



**Subject: Recommendation Report for Zoning By-law Amendment
D14-06-20, 599 Main Street West**

To: Council

From: Planning and Development Department

Report Number: 2021-13

Meeting Date: January 11, 2021

Recommendation:

That the Zoning By-law Amendment attached as Appendix A to Planning and Development Department Report 2021-13 be approved; and

That Planning and Development staff be directed to prepare and circulate the Notice of Passing in accordance with the *Planning Act*.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a Zoning By-law Amendment application by Steven Rivers on behalf of 2493207 Ontario Inc. for the property municipally known as 599 Main Street West.

Background:

The application for Zoning By-law Amendment accompanied by a planning justification report (Appendix B) proposes to change the zoning on a portion of the property (Phase 2 on the approved site plan, Part 3 on the concurrent consent application) from Highway Commercial (HC) to HC-57, a special provision of the Highway Commercial (HC) zone that recognizes the lot frontage and front yard requirements of the Zoning By-law to satisfy an anticipated condition of a consent application under application B07-20-PC.

Discussion:

The Notice of Public Meeting was circulated to required agencies, and property owners within 120 metres of the property on November 24, 2020. Public notice signs were posted on the property on or before November 24, 2020. Meeting details have been provided along with the Council Agenda on the City's website.

A Public Meeting was held on December 14, 2020 where staff and the applicant presented the application to Council and members of the public.

At the time of writing this report, staff has received the following correspondence from the public, City divisions and commenting agencies:

Lisa St. Amand

- Would like to be notified of any decisions related to this application.
- Would like to reserve the right to appeal any future decision if necessary
- Requests that ongoing proceedings between the property owner at 599 Main St W and adjacent landowners and businesses be addressed prior to any further excavation
- Requests that a stop work on heavy excavation equipment be included

Erica Horton – 33 Merritt Parkway

- Has drainage issues in her backyard since the construction of phase one
- Has issues with people walking through her property and would like the fence to be extended south toward the highway

Niagara Region

There are no Provincial or Regional interests with the Zoning By-law Amendment.

Planning Division

City of Port Colborne Official Plan

According to Schedule A: City Wide Land Use, the City of Port Colborne's Official Plan designates the subject property as **Highway Commercial**. Land uses in the Highway Commercial designation shall include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and/or drive-through facilities; and accessory uses to the aforementioned uses, including a residence for a caretaker. For lands having frontage on Main Street East between the Welland Canal and Elizabeth Street, a mix of uses including both commercial and residential uses are permitted in accordance with the appropriate policies.

The Official Plan designation is not proposed to be changed as a result of this application.

City of Port Colborne Zoning By-law 6575/30/18

The subject parcel is zoned **Highway Commercial (HC)**. The HC zone permits an animal care establishment; brew pub; car wash; convenience store; day care; drive-thru facility; dwelling, accessory; food vehicle; hotel; motor vehicle repair garage; motor vehicle sales/rental service centre; motor vehicle gas station; office; personal service business; place of assembly/banquet hall; place of worship; public use; recreation facility; restaurant, fast food, full service, take-out; retail building construction and supply; service commercial; and uses, structures and buildings accessory thereto.

The application for Zoning By-law Amendment proposes to change the zoning of the property from HC – Highway Commercial to HC-57, a special provision of the Highway Commercial zone which will recognize the lot frontage and front yard requirements of the Zoning By-law to allow the property to be severed under consent application B07-20-PC.

The requested special provisions have been outlined below and in the Draft Zoning By-law Amendment attached as Appendix A:

- a) Notwithstanding any provisions of this By-law to contrary, the lands indicated in Schedule A to this By-law (Phase 2 in the approved Site Plan Agreement) shall be deemed a lot.
- b) Notwithstanding any provisions of this By-law to the contrary, the frontage of the lands indicated on Schedule A to this By-law, shall be deemed to be the frontage of Phase 1 of the approved Site Plan Agreement.
- c) Notwithstanding any provisions of this By-law to the contrary, the front lot line for the lands indicated on Schedule A to this By-law shall be deemed to be the front lot line of Phase 1 of the approved Site Plan Agreement.
- d) Notwithstanding any provisions of this By-law to the contrary, the front yard for the lands indicated on Schedule A to this By-law shall be deemed to be the front yard of Phase 1 of the approved Site Plan Agreement.

Adjacent Zoning and Land Use

North-west Residential dwellings Zoning: R1	North Residential dwellings Zoning: R1	North-east Residential dwellings Zoning: R1
West Vacant residential/commercial land Zoned: Residential Development and Highway Commercial	Subject property	East Commercial property Zoned: Highway Commercial
South-west Main Street West	South Main Street West	South-east Main Street West

Comment and Discussion

Staff would like to note that no physical changes are proposed to the existing site plan approved in 2018. The property has obtained its approval for both Phase 1 and 2 of the development shown in the sketch attached as Appendix C. The Site Plan Agreement addresses servicing, lighting, site access and design, landscaping, screening and other physical attributes for the future development of Phase 2.

Planning staff has reviewed the correspondence received from members of the public regarding this application. It is noted that ongoing legal proceedings between this property and neighbouring properties will continue in the future. However, it is the opinion of staff that the proceedings should not impact the current application, which is simply a technical amendment to permit the severance of the property.

In response to the comments from Erica Horton, staff feel that this is more of a trespassing issue. Staff note there is additional landscaping that will be required through the construction of Phase 2 which will act as a buffer. In reference to the drainage concerns, Engineering staff will ensure that Phase 2 is graded in accordance with the approved site plan to relieve the drainage issues. There are additional swales and grading required for Phase 2 that will encourage flows toward the stormwater management pond as designed. Again, staff are of the opinion that these issues are addressed through other mechanisms and should not impact this application for the technical Zoning By-law Amendment.

Financial Implications:

There are no financial implications.

Conclusion:

After reviewing all the material related to this application including public comments, the Planning Justification Report, planning policies and applicable By-laws, Planning staff is in a position to recommend the approval of this application for Zoning By-law Amendment.

Appendices:

- a. Zoning By-law Amendment
- b. Planning Justification Report
- c. Severance Sketch

d. Draft Public Meeting Minutes from December 14, 2020

Respectfully submitted,

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Planner

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Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.

