



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 7, 2020
SUBJECT/REPORT NO:	City Initiative 19-H – Change in Zoning to Zoning By-law No. 05-200 - Nos. 328, 336 and 344 Beach Boulevard (west/bay side of Beach Boulevard) (PED19190(a)) (Ward 5)
WARD(S) AFFECTED:	Ward 5
PREPARED BY:	Joanne Hickey Evans (905) 546-2424 Ext. 1282
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **City Initiative 19-H** to further amend Zoning By-law No. 05-200 to correct the underlying Zone and update the special exception for the properties located at Nos. 328, 336, 344 (south part) Beach Boulevard, in the former City of Hamilton, as shown on Appendix “A” to Report PED19190(a), be **APPROVED** on the following basis:
- (i) That the draft By-law attached as Appendix “B” to Report PED19190(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
 - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms with A Place to Grow Plan (2019) and complies with the Urban Hamilton Official Plan.
- (b) That **City Initiative 19-H** to amend Zoning By-law No. 05-200 to add lands and special exception to the property located at 344 (north part) Beach Boulevard to Zoning By-law No. 05-200, in the former City of Hamilton, as shown on Appendix “A” to Report PED19190(a), be **APPROVED** on the following basis:

- (i) That the draft By-law attached as Appendix “B” to Report PED19190(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms with A Place to Grow Plan (2019) and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

In November, 2019, By-law No. 19-278 modified the zoning for the lands along the west side (bay side) of Beach Boulevard to increase the minimum ground floor elevation to 76.5 metres above mean sea level for all buildings and structures, except for accessory buildings and additions less than 14 square metres, to implement the recommendations of the Beach Boulevard Community Stormwater Ponding Study related to flooding concerns.

Seven of these properties were zoned Neighbourhood Commercial (C2) Zone in Zoning By-law No. 05-200.

However, after By-law 19-278 was passed in November 2019, it was identified that three of the seven properties (328, 336 Beach Boulevard; Part of 344 Beach Boulevard) were zoned Residential Character (C1) Zone and not Neighbourhood Commercial (C2) Zone. In February 2019, By-law 19-062 rezoned these three properties from Neighbourhood Commercial (C2) Zone to Residential Character (C1) Zone to permit the development of single detached dwellings along with commercial uses. The C2 does not permit single detached dwellings.

As a result, a correction is required to reinstate the Residential Character (C1) Zone so these lands can be developed for their intended purposes which are single detached dwellings. Further, the C2 Zone special regulations from By-law 19-278 did not include a minimum distance between the ground and the bottom of a fence since commercial properties generally do not erect fences. Since these lands will be developed for single detached dwellings, the fence requirement should be included as an additional regulation. Furthermore, a variance for the front yard setback for 328 Beach Boulevard was granted by the Committee of Adjustment in October 2019. It is proposed to carry forward the variance into the implementing by-law.

Alternatives for Consideration – See Page 6

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 amendment to the Zoning By-law.

HISTORICAL BACKGROUND

1.0 By-law No. 19-062 - 328, 336 Beach Boulevard; Part of 344 Beach Boulevard

In February, 2019, By-law No. 19-062 changed the zoning of 328, 336, and part of 344 Beach Boulevard from Neighbourhood Commercial (C2) Zone to Residential Character Commercial (C1) Zone. The lands were rezoned because these properties were sold by the City of Hamilton as surplus lands; the development of these lands is for residential uses. The Neighbourhood Commercial (C2) Zone does not permit stand-alone residential uses in the form of single-detached dwellings whereas the C1 Zone does.

2.0 By-law No. 19-278 - Modifications to Zoning By-law 05-200 – Lands on the west side (bay side) of Beach Boulevard

On November 13, 2019, By-law No. 19-278 was approved to apply a special exception to the lands zoned Neighbourhood Commercial (C2) Zone, located at 328, 336 Beach Boulevard and part of 344 Beach Boulevard; 400 Beach Boulevard; and 532, 536, 538 Beach Boulevard.

The special exception regulations:

- require a 1.7 metre side yard and limits projections/encroachments permitted in a side yard;
- require a minimum ground floor elevation of 76.5 metres above mean sea level for all buildings and structures, except for accessory buildings and additions less than 14 square metres;
- prohibit cellars and basements;
- allow additions less than 14 square metres to have a minimum floor elevation at or above the existing ground floor elevation; and,
- establish accessory structures regulations, including height, lot coverage, setbacks.

Due to an online mapping error, the C1 Zone was not identified and therefore, the previous zone applied. As a result, the C1 zone needs to be reinstated.

3.0 Committee of Adjustment Application – 328 Beach Boulevard

The owner of 328 Beach Boulevard sought a variance in 2019 to the C1 zone to modify the maximum front yard setback from 3 m to 11.2 m (Application HM/A-19:352). The application for a minor variance was approved by the Committee of Adjustment in October, 2019. By changing the zoning to C2, the variance was inadvertently deleted.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Growth Plan for the Greater Golden Horseshoe (2019)

There are no policies relating to local natural hazards. Therefore, the Zoning By-law amendment does not conflict with the Growth Plan for the Greater Golden Horseshoe (2019)

2.0 Provincial Policy Statement (PPS) 2014

Although there are no specific policies relating to local hazards (flooding, high water table), Section 3.1 – Natural Hazards aims to protect public health and safety from provincially defined natural hazards.

Further, Policy 1.6..6.7 c) states that “Planning for stormwater management shall not increase risks to human health or safety.”

The Zoning By-law amendment does not conflict with the PPS.

3.0 Urban Hamilton Official Plan

Policy B.3.6.5.14 of Volume 1 applies:

“B.3.6.5.14 Where lands with inherent hazards exist that are not regulated by the Province or a provincial body, such as steep slopes not associated with a watercourse or shoreline, the City shall as part of applications for development under the Planning Act, R.S.O., 1990 c. P.13, require the preparation of appropriate studies to:

- a) map the hazard;
- b) assess the existing and future stability of the hazard;
- c) identify appropriate setbacks from the hazard; and,

- d) identify other mitigation measures necessary to protect the site, the hazard, *adjacent lands*, and public safety.“

The Zoning By-law amendment implements this policy.

RELEVANT CONSULTATION

The lands are vacant at this time. However, the landowner of 336 Beach Boulevard contacted staff and indicated she is going to build a single detached dwelling. She is happy to have the C1 zone reinstated.

The statutory Notice of the Public Meeting was given by way of publication in the Hamilton Spectator on June 18, 2020. In addition, an additional non-statutory notice was sent to the 3 properties, along with a copy of the staff report.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

Due to a mapping error, these three properties were shown as the C2 Zone and not C1 Zone. As a result, when By-law No. 19-278 was passed the incorrect base zone of Neighbourhood Commercial (C2) Zone was used in the amending by-law. As a result, the actual Residential Character Commercial (C1) Zone was deleted.

The Residential Character Commercial (C1) Zone needs to be reinstated since the lands are currently under development for single detached dwellings which was the intended land use.

The owner of 328 Beach Boulevard sought a variance in October 2019 to the C1 zone to modify the maximum front yard setback from 3 m to 11.2 m. By changing the zoning to C2, the variance was inadvertently deleted. As a result, a modification to this by-law would be appropriate to change the maximum front yard setback from 3 m to a maximum setback of 11.2m as per Committee of Adjustment Application HM/A-19.352 which would allow the owner to build the house, as per Site Plan Control application DAB-18:210.

This modification should be applied to all 3 lots so the front yard setback for the 2 remaining lots would allow development to be more in keeping with the property at 328 Beach Boulevard.

Special Exception 499 is still warranted; however, an additional regulation requiring a minimum height of 0.75 metres between the ground and the bottom of a fence or wall is necessary. This regulation was not part of the special exception since these lands were planned for commercial uses only. This regulation is the same as the regulation for the residential properties on the west side of Beach Boulevard under Zoning By-law No. 6593.

ALTERNATIVES FOR CONSIDERATION

Council could choose not to rezone the properties. Development of single detached dwellings would require individual zoning applications by the owner.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

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