SUBJECT: Application for a Modification in Zoning for the Property Located at 21 Sherman Avenue North (Hamilton) (PED07212) (Ward 3)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-06-91, by Louise Kristafor, owner, for a modification to the “D” (Urban Protected Residential – One and Two Family Dwellings) District in order to permit a General Office (Medical Consulting Business) on the ground floor and one Residential unit on the second floor, of the existing dwelling located at 21 Sherman Avenue North, as shown on Appendix “A” to Report PED07212, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED07212, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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

Tim McCabe
General Manager
Planning and Economic Development Department
EXEClUITE SUMMARY:

The purpose of the application is for a modification in zoning to permit a General Office (Medical Consulting Business) on the ground floor and a Residential Unit on the second floor of an existing dwelling, as shown on Appendix "C".

The proposal has merit and can be supported since the modification in zoning conforms with the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan and Gibson Neighbourhood Plan. The proposal is compatible with existing development in the neighbourhood.

BACKGROUND:

Proposal

The subject lands are located on the south west corner of Sherman Avenue North and Wilson Street East, as shown on Appendix ‘A’. The purpose of the application is for a modification in zoning to permit a General Office (Medical Consulting Business) on the ground floor and a Residential Unit on the second floor of an existing dwelling. There are six parking spaces proposed, which will be accessed from both Sherman Avenue North and Wilson Street East (see Appendix ‘C’).

Consent Application HM/B-05:197

The Committee of Adjustment conditionally approved consent application HM/B-05:197 on November 30, 2005. The approval allowed for the creation of two lots as shown on Appendix ‘D’. Part 1 was conveyed for commercial purposes, while Part 2 was retained for the single detached dwelling. The consent was final and binding on December 28, 2005 (Appendix ‘E’).

Details of Submitted Application

Location: 21 Sherman Avenue North, Hamilton
Owner: Louise Kristafor
Agent: Nick Hostiuic
Description:  
  Frontage: 24.69 metres
  Flankage: 27.43 metres
  Area: 580 square metres
Servicing: Full municipal servicing
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>Subject Lands</td>
<td>Residential – Single Family</td>
<td>“D” Urban Protected Residential – One and Two</td>
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<tr>
<td></td>
<td>Dwelling</td>
<td>Family Dwellings, Etc.)</td>
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<td>District</td>
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<thead>
<tr>
<th>Surrounding Lands</th>
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<tr>
<td>North</td>
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<td>“D” Urban Protected Residential – One and Two</td>
</tr>
<tr>
<td></td>
<td>Family Dwellings</td>
<td>Family Dwellings, Etc.)</td>
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<tr>
<td></td>
<td></td>
<td>District</td>
</tr>
<tr>
<td>South</td>
<td>Commercial - Gas Station</td>
<td>“H” (Community Shopping and Commercial, etc.)</td>
</tr>
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<td></td>
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<td>District</td>
</tr>
<tr>
<td>East</td>
<td>Residential - Single Family</td>
<td>“C” (Urban Protected Residential, Etc.) District</td>
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<tr>
<td></td>
<td>Dwelling</td>
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<td></td>
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<td>“G-3” (Public Parking Lots) District</td>
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<tr>
<td>West</td>
<td>Residential - One and Two</td>
<td>“D” Urban Protected Residential – One and Two</td>
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<td></td>
<td>Family Dwellings</td>
<td>Family Dwellings, Etc.)</td>
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<td>District</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to the Hamilton-Wentworth Official Plan and Hamilton Official Plan.

   (iii) The proposal is compatible with the existing and planned development in the neighbourhood.

2. The subject lands contain a two and a half storey single family dwelling. The effect of the application is to permit the conversion of the ground floor to a General Office (Medical Consulting Office), with a dwelling unit on the second floor. The proposed
Medical Consulting Business would facilitate medical specialists who have travelled from other centres in Ontario, by providing a place to interview and consult with insurance claimants. According to the information provided by the applicant, the maximum number of claimants seen by the specialist on any given day would be five. Therefore, the use does not involve a high level of patient traffic passing through the office on a daily basis. The total number of staff would be a maximum of 2-3. There is no medical treatment provided, no prescribing of medication and, as a result, no pharmaceutical drugs of any kind are kept on the premises. As a result, the use is considered a General Office which, by definition, excludes the use of a Medical Office.

3. Section 18A requires one parking space for the residential dwelling unit, while the general office portion of the building is not required to provide parking (1 space per 19 square metres in excess of 450 square metres). However, through the circulation of the application, it was determined that parking is an issue in the neighbourhood. In this regard, six existing parking spaces will be provided on site to accommodate both the residential unit and the General Office use. Site-specific provisions will deal with the reduction in size of the parking stalls. The proposed parking stall size of 2.6 metres x 5.5 metres is consistent with the parking stall size approved through the Comprehensive Zoning By-law 05-200.

The applicant will be required to provide a minimum 1.5 metre wide landscape strip along the boundary between the subject lands and the adjoining residential district within 17.0 metres of Wilson Street, and a landscaped strip having a minimum width of 3.4 metres along Wilson Street, except for the area used for an access driveway. The applicant will also be required to provide a visual barrier along the westerly lot line.

All commercial development in Hamilton is subject to Site Plan Control. Through this process matters such as grading, servicing, landscaping, parking, etc. for the proposed development will be reviewed in detail.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is not approved, the lands can only be used for the range of uses permitted under the current “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, which includes one and two family dwellings.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

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<td>Staffing</td>
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SUBJECT: Application for a Modification in Zoning for the Property Located at 21 Sherman Avenue North (Hamilton) (PED07212) (Ward 3) - Page 5 of 7

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

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the principles and policies of the PPS.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 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.

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 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 the nature of the application is for a further modification in zoning to allow for a General Office use on the ground floor and one Residential unit on the second floor, where full municipal services are available, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

Hamilton Official Plan

The subject property is designated “Residential” in the Hamilton Official Plan. The following policies, among others, are applicable to the proposed development:

“A.2.1.3 Within areas designated RESIDENTIAL, land uses compatible to dwellings and serving the needs of local residents will be permitted, including, but not limited to:

   iv) Limited individual groups of commercial uses on sites not exceeding 0.4 hectare in area, excluding Automobile Service Centres, in accordance with the Commercial Policies as set out in Subsection A.2.2 of this Plan. (O.P.A. 128)

A.2.2.35 Where COMMERCIAL USES are proposed to be developed adjacent to Residential land uses, Council will be satisfied that the following provisions are adequately met:
Access drive, parking and service areas will be screened and/or buffered such that noise, light or undesirable visual impacts emanating from the COMMERCIAL USE are mitigated:

Light from standards or other external lighting fixtures, excluding those used for store and window display or wall illumination, will be directed downwards and shielded or oriented as much as practicable away from Residential Uses; and,

Light standards will be of a height that is in scale with the facility, but will not be of a height sufficient to create a nuisance to adjacent land uses (O.P.A. No. 46)."

The proposal for a General Office use on the ground floor and Residential on the second floor is compatible with the existing adjacent uses. The proposal is in accordance with the Official Plan policies for a commercial use within a residential designation. As such, the proposal conforms to the City of Hamilton Official Plan.

Neighbourhood Plan

The subject lands are designated “Single & Double” Residential in the Gibson Neighbourhood Plan. No amendment to the Plan is required, as the building will retain a residential component.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Public Works Department (Forestry Section)
- Public Works Department (Traffic Engineering and Operations Section)
- Corporate Services Department (Budgets Section)

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to all property owners within 120 metres of the subject property on January 4, 2007. A total of 123 notices were circulated. A sign was also posted on the property on January 17, 2007. To date, no formal responses have been received. Notice of the Public Meeting has been given in accordance with the requirements of the Planning Act.
CITY STRATEGIC COMMITMENT:

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
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Existing services will be used as part of this proposal.

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

:DF
Attachs. (5)
Location Map

Subject Property
21 Sherman Avenue North, Hamilton

Change in zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District to the "D/S-1552" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District.

Appendix "A" to Report PED07212
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton),
Respecting Lands Located at 21 Sherman Avenue North

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 Corporation 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 _____ 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. Sheet No. E-22 of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing from the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to the “D/S-1582” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District Modified, the lands the extent and boundaries of which are shown on a plan here to annexed as Schedule “A”.

2. That the “D” (Urban Protected Residential – One and Two Family Dwellings Etc.) District regulations as contained in Section 10 of Zoning By-law No. 6593, applicable to the lands identified in Section 1 of this By-law, are modified to the extent only of the following special requirements:

(a) That notwithstanding Section 10 of By-law No. 6593 the following special provisions shall apply:

(i) A General Office shall be permitted only on the ground floor of the building existing on the date of the passing of this By-law being the day of , 2007.

(ii) A landscaped strip having a minimum width of 3.4 metres, shall be provided and maintained along Wilson Street, except for the area used for an access driveway.

(b) That notwithstanding the parking regulations of Section 18A of Zoning By-law No. 6593 the following shall special provisions apply:

(i) A minimum of 5 parking spaces shall be provided and maintained for a General Office, and 1 parking space shall be provided and maintained for a residential unit.

(ii) The minimum parking stall size shall be 2.6 metres x 5.5 metres.

(iii) A landscaped strip having a minimum width of 1.5 metres shall be provided and maintained for a distance of not less than 17.0 metres from the northerly lot line along the westerly lot line.

3. 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 “D” District provisions, subject to the special requirements referred to in Section 2 of this By-law.

4. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1582.
5. Sheet No. E-22 of the District Maps is amended by marking the lands referred in Section 1 of this by-law as S-1582.

6. 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 [__], 2007.

FRED EISENBERGER
MAYOR

KEVIN CHRISTENSON
CLERK

ZAC-06-91
Schedule “A”

Map Forming Part of By-law No. 07-_____ to Amend By-law No. 6593

Subject Property
21 Sherman Avenue North, Hamilton
- Change in zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District to the "D/S-1582" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified.
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT LAND SEVERANCE
APPLICATION NO. HM/B-05:197
SUBMISSION NO. B-197/05

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 63(1);

AND IN THE MATTER OF the Premises known as Municipal numbers 911 King Street East and 21 Sherman Avenue North, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent A.J. Lakatos Planning Consultant (Joe Lakatos) on behalf of the owner Roman Chiaravalle, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular shaped vacant parcel of land having a frontage on King Street East of 16.96m, and a minimum depth of 49.43m for commercial purposes, and to retain a parcel of land having a frontage on Sherman Avenue North of 27.43m and a minimum depth of 17.75m containing an existing single family dwelling for residential 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. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 30th day of November, 2005.

D. Drury (Acting Chairman)

D. DeLullo

R. Naim

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 7th, 2005.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 7th, 2005) 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 December 27th, 2005.

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

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

CERTIFIED A TRUE COPY.

V. Abraham

Secretary-Treasurer

CERTIFIED A TRUE COPY.