SUBJECT: Application to Amend City of Hamilton Zoning By-law No. 05-200 for the Lands Located at 280 Bay Street South (Hamilton) (PED09210) (Ward 2)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-09-015, by Dr. Cindy Hamielec, Applicant**, for a change in zoning from the Community Institutional (I2) Zone, to the Community Institutional (I2, C22) Zone with a Special Exception, in order to permit a maximum of three units in an existing residential dwelling, located at 280 Bay Street South, as shown on Appendix “A” to Report PED09210, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED09210, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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

EXECUTIVE SUMMARY:

The purpose of the proposed Zoning By-law Amendment is for a change in zoning to permit the conversion of the existing building for multiple dwelling, with a maximum of three units, on lands located at 280 Bay Street South (see Appendix “A”). The building was formerly used as a retirement home. The Zoning By-law Amendment will also
modify the minimum required side yard setbacks to recognize an existing situation, and eliminate the required parking spaces, as parking is not accessible from Bay Street South. However, parking is available through the public unassumed alleyway, which the applicant is purchasing to ensure private maintenance of the alleyway.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to Places To Grow Plan, the Hamilton-Wentworth Official Plan, and the City of Hamilton Official Plan.

BACKGROUND:

Proposal

The subject lands are approximately 601 square metres in area, and are located on the west side of Bay Street South, south of Herkimer Street, and north of Markland Street (see Appendix “A”). The surrounding area consists of residential uses of varying densities and dwelling types. The subject lands are currently zoned Community Institutional (I2) Zone in the new Zoning By-law No. 05-200 to reflect the former use of the property as a retirement home. The Community Institutional (I2) Zone permits a variety of uses such as an educational establishment, retirement home, place of worship, museum, single-detached dwelling, semi-detached dwelling, and street townhouse. A multiple dwelling (i.e. triplex) is not a permitted use and, therefore, a Zoning By-law Amendment is required.

The requested Zoning By-law Amendment will change the current zoning to a Community Institutional (I2, C22) Zone, with a Special Exception, to permit a multiple dwelling with a maximum of three units. To facilitate the proposed use, a further modification to the Community (I2) Zone is also required to permit a minimum side yard setback of 1.0 metres, whereas the minimum required side yard setback is 1.2 metres (see Appendix “B”).

The applicant has also submitted an application to purchase a portion of the public unassumed laneway from the City (the rear of 280 Bay Street South to the entrance of the public unassumed laneway located at Herkimer Street) to provide for guaranteed access to the existing parking located at the rear of the subject property. As of July 2009, the application is being processed by the Public Works Department for circulation.

Details of Submitted Application:

<table>
<thead>
<tr>
<th>Location:</th>
<th>280 Bay Street South</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner:</td>
<td>2180548 Ontario Inc.</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Dr. Cindy Hamielec</td>
</tr>
<tr>
<td>Property Size</td>
<td></td>
</tr>
<tr>
<td>Frontage:</td>
<td>15.40 metres</td>
</tr>
<tr>
<td>Depth:</td>
<td>39.00 metres</td>
</tr>
<tr>
<td>Area:</td>
<td>Approximately 0.06 hectares</td>
</tr>
</tbody>
</table>
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Lands</td>
<td>Single Detached Residential</td>
<td>Community Institutional (I2) Zone</td>
</tr>
</tbody>
</table>

Surrounding Lands

<table>
<thead>
<tr>
<th>North</th>
<th>South</th>
<th>East</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Retirement Home</td>
<td>Community Institutional (I2) Zone</td>
<td>Semi-Detached Residential</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Residential</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
<td>“DE-3” (Multiple Dwellings) District</td>
</tr>
<tr>
<td>East</td>
<td>Semi-Detached Residential</td>
<td>“DE-3” (Multiple Dwellings) District</td>
<td></td>
</tr>
<tr>
<td>West</td>
<td>Apartment (High Density Residential)</td>
<td>“E” (Multiple Dwellings, Lodges, Clubs, etc.) District</td>
<td></td>
</tr>
</tbody>
</table>

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement.
   
   (ii) It is consistent with the Places To Grow Plan.
   
   (iii) It conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
   
   (iv) It is compatible with existing and planned development in the surrounding area.
   
   (v) It will provide the opportunity for affordable housing in the community.

2. The applicant has requested changes to the existing Community Institutional (I2) Zone in order to facilitate the conversion of a former retirement home to a dwelling containing three units (see Appendix “C”). In addition, it is proposed to reduce the minimum required side yard setback from 1.2 metres to 1.0 metres in order to recognize an existing situation.

Parking spaces are currently located in the rear yard of the subject property, and are accessible only through the public unassumed alleyway, where accessibility to these cannot be guaranteed in the future. As a result, staff has added zoning provisions to eliminate the three required parking spaces in order to prevent the City from assuming the portion of the alleyway from Herkimer Street to the subject property in
the event that the sale of the alleyway is unsuccessful. The elimination of the parking spaces can be supported as the subject property is located close to public transit, and on-street parking is available. As shown on Appendix “C”, the applicant is proposing 5 parking spaces in the rear yard.

The proposed three-unit multiple dwelling will include only interior renovations, and is not anticipated to include exterior alterations. However, any changes to the parking spaces and alterations to the exterior of the building will be subject to Site Plan Control.

3. The applicant has also applied to the Public Works Department to purchase a portion of the public unassumed laneway that serves the subject lands and also 274 Bay Street South (see Appendix “A”). During the Formal Consultation process, staff determined that documentation must be provided so that vehicular access and maintenance can be guaranteed for future residents, as the public unassumed laneway is not maintained by the City. The option to purchase a portion of the existing public unassumed laneway was preferred by the applicant, and the applicant has since begun the process of purchasing the laneway. It is anticipated that staff will bring forward recommendations to Council for consideration in the second half of 2009. Although the purchase of the laneway is not a requirement for Zoning By-law approval, it will nevertheless provide assurance that future residents are ensured vehicular access and proper maintenance of the alleyway to the subject property.

4. Staff notes that the subject property contains a building that is listed in the City's Inventory of Buildings of Architectural and/or Historical Interest. Staff has no issues with the proposed use as a triplex, provided that the architectural character of the property is maintained. It is noted that the use of the subject lands for a multiple dwelling, with a maximum of three units, will be restricted to the existing building, which will facilitate the long term possession of the building.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application be denied, the proposed three-unit multiple dwelling will not be permitted on the subject property, and only uses permitted in the Community Institutional (I2) Zone will be permitted. Also, the property will remain legal non-conforming, as the southerly side yard setback does not conform to the Zoning By-law 05-200.

**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

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1). In addition, the proposed development is consistent with the policies that promote opportunities for intensification within existing building stock (Policy 1.1.3.3). Also, the proposed development is consistent with the policies to provide for a range of housing types and densities to meet projected requirements of current and future residents.

However, development and site alteration may be permitted on lands adjacent to protected heritage property where the proposed development and site alterations have been evaluated, and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved (Policy 2.6.3). Staff notes that the subject property is located adjacent to the Durand-Markland Heritage District, that is designated under the Ontario Heritage Act, and is identified within Hamilton’s Heritage Volume I.

Based on the foregoing, the proposal conforms to the policies of the Provincial Policy Statement.

Places To Grow

The application has been reviewed with respect to the Places To Grow Plan. The application is consistent with the policy that manages growth by directing new growth to the built-up areas of the community (Section 2.2.2.a)), and directing growth to settlement areas that have municipal water and wastewater systems (Section 2.2.2.j)). As a result, the proposal conforms to the Places To Grow Plan.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines 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. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Also, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources as a result of development planning applications. The subject property is located adjacent to the Durand-Markland Heritage District designated under the Ontario Heritage Act, and is identified within Hamilton’s Heritage Volume I.

Based on the foregoing, the proposal conforms to the “Urban Area” designation of the City of Hamilton Official Plan.
Subject: Application to Amend City of Hamilton Zoning By-law No. 05-200 for the Lands Located at 280 Bay Street South (Hamilton) (PED09210) (Ward 2) - Page 6 of 8

City of Hamilton Official Plan

The subject property is designated “Residential” on Schedule “A” of the City of Hamilton Official Plan. The proposed triplex will provide for housing options with similar densities in the community (Policy A.2.1.1). The following Policies, among others, apply:

“A.2.1.6 Where compatible uses are permitted, to preserve the amenities of and support Residential Uses in the area, new development will, subject to the Zoning By-law:

i) Be required to be provided with adequate yards, off street parking and loading, landscaping, screening, buffering or other such measures, as determined by Council.

A.2.17 It is the intent of Council that a variety of housing styles, types, and densities be available in all Residential areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing, where practical.

A.2.1.13 Plans for redevelopment will, to the satisfaction of Council, ensure that the residential character of the area will be maintained or enhanced, and that the redevelopment will not burden existing facilities and services.

C.6.1 It is the intent of Council to encourage the preservation, maintenance, reconstruction, restoration, and management of property that is considered to have historic, architectural, archaeological or aesthetic value.

C.7.3.iii) 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.

C.7.3.ix) Support the concept of a residential community that provides a diversity of dwelling forms and housing options accessible to all Hamilton Residents.

C.7.3.xi) Encourage the rehabilitation and renovation of dwellings as an alternative to demolition in appropriate locations and circumstances, having regard to the preservation and maintenance of the amenity of the residential area.”

In addition, the subject lands are located within Special Policy Area 3 of Schedule “B” of the City of Hamilton Official Plan, and the following policies, among others, apply:
SUBJECT: Application to Amend City of Hamilton Zoning By-law No. 05-200 for the Lands Located at 280 Bay Street South (Hamilton) (PED09210) (Ward 2) - Page 7 of 8

“2.9.3.1.i) It is the intent of Council to strengthen the residential function of this area to complement the multi-use nature of the Central Policy Area, to foster a wider choice in housing opportunities for all residents of the City, and to increase the resident population.

2.9.3.1.v) It is intended that residential development or redevelopment be at a scale, density, and bulk compatible with the established character of the surrounding areas.”

Based on the foregoing, the proposal conforms to the City of Hamilton Official Plan as the use is compatible with the surrounding area, it will provide a variety of housing types, the character of the area is being maintained, and it will provide a wider choice in housing opportunities for residents in Hamilton.

Urban Hamilton Official Plan (Council adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated as “Neighbourhoods” on Schedule “E” Urban Structure. The new Hamilton Official Plan designations for the subject lands shadow the designations in the City of Hamilton Official Plan noted above.

Based on the foregoing, the proposal conforms to the Urban Hamilton Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

• Taxation Division, Corporate Services Department.
• Hydro One Networks.
• Bell Canada.

Traffic Engineering and Operations Section, Public Works Department, advises that the rear yard alley is public unassumed and, therefore, the City of Hamilton will not guarantee access to the rear of these lands.

Forestry and Horticulture Section, Public Works Department, advises that there is one Municipal Tree Asset located on the Bay Street road allowance of the subject property, but it will not be impacted by this application. No municipal trees are located on City property in its rear alley. An 80 d.b.h. Ginko, located in the rear yard on private property, must be removed to accommodate the proposed development. Hamilton does not have a Private Tree By-law, and this tree may be removed, as required.
Public Consultation

In accordance with the Public Participation Policy approved by Council, this application was pre-circulated to all property owners within 120 metres of the subject property, and a sign was posted on the site in late-May, 2009. A total of 335 notices have been circulated and no letters have been received. Notice of Public Meeting was given in accordance with the requirements of the Planning Act through the circulation to property owners within 120 metres of the subject lands, and through the posting of a sign on the property.

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
Affordable housing is being provided in the community.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The proposed rezoning will maintain ecological function and prevent unnecessary development in the agricultural areas.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in the City of Hamilton due to renovations within the existing residential dwelling, while creating affordable housing opportunities.

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

:TL
Attachs. (3)
CITY OF HAMILTON

BY-LAW NO. _____

To Amend Zoning By-law No. 05-200 (Hamilton), respecting lands located at 280 Bay Street South (Hamilton)

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the new Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item _____ of Report 09-_____ of the Economic Development and Planning Committee, at its meeting held on the _____ day of _____, 2009, recommended that Zoning By-law No. 05-200 (Hamilton) be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former City of Hamilton) in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Map No. 994 of Schedule “A” of By-law No. 05-200 is hereby amended by changing the zoning from the Community Institutional (I2) Zone to the Community Institutional (I2, C22) Zone, on the lands the extent and boundaries of which are shown on Schedule “A” annexed hereto and forming part of this By-law.

2. That Schedule “C” of By-law 05-200 is amended by adding an additional exception as follows:

   “22. Notwithstanding Sections 5.6 and 8.2.1 of this By-law, within the lands zoned Community Institutional (I2) Zone, identified on Map No. 994 of Schedule “A” to By-law 05-200, and described as 280 Bay Street South, the following special provisions shall apply:

   (a) In addition to the permitted uses in Section 8.2.1, a multiple dwelling with a maximum of three units within the building existing at the time of the passing of the By-law.

   (b) A minimum Side Yard setback of 1.0 metre shall be permitted; and,

   (c) Notwithstanding Section 5.6c) of By-law 05-200, and for the purposes of this By-law, no parking spaces shall be required for a multiple dwelling with a maximum of three units within the building existing at the time of the passing of the By-law.

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

PASSED and ENACTED this ___ day of ____, 2009.

________________________________________  __________________________________________
Fred Eisenberger                    Kevin C. Christenson
Mayor                               Clerk

ZAR-09-015
Appendix "B" to Report PED09210 (Page 3 of 3)

This is Schedule "A" to By-Law No. 09-
Passed the ............ day of ....................., 2009

Schedule "A"
Map Forming Part of
By-Law No. 09-_____
to Amend By-law No. 05-200

Subject Property
280 Bay Street South, Hamilton

Change in zoning from the Community Institutional (I2) Zone to the Community Institutional (I2, 22) Zone