



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 6, 2024
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 459 and 465 Rymal Road West, Hamilton (PED24020) (Ward 14)
WARD(S) AFFECTED:	Ward 14
PREPARED BY:	Tricia Collingwood (905) 549-2424 ext. 5995
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAC-23-048, by MHBC Planning Ltd. (c/o Dave Aston and Stephanie Mirtitisch), on behalf of T. Valery Construction Ltd. (c/o Ted Valeri and Amber Lindsay), Owner**, for a change in zoning from the "AA" (Agricultural) District to a site specific "E" (Multiple Dwellings, Lodges, Clubs, etc.) District, to permit the construction of an eight storey multiple dwelling with 57 units and 158 parking spaces in a structured parking facility, for lands located at 459 and 465 Rymal Road West, as shown on Appendix "A" attached to Report PED24020, be **DENIED**, on the following basis:

- (a) The proposal is premature as implementation of the proposal requires the removal of required parking and a portion of the planting strip on the adjacent lands located at 445 Rymal Road West and 1670 Garth Street which did not form part of this application;
- (b) The unresolved technical issues to implement the proposal cannot be addressed within the *Planning Act* timeline of 90 days for the Zoning By-law Amendment application.

EXECUTIVE SUMMARY

The subject lands are municipally known as 459 and 465 Rymal Road West and are located on the south side of Rymal Road West and west of Garth Street. The property known as 465 Rymal Road West currently contains a single detached dwelling and an accessory structure on the property which will be demolished to facilitate the proposed development.

The subject lands are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan and designated “Medium Density Residential”. The subject lands are currently zoned "AA" (Agricultural) District in Zoning By-law No. 6593.

The applicant has applied for a Zoning By-law Amendment for the lands located at 459 and 465 Rymal Road West, Hamilton, to permit the construction of an eight storey multiple dwelling with the western portion of the building stepping down to four storeys in height. The proposed building includes 57 units and 158 parking spaces within three levels of podium parking. The podium parking will be accessed through an existing driveway on the adjacent lands located at 445 Rymal Road West and 1670 Garth Street and will require removal of existing parking spaces and a portion of the planting strip on the neighbouring property in order to facilitate the proposal. The development concept also proposes to locate a loading space on the neighbouring property, whereas the proposed loading space is required to be located on the lands subject to the Zoning By-law Amendment application.

It is the opinion of staff that the proposal is considered to be premature as implementation of the proposal requires the removal of required parking and a portion of the planting strip on the adjacent lands located at 445 Rymal Road West and 1670 Garth Street which did not form part of this application and not comprehensively assessed. As a result of the *Planning Act* timelines, the unresolved technical issues to implement the proposal could not be addressed within the 90 day timeframe. Therefore, staff recommend the application be denied.

Alternatives for Consideration – See Page 9

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

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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 joint 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:	T. Valery Construction Ltd. (c/o Ted Valeri and Amber Lindsay).
Applicant/Agent:	MHBC Planning Ltd. (c/o Dave Aston and Stephanie Mirtitsch).
File Number:	ZAC-23-048.
Type of Application:	Zoning By-law Amendment.
Proposal:	<p>To permit an eight storey multiple dwelling with 57 residential units. The proposal includes 158 parking spaces within a parking structure requiring the shared use of the existing access located on 445 Rymal Road West and 1670 Garth Street. The dwelling unit breakdown includes five three-bedroom units (8%), 47 two-bedroom units (84%) and five one-bedroom units (8%). The proposed redevelopment of the lands requires the existing single detached dwelling to be demolished.</p> <p>The applicant advised that the subject lands and adjacent property, known as 445 Rymal Road West and 1670 Garth Street, will merge on title in the future (see conceptual plans attached as Appendix 'B' to Report PED24020).</p>
Property Details	
Municipal Address:	459 and 465 Rymal Road West, Hamilton.
Lot Area:	± 0.25 ha.
Servicing:	Full municipal services.
Existing Use:	Single detached dwelling and vacant land.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the Provincial Policy Statement (2020).

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Documents	
A Place to Grow:	The proposal conforms to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	"Neighbourhoods" on Schedule E-1 – Urban Land Use Designations.
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	"AA" (Agricultural) District.
Zoning Proposed:	Site specific "E" (Multiple Dwellings, Lodges, Clubs, etc.) District.
Modifications Proposed:	<p>The applicant proposes to modify the "E" (Multiple Dwellings, Lodges, Clubs, etc.) District to:</p> <ul style="list-style-type: none"> • Permit a maximum of 950 square metres of Commercial Uses permitted in Section 13. (1) of Zoning By-law No. 6593 on the ground floor of a Multiple Dwelling and further notwithstanding Section 13.(1) of Zoning By-law No. 6593, a Commercial School shall also be permitted; • A front yard setback shall not apply on the subject lands; • No building or structure shall exceed ten storeys or 30.0 metres in height; • A northerly side yard width of 1.2 metres shall be provided and maintained; • An easterly side yard width of 0 metres shall be provided and maintained; • A minimum southerly side yard width of 4.2 metres shall be provided and maintained; • A minimum rear yard depth of 5.5 metres shall be provided and maintained; • No building or structure shall have a gross floor area greater than the area within the district of the lot on which it is situate, multiplied by the floor area ratio of 2.0; and, • There shall be provided and maintained on the same lot within the district an amount not less than 15% of the area of the lot on which the building or structure is situate, as landscaped area.

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Documents	
Modifications Proposed (Continued):	<ul style="list-style-type: none"> • For a multiple dwelling, a minimum of 1.20 parking spaces per Class A dwelling unit shall be provided, inclusive of visitor parking; • One loading space shall have a minimum length of 9.0 metres, a minimum width of 3.7 metres, and a minimum height of 4.3 metres shall be provided and maintained; • Every required parking space, except for parallel parking, shall have dimensions of not less than 2.6 metres in width and 5.5 metres in length; and, • Remove the ability to reduce the amount of required parking spaces for a lot where there is a residential use and commercial use on the same property.
Processing Details	
Received:	September 22, 2023.
Deemed Incomplete:	October 18, 2023.
Resubmission Received:	November 17, 2023.
Deemed Complete:	November 20, 2023.
Public Notice Sign:	Posted on November 23, 2023, and updated on January 8, 2024 to include the Public Meeting date of February 6, 2024.
Notice of Public Meeting:	Sent to 32 property owners within 120 metres of the subject property on November 28, 2023.
Zoning Existing:	"AA" (Agricultural) District.
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "D" attached to Report PED24020.
Public Consultation:	A Virtual Public Consultation meeting was held on March 22, 2023. Based on the summary provided by the Applicant there were 15 individuals who attended the virtual meeting.
Public Comments:	Staff have not received any comments from the public regarding the Zoning By-law Amendment application.
Processing Time:	81 days from date of receipt of the application.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Single Detached dwelling and vacant land.	Agricultural “AA” District.
Surrounding Land Uses:		
North	Retirement Home (Chartwell Deerview Crossing), Single Detached dwellings.	Major Institutional (I3) Zone.
South	Elementary School (St Therese of Lisieux Catholic School).	Neighbourhood Institutional (I1) Zone.
East	Multiple dwelling.	“E/S-1701” (Multiple Dwellings, Lodges and Clubs, etc.) District, Modified.
West	Single Detached dwelling Uses.	“AA” (Agricultural) 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 (A Place to Grow, 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 below.

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 Holden Horseshoe, (2019, as amended).

Urban Hamilton Official Plan

The subject lands are designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan. Based on a detailed analysis of the applicable Urban Hamilton Official Plan (Volume 1) policies, attached as Appendix “C” attached to Report PED24020, the proposed development is designated “Medium Density Residential”.

As outlined in Appendix “C” attached to Report PED24020, the proposed land use complies with the policies of the Urban Hamilton Official Plan “Neighbourhoods” policies, which permits the proposed residential use on the subject lands, considers buildings up to a maximum of 12 storeys as long as certain criteria is met, is located near a transit stop and is located within close proximity to schools and parks. In addition, the site is on the edge of a low density residential neighbourhood, meets the characteristics of the Rymal Road West streetscape and is located near a community node. The applicants are providing a range of unit sizes including five, one bedroom units, 47, two bedroom units, and five, three bedroom units.

As per policy C.2.11.1, the City recognizes the importance regarding the protection of trees. The application is proposing the removal of the majority of the trees on the site and staff recommend looking at opportunities to preserve more trees on the subject lands. This may affect the design of the proposal and an additional review would be required.

As per policies B.3.3.2.2 to B.3.3.2.10, a Wind Study was requested by Urban Design staff in order to confirm that the pedestrian realm is not negatively impacted by the proposed development. This may affect the design of the proposal and an additional review would be required.

As per policy C.4.5.12, a scoped Transportation (Trip Generation Letter) Assessment was not submitted in order to demonstrate that the proposed location of the access for the underground parking is acceptable or that the existing infrastructure (including the

driveway access onto Rymal Road West) can handle the additional volume from the proposed development. As well, the existing access on Rymal Road West is on lands not currently subject to this application. The results of the scoped Transportation (Trip Generation Letter) Assessment could impact the proposed development if the findings conclude that the proposed shared access cannot accommodate vehicle trips attributed to the existing and proposed buildings.

It is the opinion of staff that the proposal is considered to be premature as implementation of the proposal requires the removal of required parking and a portion of the planting strip on the adjacent lands located at 445 Rymal Road West and 1670 Garth Street which did not form part of this application and, therefore, was not comprehensively assessed through the review of this application.

Neighbourhood Plan

The subject lands are located in the Carpenter Neighbourhood Plan. The lands are identified as “Single and Double” in the Neighbourhood Plan. The Neighbourhood Plan permits a range of housing types with a higher density, including multiple dwellings, being on the periphery of the neighbourhood and located in close proximity to open space, parklands and school sites. The proposed site is located adjacent to an existing elementary school (Saint Therese of Lisieux Elementary) and within proximity to Carpenter Neighbourhood Park.

The proposed development generally implements the vision of the Carpenter Neighbourhood Plan. Should the application be approved, the Neighbourhood Plan designation will need to be amended to reflect the proposed development.

City of Hamilton Zoning By-law No. 6593

The proposed Zoning By-law Amendment is for a change in zoning from "AA" (Agricultural) District to a site specific “E” (Multiple Dwellings, Lodges and Clubs, etc.) District, in the former City of Hamilton Zoning By-law No. 6593 to permit an eight storey multiple dwelling with 57 units. As part of the review of the Planning Justification Report and Draft Zoning By-law, staff note that some of the requested modifications requested by the applicants are not required to facilitate the proposed development.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal cannot be supported for the following reasons:
 - (i) The proposal is premature as implementation of the proposal requires the removal of required parking and a portion of the planting strip on the

adjacent lands located at 445 Rymal Road West and 1670 Garth Street which did not form part of this application.

- (ii) The unresolved technical issues to implement the proposal cannot be addressed within the *Planning Act* timeline of 90 days for the Zoning By-law Amendment application.

2. Zoning By-law Amendment

The subject lands are zoned "AA" (Agricultural) District in Former City of Hamilton Zoning By-law No. 6593. The Zoning By-law Amendment proposes to change the zoning to a site specific "E" (Multiple Dwellings, Lodges and Clubs, etc.) District as outlined in the table on Page 3 of Report PED24020.

It is the opinion of staff that the proposal is considered to be premature as implementation of the proposal requires the removal of required parking and a portion of the planting strip on the adjacent lands located at 445 Rymal Road West and 1670 Garth Street which did not form part of this application and was not comprehensively assessed. The development concept also proposes to locate a loading space on the neighbouring property, whereas the proposed loading space is required to be located on the lands subject to the Zoning By-law Amendment application. As a result of the *Planning Act* timelines, the unresolved technical issues to implement the proposal could not be addressed within the 90 day timeframe.

To address the unresolved technical issues, the applicant would need to amend the application to include the lands located at 445 Rymal Road West and 1670 Garth Street and update the public notice sign with the added lands. City staff would need to issue a revised Notice of Complete application and mail-out, undertake a new internal circulation for comments and work with the applicant to address any outstanding issues.

As the unresolved technical issues cannot be addressed within the *Planning Act* timelines, staff consider the application to be premature and recommend the application be denied.

ALTERNATIVES FOR CONSIDERATION

- 1) Council could direct staff to prepare an amending Zoning By-law consistent with the submitted concept plans, attached as Appendix "B" to Report PED24020.
- 2) Council could direct staff to prepare an amending Zoning By-law consistent with the submitted concept plans attached as Appendix "B" to Report PED24020 with

the inclusion of Holding Provisions to address the technical matters, including, but not limited to, an updated Tree Preservation Plan and Arborist Study, Wind Study, scoped Transportation Assessment (Trip Generation Letter), updated Functional Servicing Study, owner acknowledgement that they will enter into an external works agreement as part of a future Site Plan Control application, a joint access agreement, and any other necessary Holding Provisions.

- 3) Council could direct Staff to negotiate revisions to the proposal with the applicant to resolve the outstanding issues which would require a minimum refund of 50% of the application fees, up to 100% of the application fees, to be funded using the Tax Stabilization Reserve 110046.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED24020 – Location Map
Appendix "B" to Report PED24020 – Concept Plan
Appendix "C" to Report PED24020 – Policy Review
Appendix "D" to Report PED24020 – Staff and Agency Comments

TC/sd