




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 19, 2024
SUBJECT/REPORT NO:	City Initiated Application for a Zoning By-law Amendment for Lands Located at 65 Frances Avenue, Stoney Creek (PED24153) (Ward 10)
WARD AFFECTED:	Ward 10
PREPARED BY:	Scott Turnbull (905) 546-2424 Ext. 6789
SUBMITTED BY:	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That City Initiative CI-23-P, to add the lands to City of Hamilton Zoning By-law No. 05-200 as Conservation Hazard Land (P5) Zone, for the lands known municipally as 65 Frances Avenue, Stoney Creek, as shown on Appendix “A” attached to Report PED24153, be **APPROVED** on the following basis:
- (i) That the Draft By-law, attached as Appendix “B” to Report PED24153, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council; and,
 - (ii) That the proposed change in zoning is consistent with the Provincial Planning Statement (2024) and complies with the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The subject property known municipally as 65 Frances Avenue is a vacant naturalized 1.59 hectare site, located in the former municipality of Stoney Creek, north of the Queen Elizabeth Way and adjacent to Edgelake Park. Environmentally sensitive areas,

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specifically Core Areas, are located on and adjacent to the property including the Community Beach Ponds Environmentally Significant Area which contains a Significant Woodland, Significant Wildlife Habitat, a wetland, and a watercourse.

The property was previously owned by the Hamilton-Wentworth District School Board and offered for sale in 2019. The city did not purchase the lands from the School Board at that time because no Department indicated a need to acquire these lands. However, Council did pass a motion in January 2020 that the land located at 65 Frances Avenue, Stoney Creek, be referred to the Planning Committee for consideration of a proposed City-initiated rezoning of the land to open space.

On March 29, 2023, Council approved a confidential motion directing and authorizing the city to acquire 65 Frances Avenue from the Hamilton-Wentworth District School Board. A donation was made by the Patrick McNally Charitable Foundation to purchase the property, and on May 10, 2023, the property was acquired by the City of Hamilton.

This City Initiated Zoning By-law Amendment fulfils the previous 2020 motion to rezone the lands with the intent of protecting the property in its natural state.

The amendment proposes to remove the subject lands from the Small Scale Institutional "IS" Zone in the former City of Stoney Creek Zoning By-law No. 3692-92 and to add the subject lands to the Conservation/Hazard (P5) Zone in Hamilton Zoning By-law No. 05-200. The proposed Zoning By-law Amendment recognizes and preserves the existing natural heritage features on the site.

The Amendment can be supported for the following reasons:

- (i) It is consistent with the Provincial Planning Statement (2024);
- (ii) It complies with the general intent and purpose of the Urban Hamilton Official Plan; and,
- (iii) It recognizes and further protects the existing Core Areas identified on the property.

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.

HISTORICAL BACKGROUND

The subject land at 65 Frances Avenue is located in the former municipality of Stoney Creek, on the north side of Frances Avenue, between Teal Avenue to the west and Green Road to the east. The property has an area of 3.95 acres (1.59 hectares) and a frontage of 521 feet (158 metres) along Frances Avenue.

The property is a vacant naturalized parcel containing a Significant Woodland, Significant Wildlife Habitat, wetland, watercourse, and the Community Beach Ponds Environmentally Significant Area (ESA).

The site contains informal walking trails and is frequented in the spring and fall by bird watchers.

The property was previously owned by the Hamilton-Wentworth District School Board and was zoned Small Scale Institutional "IS" Zone for a future school use in Zoning By-law No. 3692-92. On October 24, 2019, the Hamilton-Wentworth District School Board provided written notice to the City of its proposal to sell the property.

On January 22, 2020, Council passed a motion directing the City's Real Estate Division to advise the Hamilton-Wentworth District School Board that the City does not have an interest in acquiring the subject property and to communicate that the Hamilton Conservation Authority (HCA) be pursued as a potential purchaser of the subject property.

In the same motion, Council directed that the lands located at 65 Frances Avenue, Stoney Creek, be referred to the Planning Committee for consideration of a proposed City-initiated rezoning of the land to open space.

No offers from "preferred purchasers" were received by the Hamilton-Wentworth District School Board for the subject lands. In accordance with provincial regulations, the lands were listed for sale on the open market, with an expiration date of May 2023.

On March 29, 2023, Council approved a Confidential Motion directing and authorizing the City to acquire the property, and to advise Council and the public through a Communications Update once the property purchase was completed. A donation from the Patrick McNally Charitable Foundation was provided to the City for the purchase of the property.

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The Corporate Real Estate Office (CREO) engaged in negotiations with the Hamilton-Wentworth District School Board and on May 10, 2023, acquired 65 Frances Avenue, Stoney Creek for \$40,000. The acquisition was conducted in conformity with the “Sale of Land Policy By-law”, By-law No. 14-204 and was acquired at Market Value. A letter of appreciation was provided to the Patrick J McNally Charitable Foundation for their generous contribution.

Application Details	
Owner:	City of Hamilton
Applicant	City of Hamilton
File Number:	CI-23-P
Type of Application:	Zoning By-law Amendment
Proposal:	The purpose of the City Initiated Zoning By-law Amendment is to change the zoning of the subject land from the Small Scale Institutional “IS” Zone to the Conservation/Hazard Land (P5) Zone. The effect of this City initiated application is to recognize and conserve the existing natural features on the property.
Property Details	
Municipal Address:	65 Frances Avenue, Stoney Creek
Lot Area:	1.59 Hectares
Servicing:	Servicing is available along Frances Avenue.
Existing Use:	Vacant naturalized area.
Documents	
Provincial Planning Statement:	The proposal is consistent with the Provincial Planning Statement (2024).
Official Plan Existing:	Identified as “Neighbourhoods” on Schedule E – Urban Structure Designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations
Official Plan Proposed:	No Amendment Proposed.
Zoning Existing:	Small Scale Institutional (IS) Zone in the former City of Stoney Creek Zoning By-law No. 3692-92.
Zoning Proposed:	Conservation/Hazard (P5) Zone in the City of Hamilton Zoning By-law No. 05-200.
Modifications Proposed:	None.

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Processing Details	
Received:	Not Applicable.
Deemed Complete	Not Applicable.
Notice of Complete Application:	Sent to 275 property owners within 120 metres of the subject lands on July 24, 2024.
Public Notice Sign:	Posted Monday, August 12, 2024
Notice of Public Meeting:	Sent to 275 property owners within 120 metres of the subject lands on October 30 2024
Staff and Agency Comments:	Staff and agency comments have been summarized in Appendix "D" attached to Report PED24153.
Public Consultation:	On August 12, 2024, the Planning Division hosted a drop-in open house event at Edgelake Park, adjacent to the subject property. Approximately 35 members of the public attended the event.
Public Comments:	Two emails expressing support for the proposal and one email requesting clarification on the impact this proposal will have to an adjacent property were received (see Appendix "E" attached to Report PED24153).
Processing Time:	Not Applicable.

Existing Land Use and Zoning

	Existing Land Use	Existing Zoning
Subject Lands:	Vacant Naturalized Land	Small Scale Institutional (IS) Zone
Surrounding Land Uses:		
North	Vacant Naturalized Land	Small Scale Institutional (IS) Zone
South	Residential and Open Space	Multiple Residential – Three "RM3 – 10" Zone and Open Space (OS) Zone
East	Residential	Multiple Residential – Three "RM3-21" Zone and Low Density Residential – Small Lot (R1a) Zone
West	Parkland	Neighbourhood Park (P1) Zone

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.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

A full policy review has been provided for the Provincial Planning Statement (2024) and Urban Hamilton Official Plan in Appendix “C” attached to Report PED24153.

Provincial Planning Statement (2024)

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Planning Statement (2024) which came into effect on October 20, 2024. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with and conform to provincial plans and policies.

Section 4.1 of the Provincial Planning Statement states that natural features and their diversity, connectivity and ecological function should be protected for the long term and where possible enhanced.

The proposed City Initiated Zoning By-law Amendment will contribute to the protection of the natural heritage features identified on the subject land by placing them under the appropriate Conservation/Hazard Land zoning. This Zoning By-law Amendment application will limit the uses permitted on the property to Conservation, Flood and Erosion Control Facilities, and Passive Recreation.

The proposed Zoning By-law Amendment is consistent with the Provincial Planning Statement as policies related to natural heritage protection are upheld.

Urban Hamilton Official Plan

The subject lands are located within the Urban Boundary and are designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. The intent of the “Neighbourhoods” designation is to describe neighbourhood functions, identify appropriate scales of development and design requirements for various land uses, and allow for the continued evolution of neighbourhoods.

The following uses are permitted on lands designated “Neighbourhoods”:

- a) residential dwellings, including second dwelling units and housing with supports;
- b) open space and parks;
- c) local community facilities / services; and,
- d) local commercial uses.

The property has been identified as having archaeological potential due to the property being:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 2) In an area of sandy soil in areas of clay or stone.

Schedule B – Natural Heritage of the City’s Urban Hamilton Official Plan identifies Core Areas within and adjacent to the subject property. These Core Areas are identified as Significant Woodland (Schedule B-2), Community Beach Ponds Environmentally Significant Area (ESA) (Schedule B-6) and a watercourse (Schedule B-8).

The lands within and adjacent to the subject property have been identified as an Environmentally Significant Area based on criteria set out in the Urban Hamilton Official Plan including:

- The area containing biotic communities that are rare in the Province;
- The area providing habitat for species considered significant in the City, Province, or Canada; and,
- There are significant seasonal concentrations of wildlife.

The Woodland identified within and adjacent to the subject lands have been designated Significant based on criteria set out in the Urban Hamilton Official Plan including:

- The woodland’s connection to an Environmentally Significant Area; and,
- The woodland’s proximity to hydrological features including a watercourse and unevaluated wetland.

Through a previous *Planning Act* application for the adjacent property, known municipally as 30 Church Street, an Environmental Impact Statement was prepared by Dougan and Associates in September 2006. The submitted Environmental Impact Study evaluated both 30 Church Street and the subject property 65 Frances Avenue. Additional Core Areas were identified by this study including Significant Wildlife Habitat (Land Bird Migratory Stopover) and an Unevaluated Wetland.

Section C.2.0 of the Urban Hamilton Official Plan outlines the policies that apply to the City’s Natural Heritage System including the Core Areas identified above. These policies require that all natural features and the ecological function of Core Areas be protected.

Therefore, the proposed Zoning By-law Amendment complies with and implements the applicable policies of the Urban Hamilton Official Plan.

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

The proposed City Initiated Zoning By-law Amendment seeks to change the zoning of 65 Frances Avenue from the Small Scale Institutional “IS” Zone to the Conservation/Hazard Land (P5) Zone by deleting the lands from former City of Stoney Creek Zoning By-law No. 3692-92 and adding them to the City of Hamilton Zoning By-law No. 05-200 Conservation/Hazard Land (P5) Zone (see Appendix “B” attached to Report PED24153). The change in zoning recognizes the existing natural features on the property.

The permitted uses under the proposed Conservation/Hazard Land (P5) Zone are limited to conservation, flood and erosion control facilities, and passive recreation.

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 Planning Statement (2024);
 - (ii) It complies with the general intent and purpose of the Urban Hamilton Official Plan; and,
 - (iii) It recognizes and protects the existing Core Areas identified on the property.
2. Zoning By-law Amendment

The subject property is currently zoned Small Scale Institutional “IS” Zone under the former City of Stoney Creek Zoning By-law No. 3692-92. The proposed City Initiated Zoning By-law Amendment seeks to change the zoning of the subject land to the Conservation/Hazard Land (P5) Zone in Zoning By-law No. 05-200.

Access to the existing informal walking trails on site will remain, however, formal trail enhancements and maintenance are not planned at this time. As such, the City has installed a sign on the property identifying the lands as an unmaintained naturalization area.

This amendment will recognize the property’s existing Core Areas identified through Schedule B of the Urban Hamilton Official Plan and place them under the

appropriate Conservation/Hazard Land Zone in compliance with the City's natural heritage policies. The proposed Conservation/Hazard (P5) Zone will protect the existing natural features on site by limiting permitted uses to Conservation, Flood and Erosion Control Facilities, and Passive Recreation uses. These uses are permitted under the property's "Neighbourhoods" Official Plan designation.

As such, staff are satisfied that the proposed City Initiated Zoning By-law Amendment meets the intent of the "Neighbourhoods" designation and the Natural Heritage System Policies of the Urban Hamilton Official Plan.

ALTERNATIVES FOR CONSIDERATION

Council could choose to not approve the proposed Zoning By-law Amendment and the lands would remain zoned Small Scale Institutional "IS" Zone under the former City of Stoney Creek Zoning By-law No. 3692-92.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to PED24153 – Location Map
Appendix "B" to PED24153 – Draft Zoning By-law Amendment
Appendix "C" to PED24153 – Summary of Policy Review
Appendix "D" to PED24153 – Department and Agency Comments
Appendix "E" to PED24153 – Summary of Public Comments Received

ST/sd