes in zoning to facilitate future severances to create three separate lots cannot be supported as the rear portion of the subject property does not have sufficient lot frontage.

Block 2 Issues

Access to the rear portion of the lands is proposed by way of an existing alleyway. The majority of the alleyway is not assumed by the City and is privately owned and access to the lands by way of the alleyway cannot be guaranteed. Furthermore, an alleyway is not considered to be a public road, and therefore would not be appropriate for providing access for emergency vehicles. Finally, as there are no municipal services along the alleyway, the alleyway would not be able to provide services to the proposed lot.

It is noted that the proposed lot would have 1.37 m of frontage on Edward Street. A frontage of 1.37 m is not sufficient for vehicular access, including emergency

vehicles, or pedestrian access that conforms to the *Accessibility for Ontarians with Disabilities Act* requirements. In addition, the 1.37 m frontage does not provide sufficient space in which to establish private servicing lines to connect the subject lands to the municipal services on Edward Street.

The proposal is to bring the rear portion of the lands into Zoning By-law No. 05-200 to be zoned (C2) Zone. It should be noted that Section 4.3 a) of the City of Hamilton Zoning By-law 05-200 identifies a minimum lot frontage on a street of 4.5 m. The requirement for a 4.5 m minimum lot frontage identifies the minimum threshold necessary to provide access and services to a property. Therefore, the proposed 1.37 m frontage does not meet the minimum requirements of the Zoning By-law.

For lands designated "Neighbourhoods" local commercial uses are permitted but are required to front and have access to a major arterial, minor arterial, or collector road, provide safe and convenient access for pedestrians and cyclists, and be compatible with the surrounding area. The property has inadequate frontage on a local road, and does not front on or have access to a major arterial, minor arterial or collector road. As the property does not have adequate frontage on a municipal road the proposed lot would not provide safe and convenient access for pedestrians and cyclists.

The applicant proposes to use the lands for recreation and parking associated with 760 Barton Street East the Luso Canadian Charitable Society. As the proposed lot would not be merged in title with 760 Barton Street East, it cannot be guaranteed that the property will remain associated with the property at 760 Barton Street East in perpetuity. As previously noted the Zoning By-law cannot tie two parcels of land together in common ownership. Should the land cease to be associated with 760 Barton Street East, the land would either become unutilized or would require the establishment of a principal commercial use on the lands. Establishing a parcel of land that may become unutilized or which establishes a principal commercial use to the rear of low density residential dwellings does not comply with the policies of the UHOP and does not represent good planning.

The proposal to establish a site specific "C" (Urban Protected Residential, Etc.) District to permit the existing legal non-conforming semi detached dwellings on separate lots complies with the policies of the UHOP in terms of use, scale and density. If the application for Zoning By-law Amendment were to be amended to establish a site specific "C" District over all of the subject lands to facilitate the severance of the existing semi detached dwelling units, the amended application would have merit.

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3. Engineering

There is a 150 mm watermain and 450 mm combined sanitary and storm sewer on Barnesdale Avenue North. There is a 150 mm watermain and 300 mm combined sanitary and storm sewer on Edward Street. The proposed lot creation for the easterly portion of the subject lands would not have sufficient lot frontage and would present challenges from an access and servicing perspective. Engineering cannot currently recommend approval of the Zoning By-law Amendment application for the subject lands, until the applicant can demonstrate, to the satisfaction of the Senior Director of Growth Management, suitable storm outlets and site accesses for both the severed and retained lands.

ALTERNATIVES FOR CONSIDERATION

- 1) Council could deny the proposed Zoning By-law amendment to establish a site specific (C2) Zone over Block 2 and grant an amended approval to establish a site specific "C" District over Blocks 1 and 2 to facilitate the severance of the existing semi detached dwellings, and that staff be directed to prepare an amending Zoning By-law consistent with this amended approval.
- 2) Council could grant an amended approval to establish site specific zoning over Blocks 1 and 2 to permit the proposed use of the lands and facilitate the future severance of the lands but apply an 'H' Holding Provision over the Block 2 lands to be lifted upon appropriate land assembly, and that staff be directed to prepare an amending Zoning By-law consistent with this amended approval.
- 3) Should the application be approved, staff be directed to prepare an amending Zoning By-law consistent with the concept plans proposed, and that the Stipley Neighbourhood Plan be amended.
- 4) Council could direct staff to negotiate revisions to the proposal with the applicant in response to the issues and concerns identified in the Report and report back to Council on the results of the discussion.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

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.

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" – Concept Plan

Appendix "C" – Public Submissions

Appendix "D" – Status of Alleyway

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