SUBJECT: Application for a Change in Zoning for Lands Located at 200 Chester Avenue (PED07135) (Ward 8)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-06-109, Hamilton Wentworth District School Board, owner, for a change in zoning from the “AA” (Agricultural) District to the “R4” (Small Lot Single Family Dwelling) District (Block “1”) to permit a single detached dwelling on a separate lot subject to land assembly, and from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District (Block “2”) to permit four single detached dwellings on separate lots, for the lands at 200 Chester Avenue, as shown on Appendix “A” to Report PED07135, on the following basis:

(a) That Block “1” of the subject lands be rezoned from the “AA” (Agricultural) District to the “R4” (Small Lot Single Family Dwelling) District.

(b) That Block “2” of the subject lands be rezoned from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District.

(c) That the Draft By-law, attached as Appendix “B” to Report PED07135, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(d) That the Gourley Neighbourhood Plan be amended for Blocks “1” and “2” to reflect a change in designation from “Civic & Institutional” to “Single and Double” Residential.
That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The applicant has submitted an application for changes in zoning to facilitate the development of the subject lands, known as 200 Chester Avenue, for four single detached dwellings on separate lots, and a fifth dwelling on a separate lot upon additional land assembly, all fronting a proposed cul-de-sac. Severance of the subject lands and lands to the north is required to accommodate the proposal. The subject lands have been declared surplus by the Hamilton-Wentworth District School Board.

This proposal has merit and can be supported since the changes in zoning are consistent with the Provincial Policy Statement and comply with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is compatible with existing and planned development in the immediate area.

**BACKGROUND:**

Proposal

This zoning application is for changes in zoning for a portion of the lands known as 200 Chester Avenue, as shown on Appendix “A”. The proposed Zoning By-law Amendment would rezone the lands from the “AA” (Agricultural) District to the “R4” (Small Lot Single Family Dwelling) District (Block “1”) and to the “C” (Urban Protected Residential, etc.) District (Block “2”), to permit five dwellings on separate lots with additional land assembly.

The subject lands are part of the James MacDonald School site and have been declared surplus by the Hamilton-Wentworth District School Board. In early 2006, City departments identified no municipal interest in acquiring the subject lands (Report PED06060) and Council directed staff to advise the HWDSB of the same.

Consent Applications - HM/B-06:202, HM/B-06:203 and HM/B-06:204

The current owner has submitted severance applications to divide the site into five parcels, which were heard by the Committee of Adjustment on February 7, 2007. The applications were tabled due to public opposition regarding a loss of greenspace. The
Committee indicated that it was not in a position to make a decision on the applications until direction was received from Council by way of a decision on the zoning application.

Details of Submitted Application

Owner: Hamilton-Wentworth District School Board
Applicant: 1419690 Ontario Inc. (Avalon)
Agent: Starward Development Services Ltd. (Sarah Knoll)
Location: 200 Chester Avenue (Hamilton)

Description:
- **Total Area:** 0.2 hectares
- **Width:** 29.5m along Apple Blossom Drive
- **Depth:** 35.82m (maximum)

Existing Land Use and Zoning:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North</strong></td>
<td>Vacant</td>
<td>“R4” (Small Lot Single Family Dwelling) District</td>
</tr>
<tr>
<td><strong>East</strong></td>
<td>Vacant and Residential</td>
<td>“AA” (Agricultural) District</td>
</tr>
<tr>
<td></td>
<td>(Single Detached Dwellings)</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
</tr>
<tr>
<td><strong>South</strong></td>
<td>School Site – Playground</td>
<td>“AA” (Agricultural) District</td>
</tr>
<tr>
<td><strong>West</strong></td>
<td>School Site – Playground/</td>
<td>“AA” (Agricultural) District</td>
</tr>
<tr>
<td></td>
<td>Baseball Diamonds</td>
<td></td>
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</tbody>
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**ANALYSIS/RATIONALE:**

Circulation of the proposed application to various City Departments and outside agencies resulted in no significant issues with respect to the proposed zone changes. Planning staff’s evaluation of the proposed application is set out below:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposed changes in zoning are consistent with the Provincial Policy Statement.
   
   (ii) The proposed changes in zoning conform to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

   (iii) The proposal is compatible with existing and planned residential development in the immediate area.
2. Block “1” (Appendix “A”) is intended to be merged with the lands to the north for one “R4” (Small Lot Single Family Dwelling) District lot. An application to lift Part-Lot Control has been submitted for the lands to the north to create the parcel to which Block “1” will be merged in the future. Block “1”, with the northerly portion to be merged, will meet the minimum lot width of no less than 9 metres and lot area of no less than 278 square metres for the “R4” (Small Lot Single Family Dwelling) District.

3. The proposed lots on Block “2” (Appendix “A”) are for single detached dwellings. All of the proposed lots (Appendix “C”) meet the minimum lot width (12 metres) and lot area (360 square metres) requirements of the “C” (Urban Protected Residential, etc.) District. The proposed zoning change to the “C” (Urban Protected Residential, etc.) District is a logical extension of the zoning from the east of the subject lands, also zoned “C” District.

4. The “C” (Urban Protected Residential, etc.) District provisions require a minimum rear yard setback of 7.5m and allow a maximum height of 11m (two and a half storeys). Additionally, the “R4” (Small Lot Single Family Dwelling) District provides the same height and rear yard provisions as the “C” District. A front yard of at least 6.0m is required in both the “C” and “R4” Districts, which will ensure compatibility with the streetscape. As the surrounding area is comprised of similar zoning, staff is satisfied that the proposed zoning for the subject lands will maintain a compatible scale and massing of dwellings with the surrounding development.

5. The approved Gourley Neighbourhood Plan provides for the extension of Moonbeam Drive as a cul-de-sac, as proposed by the applicant. Once constructed, the cul-de-sac will complete the road network, as shown on the Gourley Neighbourhood Plan and the Avalon Phase 3 subdivision plan (Appendix “D”). However, the neighbourhood plan will require an amendment to re-designate the subject site from “Civic and Institutional” to “Single and Double” Residential to reflect the proposal. Staff is of the opinion that the proposal provides a well-suited form of development with setbacks, lot widths, lot areas and depths, compatible with existing and planned development for the neighbourhood.

6. The subject lands are currently owned by the HWDSB. There are five ball diamonds, independent play lot items with swings, an outdoor skating rink and a small concession stand/storage building within proximity to the site. For the most part, these amenities are maintained by the City of Hamilton. Adjacent to the HWDSB lands to the south-west is the City owned Gourley Park, which contains a woodlot and a creative play structure with swings, 2 tennis courts, a spray pad and a concession/meeting room/washroom/storage building. The sale and development of the subject lands for residential purposes will not have a negative impact on the current layout of the School Board’s amenities. A pathway was constructed through the Board’s lands extending from Brigadoon Drive to
Appleblossom Drive. The City is aware that the Gourley Park Community Association put many efforts together for the construction of the pathway and that they have concerns regarding the loss of the pathway with the sale and development of the lands in question. Based on the information supplied in the application, it appears that the limits of the site do not jeopardize the continued use of this pathway.

7. As conditions of approval for the related consent applications, the applicant will be required to enter into an agreement with the City of Hamilton for the deeding and construction of the future cul-de-sac adjacent to these lands.

The proposed zoning changes will facilitate the development of dwellings backing onto the School Board lands within close proximity to existing sports facilities. As conditions of consent approval, the developer will be required to install a minimum 1.8 metre high chain link fence along the rear of the lots on the subject lands, at its expense, and a warning clause regarding the sports facilities will be required to be inserted into all Offers to Purchase and Sale and/or lease agreements.

8. In accordance with Council’s Public Participation Policy, the application was precirculated to 39 property owners within 120 metres of the subject lands. Two letters were received from neighbouring property owners (Appendix “E”). One letter requested a copy of the final staff report (both respondents will be mailed copies of the report prior to the Public Meeting). The issues raised in the second letter are as follows:

- Lack of opportunity for community input.
- Permanent loss of neighbourhood parkland.

The owner/applicant has also submitted three Consent Applications to the Committee of Adjustment (Files HM/B-06:202, HM/B-06:203 and HM/B-06:204), in order to divide the subject lands into 4 lots and one remnant parcel which is to be added to lands to the north to create a lot. The applications for consent were heard at the February 7, 2007 Committee of Adjustment meeting. Many residents were in attendance at the meeting voicing concerns. As such, the Committee of Adjustment tabled the applications until a decision from Council is reached regarding the zoning amendment. Concern with the following issues was expressed at the Committee of Adjustment meeting:

- The lands are currently used by many residents walking dogs, playing soccer and playing baseball.
- A reduction in green space and passively used/non-programmed space.
- Process used by the School Board in declaring the lands surplus was unfair and did not include enough public involvement.
• City’s justification for not purchasing the lands is not satisfactory.

• Residents don’t want to fall victim to other small losses of “parkland”.

In response to the concerns raised by residents of the area, staff notes the following:

Notice was received from the Hamilton-Wentworth District School Board that the subject lands had been deemed surplus to its needs. This is a process not governed by the City of Hamilton. Based on Department comments (Report PED06060), Council supported staff’s recommendation on March 1, 2006, of no municipal interest in acquiring the site. It has been determined that Gourley Park is 5.48 hectares in size, but 4.45 hectares is woodlot and not included in the neighbourhood’s parkland calculation, leaving 1.03 hectares of active parkland. Based on Official Plan policies, the required allocated space for neighbourhood park use is 2.29 hectares. However, the 0.2 hectare size of the site does not meet the minimum 0.5 hectare size for a neighbourhood park and the site is not contiguous to existing park space and, therefore, not appropriate or needed for municipal purposes.

The sale of the Board’s lands to be developed by the applicant will complete the approved lotting fabric of the Avalon Phase 3 Subdivision (Appendix “D”).

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant has the option of using the property for the current range of “AA” (Agricultural) District uses.

**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 change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS) and is consistent with this statement. Staff recognizes that the application shows proper regard towards focusing growth in settlement areas, as per Policy 1.1.3.1.

In addition, Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities),
and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and to minimize the risk to public health and safety. Due to the proximity of the subject lands to the Lincoln M. Alexander Parkway, the owner must include a noise warning clause in all Offers to Purchase and Sale and/or lease agreements. Staff has recommended this as a condition of provisional consent approval.

**Hamilton-Wentworth Official Plan**

The subject lands are designated as “Urban Area” within 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. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Therefore, as the nature of the application is for the development of residential lots on full municipal services, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

**City of Hamilton Official Plan**

The subject lands are designated “Major Institutional” 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:

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“A.2.6.5 Notwithstanding the policies set out above, in areas designated MAJOR INSTITUTIONAL, Residential uses may be permitted provided that they are compatible with the surrounding area and are in keeping with the Residential policies set out in Subsections A.2.1 (Residential Uses) and C.7 of this Plan.

A.2.1.1 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.

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:

   iii) Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and/or physical infrastructure that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview.
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C1.1.3 It is intended that actual PARK requirements in an area will be identified through the preparation of Neighbourhood Plans, by assessing a number of considerations, including, but not limited to, the following:

ii) Accessibility (including the nature of alternative recreation opportunities in the area;

iv) Opportunities for PARKLAND acquisition in terms of costs, property condition and other related factors;"

The City of Hamilton Official Plan permits residential development in areas designated “Major Institutional” provided that the development is compatible with the surrounding area. The proposal represents an appropriate example of development which will implement the road network of the neighbourhood plan and ensure that the existing character of the neighbourhood will be maintained.

The City of Hamilton, upon review of the opportunity to purchase the subject lands for park purposes and review of the existing Gourley Park, did not have any municipal interest in acquiring the lands.

Gourley Neighbourhood Plan

The subject lands are designated “Civic and Institutional” in the approved Gourley Neighbourhood Plan. If approved, the proposal will require an amendment to the Neighbourhood Plan to re-designate the lands to “Single and Double” Residential.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Strategic and Environmental Planning Section, Public Works Department
- Taxation Division, Corporate Services Department
- Development Finance, Budgets and Finance Division
- Traffic Engineering and Operations Section, Public Works Department
- Horizon Utilities Corporation
- Hydro One Networks Inc.
- Union Gas Limited

Parking Services, Hamilton Municipal Parking System

Staff at the City of Hamilton Municipal Parking System advises that all existing and future parking requirements are to be met on-site.
Public Consultation

In accordance with the Public Participation Policy that was approved on May 29, 2003, this application was pre-circulated to 39 property owners within 120 metres of the subject lands. Two written responses were received (Appendix “E”). In addition to the pre-circulation, a Public Meeting was held for the related Consent Applications. The issues raised by the public are discussed in the Analysis/Rational Section of this report.

Notice of the Public Meeting for this rezoning application will be circulated to property owners within 120 metres of the subject lands and through a sign posted on the property in accordance with the requirements of the Planning Act.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, and 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
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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

:LB
Attachs. (5)
CITY OF HAMILTON

BY-LAW NO. [number]

To Amend Zoning By-law No. 6593
Respecting a portion of the lands located at 200 Chester Avenue, 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 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 [section] of Report [report] of the Economic Development and Planning Committee at its meeting held on the [date] day of [month], 2007, 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. W-17b of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by:

(a) changing the zoning from the “AA” (Agricultural) District to the “R4” (Small Lot Single Family Dwelling) District for the lands comprised in Block “1”; and,

(b) changing the zoning from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District for the lands comprised in Block “2”; the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. 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 “R4” (Small Lot Single Family Dwelling) District provisions and the “C” (Urban Protected Residential, etc.) District provisions applicable to the lands described in Section 1.

3. 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 C. Christenson
City Clerk

ZAC-06-109
This is Schedule "A" to By-Law No. 07-_____

Passed the ........... day of ....................., 2007

Clerk

Mayor

Schedule "A"
Map Forming Part of
By-Law No. 07-_____
To Amend By-law No. 6593

Subject Property

Block 1 - Change in zoning from "AA" (Agricultural) District to "R4" (Small Lot Single Family Dwelling) District.

Block 2 - Change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential etc.) District.
148 Cheely St.
Hamilton, ON, L9C 3W3
March 6, 2007

Laurieke Brooks
Development Planning

Re: Planning & Economic Development Act -- Tuesday, May 8, 2007

Following our phone conversation, this is my request to appear and speak briefly at this meeting...concerning the
reversion of James MacDonald School land for sale to Butterwood
Development.

The issue was referred to the committee from the Feb. 7/07
meeting of the Committee of Adjustment, where it was referred to

Staff could already have my comments, as I handed them to
the Committee secretary at that meeting, as requested. Basically
I wish to raise two concerns:

- Lack of opportunity for community input.
- Permanent loss of neighborhood parkland.

When it's known, could you please let me with meeting time and place?
And confirm my opportunity to speak?

Thank you,
Bob Anderson
905-383-7661

Joseph H. Murnegan
208 Montgomery Drive
Hamilton, Ontario
L8K 5H1

I would like a copy of the staff report for File ZAC-06-109.

Joseph Murnegan.

RECEIVED

MAR 20 2007