



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 18, 2020
SUBJECT/REPORT NO:	Application to Amend City of Hamilton Zoning By-law No. 6593 for Lands Located at 1406 Upper Gage Avenue (Hamilton) (PED20131) (Ward 6)
WARD(S) AFFECTED:	Ward 6
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(S)

- (a) That **Amended Zoning By-law Amendment Application ZAR-20-005, (Hussein Ghaddar, Owner)**, for a change in zoning from the “L-mr-1/S-401” (Planned Development) District, Modified to the “C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding, to facilitate a severance to create two lots for two single detached dwellings on lands located at 1406 Upper Gage Avenue (Hamilton), as shown on Appendix “A” to Report PED20131, be **APPROVED**, on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED20131, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding ‘H’ as a suffix to the proposed zoning for 1406 Upper Gage Avenue, as shown on Schedule “A” of Appendix “B” to Report PED20131.

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The Holding Provision “C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding, be removed conditional upon:

- (1) Submission and approval of a Stage 3 and if required, Stage 4 Archaeological Assessment, to the satisfaction of the Director of Planning and Chief Planner and the Ministry of Heritage, Sport, Tourism and Culture Industries.
 - (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan regarding matters including compatibility with the immediate area.
- (b) That upon finalization of the implementing By-law, the Eleanor Neighbourhood Plan be amended by changing the designation of the subject lands from “Low Density Apartments” to “Single and Double”.

EXECUTIVE SUMMARY

The subject property is municipally known as 1406 Upper Gage Avenue, Hamilton. The owner, Hussein Ghaddar has applied for a Zoning By-law Amendment to Hamilton Zoning By-law No. 6593 to permit a single detached dwelling fronting onto Elmore Drive while retaining the existing dwelling fronting on Upper Gage Avenue. The proposed Zoning By-law Amendment is for a change in zoning from the “L-mr-1/S-401” (Planned Development) District, Modified to the “C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding, to facilitate Consent application HM/B-19:55 to sever a “through” lot to permit the development of a single detached dwelling fronting on Elmore Drive. Consent application HM/B-19:55 was conditionally approved on June 20, 2019 and, as a condition of the Consent application, the owner was to receive final approval of a Zoning By-law Amendment application.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019);
- It complies with the Urban Hamilton Official Plan; and,
- Is considered to be compatible with and complementary to the existing development in the immediate area and represents good planning.

Alternatives for Consideration – See Page 12

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one public meeting to consider an application for an amendment to the Zoning By-law.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	Hussein Ghaddar
File Number:	ZAR-20-005
Type of Application:	Zoning By-law Amendment Application
Proposal:	To permit a single detached dwelling fronting on Elmore Drive while retaining the existing single detached dwelling fronting on Upper Gage Avenue.
Property Details	
Municipal Address:	1406 Upper Gage Avenue, Hamilton
Lot Area:	0.123 hectares
Servicing:	Water service exists along Upper Gage and Elmore Drive. The connection of services for the severed lands will be addressed through the Consent Agreement of Consent application HM/B-19:55.
Existing Use:	One single detached dwelling fronting on Upper Gage Avenue.

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Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
A Place to Grow:	The proposal conforms with A Place to Grow (2019).
Official Plan Existing:	Neighbourhoods on Schedule “E” – Urban Structure and Neighbourhoods on Schedule “E-1” – Urban Land Use Designations
Eleanor Neighbourhood Plan:	Neighbourhood Plan identifies the subject lands as “Low Density Apartments”
Zoning Existing:	“L-mr-1/S-401” (Planned Development) District, Modified
Zoning Proposed:	“C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding
Modifications Proposed:	The applicant is not requesting modifications to the “C” (Urban Protected Residential etc.) District.
Processing Details	
Application Received:	December 20, 2019
Deemed Complete:	January 20, 2020
Notice of Complete Application:	Sent to 162 property owners within 120 m of the subject property on January 27, 2020.
Public Notice Sign:	January 27, 2020 and updated on July 22, 2020.
Notice of Public Meeting:	July 31, 2020
Public Consultation:	On February 10, 2020 an additional letter to the surrounding neighbours was provided by IBI Group describing the proposal and providing contact information for both IBI Group staff and City of Hamilton staff should further information be required.
Public Comments:	No public submissions were made.

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Processing Time:	243 days
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Background

The property is municipally known as 1406 Upper Gage Avenue, Hamilton and is located south of the commercial plaza at the southwest corner of Upper Gage Avenue and Stone Church Road East. The proposed Zoning By-law Amendment is for a change in zoning from the “L-mr-1/S-401” (Planned Development) District, Modified to the “C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding, to facilitate Consent application HM/B-19:55 to sever a “through” lot to permit the development of a single detached dwelling fronting on Elmore Drive. Consent application HM/B-19:55 was conditionally approved on June 20, 2019 and, as a condition of the Consent application, the owner was to receive final approval of a Zoning By-law Amendment application.

Existing Land Use and Zoning:

<u>Subject Lands:</u>	Single Detached Dwelling	“L-mr-1/S-401” (Planned Development) District, Modified
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Surrounding Lands:

North	Commercial Plaza	Neighbourhood Commercial (C2) Zone.
East	Commercial building (Convenience Store)	Neighbourhood Commercial (C2) Zone.
	Single Detached Dwellings	“DE-3/S-389” (Multiple Dwellings) District, Modified.
South	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District.
West	Single Detached Dwellings	“D/S-402” and D/S-650” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS and conform to A Place to Grow (2019).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal (LPAT) 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 (i.e. efficiency of land use, are reviewed and discussed in the Official Plan analysis that follows.

One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to cultural heritage policies of the PPS (2020). The following policy amongst others of the PPS 2020 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.”

Accordingly a Stage 1-2 Archaeological Assessment (P449-0369-2019) was conducted and has been submitted to the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries. The report recommends that further archaeological work be conducted to address the archaeological potential of the subject property. Staff concur with this recommendation and require that the applicant conduct a Stage 3 Archaeological Assessment and if required, a Stage 4 Archaeological Assessment. A Holding symbol ‘H’ is being proposed to ensure any significant archaeological resources are identified and conserved prior to development or site alteration.

As the application for a change in zoning complies with the Official Plan and the relevant policies in the PPS, 2020, it is staff’s opinion that the application is:

- consistent with Section 3 of the *Planning Act*;
- consistent with the Provincial Policy Statement (2020); and,
- conforms to A Place to Grow (2019).

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, Upper Gage Avenue is considered a Minor Arterial road per Schedule “C” of Volume 1 in the Urban Hamilton Official Plan.

Neighbourhoods Designation

- “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.
- E.3.4.6 Development in areas dominated by low density residential uses shall be designed in accordance with the following criteria:
 - a) Direct access from lots adjacent to major or minor arterial roads shall be discouraged.
 - c) A mix of lot widths and sizes compatible with streetscape character; and a mix of dwelling unit types and sizes compatible in exterior design, including character, scale, appearance and design features; shall be encouraged. Development shall be subject to the Zoning By-law regulations for appropriate minimum lot widths and areas, yards, heights, and other zoning regulations to ensure compatibility.”

The proposed single detached dwelling is to be constructed on the severed portion of the subject lands fronting onto Elmore Drive while the existing single detached dwelling fronting Upper Gage Avenue will be retained.

The neighbourhood is comprised primarily of two and two and a half storey single detached dwellings; no modification to the height of the proposed dwelling has been requested. The proposal for an additional single detached dwelling in the interior of a neighbourhood respects the existing character, scale and design of the neighbourhood. The proposal represents an infill opportunity to facilitate an efficient use of land,

contributing to a compact form of development that will front onto Elmore Drive within the interior of the neighbourhood.

The intent of the existing, “L-mr-1/S-401” (Planned Development) District, Modified, zoning is to encourage various forms of multiple dwellings through the assembly of lands. However, over time the Eleanor Neighbourhood has evolved with the surrounding lands developing with single detached dwellings rather than multiple dwellings. In addition, although lot assembly was anticipated, the existing lot and single detached dwelling precluded the intended multiple dwelling use of the Eleanor Neighbourhood Plan. Given the surrounding development and severance application HM/B-19:55 the subject lands are no longer suitable for a multiple dwelling. The addition of the proposed single detached dwelling will increase the density to 16 units per hectare from 8 units per hectare, which is still well below the permitted 60 units per hectare. As such, the proposed development is an appropriate form of infill development that contributes to the housing stock within the neighbourhood.

Natural Heritage

“C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

The Tree Protection Plan submitted indicates that given the location of the trees inventoried, it is not possible to retain the trees on the interior of the subject land and therefore compensation in the form of cash-in-lieu for six trees has been provided to the City. There are four trees along the northern side lot line which will be protected and will require the installation of Tree Protection fencing.

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

Eleanor Neighbourhood Plan

The Eleanor Neighbourhood Plan was adopted by Council in 1973 and identifies the subject lands as “Low Density Apartments”. As the proposed use is for a single detached dwelling, it does not conform to the Neighbourhood Plan. The following UHOP policies with respect to the Neighbourhood Plan apply:

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

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F.1.1.3 Amendments to this Plan, including secondary plans, shall be required to create, modify or expand land use designations and policies, which do not comply with this Plan.”

The proposed development complies with the Low Density Residential policies. Staff note that to implement the Eleanor Neighbourhood Plan, the subject lands were zoned “L-mr-1/S-401” (Planned Development) District, Modified (By-law No. 75-176) with the intent that the subject lands were to be developed in conjunction with the adjacent lots to the north for multiple dwellings. The subject land has remained a single lot and the single detached dwellings are now more in keeping with how the neighbourhood has evolved since the plan was adopted in 1973. On this basis, an amendment from “Low Density Apartments” to “Single and Double” can be supported by staff.

City of Hamilton Zoning By-law No. 6593

The lands are currently zoned “L-mr-1/S-401” (Planned Development) District, Modified in Zoning By-law No. 6593. This zoning essentially functions as a holding zone until such time that the subject lands are to be redeveloped and only permits existing uses; any development or alteration to the lands requires an amendment to the Zoning By-law.

The purpose of this application is to amend the City of Hamilton Zoning By-law No. 6593 from “L-mr-1/S-401” (Planned Development) District, Modified to the “C” (Urban Protected Residential, etc.) District with a holding provision to address further archaeological review. No modifications to the “C” (Urban Protected Residential, etc.) District, are proposed.

RELEVANT CONSULTATION

Departments and Agencies with no concerns		
Transportation Planning, Planning and Economic Development	No comments	
Departments and Agencies with comments		
	Comment	Staff Response
Forestry & Horticulture, Environmental Services Division, Public Works Department	Tree Protection Plan is not approved. Tree DBH of Tree #676 shall be corrected to show 13cm, and tree protection fencing	Planning staff note that Forestry and Horticulture comments address the trees and vegetation within the municipal right of way. Based on Forestry

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	for this tree must incorporated.	comments, a revised Tree Protection Plan was submitted on June 5, 2020, and Forestry is now satisfied as the plan confirms no site works will be completed within proximity to Tree #676 and a permit is not required.
Legislative Approvals, Growth Planning Section	Have indicated that the address 1406 Upper Gage Avenue will be retained for Part one (retained lands) and the address 49 Elmore Drive will be assigned to the severed lands.	Addressing and unit numbering will be reviewed through the Consent application HM/B-19:55.
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	Staff has no issues supporting the proposed Zoning By-law Amendment. There is an existing 0.305 m reserve, described as Block 'F' on Plan M-279 adjacent to the Elmore Drive right-of-way that must be lifted prior to the development. This will be addressed through the severance application HM/B-19:55.	The 0.305 m reserve will be addressed through the Consent application HM/B-19:55.
Recycling and Waste Disposal, Environmental Services Division, Public Works Department	Proposed development is eligible for municipal waste collection services subject to meeting the City's requirements.	Recycling and waste disposal will occur at curb side along Elmore Drive and Upper Gage Avenue.
Public Consultation		
No public comments were received		

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 162 property owners within 120 metres of the subject property on January 27, 2020 for the application.

A Public Notice sign was posted on the property on January 27, 2020 and updated on July 22, 2020 with the Public Meeting date. Finally, Notice of the Public Meeting was given on July 31, 2020 in accordance with the requirements of the *Planning Act*.

To date, no submissions were received from the public as a result of the circulation.

Public Consultation Strategy

The applicant's Public Consultation Strategy provided surrounding neighbours a letter explaining the proposal, provided the consultants' contact information and requested that any correspondence on the proposal be directed to City staff. The Public Consultation Strategy also identified that should there be concern with the proposal, a Neighbourhood meeting would be scheduled. No comments were received by either the applicant or City staff and it was determined that further consultation was not required.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The Zoning By-law Amendment has merit and can be supported for the following reasons:
 - (i) The application is consistent with the PPS and conforms to A Place to Grow Plan (2019);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
 - (iii) The proposed development is considered to be compatible with existing land uses in the surrounding area and represents good planning by, among other things, providing intensification in keeping with the surrounding neighbourhood and making efficient use of existing infrastructure within the urban boundary.

2. Zoning By-law Amendment

The subject lands are zoned "L-mr-1/S-401" (Planned Development) District, Modified, in the former City of Hamilton Zoning By-law No. 6593. As this zone

does not permit any uses but those existing at the time of passing of the By-law, an amendment to the Zoning By-law is required to rezone the subject lands to the “C/S-1802 - H” (Urban Protected Residential etc.) District, Modified, Holding to facilitate Consent application HM/B-19:55. Consent application HM/B-19:55 was conditionally approved on June 20, 2019 and, as a condition of the Consent application, the owner is to receive final approval of a Zoning By-law Amendment application.

No modifications have been requested to the amending by-law pertaining to the regulations of the parent “C” (Urban Protected Residential etc.) District. The proposed change in zoning complies with the Low Density Residential policies of the Urban Hamilton Official Plan. The proposed built form contributes to a complete community by providing an infill opportunity for the efficient use of land in a compact form of development that is compatible with the surrounding area. The proposed zoning also reflects how this area has evolved over time. Therefore, staff supports the proposed Zoning By-law amendment.

3. Holding Provision

A Holding provision will be placed on the subject lands, as there is archaeological potential on the subject property. A Stage 1-2 Archaeological Assessment (P449-0369-2019) was conducted and has been submitted to the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries. The report recommends that further archaeological work be conducted to address the archaeological potential of the subject property. Staff concur with this recommendation and require that the applicant conduct a Stage 3 archaeological assessment and, if required, a Stage 4 Archaeological Assessment prior to any site works and prior to the removal of the Holding symbol ‘H’, to the satisfaction of the Director of Planning and Chief Planner and the Ministry of Heritage, Sport, Tourism and Culture Industries.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment application be denied, the subject land will continue to be utilized in accordance with the existing “L-mr-1/S-401” (Planned Development) District, Modified within the City of Hamilton Zoning By-law No. 6593 which permits the existing single detached dwelling. In addition, Consent application HM/B-19:55 will lapse.

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.

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.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

Appendix “B” – Amendment to Zoning By-law No. 6593

Appendix “C” – Concept Plan