



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 14, 2023
SUBJECT/REPORT NO:	Application for a Zoning By-law Amendment for Lands Located at 198 Lover's Lane, Ancaster (PED23041) (Ward 12)
WARD(S) AFFECTED:	Ward 12
PREPARED BY:	Mark Michniak (905) 546-2424 Ext. 1224
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That Amended **Zoning By-law Amendment Application ZAR-22-042, by James Gregory Warnick**, for a change in zoning from the Deferred Development "D" Zone to the Low Density Residential (R1,) Zone for lands located at 198 Lover's Lane, Ancaster, as shown on Appendix "A" to Report PED23041, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED23041, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended), conforms to the Niagara Escarpment Plan (2017, as amended), and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The subject lands municipally known as 198 Lover's Lane are located west of Lover's Lane and south of Lloyminn Avenue. The purpose of the Zoning By-law Amendment is

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for a change in zoning from the Deferred Development "D" Zone in the Town of Ancaster Zoning By-law No. 87-57 to the Low Density Residential (R1) Zone in the City of Hamilton Zoning By-law No. 05-200.

The applicants have submitted a consent application to sever the lands to permit the development of a single detached dwelling on the new parcel and to retain the existing single detached dwelling.

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, as amended);
- It complies with the Urban Hamilton Official Plan; and,
- It is compatible with and complementary to the existing surrounding neighbourhood.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	James Gregory Warnick
Agent:	A.J. Clarke & Associates Ltd. c/o Franz Kloibhofer
File Number:	ZAR-22-042
Type of Application:	Zoning By-law Amendment

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Application Details	
Proposal:	To permit a single detached dwelling on a parcel of land to be created through a future Consent to Sever application having frontage on Lover's Lane and to retain the existing single detached dwelling having frontage on Lover's Lane.
Property Details	
Municipal Address:	198 Lover's Lane
Lot Area:	0.47 ha.
Servicing:	Full municipal services.
Existing Use:	Single detached dwelling (to remain on reconfigured lot).
Proposed Uses:	The existing single detached dwelling on Lover's Lane is proposed to remain on the reconfigured lot. One new residential lot is proposed for a new single detached dwelling with frontage along Lover's Lane.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
A Place to Grow:	The proposal conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	"Neighbourhoods" on Schedule E – Urban Structure and "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations.
Secondary Plan:	N/A.
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	Deferred Development "D" Zone (Town of Ancaster Zoning By-law No. 87-57).
Zoning Proposed:	Low Density Residential (R1) Zone (City of Hamilton Zoning By-law No. 05-200).
Modifications Proposed:	No modifications proposed.
Processing Details	
Received:	June 3, 2022

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Processing Details	
Deemed Complete:	June 23, 2022
Notice of Complete Application:	Sent to 68 property owners within 120 m of the subject property on July 15, 2022.
Public Notice Sign:	Posted July 21, 2022 and updated with Public Meeting date January 18, 2023.
Notice of Public Meeting:	Sent to 68 property owners within 120 m of the subject property on January 27, 2023.
Public Comments:	Two emails (attached as Appendix "D" to Report PED23041).
Processing Time:	256 days from when the application was received.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Single detached dwelling.	Deferred Development "D" Zone.
Surrounding Lands:		
North	Single detached dwellings.	Residential "R2" Zone and Residential "R3-218" Zone, Modified.
South	Single detached dwellings.	Residential "R2" Zone and Residential "R3-218" Zone, Modified.
East	Single detached dwellings.	Deferred Development "D" Zone and Residential "R1-212" Zone, Modified.
West	Single detached dwellings.	Residential "R3-218" Zone, 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 (2020) (PPS). 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: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Land Tribunal (OLT) 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. Matters of Provincial interest (e.g. efficiency of land use) are discussed in the Official Plan analysis below.

As the application for Zoning By-law Amendment complies with the Urban Hamilton Official Plan (UHOP) 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: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

Niagara Escarpment Plan

The subject lands are identified as "Urban Area" within the Niagara Escarpment Plan. The lands are not located within the development control area and therefore do not require a permit from the Niagara Escarpment Commission. The application was circulated to the Niagara Escarpment Commission who found that the proposal does not conflict with the Niagara Escarpment Plan.

Urban Hamilton Official Plan (UHOP)

The subject lands are identified as "Neighbourhoods" on Schedule E – Urban Structure and designated as "Neighbourhoods" on Schedule E-1 – Urban Land Use Designations in the UHOP. The application was received and deemed complete prior to Ministerial approval of Official Plan Amendment No. 167. The applicant has confirmed that this application is to be reviewed under the Urban Hamilton Official Plan policies currently in effect, as amended by OPA No. 167.

The following policies, amongst others, apply to the subject application.

Low Density Residential

- "E.3.4.1 The preferred location for low density residential uses is within the interior of neighbourhoods.
- E.3.4.2 Low density residential areas are characterized by lower profile, grade-oriented built forms that generally have direct access to each unit at grade.
- E.3.4.3 Uses permitted in low density residential areas:
- a) Shall include single-detached, semi-detached, duplex, triplex, fourplex, and street townhouse dwellings; and
 - b) May include multiple dwellings containing a maximum of 6 units for lots in proximity to collector roads or arterial roads."

The subject lands are located on a local road, Lover's Lane, within the interior of the neighbourhood. The proposed zoning permits low density forms of residential development including single detached dwellings. The proposal complies with the Low Density Residential policies of the Neighbourhoods designation.

Tree Management

- "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."

A Tree Management and Compensation Plan has been prepared by Hill Design Studio Inc. (Aaron Hill; landscape architect) dated May 11, 2022 and revised Oct. 12, 2022. A total of 62 trees have been inventoried. Of these, six trees have been proposed to be removed. The decision to retain trees is to be based on condition, aesthetics, age, and species. It is recognized that this approach has been taken into consideration since most trees on site are proposed to be retained. To ensure that trees are protected during on-site construction, a Verification of Tree Protection Letter will be required as a condition of a Consent to Sever approval.

Therefore, the proposal complies with the Urban Hamilton Official Plan.

Town of Ancaster Zoning By-law No. 87-57

The subject lands are zoned Deferred Development "D" Zone in the Town of Ancaster Zoning By-law No. 87-57, as shown on Appendix "A" attached to Report PED23041.

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The Deferred Development "D" Zone permits agricultural uses, urban farms, community gardens, and dwellings that existed at the time of the passing of the by-law. As such, the applicant has proposed a rezoning to the Residential "R2" Zone in Ancaster Zoning By-law No. 87-57 to facilitate development of a single detached dwelling fronting Lover's Lane. The "R2" Zone, in the Town of Ancaster Zoning By-law No. 87-57, has been replaced with the Low Density Residential (R1) Zone, in the City of Hamilton Zoning By-law No. 05-200. Therefore, Staff have amended the application to rezone the lands to the Low Density Residential (R1) Zone in Zoning By-law No. 05-200. The applicant agrees with placing the subject lands in Zoning By-law No. 05-200. The proposed zoning and zoning standards are consistent with the lands fronting onto Lover's Lane to the north and south. The rationale for the Zoning By-law Amendment is discussed in the Analysis and Rationale for Recommendation section.

RELEVANT CONSULTATION

Department and Agencies	Response
<ul style="list-style-type: none">• Forestry and Horticulture Section, Environmental Services Division, Public Works Department;• Budgets & Finance Section, Corporate Service Department;• Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department;• Infrastructure Renewal Section, Public Works Department;• Commercial Districts and Small Business Section, Planning and Economic Development Department;• Corporate Real Estate Section, Planning and Economic Development Department;and,• Canada Post.	No Comment

Department	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	The Development Engineering Approvals section is able to support this application as the impact of the development to the existing servicing capacity is negligible.	These items will be addressed through the future Consent to Sever process.

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Department	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department Continued	<p>The Owner will be required to enter into with the City of Hamilton and register on title of the lands, a Consent Agreement, to address issues including but not limited to: lot grading and drainage to suitable outlet on the conveyed and retained parcels, erosion and sediment control measures; cash payment requirements for items such as street trees, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading, sidewalk, driveway approaches, and any damage during construction.</p> <p>At the Severance application stage, the Owner shall pay their share for concrete sidewalks along the entire frontage along Lover's Lane.</p>	
Growth Planning Section, Growth Management Division, Planning and Economic Development Department	It should be determined if there are any implications arising from the adjacent Registered Plan of Subdivision, 62M-821 (25T-96006), e.g. cost recoveries relating to the registered plan or any reserves to be lifted.	These items will be addressed through the future Consent to Sever process.
Landscape Architectural Services Section, Public Works Department	Requests cash in lieu of parkland dedication if applicable.	Cash in lieu of parkland dedication, if applicable, will be addressed at the building permit stage.
Waste Management Division, Public Works Department	The existing single detached dwelling is eligible for curbside municipal waste collection service.	Noted.

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Department	Comment	Staff Response
Niagara Escarpment Commission	<p>The subject property is outside of the area of Niagara Escarpment Commission development control and therefore no development permit is required for development including the creation of a new lot and constructing a new dwelling here.</p> <p>The proposal is not in conflict with the Niagara Escarpment Plan and we therefore have no objection to the approval of the application by the City.</p>	Noted.
Alectra	For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department	Noted.
Enbridge	There is an existing gas main fronting this property.	Noted.
Public Consultation		
Topic	Comment	Staff Response
Sidewalk	There is a gap in the City sidewalk running along the west side of Lover's Lane in front of the Subject Lands. Residents request that the sidewalk be extended.	<p>The Official Plan does not allow land dedications through a Zoning By-law Amendment application.</p> <p>At the future Consent to Sever stage, the Owner shall pay their share for concrete sidewalks along the entire frontage of their property along Lover's Lane.</p>

PUBLIC CONSULTATION

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to property owners within 120 m of the subject property on July 15, 2022. A Public Notice Sign was

posted on the property on July 21, 2022, and updated on January 18, 2023, with the Public Meeting date. Finally, Notice of the Public Meeting was given on January 27, 2023, in accordance with the requirements of the *Planning Act*.

The applicants submitted a Public Consultation Strategy with this application. As the application was minor, a neighbourhood meeting was not proposed. The strategy recommended that the prescribed public open house and notice requirements were an adequate amount of public consultation.

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 (2020) (PPS);
 - (ii) It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - (iii) It conforms to the Niagara Escarpment Plan (2017, as amended);
 - (iv) It complies with the Urban Hamilton Official Plan; and,
 - (v) It is compatible with and complementary to the existing surrounding neighbourhood.
2. Zoning By-law Amendment

The subject lands are currently zoned Deferred Development “D” Zone in the Town of Ancaster Zoning By-law No. 87-57. The applicant had requested that the subject lands be rezoned to Residential “R2” Zone in the Town of Ancaster Zoning By-law No. 87-57. Staff are recommending that the subject lands are instead removed from the Town of Ancaster Zoning By-law No. 87-57 and rezoned to Low Density Residential (R1) Zone, in the City of Hamilton Zoning By-law No. 05-200, to facilitate the proposal. Single detached dwellings are permitted within the “Neighbourhoods” designation of the UHOP.

The subject lands will provide similar zoning as adjacent lands (“R1-212” Zone, Modified, “R2” Zone, “R3” Zone, and “R3-218” Zone, Modified). This will ensure compatibility in terms of built form, massing, height, setbacks from the street and building separation.

Therefore, staff support the proposed change in zoning.

3. A future Consent to Sever application will be required to create the new lot fronting Lover's Lane.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment application not be approved, the lands remain under the Deferred Development "D" Zone which permits agricultural uses, urban farms, community gardens, and dwellings that existed at the time of the passing of the by-law.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Healthy and Safe Communities

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

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED23041 – Location Map
Appendix "B" to Report PED23041 – Draft Zoning By-law
Appendix "C" to Report PED23041 – Concept Plan
Appendix "D" to Report PED23041 – Public Input

MM:sd