



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 5, 2019
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 2798 and 2804 King Street East and 8 Vienna Street, Hamilton (PED19209) (Ward 5)
WARD(S) AFFECTED:	Ward 5
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 ZAR-19-037 by Tommar Construction Co. Limited and Tamlann Investments Ltd. c/o Sam Desto, Owner**, for a change in zoning from the “AA” (Agricultural) District to the “C/S-1790” (Urban Protected Residential, Etc.) District, Modified (Block 1) for lands located at 2798 and a portion of 2804 King Street East, Hamilton and for a modification to the “C” (Urban Protected Residential, Etc.) District (Block 2), for a portion of the lands located at 8 Vienna Street, Hamilton, in order to facilitate future severance applications for the purpose of land assembly and permit the development of one single detached dwelling as shown on Appendix “A” to Report PED19209, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED19209, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
 - (ii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2014), conform to A Place to Grow: Growth Plan for the

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Greater Golden Horseshoe (2019), and comply with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose and effect of the proposed Zoning By-law Amendment to the City of Hamilton Zoning By-law No. 6593 is for a change in zoning from the “AA” (Agricultural) District and “C” (Urban Protected Residential, Etc.) District to a modified “C” (Urban Protected Residential, Etc.) District, for a portion of the lands located at 2804 King Street East and 8 Vienna Street and for the lands located at 2798 King Street East, to facilitate future consent for severance applications for the purpose of land assembly and permit the construction of a single detached dwelling as shown on Appendix “C” to Report PED19209. A modification to reduce the minimum front yard landscaping is required.

The application has merit and can be supported since the proposal is consistent with the Provincial Policy Statement (2014), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019), and complies with the Urban Hamilton Official Plan (UHOP).

Alternatives for Consideration – See Page 11

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 lands to be rezoned are located at the north east corner of Greenhill Avenue and Vienna Street. The lands to be rezoned consist of the following lands (see Appendix “A” to Report PED19209):

- the entirety of the lands municipally known as 2798 King Street East which is zoned “AA” (Agricultural) District;
- a portion of the lands municipally known as 2804 King Street East which is zoned “AA” (Agricultural) District; and,
- a portion of the property municipally known as 8 Vienna Street, which is currently zoned “C” (Urban Protected Residential, Etc.) District.

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The balance of the lands at 2804 King Street East and 8 Vienna Street (Block 3) will not be changed as part of this application. The applicant proposes to construct a new single detached dwelling on 2798 King Street East (see concept plan attached as Appendix “C” to Report PED19209).

To construct the new single detached dwelling, the respective portions of land from 2804 King Street East and 8 Vienna Street will need to be severed and merged on title with 2798 King Street East.

The Zoning By-law Amendment application is required in order to facilitate the necessary land assembly and to allow a new single detached dwelling to be constructed in conformity with the “C” District. One modification is required to the minimum front yard landscaping as a result of the daylight triangle dedication.

Chronology

May 8, 2019: Zoning By-law Amendment application ZAR-19-037 received.

June 6, 2019: Application ZAR-19-037 deemed complete.

June 13, 2019: Notice of Complete Application and Preliminary Circulation was sent to 91 property owners within 120 m of the subject lands.

June 21, 2019: Public Notice Sign posted on the subject lands.

October 9, 2019: Public Notice Sign updated with Public Meeting date.

October 18, 2019: Circulation of the Notice of Public Meeting to 101 property owners within 120 m of the subject land.

Details of Submitted Application:

Location: 2798 King Street East, 2804 King Street East and 8 Vienna Street

Owner / Applicant: Tommar Construction Co. Limited and Tamlann Investment Ltd. c/o Sam Desto

Agent: T. Johns Consulting Group c/o Katelyn Gillis

Property Description: Lot Frontage: 12.52 m (Vienna Street)

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<u>Lot Depth:</u>	38.84 m
<u>Lot Area:</u>	487.15 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>	Vacant lands, single detached dwelling, and commercial uses	“AA” (Agricultural) District and “C” (Urban Protected Residential, Etc.) District

Surrounding Land Uses:

North	Commercial uses	Community Commercial (C3) Zone
South	Single detached dwellings	“C” (Urban Protected Residential, Etc.) District
East	Single detached dwelling	“C” (Urban Protected Residential, Etc.) District
West	Single detached dwellings and townhouse dwellings	“C” (Urban Protected Residential, Etc.) District and “G/S-996 and G/S-996a” (Neighbourhood Shopping Centre, 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). 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 Local Planning Appeals Tribunal 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

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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. The following policy of the PPS also applies:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

The subject property meets four of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) In an area of sandy soil in areas of clay or stone;
- 2) In the vicinity of distinctive or unusual landforms;
- 3) In areas of pioneer EuroCanadian settlement; and,
- 4) Along historic transportation routes.

These criteria define the property as having archaeological potential. The applicant is advised of this potential and an acknowledgement note is to be included as part of any future Consent for Severance application.

As the application for a change in zoning complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the PPS; and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019).

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.3.2.3 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*;

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

E.3.4.1 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.

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

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

The proposal is to assemble lands to facilitate the construction of a new single detached dwelling on 2798 King Street East. The lands to be rezoned are located within the interior of the neighbourhood. A single detached dwelling is a use permitted for lands designated “Neighbourhoods” and within a Low Density Residential area. The proposal would establish a net residential density of 20.5 units per hectare. A building height of two and a half storeys (11.0 m) conforms to the maximum height of three storeys. In addition, the proposed maximum building height is consistent with existing dwellings in the area which range from one to two storeys in height and are similarly restricted to a maximum building height of two and a half storeys (11.0 m) in height. Therefore, the proposed dwelling with a maximum height of 11.0 m and a density of 20.5 units per hectare complies with the applicable policies.

The proposed development facilitates residential intensification as such the following policies apply:

“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;

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- 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.

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

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

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- h) the ability to complement the existing functions of the neighbourhood;
- j) infrastructure and transportation capacity and impacts.”

The proposed single detached dwelling will be compatible with existing single detached dwellings to the east, west and south in terms of height, massing and scale. The proposed dwelling will not result in shadowing, overlook, noise, lighting, traffic or other nuisance effects on the adjacent land uses. The lotting pattern will be consistent with the existing single detached dwelling lots in the area. A minimum of 93.75 sq m of rear yard amenity space will be provided for the proposed dwelling which exceeds the 90 sq m rear yard amenity space that is envisioned in the “C” (Urban Protected Residential, Etc.) District. The proposed dwelling will have adequate infrastructure and transportation capacity and will not generate traffic impacts.

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

Gersholme Neighbourhood Plan

The lands to be rezoned are designated “Single and Double” in the Gersholme Neighbourhood Plan. The proposed single detached dwelling is permitted in the “Single and Double” designation and therefore the proposal conforms to the Gersholme Neighbourhood Plan.

City of Hamilton Zoning By-law No. 6593

2798 King Street East and a portion of 2804 King Street East are currently zoned “AA” (Agricultural) District and 8 Vienna Street is currently zoned “C” (Urban Protected Residential, Etc.) District (see Appendix “A” to Report PED19209). The “AA” (Agricultural) District permits a single detached dwelling with a minimum lot width of 60.0 m and a minimum lot area of 12,000 sq m. The proposed lot will not conform to the minimum lot width and area requirements of the “AA” (Agricultural) District. In addition, the “AA” (Agricultural) District requires that a single detached dwelling maintain a minimum front depth of 12.0 m, a minimum side yard width of 4.5 m, and a minimum rear yard depth of 10.5 m. Conformity with the setback requirements of the “AA” (Agricultural) District would make the lot undevelopable.

The applicant is seeking changes in zoning to a site specific “C” (Urban Protected Residential, Etc.) District to permit the development of a single detached dwelling. The “C” (Urban Protected Residential, Etc.) District permits a single detached dwelling on a parcel of land with a minimum lot width of 12.0 m and a minimum lot area of 360 sq. m. Single detached dwellings within the “C” (Urban Protected Residential, Etc.) District require a minimum front yard depth of 6.0 m, a minimum side yard width of 1.2 m, and a minimum rear yard depth of 7.5 m.

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The proposed lot conforms to the regulations of the “C” (Urban Protected Residential, Etc.) District, with the exception of the minimum front yard landscaping. A modification is required to reduce the front yard landscaping to accommodate the dedication of a daylight triangle at the corner of Vienna Street and Greenhill Avenue. A detailed analysis of the proposed modification is provided in Appendix “D” to Report PED19116.

RELEVANT CONSULTATION

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

- Strategic Planning, Public Works Department;
- Operations Division, Public Works Department; and,
- Forestry and Horticultural Section, Public Works Department.

Transportation Planning, Planning and Economic Development staff note that the lands to be rezoned are located at the corner of Greenhill Avenue and Vienna Street, and that Greenhill Avenue is classified as a collector road. Based on the policies of the UHOP a 9.14 m by 9.14 m daylight triangle is required, however without setting precedent Transportation Planning staff will accept a reduction of the daylight triangle to 4.57m by 4.57m.

The dedication of the required daylight triangle will occur as part of a future Consent for Severance application.

Public Consultation:

In accordance with the provision of the *Planning Act* and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was circulated to 91 property owners within 120 m of the subject lands on June 13, 2019 requesting public input on the application. A Public Notice sign was also posted on the property on June 21, 2019 and updated on October 9, 2019 with the date of the Public Meeting.

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

Public Consultation Strategy

The applicant engaged in a Public Consultation Strategy that consisted of mailing an information letter to all property owners within 120 m of the site within 60 days of the application being deemed complete. The letter provided details regarding the

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development and contact information of the Planning Consultant to answer any questions or concerns. The applicant received one letter of support in response to the information letter.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019);
 - ii) It complies with the policies of the Urban Hamilton Official Plan; and,
 - iii) The proposed lot is of a size and scale that is compatible with other lots in the area, and represents good planning.

2. The application for Zoning By-law Amendment is to change the zoning from the “AA” (Agricultural) District and “C” (Urban Protected Residential, Etc.) District to the “C/S-1790” (Urban Protected Residential, Etc.) District, Modified.

The proposed changes in zoning will establish consistent zoning for the portion of the lands proposed for a single detached dwelling. The proposed lot would be of a size and scale that is consistent with the existing lotting pattern in the area. As shown in the concept plan, attached as Appendix “C” to Report PED19209, the applicant is proposing a single detached dwelling that will maintain the minimum, front, side and rear yard setback requirements of the “C” District. The proposed single detached dwelling will conform with the maximum height requirement of 11.0 m. A minimum of two parking spaces will be provided on-site which will meet the minimum parking requirements for a single detached dwelling with not more than eight habitable rooms. Furthermore, the proposed zoning and dwelling outlined on the concept plan will be consistent with existing zoning along Vienna Street and will be similar in size and scale to the existing dwellings along Vienna Street.

The proposed changes in zoning will facilitate the construction of a single detached dwelling that will be compatible with the streetscape character of the area. Therefore, the proposed changes in zoning are supported by staff.

A site specific modification is required to reduce the minimum 50 percent front yard landscaping. This modification is discussed in detail in Appendix “D” to Report PED19209.

3. Full municipal services are available on Vienna Street including private sewer and water drain connections.

There is an existing 0.3 m reserve along the frontage of the property on Vienna Street. The applicant will be required to provide cash payment recovery toward the existing municipal sewers, watermains and private sewer and water drain connections located on Vienna Street prior to the lifting of this 0.3 m reserve as a condition of future Consent for Severance application. Access to this roadway will also require that this reserve be incorporated by By-law as forming part of the municipal roadway.

There is also a 0.3 m reserve along the flankage of these lands adjacent to Greenhill Avenue. No driveway access to Greenhill Avenue will be permitted due to the existing gradient of the road, therefore the 0.3 m reserve on Greenhill Avenue cannot be lifted.

A stormwater management brief will be required to be submitted to demonstrate how the stormwater will be managed on the future lot as a condition of the future Consent for Severance application.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied the subject lands would remain zoned “AA” (Agricultural) District and “C” (Urban Protected Residential, Etc.) District, in the City of Hamilton Zoning By-law No. 6593. While a single detached dwelling is permitted, development would be restricted in size based on the “AA” (Agricultural) District requirements.

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

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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" - Draft Amendment to Zoning By-law No. 6593

Appendix "C" - Concept Plan

Appendix "D" - Zoning Table (By-law Provision)

DB:mo