SUBJECT: Application for a Change in Zoning for Lands Located at 796 Rymal Road East (Hamilton) (PED09288) (Ward 6)

RECOMMENDATION:

That approval be given to Zoning By-law Amendment Application ZAR-09-028, by Ernestine Mascolo, Owner, for changes in zoning from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District for Block 1, and “R-4” - ‘H’ (Small Lot Single Family Dwelling - Holding) District, with a Holding provision, for Block 2, in order to permit an existing single detached dwelling and future residential development, on the lands known as 796 Rymal Road East, Hamilton, as shown on Appendix “A” to Report PED09288, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED09288, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed changes in zoning are consistent with the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan, and City of Hamilton Official Plan.

EXECUTIVE SUMMARY:

The purpose of the application is for changes in zoning in order to provide the appropriate zoning designation for an existing single detached dwelling, and to permit additional future residential development on the subject lands, in accordance with
conditionally approved Consent Application HM/B-08:133 (see Appendix “C”). It is recommended that an ‘H’ Holding provision be added to the proposed zoning for Block 2, in order to ensure orderly and appropriate future residential development by requiring the submission and approval of either a draft plan of subdivision or consent applications, and to ensure that any archaeological resource concerns have been addressed.

The proposal has merit and can be supported since it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and City of Hamilton Official Plan. The proposal is compatible with the existing and planned development in the surrounding area, and fulfills a condition of approval for Consent Application HM/B-08:133 (see Appendix “C” - Condition No. 4).

**BACKGROUND:**

**Proposal**

The applicant has applied for changes in zoning from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District for Block 1, and “R-4” - ‘H’ (Small Lot Single Family Dwelling - Holding) District for Block 2, in order to permit an existing single detached dwelling, and allow for the future residential development of the lands located at 796 Rymal Road East (see Appendix “A”). The effect of this application is to provide for the appropriate zoning designation for an existing single detached dwelling, and create the potential for additional residential development on the Block 1 lands, as well as to enable the future residential development of the lands identified as Block 2.

Staff recommends that an ‘H’ Holding provision be added to the proposed zoning for the Block 2 lands in order to address two issues. The first is to ensure orderly and appropriate future residential development, and the second is to ensure that any archaeological resource concerns pertaining to the subject lands have met licensing and resource conservation requirements.

**Consent Application HM/B-08:133**

The purpose of Consent Application HM/B-08:133 was to convey a vacant parcel of land for residential purposes, and to retain a parcel of land containing an existing single detached dwelling for residential purposes. The application was conditionally approved by the Committee of Adjustment on January 8, 2009. One of the conditions was the approval of the subject rezoning application (see Appendix “C” - Condition No. 4).

Initially, Consent Application HM/B-08:133 was scheduled to be heard by the Committee of Adjustment on November 6, 2008. The original application entailed the severance of a parcel of land which had no frontage and, as such, was land locked. Staff recommended that the application either be amended to include frontage along Rymal Road East, or be tabled until such time as the “Sandrina Gardens” approved plan of subdivision was registered and Assisi Street was extended to provide frontage along the southerly boundary of the subject lands. The application was amended to include frontage along Rymal Road East for the lands to be severed.
An e-mail from an adjacent landowner, requesting the results of Consent Application HM/B-08:133 and expressing concern over the parcel to be severed being landlocked, was received with the initial consent application. In addition, a letter dated November 14, 2008, was sent on behalf of DiCenzo Construction Company Limited, who is also an adjacent landowner, objecting to the consent application. The reason for the objection was concern over the severed parcel being landlocked and not having access to a municipal roadway. Further, it was the adjacent landowner’s position that Consent Application HM/B-08:133 was premature, as it was dependent upon the development of the abutting “Sandrina Gardens” subdivision lands.

At the January 8, 2009, Committee of Adjustment meeting, A. DiCenzo, of DiCenzo & Associates, was present and requested that a condition and note be imposed on Consent Application HM/B-08:133; that if the application was approved by the Committee of Adjustment, the owner/applicant of the subject lands dedicate a 0.3m reserve to the City along the entire southerly boundary of the severed lands. The requested note was that the lands to be severed not be permitted access to the future adjacent proposed road located within the “Sandrina Gardens” approved plan of subdivision until the owner has paid their fair share of the costs associated with the future road. During this meeting, Planning staff advised that the “Sandrina Gardens” draft approved plan of subdivision already had a 0.3m reserve in place, abutting the southerly boundary of 796 Rymal Road East. The reserve is identified as Block 299 within the “Sandrina Gardens” draft approved plan of subdivision. In addition, the note requested by A. DiCenzo has been included as part of the consent agreement condition of Consent Application HM/B-08:133 (see Appendix “C” - Condition No. 2b). Further, staff notes that the consent agreement was registered on August 26, 2009, as Instrument No. WE640664, and Condition 2 of Consent Application HM/B-08:133 has been satisfied, thereby ensuring that the concerns of the adjacent landowner have been addressed.

Reference Plan 62R-18455 shows the retained (Part 1) and severed (Part 2) lots created through the approved Consent Application (see Appendix “D”). The two lots meet the minimum lot frontage, minimum lot area, and setback requirements of the “R-4” (Small Lot Single Family Dwelling) District. Further, the “R-4” zoning is consistent with the existing and proposed development form in the surrounding area.

**Details of Submitted Application**

| Location:  | 796 Rymal Road East (see Appendix “A”) |
| Owner:     | Ernestine Mascolo                      |
| Agent:     | Richard Mascolo                        |

**Property Description:**

- **Lot Frontage:** 32 metres
- **Lot Depth:** ± 68.58 metres
- **Area:** ± 2,926.1 square metres

**Servicing:** Existing Watermain and separate Storm and Sanitary Sewers fronting the subject lands on Rymal Road East.
EXISTING LAND USE AND ZONING:

<table>
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<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
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<td>Single Detached Dwelling</td>
<td>“AA” (Agricultural) District</td>
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<td>Surrounding Lands</td>
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<tr>
<td>North</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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<td>South</td>
<td>Vacant and Single Detached Dwellings</td>
<td>“R-4” (Small Lot Single Family Dwelling) District</td>
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<tr>
<td>East</td>
<td>Single Detached Dwellings</td>
<td>“AA” (Agricultural) District</td>
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<tr>
<td>West</td>
<td>Single Detached Dwelling and Vacant</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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<td>“R-4” (Small Lot Single Family Dwelling) District</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the Provincial Policy Statement.


   (iii) It conforms to the “Residential” designation of the City of Hamilton Official Plan and the approved Broughton West Neighbourhood Plan.

   (iv) The proposed change in zoning satisfies a condition of approval for Consent Application HM/B-08:133 (Appendix “C” - Condition No. 4).

   (v) It is considered to be compatible with the existing and planned development in the immediate area.

2. The proposed changes in zoning are considered to be compatible with existing and planned development in the surrounding area. Specifically, the change in zoning to the “R-4” (Small Lot Single Family Dwelling) District for Block 1 provides an appropriate zoning designation, which allows an existing single detached dwelling to be maintained, and facilitates the potential for a future additional residential lot to be created.
Staff notes that the existing dwelling on the Block 1 lands has a 0.0m side yard setback on the easterly side of the parcel. The City of Hamilton Zoning By-law No. 6593 permits an “R-4” (Small Lot Single Family Dwelling) District to provide one side yard of 1.2m, with no side yard being required on the opposite side if the adjacent property is zoned “R-4”. However, the Zoning By-law also states that where a zoning district does not require one side yard, eaves, gutters and footings for a single detached dwelling may encroach onto an abutting lot in the same district through the provision of an encroachment agreement and maintenance easement. As Condition No. 6 of Consent Application HM/B-08:133 requires that footings or eaves do not overhang the side lot line, or an encroachment agreement and maintenance easements must be registered on title, no site specific provisions are required for the Block 1 lands.

The proposed change in zoning, as well as the inclusion of the ‘H’ Holding provisions for the Block 2 lands, provides an appropriate zoning designation while ensuring that two issues will be addressed. The first ‘H’ Holding provision ensures the orderly development of future residential lots. This is achieved through the requirement for submission and approval of a draft plan of subdivision or consent applications. As details pertaining to the number of future residential lots have not yet been determined, this ‘H’ Holding provision allows for some flexibility in terms of the Planning Act application submitted. The second ‘H’ Holding provision ensures that the archaeological potential of the subject lands has been adequately assessed. Staff notes that an archaeological assessment is a condition of Consent Application HM/B-08:133 (see Appendix “C” - Condition No. 3). However, as the Block 2 lands will not be developed in the immediate future, and as the archaeological assessment condition will not be satisfied prior to the January 15, 2010, final approval date of the aforementioned Consent Application, the archaeological assessment has been included as an ‘H’ Holding provision on the Block 2 lands. Staff notes that if the draft By-law is approved as submitted (see Appendix “B”), the archaeological assessment condition of Consent Application HM/B-08:133 (see Appendix “C” - Condition No. 3) will be satisfied.

The subject rezoning application provides an opportunity for future residential infill development, which will utilize existing infrastructure and be a desirable and appropriate development form.

Therefore, the proposal to rezone the subject lands to the “R-4” (Small Lot Single Family Dwelling) District for Block 1, and “R-4” - ‘H’ (Small Lot Single Family Dwelling - Holding) District for Block 2, is considered to be compatible with the existing and planned development in the surrounding area.

**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not support the proposed changes in zoning, the condition of Consent Application HM/B-08:133 will not be satisfied, and the Committee of Adjustment Approval will lapse. The lands would then be subject to the regulations of the “AA” (Agricultural) District.
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 an amendment to the Zoning By-law.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with Policy 1.1.3.1 of the Provincial Policy Statement, which focuses growth in settlement areas.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety. As the subject lands are located adjacent to Rymal Road East, a condition of approval of Consent Application HM/B-08:133 was that the owner enter into a consent agreement with the City of Hamilton for, but not limited to, the purpose of a noise warning clause (see Appendix “C” - Condition No. 2a). The consent agreement was registered on August 26, 2009, as Instrument No. WE640664, and Condition 2 of Consent Application HM/B-08:133 has been satisfied. Staff notes that once the development pattern of the Block 2 lands is known, a noise study may be a requirement of a future development application.

Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or 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, development and site alteration, which maintains the heritage integrity of the site, may be permitted. The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Culture for determining archaeological potential:

1) Within 250 metres of known archaeological sites;

2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
3) Along historic transportation routes.

These criteria define the property as having archaeological potential. However, as the Block 1 lands contain an existing single detached dwelling, an archaeological assessment is not warranted. The Block 2 lands are located within the portion of the property which is vacant, and as such, an archaeological assessment is required to confirm that any archaeological resources present have met licensing and resource conservation requirements. An ‘H’ Holding provision will be attached to the Block 2 lands to ensure that the archaeological potential of the subject parcel is assessed.

Based on the foregoing, the application to provide the appropriate zoning for an existing single detached dwelling, and to allow for additional future residential development on the subject lands, is consistent with the policies of the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshoe (Places to Grow)**

Section 1.2.2 of the Growth Plan for the Greater Golden Horseshoe provides the guiding principles to achieve the vision of the Plan. These guiding principles seek to, but are not limited to, “building compact, vibrant and complete communities”, and “optimizing the use of existing and new infrastructure to support growth in a compact, efficient form”. The subject application maintains an existing use, while creating the potential for additional residential development (Block 1), and presents an opportunity to build a more compact community by providing for additional development potential on an underutilized, vacant portion of the subject lands (Block 2). This application provides an opportunity to increase residential density in an area where adequate commercial, recreational, and transportation opportunities are available.

Further, staff notes that the subject lands are located within a designated Greenfield area, as defined by Places to Grow. Policy 2.2.7.1 a) states that “new development taking place in designated greenfield areas will be planned, designated, zoned, and designed in a manner that contributes to creating complete communities”. The subject application results in zoning designations being applied to the lands which are suitable and complement the development form planned for the surrounding area. In addition, the subject application provides an opportunity to contribute to the minimum density target of 50 residents and jobs combined per hectare set by Places to Grow.

Therefore, the application to provide the appropriate zoning designation for an existing single detached dwelling, and to allow for additional future residential development on the subject lands, is consistent with the policies of the Growth Plan for the Greater Golden Horseshoe.

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” on Map No. 1 Regional Development Pattern in 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.

Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts, and encourages maintenance and protection. As outlined earlier, the subject lands have been determined to be located within an area of archaeological potential. As the Block 2 lands are located within the portion of the property which is vacant, an archaeological assessment is required to confirm that any archaeological resources present have met licensing and resource conservation requirements. As such, an ‘H’ Holding provision will be attached to the Block 2 lands to ensure that the archaeological potential has been assessed.

As the nature of the application is to change the zoning to facilitate the approval of a severance application to provide the appropriate zoning designation for an existing single detached dwelling, and permit additional future residential development of the subject lands, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

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

“A.2.1.1 The primary uses permitted in the areas designated on Schedule “A” as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

A.2.1.8 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 practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7, and the Neighbourhood Plan Policies of Subsection D.2.

C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value.”

Staff notes that the zoning designation for the existing single detached dwelling (Block 1) maintains the residential character of the surrounding neighbourhood. In addition, although the owner has not provided specific details regarding the number of residential lots proposed for the Block 2 lands, staff notes that the proposed “R-4” - ‘H’ (Small Lot
Single Family Dwelling - Holding) District zoning provides for a development form which is appropriate and consistent with the existing and planned development in the surrounding area.

Based on the forgoing, the application to rezone the subject lands, whereby an existing single detached dwelling and additional future residential development is permitted, conforms to the policies of the Hamilton Official Plan.

**Neighbourhood Plan**

The subject lands are identified as “Single and Double Residential” on the approved Broughton West Neighbourhood Plan. As the proposal is to provide an appropriate zoning designation for an existing single detached dwelling, and to permit additional future residential development which will front onto the roadway contemplated by the Neighbourhood Plan, the proposal conforms to the Neighbourhood Plan.

**New Urban Hamilton Official Plan**

The New Urban Hamilton Official Plan was adopted by Council on June 29, 2009, but is not yet in effect. The subject lands are designated as “Neighbourhoods”, and are located adjacent to Rymal Road East which is identified as a Secondary Corridor on Schedule “E” Urban Structure. Staff notes that the Neighbourhoods designation permits a range of residential densities, as well as infill development, which is compatible with the surrounding development form. As the subject proposal is to permit an existing single detached dwelling and additional future residential development, the proposal would conform to the new Hamilton Official Plan.

**RELEVANT CONSULTATION:**

The following Departments/Agencies had no comments or objections:

- Infrastructure Planning and Source Water Protection, Public Works Department.
- Environmental Planning Section, Public Works Department.
- Tax Administration/Banking Section, Corporate Services Department.
- Traffic Engineering and Operations Section, Public Works Department.
- Health Protection Division, Public Health Services Department.
- Budgets and Finance Division, Corporate Services Department.
- Hamilton Police Services.
- Hamilton Emergency Services.
- Hamilton Conservation Authority.
- Horizon Utilities Corporation.
- Municipal Property Assessment Corporation.
- Union Gas Limited.
- Bell Canada.
- Canada Post.
- Source Cable and Wireless.
- Hamilton-Wentworth District School Board.
• Hamilton-Wentworth Separate School Board.
• French Public School Board.
• French Catholic School Board.

The **Strategic Planning Section, Public Works Department**, has indicated that the proponent should be aware of the recommendations of the Hannon Creek Subwatershed Master Drainage Plan and the South Mountain Transportation Master Plan. The City of Hamilton Stormwater Master Plan for source and conveyance control should be incorporated into all servicing plans due to the increase of impervious area.

The **Forestry and Horticulture Section, Public Works Department**, has indicated that there are three Municipal Tree Assets located within the road allowance fronting the subject lands. As such, Tree Management will be a condition attached to future development.

**PUBLIC CONSULTATION**

In accordance with Council’s Public Participation Policy, preliminary circulation of the application is not required if the application is part of the implementation of a planning study or other application, such as a consent, which has been approved within one year of public involvement and participation opportunities. Since the property was also the subject of Consent Application HM/B-08:133 in January 2009, which was a public process, preliminary circulation of the Zoning By-law Amendment was, therefore, not required.

As mentioned previously, one e-mail and one letter was received in response to the circulation of Consent Application HM/B-08:133. As previously noted, an abutting landowner, A. DiCenzo, was present at the January 8, 2009, Committee of Adjustment meeting.

In accordance with the new provisions of the **Planning Act**, Notice of Complete Application for the Zoning By-law Amendment was circulated to 196 property owners within 120 metres of the subject property on August 7, 2009. To date, one formal response has been received (see Appendix “E”). The response was sent on behalf of DiCenzo Construction Company Limited, and expressed that the subject application should be denied as it should not take place in isolation of the “Sandrina Gardens” development under which DiCenzo Construction Company Limited has upfronted all servicing to the area.

Staff is of the opinion that the aforementioned response has been addressed through the satisfaction of Condition 2 b) of Consent Application HM/B-08:133 (see Appendix “C”). This condition ensures that the proportionate costs associated with the Block 2 lands, fronting the proposed future road, will be paid to the City of Hamilton prior to access to the roadway being granted. Further, the ‘H’ Holding provision for the Block 2 lands pertaining to the requirement for approval of a subdivision application or consent applications ensures that the development of the subject lands will not occur prior to the construction of the adjacent proposed road referred to as Street “B” and, in turn, will not be developed in isolation (see Appendix “F”).
A Public Notice sign for the Zoning By-law Amendment was posted on the property on August 21, 2009. Additionally, 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 proposal represents a form of development that is compatible with the existing and planned developments in the neighbourhood.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
As the subject application recognizes an existing use, and provides an opportunity for additional future residential development, the subject application is not anticipated to have any negative effects on the environmental well-being.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment and development 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

:DD
Attachs. (6)
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 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. 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. That Sheet No. E-38e of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended as follows:

   (a) by changing the zoning from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District, on the lands identified as Block 1; and,

   (b) by changing the zoning from the “AA” (Agricultural) District to the “R-4” - ‘H’ (Small Lot Single Family Dwelling - Holding) District, on the lands identified as Block 2;

   the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the ‘H’ Holding provision will prohibit the development of the land identified as Block 2, until such time as:

   i) A draft plan of subdivision or consent applications have been submitted and approved, to the satisfaction of the Director of Planning; and,

   ii) The proponent conducts an archaeological assessment of the subject lands and mitigates, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling, or other soil disturbances shall take place on the subject lands prior to the removal of this Holding provision, and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

   City Council may remove the ‘H’ symbol and, thereby give effect to the “R-4” (Small Lot Single Family Dwelling) District, by enactment of an amending By-law once the above conditions have been fulfilled.

3. That 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 “R-4” (Small Lot Single Family Dwelling District provisions.

4. That 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 [redacted] day of [redacted], 2009.

__________________________________________  ____________________________________________
FRED EISENBERGER  KEVIN C. CHRISTENSEN
MAYOR  CLERK

ZAR-09-028
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.6593

Subject Property
766 Ryland Road East

Block 1 - Change in Zoning from the "AA" (Agricultural) District to the "R-4" (Small Lot Single Family Dwelling) District

Block 2 - Change in Zoning from the "AA" (Agricultural) District to the "R-4-H" (Small Lot Single Family Dwelling - Holding) District
Appendix "C" to Report PED09288 (Page 1 of 2)

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. HM/B-08:133
SUBMISSION NO. B-133/08

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 796 Ryland Road East, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Richard Mascolo on behalf of the owner Ernestina Mascolo, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular shaped vacant parcel of
land having a frontage of 9.8m (32.48' ) and an area of 2,084.07m² (22,433.48 sq ft.) for residential purposes, and to retain a parcel of land having a frontage of 22.1m (72.50') and an area of 942.01m² (9,953.61 sq ft.) containing an existing single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of
   Hamilton Official Plans.

2. The Committee considers the proposal to be in keeping with development in the area.

3. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposed Ontario Land Surveyor's Reference Plan to the
   Committee of Adjustment Office, unless exempted by the Land Registrar.

2. The owner shall enter into and register a Consent Agreement with the City of Hamilton,
   in the satisfaction of the Manager of Development Engineering for the purpose of the
   two items, as stated below:

   a) "Purchasers/tenants are advised that sound levels due to increasing road traffic may
   occasionally interfere with some activities of the dwelling occupants as the sound levels
   may exceed the municipality’s and the Ministry of the Environment’s noise criteria."

   b) That the subject land will be denied access to the future adjacent proposed road as
   shown on the approved plan of subdivision known as "Sandrina Gardens" until such time
   the proportionate share, based on the subject land's frontage, of any applicable costs
   associated with the subject land's frontage on the future road are paid to the City of
   Hamilton, in accordance with City policies in effect at the time access is requested for
   the subject property from the future road.

3. That the owner shall carry out an archaeological assessment of the entire development
   property and mitigate, through preservation or resource removal and documentation,
   adverse impacts to any significant archaeological resources found. No demolition,
grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological remains be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8952).

4. That the owner/applicant applies for and receives final approval of a Rezoning Application.

5. The applicant shall ensure compliance with Ontario Building Code requirements regarding separation distances to the satisfaction of the Planning and Economic Development Department (Building Services Division).

6. Submit proof to the satisfaction of the Planning and Economic Development Department (Building Services Division) that the footings and sills do not overhang the side lot line, or alternatively, the applicant shall be required to enter into an encroachment agreement and establish the necessary maintenance easements, which must be properly registered on title.

7. Submit proof to the satisfaction of the Planning and Economic Development Department (Building Services Division) that the shed located on the severed lands has been removed or demolished.

8. That the owner submit to the Committee of Adjustment office an administration fee of $15.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 8th day of January, 2009.

M. Biddle, Chairman

C. Lewis

D. Sorwatak

D. Smith

L. Gaddie

D. Switzer

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS January 15th, 2009. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (January 15th, 2010) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 55(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS February 4th, 2009.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
Drmanac, Diana

From: Allan Buist
Sent: Friday, August 28, 2009 11:30 AM
To: Drmanac, Diana
Subject: Zoning By-Law Amendment Application No. ZAR-09-028 - 796 Rymal Road East

Hi Diana. We are the solicitors for Di Cenzo Construction Company Limited. Our client owns lands to the south of the property which is the subject of this application. We confirm receipt of your Notice of Complete Application in respect of this matter and await notice of the public meeting. In the interim, please note that our client objects to the subject re-zoning. As you are aware, our client is developing on overall plan of subdivision upon its lands and the development of the subject lands ought not take place in isolation of our client’s development, particularly in light of our client’s upfronting of all relevant servicing to the area. We will make formal submissions in this regard at the public hearing of this matter but request at this time that our client be advised of any adoption of the zoning by-law amendment or refusal and to be registered as a delegate at the public meeting once scheduled.

Should you have any questions or concerns, or require anything further, please do not hesitate to contact me. Regards, Allan Buist. (905) 574-3300.