



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 17, 2023
<b>SUBJECT/REPORT NO:</b>	Zoning By-law Amendment for Lands Located at 12 Louisa Street, Flamborough (PED23208) (Ward 13)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Aminu Bello (905) 546-2424 Ext. 5264
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Zoning By-law Amendment Application ZAR-22-004 by MB1 Development Consulting Inc. c/o Michael Barton on behalf of Ryan Kennedy, owner**, for a change in zoning from the Settlement Residential (S3) Zone to the Settlement Residential (S1, 872, H160) Zone, to permit the lands to be developed for a single detached dwelling, on lands located at 12 Louisa Street, as shown on Appendix "A" attached to Report PED23208, be **APPROVED** on the following basis:

- (a) That the draft By-law, attached as Appendix "B" to Report PED23208, 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 Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject property by introducing the Holding symbol 'H' to the proposed Settlement Residential (S1, 872) Zone.

The Holding Provision 'H' is to be removed, conditional upon:

- (i) That the Owner/Applicant applies for a Building Permit showing a connection to the municipal water system and installation of a Class 6

---

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.

Tertiary wastewater treatment system, to the satisfaction of the City's Chief Building Official;

- (ii) That the Applicant enter into, and have registered on title, a development agreement with the City of Hamilton to install and properly maintain the tertiary treatment septic system, in order to function as designed, to the satisfaction of the Director of Development Planning, Director of Hamilton Water, and City Solicitor;
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to the Greenbelt Plan (2017), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended) and complies with the Rural Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

The subject property is municipally known as 12 Louisa Street and is located at the southwest corner of Louisa Street and William Terrace North in the Freelon Rural Settlement Area.

The owner has applied for a Zoning By-law Amendment to City of Hamilton Zoning By-law No. 05-200. The purpose of the Zoning By-law Amendment is to rezone the lands from the Settlement Residential (S3) Zone to the Settlement Residential (S1, 872, H160) Zone to permit the lands to be redeveloped for a single detached dwelling on an existing 0.2 hectare parcel, as shown on Appendix "D" attached to Report PED23208. A site specific modification to the Settlement Residential (S1) Zone is required to accommodate the proposed development, which is discussed in Appendix "C" attached to Report PED23208.

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 the Greenbelt Plan (2017);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the Rural Hamilton Official Plan and Freelon Rural Settlement Area Plan, subject to proposed Holding Provision; and,
- The proposal is compatible with the existing land uses and settlement residential character of the immediate area, and represents good planning by, among other things, developing an underutilized lot that can be adequately serviced for residential development.

**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 an amendment to the Zoning By-law.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner:	Ryan Kennedy.
Applicant:	MB1 Development Consulting Inc.
File Number:	ZAR-22-004.
Type of Application:	Zoning By-law Amendment.
Proposal:	To permit the development of a single detached dwelling with access from William Terrace North.
<b>Property Details</b>	
Municipal Address:	12 Louisa Street, Flamborough.
Lot Area:	0.2 ha.
Servicing:	The property is serviced by private services (water well and septic system).
Existing Use:	Vacant.
Proposed Use:	Single Detached Dwelling.
<b>Documents</b>	
Provincial Policy Statement:	The proposal is consistent with the Provincial Policy Statement.
A Place to Grow:	The proposal conforms to the Growth Plan, as amended.
Greenbelt Plan:	The proposal conforms to the Greenbelt Plan, as amended.

**SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 12 Louisa Street, Flamborough (PED23208) (Ward 13) - Page 4 of 8**

<b>Documents</b>	
Official Plan Existing:	“Rural Settlement Areas” on Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan.
Official Plan Proposed:	No amendment proposed.
Secondary Plan Proposed:	“Settlement Residential” on Map 7 of the Freelton Rural Settlement Area Plan.
Zoning Existing:	Settlement Institutional (S3) Zone.
Zoning Proposed:	Settlement Residential (S1, 872, H160) Zone.
Modifications Proposed:	<ul style="list-style-type: none"> <li>To establish a minimum lot area of 0.2 hectares.</li> </ul>
<b>Processing Details</b>	
Received:	November 15, 2021.
Deemed complete:	November 23, 2021.
Notice of Complete Application:	Sent to 29 property owners within 120 metres of the subject property on December 10, 2021.
Public Notice Sign:	Posted on December 8, 2021 and updated with public meeting date on September 29, 2023.
Notice of Public Meeting:	Sent to 29 property owners within 120 metres of the subject property on September 29, 2023.
Public Consultation:	N/A
Public Comments:	Three emails were received from an adjacent resident expressing concern with enforcing that the adjacent property owners connect to the municipal water system. Additionally, requests for clarification regarding the registered encumbrances on the subject lands were received. Public comments are attached as Appendix “D” to Report PED23208.
Processing Time:	701 days from date of receipt of the application.

**Existing Land Use and Zoning**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Vacant	Settlement Institutional (S3) Zone

**Surrounding Land Uses:**

North	Single detached dwellings	Settlement Residential (S1) Zone
South	Single detached dwellings	Settlement Residential (S1) Zone
East	Place of Worship and Cemetery	Open Space (P4) Zone
West	Single detached dwelling	Settlement Residential (S1) Zone

**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.

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 Rural 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 the Greenbelt Plan (2017); and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).

**Rural Hamilton Official Plan**

The subject lands are designated “Rural Settlement Areas” on Schedule “D” – Rural Land Use Designations in the Rural Hamilton Official Plan. The subject lands are also designated “Settlement Residential” in the Freelon Rural Settlement Area Plan.

**SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 12 Louisa Street, Flamborough (PED23208) (Ward 13) - Page 6 of 8**

---

The intent of the “Rural Settlement Areas” designation is to direct rural non-farm development, such as rural residential, institutional and commercial development, into clusters to serve the needs of the rural community. The predominant use of land in “Rural Settlement Areas” shall be single detached dwellings complemented by small scale commercial uses, parks, and institutional uses serving the rural community. The Freelton Rural Settlement Area Plan establishes the pattern of development and redevelopment.

The Applicant has proposed to develop a single detached dwelling on an existing 0.2 hectare lot formerly occupied by the Freelton Fellowship Baptist Church. It is staff’s interpretation that the lot currently exists and is not considered the creation of a new lot, therefore, as a legal non-conforming situation, the minimum 0.4 hectare lot size requirement under the Rural Hamilton Official Plan is not applicable.

It should be noted that Zoning By-law Amendment application ZAR-22-004 predates City Council approval of staff report PW20082(a)/PED23047, which prohibits the use of tertiary systems to provide private wastewater treatment in rural areas until such time as the Province comprehensively regulates their use. Staff have been working with the applicant since late 2021 on potential solutions to service the existing lot of record in a manner that maintains the groundwater quality for surrounding well owners.

The Applicant submitted a Wastewater Servicing Assessment prepared by FlowSpec Engineering Ltd. dated May 9, 2022, and a Residential Well Sampling Report (supplementary Hydrogeology Report) prepared by MTE Consultants Inc. dated September 15, 2022. The Applicant has demonstrated to the satisfaction of Source Protection Planning staff that the proposal can accommodate water servicing and private wastewater treatment with no on-site and off-site impacts to adjacent properties provided that the proposal connects to the Freelton Municipal Water Drinking System and installs a Class 6 Tertiary wastewater treatment system. The report findings also determined the proposed use to be a less intensive use compared to the former institutional use based on peak wastewater flows.

Staff recommend that a Holding Provision be applied to the subject lands to ensure the Applicant applies for a Building Permit showing a connection to the municipal water system and the installation of a Class 6 Tertiary wastewater treatment system. In addition, the Applicant is required to enter into, and have registered on title, a development agreement with the City of Hamilton to install and properly maintain the tertiary treatment septic system, in order to function as designed, to the satisfaction of the Director of Development Planning, Director of Hamilton Water, and City Solicitor.

Therefore, the proposal complies with the Rural Hamilton Official Plan, subject to the proposed Holding Provision.

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

The proposed Zoning By-law Amendment is for a change in zoning from Settlement Institutional (S3) Zone to the Settlement Residential (S1, 872, H160) Zone. The effect of this Zoning By-law Amendment will permit development of a single detached dwelling on an existing 0.2 hectare lot. A modification to the Settlement Residential (S1) Zone is required to facilitate the development and summarized in the report Fact Sheet above and further discussed in Appendix “C” attached to Report PED23208.

**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), conforms to the Greenbelt Plan (2017) and to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
  - (ii) It complies with the general intent and purpose of the Rural Hamilton Official Plan and the Freelon Rural Settlement Area Plan; and,
  - (iii) The proposed development is considered to be a compatible built form with the existing rural landscape and surrounding land uses.

2. Zoning By-law Amendment

The subject lands are zoned Settlement Institutional (S3) Zone in Zoning By-law No. 05-200. The Zoning By-law Amendment proposes to change the zoning to the Settlement Residential (S1, 872, H160) Zone as outlined in the table on page 3.

Staff are satisfied that the proposal meets the intent of the “Rural Settlement Areas” designation of the Rural Hamilton Official Plan and “Settlement Residential” designation in the Freelon Rural Settlement Area Plan as outlined in Appendix “E” to Report PED23208. The 0.2 hectare lot is an existing parcel and located within a Settlement Residential Area. The Applicant submitted a Wastewater Servicing Assessment and Well Sampling Results that demonstrate a single detached dwelling can be adequately serviced on the subject lands provided the proposal connects to the municipal water system and installs a Class 6 Tertiary wastewater treatment system.

The proposed amendments meet the general intent of the Zoning By-law subject to the proposed Holding Provision. An analysis of the requested modifications is provided in Appendix “C” attached to Report PED23208.

Therefore, staff support the proposed Zoning By-law Amendment, subject to the proposed Holding Provision.

3. Holding Provision

A Holding “H” Provision is proposed to be added to the subject lands for the purpose of requiring that a Building Permit submitted by the Applicant must demonstrate a connection to the municipal water supply and the installation of a Class 6 Tertiary wastewater treatment system, to the satisfaction of the City’s Chief Building Official.

In addition, the Applicant is required to enter into, and have registered on title, a development agreement with the City of Hamilton to install and properly maintain the tertiary treatment septic system, in order to function as designed, to the satisfaction of the Director of Development Planning, Director of Hamilton Water, and City Solicitor.

Upon submission and approval of the above noted requirements, the Holding Provision can be lifted. 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 Settlement Institutional (S3) Zone in Zoning By-law No. 05-200.

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A” to Report PED23208 – Location Map
- Appendix “B” to Report PED23208 – Amendment to Zoning By-law No. 05-200
- Appendix “C” to Report PED23208 – Zoning Modification Table
- Appendix “D” to Report PED23208 – Concept Plan
- Appendix “E” to Report PED23208 – Policy Review
- Appendix “F” to Report PED23208 – Staff and Agency Comments
- Appendix “G” to Report PED23208 – Public Comments

AB:sd