SUBJECT: Application for a Change in Zoning for the Property Located at 709-715 Main Street East and 104 Sherman Avenue South (Hamilton) (PED06068) (Ward 3)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-05-91, BRW Management Group Ltd., owner, for a change in zoning from the "H" (Community Shopping and Commercial, etc.) District, to the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District, to permit three existing multiple residential buildings to remain on conditionally approved severed parcels of land, for the property located at 709-715 Main Street East and 104 Sherman Avenue South (Hamilton), as shown on Appendix “A” to Report PED06068, on the following basis:

(a) That the Draft By-law, attached as Appendix “B” to Report PED06068, which has been prepared in a form satisfactory to the City Solicitor, not be forwarded to City Council for enactment until a Reference Plan has been submitted to the satisfaction of the Manager of Development Planning.

(b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is for a change in zoning to permit three existing multiple dwelling buildings to remain on newly created lots, in accordance with approved Consent Applications HM/B-05:156-157.

The proposed change in zoning has merit and can be supported as it conforms to the Official Plan of the City of Hamilton; it would establish “E” (Multiple Dwellings, Lodges, Clubs, etc.) District zoning consistent with the land uses that exist on the subject lands and it would implement a condition of approval for related severance applications.

BACKGROUND:

Proposal

The applicants are requesting a change in zoning from the “H” (Community Shopping and Commercial, etc.) District to the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, in order to permit three existing multiple residential buildings on three newly created lots in accordance with Consent Applications HM/A:05-156-157 (See Appendix “C”).

The three properties are comprised as follows: 709 Main Street East contains 12 units; 715 Main Street West contains 31 units; and 104 Sherman Avenue South contains 16 units. All three buildings are four storeys in height and no parking spaces are provided with the exception of six parking spaces at the rear of 709 Main Street East.

Consent Applications HM/B-05:156-157

Consent Applications HM/B-05:156-157 were approved on August 24, 2005. The purpose of the applications was to create three lots to recognize the existing multiple dwellings. As a condition of the approvals, the applicants are required to apply for, and receive, approval of a Zoning Amendment Application. The subject Zoning Amendment Application satisfies that condition of approval.

Location: 709-715 Main Street East and 104 Sherman Avenue South

Owners/Applicant: BRW Management Group Ltd.

Property Description: Width: 36.88 metres
Depth: 45.11 metres
Area: 0.166 hectares

Servicing: Full municipal services
EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td></td>
<td>Multiple Residential</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
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<tr>
<th>Surrounding Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Residential</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
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<tr>
<td>South</td>
<td>Mixed Use (Residential/Commercial)</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
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<tr>
<td>East</td>
<td>Commercial</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
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<tr>
<td>West</td>
<td>Church</td>
<td>“D” (Urban Protected Residential, etc. – One and Two Family Dwellings) District</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) It conforms with the “Urban” designation of the Hamilton-Wentworth Official Plan.
   (ii) It conforms with the “Residential” designation of the City of Hamilton Official Plan.
   (iii) It conforms with the “Medium Density Apartments” designation in the approved Gibson Neighbourhood Plan.
   (iv) It satisfies the condition of approval for Consent Applications HM/B-05:156-157, as approved by the Committee of Adjustment in August 2005 (Appendix “C”, Condition 3).

2. There are full municipal services available to service the lands on both Main Street East and Sherman Avenue South.

3. In response to the Public Notice sign being posted on the subject lands, nine phone calls and two letters of concern were received from adjacent property owners regarding the impact of the proposed change in zoning. The issues raised related to the land use and property values. An analysis of the issues is provided below:
Land Use

A concern was expressed that the proposed zoning change would permit the additional use of a residential care facility in a neighbourhood that currently provides ample facilities. The current zoning of the property, “H” (Community Shopping and Commercial, etc.) District, permits the use of a residential care facility as-of-right for a maximum number of twenty residents. The proposed zoning, “E” (Multiple Dwellings, Lodges, Clubs, etc.) District, also permits this use. In 2001, the City of Hamilton adopted Zoning By-law No. 01-143 implementing a minimum radial separation distance of 180.0 metres between established residential care facilities. This neighbourhood has been identified as having several care facilities established to date. As such, should the property owners wish to establish a Residential Care Facility, the provisions of Zoning By-law No. 01-143 respecting radial separation distance, capacity and parking would have to be adhered to. Furthermore, by definition, a Residential Care Facility “means a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents as permitted by the District, exclusive of Staff…” Accordingly, it is unlikely that any of the existing buildings will be converted wholly for the occupation of a Residential Care Facility. The intent of this subject application is to recognize the existing multiple dwellings that are located on the lands, in addition to satisfying a condition of Consent Application HM/A-05:156-157.

Property Values

Adjacent property owners expressed concerns that approving this Zoning By-law Amendment application would have negative impacts on neighbourhood property values. Staff has no information to indicate that there would be a negative impact on property values.

ALTERNATIVES FOR CONSIDERATION:

Should the proposed zoning be denied, the uses permitted on the subject lands would be in accordance with the “H” (Community Shopping and Commercial, etc.) District.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides direction of provincial interest related to land use planning and development. This application has been reviewed with respect to the Provincial Policy Statement. The application is consistent with the policy of focusing growth in settlement areas.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 of the Plan outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. As well, the Urban Areas are intended to accommodate approximately ninety-six percent (96%) of new residential housing units in the Region to the year 2020.

Therefore, as the nature of the application is for the rezoning of the subject lands to recognize the existing residential uses, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Residential” on Schedule ‘A’, General Land Use Plan. As such, Policy A.2.1.8:

“A.2.1.8 It is the intent of Council that a variety of housing styles, types and densities be available in all Residential areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council shall be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.

C.7.3 Council will encourage a Residential Environment of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

vi) Encourage the maintenance, renovation and rehabilitation of Residential properties, subject to the provisions of Subsection C.5; and;
Support the concept of a Residential community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents.”

The existing buildings located on the subject property will continue to be used for multiple residential units. The buildings have existed for an extended period of time and, as such, provide an affordable housing opportunity within the neighbourhood.

The proposal conforms to the “Residential” designation of the Official Plan.

Neighbourhood Plan

The subject lands are designated “Medium Density Apartments” in the approved Gibson Neighbourhood Plan. Given that the existing buildings comprise multiple dwellings, the proposal conforms to this designation.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections:

- Public Works Department (Capital Planning and Implementation Division).
- Public Works Department (Operations and Maintenance Division).
- Corporate Services Department (Budgets and Finance Division).

**Public Consultation**

The Public Participation Policy, adopted by Council on May 29, 2003, states that preliminary circulation shall not be required if the application is part of the implementation of another application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities. Through the Public Hearing that took place as part of the Consent process, one resident attended and expressed concern with respect to the land use that is proposed for the subject lands.

A Public Notice Sign was posted on the property in November 2005, and as a result, several phone calls were received. An analysis of the concerns raised, including the Consent process, can be found within the Analysis/Rationale Section of this report.
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

**Community Well-Being is enhanced.** ☑ Yes ☐ No
Shelter, care and satisfying employment are accessible to all Hamiltonians.

**Environmental Well-Being is enhanced.** ☐ Yes ☑ No
As the proposal is to recognize existing land uses, there are no impacts to environmental well-being.

**Economic Well-Being is enhanced.** ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

**Does the option you are recommending create value across all three bottom lines?**
☐ Yes ☑ No

**Do the options you are recommending make Hamilton a City of choice for high performance public servants?**
☑ Yes ☐ No

:SM
Attachs. (3)
709 & 715 Main Street East and 104 Sherman Avenue South
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), Respecting the Property Located at 709, 715 Main Street East and 104 Sherman Avenue South

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton and is the successor to the former Regional Municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report 06-of the Planning and Economic Development Committee at its meeting held on the day of , 2006, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. E-22 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,

   (a) by changing from “H” (Community Shopping and Commercial, etc.) District to “E” (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, the lands comprised of Blocks “1”, “2”, and “3”, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.
2. That the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to the lands comprised of Block “1”, are amended to include the following special provision:

   a) That notwithstanding Section 11, the building existing at the time of the passing of this By-law, being 2006 shall be permitted and contain a maximum of 12 dwelling units.

3. That the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to the lands comprised of Block “2”, are amended to include the following special provision:

   a) That notwithstanding Section 11, the building existing at the time of the passing of this By-law, being 2006 shall be permitted and contain a maximum of 31 dwelling units.

4. That the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District regulations as contained in Section 11 of Zoning By-law No. 6593, applicable to the lands comprised of Block “3”, are amended to include the following special provision:

   a) That notwithstanding Section 11, the building existing at the time of the passing of this By-law, being 2006 shall be permitted and contain a maximum of 16 dwelling units.

5. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District, provisions, subject to the special requirements referred to in Sections 2, 3 and 4.

6. Zoning By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1543.

7. Sheet No. E-22 of the District Maps is amended by marking the lands referred to in Section 1 of this by-law as S-1543.

8. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this day of , 2006.

____________________________________  ______________________________________
MAYOR  CLERK

ZAC-05-91
Appendix "B" to Report PED06068 (Page 3 of 3)

Subject Property

- BLOCK 1 – Change in zoning from "H" (Community Shopping and Commercial, etc.) District to "E" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified
- BLOCK 2 – Change in zoning from "H" (Community Shopping and Commercial, etc.) District to "E" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified
- BLOCK 3 – Change in zoning from "H" (Community Shopping and Commercial, etc.) District to "E" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified

Schedule "A"

Map Forming Part of By-Law No. 06-____
to Amend By-Law No. 6593

Planning and Economic Development Department

Hamiton

Scale: Not to Scale

File Name/Number: ZAC-05-91

Date: February 13, 2006

T&C File Name:
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT/LAND SEVERANCE
APPLICATION NO. HMB-05:156
SUBMISSION NO. B-156/05

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);
AND IN THE MATTER OF the Premises known as Municipal numbers 709 Main Street East, 715 Main Street East and 104 Sherman Avenue South, in the City of Hamilton;
AND IN THE MATTER OF AN APPLICATION by the owner Jerry Kwasnik (in trust), for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 23.5m² (77') x 33.5m² (109.79') containing an existing 31 unit apartment building (715 Main Street East) for residential purposes, and also to establish rights-of-ways/easements for maintenance purposes, and to retain two parcels of land one measuring 13.41m² (44') x 46.11m² (146') containing an existing 12 unit apartment building (709 Main Street East) and the other measuring 11.9m² (39') x 23.5m² (77') containing an existing 16 unit apartment building (104 Sherman Avenue South) both for residential purposes, and also to establish rights-of-ways/easements for maintenance purposes.

THE DECISION OF THE COMMITTEE IS:
That the said application IS APPROVED for the following reason:
1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.
1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. That the owner/applicant submit a Deposited Ontario Land Surveyor's Reference Plan to the Development Planning East Team.
3. That the owner/applicant apply for and receive final approval of a rezoning application.
4. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 24th day of August, 2005.

D. Drury, Acting Chairman
V. Abraham

C. Lewis
D. Serwatuk

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS AUGUST 31ST, 2005.
THE PERIOD OF APPEAL HAS EXPIRED AND NO APPEAL HAS BEEN FILED.
ONE YEAR FROM THE DATE OF THIS NOTICE OF DECISION (AUGUST 31ST, 2006) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 54(1)).
NOTE: THE LAST DATE ON WHICH AN APPEAL MAY BE FILED IS SEPTEMBER 20TH, 2005.
NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

Secretary, Treasurer
Appendix “C” to Report PED06068 (Page 2 of 3)

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT LAND SEVERANCE
APPLICATION NO. HM/B-05:157
SUBMISSION NO. B-157/05

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal numbers 709 Main Street East, 715 Main Street East and 104 Sherman Avenue South, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owner Jerry Kwasnik (in trust), for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land measuring 11.9m² (390') x 23.6m² (770') containing an existing 16 unit apartment building (104 Sherman Avenue South) for residential purposes, and also to establish rights-of-ways/cessations for maintenance purposes, and to retain a parcel of land measuring 13.41m² (441') x 45.11m² (1487') containing an existing 12 unit apartment building (709 Main Street East) for residential purposes, and also to establish rights-of-ways/cessations for maintenance purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. That the owner/applicant submit a Deposit Ontario Land Surveyor’s Reference Plan to the Development Planning East Team.

3. That the owner/applicant apply for and receive final approval of a rezoning application.

4. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 24th day of August, 2005.

D. Drury, Acting Chairman

V. Abraham

C. Lewis

D. Serwatuk

The period of appeal has expired and no appeal has been filed.

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS AUGUST 31ST, 2005.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (AUGUST 31ST, 2005) OR THE APPLICATION SHALL BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS SEPTEMBER 20TH, 2005.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.