



Hamilton

STAFF COMMENTS

HEARING DATE: May 7, 2024

A-24:61 – 215-225 Dartnall Road, Hamilton

Recommendation:

Table

Proposed Conditions:

1. That the applicant provide evidence that the use of veterinary service (animal shelter) has not ceased on the property from when it was legally established until present, to the satisfaction of the Director of Planning and Chief Planner.
2. That the expansion to the legal non-conforming use be generally in keeping with the submitted Site Plan titled “Site Plan A – A.001” and prepared by Chamberlain Architect Services Limited, to the satisfaction of the Director of Planning and Chief Planner.
3. That the expansion to the legal non-conforming use comply with the regulations of Section 9.3 (Prestige Business Park (M3) Zone) of Zoning By-law 05-200.
4. That the owner submit a satisfactory Parking Brief, to the satisfaction of the Director of Planning and Chief Planner.

Proposed Notes:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036) In the event that human remains are encountered during construction, the proponent should immediately contact both MCM



Hamilton

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and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416- 212-7499).”



Hamilton

Development Planning:

Background

The application is to permit the enlargement of the existing non-conforming animal shelter and veterinary clinic.

The following variances are requested:

1. To permit the expansion of the existing legal non-conforming 150 square metres animal shelter and veterinary clinic to 5,000 square metres.
2. To provide 70 parking spaces for the proposed expanded animal shelter and veterinary clinic uses on Site.

Archaeology:

The subject property meets the criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential. These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the subject application.

If this variance is granted, the proponent must be advised in writing by the Committee of Adjustment as follows:

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Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-0036) In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416- 212-7499).”



Hamilton

Urban Hamilton Official Plan

The subject lands are identified as “Employment Areas” on Schedule E – Urban Structure and designated “Business Park” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan. There is also a watercourse indicated on the eastern limit of the property on Schedule B Natural Heritage System.

Please note that the proposed development will be subject to a future Site Plan Control Application and an Environmental Impact Statement may be required through that application process in order to justify the proposed design and development footprint.

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

The subject lands are zoned Prestige Business Park “M3”. An animal shelter and veterinary clinic is not permitted within the “M3” Zone. The applicant has applied on the basis of an expansion to a Legal Non-conforming use pursuant to Section 45(2) of the *Planning Act*.

Analysis

Applications under Section 45 (2) of the *Planning Act* are not evaluated using the typical four tests of a Minor Variance outlined under Section 45 (1). The tests used to evaluate an application for the expansion of a legal non-conforming use are:

- a) *Whether the application is desirable for the appropriate development of the subject property;*
and,
- b) *Whether the application will result in undue adverse impacts on the surrounding properties and the neighbourhood.*

Variance 1

The applicant is proposing an expansion of the existing legal non-conforming 150 square metres animal shelter and veterinary clinic to a 5,000 square metre facility, and to provide 70 parking spaces for the proposed expanded animal shelter and veterinary clinic. The SPCA currently occupies the abutting property to the south at 245 Dartnall Road, which is also zoned “M3” Prestige Business Park, with Special Exception 395 permitting the use of an animal shelter and veterinary clinic. According to a Zoning Verification issued in December 2023, the veterinary services (animal shelter) with an accessory dog park may be legally established prior to the passing of Hamilton Zoning By-law 05-200 on the subject lands (215-225 Dartnall Road). The Zoning Verification does state that the use “may be legally established non-conforming provided that it has continuously existed from prior to the passing of Hamilton Zoning By-law 05-200 on May 26th, 2010 until present”. The applicant has not provided any evidence or materials to support that the existing structure has been used continuously as a veterinary service (animal shelter) since the passing of the by-law until present. Staff



Hamilton

recommend tabling of the application until such time as the applicant provides staff with these materials for review.

Should the applicant be able to provide the appropriate materials to demonstrate the use has not ceased since it was established, staff are of the opinion that an expansion of the existing veterinary clinic and animal shelter is appropriate development for these lands as it meets the majority of the other zoning provisions such as setbacks, landscaping and screening requirements of the “M3” zone, and as the existing facility has been operating on the lands without incident for several years. Furthermore, staff do not anticipate any undue adverse impacts on the surrounding properties and the neighbourhood. The applicant will be required to receive conditional approval of a Site Plan Control application to ensure all zoning requirements are met and detailed landscape plans and appropriate screening will be implemented.

Variance 2

Under the current Zoning By-law there is no separate parking rate for an animal shelter or veterinary clinic that is applicable to the subject lands. Accordingly, the general commercial rate of 1 space for each 30 square metres of gross floor area, which accommodates such us applies. This would amount to a parking requirement of approximately 166 spaces for the proposed facility. The proponent is requesting that they provide 70 parking spaces. Staff are not currently satisfied with the justification provided through the submitted cover letter. Such reductions in parking are typically justified through a Parking Brief prepared by a qualified professional. Staff recommend tabling the application until such time as a Parking Brief prepared by a qualified professional is submitted in support of the proposed parking reduction. Until such time as the Parking Brief is submitted staff are unable to determine whether the application is desirable for the appropriate development of the subject property; and, whether the application will result in undue adverse impacts on the surrounding properties and the neighbourhood.

Zoning:

Recommendation:	Comments and Conditions / Notes
Proposed Conditions:	
Comments:	<p>1) The variances have been written exactly as requested by the applicant.</p> <p>Please note that these lands may be:</p> <ul style="list-style-type: none"> - Regulated by a Conservation Authority; - Located within or adjacent to an Environmentally Sensitive Area (ESA); - Designated under the Ontario Heritage Act; - Listed in the City of Hamilton’s Inventory of Buildings of Architectural and/or Historical Interest; and/or, - Included in the City of Hamilton’s Register of Property of Cultural Heritage Value or Interest.



Hamilton

	Staff cannot confirm this information at this time and the applicant should make the appropriate inquiries in order to determine what other regulations may be applicable to the subject property.
Proposed Notes:	

Development Engineering:

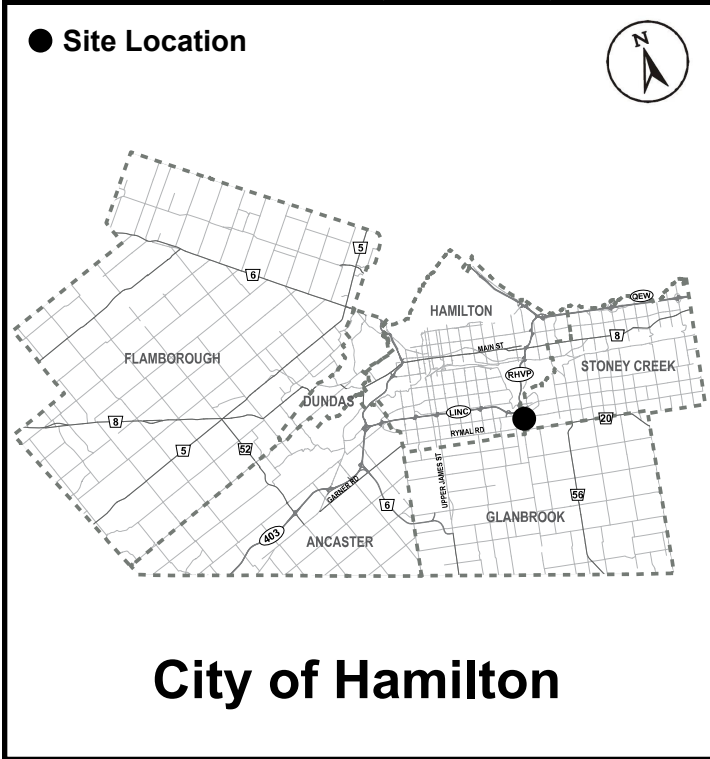
Recommendation:	No comments.
Proposed Conditions:	
Comments:	
Proposed Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	A building permit is required for the alteration of the proposed animal shelter and veterinary clinic. Be advised that Ontario Building Code regulations may require specific setback and construction types.


Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	




Committee of Adjustment

Subject Property

 215 and 225 Darnall Road, Hamilton (Ward 6)

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: HM/A-24:61
Date: April 25, 2024
Technician: NB
Map Not To Scale
Appendix "A"
 Hamilton