



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	October 17, 2023
SUBJECT/REPORT NO:	Application for a Zoning By-law Amendment for Lands Located at 527 James Street North, Hamilton (PED23212) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Alaina Baldassarra (905) 546-2424 Ext. 7421
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAC-23-038, by King Consultants Inc. c/o Gursewak Singh on behalf of the Heli Patel, owner**, for a change in zoning from “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the Transit Oriented Corridor Local Commercial (TOC2, 875) Zone, to recognize an existing retail use (convenience store) and take-out restaurant on lands located at 527 James Street North, Hamilton, as shown on Appendix “A” attached to Report PED23212, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED23212, 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), and complies with the Hamilton-Wentworth Official Plan and West Harbour (Setting Sail) Secondary Plan.

EXECUTIVE SUMMARY

The subject lands are municipally known as 527 James Street North and are located on the northwest corner of MacAulay Street West and James Street North. The applicant, King Consultants Inc. c/o Gursewak Singh on behalf of the Heli Patel, owner, has applied for an amendment to the Zoning By-law for a change in zoning from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the Transit Oriented Corridor Local Commercial (TOC2, 875) Zone, to recognize an existing retail use (convenience store) and take-out restaurant within an existing building. Site-specific modifications to the Transit Oriented Corridor Local Commercial (TOC2) Zone are required to accommodate the existing conditions, which are discussed in detail in Appendix “C” attached to Report PED23212.

The proposed Zoning By-law Amendment application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the Hamilton-Wentworth Official Plan and West Harbour (Setting Sail) Secondary Plan, in particular by permitting a range of commercial uses that support the local community, limiting the height within two to four storeys and only permitting residential dwellings above the ground floor; and,
- The existing retail use (convenience store) and take-out restaurant are compatible with the existing land uses in the immediate area, the uses are located in an existing building which is sympathetic to the character of the established North End West neighbourhood which may have possible cultural heritage value and supports the continued operation of a local business.

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold a Public Meeting to consider an application for a Zoning By-law Amendment. In accordance with Section 34(10.12), if the City makes a decision on a Zoning By-law Amendment within 90 days after the receipt of the application, the City shall not refund the fee.

HISTORICAL BACKGROUND

Application Details	
Owner:	Heli Patel.
Applicant:	Heli Patel.
Agent:	King Consultants Inc. (c/o Gursewak Singh).
File Number:	ZAC-23-038.
Type of Application:	Zoning By-law Amendment.
Proposal:	To recognize an existing retail use (convenience store) and take-out restaurant in an existing building.
Property Details	
Municipal Address:	527 James Street North.
Lot Area:	±252 m ² (0.03 ha)
Servicing:	Existing full municipal services.
Existing Use:	Mixed use with an existing convenience store with a hot food table on the ground floor and a residential dwelling unit on the second floor.
Proposed Use:	Continued operation of the convenience store with accessory take-out restaurant on the ground floor and a dwelling unit on the second floor.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the Provincial Policy Statement (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:	Hamilton-Wentworth Official Plan. "Urban Area" Designation on Map No. 1 – Regional Development Pattern.
Secondary Plan Existing:	West Harbour (Setting Sail) Secondary Plan. "Mixed Use" on Schedule M-2 General Land Use. A review of applicable policies is included in Appendix "D" attached to Report PED23212.
Secondary Plan Proposed:	Not Applicable

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 527 James Street North, Hamilton (PED23212) (Ward 2) - Page 4 of 8

Documents	
Zoning Existing:	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.
Zoning Proposed:	Transit Oriented Corridor Local Commercial (TOC2, 875) Zone.
Modifications Proposed:	The following modifications are being proposed to Zoning By-law No. 05-200: <ul style="list-style-type: none"> • To recognize the existing building setback from a street line of 0.0 metres; and, • To recognize the existing building setback from the interior side yard of 0.0 metres.
Processing Details	
Received:	August 4, 2023.
Deemed Complete:	August 4, 2023.
Notice of Complete Application:	Sent to 150 property owners within 120 metres of the subject property on August 21, 2023.
Public Notice Sign:	Posted on August 24, 2023.
Notice of Public Meeting:	Sent to 150 property owners within 120 metres of the subject property on October 6, 2023.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix “E” attached to Report PED23212.
Public Consultation:	Details of an open house and the proposed application were sent by mail to property owners within 120 metres of the subject property two weeks prior to the open house. Approximately 19 people attended the open house on July 25, 2023 between 9:30 a.m. and 5:00 p.m. Comments from the attendees were in support of the convenience store and take-out restaurant. A summary of the public comments received by Applicant is included Appendix “G” attached to Report PED23212.
Public Comments:	One public comment in opposition of the application was received and is summarized in Appendix “G” attached to Report PED23212.
Processing Time:	82 days from date of receipt of the application.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Mixed-use residential and commercial	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

Surrounding Land Uses:

North	Residential	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.
South	Residential	“DE-3” (Multiple Dwellings) District.
East	Residential	“D/S-607” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified.
West	Residential	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

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). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the Provincial Policy Statement (2020) 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 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 reviewed and discussed in the Official Plan analysis that follows.

As the application for Zoning By-law Amendment complies with the City of Hamilton 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 (PPS, 2020);
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended); and,
- Complies with the West Harbour (Setting Sail) Secondary Plan.

Urban Hamilton Official Plan

The Urban Hamilton Official Plan was approved by Council on July 9, 2009 and the Ministry of Municipal Affairs on March 16, 2011.

There was no decision (Non-decision No. 113) made by the Ministry regarding the adoption of the West Harbour (Setting Sail) Secondary Plan into the Urban Hamilton Official Plan because at the time the Ministry was reviewing the Urban Hamilton Official Plan, the Secondary Plan was still under appeal. The lands are currently identified as “Lands Subject to Non-Decision 113 West Harbour Setting Sail” on Schedule E-1 of the Urban Hamilton Official Plan, therefore the Urban Hamilton Official Plan policies do not apply. As a result, when the Urban Hamilton Official came into effect on August 16, 2013, it did not affect the West Harbour (Setting Sail) Secondary Plan.

Hamilton-Wentworth Official Plan and Former City of Hamilton Official Plan

The subject lands are not included within the Urban Hamilton Official Plan as they are part of Non-Decision No. 113. As a result, the policies of the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan that are applicable to the subject lands remain in effect. In this regard, the subject lands are within the Urban Area of the Hamilton-Wentworth Official Plan. The lands are designated “West Harbour” on Schedule A of the City of Hamilton Official Plan and the West Harbour (Setting Sail) Secondary Plan provides the detailed designations and policy framework for this area. City of Hamilton Official policies related to water distribution, sewage disposal, storm drainage and residential environment and housing remain in effect and are applicable to the proposal.

West Harbour (Setting Sail) Secondary Plan

In the West Harbour (Setting Sail) Secondary Plan, the property is designated as “Mixed Use” on Schedule M-2: General Land Use. Staff have completed a review of the “Mixed Use Area” designation policies and Prime Retail Streets (James Street North) policies. The policies for the Prime Retail Streets encourage mixed use developments with ground level commercial including, but not limited to, retail stores, restaurants, business and personal services and/or professional offices, while permitting residential uses above the ground floor. The current height maximum within the West Harbour (Setting Sail) Secondary Plan, identified on Schedule M-4: Building Heights, is between two to four storeys. Staff are satisfied that the existing mixed use two storey building with an existing convenience store with a take-out restaurant on the ground floor and residential unit above meets the applicable policies (refer to Appendix “D” attached to Report PED23212).

Therefore, the proposal complies with the West Harbour (Setting Sail) Secondary Plan.

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

The proposed Zoning By-law Amendment is for a change in zoning from “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the Transit Oriented Corridor Local Commercial (TOC2, 875) Zone. Modifications to the Transit Oriented Corridor Local Commercial (TOC2) Zone are required to recognize the reduced setback conditions for the existing building and are summarized in the report Fact Sheet above and further discussed in Appendix “E” attached to Report PED23212.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - a) It is consistent with the Provincial Policy Statement (2020) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
 - b) It complies with the general intent and purpose of the West Harbour (Setting Sail) Secondary Plan, in particular, the “Mixed Use” designation, by permitting commercial and residential uses within a two-storey building; and,
 - c) The proposal represents good planning by continuing to provide an existing commercial use and residential unit that supports the surrounding neighbourhood as well as efficiently uses the existing municipal infrastructure and building.

2. Zoning By-law Amendment

The subject lands are zoned “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District in Former City of Hamilton Zoning By-law No. 6593. The Zoning By-law Amendment proposes to change the zoning to the Transit Oriented Corridor Local Commercial (TOC2, 875) Zone as outlined in the table on page 4 of the staff report.

Staff are satisfied that the proposed Zoning By-law Amendment complies with the “Mixed Use” designation of the West Harbour (Setting Sail) Secondary Plan as a retail store (convenience store) and restaurant within the existing building with a residential unit above the ground floor are permitted by the policies. Staff are satisfied that the proposed Transit Oriented Corridor Local Commercial (TOC2) Zone implements the intent of the Setting Sail Secondary Plan policies by permitting a range of commercial uses (including the existing uses), restricting residential dwellings to being located above the ground floor, and limiting the

height to a maximum of 11.0 metres. Overall, staff are satisfied that the proposal respects the character of the surrounding area. The site-specific modifications recognize the existing building on the subject lands which has possible cultural heritage value and supports the surrounding residential community (outlined in Appendix “E” attached to Report PED23212).

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

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the subject property can be used in accordance with the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District in Hamilton Zoning By-law No. 6593. For the retail use (convenience store) and restaurant use to continue, the owners would need to confirm that the uses are legal non-conforming.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED23212 – Location Map
Appendix “B” to Report PED23212 – Amendment to Zoning By-law No. 05-200
Appendix “C” to Report PED23212 – Concept Plan
Appendix “D” to Report PED23212 – Official Plan Policy Review
Appendix “E” to Report PED23212 – Zoning Modification Chart
Appendix “F” to Report PED23212 – Staff and Agency Comments
Appendix “G” to Report PED23212 – Public Comments

AB:sd