



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	July 11, 2023
SUBJECT/REPORT NO:	Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13)
WARD(S) AFFECTED:	Ward 13
PREPARED BY:	James Van Rooi (905) 546-2424 Ext. 4283
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-23-008 by 211 York Investments Inc.**, for a change in zoning from Community Institutional (I2, 446, H108) Zone to Neighbourhood Commercial (C2, 446, H108) Zone, to permit 39 dwelling units and ground floor commercial uses in the existing two storey building, for lands located at 211 York Road, Dundas, as shown on Appendix “A” attached to Report PED23165, be **APPROVED**, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED23165, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That the amending By-law apply the Holding Provision of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by replacing the Holding symbol H108, in its entirety in Schedule “D” of City of Hamilton Zoning By-law No. 05-200; and, that it shall be lifted upon completion of the following:
 - (i) The Owner submits and receives approval of a Functional Servicing Report to demonstrate the demand for the proposed stormwater management, sanitary flows and water usage is similar to the existing usage, all to the satisfaction of the Manager of Engineering Approvals;

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

- (c) 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, and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The subject lands are municipally known as 211 York Road, Dundas on the north side of York Road and on the west wide of Watsons Lane. The owner, 211 York Road Inc., a subsidiary of Forge and Foster, has applied for an amendment to City of Hamilton Zoning By-law No. 05-200 to change the zoning from Community Institutional (I2, 446, H108) Zone to Neighbourhood Commercial (C2, 446, H108) Zone in the City of Hamilton Zoning By-law No. 05-200. The purpose of the application is to permit the existing two storey building to be used for a 39 dwelling unit mixed use building with four ground floor commercial units totalling 657 square metres in gross floor area. Forty-seven vehicular parking spaces, of which three will be small car parking and one will be barrier free will be provided. In addition, there are five short term bicycle parking spaces. The existing Exception 446 will be amended to remove the former use permission on the site for a retirement home and recognize the proposal.

The applicant has advised that the building was previously used as a retirement residence (ground floor) with 22 rental dwelling units on the second floor.

There was a previous Zoning By-law Amendment in 2018 (By-law No. 18-332) which permitted 17 dwelling units, which had the effect of making five of the existing 22 dwelling units legal non-conforming.

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

- It is consistent with the Provincial Policy Statement (2020);
- It conforms to the Niagara Escarpment Plan (2017);
- It conforms to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the Urban Hamilton Official Plan; and,
- The proposal is compatible with and complementary to the existing and planned land uses in the immediate and surrounding area, and represents good planning by, among other things, creating a compact and efficient urban form, providing an alternative housing typology and tenure option, making efficient use of existing infrastructure within the urban boundary.

Alternatives for Consideration – See Page 13

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13) - Page 3 of 14

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

Application Details	
Owner:	211 York Investments Inc.
Applicant/Agent:	211 York Investments Inc.
File Number:	ZAR-23-008
Type of Application:	Zoning By-law Amendment
Proposal:	To permit the conversion of the existing two storey building to a 39 unit mixed use building with four commercial units totalling 657 square metres in gross floor area at grade, 49 surface vehicular parking spaces and five short term bicycle parking spaces. The existing dual access to the site from York Road will be maintained. The applicant has advised that the proposed units will be rental units.
Property Details	
Municipal Address:	211 York Road, Dundas (see Location Map attached as Appendix “A” to Report PED23165).
Lot Area:	0.59 ha.
Servicing:	Existing full municipal services.
Existing Use:	The applicant has advised that part of the building was partially used as a retirement residence (ground floor) with 22 rental dwelling units on the second floor. The ground floor is currently vacant while the rental dwelling units on the second floor are occupied.
Documents	
Provincial Policy Statement:	The proposal is consistent with the Provincial Policy Statement (2020).
Niagara Escarpment Plan	The proposal conforms to the Niagara Escarpment Plan (2017).
A Place to Grow:	The proposal conforms to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13) - Page 4 of 14

Documents	
Official Plan Existing:	“Neighbourhoods” on Schedule E – Urban Structure and “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations.
Zoning Existing:	Community Institutional (I2, 446, H108) Zone.
Zoning Proposed:	Neighbourhood Commercial (C2, 446, H108) Zone.
Modifications Proposed:	<p>Staff are requesting modifications to:</p> <ul style="list-style-type: none"> • Permit dwelling units on the ground floor of the existing building provided there is a minimum of 650 square metres of commercial use; • Deem the existing building to comply with regards to location and height; • Permit parking spaces within 2.5 metres of a street line; and, • Permit a 2.5 metre wide planting strip between the street line and parking spaces or aisles. <p>A new Holding Provision will replace the existing Holding Provision which will require a Functional Servicing Report that demonstrates the demand for the proposed uses is similar to the existing uses on the property.</p>
Processing Details	
Received:	November 20, 2022.
Deemed complete:	December 19, 2022.
Notice of Complete Application:	Sent to 116 property owners within 120 metres of the subject lands on December 23, 2022.
Public Notice Sign:	Posted January 4, 2023 and updated with public meeting date on June 27, 2023.
Notice of Public Meeting:	Sent to 116 property owners within 120 metres of the subject lands on June 27, 2023.
Public Comments:	One comment received (attached as Appendix “D” to Report PED23165).
Processing Time:	234 days from the date the application was received.

EXISTING LAND USE AND ZONING

	Existing Land Use	Existing Zoning
Subject Lands:	Ground floor commercial uses and, 22 dwelling units existing on second floor.	Community Institutional (I2, 446, H108) Zone
Surrounding Land Uses:		
North	Townhouse dwellings	Low to Medium Density Multiple Dwelling Zone “RM1” Zone and Public Utilities “U” Zone
South	Lake Jojo and City of Hamilton (Dundas) Community Recycling Centre, Flood Protection	Public Utilities “U-FP” Zone
East	Single detached dwellings	Single-Detached Residential “R2” Zone
West	Townhouse dwellings	Low to Medium Density Multiple Dwelling “RM1” Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy (2020)

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Policy Statement and conform to the 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 approval by the Ontario Land Tribunal, the City of Hamilton has established the Urban Hamilton Official Plan which contains local policies for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (i.e., efficiency of land use) are discussed in the Official Plan analysis that follows.

As the application for Zoning By-law Amendment complies with the Official Plan, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the Provincial Policy Statement (2020);
- Conforms to the Niagara Escarpment Plan, 2017; and,
- Conforms to A Place to Grow: Growth Plan for the Greater Holden Horseshoe, 2019, as amended.

Urban Hamilton Official Plan

The subject lands are identified as "Neighbourhoods" on Schedule "E" – Urban Structure, designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations. The following policies, amongst others, apply to the subject application.

The Niagara Escarpment Plan

- "C.1.1.1 Any development within the Niagara Escarpment Plan area, as shown on Schedule A – Provincial Plans, shall meet the requirements of this Plan and the Niagara Escarpment Plan and Section 3.3 of the Greenbelt Plan. Where there is discrepancy between this Plan and the Niagara Escarpment Plan, the most restrictive policies will prevail.
- C.1.1.6 To minimize the impact and further encroachments in the Escarpment environment, for those lands located within the Niagara Escarpment Plan area identified on Schedule A - Provincial Plans, the following policies shall apply:
- a) The design of the development shall be compatible with the visual and natural environment; and,
 - b) Setbacks and screening adequate to minimize the visual impact of development on the Escarpment landscape shall be required.
- C.1.1.10 On lands located within Urban Hamilton and identified as Niagara Escarpment Plan Urban Area on Schedule A - Provincial Plans, the following policies shall apply:
- a) Where lands are designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations, the policies contained in Section E.3.0 - Neighbourhoods Designation shall apply."

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13) - Page 7 of 14

The subject lands are designated “Urban Area” in the Niagara Escarpment Plan, 2017 but fall outside the area of Development Control. As such, a Niagara Escarpment Commission Development Permit is not required to implement the proposal.

The applicant has indicated that there are no exterior alterations to the existing two storey building and the subject lands are surrounded by existing two to three storey townhouse dwellings and single detached dwellings. The proposal demonstrates compatibility with the visual and natural environment and no visual impact to the Escarpment is anticipated.

Based on the above, the proposal conforms the Niagara Escarpment Plan policies of the Urban Hamilton Official Plan.

Local Commercial

“E.3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the Neighbourhoods designation;

E.3.8.2 The following uses shall be permitted:

a) Retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, office, motor vehicle service station, personal service, place of worship, repair service, restaurant, studio, art gallery, tradesperson shop, and veterinary service; (OPA 64)

c) Residential uses, in accordance with Policy E.3.8.10;

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

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

b) The total maximum gross floor area and height for a development located on a particular site shall be determined through secondary plans or corridor studies where applicable, and Zoning By-laws.

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.”

In response to Policies E.3.8.1 and E.3.8.2, the proponents have noted that the commercial uses being considered are a day nursery, office, restaurant, and personal services. These uses would contribute to meeting the weekly and daily needs of surrounding residents and comply with the policies. In response to Policies E.3.8.4 and E.3.8.8, there are four commercial units proposed on the ground floor with the largest of the commercial units proposed to be 424 square metres. The applicable maximum height regulated by the Zoning By-law would be 11 metres, and staff note the existing height of the building is 7.4 metres.

In response to Policy E.3.8.10, the building is “L” shaped with the longer line segment of the “L” having proposed commercial units visible from York Road and the shorter line segment of the “L” proposing 17 ground floor residential units. The intent of the policy is to encourage commercial uses on the ground and ensure commercial and residential uses do not conflict in terms of noise and foot traffic by providing separate residential uses on floors above the commercial units or behind the commercial units. It is staff’s opinion that the “L” shaped building provides an appropriate separation between the commercial and residential uses while encouraging pedestrian activity at the ground floor along York Road.

The proposal does not result in a loss of rental units and will result in a net increase of 17 rental units.

Neighbourhoods

“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.3.2.3 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*;
- b) Local commercial uses.

Medium Density Residential

- E.3.5.2 Uses permitted in medium density residential areas shall include all forms of multiple dwellings. (OPA 167)
- E.3.5.4 Local commercial uses may be permitted on the ground floor of buildings containing multiple dwellings, subject to the provisions of Section E.3.8 – Local Commercial. (OPA 167)”

The proposal provides 39 dwelling units and four commercial units, which are uses permitted in accordance with Policy E.3.2.3 and E.3.5.2. In response to Policy E.3.5.4, the proposed commercial uses are on the ground floor and comply with the applicable Local Commercial policies of Section E.3.8.

Infrastructure and Servicing

- “C.5.3.13 The City shall ensure that any change in density can be accommodated within the municipal water and wastewater system and that investments into the system will support the achievement of the intensification and density targets provided in Section E.2.0 – Urban Structure. (OPA 167)”

Development Engineering Approvals staff have not approved a Functional Servicing Report for the proposed uses within the existing building. An ‘H’ Holding Provision has been included to ensure the municipal water and wastewater system can accommodate the proposed uses within the existing building.

Based on the above, the proposal complies with the Urban Hamilton Official Plan.

City of Hamilton Zoning By-law No. 05-200

The subject lands are currently zoned Community Institutional (I2, 446, H108) Zone in the City of Hamilton Zoning By-law No. 05-200. The Community Institutional (I2, 446, H108) Zone permits a range of institutional and residential uses. The retirement home use ceased in March, 2022.

The existing Exception 446 permits a 17 unit multiple dwelling and a retirement home with a maximum of 83 residents and establishes specific standards for planting strip, parking space size, loading facilities, and number of parking spaces.

The existing Holding Provision 108 requires a Fire Flow Calculation to be submitted for the previously proposed 83 maximum occupant retirement home. To implement the proposed adaptive reuse of the existing building, a rezoning to the Neighbourhood Commercial (C2) Zone is required. The site-specific modifications to accommodate the

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13) - Page 10 of 14

proposal are outlined in the Report Fact Sheet and discussed in further detail in Appendix “F” attached to Report PED23165.

RELEVANT CONSULTATION

Departments and Agencies		
	Comment	Staff Response
	<ul style="list-style-type: none"> • Planning and Economic Development Department, Economic Development Division, Commercial District and Small Business Section and Corporate Real Estate Office Section; • Public Works Department, Environmental Services Division, Landscape Architectural Services Section, Infrastructure Renewal Section and Parks and Cemeteries Section; and, • Alectra Utilities. 	No comment
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	<p>The applicant is required to submit a servicing report prepared by a professional engineer to demonstrate that the existing watermain has adequate capacity to support the additional proposed land uses on the property.</p> <p>Development Engineering has no objection to the rezoning application moving forward subject to the submission of a Functional Servicing Report.</p>	A Holding Provision has been included for the required Functional Servicing Report.
Transportation Planning and Parking Division, Planning and Economic Development Department	<p>Transportation Planning supports the proposed Zoning By-law Amendment as it can be accommodated by the surrounding transportation network.</p> <p>Approximately, 4.57 metres x 4.57 metres is required to be dedicated for a daylighting triangle.</p> <p>Without setting precedent, the requirement for a Transportation Impact Study is being waived due to the anticipated low number of vehicle trips and corresponding impact to the surrounding road network that will be generated by the proposed dwelling units.</p>	<p>It is noted that a daylighting triangle dedication cannot be required through a Zoning By-Law Amendment application.</p> <p>If a future Site Plan Control application is required, dedication of the daylighting triangle would be a condition of approval.</p>

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 211 York Road, Dundas (PED23165) (Ward 13) - Page 11 of 14

	Comment	Staff Response
Transportation Planning and Parking Division, Planning and Economic Development Department Continued	Short-term bicycle parking is to be provided within the property limits as per the City of Hamilton Zoning By-Law No. 05-200 for the proposed land use type.	
Waste Management Operations Section, Environmental Services Division, Public Works Department	The proposed development is not designed according to Municipal specifications so the developer must arrange for a private waste hauler and must disclose in writing to prospective buyers the development is not serviceable for municipal waste collection.	Noted.
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	The applicant provided a Verification letter dated February 13, 2023 outlining that no impacts shall occur to the existing public tree assets on site due to the nature of the works on site, which is approved. As a result, forestry's tree management plan condition and landscape plan condition has been waived. A public tree permit is required for any works within the drip line of a public tree and includes but is not limited to utility servicing needs, access/egress, and storage of equipment or materials.	Noted.
Hamilton Conservation Authority	The proposal is for an adaptive use of an existing building and that no new development is proposed. Given this, staff do not have any concerns with the proposal or proposed zoning change.	Noted.
Enbridge	The site is currently serviced with gas. Should this development need different servicing requirements (loads/pressures/meter location/number of meters), the developer will need to reach out to Enbridge for consultation.	Noted. It is also noted that the east side of the property contains easements in favour of Alectra Utilities, Union Gas and Bell Canada.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Public Consultation		
Issue	Comment	Staff Response
Noise	Concerns that the parallel parking at the rear of the site creates disruptive noise.	The proposal contemplates removing most of the parking to the rear of the site with the exception of two spaces.

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 residents within 120 metres of the subject lands on December 23, 2022. The Public Notice sign was posted on the lands January 4, 2023 and updated with the Public Meeting date on June 14, 2023. A Notice of Public Meeting was sent to property owners within 120 metres of the subject lands on June 27, 2023, in accordance with the requirements of the *Planning Act*.

To date, one piece of correspondence was received expressing concern regarding the proposed Zoning By-law Amendment. The submissions are summarized above and included in Appendix “D” attached to Report PED23165.

Public Consultation Strategy

Public consultation was not conducted in advance of the submission for the Zoning By-law Amendment. In addition to the requirements of the *Planning Act*, and as part of the Planning Justification Report, the Applicant’s identified a potential need for an open house, however based on the limited feedback received from the preliminary circulation it was determined that an open house was not required.

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 Niagara Escarpment Plan (2017) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,

- (iii) The proposal development is compatible with and complementary to the existing and planned land uses in the immediate and surrounding area, represents good planning by, among other things, creating a compact and efficient urban form, providing an alternative housing typology and tenure option, making efficient use of existing infrastructure within the urban boundary, encouraging active transportation, and developing a complete community.

2. Zoning By-law Amendment

The application for Zoning By-law Amendment is to rezone the subject lands from the Community Institutional (I2, 446, H108) Zone to the Neighbourhood Commercial (C2, 446, H108) Zone in the City of Hamilton Zoning By-law No. 05-200. The Special Exception 466 will be amended and Holding Provision H108 will be replaced in its entirety to permit the proposal. The site specific modifications are identified on page 4 of Report PED23165 and discussed in detail in Appendix "E" to Report PED23165.

Staff are satisfied that the proposal meets the intent of the Local Commercial "Neighbourhoods" policies and "Medium Density Residential" policies of the Urban Hamilton Official Plan.

Therefore, staff support the proposed Zoning By-law Amendment.

3. Holding Provision

An "H" Holding Provision is included in the amending Zoning By-law. The Holding Provision may be removed upon the proponent submitting a Functional Servicing Report that demonstrates the existing watermain has adequate capacity to support the additional proposed land uses on the property.

ALTERNATIVES FOR CONSIDERATION

Should the Zoning By-law Amendment application be denied, the subject lands could be utilized in accordance with the existing Community Institutional (I2, 446, H108) Zone within the City of Hamilton Zoning By-law No. 05-200 which permits a range of institutional and residential uses including, but not limited to, a community garden, day nursery, place of worship, retirement home, semi and single detached dwellings, duplex dwelling, street townhouse dwellings and a 17 unit multiple dwelling.

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.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

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 PED23165 - Location Map

Appendix “B” to Report PED23165 - Draft Zoning By-law Amendment

Appendix “C” to Report PED23165 - Concept Plan

Appendix “D” to Report PED23165 - Public Submission

Appendix “E” to Report PED23165 - Zoning By-law Site Specific Modification Chart

JVR:sd