



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | September 18, 2018 |
| SUBJECT/REPORT NO: | Application for Amendment to Zoning By-law No. 6593 for Lands Located at 567 Scenic Drive, Hamilton (PED18173) (Ward 8) |
| WARD(S) AFFECTED: | Ward 8 |
| PREPARED BY: | Michael Fiorino (905) 546 - 2424 Ext. 4424 |
| SUBMITTED BY: | Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATION

- (a) That **Amended Zoning By-law Amendment Application ZAC-17-030, by 2434217 Ontario Inc, Owner,** for a change in zoning from the "B-1" (Suburban Agriculture and Residential, etc.) District, to the "CR-1/S-1766" (Commercial Residential) District, Modified, to permit the development of a mixed use building with limited commercial uses on the ground floor and two residential dwelling units above on lands located at 567 Scenic Drive (Hamilton), as shown on Appendix "A" to Report PED18173, be **APPROVED**, on the following basis:
- i) That the draft By-law, attached as Appendix "B" to Report PED18173, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow);
 - iii) That the proposed change in zoning complies with the Urban Hamilton Official Plan.

- (b) That approval be given to add the lands located at 567 Scenic Drive, Hamilton to Zoning By-law No. 05-200 and zone said lands Neighbourhood Commercial (C2) Zone in Zoning By-law No. 05-200, subject to the following:
 - (i) That the draft By-law, attached as Appendix “C” to Report PED18173, be held in abeyance until such time as By-law No. 17-240, being a by-law to establish the Commercial and Mixed Use Zones in Zoning By-law No. 05-200 are in force and effect;
 - (ii) That staff be directed to bring forward the draft By-law, attached as Appendix “C” to Report PED18173, for enactment by City Council, once Zoning By-law No. 17-240, being a By-law to establish new Commercial and Mixed Use Zones, is in force and effect.

EXECUTIVE SUMMARY

The Zoning By-law Amendment Application is to amend Hamilton Zoning By-law No. 6593 to permit the development of a 2.5 storey mixed use building with limited commercial uses on the ground floor, including medical office and commercial retail (pharmacy) and two residential dwelling units above, for the lands located at 567 Scenic Drive. In addition, 11 parking spaces have been provided and the medical office use has been limited to one medical practitioner.

New Commercial and Mixed Use (CMU) Zones in Zoning By-law No. 05-200 have been adopted by Council but the implementing Zoning By-law (i.e By-law No. 17-240) has been appealed to the Local Planning Appeal Tribunal (LPAT). A draft By-law has been prepared with this report (attached as Appendix “C” to Report PED18173), to add 567 Scenic Drive into Zoning By-law No. 05-200 at such time as the CMU Zones are in force and effect. 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. The subject property is to be rezoned a modified Neighbourhood Commercial (C2) Zone.

The proposal has merit and can be supported since the application is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe, and complies with the Urban Hamilton Official Plan (UHOP). The proposed development is considered to be compatible with the existing and planned development in the immediate area.

Alternatives for Consideration – See Page 28

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 a Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject lands are located at the southeast corner of Scenic Drive and Upper Paradise Road. The subject lands are approximately 978 sq m in area, with 22.37 m of frontage along Upper Paradise Road and 34.15 m of frontage along Scenic Drive. The subject property is currently occupied by a one storey building with a medical office. The building is located in the middle of the subject lands, with the remainder of the site being used for surface parking.

The subject land has been a commercial property since July 25, 1950, having various different commercial retail uses. Prior to the establishment of the current medical office, the property has been used as a convenience, ice cream and grocery store.

The lands are currently being used as a medical office that was approved as a temporary use under Committee of Adjustment Application HM/A-14:270 on November 27, 2014 for a period of two years.

A second Committee of Adjustment Minor Variance Application, HM/A-16:370, to continue the use was heard before the Committee of Adjustment on December 1, 2016 and the application was denied.

The purpose of the submitted Zoning By-law Amendment Application is to permit the development of a 2.5 storey (11.0 m) mixed use building with commercial uses on the ground floor, including a medical office and pharmacy, with two residential dwelling units above grade. The proposal includes 11 parking spaces and one barrier free parking space.

The applicant has held two neighbourhood meetings on May 16, 2017, and May 17, 2018 and has worked with staff to amend the original application that was for a three storey mixed use building having three commercial units at grade and three residential units above. The revisions have been to ensure compatibility with the surrounding residential development. The revised building is designed to resemble a two and a half storey dwelling with limited commercial on the main floor and two residential units above.

Chronology:

March 10, 2017: Application ZAC-17-061 received.

April 4, 2017: Application ZAC-17-061 deemed complete.

April 10, 2017: Notice of Complete Application and Pre-Circulation was mailed to 46 property owners within 120 m of the subject property.

September 16, 2017: A Public Notice sign was established on the property.

May 16, 2017: Neighbourhood meeting.

May 17, 2018: Neighbourhood meeting.

August 22, 2018: Public Notice sign updated to reflect the date of Public Meeting.

August 31, 2018: Circulation of Notice of Public Meeting to 46 property owners within 120 m of the subject property.

DETAILS OF SUBMITTED APPLICATION:

Owner: 2434217 Ontario Inc.

Agent: MB1 Development Consulting

Location: 567 Scenic Drive (Hamilton) (see Appendix “A” to Report PED18173)

Property Size:

| | |
|----------|-------------------------------|
| Frontage | 34.15 m (Scenic Drive) |
| Area | 978.3 sq m |
| Depth | 22.37 m (Upper Paradise Road) |

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|----------------------------------|---------------------------------|---|
| <u>Subject Lands:</u> | Medical Office | "B-1" (Suburban Agriculture and Residential, etc.) District |
| <u>Surrounding Lands:</u> | | |
| North | Single Detached Dwelling | "B" (Suburban Agriculture and Residential, etc.) District |
| East | Single Detached Dwelling | "B" (Suburban Agriculture and Residential, etc.) District |
| South | Single Detached Dwellings | "B-1" (Suburban Agriculture and Residential, etc.) District |
| West | Single Detached Dwellings | "B-1" (Suburban Agriculture and Residential, etc.) District |

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. However, the UHOP has not been updated with respect to the cultural heritage policies of the Provincial Policy Statement. The following policies amongst others, apply:

“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.*”

A Caution note will be required on the Site Plan at the time of the Site Plan Control Application. As the application for a change in zoning complies with the Official Plan and the relevant policies in the PPS, 2014, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*; and,
- Consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (2017)

The subject lands are located within the built up area as defined by the Growth Plan. The proposal conforms to the Guiding Principles of Section 2.2.1.4 which provides direction on managing growth whereby population and employment growth will:

- “2.4.1.4 a) feature a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities;
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes; and,
- 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;”

In review, the subject lands are located within the Urban Boundary, and Built Up Area in a settlement area where full municipal services are available, and will provide for a complete community through the addition of dwelling units and employment opportunities through a compact design.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (2017).

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP). In addition, this portion of Scenic Drive is considered a Minor Arterial road per Schedule “C” of Volume 1 in the UHOP. The following policies, amongst others, apply to the application.

General Policies:

- “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.3.2.2 The Neighbourhoods designation applies to lands generally greater than 4 hectares in size designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations.
- 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.”

The proposal complies with the above as the development of the land will facilitate a compact form of development, which contributes to a complete community, providing supporting uses to serve the local and surrounding residents. The subject land is less than 4 hectares in size and is at the corner of a minor arterial and collector road, allowing for local commercial uses.

Commercial Component

The subject land has operated as a commercial property since July 25, 1950, having a succession of various different commercial retail uses. Prior to the establishment of the doctor's office, the most recent use of the property has been a retail, convenience and grocery store.

Based on the above, the commercial component of the site is legal non-complying to the UHOP. The following policies apply:

“F.1.12 Existing, Non-Complying and Non-Conforming Uses

It is recognized there are some previously existing land uses that do not presently comply with the goals and objectives set out in this Plan. This Plan, while endeavouring to achieve a high degree of land use compatibility for new development, recognizes there is a degree of diversity in land use for existing areas where time and custom have achieved an acceptable level of tolerance. Many of these uses have been established for a considerable number of years. In some cases, it is recognized such situations exist and

they can be continued in the interim. In other cases, there are some existing uses that not only do not comply with the Official Plan or conform to the Zoning By-law, and are incompatible with surrounding land uses.

F.1.12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:

- a) the Zoning By-law shall permit only the existing use and the associated performance standards;
- b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,
- c) the use is in compliance with appropriate provincial and municipal regulations.

F.1.12.9 The expansion or enlargement or change in legal non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan and the Zoning By-law.”

As noted in the background section of the report, this property has been used for commercial purposes for several decades. The commercial component complies with Policies F.1.12.8 and 9 on the basis that:

- the Zoning By-law is modified to include the performance standards to improve the urban design component of the new development and to ensure it implements the policies of the Local Commercial and residential policies within the Neighbourhoods designation;
- it does not constitute a danger; and,
- it conforms to provincial and municipal policies.

The subject lands are surrounded by single detached residential dwellings but are located at the corner of a minor arterial road and a collector road. The redevelopment will maintain a commercial use on the subject lands which has been in existence for over 60 years while introducing a residential component.. The proposed mixed use development maintains the historical small scale commercial use while adding residential units above in keeping with the surrounding residential uses.

Residential Component

The proposal is to include two dwelling units above the commercial use. Since the site is adding residential uses to the property, this development is evaluated against the Residential Intensification policies below:

“B.2.4.1.1 *Residential intensification* shall be encouraged throughout the entire *built-up area*, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.

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.

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;
- 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;
- j) infrastructure and transportation capacity and impacts.”

The proposal has considered the adjacent land uses by designing the building to be consistent with the height and massing of the adjacent two and two and half storey single detached dwellings.

The subject lands are located at the southeast corner of Scenic Drive and Upper Paradise Road. Scenic Drive is a minor arterial road which is along the Hamilton Street Railway (HSR) transit routes (Routes No. 34 and 34a). A bus stop is located at the east side of Upper Paradise Road in front of the subject lands providing a convenient access to public transportation.

The location, size and scale of the proposed development ensures that the building is not only compatible with the surrounding neighbourhood, but also ensures no overlook, enhances the existing neighbourhood character and preserves site lines for safety and views of the Escarpment.

The Local Commercial and Urban Design policies provide direction for the building mass, location, size, and site design, as follows:

“E.3.8 Local Commercial

E.3.8.4 Local commercial uses may be permitted in the following built forms:

- d) multiple storey buildings with the local commercial uses on the ground floor and residential units above.

E.3.8.2 The following uses shall be permitted:

- b) medical offices or clinic, provided it has direct access to an arterial road and is adjacent to other local commercial uses; and,
- c) residential uses, in accordance with Policy E.3.8.10.

E.3.8.8 Local commercial uses shall comply with the following provisions:

- a) The gross floor area for any individual office shall not exceed 500 square metres.

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.3.8.10 Residential units located in the same building as local commercial uses shall generally be located above the ground floor. Some components of the residential use may be located in ground floor areas in the rear of buildings. All commercial space shall be located on the ground floor with the primary entrances to the commercial space through the principal façade of the building.

E.3.8.14 New local commercial buildings or uses in areas other than those referred to in E.3.8.13 shall:

- a) be located close to the street to create a strong pedestrian orientation particularly along adjoining collector roads;
- b) provide a principal entrance facing the arterial and collector road;
- c) provide direct access from the sidewalk;
- d) provide windows and signage facing the street; and,
- e) provide for a consistent minimum setback.”

The subject land has been established and operating as a commercial site since July 25, 1950. A medical office use is permitted by the UHOP as the property has direct access to an arterial road. As the site is located in a prominent location of the neighbourhood, the redevelopment of the site will provide a positive redevelopment, which will strengthen the street presence providing an active storefront. Furthermore, through the review of the application, the applicant has reduced the size and scale of the development to be in keeping with the policies, ensuring that the development is scaled appropriately to be in keeping with and compatible to the surrounding neighbourhood.

Urban Design Policies

“3.3.2.3 Urban design should foster a sense of community pride and identity by:

- a) respecting existing character, development patterns, built form, and landscape;
- b) promoting quality design consistent with the locale and surrounding environment;

B.3.3.2.4 Quality spaces physically and visually connect the public and private realms. Public and private *development* and *redevelopment* should create quality spaces by:

- a) organizing space in a logical manner through the design, placement, and construction of new buildings, streets, structures, and landscaping;
- b) recognizing that every new building or structure is part of a greater whole that contributes to the overall appearance and visual cohesiveness of the urban fabric;
- c) using materials that are consistent and compatible with the surrounding context in the design of new buildings;
- e) creating a continuous animated street edge in urban environments;
- f) including transitional areas between the public and private spaces where possible through use of features such as landscaping, planters, porches, canopies, and/or stairs;

B.3.3.2.6 Where it has been determined through the policies of this Plan that *compatibility* with the surrounding areas is desirable, new *development*

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and *redevelopment* should enhance the character of the existing environment by:

- a) complementing and animating existing surroundings through building design and placement as well as through placement of pedestrian amenities;
- d) complementing the existing massing patterns, rhythm, character, colour, and surrounding context;

B.3.3.3.2 *New development* shall be designed to minimize impact on neighbouring buildings and public spaces by:

- b) ensuring adequate privacy and sunlight to neighbouring properties;

B.3.3.3.3 *New development* shall be massed to respect existing and planned street proportions.

B.3.3.3.4 *New development* shall define the street through consistent setbacks and building elevations. Design directions for setbacks and heights are found in Chapter E – Urban Systems and Designations and in the Zoning By-law.

B.3.3.3.5 Built form shall create comfortable pedestrian environments by:

- a) locating principal façades and primary building entrances parallel to and as close to the street as possible;
- b) including ample glazing on ground floors to create visibility to and from the public sidewalk;
- c) including a quality landscape edge along frontages where buildings are set back from the street;
- d) locating surface parking to the sides or rear of sites or buildings, where appropriate;

B.3.3.10.4 Where surface parking is proposed, it should be located to the sides or rear of buildings to enable the development of a continuous street edge and the creation of quality urban spaces consistent with Section B.3.3.2 – General Policies and Principles.

B.3.3.10.5 Parking areas shall be connected to the street through safe, landscaped pedestrian walkways.

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- B.3.3.10.6 Perimeters of surface parking lots shall be landscaped with appropriate materials that allow visibility from the public realm to the interior of the parking area.
- B.3.3.10.10 Bicycle parking facilities shall be located as close as possible to the entry points to buildings. A variety of bicycle parking formats, such as sheltered racks and lockers, catering to both employees and visitors is encouraged.”

Based on the above noted policies, the proposal complies to the UHOP as follows:

- The proposed redesigned building has been positioned to respect the rear yards of abutting residential buildings as well as provide a balance between street presence at the corner of Scenic Drive and Upper Paradise Road while preserving views of the escarpment and park located at the northwest corner of the intersection. The location and size of the mixed use building is comparable to the existing single detached residential uses surrounding the subject land.
- The neighbourhood is predominately single detached dwellings, ranging in height from one and a half to two and a half storeys in height. This proposal, at two and a half storeys (11.0 m), is in keeping with the surrounding development.
- The footprint of the proposed building is very similar to existing homes within the area at 186.5.00 sq m or approximately 20% lot coverage.
- The redesigned building has provided a street presence, without being a dominant building. The site has been designed for the public to have easy access throughout the site.
- The proposed redesigned mixed use building will be brought closer to the street, creating a positive street edge while respecting the existing character of the single detached dwellings surrounding the subject land.
- The development will introduce accessibility features and a façade to establish a street edge at a pedestrian / human scale. The proposed mixed use building has been designed to complement the existing neighbourhood style.
- The architectural design and the proposed materials of the redesigned building are consistent and compatible with the surrounding context. The ground floor façades are broken up with stone skirting and large windows from the commercial units facing the street. The doors of the commercial uses are proposed at a residential scale. Furthermore, the articulation of second floor bay windows is consistent with the vernacular of the neighbourhood, as well the pitched rooflines toward the street

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are typical in this neighbourhood. The proposed building is consistent in typology, using dormers at the front and back of the roofline to add interest. The front façade has a single pitched distinction on the left to add interest to the street facing side elevation. Juliet balconies at the front add a unique accent and amenity space to the residential units.

- With the introduction of new landscaping and fencing along the perimeter of the existing parking area, privacy and separation for existing residential uses will be improved with this redevelopment from the existing situation.
- In keeping with the conceptual elevation drawings (see Appendix “D” to Report PED18173), principle entrances to the building are provided parallel to the street, with all parking proposed at the side and rear of the lands. Sidewalk connections are provided from the street to the internal areas of the site, including entrances into the building and the parking area to the rear.
- There are existing municipal services within Upper Paradise Road and Scenic Drive. The existing services include:
 - A 300mm watermain, 300mm sanitary sewer and 1350mm storm sewer on Upper Paradise Road; and,
 - A 300mm watermain, 900mm storm sewer and 375mm sanitary sewer on Scenic Drive.

At the Site Plan Control stage, a Lighting Plan and traffic and pedestrian connections will be further reviewed to ensure policies B.3.3.2.4 i), B.3.3.2.5 b) and f) are addressed. In addition, a further evaluation of the façade treatment will be undertaken to ensure the appropriate integration, ensuring compatibility and enhancement of the streetscape.

Transportation

On Schedule “C” - Functional Road Classification Plan, Scenic Drive is classified as a “Minor Arterial Road”, and Upper Paradise Road is classified as a “Collector Road”.

“C.4.5.2 The road network shall be planned and implemented according to the following functional classifications and right-of-way widths:

d) Minor arterial roads, subject to the following policies:

- i) The primary function of a minor arterial road shall be to carry moderate volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.

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- ii) Land accesses shall be permitted with some controls.
- iii) The basic maximum right-of-way widths for minor arterial roads shall be 36.576 metres unless otherwise specifically described in Schedule C-2 – Future Road Widenings.
- e) Collector roads, subject to the following policies:
 - ii) The basic maximum right-of-way widths for urban collector roads shall be 30.480 metres in designated Employment Areas and 26.213 metres in all other areas, unless specifically described otherwise in Schedule C-2 – Future Road Widenings.”

The existing right-of-way width for Scenic Drive is 26.2 m along the frontage of the property while the required right-of-way width for minor arterial roads is 36.576 m. Therefore, a right-of-way widening from the subject lands of approximately 5.2 m will be required along Scenic Drive. Furthermore, the existing right-of-way width of Upper Paradise Road is 20.1 m. As Upper Paradise Road is classified as a Collector road, the right-of-way width for a collector road is 26.213 m. A right-of-way widening of approximately 3.05 m will be required along Upper Paradise Road. The applicant has identified that a reduction in the right-of-way widening width will be requested at the Site Plan Control stage, however, the subject lands have been designed to the ultimate road widths.

Based on the above policies, staff are of the opinion that the proposal complies with the policies of the Urban Hamilton Official Plan.

Hamilton Zoning By-law No. 6593

The subject lands are currently zoned “B-1” (Suburban Agriculture and Residential, etc.) District, in the Hamilton Zoning By-law No. 6593, as shown on Appendix “A” to Report PED18173.

The applicant has requested a change in zoning to the “CR-1” (Commercial Residential) District, to permit the development of a mixed use building with commercial uses on the ground floor with two residential dwelling units above on lands located at 567 Scenic Drive.

Further evaluation of the proposed modifications are included in the Analysis and Rationale for Recommendation section of Report PED18173.

Hamilton Zoning By-law No. 05-200

The subject lands are currently zoned “B-1” (Suburban Agriculture and Residential, etc.) District, in the Hamilton Zoning By-law No. 6593, as shown on Appendix “A” to Report PED18173. Staff note that the City of Hamilton has adopted new Commercial Mixed Use Zoning (By-law No. 17-240) currently under appeal to the Local Planning Appeal Tribunal. A Zoning By-law Amendment has been drafted to bring the lands into Hamilton Zoning By-law No. 05-200 and zone the lands a site specific Neighbourhood Commercial (C2) Zone which will be held in abeyance until such time as the Commercial Mixed Use Zoning comes into full force and effect. Further evaluation of the proposed modifications to the Neighbourhood Commercial (C2) Zone are included in the Analysis and Rationale for Recommendation section of Report PED18173.

RELEVANT CONSULTATION

The following departments and agencies had no comments or objections:

- Landscape Architectural Services, Public Works Department;
- Recycling and Waste Disposal, Public Works Department; and,
- Recreation, Emergency and Community Services Department.

Forestry & Horticulture (Public Works Department) have advised that there are no municipal tree assets on site and therefore a Tree Management Plan will not be required at the Site Plan Control stage. However, Forestry staff will require a Landscape Plan to be provided at the Site Plan Control stage for the future planting location of street trees.

Vector Borne Disease Section, Public Health Services Department require that a Pest Control Plan, focusing on rats and mice, shall be developed and implemented for the construction / development phase of the project and continue until the project is complete. The applicant has submitted a Pest Control Plan which has been deemed satisfactory by Public Health staff. A copy of the Pest Control Plan will be requested at Site Plan Control stage to ensure conformity.

Transit Planning (Public Works Department) have advised that the subject lands are served by HSR route #34 with no planned changes in service. HSR supports the inclusion of high quality pedestrian amenities at this development such as walkways, lighting, etc. and is willing to work with the developer on various bus stop amenities. Staff note that a bus stop is located on the southeast corner of Scenic Drive and Upper Paradise Road. Transit has requested that a 2.5 m right-of-way widening be taken to ensure the upgrades to the bus stop can be made in the future if needed. Staff note that a right-of-way widening will be addressed in accordance with the applicable provisions of the UHOP through the future Site Plan Control Application. Further details with

regards to pedestrian amenities will be addressed through a future Site Plan Control Application.

Transportation Planning (Planning and Economic Development) have reviewed the application and have identified that right-of-way widenings and a 12.19 m by 12.19 m daylighting triangle be provided. Staff have highlighted that should the application move forward, an Access Permit will be required for any modification to or creation or removal of a driveway access. Design requirements have also been provided by staff which include a minimum 1.2 m separation between any driveway access and infrastructure, and 5.0 m by 5.0 m visibility triangles at the access. In addition, Transportation Planning staff have identified that no loading space has been demonstrated on the site and that on-street commercial loading / unloading will be prohibited within the 'No Stopping' areas. Staff note that the details regarding sidewalks, Access Permits, loading and visibility triangles will be evaluated through the future Site Plan Control Application. However, a revised TDM will be required at the Site Plan Control stage to address the revised proposal as bike parking within the subject lands has been removed due to the required right-of-way widening of Scenic Drive.

Hamilton Conservation Authority (HCA) have advised that they have no objection to the approval of the Zoning By-law Amendment Application. HCA staff have reviewed the Servicing Options Report submitted and note that quality control will be provided on site through the use of an oil / grit separator or LID measures such as permeable pavers. The HCA will require the submission of a Site Grading Plan, a Site Servicing Plan, and an Erosion & Sediment Control Plan. Staff note that these Plans will be requested as a condition of the future Site Plan Control Application.

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 46 property owners within 120 m of the subject property on April 10, 2017 for the proposed Zoning By-law Amendment Application.

Seven written submissions were received in opposition with the initial circulation, attached as Appendix "F" to Report PED18173 and summarized in the Analysis and Rationale for Recommendation Section.

A Public Notice Sign was posted on the property on April 19, 2017, and updated on August 22, 2018, with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on August 31, 2018.

Public Consultation Strategy

The Public Consultation Strategy submitted with the application identified that a neighbourhood meeting would be held with residents as required. Two neighbourhood meetings were held, the first being on May 16, 2017. The meeting was well attended, with over 50 members of the community completing comment forms provided by the Councillors staff (attached as Appendix “G” to Report PED18173). The second neighbourhood meeting held on May 17, 2018 was also well attended, with a similar number of attendees. At the second meeting the applicant presented the revised proposal to the community. Concerns identified by the community, through comment sheets at the neighbourhood meetings (attached as Appendix “G” to Report PED18173) are summarized in the Analysis and Rationale for Recommendation Section of this Report and related to issues of parking, traffic, crime, building height, intensity of use, and privacy. It should be noted that a number of people attending the meeting also expressed support for the proposal, particularly at the second meeting.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe (2017);
 - (ii) It complies with the Urban Hamilton Official Plan;
 - (iii) The proposed development is considered to be compatible with the existing and planned development in the immediate area; and,
 - (iv) The proposed development represents good planning by, among other things, providing housing and employment opportunities.
2. The lands subject to this Zoning By-law Amendment Application are currently zoned “B-1” (Suburban Agriculture and Residential, etc.) District, within the City of Hamilton Zoning By-law No. 6593. The applicant has requested a Zoning By-law Amendment to rezone the lands to a site specific “CR-1” (Commercial – Residential) District. The subject land has been established as a commercial site since July 25, 1950 with a range of commercial retail businesses. The applicant was granted a Minor Variance permitting a medical office for a period of two years ending in November 2016 but a second application to extend the use, which was heard on December 1, 2016, was denied. The applicant has since submitted a Zoning By-law Amendment Application to permit a mixed use building containing commercial units on the ground floor and residential units above. The application has been modified to reduce the number of commercial and residential units to two

commercial units on the ground floor being a medical office and pharmacy (retail) and two residential units above. The proposal complies with the Local Commercial policies of the Official Plan and Staff support the Zoning By-law Amendment.

Modifications to the “CR-1” (Commercial – Residential) District are required to limit commercial uses and to permit two residential units, front, side and rear yard setback reductions, modifications to the development standards for: encroachments of balconies and unenclosed porches into a required yard; parking stall size requirements; landscaping and amenity area; and, to require one barrier free parking space to implement the proposal.

Commercial Uses

Given the size and location of the subject lands further refinement to the permitted uses of the “CR-1” (Commercial Residential) District is proposed to ensure that the development is scaled appropriately to be in keeping with and compatible to the surrounding neighbourhood. Uses such as a theatre and commercial club have been prohibited in order to ensure that the uses are compatible with the surrounding neighbourhood. Furthermore, the medical office has been capped regarding the total gross floor area to 94 sq m and the number total number of practitioners for the medical office (restricted to one practitioner). Staff are of the opinion that the modifications will allow the applicant to ensure compatibility with the surrounding neighbourhood.

Residential Units

A modification to the “CR-1” (Commercial – Residential) District is required to restrict the proposal to permit only two residential units above the ground floor. Staff note that residential uses are permitted within the proposed parent zoning; however, due to the number of units being proposed this provision must be varied. Multiple dwellings are permitted within the zone, however, as per the definition, a multiple dwelling consists of four or more dwelling units. The application has been reduced to the two units to ensure compatibility, address concerns over the intensity of development and accommodate on site parking. Staff support the modification.

Parking

Staff note that there are no changes to the number of required parking spaces. To ensure that 11 parking spaces are provided (including one barrier free parking space), where seven parking spaces are required in By-law 6593 (two parking spaces for the dwelling units and five parking spaces for the medical office). Modifications to the use permissions and to the size of the parking spaces are

required. The applicant has provided 11 parking spaces to address the concerns raised at the neighbourhood meetings with regards to parking concerns in the neighbourhood.

In addition, due to concerns raised by the public, the proposal has been modified to permit only one practitioner within the medical office, limiting the number of patients. Staff support the modification to the By-law to require one barrier free parking space as part of the total 11 parking spaces.

Parking Stall Size

The applicant has requested a modification to the parking stall size to 2.6 m by 5.5 m, whereas the By-law requires 2.7 m by 6.0 m. The general intent and purpose of the provision of the By-law is to ensure that parking spaces provide a minimum width and length to ensure adequate space for vehicular parking.

The applicant has provided four additional parking spaces beyond what is required in the Zoning By-law. Given the accommodation for additional parking spaces to address neighbourhood concerns, and that the applicant initiated the rezoning process prior to Council's adoption of revised parking stall standards, Staff are of the opinion that the reduction of the parking stall width and length can be supported.

Setbacks

Multiple setback reductions have been requested for the proposed development. The proposed mixed use building footprint is approximately 10% larger than the existing commercial building (having an approximate lot coverage of 20%). A right-of-way widening (along Scenic Drive) and daylighting triangle have been identified. The positioning of the building is constrained to ensure compatibility, protect site lines to the escarpment as well as due to the right-of-way widening. In addition, some of the proposed reductions are to facilitate additional parking to address the concerns of the neighbourhood and the need for additional parking spaces. Staff note that the footprint of the building is comparable to that of the adjacent single detached residential dwellings. Staff support the proposed modification to reduce the front yard setback to 2.0 m (Scenic Drive), the rear yard setback to 3.6 m and the westerly yard (along Upper Paradise Road) and hypotenuse setback to 2.0 m, in order to facilitate the proposed development.

Balcony Projection and Reduced Amenity Area

A balcony for each residential unit has been provided at the rear (southern lot line) of the subject lands. An increase in encroachment is required to project a

maximum 1.9 m into the rear yard instead of 1.0 m. Staff note that balconies will function as the amenity area. The only potential overlook into the adjacent lands (77 Upper Paradise Road) is into the side and front yard. The overlook will be minimized through the utilization of landscaping and the position of the proposed building, which will have limited views. In addition, the north elevation of 77 Upper Paradise Road, facing the proposed mixed use building, only has three small windows, one of which is the window to the double car garage.

Staff note that the position of the building provides a balance between street presence at the corner of Scenic Drive and Upper Paradise Road while preserving views of the park and escarpment, located at the northwest corner of the intersection. Staff support this increase in encroachment of the balconies.

Staff note that each balcony is provided for the purpose of providing each residential unit with an amenity area. The applicant is providing 10.5 sq m, whereas the By-law requires a minimum of 28.0 sq m. Staff support the reduction in amenity area as the proposal is located across the street from Cliffview Park and the stairs leading to the Bruce Trail. In addition, the residential units are generously sized, with a gross floor area of approximately 186.5 sq m (2,000 sq ft) per unit, thereby offsetting the decreased amenity area with internal space. Staff support this decrease in amenity area for each dwelling unit.

The applicant will also require variances for the setback for the roofed over, unenclosed one-storey porch area situated under the balconies proposed along the front and rear facades. While the porch area is not proposed to extend beyond the balcony area, the variances to the porch area correspond to and are the result of the variances required for the balcony area.

Gross Floor Area

The applicant has agreed to amend the application to reduce the number of commercial and residential units and to permit one medical practitioner, to minimize any potential impacts from an increase in traffic and parking demands. The owner also agreed to placing restrictions on the gross floor area of the proposed ground floor medical office to 94 sq m in order to ensure the intent of the proposed development is not altered and the size, scale and intensity is compatible with the surrounding neighbourhood. Staff note that the building's gross floor area has also been capped at the 495 sq m, with the two residential units having a combined maximum 308 sq m of gross floor area. Staff support the modification to ensure the intent of the local scale of this mixed use development is maintained.

Landscaping and Planting Strip

The applicant has requested a reduction in the landscaped area to 15%, whereas the By-law requires 40%. Instead, the applicant is providing more than the number of required parking spaces to accommodate the concerns regarding parking on site. The proposed development introduces planting strips along the entire perimeter of the parking area, allowing for additional green space and landscaping. The proposal provides a 1.35 m planting strip along the easterly boundary and the southerly property lines (except along a small portion of the southerly property line to allow vehicles to manoeuvre out of the parking space, to 0.8 m), whereas the By-law requires a 1.5 m width planting strip. In addition, a visual barrier (fencing) will be required along both property lines. With the introduction of new landscaping and fencing along the perimeter of the existing parking area, privacy and separation for existing residential uses will be improved. On balance, the applicant is introducing landscaping and landscape buffers to the site where none was previously provided; on this basis, staff support the variances for a reduction in planting strips.

3. New Commercial and Mixed Use (CMU) Zones in Zoning By-law No. 05-200 have been adopted by Council but the implementing Zoning By-law (i.e By-law No. 17-240) has been appealed to the Local Planning Appeal Tribunal (LPAT). A draft By-law has been prepared with this report (attached as Appendix “C” to Report PED18173), to add 567 Scenic Drive into Zoning By-law No. 05-200 at such time as the CMU Zones are in force and effect. 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. The subject property is to be rezoned a site-specific Neighbourhood Commercial (C2) Zone. Staff note that the following modifications are required to permit the proposal.

Commercial Uses

Given the size and location of the subject lands further refinement of the Neighbourhood Commercial (C2) Zone has been made to ensure that the development is scaled appropriately to be in keeping with and compatible to surrounding neighbourhood. Such uses as a day nursery and motor vehicle service station have been prohibited from the By-law in order to ensure that the intensity of the site is compatible with the surrounding neighbourhood. Furthermore, the medical office has capped the total gross floor area and the number total number of practitioners for the medical office has also been capped at one practitioner. Staff are of the opinion that the modifications will allow the applicant to ensure compatibility, address concerns over the intensity of development.

Gross Floor Area

The applicant has agreed to amend the application to reduce the number of commercial and residential units and to permit one medical practitioner, to minimize any potential impacts from an increase in traffic and parking demands. The owner also agreed to placing restrictions on the gross floor area of the proposed ground floor medical office to 94 sq m in order to ensure the intent of the proposed development is not altered and the size, scale and intensity is compatible with the surrounding neighbourhood. The proposed dwelling units are adequately size and will have two floors of gross floor area and therefore has required an amendment to the By-law as the residential gross floor area exceeds that of the commercial gross floor area. Staff support the modification.

Rear Yard Setback

A setback reduction is required for the proposed development. The proposed mixed use building footprint is only approximately 10% larger than the existing commercial building, having an approximate lot coverage of 20%. A right-of-way widening and daylighting triangle have been required. The position of the building is constrained due to the road widenings to ensure compatibility as well as protect site lines to the escarpment. In addition, some of the proposed reduction will facilitate additional parking to address the concerns of the neighbourhood and the need for additional parking spaces. Staff note that the footprint of the building is comparable to that of the adjacent single detached residential dwellings. Staff support the proposed modification to reduce the rear yard setback to 1.8 m.

Location of Parking Spaces

A modification is required to the By-law as the accessible parking space projects 0.2 m further than the façade of the building whereas parking spaces are not permitted to project further than the front façade. The applicant has provided 11 parking spaces greater than the required number parking spaces in order to address the concerns raised at the neighbourhood meetings with regards to parking concerns in the neighbourhood. Staff are of the opinion that the required modification is minor in nature while still respecting the intent of the By-law while addressing concerns raised by the public. Staff support the proposed modification.

Landscaping and Planting Strip

The current condition of the subject land is comprised of an asphalt parking area surrounding the existing building, adjacent to existing residential development. The proposed development introduces adequate landscape buffers along the entire perimeter of the parking area, allowing for additional green space and landscaping.

The proposal provides a 1.35 m landscape strip along the east, west and the majority of the southerly property lines, whereas a 1.5 m width is required. However, a further reduction along a small portion of the southerly property line is proposed to allow vehicles to manoeuvre out of the parking space. In addition, a visual barrier (fencing) will be required to be provided. With the introduction of new landscaping and fencing along the perimeter of the existing parking area, privacy and separation for existing residential uses will be improved. On this basis, staff support the variances for a reduction in landscaping widths.

Parking Stall Size

The applicant has requested a modification to the parking stall size to 2.6 m by 5.5 m, whereas the By-law requires 2.7 m by 6.0 m. The general intent and purpose of the provision of the By-law is to ensure that parking spaces provide a minimum width and length to ensure adequate space for vehicular parking. Staff note that at the time the application was submitted, the proposal applied the Hamilton Zoning By-law No. 05-200 parking space stall size. Although the size requirements of the Zoning By-law have since changed, the application precluded the new parking space stall size.

The applicant has provided four additional parking spaces beyond what is required in the zoning by-law. Given the accommodation for additional parking spaces to address neighbourhood, Staff are of the opinion that the reduction of the parking stall width and length can be supported.

4. Engineering have reviewed the following plans, studies and reports prior to the approval of the Zoning By-law Amendment Application:
 - Erosion and Sediment Control Plan;
 - Grading Plan;
 - General Plan of Services;
 - Storm Drainage Plan;
 - Water and Wastewater Servicing Options Report; and,
 - Water Servicing Study.

Upon review of the above noted reports and studies, the Development Engineering Approvals Section has advised of the following.

At the Site Plan Control stage a right-of-way widening and daylight triangle will be required to be dedicated to the City to ensure that the necessary space can be allocated for any widening or future improvements along both Scenic Drive and Upper Paradise Road. Staff note that although the applicant has identified that a Right of Way Impact Assessment will be completed at the Site Plan Control stage for a possible reduction in the width of the right-of-way widening being required, the applicant has revised the concept plan to demonstrate the full extent of the right-of-way widening.

Development Engineering Staff are supportive of the zone change as there is available capacity for the proposed development. Further analysis regarding the proposal will be reviewed through the standard conditions of the future Site Plan Control Application and the applicant will be required update the domestic and fire flow demands in order to demonstrate that water servicing requirements have been satisfied.

5. Two neighbourhood meetings were held with the residents on May 16, 2017, and May 17, 2018, advising the residents of the proposed development. Staff note that at the May 17, 2018 neighbourhood meeting, the applicant presented the revised proposal of two commercial units on the ground floor and two residential units above.

Staff have consolidated the comment sheets submitted at the two neighbourhood meetings as well as the letters received by the public and have summarized the concerns of the residents below.

Parking

Concerns have been raised over the number of parking spaces being provided for the proposed uses. Staff note that no modification for a reduction in the number of required parking spaces for the proposed development is required. A reduction in parking stall size has been requested however; the reduction in size will not have an impact on the number of vehicles able to park within the subject lands. In addition, the applicant has provided more than the seven required parking spaces for the proposed development and will be providing 11 parking spaces, including one barrier free parking space.

Traffic

Residents within the area have concern with regards to the potential increase in traffic volumes. Transportation Planning has reviewed the proposal and no additional concerns have been raised with regards to traffic. The traffic generated by the proposed development will primarily be at off peak hours. Furthermore,

Scenic Drive is a minor arterial road, being the main east-west connection for the neighbourhood, which is designed to accommodate higher volumes of traffic, despite the land use being primarily low density single detached residential in this area.

In addition, Cliffview Park is located on the northwest corner of Scenic Drive and Upper Paradise Road. Staff note that the park is a well utilized parkette with pedestrian access down the escarpment to the Bruce Trail. Cliffview Park has grown in popularity and the parking lot for the park is often at capacity with spill-over parking on the street and onto this site.

Staff note that while there has been concern raised with regards to the volume of increased traffic, the development is of a relatively small scale and the applicant has revised the proposal to two commercial units and two residential units above. The applicant further modified the proposal to permit only one practitioner within the medical office and is providing more than the required parking on site.

Crime

Concerns were raised with regards to the potential increase in crime with the introduction of a pharmacy. Staff note that the pharmacy must comply with the regulatory authority requirements for pharmacies. The addition of the two residential units above the commercial units will also provide a measure of additional security and overlook to reduce opportunity for criminal activity. A Lighting Plan will be required as a condition of Site Plan and will ensure that light spillage onto adjacent properties does not occur while ensuring the property is well lit for safety and security purposes and will be reviewed to avoid any light trespass onto adjacent lands.

Height

At the neighbourhood meeting, concerns were raised with regards to the height of the proposed building. Members of the public have expressed concerned with the potential for future developments to be proposed at a higher height and that this development could lead to further intensification within the interior of the neighbourhood. The proposed mixed use building is two and half storeys but mixed use building will appear similar to a two and a half storeys single detached dwelling.

Intensity of Use

The proposal has been modified from the original proposal, which consisted of three commercial units at grade and three residential units above, to the current

proposal of two commercial units and two residential units. Some of the members of the public were of the opinion that the three commercial uses and three commercial uses were too intense for the subject lands. To further address these concerns, the proposal has also limited the medical office to permit one practitioner. These modifications have been made to address the concerns of the public and ensure the size and scale of the development is compatible with the surrounding neighbourhood.

Privacy

Concerns were raised with regards to the potential loss of privacy. Staff note that the building has been positioned to respect the rear yards of abutting buildings as well as provide a balance between street presence and sufficient space for landscaping treatment.

The mixed use building has been setback over 18 m from the easterly lot line. The setback provided is more than sufficient and in addition landscaping will be provided along the easterly lot line. Staff note that the property abutting to the south only has three small windows on the north facing portion of the building, of which one of the windows is into the garage. As well, the amenity areas have been positioned so that there is little view to the rear of the adjacent property.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment Application be denied, the property would remain under the “B-1” (Suburban Agriculture and Residential, etc.) District and the medical clinic would be required to cease.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Healthy and Safe Communities

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

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. 6593
Appendix "C" – Zoning By-law Amendment to By-law No. 05-200
Appendix "D" – Concept Plan
Appendix "E" – Elevations
Appendix "F" – Public Submissions
Appendix "G" – Neighbourhood Comments Sheets