SUBJECT: City Initiative for an Official Plan Amendment and Change in Zoning for Lands Located at 281 Herkimer Street (Hamilton) (PED06189) (Ward1)

RECOMMENDATION:

(a) That approval be given to City Initiative CI-05-M, City of Hamilton, owner, for an Official Plan Amendment to change the designation in the City of Hamilton Official Plan from “Residential” to “Commercial” to permit commercial and residential uses, for lands located at 281 Herkimer Street, as shown on Appendix “A” to Report PED06189.

(b) That approval be given to City Initiative CI-05-M, City of Hamilton, owner, for a change in zoning from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the “H” (Community Shopping and Commercial, etc.) District, Modified, to permit a limited range of commercial uses and one dwelling unit within the existing building, for lands located at 281 Herkimer Street, as shown on Appendix “A” to Report PED06189, on the following basis:

(i) That the subject lands be rezoned from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the “H” (Community Shopping and Commercial, etc.) District, Modified.

(ii) That the draft By-law, attached as Appendix “B” to Report PED06189, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(iii) That upon finalization of the implementing By-law, the Kirkendall North Neighbourhood Plan be amended by redesignating the subject lands from “Single and Double” Residential to “Commercial”. 
EXECUTIVE SUMMARY:

The purpose of this City Initiative is to permit the existing building to be used for a limited range of commercial uses, including business or professional offices, retail stores, daycare, art gallery, photographers or artist's studios, personal services, a wall sign, and one residential unit. The amendments are required to facilitate interest in the sale of the subject lands from the City to the private sector, as they are not needed for municipal purposes.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan. The proposal is compatible with existing and planned development in the area, and would allow for the adaptive reuse of a historically designated building.

BACKGROUND:

The subject property is located at the southeast corner of Herkimer Street and Locke Street as shown on Appendix “A”. The land is occupied by a freestanding building with a full basement and small upper level mezzanine. The property was used as a commercial bank from 1920 until 2001.

The subject property is currently vacant and was donated to the City of Hamilton by the Canadian Imperial Bank of Commerce (CIBC) to be used as a public library. As part of the purchase and sale agreement it was stipulated by CIBC that the building could not be used as a bank. The intent of the transfer from CIBC to the Municipality was to relocate the existing Locke Street Branch Library into the former CIBC building. It was concluded that the conversion of the CIBC building for this public use was impractical as the costs far exceeded anticipated budget parameters as originally envisioned. There has been interest from potential purchasers for the property for commercial and residential purposes. The vacant building is designated under Part IV of the Ontario Heritage Act. The property was declared surplus by City of Hamilton Council on October 26, 2005.

The purpose of this City Initiative is to change the Official Plan designation in the City of Hamilton Official Plan from “Residential” to “Commercial”, and to change the zoning
from the “D” (Urban Protected Residential - One and Two Family Dwelling, etc.) District to the “H” (Community Shopping and Commercial, etc.), District, Modified. This would permit the existing building to be converted to a limited range of commercial uses and/or a dwelling unit as detailed in Appendix “B”. The proposed rezoning restricts the permitted uses to be located within the existing building only.

Details of Submitted Application

Owner/Applicant: City of Hamilton

Property Size

- Frontage: 10.4 metres (34.3 feet) on Herkimer Street
- Flankage: 32.97 metres (108.2 feet) on Locke Street
- Area: 337 square metres (3,628 square feet)

EXISTING LAND USE AND ZONING

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<tr>
<th>Subject Lands:</th>
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<td>“H” (Community Shopping and Commercial, etc.) District and “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District</td>
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<td>East</td>
<td>Residential, Single Detached</td>
<td>“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District</td>
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<td>West</td>
<td>School</td>
<td>“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District</td>
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1. The City Initiative for an Official Plan Amendment and Zoning By-law Amendment has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement, and conforms to the policies of the Hamilton-Wentworth Official Plan;

   (ii) It will allow development compatible with existing and planned uses in the surrounding area;

   (iii) It will allow for an adaptive reuse of a historically designated building; and,

   (iv) It is an appropriate infill use that will make efficient use of existing services in a downtown neighbourhood.

2. The redesignation to “Commercial” in the Hamilton Official Plan for the property is appropriate as commercial uses exist in the area of the subject lands. The uses anticipated to occupy the subject building will serve both the local neighbourhood, and the broader community (i.e. art gallery and studios). Prior to 2001, the subject building was occupied by a commercial bank which served the local neighbourhood.

   The nature of the rezoning will permit commercial and/or residential uses only within the existing building. This is consistent with the “Commercial” policies in the Hamilton Official Plan.

3. The permitted uses for the proposed “H” (Community Shopping and Commercial) District, Modified include: business or professional offices, retail stores, daycare, art gallery, personal service establishments, one wall sign, and one dwelling unit. For the purposes of this By-law the following definition for “Personal Services” as contained in the new Downtown Zoning By-law is provided, as the term is not defined in Zoning By-law No. 6593:

   “Personal Services" shall mean the provision of services involving the health, beauty or grooming of a person or the maintenance or cleaning of apparel, but shall not include a Dry Cleaning Plant or a Body Rub Parlour.”

   The uses proposed are also compatible with the internal heritage features of the building. Any changes affecting the reasons for designation would be addressed through a Heritage Permit application. The proposed uses should have a minimal impact on the neighbouring residential properties. No drive-through operations are to be permitted on the property.

4. The ground floor area of the existing building is 140 square metres (1,507 square feet) and the second floor area is 13.4 square metres (144 square feet). The size of the building is considered appropriate.
5. The proposed By-law contains provisions which ensure the rear portion of the property is maintained as a permanent landscaped area to act as a buffer for the adjoining property, in order to mitigate potential spill-over impacts (e.g. noise from commercial parking). A standard provision of the By-law requires a minimum 1.5 metre wide planting strip to be provided and maintained along the east lot line, and a modification has been added to the proposed zoning to require the exterior side yard to be landscaped. On the day of the passing of the By-law the existing building will be deemed to comply with the By-law as it does not meet the setback requirements. In this regard, the provisions of the “H” District require a minimum side yard of 3.0 metres; the current building only provides approximately 1.5 metres on each side.

6. Except for the dwelling unit use and/or one space for the driver of a commercial business, it is proposed that the property will be exempt from the parking requirements of the Zoning By-law. In this regard, the Zoning By-law would normally require a range from 0 parking spaces (e.g. retail) to 7 parking spaces (e.g. medical offices) for the proposed uses. It is expected that any users of the building will park along Herkimer and Locke Streets, and any needed loading or deliveries will be accommodated from the front of the property on Herkimer Street.

7. Staff received comments via email and phone for this initiative from property owners as part of the precirculation of the applications. The residents were concerned about the change in use, the building being used for a restaurant, parking in the neighbourhood, the property being used as a community facility, landscaping, the deterioration of the building, and the need to have the building occupied. Some residents also voiced support for the application indicating that they wished to see the building sold and used for commercial or residential purposes. Staff previously researched the costs of maintaining this building for a public use and the costs of this were considered too prohibitive. The proposed zoning has been modified to remove a restaurant as a permitted use on the property, and modifications have been made to the By-law to ensure the rear portion of the lands will be landscaped. The sale and adaptive re-use of the building should encourage proper maintenance and prevent deterioration of the heritage property.

8. The property is adequately serviced by municipal sewers and water.

**ALTERNATIVES FOR CONSIDERATION:**

Should the applications be denied, then the lands may only be used in accordance with the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District provisions. This would severely restrict the marketability of the sale of the property.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: The net proceeds of the sale will be contributed to Library Improvements or towards the creation of a new Library Branch in the area.
Staffing: N/A.

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

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The proposal is consistent with the Provincial Policy Statement (PPS). The subject lands contain a vacant building which will be converted to a commercial or residential use. The rezoning encourages efficient use of existing services and locates commercial development in an urban centre.

Policy 2.5.1 of the PPS outlines that significant built heritage resources and cultural heritage landscapes will be preserved. For any works that are to be performed on the property that alter the reasons for designation, consultation will have to occur with staff. As the proposed zoning limits new uses within the existing building only, it is consistent with Policy 2.5.1

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, based on full municipal services, will be concentrated in the Urban Areas. Furthermore, the Plan establishes a land use strategy for the Urban Area that consists of a compact urban form including mixed use areas. Therefore, as the nature of the application will facilitate the use of the site for a land use that blends with the surrounding core area and makes use of an under-utilized facility, the proposal complies with the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The lands are designated as “Residential” in the City of Hamilton Official Plan. This designation permits “Residential” uses; and local commercial uses. However, the uses proposed such as business or professional offices may serve the larger area. Accordingly, an amendment to the Official Plan is required to redesignate the site to “Commercial”. This designation permits both commercial and residential uses.

“Ribbon Commercial” uses are defined by the “Commercial” policies to include uses on smaller lots servicing predominantly residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile borne traffic from beyond the local area.

The following polices, among others, will also apply to the proposed Official Plan Amendment:
A.2.2.38 Where a proposal is made for a COMMERCIAL development in which proposed parking and/or loading space is less than generally required, it must be demonstrated by the proponent to the satisfaction of Council that the proposal will not lead to nuisances through the parking or loading of vehicles on land or streets adjacent to the use.

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:

i) Encourage the maintenance, renovation and rehabilitation of RESIDENTIAL properties, subject to the provisions of C.5;

ii) 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;"

The proposed zoning will conform to the Official Plan once amended.

Neighbourhood Plan

An amendment is required to redesignate the site from “Single and Double” Residential to “Commercial” in the Kirkendall North Neighbourhood Plan.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Public Works Department, Capital Planning and Implementation Division.
- Public Works Department, Open Space and Park Planning.
- Public Works Department, Traffic Engineering and Operations.
- Public Works Department, Capital Planning and Implementation.
- Public Works Department, Forestry.
- Hamilton Municipal Parking System, Downtown Renewal Division.
- Hamilton-Wentworth District School Board.
- Corporate Services.
- Hamilton Street Railway.
- Union Gas.
PUBLIC CONSULTATION:

In keeping with the Public Participation Policy that was approved by Council on May 29, 2003, notice of the City Initiative and Public Meeting was circulated to property owners in the neighbourhood. A sign was posted on the subject lands in accordance with the requirements under the Planning Act.

Written comments in the form of emails were received from area residents (see Appendix “C”). These are discussed in the Analysis/Rationale Section of this report.

A neighbourhood meeting was organized by the Ward Councillor to discuss the applications and the future of the building. Comments at the meeting were primarily related to the protection of the historical building, use of the building, preservation of the open space at the rear of the building, parking and property values. These matters have been addressed in this report.

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.
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.
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.
A City that spends wisely and invests strategically.

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
Attachs. (3)
Subject Property

281 Herkimer Street (Hamilton)

Official Plan Amendment from "Residential" to "Commercial" and change in zoning from "D" (Urban Protected Residential-One and Two Family Dwellings, etc.) District to "H" (Community Shopping and Commercial, etc.) District, Modified.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593
Respecting Lands Located at 281 Herkimer Street

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 ___, 2006, 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, as amended by Official Plan Amendment No. _____ to the former Official Plan of the City of Hamilton, proposed by the Corporation of the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Sheet No. W-14 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,

   (a) by changing from the “D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District to the “H” (Community Shopping and Commercial, etc.) District, Modified,

   the lands, the extent and boundaries of which are shown on the map hereto annexed as Schedule “A”.

2. That notwithstanding the “H” (Community Shopping and Commercial, etc.) District regulations as contained in Section 14 of Zoning By-law No. 6593, applicable to the lands identified in Section 1 of this by-law, the following special requirements shall apply:

   (a) That notwithstanding Section 14(1) of Zoning By-law No. 6593, only the following uses or any combination thereof shall be permitted, and only within the building existing on the date of the passing of this by-law being the _____ day of _____, 2006:

      - Business or professional offices;
      - Daycare;
      - Art Gallery;
      - One dwelling unit;
      - One wall sign of an area of not more than 0.4 square metres, non-illuminated or illuminated by non-flashing, indirect or interior means only.
      - Personal Services;
      - Photographer’s or Artist’s Studios; and,
      - Retail Stores.

   (b) That drive-through facilities shall not be permitted.

   (c) That the following definition shall apply:

      (i) “Personal Services” shall mean the provision of services involving the health, beauty or grooming of a person or the maintenance or cleaning of apparel, but shall not include a Dry Cleaning Plant or a Body Rub Parlour.

   (d) That notwithstanding any provision of Zoning By-Law No. 6593, the rear yard and any side yard abutting a street shall be maintained as a landscaped area, except for the required parking
area and maneuvering area for one dwelling unit or one space for any non-residential use.

(e) That notwithstanding Section 18A of Zoning By-law No. 6593, no parking spaces or loading spaces shall be required for any permitted non-residential use.

3. By-law No. 6593 is amended by adding this by-law to Section 19B as Schedule S-1554.

4. Sheet No. W-14 of the District Maps is amended by marking the lands referred to in Section 1 of this by-law as S-1554.

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 , 2006.

__________________________________________  ________________________________________
MAYOR                                                                                   CLERK

CI-05-M
Schedule "A"

Map Forming Part of By-Law No. 06—

to Amend By-Law No. 65-93

Planning and Economic Development Department
Hamilton

Subject Property

281 Herkimer Street (Hamilton)

Change in zoning from "D" (Urban Protected Residential, One and Two Family Dwelling, etc.) District to "H" (Community Shopping and Commercial, etc.) District, Modified.

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<td>February 7, 2006</td>
<td>DS/NB</td>
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Feb 14, 2005

File No. CI-05-M

Planning & Development Dept., Legislative Approvals

Re: former CIBC building at 281 Herkimer Street

Attention: Mr. David Samis

Dear Mr. Samis,

I would like to take this opportunity to submit my comments concerning the CIBC building at 281 Herkimer Street.

After attending the February 13th meeting, I’ve come to the conclusion that the building will most likely be sold as a residential dwelling.

Any attempt to re-zone for business purposes will no doubt cause friction within the community.

Throughout the meeting, residents voiced their concerns regarding parking, excessive noise, garbage and traffic.

Personally, I am comfortable having the structure re-zoned for additional uses.

However, I would recommend the sale be completed through the Request For Proposal method, to insure that the interior of the structure is not compromised in the renovation stage.

A building like this should maintain the original exterior and interior design as much as possible.

Thank you for the opportunity to express my comments.

John Waddell
235 Locke Street South
Hamilton, Ontario
L8P 4B8
Dear Mr. Samis:

I am writing to comment on the city's application to amend its official plan and zoning by-law to permit the conversion and use of the former CIBC Bank at 281 Herkimer Street to permit other uses, as indicated in your preliminary circulation notice of January 17, 2006.

As a nearby resident of Undermount Avenue, and the owner of a business and building at 225 Locke Street South, I very much support the official plan and zoning amendments. I am especially supportive of a good use being put to this wonderful building, after having been abandoned for so many years.

While I understand there may be interior renovations to accommodate a new use for the structure, I am however opposed to any changes to the exterior of the building. This is an historic building and its exterior architectural features should be preserved.

Thank you for the opportunity to comment on this application.

Tricia Hellingman

---------------------------------------------------------------------
Tricia Hellingman
President
Hellingman Communications Inc.
225 Locke Street South
Hamilton, Ontario
L8P 4B6
Thanks for your prompt reply.

I have a few questions that I would like more information before the public meeting.

1. It would be fair to assume that the City wishes a broad classification to rezone the property and exempt it from the parking bylaw in order to make it more sellable?

2. Would this particular decision set a precedent as a term of reference when other applications are received for the Locke Street area?

I don't have a problem with commercial use for most buildings in the area, but we must be careful with businesses that by nature promote extended visits and cause parking issues. Some small businesses in nature have a quick turn around, where customers come and go in a short time. This is more conducive to the area.

The other issue I have is that your request is very broad and suggests that the building could be used as a foodservice licensed establishment. The area is very residential in nature and I don't believe that licensed establishments that are open late in the evening would be welcomed by the neighbourhood. There is already stress on the available parking spaces when the Westown or the HAAA sports field, are happening.

3. Has a parking assessment been made for the area and will it be available for review at the public meeting?

4. In short I would like to know if there are other rezoning classes that could have been requested from the applicant that would be less broad in range?

Thanks you for your time.

Marc
From: Lynda Morris
Sent: Wednesday, February 08, 2006 7:24 PM
To: Samis, David
Subject: zoning application for 281 Herkimer file #CI-05-M

zoning application for 281 Herkimer file #CI-05-M

this building would be suitable for the new pumping station that is planned for this area of Hamilton.
PLease include this as a possible use when listing future possible uses for this building.

--
Lynda Morris
From: Rory Gleeson  
Sent: Monday, January 30, 2006 9:59 PM  
To: Samis, David  
Subject: 281 Herkimer application

Hello,

I just received the Jan. 17/06 letter re: 281 Herkimer zone change proposal.

On the back of the letter, there is a map, showing the building and surrounding area, some of which is outlined in black.

I live at 302 Charlton Ave. West. Would you be able to explain to me what "D/S-426" means on this map? As well, can you explain what "H/S-638", directly behind Charlton, means?

Thanks,  
Rory Gleeson
From: Norma Bond  
Sent: Monday, January 30, 2006 12:00 PM  
To: Samis, David  
Subject: CIBC 281 Herkimer

What has happened to the plan to make this building into the Locke St. Library? It would make a great looking library and the existing library could become commercial. I thought the bank donated the building for that purpose, was that just a rumor? Thanks, Norma Bond 158 Queen St. South. I think you’re getting commercial too close to the nice residential on Herkimer St. so I am opposed to the plan to change it to any kind of commercial.