



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 91 and 95 Strathearne Place, Glanbrook (PED23036) (Ward 11)
WARD(S) AFFECTED:	Ward 11
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-22-033, by Urban in Mind (c/o Jacob Dickie), on behalf of Bill Wieske (Applicant) and Andrew Elgersma and Kayla Elgersma (Owners)**, for a change in zoning from the Existing Residential “ER” Zone to the Low Density Residential (R1, 835) Zone and from the Residential Holding “H-R3-144” Zone, Modified to the Low Density Residential (R1, 835) Zone to facilitate the development of a single detached dwelling for lands located at 91 and 95 Strathearne Place, Glanbrook, as shown on Appendix “A” attached to Report PED23036, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED23036, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2020), conform to A Place to Grow (2019, as amended), and comply with the Urban Hamilton Official Plan and the Mount Hope Secondary Plan.

EXECUTIVE SUMMARY

The subject lands municipally known as 91 and 95 Strathearne Place are located south of Strathearne Place in the Mount Hope Community. The purpose of the Zoning By-law Amendment is for a change in zoning from the Existing Residential “ER” Zone and the Residential Holding “H-R3-144” Zone, Modified in the Township of Glanbrook Zoning By-law No. 464 to the Low Density Residential (R1, 835) Zone in the City of Hamilton Zoning By-law No. 05-200 to facilitate development of a single detached dwelling and to retain the existing single detached dwelling.

A consent application (File: GL/B-22:39) to create a new lot for the single detached dwelling was considered by the Committee of Adjustment on June 23, 2022 and approved with conditions. Condition 5 of the Consent approval, attached as Appendix “E” to Report PED23036, requires final approval of the Zoning By-law Amendment application, in addition to other conditions, before the consent can be finalized.

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 the Mount Hope Secondary Plan; and,
- It is compatible with and complementary to the existing surrounding neighbourhood.

Alternatives for Consideration – See Page 13

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:	Bill Wieske/Andrew Elgersma and Kayla Elgersma
Agent:	Urban in Mind c/o Jacob Dickie
File Number:	ZAR-22-033
Type of Application:	Zoning By-law Amendment
Proposal:	To facilitate development of a single detached dwelling having frontage on Strathearne Place and to retain the existing single detached dwelling having frontage on Strathearne Place.
Property Details	
Municipal Address:	91 and 95 Strathearne Place.
Lot Area:	0.22 ha.
Servicing:	Full municipal services.
Existing Use:	Single detached dwelling (to remain on lot to be retained).
Proposed Uses:	The existing single detached dwelling on Strathearne Place is proposed to remain and a new single detached dwelling (proposed on the lot to be severed and merged with lands to be known municipally as 95 Strathearne Place) is proposed with frontage on Strathearne Place.
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:	Map “B.5.4-1” – Land Use Plan: Low Density Residential 2 in the Mount Hope Secondary Plan.

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Documents	
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	Existing Residential “ER” Zone and Residential Holding “H-R3-144” Zone, Modified (Township of Glanbrook Zoning By-law No. 464).
Zoning Proposed:	Low Density Residential (R1, 835) Zone (City of Hamilton Zoning By-law No. 05-200).
Modifications Proposed	Staff recommend removing the permission for street townhouse dwellings as the use is not permitted by the Mount Hope Secondary Plan.
Processing Details	
Received:	May 12, 2022
Deemed Complete:	May 26, 2022
Notice of Complete Application:	Sent to 76 property owners within 120 m of the subject property on June 3, 2022.
Public Notice Sign:	Posted June 8, 2022 and updated with Public Meeting date January 18, 2023.
Notice of Public Meeting:	Sent to 76 property owners within 120 m of the subject property on January 27, 2023.
Public Comments:	One email expressing concern (attached as Appendix “D” to Report PED23036).
Processing Time:	250 days from receipt of application.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Single detached dwelling.	Existing Residential “ER” Zone and Residential Holding “H-R3-144” Zone, Modified.
Surrounding Lands:		
North	Single detached dwellings.	Existing Residential “ER” Zone.

South	Single detached dwellings.	Residential “R4-209(B)” Zone, Modified, Residential “R3” Zone and Residential “R3-143” Zone, Modified.
East	Single detached dwellings.	Existing Residential “ER” Zone.
West	Single detached dwellings.	Residential “R3” Zone and Residential Holding “H-R3-144” 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).

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 subject lands are also designated “Low Density Residential 2” on

Map B.5.4-1, Mount Hope Secondary Plan – Land Use Plan. The following policies, amongst others, apply to the subject application.

Archaeology

“B.3.4.4.2 In areas of archaeological potential identified on Appendix F-4 – Archaeological Potential, an archaeological assessment shall be required and submitted prior to or at the time of application submission for the following planning matters under the Planning Act, R.S.O., 1990 c. P.13:”

The subject property meets two of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential. The applicant prepared an archaeological assessment which examined the archaeological potential of the site to the satisfaction of the Ministry. Staff received a copy of the letter from the Ministry dated June 21, 2022 confirming that archaeological matters have been addressed. Staff are of the opinion that the municipal interest in the archaeology of this site has been satisfied.

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 Inventory and Preservation Plan Report has been prepared by Kuntz Forestry Consulting Inc. (Kaylee Harper; certified arborist) dated March 16, 2022. A total of three trees have been inventoried and all trees will be protected. Staff have reviewed the Tree Inventory and Preservation Plan and do not have any concerns.

Mount Hope Secondary Plan

The subject lands are designated “Low Density Residential 2” on Map B.5.4-1, Mount Hope Secondary Plan – Land Use Plan. The following policies, amongst others, apply to the proposal.

“B.5.4.2.2 Low Density Residential

- a) Notwithstanding Sections E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the lands designated Low Density Residential 2 on Map B.5.4-1 – Mount Hope – Land Use Plan:

- i) The permitted uses shall primarily consist of single detached dwellings, duplex, semi-detached and triplex dwellings; and,
- ii) The maximum density shall be 25 units per net hectare.”

The proposed use is permitted and complements the surrounding neighbourhood in that the surrounding land uses are single detached dwellings. The number of dwellings permitted on a property will not change as a result of this zoning amendment so the density will not change. As a result of the Consent application, the density of development on the subject lands will increase from 5 to 10 units per net hectare. This is within the permitted density. In their review of the associated consent application, the Committee of Adjustment found that the proposal for a new lot does not conflict with the intent of the UHOP (attached as Appendix “E” to Report PED23036).

Noise and Other Airport Impacts

“B.5.4.9.1 Mount Hope Secondary Plan area is in the vicinity of John C. Munro International Airport, Highway 6, and the Airport Employment Growth District. All of these uses have the potential to cause negative impacts on nearby sensitive land uses. To ensure that negative impacts on sensitive land uses are minimised and the operations of John C. Munro International Airport, Highway 6, and the Airport Employment Growth District are not compromised: (OPA 142)

- a) Sections B.3.6.3 – Noise, Vibration and Other Emissions and C.4.8 – Airport of Volume 1, shall apply to the Mount Hope Secondary Plan area;
- b) all new development and redevelopment shall conform to all relevant legislation, policies, standards and guidelines; and,
- c) future residents of residential development shall be advised of the potential for noise nuisance through appropriate warning clauses included in lease or rental agreements, agreements of purchase and sale, and within required development agreements.”

The proposed development is located within the vicinity of the John C. Munro International Airport. The subject lands are located between the 25 NEF and 28 NEF Contour lines within Appendix D – Noise Exposure Forecast Contours and Primary Zoning Regulations Area in the UHOP.

The Hamilton International Airport reviewed the application and did not have any objections to the proposed zoning changes. The comments noted that the property is

located within the Outer Surface of the Airport Zoning Regulations. The maximum allowable height for any building or object is 275 metres above sea level. The applicant will have to demonstrate compliance with the Airport Zoning Regulation through a Legal Land Survey. All development in the City of Hamilton shall comply with the Hamilton Airport Zoning Regulations as per Section 4.17 of Zoning By-law No. 05-200.

The proposed development is a single detached dwelling which is permitted as of right under the existing zoning, and it is similar to the surrounding land uses. The proposed use is anticipated to experience a similar level of noise as surrounding land uses.

A Noise Impact Study has been prepared by Pinchin (Weidong Li, Licensed Professional Engineer) dated December 19, 2022. The report concluded that the proposed residential dwelling may be constructed meeting the requirements in the Ontario Building Code and that the dwelling be designed to allow provision of central air conditioning at the occupant's discretion. Finally, a warning clause is also required. It is the applicant's responsibility to advise future residents of the warning clause in lease or rental agreements and/or agreements of purchase and sale. Staff have requested a modification to the conditions of the consent approval requiring that the owner include the warning clause in lease or rental agreements and/or agreements of purchase and sale.

Therefore, the proposal complies with the policies of the UHOP and the Mount Hope Secondary Plan.

Township of Glanbrook Zoning By-law No. 464

The subject lands are zoned Existing Residential "ER" Zone and Residential Holding "H-R3-144" Zone, Modified, in the Township of Glanbrook Zoning By-law No. 464, as shown on Appendix "A" attached to Report PED23036. The Existing Residential "ER" Zone permits single detached dwellings, including uses, buildings or structures accessory to the permitted use. The Residential Holding "H-R3-144" Zone, Modified, only permits agricultural uses and existing dwellings while the Holding Provision is applied. The Holding Provision was applied to require the proper resolution of the related ownership issue and the subsequent consolidation of these lands with adjacent lands.

The intent of the Holding Provision on lands designated "H-R3-144" is to ensure that land ownership is addressed. The Holding Provision was applied to the lands by Township of Glanbrook By-law No. 464-51-00 on April 3, 2000. The Holding Provision required the following:

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“The removal of the holding symbol “H” by By-law for the lands zoned Residential Holding H-R3-144, as shown on the attached Schedule A, shall require proper resolution of the related ownership issue and their subsequent consolidation of these lands with the appropriate adjacent lands to the east and/or west. The establishment of these lands as a separate lot shall not be permitted.”

As such, the applicant had proposed a rezoning to the Residential “R3” Zone in Township of Glanbrook Zoning By-law No. 464 to facilitate the development. Subsequent to submission of the application, the Residential “R3” Zone, in the Township of Glanbrook Zoning By-law No. 464, 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 proposed zoning designation is consistent with the lands to the west of the property. This amendment will also remove the Holding Provision. The rationale for the Zoning By-law Amendment and removal of the Holding Provision are discussed in detail in the Analysis and Rationale for Recommendation section. The applicant is in agreement with placing the lands in Zoning By-law No. 05-200.

RELEVANT CONSULTATION

Department and Agencies	Response
<ul style="list-style-type: none"> • Planning and Economic Development Department, Transportation Planning and Parking Division, Transportation Planning Section; • Alectra Utilities; • Bell Canada; • Canada Post; and, • Niagara Peninsula Conservation Authority. 	No Comment

Department	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	The impact of the development to the existing servicing capacity is negligible. A detailed review of the Grading Plans and Stormwater Management Brief will occur through the Consent Agreement.	The approval of Consent application GL/B-22:39 includes a condition for the owner to address issues regarding lot grading and drainage (refer to Appendix “E” attached to Report PED23036).

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Department	Comment	Staff Response
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-1117 (25T-200527) and / or 62M-1276 (25T-201801) or 62M-992 (25T-9002), e.g. cost recoveries relating to the registered plan or any reserves to be lifted.	No concerns were raised through the proposed Zoning By-law Amendment application.
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	There are no Municipal Tree Assets located on site; therefore, a Tree Management Plan will not be required. Forestry has no concerns.	Noted.
Waste Management Division, Public Works Department	The existing single detached dwelling is eligible for curbside municipal waste collection service. The new residential dwelling on the severed portion of the lot can set out their waste containers in front of their property at the municipal road.	Noted.
John C. Munro Hamilton International Airport	The Airport has no objections to the application. The maximum allowable height for any buildings or objects at these lands under the AZR is 275 metres above sea level (i.e. ground elevation and building height – including antennas, rooftop units etc.). It is the responsibility of the applicant to demonstrate compliance with the AZR through a Legal Land Survey attesting clearance of the surfaces as specified in Transport Canada Advisory Circular (AC) 602-003 with a copy provided to the undersigned.	Applicant to demonstrate compliance with AZR through the zoning review at the time of Building Permit submission.

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Department	Comment	Staff Response
Transport Canada	The submission is on the lands subjected to John C. Munro Hamilton Airport Zoning Regulations (AZR). The applicant must submit an Aeronautical Assessment Form (AAF) to Transport Canada 90 days prior to construction.	Applicant to demonstrate compliance with AZR through the zoning review at the time of Building Permit submission.
Enbridge	There is an existing gas main fronting 91 Strathearne Place. The developer may apply for a connection to receive service.	Noted.
Public Consultation		
Topic	Comment	Staff Response
Grading and Storm Water Management	Concerns that proposed development will result in grading changes that will impact drainage of the subject property.	The approval of consent application GL/B-22:39 includes a condition for the owner to address issues regarding lot grading and drainage (refer to Appendix "E" attached to Report PED23036).

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 June 3, 2022. A Public Notice Sign was posted on the property on June 8, 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 the supporting materials. As the application was minor, a neighbourhood meeting was not held. The applicant circulated a "Letter of Intent" to all residents of Strathearne Place west of Marion Street. No feedback was received from this circulation.

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 complies with the Urban Hamilton Official Plan and the Mount Hope Secondary Plan; and,
 - (iv) It is compatible with and complementary to the existing surrounding neighbourhood.

2. Zoning By-law Amendment

The subject lands are currently zoned Existing Residential “ER” Zone and Residential Holding “H-R3-144” Zone, Modified, in the Township of Glanbrook Zoning By-law No. 464. The applicant has requested that the subject lands be rezoned to the Residential “R3” Zone to facilitate the development of a single detached dwelling on a lot to be created through a consent application (File: GL/B-22:39) fronting Strathearne Place and the retention of the existing single detached dwelling fronting Strathearne Place. This zone has been replaced with the Low Density Residential (R1) Zone in Zoning By-law No. 05-200.

Single detached dwellings are permitted within the “Neighbourhoods” designation of the UHOP and within the “Low Density Residential 2” designation of the Mount Hope Secondary Plan. This designation does not permit street townhouse dwellings, therefore Staff propose prohibiting this use as these lands are located within the Phase 2 Low Density Study Area that is currently under review as part of the city wide zoning reform review. Staff are in support of this change of zoning as the proposal complies with the UHOP policies and the Mount Hope Secondary Plan.

The subject lands will provide similar zoning as adjacent lands (“R3” Zone, “R3-143” Zone, Modified, “R4-209 (B)” Zone, Modified and “ER” Zone). This will ensure compatibility in terms of built form, massing, height, setbacks from the street and building separation.

Staff support the proposed change in zoning.

3. Holding Provision

The intent of the Holding Provision on lands designated “H-R3-144” is to ensure that land ownership is addressed. The Holding Provision was applied to the lands by Township of Glanbrook By-law No. 464-51-00 on April 3, 2000. The Holding Provision required the following:

“The removal of the holding symbol “H” by By-law for the lands zoned Residential Holding H-R3-144, as shown on the attached Schedule A, shall require proper resolution of the related ownership issue and their subsequent consolidation of these lands with the appropriate adjacent lands to the east and/or west. The establishment of these lands as a separate lot shall not be permitted.”

The Applicant submitted Parcel Register records for lands located at 91 Strathearne Place and 95 Strathearne Place (Block 182 of Plan 62M-992). The records indicate that the owners for the subject application are owners of both properties. In addition to the condition specified by the implementing by-law, staff are satisfied that the appropriate municipal services are available, and that public street access is available. As such, the H Provision has not been carried forward in the proposed zoning.

4. Consent application

A consent application (File: GL/B-22:39) to create a new lot for the single detached dwelling was considered by the Committee of Adjustment on June 23, 2022. The application was approved with conditions. Conditions include approval of this Zoning By-law Amendment, demonstrating compliance with zoning regulations, and to address issues with lot grading and drainage. The full list of conditions is located within Appendix “E” attached to Report PED23036.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment Application not be approved, the lands remain under the Existing Residential “ER” Zone and the Residential Holding “H-R3-144” Zone, Modified. The H-R3-144 Zone does not permit a single detached dwelling until the holding symbol is removed.

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

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APPENDICES AND SCHEDULES ATTACHED

- Appendix "A" to Report PED23036 – Location Map
- Appendix "B" to Report PED23036 – Draft Zoning By-law
- Appendix "C" to Report PED23036 – Concept Plan
- Appendix "D" to Report PED23036 – Public Input
- Appendix "E" to Report PED23036 – Committee of Adjustment Decision (File No. GL/B:39)

MM:sd