SUBJECT: Application for a Further Modification in Zoning for Lands Located at 811 King Street West (Hamilton) (PED05200) (Ward 1)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-05-101, 2050837 Ontario Inc. (Paolo Galli), owner, for a further modification to the current “H” (Community Shopping and Commercial, etc.) District, Modified, to permit the existing building on the subject lands to be converted to a 5-unit multiple dwelling, for lands located at 811 King Street West (Hamilton), as shown on Appendix "A" to Report PED05200, on the following basis:

(a) That the Draft By-law, attached as Appendix “C” to Report PED05200, which has been prepared in a form satisfactory to Corporate Counsel, not be forwarded to City Council for enactment until such time as the applicant has received approval of a site plan control application, to the satisfaction of the Manager, Development Planning.

(b) That the proposed modification in zoning is in conformity with the Official Plan for the Hamilton Planning Area.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is to permit the existing building on the subject lands to be converted to a 5-unit multiple dwelling. Modifications to the By-law are required to address the location of the existing building, and manoeuvring and loading space on site.

The proposal has merit and can be supported in view of the fact that the changes in zoning are consistent with the Provincial Policy Statement, and conform with the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the Ainslie Wood Westdale Secondary Plan. The proposal is compatible with existing and planned development in the neighbourhood. In addition, the proposed multiple dwelling would contribute to the mix of available housing in the Westdale Neighbourhood, is suitably located on an arterial road served by public transit, and represents an adaptive reuse of an existing building. The site will be subject to site plan control, presenting an opportunity to aesthetically improve the site design and parking area layout.

BACKGROUND:

Proposal

The subject lands are located at 811 King Street West, in the Westdale South Neighbourhood, as shown on Appendix “A”. The site currently contains a building that was formerly used for commercial purposes. The building has been converted to a 5-unit multiple dwelling. The use of a multiple dwelling is not permitted in the existing “H” (Community Shopping and Commercial, etc.) District, and a stop work order has been issued on the subject lands. The purpose of the application is to permit the conversion of the existing building to a 5-unit multiple dwelling, and to recognize variances for the location of the building, reduced manoeuvring space on site, and to remove the requirement for a loading space on site. The applicant has concurrently submitted a site plan application (file DA-05-123). A copy of the submitted site plan is attached as Appendix “B”. The amending By-law will not be forwarded to Council for enactment until the applicant has received approval of the site plan control application.

Details of Submitted Application

Owner: 2050837 Ontario Inc.
Applicant: Paolo Galli
Location: 811 King Street West
Description: Frontage on King Street West: Approximately 30.3 metres
Frontage on Paradise Road South: Approximately 30.5 metres
Area: Approximately 924m²
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
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<tbody>
<tr>
<td>Subject Lands</td>
<td>5 unit multiple dwelling (illegal)</td>
<td>“H” (Community Shopping and Commercial, etc.) District, Modified</td>
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Surrounding Land Uses

| North               | Commercial and Residential (apartments) | “H” (Community Shopping and Commercial, etc.) District, Modified |
| South              | Single detached dwellings               | “H” (Community Shopping and Commercial, etc.) District, Modified |
| East               | Residential (residential care facility)  | “H” (Community Shopping and Commercial, etc.) District, Modified |
| West               | Commercial (grocery store)              | “H” (Community Shopping and Commercial, etc.) District, Modified |

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 and conforms to the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan; and the “Mixed Use” designation in the Ainslie Wood Westdale Secondary Plan.

   (ii) It is compatible with existing and planned development in the immediate area.

   (iii) The proposed multiple dwelling would contribute to the mix of available housing in the Westdale Neighbourhood and is suitably located on an arterial road served by public transit.

   (iv) It represents an adaptive reuse of an existing building, which will make efficient use of an already serviced site.

   (v) The site will be subject to site plan control, presenting an opportunity to aesthetically improve the site design and parking area layout.
2. The purpose of the application is to modify the existing “H” (Community Shopping and Commercial, etc.) District to permit the building existing on the subject lands to be converted to a multiple dwelling containing a maximum of 5 units. The “H” District permits a wide range of commercial uses, in addition to limited residential uses. Dwelling units are permitted, but only in the same building as commercial uses. The applicant has requested that the “H” District be modified to permit the additional use of a multiple dwelling. This will allow flexibility in the future should the applicant choose to redevelop the site for a mixed use development.

The proposed use of a multiple dwelling would be compatible with existing development in the area. There are existing multiple residential developments to the north and east of the subject lands, and a future multiple residential development is planned to the east at 801 and 803 King Street West and 80, 86 and 90 Carling Street. The proposal will meet a demand for multiple residential developments within the Westdale area. Therefore, the proposed multiple dwelling is considered compatible and appropriate for the development of the subject lands, and can therefore be supported.

3. The applicant has submitted a site plan with their application, attached as Appendix “B”, and several modifications to the By-law have been identified, as discussed below.

   **Location of Building**

   The draft amending By-law has been written to recognize existing deficiencies relating to the location of the building on the site. The building, as it is currently situated, does not conform to the Zoning By-law provisions relating to minimum rear and side yards. The By-law requires a minimum rear yard of 7.5m, and minimum side yards of 1.2m. Currently, there is a rear yard of 1.563m, and side yards of 0.0m. Staff is recommending that the building existing on the day of passing of the By-law be deemed to comply with the provisions of the By-law. This will recognize the current location of the buildings and, as such, the amendment can be supported.

   **Manoeuvring Space**

   The Zoning By-law requires a minimum manoeuvring space of 6.0 metres for each parking space to be provided and maintained on site. Due to site constraints presented by the existing building, it is not possible to provide the required manoeuvring space on the site. Instead, a manoeuvring space of 5.0 metres will be provided and maintained for each parking space. The Traffic Engineering and Operations Section has reviewed the submitted site plan and has no concerns with the reduced manoeuvring space on site. Therefore, the modification is considered minor and can be supported.
Loading Space

The Zoning By-law requires one loading space for a multiple dwelling containing five dwelling units. Due to site constraints presented by the existing building, it is not possible to provide a loading space on the site and also provide the required parking and landscaping. Loading and unloading of the units will be accommodated through the parking area. The modification is considered minor and can be supported.

4. The conversion of the commercial building to a multiple dwelling is subject to site plan control. The applicant has filed a site plan control application (file DA-05-123), which is currently under review. A copy of the submitted site plan is attached as Appendix “B”. Several issues will be addressed through review of the site plan control application, including the following:

Noise

The subject property fronts onto King Street West, which is an arterial road in the City of Hamilton. In order to protect the future occupants of the units, the proposed dwelling units must comply with Ministry of Environment noise guidelines for acceptable levels of indoor noise. This could be achieved through the inclusion of central air conditioning in each of the dwelling units. The applicant has stated that it is their intention to provide central air conditioning in each unit. In order to ensure that this is implemented, a condition will be included in the site plan approval that each dwelling unit be provided with central air conditioning, or alternatively, that the applicant submit an acoustical report demonstrating how the building complies with Ministry of Environment Noise Guideline LU-131.

Design and Landscaping

The proposal is an example of adaptive reuse of a commercial building. This creates some challenges in terms of site design. Additionally, the site is located on an arterial road and in a prominent location within the Westdale Neighbourhood. It is, therefore, important to ensure that the site is designed to a high aesthetic standard. Staff has provided suggestions to the applicant, to be implemented through site plan approval, to improve the facade of the existing building. These improvements will soften the appearance of the building and improve on the existing facade which is very commercial in nature. In addition, the applicant will be required to provide additional landscaped area adjacent to King Street West. The Zoning By-law requires a landscaped area having a minimum average width of 2.0 metres, but not less than 1.0 metres in width, to be provided and maintained along the entire street line of the lot adjacent to a parking area, excluding access driveways. It is possible for the applicant to provide this landscaped area by increasing the width of the landscape strip on the west side of the property adjacent to King Street West and Paradise Road South.
5. As a result of a preliminary circulation of the zoning application to all residents within 120 metres of the subject property, one written response was received, attached as Appendix “D”. The letter was received from a property owner to the east. This property owner has future plans to construct a 39 unit condominium on their property, and has concerns over the impact of this proposal on their future development. Specifically, the letter expresses concern over noise and garbage that would result from student housing. Staff note, that if approved, this application would amend the current zoning to permit a multiple dwelling, and not student housing in particular. Any issues relating to noise or garbage emanating from the proposed multiple dwelling can be dealt with under the appropriate City By-laws.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant has the option of using the property for the current range of “H” (Community Shopping and Commercial, etc.) 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

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 minimize risk to public health and safety. Due to the proximity of the subject lands to King Street West, staff recommends that the existing building be appropriately modified to meet the recommended indoor noise limits as the original building was not designed for residential use and would not meet current Ontario Building Code standards for noise attenuation. This will most likely be achieved through the inclusion of central air conditioning in all dwelling units. As a result, staff will require that the following condition be included as a condition of site plan approval: “That all dwelling units be provided with central air conditioning. In place of providing central air conditioning, the applicant may submit an acoustical report demonstrating how the building complies with Ministry of Environment Guideline LU-131”. The applicant has submitted a site plan control application (DA-05-123), which is currently under review.
Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 states 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. Therefore, as the nature of the application is for a modification of the existing building to permit conversion from commercial to residential units, the proposal conforms to the Hamilton-Wentworth Official Plan.

City Of Hamilton Official Plan

The subject property is within the Ainslie Wood Westdale Secondary Plan and the policies of the Plan apply to this property.

Ainslie Wood Westdale Secondary Plan

The subject property is designated as “Mixed Use” in the Ainslie Wood Westdale Secondary Plan. The following policies of the Ainslie Wood Westdale Secondary Plan, among others, are applicable to the proposed development:

- "6.4.5.1 Mixed use areas permit residential, commercial, or institutional either as a stand-alone development or in a mixed use building.
- 6.4.5.3 Building heights for Mixed Use Areas are permitted to be up to 3 storeys in height.
- 6.4.5.6 The residential densities associated with the Mixed Use areas will generally be about 30 – 49 units per gross hectare.
- 6.4.5.8 Provision of sufficient parking to accommodate both residential and commercial uses will be required for the Mixed Use areas. Shared use parking should be considered where appropriate.”

The proposal to convert the commercial building into a multiple dwelling is permitted under the “Mixed Use” designation in the Ainslie Wood Westdale Secondary Plan, which permits stand-alone residential development. The “Mixed Use” designation allows for flexibility in the future should commercial uses be considered on site. The proposal will provide the required parking on site, and is within the recommended density and building height for this area. Therefore, the proposal conforms to the Ainslie Wood Westdale Secondary Plan.
RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Corporate Services Department (Budget & Fiscal Policy Services).
- Corporate Services Department (Revenues Division).
- Hamilton Hydro.
- Union Gas.

The Public Works Department (Traffic Engineering and Operations Section) has commented that all required parking must be provided on site, as on-street parking in the area is very limited. At the site plan approval stage, 5 metre by 5 metre (minimum 3 metre by 3 metre) visibility triangles will be required between the access limits and the ultimate road allowance of King Street West. This section also recommends that the concrete walk that runs along the frontage of the building be extended to the west to connect to the municipal sidewalk. This will be implemented through the Site Plan Control approval.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was circulated to all property owners within 120 metres of the subject lands. One written response was received as a result of the circulation, attached as Appendix “D”, with concerns over the proposal related to noise and garbage emanating from student housing. These concerns have been addressed in the Analysis/Rationale Section above.

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
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

:HT
Attachs. (4)
Subject Property
811 King Street West (Hamilton)
Further modification to the “H”
(Community Shopping and Commercial, etc.) District.
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

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

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Planning and Economic Development Committee at its meeting held on the day of , 2005, 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. The “H/S-1361” (Community Shopping and Commercial, etc.) District, Modified, provisions, as contained in Section 14 of Zoning By-law No. 6593, applicable to the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”, are further amended to the extent only of the following additional special requirements:
(a) That notwithstanding Section 14(1) of Zoning By-law 6593, a multiple dwelling containing a maximum of 5 dwelling units shall be permitted only within the building existing on the day of the passing of this By-law, being __________, 2005;

(b) That notwithstanding any regulation to the contrary of Zoning By-law No. 6593, the building existing on the day of the passing of this By-law, being __________, 2005, shall be deemed to comply with the provisions of By-law No. 6593, as amended by By-law 96-109;

(c) That notwithstanding Section 18A(1)(f) of Zoning By-law 6593, a maneuvering space of not less than 5.0 metres in length shall be provided abutting upon and accessory to every required parking space for a multiple dwelling within the building existing on the day of the passing of this By-law, being __________, 2005; and,

(d) That notwithstanding Section 18A(1)(c) of Zoning By-law 6593, no loading space shall be required for a multiple dwelling within the building existing on the day of passing of this By-law, being __________, 2005.

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 “H/S-1361” (Community Shopping and Commercial, etc.) District, Modified, provisions, subject to the special requirements referred to in Section 1.

3. By-law No. 6593 is amended by adding this by-law to section 19B as Schedule S-1539

4. Sheet No. W-22 of the District Maps is amended by marking the lands referred to in Section 1 of this by-law as S-1539.

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 __________, 2005.

_________________________________________  ________________________________
MAYOR  CLERK

ZAR-05-101
Further Modification to the "H" (Community Shopping and Commercial, etc.) District

Schedule "A"

Map Forming Part of By-Law No. 05---
to Amend By-Law No. 6593

Subject Property
811 King Street West (Hamilton)

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

Scale: Not to Scale
File Name/Number: ZAR-05-101
Date: November 2005
Planner/Technician: HT/MZ

T&C File Name:
City of Hamilton
Planning & Economic Development Dept.
Development Division (West)
71 Main Street West
Hamilton, ON L8P 4Y5

Attention: Heather Travis
Development Planner II

Dear Sirs:

Re: Zoning Amendment Application ZAR-05-101
811 King Street West, Hamilton

We are the solicitors for the owners of 801 and 803 King Street West and 80, 86 and 90 Carling Street, Hamilton.

On behalf of our clients, we wish to object to the rezoning application for 811 King Street West, being an application to permit that property to be used for a 5 unit multiple dwelling.

This building is not properly constructed for residential use, and the proposed student housing would result in additional noise and garbage in that area.

As the City is aware, it is the intention of our client to construct a 39 unit luxury condominium on its site, once the Brownfield Remediation program is extended to this area, and the rezoning of 811 King Street West to residential would seriously detract from our client’s development, which would adhere to the Principles/Policies of the Provincial Policy Statement, March 1, 2005.

Please advise as to when this public meeting is scheduled, and kindly provide the undersigned with a copy of the signed Staff Report as soon as it is available.

Thank you.

Yours Very Truly,

WEIZ, ROCCHI & SCHOLES
Per:

Mark A. Scholes

MAS:av
C.C.: National Painting & Decorating