SUBJECT: Application for a Modification in Zoning for Lands Located at 287 Locke Street South (Hamilton) (PED08007) (Ward 1)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-07-056, David Church and Associates, owner**, for a further modification to the existing “D/S-1052a” (Urban Protected Residential One and Two Family Dwellings, etc.) District, Modified, to permit the expansion of the existing commercial/residential building, located at 287 Locke Street South, (Hamilton), as shown on Appendix “A” to Report PED08007, on the following basis:

(a) That the subject lands be rezoned from the “D/S-1052a” (Urban Protected Residential One and Two Family Dwellings, etc.) District, Modified, to the “D/S-1052b” (Urban Protected Residential One and Two Family Dwellings etc.) District, Modified.

(b) That the Draft By-law, attached as Appendix “B” to Report PED08007, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth and City of Hamilton Official Plans.

Tim McCabe
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is for a modification in zoning to permit a 99.8 square metre addition to an existing mixed use (commercial/residential) building, and to permit the expansion of the existing hair/esthetics salon (located within the first storey of the existing building) into the proposed addition, while recognizing the existing single residential dwelling unit located on the second floor of the existing building, as shown on Appendix “C”. The existing concrete block garage at the rear of the building is to be demolished.

The proposal has merit and can be supported since the modification in zoning is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is compatible with the existing and planned development in the neighbourhood.

BACKGROUND:

Proposal

The applicant has applied to change the zoning of the subject lands, known as 287 Locke Street South (see Appendix “A”), to permit a 7.62m by 13.1m addition to the existing building and the expansion of the existing hair/esthetics salon into the proposed addition. The existing concrete block garage is to be demolished and the single residential dwelling unit located on the second floor of the existing building is to remain.

The modifications from the existing “D/S-1052a” (Urban Protected Residential One and Two Family Dwellings, etc.) District – Modified, which would result from approval of this Zoning Application, are:

- To allow the existing hair/esthetic salon to be permitted within a new addition, as well as within the first storey of the existing building.
- Reduced Rear Yard Setback from 7.5m to 3.0m.
- Reduced Side Yard Setback along the north property line from 1.2m to 0.0m.
- Reduced Side Yard Setback along the south property line from 1.2m to 0.6m.
- To provide 0.0m manoeuvring space for the provided parking space, whereas 6.0m is required.

These are discussed in detail in the Analysis/Rational Section of this Report.
By-law 88-206

By-law No. 88-206 was passed by City Council in 1988. This By-law changed the zoning on the subject property to a site-specific “D/S-1052” (Urban Protected Residential – One and Two Family Dwellings, etc) District, which permitted a grocery and variety store and pizza take-out shop within the first storey of the existing building.

By-law 04-126

By-law 04-126 was passed by City Council on May 26, 2004. This By-law further modified the “D/S-1052” (Urban Protected Residential – One and Two Family Dwelling etc.) District, Modified, for the subject lands, to permit a hair/esthetics salon within the first storey of the existing building.

Details of Submitted Application

Owner: David Church and Associates

Location: 287 Locke Street South
Southeast corner of Locke Street South and Stanley Avenue (see Appendix “A”).

Description: Frontage: 13.8 metres
Depth: 30.4 metres
Area: 419.5 square metres

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></td>
<td>Mixed Use</td>
<td>“D/S-1052a” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified</td>
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<tr>
<td></td>
<td>(Hair/Esthetics Salon and Residential Dwelling Unit)</td>
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<table>
<thead>
<tr>
<th>Surrounding Lands</th>
<th></th>
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<tbody>
<tr>
<td>North</td>
<td>Residential</td>
<td>“D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District</td>
</tr>
<tr>
<td>East</td>
<td>Institutional (church parking area)</td>
<td>“D/S-1549” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified</td>
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ANALYSIS/RATIONALE:

1. The proposed change in zoning has merit and can be supported for the following reasons:

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

   (ii) It conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

   (iii) It is compatible with existing uses in the surrounding area and allows for the expansion of an existing hair/esthetics salon in a building that is currently zoned to permit commercial uses such as a grocery store, variety store, pizza take out shop and hair/esthetics salon.

2. The basis of the current application for a further modification to the existing site-specific “D/S-1052a” (Urban Protected Residential – One and Two Family Dwelling etc.) District, Modified, is to permit the expansion of the existing hair/esthetics salon into a proposed one storey addition to the rear of the existing building. The proposed modifications in zoning and potential impacts on the neighbourhood are discussed below:

   **Intensity of Proposed Use**

   In terms of the proposed use, the applicant has provided information that the hair/esthetics salon will be an upscale business with low traffic generation. The hours of operation of the salon will be from Tuesday through Saturday (closed Sunday and Monday) from 9 am to 5 pm. As a result, the proposed use will operate during the day and there will be no impact of this use during the night-time hours. The proposed commercial use appears to be less intensive than the other commercial uses currently permitted on site (grocery store, variety store and pizza take-out shop) which tend to operate seven days a week with longer business hours, including evenings.

   **Compatibility**

   The proposed expansion of the existing hair/esthetics salon is compatible with existing and planned uses in the immediate area as it is an expansion of an existing use which has existed since 2004.
In addition, there are many commercial establishments located along Locke Street South, particularly to the north of the subject property. The applicant has not proposed a change to the maximum permitted building height and is required to conform to the 3 storey, 14m height requirement of the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District. The applicant has proposed a one storey, approximately 5.2m high, addition to the rear of the existing 2 storey building, which is consistent with dwellings and structures in the surrounding area. The applicant will be required to obtain Site Plan approval for the proposed addition, prior to the issuance of a building permit, at which time matters such as the design of the building, elevations, etc. can be reviewed.

Parking

There is a shortage of daytime and evening parking in the area, which is of concern to local business owners and residents. The high demand for on-street parking in the area has pressured residents into requesting very restrictive on-street parking requirements. The Locke Street BIA is also continually working with the Hamilton Municipal Parking System to manage the limited parking supply within its boundary.

Under the current parking regulations in the Zoning By-law, personal service establishments are not required to provide parking for the first 450 square metres of gross floor area. Since the entire building, including the addition, is 332.2 square metres, there is no requirement to provide parking for the commercial component of the building.

With respect to the single residential unit on the second floor, Zoning By-law 6593 requires one space, which is provided on-site (see Appendix “D”).

Manoeuvring Area

Section 18(A)(1)(f) of the City of Hamilton Zoning By-law No. 6593 requires parking spaces to have 6.0m of manoeuvring area to allow for clear sight lines and accessibility into and out of the space. The proposed “D/S-1052b” District will require 0.0m of manoeuvring area for the provided parking space. The deficient manoeuvring space will not impact site lines since the existing boulevard provides sufficient space for an unobstructed view for vehicles reversing onto Stanley Avenue. To provide additional visibility, staff will require at the site plan stage of development that fencing along the east lot line be setback 3m from the north lot line, to ensure adequate visibility for drivers reversing onto Stanley Avenue.

Rear Yard Setback

The existing “D/S-1052a” District zoning requires a rear yard setback of 7.5m. The proposed “D/S-1052b” zoning will provide for a minimum rear yard setback of 3.0m. There is an existing brick garage at the rear of the property with a reduced setback of 0.661m. The lands not covered by the existing garage building are paved and used for parking. To the knowledge of staff, the reduced setback has not been of
concern to the abutting property to the east as it is a parking area for the neighbouring church.

The proposed 3.0m setback for the addition from the rear property line will be 2.3m further from the rear property line than the existing garage. Accordingly, staff supports the proposed modification.

**Side Yard Setbacks**

The existing “D/S-1052a” zoning requires a minimum northerly and southerly side yard setback of 1.2m. The proposed “D/S-1052b” zoning provisions will require a 0.0m setback from the northerly property line and a 0.6m setback from the southerly property line. The proposed 0.0m setback from the northerly property line allows for the proposed addition to maintain the existing building setback (for which a portion encroaches onto the City road allowance) and maintain consistency along the streetscape.

The proposed 0.6m setback from the southerly property line is an increase from the setback of the existing garage, which is setback less than 0.22m from the property line. This will improve the existing setback.

The applicant should be aware that the existing building appears to encroach into the existing road allowance of Locke Street South, which may require an Encroachment Agreement from the City of Hamilton. This will be addressed at the Site Plan approval stage.

3. This zone change complements the revitalization efforts of the Locke Street Business Improvement Area. The proposed building addition would be a visual improvement to the existing concrete block garage, is compatible with the surrounding neighbourhood, including the residential area further to the east on Stanley Avenue, beyond the adjacent Melrose United Church parking lot.

4. There is an existing sewer and watermain on Locke Street South and on Stanley Avenue to service this site directly.

5. Storm water management is not required as the proposed addition will be replacing an existing asphalt area and is not increasing the impervious area of the site.

6. The proposed expansion will be subject to the Site Plan approval process, at which time, elements such as built form and streetscape compatibility with existing adjacent structures, can be reviewed.

The owner will be required to remove the existing driveway approach on Stanley Avenue and reconstruct a combined barrier curb and sidewalk, as required, to the satisfaction of the Manager, Engineering Design and Construction.

The owner will also be required to apply for an access permit for the proposed parking area to be provided at the rear of the property on Stanley Avenue.
ALTERNATIVES FOR CONSIDERATION:

If the application is denied, the applicant has the option of using the property for the current range of “D/S-1052a” (Urban Protected Residential – One and Two Family Dwelling etc.) District, Modified, 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

As the nature of the application is to further modify the existing mixed use zoning to allow for a one storey rear addition, in the settlement area, the proposal is consistent with the principles and policies of the Provincial Policy Statement (PPS).

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 Urban Areas.

Therefore, as the nature of the application is for a change in zoning to allow for the construction of a one storey rear addition to an existing mixed-use commercial structure, where full municipal services are available, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Hamilton Official Plan

The subject property is designated “Residential” on Schedule “A” – Land Use Concept to the Official Plan. The following policies of the City of Hamilton Official Plan, among others, are applicable to the proposed development:

“A.2.1.3 Within the areas designated RESIDENTIAL, land uses compatible to dwellings and serving the needs of local residents will be permitted, including, but not limited to:

iv) Limited individual or groups of commercial uses on sites not exceeding 0.4 hectares in area, excluding Automobile Service
A.2.2 It is the general intent of this Plan that COMMERCIAL development occurs in an orderly manner, consistent with the needs of the community. The Plan promotes a hierarchy of COMMERCIAL categories to best serve the residents of the City, and to recognize and accommodate the locational trade area or special requirements of businesses of varying size and function.

The plan promotes a high aesthetic quality in all COMMERCIAL areas and endeavours to minimize their impacts on adjacent land uses, most importantly, Residential uses. It is intended that all COMMERCIAL areas be readily and safely accessible and be provided with adequate parking and loading facilities.

2.2.25 The LOCAL COMMERCIAL category applies to groups of, or individual commercial establishments and local business and professional offices serving the daily retail needs of surrounding residents, and primarily dependent upon pedestrian access.

2.2.27 It is not the intent of Council that the LOCAL COMMERCIAL category be included within the Commercial classification indicated on Schedule “A” to this Plan. Rather, it is the intent of Council that LOCAL COMMERCIAL uses may be permitted within the Residential designation of lands use indicated on Schedule “A”, subject to a specific application for an appropriate amendment to the Zoning By-law and without the necessity of amending this Plan. The location of LOCAL COMMERCIAL uses will be designated by Neighbourhood Plans.

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 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.”

Based on the above, the proposal conforms to the City of Hamilton Official Plan.
Neighbourhood Plan

The subject lands are located within the Kirkendale North Neighbourhood Plan. According to the approved land use designations of the Kirkendale North Neighbourhood Plan, the subject property is designated as “Residential – Single and Double”. Although the proposed expansion of the existing hair/esthetics salon use into a proposed addition does not comply with the existing Neighbourhood Plan, it does serve the neighbourhood as a local commercial use and maintains the character of the neighbourhood.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Transit Division
- Health Protection Division
- Taxation Division
- Budgets and Finance Division
- Emergency Services Division
- Urban Forestry Planning and Protection, Operations and Maintenance Division
- Municipal Property Assessment Corporation
- Hamilton Hydro
- Cogeco Cable
- Union Gas Limited
- Horizon Utilities
- Hamilton Conservation Authority
- Hydro One Networks

Community Traffic, Traffic Engineering and Operations Division

Community Traffic has indicated that according to the submitted plans, a portion of the proposed addition may encroach into the Stanley Avenue road allowance. Such an encroachment is contrary to the City of Hamilton Streets By-law. Therefore, the owner/applicant will be required to enter into an Encroachment Agreement with the City of Hamilton. This can be addressed at the Site Plan stage of development. Additional information on this process can be obtained from Marilyn Preston at (905) 546-2424, Ext. 4298.

Hamilton Municipal Parking System:

Parking Services has indicated that there is an extreme shortage of daytime and evening parking in this area and it is of significant concern for local business owners and residents. The high demand for street parking around Locke Street has motivated residents to request the implementation of very restrictive on-street parking regulations. The Locke Street BIA is also continually working with the Hamilton Municipal Parking System to manage the limited parking supply within its boundary.
Parking services has stated that the applicant/owner should be aware that all existing and future parking demands for this facility are to be met on-site, alternatively, at an overflow facility (i.e. Church as suggested by the applicant). However, this type of arrangement must have a formal agreement between the affected parties and must be made in perpetuity. A parking study identifying the parking impacts on the overflow facility may also be required.

**Bell Canada**

Bell Canada has no objections to the proposal, however, would like to note that a buried cable runs along the back of the property and then to a pole in the rear south corner of the property. If there is a conflict, it will need to be addressed with the property owner early in the process.

**Public Consultation**

In accordance with Council’s Public Participation Policy, this application was pre-circulated to 148 property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property in November of 2007.

No written comments or phone calls were received as a result of the pre-circulation of the application.

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

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, and economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- **Community Well-Being is enhanced.** ☑ Yes ☐ No
  The public are involved in the definition and development of local solutions.

- **Environmental Well-Being is enhanced.** ☑ Yes ☐ No
  Ecological function and the natural heritage system are protected.

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

- **Does the option you are recommending create value across all three bottom lines?**
  ☑ Yes ☐ No

- **Do the options you are recommending make Hamilton a City of choice for high performance public servants?**
  ☐ Yes ☑ No

:LB
Attaches. (4)
Change in Zoning from the “D/S-1052a” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified to the “D/S-1052b” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 6593, as Amended by By-Law No. 04-126, Respecting Lands Located at 287 Locke Street South

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 Economic Development and Planning Committee at its meeting held on the ___ day of ___, 2008, recommended that Zoning By-law 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. Sheet No. E-9D of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing from the “D/S-1052a” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, to the “D/S-1052b” (Urban Protected Residential – One and Two Family Dwellings, Etc.)
District Modified, the lands the extent and boundaries of which are shown on a plan here to annexed as Schedule “A”.

2. That the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District regulations as contained in Section 10 of Zoning By-law No. 6593, as amended by By-law Nos. 88-206 and 04-126, are further amended to the extent of the following special requirements:

(a) That notwithstanding the provisions of Section 10 (1) of Zoning By-law No. 6593, a hair/esthetics salon shall be permitted only within the first storey of the entire building.

(b) That notwithstanding the provisions of Section 10 (2) of Zoning By-law No. 6593, the following yards shall be provided within the district, and maintained, as appurtenant to every building or structure:

   (i) a northerly side yard width of at least 0.0m and a southerly side yard width of at least 0.6m; and,

   (ii) a rear yard depth of at least 3.0m metres

(c) That notwithstanding the provisions of Section 18(a)(1)(f) of Zoning By-law No. 6593, no manoeuvring space shall be required for parking.

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 “D” District provisions, subject to the special requirements referred to in Section 2 of this by-law.

4. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1052b.

5. Sheet No. E-9D of the District Maps is amended by marking the lands referred in Section 1 of this by-law as S-1052b.

6. 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 ______, 2008.

_____________________________  _______________________________
Fred Eisenberger  Kevin C. Christenson
Mayor  Clerk

ZAR-07-056
Appendix "B" to Report PED08007 (Page 3 of 3)

Change in Zoning from the existing "D/S-1052a" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified to the "D/S-1052b" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified

Schedule "A"

Map Forming Part of By-Law No. 08-____
to Amend By-law No. 6593

Subject Property
287 Locke Street South, Hamilton

Change in Zoning from the existing "D/S-1052a" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified to the "D/S-1052b" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified

This is Schedule "A" to By-Law No. 08-
Passed the ........... day of ...................., 2008

Clerk

Mayor

Scale:
N.T.S.
File Name/Number:
ZAR-07-056
Date:
Nov 28, 2006
Planner/Technician:
LB/NB
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
NORTH ELEVATION

PROJECT: DAVID CHURCH ASSOCIATES
ADDITION OF BASEMENT & 1st FLOOR

DRAWING: NORTH ELEVATION

DATE: 2007/02/27 DRAWN BY: SR

SCALE: 1/8"=1'-0"

CHKED BY: SR

07-001

A4-0