SUBJECT: Application for a Change in Zoning for a Portion of the Property Located at 126-128 Sanford Avenue North (Hamilton) (PD02075(a)) (Ward 3)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-02-10, by 1104152 Ontario Incorporated and 1186466 Ontario Limited, owners, for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified (Block “1”) and for a modification to the “H” (Community Shopping and Commercial, etc.) District (Block “2”), to permit an automatic car wash on a portion of the property located at 126-128 Sanford Avenue North (Hamilton), as shown on Appendix “A” to Report PD02075(a), on the following basis:

(a) That Block “1” be rezoned from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified.

(b) That Block “2” be rezoned from the “H” (Community Shopping and Commercial, etc.) District to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified.

(c) That the attached draft By-law, included as Appendix “B” to Report PD02075(a), which has been prepared in a form satisfactory to the City Solicitor, be forwarded to City Council for enactment.
SUBJECT: Application for a Change in Zoning for a Portion of the Property Located at 126-128 Sanford Avenue North (Hamilton) (PD02075(a)) (Ward 3) - Page 2 of 9

(d) That upon finalization of the implementing By-law, the Gibson Neighbourhood Plan be amended to change the designation from “Single and Double” Residential to “Commercial”, on Block “1”, as shown on Appendix “A” to Report PD02075(a).

(e) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Official Plan of the City of Hamilton.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The application is for changes in zoning in order to permit an automatic carwash in conjunction with an existing Tim Hortons restaurant. The application has merit and can be supported as it is consistent with the “Commercial” designation of the City of Hamilton Official Plan and would not negatively impact abutting residential development.

BACKGROUND:

Proposal

The application is for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified (Block “1”), and for a modification to the “H” (Community Shopping and Commercial, etc.) District (Block “2”), to permit an automatic carwash on a portion of the property located at 126-128 Sanford Avenue North (see Appendix “C”). The proposed carwash would be located on the north side of the existing Tim Hortons restaurant. Driveway access to the carwash would be from Cannon Street East and cars would exit the carwash toward Sanford Avenue North. A landscaped buffer area, visual barrier, and acoustical fence will be provided between the carwash and residential properties to the north. Four additional parking spaces will be provided for the carwash at the northwest corner of the property.

A Public Meeting of the Hearings Subcommittee originally considered the application in 2002. At that meeting, the application was tabled to allow for further review and submission of an acoustical study.
**Location:** 126-128 Sanford Avenue North (Hamilton).

**Owner/Applicant:** 1104152 Ontario Inc. and 1186466 Ontario Ltd.

**Property Description:**
- **Frontage:** 25m (carwash portion on Sanford Avenue N.).
- **Depth:** 82.6m (along south side of portion of property for carwash).
- **Lot Area:** 1,278.6 square metres (carwash portion).

**Servicing:** Full municipal services.

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands (portion being rezoned)</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>North</td>
<td>Single detached dwellings</td>
<td>“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District</td>
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<tr>
<td>South</td>
<td>Tim Hortons</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
</tr>
<tr>
<td>East</td>
<td>Commercial plaza</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
</tr>
<tr>
<td>West</td>
<td>One and Two Family Dwellings</td>
<td>“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District</td>
</tr>
</tbody>
</table>

**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 with the “Urban Area” designation of the Hamilton-Wentworth Official Plan and it conforms with and implements the “Commercial” designation of the City of Hamilton Official Plan.
(iii) Impacts from the proposed carwash can be adequately mitigated through appropriate setbacks, landscaping, fencing, and an acoustical barrier.

2. The application for the proposed carwash was initially submitted in January 2002 and a Public Meeting of the Hearings Subcommittee occurred on April 17, 2002. At that time, staff did not recommend approval of the application as it had not been demonstrated that the carwash would not negatively impact adjacent residential properties. As such, the proposal conflicted with Official Plan policies designed to protect residential areas from the negative impacts of commercial uses. Staff proposed two alternatives in considering the application. The first option was to eliminate the proposed carwash use and only permit parking for the Tim Hortons. The second option was for the applicants to submit an acoustical study to determine whether or not the carwash would negatively impact adjacent residential development and to determine appropriate mitigation to buffer the commercial and residential uses. The application was tabled to allow for further review of the application.

An acoustical study was submitted in 2003 and revised in 2004. The applicants also consulted with the abutting residential property owners whom are located immediately adjacent to the portion of the subject lands that would contain the automatic carwash. These residents have signed release forms indicating that they are aware of and concur with the necessary requirements for noise attenuation fencing. The conclusion of the noise study is that a noise attenuation barrier 1.83m in height must be located along a portion of the north property line (a visual barrier is also required along the entire northerly property line), and restrictions on rooftop ventilation are required in order to meet Ministry of Environment standards. The acoustical study was reviewed by staff and the conclusions can be supported subject to the installation of a specific type of dryer and entrance door, and that no air conditioning units or outdoor vacuum systems be provided. These details will be implemented through a future application for Site Plan Control. In addition, all other details including fencing, landscaping, grading and drainage will be reviewed at the site plan stage of development. As impacts from the proposed automatic carwash can be mitigated, the use is appropriate for the subject lands. It should be noted that through the required application for site plan control, the applicants have agreed to provide site improvements to the existing Tim Hortons property, including enhancements to landscaping. This will enhance the streetscape of Cannon Street East.

3. A small portion of the lands are zoned “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District (Block “1” on Appendix “A”). This zoning permits single and two family dwellings. However, the portion zoned “D” is irregular in shape and has only 18.9m of lot depth along the northerly lot line. While there are existing legally-established non-conforming single detached dwellings to the north with such a lot depth, it would be difficult to establish a new dwelling on this substandard parcel of land as insufficient lot depth and area
would be available to meet current zoning standards with regard to setbacks, parking, front-yard landscaped area and rear yard amenity. Therefore, an extension of the existing commercial zoning to the north to include these lands would be appropriate.

4. The “H” (Community Shopping and Commercial, etc.) District permits a manual or mechanical carwash utilizing not more than one bay or stall, accessory to an automobile service station. In addition, the carwash must be in the same building as a public garage and not occupy more than 30% of the gross floor area of the service station or public garage. The proposed carwash is not accessory to a public garage nor would the carwash be considered a mechanical or manual carwash. Therefore, the zoning must be further modified to permit an automatic carwash. This type of carwash is defined in City of Hamilton Zoning By-law No. 6593 as a “Car Wash, High-Speed Mechanical” as the carwash would have a conveyor system which would move the car along within the building. In addition, modifications are required in order to implement the preliminary proposed site plan (see Appendix “C”). These zoning modifications include:

**Landscaping Requirements**

The Zoning By-law requires a minimum 1.5m wide planting strip where a commercial use adjoins a residential district, and a 3.0m wide landscaped area where a carwash adjoins a residential district. These provisions would apply to the northerly and easterly yards of the property, which abut a residential district. For most of these areas the minimum planting and landscaped strips can be provided. However, along the east lot line of the property only 2.0m can be provided due to the location of the entrance driveway. In addition, a 1.0m landscaped/planting strip can only be provided between the proposed garbage area and the residential district, and in some other areas the width of the landscaped/planting strip would be 2.0m due to the location of the building and irregular lot lines. A reduction in these requirements can be supported as a 3.0m minimum strip will be provided along the majority of the lot lines. The proposed modifications will apply such that a reduction to 1.0m is only permitted adjacent to a garbage enclosure, and a minimum 2.0m strip will be provided for the rest of the site. Through the site plan control process, appropriate landscaping will be required in excess of 2.0m in most areas abutting the residential district.

**Access Driveway Location**

The access driveway must be located not less than 3.0m from a residential district. The proposed driveway from Sanford Avenue North is more than 3.0m from the residential district to the north. However, a portion of the driveway as it exits the carwash on the west side of the building, which also provides access to the 4 parking spaces is located approximately 2.0m from the residential district to
the north as shown on Appendix “C”. A modification can be supported to allow this as the reduction is minor in nature and a noise attenuation fence and landscaped strip will be provided along the lot line to buffer against any noise from vehicles exiting the carwash.

Building Setbacks

Section 18(3)(ive) of Zoning By-law No. 6593 requires that carwashes must be setback 6.0m from a residential district. The intent of this provision is to limit impacts from the noise of the carwash. In this regard, the face of the building that abuts the residential district has no doors or windows. The carwash entrance is on the east side of the building and the setback of the building to the east rear lot line exceeds By-law requirements. The exit from the carwash is on the west side of the building and faces Sanford Avenue North. Therefore, impacts to the abutting residential area would be minimized by not having any carwash bays or doors facing a residential district. The proposed setback of the building on Appendix “C” from the residential district to the north and east side lot lines varies but is approximately 2.0m. A modification to permit a minimum of 2.0m setback can be supported as adequate buffering has been provided, and the location of the building has been shown to not impact abutting properties as per the approved acoustical study. Appropriate fencing and landscaping will be provided along the mutual property lines. In addition, the applicants have agreed that at the site plan stage restrictions limiting the location, size, and types of mechanical equipment will also be implemented.

Sign Location

The location of the proposed ground sign for the carwash does not conform to the Zoning By-law, which requires a minimum setback of 6.0m. However, under the approved new City of Hamilton Sign By-law, which will be effective in February 2007, the proposed sign location would conform as long as its height is not greater than 4.0m. Subsection 5.2.5 of By-law No. 06-243 states that “no ground sign shall be erected, located, or displayed within 1.5 metres or a distance equal to 75% of the Height of the Ground Sign, whichever is greater, from any lot line.” Details of the height of the sign have not been provided, but the sign does exceed the minimum 1.5m setback requirement in the new By-law. Therefore, the location of the sign can be supported. A zoning modification to permit the sign’s location in the current zoning is not warranted as it is likely that by the time building construction commences for the carwash, the new Sign By-law will be in effect and no zoning modification or sign variance would be required.

5. The owners of the subject lands had previously submitted applications to the Committee of Adjustment to subdivide the property such that the carwash would be located on a separate property from the Tim Hortons. The severance
applications also would have established a right-of-way over the Tim Hortons property in favour of the carwash property for access. These applications, which were granted provisional approval, were not able to be finalized until such time that the necessary zoning and site plan approvals had been obtained. As such, the consent approvals have lapsed. The applicants have advised that upon approval of the zoning application and future site plan application that a further severance application will be submitted which would include all necessary rights-of-way for access. Therefore, for the purposes of zoning conformity, the portion of the property proposed for the carwash has been reviewed as a separate parcel of land.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, the lands can only be utilized for uses permitted within the existing "H" (Community Shopping and Commercial, etc.) District (Block “2” on Appendix “A”) and by the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District (Block “1”). The portion of the lands zoned “D” would have to be severed from the “H” portion of the lands in order to allow development of a single or two unit dwelling.

**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:**

**1997 Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The 1997 Provincial Policy Statement is in effect for this development as the application was submitted prior to March 1, 2005. The proposal is for commercial development within an existing urban area and policies pertaining to the protection of sensitive land uses have been addressed through submission and approval of an acoustical report. As such, the proposal is consistent with the Provincial Policy Statement.

**Hamilton-Wentworth Official Plan**

The subject lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. The proposal conforms to the Hamilton-Wentworth Official Plan.
City of Hamilton Official Plan

The subject lands are designated “Commercial” in the City of Hamilton Official Plan. The following policies of the City of Hamilton Official Plan, among others, are applicable to the proposed development:

“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:

i) 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.

C.9.11 Where noise attenuation measures are required, these measures, for both outdoor and indoor space, may include, but not limited to, the following:

i) Sound-proofing measures and construction techniques, general layout and design of the structure or outdoor recreational space with respect to noise sources;

iii) Building setbacks;

iv) Acoustical barriers such as berms, walls, favourable topographic features or other intervening structures; ”

The proposed zoning includes uses and noise mitigation measures that conform to the Official Plan.

Neighbourhood Plan

The southerly portion of the lands proposed for the carwash (Block “2” on Appendix “A”) is designated “Commercial” and the northerly portion of the lands proposed for the carwash (Block “1”) is designated “Single and Double” Residential in the approved Gibson Neighbourhood Plan. The carwash conforms with and implements the “Commercial” designation but an amendment from “Single and Double” Residential to “Commercial” is required for the northerly portion of the lands proposed for the carwash (Block “1”).

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Pubic Works Department (Traffic Engineering and Operations Section).
Public Consultation

The application is not subject to the Public Participation Policy that was approved by Council on May 29, 2003 as the application was submitted in 2002. However, the application was previously circulated to all property owners within 120 metres of the subject property prior to the Hearings Subcommittee Meeting of April 17, 2002, and a Public Notice sign was erected on the property prior to the Public Meeting. As a result of both staff and neighbourhood concerns over potential impacts from noise on abutting residential uses, the application was tabled for further review. Since that time, the applicants have met with property owners abutting the carwash property to the north. Four of these property owners signed release forms in 2004 stating that they are aware of the requirements for noise attenuation fencing. A new Public Notice sign was erected on the property in September 2006, giving notice of the October 17, 2006 meeting of the Planning and Economic Development Committee, and Public Meeting notices will also be sent to all neighbouring property owners within 120 metres of the property.

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
Human health and safety are protected.

Economic Well-Being is enhanced. ☐ Yes ☐ No
The economic base is diversified.

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

:GM
Attachs. (3)
Appendix “A” to Report PD02075(a) – (Page 1 of 1)

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-02-10
Date: August 28, 2006

Appendix "A"

Scale: N.T.S.
Planner/Technician: GM/MB

Subject Property
126-128 Sanford Avenue North

Block 1 Change in Zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to "H" (Community Shopping and Commercial, etc.) District, Modified

Block 2 Modification to the "H" (Community Shopping and Commercial, etc.) District

Ward 3 key map N.T.S.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton),
Respecting a Portion of the Lands Located at 126-128 Sanford 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 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-21 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,
Appendix “B” to Report PD02075(a) (Page 2 of 4)

(a) by changing the zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified, for Block “1”; and,

(b) by changing the zoning from the “H” (Community Shopping and Commercial, etc.) District to the “H/S-1567” (Community Shopping and Commercial, etc.) District, Modified, for Block “2”;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “H” (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593, be modified for Blocks “1” and “2” as described in Section 1 of this By-law to include the following special requirements:

(a) That notwithstanding Subsection 14(1) of Zoning By-law No. 6593, a High-Speed Mechanical Carwash shall also be permitted;

(b) That notwithstanding Subsections 14(9)(i) and 18(3)(ivc)(b) of Zoning By-law No. 6593, a planting strip at least 2.0 metres wide shall be provided and maintained along and within every side lot line and rear lot line adjoining a residential district, except that a minimum 1.0 metre wide planting strip shall be provided and maintained between a garbage enclosure and a residential district;

(c) That notwithstanding Subsection 18(A)(26) of Zoning By-law No. 6593, an access driveway is permitted to be located not less than 2.0 metres from a residential district; and,

(d) That notwithstanding Subsections 18(3)(ivc)(a) and 18(3)(ive)(b) of Zoning By-law No. 6593 a High-Speed Mechanical Carwash is permitted to be located a minimum of 2.0 metres from the northerly and easterly side lot lines.

3. Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1567.

4. 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 "H" (Community Shopping and Commercial, etc.) District provisions, subject to the special requirements referred to in Section 2.
5. 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-02-10
This is Schedule "A" to By-Law No. 06-

Passed the .......... day of .................., 2006

Clerk
Mayor

Schedule "A"

Map Forming Part of By-Law No. 06-_____

to Amend By-law No. 6593

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Subject Property
126-128 Sanford Avenue North

- Block 1 Change in Zoning from "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to "H" (Community Shopping and Commercial, etc.) District, Modified
- Block 2 Modification to the "H" (Community Shopping and Commercial, etc.) District

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT