TO: Chair and Members 
Economic Development and Planning 
Committee 

WARD(S) AFFECTED: WARD 1

COMMITTEE DATE: May 18, 2010

SUBJECT/REPORT NO: 
Amended Application for a Change in Zoning for Lands Located at 195 Locke Street South (Hamilton) (PED10109) (Ward 1)

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

PREPARED BY: 
Kate Mihaljevic 
(905) 546-2424, Ext. 4424

SIGNATURE: 

RECOMMENDATION:

That approval be given to Amended Zoning Application ZAR-04-097, by Sandra Sergio, Owner, for a change in zoning from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the “H/S-1631 (Community Shopping and Commercial, etc.) District, Modified, with a Special Exception, to permit retail and business office uses on the main floor and a dwelling unit above, for the lands located at 195 Locke Street South (Hamilton), as shown on Appendix “A” to Report PED10109, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10109, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

(b) That the amending By-law be added to Map No. W-13 of Zoning By-law No. 6593;
(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan; and,

(d) That upon finalization of the implementing By-law, the Kirkendall North Neighbourhood Plan be amended by changing the designation of the subject lands from “Single and Double” Residential to “Commercial and Low Density Residential”.

**EXECUTIVE SUMMARY**

The purpose of the application is to amend the City of Hamilton Zoning By-law on the lands known as 195 Locke Street South (see Appendix “A”). The proposal will permit retail and business office uses on the main floor, and a residential unit above in the existing single detached dwelling. An amendment to the Kirkendall North Neighbourhood Plan will also be required to change the designation of the subject lands from “Single and Double” Residential to “Commercial and Low Density Residential”.

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

*Alternatives for Consideration - See Page 10.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** None.

**Staffing:** None.

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

**HISTORICAL BACKGROUND**

The subject property is located on the east side of Locke Street South, south of Pine Street. Lands to the north include residential and commercial uses, including 35 Pine Street, whose rear lot line abuts the subject lands and was rezoned to permit a 30-seat unlicensed restaurant in 2006. Lands to the west and south of the subject lands are commercial uses, and residential uses are located to the east.
The original application was submitted on December 1, 2004, and proposed to modify the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to permit an Antique Shop on the ground floor and residential uses on the second floor. The application was held in abeyance at the request of the applicant. The property was subsequently sold, and the new owner submitted a revised application, along with associated fees, which was accepted on January 11, 2010. The amended application proposes Retail and Business Office Uses on the ground floor, with a residential unit above, with one parking space to be provided for the residential use.

Details of Submitted Application

**Location:**
195 Locke Street South

**Owner:**
Sandra Sergio

**Applicant:**
IBI Group

**Property Description:**
- **Frontage:** 7.30m
- **Lot Depth:** 19.80m
- **Area:** 144.54 sq.m

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>Single Detached Dwelling</td>
<td>“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding Lands</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>Commercial</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
</tr>
<tr>
<td>North</td>
<td>Tea House and Residential</td>
<td>“D/S-1545” (Urban Protected Residential - One and Two Family Dwellings, etc.) District Modified, and “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District</td>
</tr>
<tr>
<td>East</td>
<td>Residential</td>
<td>“D” (Urban Protected Residential - One and Two Family Dwelling, etc.) District</td>
</tr>
<tr>
<td>South</td>
<td>Commercial</td>
<td>“H” (Community Shopping and Commercial, etc.) District</td>
</tr>
</tbody>
</table>

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
POLICY IMPLICATIONS

Provincial Growth Plan for the Greater Golden Horseshoe

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

Provincial Policy Statement

The proposal is consistent with the Provincial Policy Statement by contributing to the development of healthy, liveable, and safe communities.

Hamilton Wentworth Regional Official Plan

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

City of Hamilton Official Plan

The subject lands are designated “Commercial” on Schedule ‘A’, Land Use Concept in the City of Hamilton Official Plan. The subject lands are designated as “Extended Commercial”, being further categorized as “Ribbon” Commercial in accordance with Policy 2.2.14 i) whereby:

“Ribbon” Commercial uses on smaller lots serving predominantly residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile borne traffic from beyond the local area.”

The applicant proposes to locate one residential parking space at the rear of the property, where parking is currently provided for the single detached dwelling. In accordance with Policy 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;
ii) 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 the adjacent Residential Uses; and,

iii) 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)"

As no additional lighting fixtures, noise, or undesirable visual impacts will be created as a result of maintaining the existing parking space for residential purposes at the rear of the subject lands adjacent to residential uses, the proposal is consistent with the Policies of the Official Plan.

Additionally, residential uses are permitted within the “Extended Commercial” category, in accordance with Policy 2.2.17, provided they do not restrict or interfere with the function of the primary permitted use. The proposal can be seen to be mutually compatible to permit commercial uses and residential uses within the existing building.

Further, in accordance with Policy 2.2.37, adequate parking and loading space will be required for all development and redevelopment within the “Commercial” Designation. As the Zoning By-law prescribes that retail and office uses under 450 square metres are not subject to provide any parking, and the proposal provides for the required residential parking, the proposal is consistent with this policy.

Therefore, the proposal conforms to the Policies of the City of Hamilton Official Plan.

New Urban Hamilton Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated “Mixed Use - Medium Density” on Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations of the New Urban Hamilton Official Plan. The following Policies apply to the “Mixed-Use - Medium Density” land use designation:

“4.1.1 Create and retain vibrant mixed-use areas that accommodate a range of uses and are accessible by automobile, transit, and active transportation.

4.1.3 Create comfortable, walkable, and stimulating pedestrian streets along key roads within the mixed-use areas.

4.6.1 The range of commercial uses is intended to serve the surrounding community or series of neighbourhoods, as well as provide day-to-day retail facilities and services to residents in the immediate area. These areas shall also serve as a focus for the community, creating a sense of place.
4.6.2 The Mixed-Use - Medium Density designation shall be applied to traditional ‘main street’ commercial areas outside of the area designated Downtown Mixed-Use, and to promote the continuation of these areas as pedestrian oriented mixed-use areas. Retail and service commercial uses are key elements in maintaining that function, and ensuring the continued vibrancy of the pedestrian realm.

4.6.15 Although residential development is permitted and encouraged, it is not the intent of the Plan for the Mixed-Use - Medium Density designated areas to lose the planned retail and service commercial function set out in this Plan.

4.6.19 To strengthen the pedestrian focus in areas where it does not currently exist, the City shall require infilling of retail, service commercial, and mixed-use buildings in a physical arrangement which assists in creating a vibrant and active street environment. Such buildings shall be located up to the street along a pedestrian predominant street.”

The proposed development on the subject lands would achieve the above policies as the proposed mixed-use building would complement the character of the Locke Street business area and neighbourhood. Therefore, based on the foregoing, the proposal would conform to the “Mixed-Use - Medium Density” policies of the New Urban Hamilton Official Plan.

### RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Budgets and Finance Division, Corporate Services Department.
- Urban Forestry, Public Works Department.
- Transit Planning Section, Public Works Department.
- Canada Post.
- Hydro One Networks Inc.

**Hamilton Municipal Parking System (Parking)** - Parking staff has reviewed the application and has advised that they will be anticipating regulation changes on the residential side streets. Many streets in the area already have restricted parking, and the regulations may become so restrictive that eventually no longer-term overflow parking may be available in the immediate area. Residents of this development will not be eligible for Time Limit Exemption Permits. As the applicant has proposed to maintain the existing parking space to accommodate the one dwelling unit on the second floor, the proposal does not negatively impact existing on-street parking constraints.
**Public Works Department (Traffic Planning)** - Traffic Planning has identified that the alleyway, which runs along the south property line of the subject lands and continues along the rear property lines of lands which front onto Pine Street and Tuckett Street, is not publicly assumed. This alleyway runs continuously from Locke Street to Pearl Street. Since the alleyway is not publicly assumed, the City of Hamilton cannot guarantee access to the property via the alleyway. However, the alleyway is currently being used by the subject lands, as well as numerous other properties which back onto it for access and parking purposes. Therefore, the proposal will maintain the current conditions for access and parking.

**Public Consultation**

In accordance with Council’s Public Participation Policy, the application was circulated as part of the Notice of Complete Application to 337 residents within 120 metres of the subject lands on January 26, 2010. As a result of the pre-circulation, no letters were received expressing concerns on the application.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property on February 17, 2010.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
   (i) It is consistent with the Provincial Policy Statement and the Places to Grow Growth Plan;
   (ii) It conforms with and implements the “Urban Area” designation of the Hamilton-Wentworth Regional Official Plan; and,
   (iii) It conforms to the “Commercial” designation of the City of Hamilton Official Plan, as the proposed mixed-use is permitted in this designation.

2. The subject lands are currently used for residential purposes only. Properties on either side of the subject lands are used for commercial purposes. The property to the south is a Hair Salon, while the property to the north is a 30-seat tea house. The uses across the street, to the west of the subject lands, include antique and second-hand shops, and boutique retail stores, with residential uses above. Further north and south from the subject lands on Locke Street, the commercial uses range from restaurants, bakeries, specialty retail shops, personal service shops, and financial offices. The proposed change in zoning will complement the existing uses.

_Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities._

*Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork*
3. The requested change in zoning from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the “H/S-1631” (Community Shopping and Commercial, etc.) District, Modified, will permit Retail and Business Office uses on the ground floor, and a residential unit above. Modifications to the setback provisions are also required to address the current legally established, non-conforming conditions of the subject lands, which can be seen on the concept plan attached as Appendix “C”. The modifications are as follows:

**Minimum Front Yard**

The front yard requirement for the “H” (Community Shopping and Commercial, etc.) District is subject to the established front yard line on the same side of the street. At the time of the application, the existing building was located 0.0m from the front lot line. Following exterior renovations to remove the bay windows from the ground and second floors, the setback to the building is now 1.5m. However, a side yard stairway is proposed on the north side of the building, which will encroach to 0.4m from the front lot line. Since the previous conditions provided for no front yard setback, and the established front yards of adjacent uses are very close to the street line, the addition of the stairway will have no negative visual impact to the street or surrounding uses.

**Minimum Side Yard**

The By-law requires a minimum side yard setback of 1.2m where dwelling units occur above commercial uses. Encroachments into the side yard are permitted, however, the applicant is proposing to install a stairway on the north side of the building, which will result in a side yard setback of 0.2m, whereas 0.5m is required. This stairway will provide additional access to the building should multiple commercial uses be facilitated on the ground floor, as well as access to the proposed residential unit.

Further, the southerly side yard will be recognized to have a side yard setback of 0.0m, whereas the By-law requires 1.2m, as the existing building currently rests on the property line.

**Minimum Rear Yard**

The existing rear yard setback of 5.9m will be recognized in the amending By-law, whereas 7.5m is required for a building being partially used for residential purposes, and 4.5m is required for other cases.

**Planting Strip**

The Zoning By-law requires that parking areas in a commercial district which abut a residential district shall have a minimum 1.5m planting strip between the
edge of the parking area and the zone boundary. With regards to the proposal, the parking space to be provided is for residential purposes only. The parking space is currently used for residential purposes and has always been located in the rear of the property, therefore, the amending By-law will recognize the current conditions.

Minimum Number of Parking Spaces

For office and retail uses, parking shall be provided at a rate of 1 space for every 31 square metres of floor area in excess of 450 square metres. As the proposed commercial areas do not exceed 450 square metres, parking for the commercial uses is not required.

The applicant is proposing one parking space to accommodate a single dwelling unit proposed above the commercial uses, whereas the By-law requires two parking spaces to be provided for a single dwelling. The new City of Hamilton Zoning By-law 05-200 is in effect in the Downtown Hamilton Area and other parts of the City, under which the parking requirements have been reduced to one space per dwelling unit. Therefore, the proposal is consistent with the new requirements and can be supported.

Minimum Parking Stall Size and Manoeuvring

The applicant has proposed 1 parking space at the rear of the property at a size of 2.6m by 5.5m, whereas the By-law requires parking spaces to be 2.7m by 6.0m. The new City of Hamilton Zoning By-law 05-200 is in effect in the Downtown Hamilton Area and other parts of the City, under which the parking space size has been reduced to 2.6m by 5.5m. Therefore, the proposed stall size is consistent with the new requirements and can be supported.

The By-law requires a 6.0m aisle way for manoeuvring in and out of parking spaces at an angle of 90 degrees. The existing alleyway, being only 3.8m in width, currently provides manoeuvring space for the existing use of the subject lands and other residential uses along the alleyway. Therefore, as the proposed changes in use to the existing building will not negatively impact the use of the alleyway or its current function, it is acceptable that manoeuvring in and out of the parking space is accommodated in the alleyway, and not on-site.

Minimum Lot Frontage and Area

The minimum lot frontage required is 12.0m. The subject lands only provide for a lot frontage of 7.3m. Further, the minimum lot area required is 360 sq.m, however, the subject lands only provide for a lot area of 144 sq.m. As these are existing conditions, the proposed changes will not have a negative impact on the function of the subject lands for mixed-use purposes.
Alternatives for Consideration:

If the proposed amendment to the Zoning By-law is denied, the subject lands could be developed for uses permitted within the existing “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District.

Corporate Strategic Plan


Growing Our Economy

• Newly created or revitalized employment sites.

Social Development

• Everyone has a home they can afford that is well maintained and safe.
• Hamilton residents are optimally employed earning a living wage.

Healthy Community

• Plan and manage the built environment.

Appendices / Schedules

Appendix “A”: Location Map
Appendix “B”: Draft By-law
Appendix “C”: Concept Plan

:KM
Attachs. (3)
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 6593 (Hamilton), respecting lands located at 195 Locke Street South (Hamilton)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario 1999 Chap. 14, Schedule 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 of 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 or the City of Hamilton;

AND WHEREAS Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July 1950, which was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951 (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 10- of the Economic Development and Planning Committee, at its meeting held on the day of , 2010, recommended that Zoning By-law No. 6593 (Hamilton) be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former City of Hamilton) in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map W-13 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 “H/S-1631” (Community Shopping and Commercial, etc.) District, Modified, on the lands, 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 regulations, as contained in Section 14 of Zoning By-law No. 6593, be modified to include the following requirements:

   (a) That notwithstanding Section 14(1) of Zoning By-law No. 6593, only the following uses shall be permitted:

      (i) Retail Commercial Uses.
      (ii) General Office Uses, excluding medical, dental, and drugless practitioners.
      (iii) One dwelling unit above a commercial use.

   (b) That notwithstanding Section 14(3)(i) of Zoning By-law No. 6593, a front yard of a depth of at least 0.4m shall be provided and maintained;

   (c) That notwithstanding Section 14(3)(ii) of Zoning By-law No. 6593, a southerly side yard of 0.0m and a northerly side yard of 0.2m shall be provided and maintained;

   (d) That notwithstanding Section 14(3)(iii) of Zoning By-law No. 6593, a rear yard depth of at least 5.9m shall be provided and maintained;

   (e) That notwithstanding Section 14(4) of Zoning By-law No. 6593, a minimum lot width of 7.3m and a minimum lot area of 144 square metres shall be provided and maintained;

   (f) That notwithstanding Section 14(9) of Zoning By-law No. 6593, planting strips abutting a residential district or use are not required;

   (g) That notwithstanding Section 18A(1)(b) of Zoning By-law No. 6593, a minimum of 1 parking space shall be provided and maintained for a dwelling unit;

   (h) That notwithstanding Section 18A(1)(f) of Zoning By-law No. 6593, an aisle width of 3.8m for maneuvering space shall be provided and maintained for parking angles of 90 degrees;
(i) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, required parking spaces shall have dimensions not less than 2.6 metres wide and 5.5 metres long.

3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [ ] day of [ ], 2010.

__________________________________________  _______________________________________
Fred Eisenberger                         Rose Caterini
Mayor                                 Clerk

ZAR-04-097
This is Schedule "A" to By-Law No. 10-
Passed the ........... day of ...................., 2010

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

Subject Property
195 Locke Street South

Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the "H/S-1631" (Community Shopping and Commercial, etc.) District modified.