TO: Chair and Members
Economic Development and Planning Committee

WARD(S) AFFECTED: WARD 8

COMMITTEE DATE: May 4, 2010

SUBJECT/REPORT NO:
Application for Changes in Zoning for the Lands Located at 1146 and 1150 West 5th Street (Hamilton) (PED10094) (Ward 8)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
Daniel Barnett
(905) 546-2424, Ext. 4445

RECOMMENDATION:

That approval be given to Zoning Application ZAR-09-056, by Fedele and Filomena Memmolo, for a change in zoning from the “AA” (Agricultural) District to the “C” (Urban Protected Residential) District (Block 1), the “C/S-1630” (Urban Protected Residential) District, Modified, with a Special Exception (Block 2), and the “R-4(H)” (Small Lot Single Family Detached Holding) District, with a Holding Provision (Block 3), in Zoning By-law No. 6593 (Hamilton), on lands located at 1146 and 1150 West 5th Street (Hamilton), as shown on Appendix “A” to Report PED10094, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10094, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law be added to Section 19B of Zoning By-law No 6593.

(c) That the proposed changes in zoning are consistent with the Provincial Policy Statement and Places to Grow Plan, and conform with the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan.

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EXECUTIVE SUMMARY

The purpose of this application is for change in zoning on the subject lands to implement a condition of Severance Application HM/B-09:30, approved by the Committee of Adjustment on April 30, 2009, (Condition 2 - Appendix “C”), and to establish new residential zoning for a future subdivision. The draft Zoning By-law proposes to place a Holding designation on the rear portion of the property to require development to proceed by a draft plan of subdivision in order to ensure that adequate access and services are available, and all archaeological concerns are addressed.

The proposal has merit and can be supported as the Zoning By-law Amendment is consistent with the Provincial Policy Statement and Places to Grow Plan, conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan, and the approved Sheldon Area Neighbourhood Plan. The proposed rezoning is considered to be compatible with existing and proposed development in the surrounding area.

Alternatives for Consideration - See Page 12.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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.

HISTORICAL BACKGROUND (Chronology of events)

The subject properties, known municipally as 1146 and 1150 West 5th Street, are located on the west side of West 5th Street, north of Rymal Road West (see Appendix “A”). There is an existing dwelling on the lands municipally known as 1146 West 5th Street, and there is another existing dwelling on the lands municipally known as 1150 West 5th Street.

The applicant applied for consent to sever on March 31, 2009, in order to sever the rear portion of the property at 1146 West 5th Street, and add the conveyed lands to the abutting property at 1150 West 5th Street for the purpose of assembling land for a future residential subdivision. On April 30, 2009, the applicant received conditional severance approval from the Committee of Adjustment (see Appendix “C”). In the report prepared by staff in respect to the proposed severance, Planning staff noted that both the lands to be severed and lands to be retained would not comply with the minimum lot area requirement of 12,000 sq.m. and the minimum lot frontage requirement of 60m of the “AA” Agricultural District (see Appendix “D”). In order to address the non-conformity
with the By-law, staff recommended that the applicant be required to receive rezoning approval as a condition of consent (see Condition 2 - Appendix “C”). Staff notes that Severance Application HM/B-09:30 will lapse on May 7, 2010, however, as it is expected that the applicant will submit a new severance application, and as rezoning approval will be required as a condition of any severance, the proposed rezoning will facilitate a future severance application.

The applicant has requested that the Zoning By-law incorporate a site-specific amendment to the “C” (Urban Protected Residential) District for the front portion of 1150 West 5th Street (Block 2) to permit a minimum rear yard setback of 7m instead of the required minimum setback of 7.5m for the existing dwelling.

Details of Submitted Application

**Location:** 1146 and 1150 West 5th Street, Hamilton  
**Owner/Applicant:** Fedele and Filomena Memmolo  
**Property Description:**  
- **Frontage:** 34.04m  
- **Lot Depth:** 120.7m  
- **Area:** 4,108 sq.m.

**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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<tr>
<td>Single Detached Dwellings</td>
<td>“AA” Agricultural District</td>
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<th>Surrounding Lands</th>
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<tr>
<td><strong>West</strong></td>
<td>William Connell Park</td>
<td>“P3” City Wide Zone</td>
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<td><strong>North</strong></td>
<td>Single Detached Dwelling and Parkview Church</td>
<td>“AA” Agricultural District and “I2” Community Institutional Zone</td>
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<td><strong>East</strong></td>
<td>Vacant Lands</td>
<td>“AA” Agricultural District</td>
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<tr>
<td><strong>South</strong></td>
<td>Single Detached Dwellings</td>
<td>“AA” Agricultural District</td>
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POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement.

Policy 1.1.1 states:

“Healthy, liveable, and safe communities are sustained by:

a. Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;

b. Accommodating an appropriate range and mix of residential, employment (including industrial, commercial, and institutional uses), recreational, and open space uses to meet long-term needs;

c. Avoiding development and land use patterns which may cause environmental or public health and safety concerns;

d. Avoiding development and land use patterns that would prevent the efficient expansion of settlement areas in those areas which are adjacent or close to settlement areas;

e. Promoting cost-effective development standards to minimize land consumption and servicing costs.”

Policy 1.1.3.2 states:

“Land use patterns within settlement areas shall be based on:

a. Densities and a mix of land uses which:

   1. Efficiently use land and resources;

   2. Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;

   3. Minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with Policy 1.8; and,

b. A range of uses and opportunities for intensification and redevelopment in accordance with the criteria in Policy 1.1.3.3.”
Based on the foregoing, the application is consistent with the Provincial Policy Statement in that it focuses growth in Settlement Areas and implements Policies 1.1.1 and 1.1.3.2, which speak to the provision of a range and mix of residential, employment (including industrial, commercial, and institutional uses), recreational, and open space uses.

**Growth Plan for the Greater Golden Horseshoe (Places to Grow)**

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with the policies that direct new growth to the built-up areas, as per the policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan.

Policy 2.2.2 states:

"Managing Growth.

1. Population and employment growth will be accommodated by -
   a) Directing a significant portion of new growth to the built-up areas of the community through intensification;
   b) Focusing intensification in intensification areas;
   c) Building compact, transit-supportive communities in designated Greenfield areas; and,
   d) Reducing dependence on the automobile through the development of mixed-use, transit-supportive, pedestrian-friendly urban environments."

Policy 2.2.3 states:

“General Intensification.

1. By the year 2015, and for each year thereafter, a minimum of 40% of all residential development occurring annually within each upper- and single-tier municipality will be within the built-up area.”

As the proposal is to facilitate land consolidation for a future residential subdivision within the Urban Area, the proposal conforms to the Provincial Growth Plan.

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses, defined through Area Municipal
Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

As the proposal is to facilitate land consolidation for a future residential subdivision within the Urban Area, the proposal conforms to policies of the Hamilton-Wentworth Official Plan.

**City of Hamilton Official Plan**

The subject property is designated “Residential” in the City of Hamilton Official Plan. Policy A.2.1.1 states:

“The primary uses permitted in the areas designated on Schedule “A” as Residential will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

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 will be guided by the Housing Policies of Subsection C.7, and the Neighbourhood Plan Policies of Subsection D.2.

A.2.1.9 Council will encourage the design of Residential areas which complement the natural features of the area and utilize energy saving measures such as, but not limited to:

i) Reduce road lengths;

ii) Building Orientation;

iii) Retention of existing trees and other vegetation;

iv) Clustering of units; and,

v) Such other matters, as Council deems necessary; and which are in keeping with the provisions of Subsection C.8. Energy.

C.7.2 Varieties of Residential types will not be mixed indiscriminately, but will be arranged in a gradation so that higher density development will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value.
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 new Residential development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontage and areas, building height, coverage, mass, setbacks, privacy, and overview.

xii) Encourage development at densities conducive to the efficient operation of Public Transit and which utilizes designs or construction techniques that are energy efficient.

D.2.9 When considering development proposals, subdivisions, street works, other public works, and any other municipal actions or approvals, Council will refer to, and be guided by, adopted Neighbourhood Plans.”

As the proposal is to maintain the existing residential dwellings along West 5th Street, and to consolidate lands for a future residential subdivision for small lot single detached dwellings which will conform to the scale and character of the residential area, the proposal conforms to the policies of the City of Hamilton Official Plan.

**New Urban Hamilton Official Plan (Council Adopted)**

The proposal has been evaluated against the policies of the Council adopted Urban Official Plan, which is currently awaiting Ministerial approval. The subject lands are designated “Neighbourhoods” on Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations of the New Urban Hamilton Official Plan. The following Policy Goals apply to the Neighbourhoods land use designation:

“E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.

E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:

a) Residential dwellings, including second dwelling units and housing with supports.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing
residential neighbourhood in accordance with Section B.2.4 - Residential Intensification and other applicable policies of this Plan.

E.3.3.1 Lower density residential uses and building forms shall generally be located in the interiors of neighbourhood areas with higher density dwelling forms and supporting uses located on the periphery of neighbourhoods on or in close proximity to major or minor arterial roads.

E.3.4.3 Uses permitted in low density residential areas include single-detached, semi-detached, duplex, triplex, and street townhouse dwellings.

E.3.4.4 For low density residential areas, the maximum net residential density shall be 60 units per hectare.”

Therefore, as the proposal is to facilitate a severance for the purpose of consolidating lands for a future residential subdivision, the proposal would conform to the policies of the Urban Hamilton Official Plan.

**Sheldon Neighbourhood Plan**

The subject property is designated “Single and Double Residential” in the Sheldon Neighbourhood Plan (see Appendix “E”). The predominant form of land use in the Sheldon Neighbourhood will be low density residential and related uses. The policies of the Neighbourhood Plan note that single and double family housing in the majority of the undeveloped area will have lot sizes of approximately 360 sq.m. and greater. Furthermore, Residential development that is compatible with the height and density of the adjacent development, is innovative in design, and includes a variety of housing sizes, densities, tenures, types, and costs will be encouraged.

The proposed “R-4” zoning for the lands comprising the rear portion of 1146 and 1150 West 5th Street (Block 3 on Schedule ‘A’ of Appendix “B”) requires a minimum lot area of 306 sq.m. As these will comprise only a small portion of the residential lands in the Sheldon Neighbourhood Plan, and as the proposed lots will be compatible to the adjacent development, the proposal conforms to the policies of the Sheldon Neighbourhood Plan.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Recreation Division, Community Services Department.
- Environmental Planning Section, Public Works Department.
- Landscape Architectural Services Section, Public Works Department.
- Design Section, Public Works Department.
• Construction Services Section, Public Works Department.
• Strategic Planning Section, Watershed, Public Works Department.

**Hamilton Municipal Parking System (Parking)** - Parking staff has reviewed the application and advises that the applicant should ensure that on-site parking spaces and garages are suitably dimensioned without encumbrances, to ensure the continued use of these facilities for parking purposes. Driveways (fronting onto a future public roadway) should be aligned in such a way that will maximize the availability of on-street parking, by allowing a minimum of 6.5m of curb space between two residential driveway approaches.

**Traffic Engineering and Operations Section, Public Works Department** - Traffic staff notes that it appears that these lands may be incorporated into the Sheldon Estates Draft Plan. During the formal consultation review for Sheldon Estates (FC-09-146), Traffic Engineering advised that a traffic impact study would be required. In this regard, the units associated with these lands should be included in the traffic study.

**Public Works Department (Urban Forestry)** - Urban Forestry staff has reviewed the application and notes that there are no Municipal Tree Assets located on the road allowances of either properties on West 5th Street. However, there are trees adjacent to the rear of this site, which abuts William Connell Park. There are private trees on-site, however, Hamilton does not have a Private Tree By-law, and these trees are unregulated by the City of Hamilton.

**Public Works Department (Assessment Management)** - Public Works staff notes that West 5th is tentatively scheduled for road reconstruction in 2015/2016. Construction timing is subject to change. Road widening and urbanization of cross-section (curbs/gutters/sidewalks) will be considered at the time of reconstruction.

**Public Works Department, Strategic Planning Section (Transportation)** - The proponent should follow the recommendation in the City of Hamilton’s New Urban Hamilton Official Plan referring to Schedule C-2- Future Road Widenings South Mountain Transportation Master Plan.

**Public Consultation**

In accordance with Council’s Public Participation Policy, the proposed application did not require pre-circulation as a pre-circulation occurred as part of the severance application. However, the application was circulated as part of the Notice of Complete Application to 28 residents within 120 metres of the subject lands on February 16, 2009. In addition, Severance Application HM/B-09:30 was circulated to 10 residents within 60 metres of the subject lands on April 14, 2009. As a result of both Notice of Complete Application and Committee of Adjustment circulation, no letters were received expressing concerns with the application.

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Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property on February 23, 2010.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement, and conforms with the Places to Grow Plan;

   (ii) It conforms with and implements the “Urban” designation of the Hamilton-Wentworth Official Plan;

   (iii) It conforms to the “Residential” designation of the City of Hamilton Official Plan;

   (iv) It implements the approved Sheldon Neighbourhood Plan; and,

   (v) It is compatible with the existing and planned uses in the surrounding area.

2. The requested change in zoning from the “AA” (Agricultural) District to the “C” (Urban Protected Residential) District, for the front portion of lands at 1146 West 5th Street (Block 1 on Schedule “A” of Appendix “B”), is to facilitate a condition of severance. The proposed lot will comply with the minimum lot area requirement of 360 sq.m. and the minimum lot frontage requirement of 12m. The existing dwelling will comply with the required front yard setback of 6m, the minimum side yard setback of 1.2m, and the minimum rear yard setback of 7.5m.

3. The requested change in zoning from the “AA” (Agricultural) District to the “C/S-1630” (Urban Protected Residential) District, Modified, for the front portion of lands at 1150 West 5th Street (Block 2 on Schedule “A” of Appendix “B”), is to facilitate a condition of severance and recognize a reduced rear yard setback of 7m for the existing dwelling, whereas 7.5m is required. The proposed lot will comply with all other provisions of the “C” (Urban Protected Residential) District.

The intent and purpose of requiring a 7.5m rear yard setback is to provide adequate amenity space and adequate buffering from abutting uses. The proposed modification meets the intent and purpose of the By-law, as the proposed 7m rear yard setback will maintain approximately 117 sq.m. of rear
yard amenity space, and the 0.5m reduction to the rear yard setback will not negatively impact any future abutting residence and, therefore, can be supported.

4. The requested change in Zoning from the “AA” (Agricultural) District to the “R-4(H)” (Small Lot Single Family Detached Holding) District, for the rear portion of lands at 1146 and 1150 West 5th Street (Block 3 on Schedule “A” of Appendix “B”), is to facilitate a future plan of subdivision. However, no development can occur until a municipal road has been constructed, municipal services are in place, and archaeological concerns have been addressed. Therefore, it is appropriate to apply an ‘H’ Holding provision on the lands until access and services are available, and archaeological concerns have been addressed.

In this regard, the subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Culture for determining archaeological potential:

1. Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary water course or secondary waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;

2. Local knowledge associates area with historic events / activities / occupations; and,

3. Along historic transportation routes.

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. Accordingly an ‘H’ Holding provision should be applied to the rear portion of the subject lands, prohibiting development until such time as the proponent conducts an archaeological assessment of the subject lands and mitigates, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found, to the satisfaction of the Director of Planning and the Ministry of Culture.

5. There are existing municipal services, watermains, and sanitary sewers available along West 5th Street that service the existing single detached dwellings at 1146 and 1150 West 5th Street. Development of the rear portion of the subject properties is dependent upon the provision of services and municipal road access that will be included as part of a future plan of subdivision. In order to ensure that development does not occur on the rear portion of lands (Block 3) prior to the availability of both municipal services and municipal road access through a future subdivision review and approval process, an ‘H’ Holding provision should be placed on the rear portion of the lands (Block 3 of Schedule ‘A’ of Appendix “B”).
If the proposed rezoning is not approved, the applicant will be permitted to maintain the existing single detached dwellings on both 1146 and 1150 West 5th Street, and can continue to utilize the subject property for the range of uses permitted within the existing “AA” Agricultural District. As rezoning approval cannot be finalized prior to May 7, 2010, it should be noted that Severance Application HM/B-09:30 will lapse regardless of whether the proposed rezoning is approved, or not approved. However, should the rezoning application not be approved, any new severance application would require rezoning approval as a condition of approval.

**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**


**Financial Sustainability**
- Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative, and cost effective manner.
- Generate assessment growth/non-tax revenues.

**Social Development**
- Everyone has a home they can afford that is well maintained and safe.

**APPENDICES / SCHEDULES**

Appendix “A”: Location Map.

Appendix “B”: Draft Zoning By-law.

Appendix “C”: Committee of Adjustment Decision for Severance Application HM/B-09:30.

Appendix “D”: Staff Comments for Severance Application HM/B-09:30.

Appendix “E”: Sheldon Neighbourhood Plan

:DB - Attachs. (5)
Change in zoning from "AA" (Agricultural) District to the "C" (Urban Protected Residential) District, "CS-1630" (Urban Protected Residential) District Modified and "R-4(H)" (Small Lot Single Family Detached Holding) District to facilitate a land severance for the purposes of land consolidation and to facilitate the development of a future subdivision.
CITY OF HAMILTON

BY-LAW NO. [Redacted]

To Amend Zoning By-law No. 6593 (Hamilton), as amended,
Respecting Lands located at 1146 and 1150 West 5th Street, (Hamilton)

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "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 Zoning By-law No. 6593 (Hamilton) was enacted 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 Item [Redacted] of Report 10-[Redacted] of the Economic Development and Planning Committee, at its meeting held on the [Redacted] of [Redacted], 2010, 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 City of Hamilton, in accordance with the provisions of the Planning Act;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map No. W-9D of the District Map, appended to and forming part of Zoning By-law No. 6593 (Hamilton), as amended, is hereby amended by changing the zoning from the “AA” (Agricultural) District, to the following:

   (a) the “C” (Urban Protected Residential, etc.) District, for the lands comprised in Block “1”;

   (b) the “C/S-1630” (Urban Protected Residential, etc.) District Modified, for the lands comprised in Block “2”; and,

   (c) the “R-4(H)” (Small Lot Single Family Detached Holding) District, for the lands comprised in Block “3”;

   the extent and boundaries of which are more particularly shown on Schedule “A” annexed hereto and forming part of this By-law.

2. That the “C” (Urban Protected Residential, etc.) District regulations, as contained in Section 9 of Zoning By-law No. 6593, be modified to include the following special requirement for the lands comprised in Block “2”:

   a) That notwithstanding Section 9(3)(iii) of Zoning By-law No. 6593, a minimum rear yard setback of 7m shall be provided and maintained.

3. That the ‘H’ Holding provision for the lands comprised in Block “3” shall only be removed conditional upon:

   a) The owner conducting an archaeological assessment of the entire development property and mitigating, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found, to the satisfaction of the Ministry of Culture, and the Director of Planning.

   b) That the owner receives approval of a Draft Plan of Subdivision, to the satisfaction of the Director of Planning.

4. That By-law No. 6593 (City of Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1630.

5. That 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][, 2010].

__________________________                        __________________________
Fred Eisenberger Rose Caterini
Mayor Clerk

ZAR-09-056
Appendix "B" to PED10094 (Page 4 of 4)

This is Schedule "A" to By-Law No. 10-
Passed the .......... day of .................., 2010

Schedule "A"
Map Forming Part of By-Law No. 10-_____
to Amend By-law No. 6593

Subject Property
1146 and 1150 West 5th Street, Hamilton

- Block 1 - Change in zoning from "AA" (Agricultural) District to the "C" (Urban Protected Residential) District
- Block 2 - Change in zoning from "AA" (Agricultural) District to the "C/S-1630" (Urban Protected Residential) District Modified
- Block 3 - Change in zoning from "AA" (Agricultural) District to the "R-4(H)" (Small Lot Single Family Detached Holding) District

Scale:
N.T.S.

File Name/Number:
ZAC-09-056

Date:
April 8, 2010

Planner/Technician:
DB/AL

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Appendix “C” to PED10094 (Page 1 of 3)

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. HM/B-09:30
SUBMISSION NO. B-30/09

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 number 1146 West 5th Street, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the owners Fedele and Filomena Memmolo, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of rear land measuring 16.76m² (55.51) x 79.09m² (259.53) to be added to an adjoining parcel (known municipally as 1150 West 5th Street) for residential purposes, and to retain a parcel of land measuring 16.76m² (55.51) x 41.60m² (136.56) containing an existing dwelling and shed for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Hamilton Official Plans.

2. The Committee considers the proposal to be in keeping with development in the area.

3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

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. The owner shall receive rezoning approval to the satisfaction of the Manager of Development Planning.

3. The lands to be conveyed shall be registered in the same name and title as the lands to which they are to be added.

4. The owner shall dedicate by deed a 10 feet (3.048 m) wide strip of land adjacent to the West 5th Street right of way to the City of Hamilton for road widening purposes, to the satisfaction of the Planning and Economic Development Department, Development Engineering (West) Division.

DATED AT HAMILTON this 30th day of April, 2009.

M. Duducic, Chairman

C. Lewis

D. Smith

T. Lew

L. Gaddye

D. Servatuk

D. Drury

V. Abraham

M. Switzer

.../2
THE DATE OF GIVING OF THIS NOTICE OF DECISION IS May 7th, 2009.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE
OF DECISION (May 7th, 2010) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED
(PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY
BE FILED IS May 27th, 2009.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
April 30th, 2009

HM/B-09:30 (1146 West 5th Street, Hamilton)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – West:

The applicant is seeking severance approval in order to sever 1,326 sq. m. of land for the purpose of land consolidation for future development.

Provincial Policy Statement (PPS) and Hamilton-Wentworth Official Plan

This application has been reviewed against the Provincial Policy Statement (PPS) and Hamilton-Wentworth Regional Official Plan. Based upon our review, the consent application to permit the conveyance of a vacant parcel of rear land to be added to an adjoining parcel (known municipally as 1150 West 5th Street) for residential purposes and to retain a parcel of land containing an existing dwelling and shed for residential purposes, is consistent with the principles and policies of the Provincial Policy Statement (PPS) and conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Residential” in the City of Hamilton Official Plan. Policy 2.1.1 states, “The primary uses permitted in the areas designated on Schedule “A” as Residential will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.” As the proposed severance is for the purpose of land consolidation for future residential development the proposal conforms to the Policies of the City of Hamilton Official Plan.

City of Hamilton Zoning By-law

The subject property is zoned Agricultural “AA” District in the City of Hamilton Zoning By-law, to which the proposed use complies.

The Agricultural “AA” District requires a minimum lot area of 12,000 sq. m. and a minimum lot frontage of 60 m to which neither the proposed lands to be severed nor lands to be retained comply. Therefore rezoning approval will be required as a condition of consent.

Recommendations:

Therefore staff recommends that the proposed severance be Approved, subject to the following condition:

1) That the owner receive rezoning approval to the satisfaction of the Manager of Development Planning.
2) That the lands to be added be merged in the same name and title as the lands to be added to, municipally known as 1150 West 5th Street.

**Building Services Division:**

This application will permit the addition of lands to the adjoining property. The retained lands do not meet the minimum lot width and area requirements of the "AA" – Agricultural District. The minimum lot size is 60m of width with a lot area of 12000m². A minor variance will be required to facilitate this application.

The adjacent lot that is having the additional lands merged in title will lose its lot of record status as a result of the addition of lands. The property will also require a minor variance if it cannot meet the minimum lot requirements as indicated above.

Our Division requests that the following condition be added to any approval of this application:

- The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).

**Development Engineering – West:**

**Information:**

1. The existing road width of West 5th Street adjacent to the subject lands is 66 feet (20.12m) and the ultimate road width is 86 feet (26.21m). For the information of the Committee, the Development Engineering Department acknowledges the purpose of this application as a land assembly application. However, since the current severance application is the only opportunity for the City of Hamilton to obtain the required road widening from the retained portion of the subject lands, it is our opinion that the owner dedicate to the City of Hamilton 10 feet (3.048 m) of subject lands adjacent to the West 5th Street right-of-way for road widening purposes.

**Recommendations:**

1. That the owner dedicate by deed 10 feet (3.048 m) wide strip of land adjacent to the West 5th Street right of way to the City of Hamilton for road widening purposes.

**Hamilton Municipal Parking System (Parking Services):**

No concerns.
PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

Any new or change in access requires an Access Permit, details on the permit and construction of the access can be obtained through the offices of the Municipal Parking Systems at Extension 4578