SUBJECT: Application for an Amendment to Hamilton Zoning By-law No. 05-200, for Lands Located at 460 Wentworth Street North (Hamilton) (PED08151) (Ward 3)

RECOMMENDATION:

That approval be given to amended Zoning Application ZAC-07-100, by the Robert Land Community Association, c/o Don MacVicar, for a change in zoning from the “D/S-647 & D/S-647b” (Urban Protected Residential - One and Two Family Dwellings, Etc.) Districts, Modified, in By-law No. 6593 to the Modified Major Institutional - Holding “H-I3-12” Zone, in By-law No. 05-200, for the lands located at 460 Wentworth Street North (Hamilton), as shown on Appendix “A” to Report PED08151, on the following basis:

(a) That the draft By-law, attached as Appendix “C” to Report PED08151, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

(b) That the ‘H’ Holding Provision may be removed for the development of street townhouse dwellings, at such time as:

(i) An Archaeological Assessment has been submitted, to the satisfaction of the City of Hamilton’s Director of Planning and the Ministry of Culture;

(ii) A signed Record of Site Condition is submitted with the required administration fee, to the satisfaction of the City of Hamilton’s Director of Planning, including an acknowledgement from the Ministry of Environment; and,

(iii) That an acoustical report is prepared by a qualified Professional Engineer containing the recommended control measures, to the satisfaction of the City of Hamilton’s Director of Planning.
EXECUTIVE SUMMARY:

The purpose of the application is to allow for the existing building to continue as a Community Centre serving the immediate needs of the Keith Neighbourhood residents with the inclusion of some additional ‘not for profit’ uses. The change in zoning will also allow for the development of 11 street townhouse units fronting onto Niagara Street, which are permitted as-of-right in the proposed and parent Major Institutional “I3” Zone. These units are also ‘not for profit’ and would be constructed as a Habitat for Humanity Project. The development of the proposed units will also be subject to site plan control. A Holding (H) Provision is also being placed on the lands to ensure that archaeological, noise and site contamination concerns are addressed appropriately prior to the construction of the street townhouses. This proposal can be supported as it is consistent with the Provincial Policy Statement, and conforms with the Hamilton-Wentworth and the City of Hamilton Official Plans.

BACKGROUND:

Proposal

The subject lands are approximately 0.87 hectares in area and have been designated and used for Institutional purposes for many years (formerly the Robert Land Elementary School). The purpose of the application is to allow for the existing building to continue as a Community Centre serving the immediate needs of the Keith Neighbourhood residents with the inclusion of some additional ‘not for profit’ uses. The Robert Land Community Centre currently operates out of the former school, and provides social services to the surrounding residents in the Keith Neighbourhood. The proposal includes additional non-profit uses restricted in size including a bicycle shop, second-hand goods exchange and sales, museum, retail shop and an open air market. The proposal also requests 11 street townhouse units (refer to Appendix “B”).

Location: 460 Wentworth Street North (Hamilton)

Owner: Robert Land Community Centre (c/o Dan MacVicar)

Property Description: Length (frontage): 118.20 metres (along Wentworth St. N.)
Depth (flankage): 87.81 metres (along Munroe St.)
Lot Area: 0.87 hectares (2.15 acres)
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>Subject Lands</td>
<td>Community Centre</td>
<td>“D/S-647 &amp; D/S-647/b” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified</td>
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<tr>
<td>North</td>
<td>Single Detached Dwellings and Industrial</td>
<td>“J/S-647/b” Light and Limited Heavy Industry, Etc.) District, Modified, and D/S-647/b” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified</td>
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<tr>
<td>South</td>
<td>Industrial</td>
<td>“K” (Heavy Industry, Etc.) District</td>
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<tr>
<td>East</td>
<td>Single Detached Dwellings</td>
<td>“D/S-647/b” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified</td>
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<tr>
<td>West</td>
<td>Single Detached Dwellings</td>
<td>“D/S-647/b” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified and “H/S-647/b” (Community Shopping and Commercial, Etc.) District, Modified</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) The proposal is consistent with the Provincial Policy Statement.
   (ii) The proposal conforms with, and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan.
   (iii) It conforms with and implements the “Major Institutional” designation of the City of Hamilton Official Plan.
   (iv) It provides for the continued adaptive reuse of a building of architectural and historical significance.
   (v) It is compatible with existing uses in the surrounding area.
2. The change in zoning will remove the existing modified Zones under the former City of Hamilton By-law No. 6593. The newer City of Hamilton Zoning By-law No. 05-200 provides for a single consolidated Zone that will allow for the additional Community Centre uses while removing the following uses: Hospital, Lodging House, Long Term Care Facility, Medical Clinic, Medical Office, Multiple Dwelling, Residential Care Facility and Retirement Home. The only residential uses that would be permitted are the 11 street townhouses, which require minimal modification to the parent Major Institutional (I3) Zone. At the site plan control stage, the design of the street townhouse units will need to address the adequate buffering of the amenity space to the rear by way of screening through landscape design or privacy fencing. This proposed form of development will be designed in a fashion to maintain a consistent neighbourhood character with the surrounding area, while providing an opportunity to apply new urbanism initiatives, by having the parking and access for these proposed units in the rear of the buildings, as well as being within walking distance to a transit corridor.

3. The additional uses proposed in the implementing By-law for the Community Centre are non-profit and localized in size and operation. The proposed uses include a bicycle repair shop, second hand goods exchanges and sales, museum, a retail shop and an open air market. These uses are intended to be local in nature servicing surrounding residents within the neighbourhood, and not the community at large. The applicant has advised that the main clients will be the surrounding residents. Hence, the Outdoor Farm Market will be localized in function, and mainly selling items produced from their community garden or from individual gardens of participating residents.

The proposed additional uses will each be restricted to a maximum GFA of 85 square metres within the existing building in the implementing By-law. These uses will service the immediate neighbourhood and be operated as non-profit. The applicant had also requested other uses be recognized in the modified Zone which included counseling, dental and professional offices, educational services, library, police centre, gymnasium, job bank, food bank, day care, chapel, and community garden.

In this regard, preconsultation identified that the proposal would best be suited for a Modified Major Institutional “I3” Zone that permits as-of-right most of the uses as they are generally associated with a Community Centre and Social Service Establishment. By-law No. 05-200 defines a “Social Services Establishment” as follows:

“Shall mean a building in which non-profit services intended to promote and improve the independence, economic self-sufficiency, social and health development of citizens are provided and shall include but not be limited to clerical, administrative, consulting, counseling, office and recreational functions for a non-profit agency but shall not include facilities in which overnight accommodation is provided.”
Further to the preconsultation meeting held with the applicant, they advised staff that they held a preliminary information meeting with the Ward Councillor and residents. The main concern raised from the residents revolved around the loss of parking due to the construction of the proposed street townhouses. Their concerns are addressed below. The 11 street townhouses would be constructed as a project under Habitat for Humanity. Construction of the townhouses would be subject to site plan control if the rezoning application is successfully approved because the street townhouses are not within a plan of subdivision.

4. The application was circulated to City Departments and government agencies. Some of the concerns raised from that circulation revolved around archaeological, noise and site contamination. As mentioned above, the Community Centre currently operates from the existing building. The applicant was made aware by staff that the appropriate planning mechanism would be the inclusion of an ‘H’ Holding provision placed on the subject lands in order to move the application forward. The ‘H’ Holding provision is necessary as it has been determined that the subject lands were in close proximity to the historic/original Lake Ontario shoreline and, therefore, used by aboriginal peoples and first European settlers. Even though the site has been disturbed to some degree, there is some residual potential for buried or capped soil horizons and archaeology. A traditional Stage 1-2 assessment shall be required if an onsite archeologist is present during stripping of the surface at the construction stage and it is determined that there are soil horizons, archaeological artifacts/features, and potential burials present. If the onsite archeologist determines that there are no archeological resources present, then written confirmation from the archeologist will be required and this will satisfy the requirement of the “H” Holding provision. Noise must be assessed to determine the appropriate level of mitigation as a result of the proximity to the railway. The Record of Site Condition is a provincial requirement that comes into affect when a residential (sensitive) land use is proposed. The subject lands are located within the plume of a former waste disposal site. Removal of the ‘H’ Holding provision would be subject to an archaeological assessment, a noise study, as well as providing a Record of Site Condition (RSC), to the satisfaction of the Director of Planning.

5. With respect to parking, the residents’ main concern was with regards to the potential increase in on-street parking. The parking provisions in By-law No. 05-200 do not provide any parking requirement for a Social Services Establishment. The intent of not recognizing parking in the By-law at this time was that a Social Services Establishment does not generate high volumes of traffic or parking, as the uses cater to the immediate needs of the neighbouring community. As such, a majority of the end users of the Centre are mainly pedestrians or may arrive via public transit. The applicant has advised that the Centre does not employ staff, the facility is primarily run by volunteers in the Community, there is a small percentage that may volunteer from outside of the neighbourhood, but not significant to assume required parking spaces. The street townhouses will be accessed via a shared laneway with the Community Centre, each unit proposes one parking space in each of the driveways for a total of 11 parking spaces. The
applicant is proposing 30 parking spaces for the Community Centre and 11 spaces for the street townhouses, for a total of 41 spaces on the entire site, which is considered sufficient given the nature of the proposed uses.

6. The Major Institutional “I3” Zone permits street townhouse dwellings as-of-right. The implementing By-law has been drafted to also include modifications for the proposed 11 street townhouses. They include reductions to the minimum lot area and front yard setbacks. For minimum lot area, the applicant is proposing 150 square metres for each dwelling unit, whereas 165 square metres is required; and for the minimum front yard, the applicant is proposing 3.0 metres, whereas 4.5 metres is required. The proposed modifications can be supported as they are minor in nature and maintain the intent of the Zoning By-law while maintaining the streetscape and character of the neighbourhood.

ALTERNATIVES FOR CONSIDERATION:

Should the application for an amendment to the Zoning By-law not be approved, Development of the subject lands for residential (street townhouses) purposes could not take place and development could only be in accordance with the current zoning, allowing the existing Community Centre uses to continue.

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 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). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas in Section 1.1.3.1. Policy 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The existing building is considered to be of architectural and historical significance. The proposal will not create any external changes to the existing building and, therefore, not compromise Policy 2.6.1.

Additionally, Policy 1.1.1(c) outlines that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Furthermore, Policy 3.2.2 states
that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. The subject lands are located within the plume of former waste disposal sites #25 and #26, as identified in the Regional Municipality of Hamilton-Wentworth Waste Disposal Site Inventory. In addition, the Ministry of Environment Guidelines indicate that due to the change in use from existing use (Community Centre), to the proposed use (Residential), Ontario Regulation 153/04 requires a mandatory filing of a Record of Site Condition (RSC). This Policy will be addressed through the ‘H’ Holding Provision.

Lastly, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. Due to the proximity of the subject lands to Wentworth Street North and the Canadian National Railway Corridor to the north, a noise assessment must be conducted to address this concern. This Policy will also be addressed through the ‘H’ Holding Provision.

Places to Grow

The Places to Grow Plan is more formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the Places to Grow Act, 2005 by the Province of Ontario. The Plan formally came into effect on June 16, 2006. The Plan was created to provide a strategic vision and key policy planning direction to planners in one of the fastest growing metropolitan areas in North America, the Greater Golden Horseshoe. It is expected that 3.7 million people will move to this area by 2031 and that 1.8 million new jobs will also exist by that time. The Plan’s main objective is to provide direction in developing complete communities with a better mix of housing, jobs, shops and services in close proximity to one another. This development proposal will meet the general intent of the Places to Grow Plan as the proposed street townhouses will assist in meeting the minimum 40% residential development within the built-up area.

Hamilton-Wentworth Official Plan

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

Additionally, Policy B-9.2 states that the City shall consider the protection and preservation of Regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection.
Further, Policy B-2.3 states that the identification of contaminated sites is essential. Redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. Therefore, due to the proximity of the subject lands to the two documented land fill sites, and the previous use of the property (Community Centre to Residential), a Record of Site Condition (RSC) is requested to address this concern.

The proposal is consistent with the policies of the Hamilton-Wentworth Official Plan, as these policies will be met via the conditions placed in the ‘H’ Holding Provision.

**City of Hamilton Official Plan**

The subject property is designated as “Major Institutional” on Schedule ‘A’ - Land Use Concept in the Official Plan for the City of Hamilton. However, Section A.2.1 speaks to Residential Uses and how all new residential development or redevelopment must be appropriately located and compatible with the surrounding development. The proposed street townhouse units meet the intent of this Section.

The intent of “Major Institutional” uses in Section A.2.6 is to recognize that local boards, as well as public and private agencies, are valuable community assets. The Plan outlines that the primary uses permitted under this designation will consist of cultural facilities, health, welfare, educational, religious and governmental activities and accessory uses.

Lastly, Subsection C.7 of the Hamilton Official Plan identifies policies for Residential Environment and Housing. More specifically, it states that the development of new residential areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require items such as maintaining off-street parking or street landscaping among others in order to achieve high standards of residential amenity. Further, Section 7.3 speaks to the encouragement of non-profit and co-operative housing organizations providing a range of socially-assisted dwelling units for a variety of client types in all areas of the City that would recognize and enhance the scale and character of the existing residential area. The proposed street townhouses reflect those policies. Therefore, based on the foregoing policies, this proposal conforms to the Hamilton Official Plan.

**RELEVANT CONSULTATION:**

Public Works Department (Traffic Engineering and Operations Section) has advised that the corner of Wentworth Street and Munroe Street is angled and results in more restrictive visibility and turning radius for motorists exiting onto Wentworth Street North. They further advise that the existing chain link fence line on the north east corner is actually setback from the corner in what appears to be an approximate 8m x 8m vision triangle area. As the vision triangle exists physically, but not legally, staff will recommend at the site plan stage that a daylight triangle land dedication be acquired from the subject property for visibility reasons, and also the potential for future curb radius improvements when this intersection is reconstructed.
Hamilton Street Railway (HSR) has advised that they are proposing a new service (No. 12 Wentworth) routing to operate along Wentworth Street by the subject lands for this summer. They further advise that the proposed route will operate from 10:00 a.m. to 6:00 p.m. on weekdays only.

The following Departments and Agencies had no comments or objections:

- Hamilton Emergency Services
- Hamilton Hydro
- Community Services Department - Recreation Division
- Public Works Department - Open Space Development and Park Planning Section
- Public Works Department - Forestry and Horticulture Section
- Hamilton Conservation Authority
- Canada Post
- Union Gas

Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy that was approved by Council, Notice of Complete Application and Preliminary Circulation was sent to 227 residents within 120 metres of the subject lands on January 17, 2008, and a Public Notice sign was posted on the property on February 13, 2008. To date, no written comments have been received from the public. The Notice of Public Meeting was also circulated in accordance with the provisions 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
Shelter, care and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Ecological function and the natural heritage system are protected.

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

JM
Attachments. (3)
WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the new Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item 14 of Report 08-151 of the Economic Development and Planning Committee at its meeting held on the 8th day of March, 2008, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

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

1. That Schedule “A” of By-law No. 05-200 be amended to include additional zone boundaries to Map Nos. 871 and 913, as shown on Schedule “A” to this By-law;

2. That Schedule “C” of By-law No. 05-200 is amended by adding an additional special exception as follows:
12. Within the lands zoned Major Institutional (I3) Zone, identified on Maps 871 and 913 of Schedule “A” and described as 460 Wentworth Street North, the following special provisions shall apply:

a) Notwithstanding Section 5 of this By-law, a minimum of 30 parking spaces shall be provided for the Community Centre on site and a street or laneway shall also be considered a right-of-way.

b) For the purposes of this By-law, a driveway shall be permitted to lead directly from a private right-of-way.

c) Notwithstanding Section 8.3.1 the following uses shall not be permitted:

- Hospital
- Lodging House
- Long Term Care Facility
- Medical Clinic
- Medical Office
- Multiple Dwelling
- Place of Worship
- Residential Care Facility
- Retirement Home

d) In addition to Section 8.3.1 of this By-law, the following uses shall be permitted:

- Bicycle Repair Shop
- Second Hand Goods Exchange and Sales
- Museum
- Retail
- Outdoor Farm Market

e) Notwithstanding Section 8.3.2.1, the following regulations shall apply:

i) Location and Size of Bicycle Repair Shop, Second Hand Goods Exchange and Sales, Museum and Retail:

a) Shall only be located within the building existing on the date of the passing of this By-law, being the day of 2008;
Appendix “C” to Report PED08151 (Page 3 of 5)

b) Shall be limited to a maximum GFA of 85 square metres for each use; and,
c) Shall be operated as a non-for-profit establishment.

ii) Open Air Market
a) Shall only be permitted in the parking area adjacent to Wentworth Street North and shall not occupy more than 9 parking spaces.

f) Notwithstanding Section 8.3.2.3 of this By-law, the following regulations shall apply:

   a) Minimum Lot Area: i) 150 square metres for each dwelling unit; and,
   c) Minimum Front Yard: i) 3.0 metres.”

3. That Schedule “D” of By-law No. 05-200 is amended by adding additional Holding provisions as follows:

   “3. Notwithstanding Section 8.3 and Special Exception No. 12 of this By-law, within the lands zoned Major Institutional (I3) Zone, on Schedule 871 and 913 Schedule “A”, known as 460 Wentworth Street North (Hamilton), site alteration related to the construction of street townhouse units shall not be permitted until an Archeological Assessment of the subject property is completed and approved by the Director of Planning and the Minister of Culture, confirming that all archeological resource concerns have met licensing and resource conversation requirements.

   Notwithstanding Section 8.3 and Special Exception No. 12 of this By-law, within the lands zoned Major Institutional (I3) Zone, on Schedule 871 and 913 of Schedule “A”, known as 460 Wentworth Street South (Hamilton), street townhouse units shall not be permitted until such time as a signed Record of Site Condition is submitted with the corresponding administration fee, to the satisfaction of the Director of Planning, including an acknowledgement from the Ministry of Environment.

   Notwithstanding Section 8.3 and Special Exception No. 12 of this By-law, within the lands zoned Major Institutional (I3) Zone, Schedule 871 and 913 of Schedule “A”, known as 460 Wentworth Street South (Hamilton), street townhouse units shall not be permitted until such time as an acoustical report is prepared by a
4. The Clerk is 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 [redacted] day of [redacted], 2008.

[Signature]
Fred Eisenberger
Mayor

[Signature]
Kevin C. Christenson
Clerk

ZAC-07-100
Appendix “C” to Report PED08151 (Page 5 of 5)

This is Schedule "A" to By-Law No. 08--
Passed the .......... day of ................., 2008

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 08-____

to Amend By-law No. 05-200
Maps No. 871 and 913

Subject Property
460 Wentworth Street North

Lands to be Zoned Site-Specific Holding Major Institutional (H-13-12) Zone

Scale: N.T.S.  
Date: May 28, 2008

File Name/Number: ZAC-07-100
Planner/Technician: JM / MB

Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT