SUBJECT: Changes in Zoning for Lands Located at 477 Dundas Street East, (Flamborough) (PED07088) (Ward 15)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-06-73, Keith Johnson & UpCountry Estates, owners, to change the zoning from the Agricultural “A” Zone to the Urban Commercial - Holding “UC(H)” Zone (Block “1”), and from the Urban Development – Holding “UD(H)” Zone to the Urban Commercial – Holding “UC(H)” Zone (Block “2”), to permit a broad range of commercial uses including retail establishments, restaurants and service uses, and apartment units with commercial uses, for lands located at 477 Dundas Street East (Flamborough), as shown on Appendix “A” to Report PED07088, on the following basis:

(a) That Block “1” be rezoned from the Agricultural “A” Zone to the Urban Commercial – Holding “UC(H)” Zone.

(b) That Block “2” be rezoned from the Urban Development – Holding “UD(H)” Zone to the Urban Commercial – Holding “UC(H)” Zone.

(c) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to Blocks “1” and “2”, by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning. The Holding provision will prohibit the development of the subject lands until such time as:
An Archaeological Assessment has been submitted to the satisfaction of the City of Hamilton’s Manager of Development Planning and the Ministry of Culture.

Adequate services are provided to the satisfaction of City of Hamilton’s Manager of Development Engineering.

That the draft By-law, attached as Appendix “B” to Report PED07088, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of the application is for a Zoning By-law Amendment to permit a broad range of commercial uses to facilitate the future development of a new retail commercial building.

Given that the changes in zoning are on lands that have been identified as having potential for the discovery of archaeological resources and that services must be provided from the adjacent future subdivision, it is recommended that an “H” Holding provision be included in the zoning.

The proposal has merit and can be supported as the change in zoning is consistent with the Provincial Policy Statement, and conforms to the Niagara Escarpment Plan, the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan. The proposal is compatible with existing and planned development in the area.

**BACKGROUND:**

The subject property is currently occupied by a residential dwelling and detached garage. The lands are located on the east side of the Waterdown Urban Area, in the former Town of Flamborough, on the north side of Highway 5 (Dundas Street), as shown on Appendix “A”. A rezoning and draft plan of subdivision have been approved for the lands surrounding the site to the west, north and east (UpCountry Estates ZAC-03-25, 25T-200307).
The applicant is requesting changes in zoning from the Agricultural “A” Zone and the Urban Development – Holding “UD(H)” Zone to the Urban Commercial – Holding “UC(H)” Zone (see Appendix ‘A’). The new zoning would permit a broad range of commercial uses including retail establishments, restaurants and service uses, and apartment units with other commercial uses in the same building. The preliminary site plan shows a one-storey retail commercial building with a floor area of 1,100 square metres (11,840 square feet) and 58 at-grade parking spaces (Appendix “C”). The lands shown as Block 213 on Appendix “C” are to be transferred to the ownership of the applicant from the Upcountry Estates subdivision.

The property has been used as a residential building lot for over 50 years. The current owner wishes to develop the property for a commercial building to serve future residential development in the Waterdown area.

**Details of Submitted Application**

**Owner/Applicant:** Keith Johnson & UpCountry Estates (Block 213)

**Agent:** Samuel Head, Dryden Smith & Head

**Property Size**
- Frontage: 69.96 metres (229.52 feet)
- Depth: 60.96 metres (200 feet)
- Area: 0.42 hectares (1.05 acres)

**EXISTING LAND USE AND ZONING**

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<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Single-Detached Dwelling</td>
<td>Agricultural “A” Zone &amp; Urban Development – Holding “UD(H)” Zone</td>
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<th>Surrounding Lands:</th>
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<td>North</td>
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<td>South</td>
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<td>East</td>
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<td>West</td>
<td>Vacant Land</td>
<td>Public Use – Holding “P(H)” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to and implements the policies of the Niagara Escarpment Plan, the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan.

   (iii) It will allow compatible commercial development to serve the existing and planned uses in the surrounding area.

2. The subject lands contain a residential dwelling and a detached garage, which will be demolished for redevelopment of a commercial building (see preliminary Site Plan - Appendix “C”), which could include any of the uses permitted by the proposed zoning (see Comment 3). The lands to the west and north are to be developed for a stormwater management pond and the lands to the east are to be developed for commercial purposes under the recent zoning and draft plan of subdivision approved for UpCountry Estates. The rezoning of the subject site will implement the “Mixed Use Areas” designation in the Town of Flamborough Official Plan and is considered compatible with surrounding uses.

3. The permitted uses for the proposed Urban Commercial – Holding “UC(H)” Zone include: retail establishment, day nursery, motel, hotel, laundromat, animal hospital, automobile sales and service establishment, clinic, financial institution, funeral home, office, personal service establishment, apartment units within a building with any other use, place of entertainment, place of recreation, private club, public use, restaurant, service shop, shopping centre and tavern. The property would be suited for a commercial or mixed residential/commercial use as it will be in close proximity to new residential development and it is located on a major arterial road.

4. The lot meets the minimum lot area (275 square metres) and the minimum lot frontage (9 metres) of the Urban Commercial “UC” Zone. The zoning allows a maximum height of 10 metres and a maximum lot coverage of 40%. The proposed lot coverage is shown to be 25% (1,100 sq. m of floor area) and the height is confirmed with the agent not to exceed 10 metres. A greater coverage/floor area than what is shown on Appendix “C” could be developed depending on other requirements such as landscaping (minimum 5%) and parking. There is no minimum front or exterior side yards required. This will provide staff with flexibility at the site plan control stage to negotiate siting the building closer to the streets, providing a more pedestrian and street oriented building. The By-law requires a minimum 3.0 metre wide planting strip abutting a street except where the building or structure is less than 3 metres from the street line. The By-law also requires a minimum of 1 parking space for every 19.0 square metres of gross floor area for a
retail establishment, requiring 58 parking spaces based on the preliminary site plan. Open storage is not permitted, except in the case of an automobile sales and service establishment. Development of the lands is subject to site plan control, at which time, matters such as landscaping, design, grading etc., will be reviewed and appropriate conditions issued as part of the Department’s approval.

5. Traffic staff has advised that the access to Dundas Street may be restricted to right in/right out movements via a concrete median on Dundas Street once the intersection of Street A of the UpCountry subdivision and Dundas Street has been constructed. At the site plan stage, Traffic staff will ensure that the applicant can demonstrate that all vehicular manoeuvring for loading and unloading can be accommodated on-site.

6. Staff received one written letter and a phone call from a representative of the abutting property owner to the south in response to the circulation of this application. This individual wanted to know the scale of development and if any studies were undertaken justifying the amount of retail uses permitted. Staff followed up with this individual indicating that the lands were designated for commercial purposes in the Official Plan, that the nature of the rezoning complied with the policies in the Official Plan, and that the Official Plan does not require a market study for the rezoning at this location or because of this scale of development. Staff further explained that the details of the development were provided on the preliminary site plan. Appendix D contains the letter.

7. The subject lands are located within an area of high archaeological potential. In addition, in order for these lands to be developed, servicing must be extended to them via the future adjacent UpCountry Estates subdivision. Accordingly, an “H” Holding provision should be placed on the zoning for the property until an archaeological assessment has been completed and adequate servicing is available.

8. The subject lands include a parcel of land within the UpCountry Estates subdivision known as Block 213 (Appendix “C”). A condition of the UpCountry Estates draft plan approval requires Block 213 to be transferred at fair market value to the owner of the remainder of the subject lands.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, then the lands may only be used in accordance with the Agricultural “A” Zone provisions.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

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

Policies Affecting Proposal:

Provincial Policy Statement

The application is consistent with the policies that focus growth in settlement areas, as per Policy 1.1.3.1.

Policy 2.6.2 outlines that development and site alteration may be permitted on areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintains the heritage integrity of the site may be permitted. A Holding symbol will be applied to the zoning and lifted upon completion of an Archaeological Assessment to the satisfaction of the Manager of Development Planning and the Ministry of Culture.

The application is consistent with the Provincial Policy Statement (PPS) as the application concentrates development in the urban area and the method of servicing is appropriate for the location.

Niagara Escarpment Plan

Changes to permitted uses and expansions and alterations of existing uses within the “Urban Area” designation do not require an amendment to the Niagara Escarpment Plan. As the applicant is proposing to develop the property for a range of uses complementary to the surrounding area, the application conforms to the Niagara Escarpment Plan policies, including the development criteria in Section 1.7 of the Plan.

Hamilton-Wentworth Official Plan

The subject lands are designated as “Escarpment Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-1.5.1 requires that all proposals for development within the Niagara Escarpment Plan Area meet the requirements of the Hamilton-Wentworth Official Plan, the Flamborough Official Plan, and the Niagara Escarpment Plan.

Policy 9.2 states that the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, will be conducted in the review of proposals for development and redevelopment. This will include mitigation and preservation or resource removal and documentation of the resources, as per Ministry of Culture resource conservation requirements. As the property exhibits the potential for archaeological resources, it has been recommended that a Holding
provision be placed in the zoning until an archaeological assessment of the entire property has been undertaken.

The proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

**Town of Flamborough Official Plan**

The subject site is designated as “Mixed Use Area” by the Town of Flamborough Official Plan. Section A.3.6 contains the following policies, which are applicable to the application:

“MIXED USE AREAS are those areas in the URBAN AREA which allow the integration of residential, commercial and business uses, institutional and public uses, and transit facilities. It is intended that development provide employment centres and residential areas to encourage pedestrian traffic. It is also intended that MIXED USE AREAS encourage pedestrian traffic. It is also intended that MIXED USE AREAS encourage transit-oriented facilities such as commuter terminals and parking areas.

A.3.6.1 Those areas designated on Schedule ‘A’ as MIXED USE AREA shall permit integrated residential, commercial and business uses, institutional and public uses, and transit facilities.

In addition, neighbourhood type commercial uses may be permitted which shall generally be interpreted as local convenience stores serving the needs of the immediate residential area and may include jug milk stores, hair cutting and styling establishments, dry cleaning pick-up depot, take-out restaurant, video store.

A.3.6.2 Permitted uses shall be developed in a co-ordinated and comprehensive manner which encourages shared facilities such as pedestrian walkways, parking and accesses and public open areas.

A.3.6.4 Lighting shall be directed so that residential dwellings are not adversely affected. Public open areas and pedestrian walkways shall be adequately lighted to assure public safety.

A.3.6.6 Residential and commercial uses may be permitted in the same building in a MIXED USE AREA provided that parking areas shall be calculated separately for both the commercial and residential components of the project and in sufficient number to satisfy the regulations set out in the Zoning By-law. A private use area for the residential component of the project shall also be provided.
A.3.6.8 Landscaping shall form an integral part of all medium and medium-high density residential development and commercial development. Screening and buffering shall be provided between commercial and residential uses, where possible.

A.3.6.9 The outdoor open storage and display of goods and materials shall not be permitted.

A.3.6.10 Loading and unloading areas shall be located at the rear of the building, wherever possible, or otherwise screened from view; and separate from any residential access."

The applicant is proposing to develop a commercial building on the subject lands that will serve the residents in the area. The proposed building will contain a larger retail establishment (furniture store) and also neighbourhood type commercial uses that will serve local residents in the area. The applicant has submitted a preliminary site plan (Appendix “C”) and design issues such as lighting, signage, building placement, pedestrian access, landscaping and screening of the parking areas will be addressed at the site plan approval stage. The application conforms to the policies of the Town of Flamborough Official Plan.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Hamilton Municipal Parking System, Downtown Renewal Division.
- Hamilton-Wentworth District School Board.
- Union Gas.
- Hamilton Street Railway.
- Corporate Services.
- Open Space and Park Planning.

Traffic Engineering and Operations Section, Public Works Department

Traffic staff has advised that the access to Dundas Street on the preliminary site plan (Appendix “C”) may be restricted to right in/right out movements via a concrete median on Dundas Street once the intersection of Street A of the UpCountry subdivision and Dundas Street has been constructed to its ultimate design.

At the site plan stage, Traffic staff will ensure that the applicant can demonstrate that all vehicle manoeuvring for loading and unloading can be accommodated on site.

Public Works, Strategic and Environmental Planning

Staff from Strategic and Environmental Planning has advised that an Environmental Assessment may be required if an off-site stormwater management pond is needed to
support development of the subject site. Upon further discussion, it has been determined that all stormwater will be dealt with on-site, and will be further addressed at the site plan approval stage, not necessitating an Environmental Assessment.

PUBLIC CONSULTATION:

In accordance with the Public Participation policy approved by Council on May 29, 2003, notice of this application and Public Meeting was circulated to property owners within 120 metres of the subject lands, and a sign was posted on the subject lands.

A phone call and letter were received from a representative of a neighbouring land owner. This is discussed in the Analysis/Rationale Section of this report. Notice of the Public Meeting was given in accordance with the requirements 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
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
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

:DS
Attaches. (4)
Appendix “A” to Report PED07088 (Page 1 of 1)

Block 1 – Change in zoning from the Agricultural “A” Zone to the Urban Commercial – Holding “UC(H)” Zone.

Block 2 – Change in zoning from the Urban Development – Holding “UD(H)” Zone to the Urban Commercial – Holding “UC(H)” Zone.
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 area municipality known as the “The Corporation of the Town of Flamborough” 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 Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2007, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereinafter provided;

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

1. That Schedule “A-32” of Zoning By-law No. 90-145-Z (Flamborough), is hereby amended by:

   (a) by changing from Agricultural “A” Zone to the Urban Commercial - Holding “UC(H)” Zone for Bock “1”; and,

   (b) by changing from the Urban Development – Holding “UC(H)” Zone to the Urban Commercial - Holding “UC(H)” Zone for Bock “2”;

   the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this by-law.

2. That the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990, as amended, apply to the lands zoned “UC” by introducing the Holding symbol ‘H’ as a suffix to the proposed Urban Commercial Zone.

   The Holding Provision ’H’ will prohibit all permitted uses until such time that:

   (i) The owner submits an Archaeological Assessment to the satisfaction of the City of Hamilton’s Manager of Development Planning and the Ministry of Culture; and,

   (ii) The subject lands are adequately serviced to the satisfaction of the City of Hamilton’s Manager of Development Engineering.

   City Council may remove the ‘H’ symbol, and thereby give effect to the site-specific “UC” Urban Commercial Zone provisions by enactment of an amending by-law once the conditions are fulfilled.

3. 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 “UC” (Urban Commercial) Zone provisions.

4. 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.

MAYOR
Fred Eisenberger

CLERK
Kevin Christenson

ZAC-06-73
Schedule "A"

Map Forming Part of By-Law No. 07-____

to Amend By-law No. 90-145-Z

Subject Property
477 Dundas Street East

- Block 1 - Change in zoning from the "A" Agricultural Zone to the "UC"-"H" Urban Commercial-Holding Zone.

- Block 2 - Change in zoning from the "UD-H" Urban Development-Holding Zone to the "UC"-"H" Urban Commercial-Holding Zone.
March 12, 2007

By Email: dsamis@hamilton.ca

City of Hamilton
Planning & Economic Development
Dept.
Development & Real Estate Division (West)
71 Main Street West
Hamilton, Ontario, L8P 4Y5

Attention: David Samis
Senior Planner

Dear Mr. Samis:

Re: Zoning Amendment Application ZAC-06-73
477 Dundas Street East, Waterdown
Our File No. 13017

I am writing further to our telephone conversation with respect to this application.

We represent Waterdown Bay Inc, who is currently proceeding with development applications for the lands immediately south of the subject site. One of the considerations as part of the secondary plan for the “Waterdown South” land is the appropriate allocation of retail commercial uses. Consequently, our client has a direct interest in ensuring that there is a comprehensive consideration of the potential impact of the proposed re-zoning for Waterdown generally, and the Waterdown Bay Inc. lands in particular.

I understand that staff is completing its review of the proposed rezoning. I am writing to request that I be put on a mailing list to receive a copy of your staff report as well as copies of all notices, meetings, minutes, reports and any Notices of Decision or enactment of by-law, amendments or modifications respecting the above matter.
March 12, 2007

If you have any questions, please do not hesitate to contact me.

Yours truly

[Signature]

for: Scott Snider
SS/ms
13017/770

Dictated but not read

Cc: Colin McGregor
    Mike Telawski
    Peter Walker