SUBJECT: Application for an Amendment to the City of Hamilton Official Plan and Hamilton Zoning By-law No. 6593 for Lands Located at 315, 337 and 351 Beach Boulevard (Hamilton) (PED08223) (Ward 5)

RECOMMENDATION:

(a) That approval be given to Official Plan Amendment Application OPA-08-008, by Branthaven Beach House Inc., c/o Arden Semper, for Official Plan Amendment No. _____, to amend Schedule ‘A’, of the City of Hamilton Official Plan, from “Commercial” to “Residential”, for the lands located at 315, 337 and 351 Beach Boulevard (Hamilton), as shown on Appendix “B” to Report PED08223, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED08223, be adopted by City Council.

(ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan.

(b) That approval be given to amended Zoning Application ZAC-08-030, by Branthaven Beach House Inc., c/o Arden Semper, for changes in zoning from the “C/S-1435” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, and “H/S-1435” (Community Shopping and Commercial, Etc.) District, Modified, to the “RT-20/S-1593” (Townhouse-Maisonette) District, Modified, for the lands located at 315, 337, and 351 Beach Boulevard (Hamilton), as shown on Appendix “A” to Report PED08223, on the following basis:

(i) That the draft By-law, attached as Appendix “C” to Report PED08223, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
SUBJECT: Application for an Amendment to the City of Hamilton Official Plan and Hamilton Zoning By-law No. 6593 for Lands Located at 315, 337 and 351 Beach Boulevard (Hamilton) (PED08223) (Ward 5) - Page 2 of 14

(ii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the City of Hamilton Official Plan upon approval of Official Plan Amendment No.__.

(iii) That the implementing By-law not be presented to Council for enactment until such time as the following are completed:

1. A Record of Site Condition, to the satisfaction of the Director of Planning, and acknowledgement from the Ministry of Environment;

2. An Archaeological Assessment, to the satisfaction of the Director of Planning and Ministry of Culture; and,

3. A Noise Impact Study, to the satisfaction of the Director of Planning.

(c) That upon finalization of the implementing By-law, the Hamilton Beach Neighbourhood Plan be amended to reflect the proposed changes.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is for an Official Plan Amendment and changes in zoning in order to permit the redevelopment of the subject lands for a mix of 36 townhouses and 16 maisonette dwellings, as well as a proposed mixed-use retail/residential component comprised of 4 dwelling units and 3 local commercial units fronting onto Beach Boulevard, as outlined on the preliminary site plan (see Appendix “D”). The subject lands were formerly the location of the Dynes Tavern and affiliated gas station (315 and 337 Beach Boulevard), and a single detached dwelling (351 Beach Boulevard).

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms with and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan. Also, the proposal is compatible with existing and planned development in the surrounding area.
BACKGROUND:

Proposal

The subject lands are approximately 0.85 hectares (2.09 acres) in area and are designated and zoned primarily for “Commercial” uses. A portion of the subject lands was the former location of the Dynes Tavern and gas station. The current owner has also acquired a residential property to the north of the site (351 Beach Boulevard), which is also subject to this rezoning application. The current proposal is for the construction of 36 townhouse units with a mix of 16 back-to-back maisonettes, as well as 4 dwelling units located above the 3 proposed commercial retail units that front onto Beach Boulevard. Modifications to the By-law are required to:

- Permit a maximum of 250 square metres of commercial uses, including a restaurant with an outdoor patio, in a residential district;
- Increase the maximum height from 11 metres to 12.5 metres;
- Reduce the separation distance between two buildings from 15 metres to 10.4 metres;
- Reduce the minimum yard depth abutting a street from 6 metres to 0 metres for the maisonette units with commercial, and 2.4 metres for the townhouse units;
- Reduce the minimum side yard setback from 6 metres to 3 metres;
- Reduce the minimum lot area from 10,920 square metres to 8,460 square metres;
- Reduce the minimum landscape area from 40% to 30%;
- Increase the number of townhouse units in a continuous row from 8 to 11;
- Permit tandem parking for the townhouse and maisonette units;
- Reduce the size of parking stalls from 2.7m x 6m to 2.6m x 5.5m;
- Permit encroachment of a balcony into the required side yard if distant a least 3.5 metres, whereas the By-law states it must be one third of its width;
- Permit encroachment of a roofed-over or screened but otherwise unenclosed porch to project into the required front yard of 1.0 metre, whereas the By-law requires 3.0 metres; and,
- Permit encroachment of an uncovered porch at the second storey to project into a required rear yard if 1.5 metres from the rear lot line, and stairs to project 0.5 metres
from the rear lot line, whereas the By-law does not permit the projection of an uncovered porch at the second storey with stairs.

**Location:** 315, 337 and 351 Beach Boulevard  
(see Appendix “A” attached)

**Owner:** Branthaven Beach House Inc. (c/o Arden Semper)

**Property Description:**  
**Frontage:** 116.75 metres  
**Flankage:** 65.23 metres (along Dynes Park Avenue)  
**Lot Area:** 0.85 hectares (2.09 acres)

### 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><strong>North</strong></td>
<td>Single Detached Dwellings</td>
<td>“C/S-1435” (Urban Protected Residential, - One and Two Family Dwellings, Etc.) District, Modified</td>
</tr>
<tr>
<td><strong>South</strong></td>
<td>Single Detached Dwellings</td>
<td>“C/S-1435” (Urban Protected Residential, - One and Two Family Dwellings, Etc.) District, Modified</td>
</tr>
<tr>
<td><strong>East</strong></td>
<td>Passive Recreation</td>
<td>Open Space (P4) Zone</td>
</tr>
<tr>
<td><strong>West</strong></td>
<td>Vacant/Community Hall</td>
<td>“C/S-1436” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District</td>
</tr>
</tbody>
</table>

### ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposal is consistent with the Provincial Policy Statement.
(ii) The proposal conforms with, and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan.

(iii) The proposal is compatible with the existing and planned development in the immediate area, and is in keeping with the character of the Beach Neighbourhood.

(iv) The proposal provides the opportunity for infill development and intensification.

2. The changes in zoning will remove the existing two modified Zones, thereby permitting a single consolidated Zone that will regulate all the residential units as well as the small commercial retail component.

3. The current owner has had preconsultation discussions with City staff, the Ward Councillor and the Beach Neighbourhood Group with respect to this proposal. At that time, there was no objection to the proposal in principle as it would complement the existing character of the Beach Neighbourhood. In this regard, the preliminary design concept of the residential and commercial units fronting Beach Boulevard includes an enhanced architectural front yard façade and wrap around porches at both ends of the townhouse buildings, various elevational treatments, second floor balcony and building materials (see Appendix “E”). This proposed design and building orientation will break up the streetscape by creating an aesthetically pleasing and enhanced architectural look. This proposed concept will be reviewed in further detail during the site plan approval process.

4. Through formal circulation of the applications to public agencies and departments, concerns were identified with respect to noise, site contamination and archaeology. At the preconsultation stage, the applicant was made aware of these requirements, and submitted supporting studies with the applications to address the concerns mentioned. The archaeological assessment (Stage 4) is currently before the City and the Ministry of Culture for final review and clearance. It is expected to be finalized imminently and, as such, it is appropriate to hold the implementing By-law in abeyance rather than place the subject lands in a Holding zone.

The applicant also submitted a noise assessment, which is currently before Jade Acoustics for peer view. The report suggests two recommendations which involve physical mitigation. Specifically, the mitigation would be in the form of an acoustical barrier (1.8 metre high noise fence) for Units 29 and 50, and the walls (thicker gypsum, rigid insulation, and vapour barrier) as well as acoustical windows for Units 23 to 56. These noise mitigation measures will be formally addressed during the site plan control stage, as well as the inclusion of a condition in the Draft Plan of Condominium. Accordingly, it is appropriate to hold
The implementing By-law in abeyance pending completion of the Peer Review for the noise assessment.

The applicant has also submitted a Phase 1 Environmental Site Assessment with the prescribed information and fee to the City on July 18, 2008, with regards to Record of Site Condition (RSC). The RSC has been forwarded to the Ministry of Environment (MOE) and, as such, it is appropriate to hold the By-law in abeyance pending Ministry acknowledgement of the RSC.

5. The proposed change in the existing “Commercial” designation to “Residential” can be justified as the current “Commercial” designation reflects the previous use of 315 and 337 Beach Boulevard as a restaurant and gas station. In the past, Beach Boulevard operated as a main arterial road with through traffic connecting the Hamilton Beach Strip to Burlington. Over the years, logistics and patterns of traffic movement have changed; traffic tends to now travel along Eastport Drive and the Queen Elizabeth Way (QEW). This has transitioned Beach Boulevard into more of a local road for residential and local commercial uses to support the needs of the Beach Community. Official Plan policies allow for the redesignation and have been specifically described in this report (see Policies Affecting Proposal). Also, the proposal retains a small local commercial component that is more suitable for the site, and the Beach Neighbourhood.

6. The proposed zoning modifications to the parent “RT-20” (Townhouse - Maisonette) District are explained below:

**Commercial Uses**

The proposal has provided for the inclusion of local commercial uses in the ground floor of the Maisonette buildings fronting onto Beach Boulevard (see Appendix “D”). They will serve the local residents and the total gross floor area (GFA) in each building shall be limited to 125 square metres. Parking is not required for commercial uses with less than 450 square metres of GFA, the only exception is with respect to restaurants which require one parking space for every 6 persons that can be legally accommodated. In this regard, 9 parking spaces would be required for the proposed 54 seat restaurant. From a preliminary review of the concept site plan, the applicant can provide a total of 4 parking spaces on site for the commercial use, which will be addressed by modifying the parking ratio for the restaurant use. The provision of 4 parking spaces can be supported since the use serves the local area and is oriented to encourage pedestrian access.

Further, Hamilton Zoning By-law No. 05-200 provides parking requirements based on commercial uses not otherwise identified in Section 5: Parking. This standard parking requirement is calculated at 1 space for each 30 square metres of GFA which accommodates such use. Accordingly, since the proposed restaurant has a total area of 125 square metres, 5 parking spaces would be
required. This proposal would be in keeping with this new City requirement. At the preconsultation stage, there was discussion for the opportunity to provide a vehicular lay-by on Beach Boulevard. This lay-by opportunity will be further reviewed at the Site Plan stage and would involve an agreement between the City and the applicant.

**Height**

An increase in height from the permitted 11.0 metres to 12.5 metres can be supported as it is considered minor in nature and would not negatively impact the character of the neighbourhood. A recent approval to the northwest of this proposal is similar in type and is currently being constructed. The Beach Neighbourhood Group was pre-consulted and had no objection to the height modification.

**Yard Setbacks and Minimum Depth Fronting a Street**

Reductions in the separation distances between Buildings “A” and “B” (see Appendix “D”) from 15 metres to 10.4 metres, as well as yard depth fronting a street from 6 metres to 0 metres for the maisonette dwellings with commercial units (Buildings “E” and “F”) and 2.4 metres for the townhouse units (Buildings “C” and “D”), have been requested. The Draft By-law also reduces requirements for encroachment of balconies and porches into the front, side and rear yards, and stairs into the rear yard. These encroachments are permitted as-of-right on the first floor, but not for the second floor. Given the unique design of the site and the attention to site function and detail, this request is supportable as it is consistent with new urbanism practices and site plan guidelines.

**Landscaped Area**

The required landscaping in the “RT-20” (Townhouse-Maisonette) District is 40% for the entire site. The applicant has proposed 30% landscaping. This reduction is considered minor in nature, and can be supported given the locational attributes of the site having frontage and access to the Lake Ontario waterfront and trail system. Furthermore, at the site plan stage, the landscape plan will be reviewed to ensure that an enhanced level of design is provided to coincide with the passive open space along the rear of the property abutting Lake Ontario, and is consistent with the urban character of Beach Boulevard.

**Continuous Row**

The Hamilton By-law only permits a continuous row of 8 townhouse units. The proposed modification is to allow for two of the townhouse blocks facing Lake Ontario to be a continuous row of 11 units each. The preliminary site plan shows the proposed row units located in the rear of the property in Buildings A and B
SUBJECT: Application for an Amendment to the City of Hamilton Official Plan and Hamilton Zoning By-law No. 6593 for Lands Located at 315, 337 and 351 Beach Boulevard (Hamilton) (PED08223) (Ward 5) - Page 8 of 14

(Appendix “D”), which remove them from the streetscape and Beach Boulevard and, as such, will not have an adverse effect on the adjacent residential uses. More importantly, this type of built form creates a 10 metre open public space for pedestrian access to the open space corridor along Lake Ontario from Beach Boulevard, thereby creating a vista of the lake from the street.

**Tandem Parking for Residential Units**

The proposed development is comprised of 36 townhouses, 16 maisonettes and 4 dwelling units (above the commercial units). Zoning By-law No. 6593 requires a minimum of 72 parking spaces be provided for the amount of residential units proposed. The applicant has provided for a total of 73 parking spaces. This includes visitor parking, tenant parking, and a parking space in each of the garages. In addition, a vehicle could be parked on each of the 52 driveways, for a total of 125 on-site parking spaces. The By-law, however, does not permit vehicles to be parked in tandem (i.e. one in the garage and one in the driveway) for townhouses and maisonettes (tandem parking is permitted for single detached dwellings). This is considered minor and, therefore, supportable.

**Parking Size**

A reduction in the parking space dimensions from 2.7 metres by 6.0 metres to 2.6 metres by 5.5 metres is consistent with the requirement in the Hamilton Zoning By-law No. 05-200. This requirement will eventually be a City-Wide standard and can, therefore, be supported.

**Minimum Lot Area**

Based on the number of proposed units, the required minimum lot area is 10,920 square metres; whereas the proposed lands are approximately 8,460 square metres. This is supportable, as it is a viable infill development and provides an opportunity for intensification which is in keeping with the density and policy initiatives of the Places to Grow Plan and the Hamilton Official Plan.

**Outdoor Patio**

One outdoor patio is proposed. Since the By-law prohibits outdoor patios on lands that abut residential districts, the provisions of the By-law need to be modified to permit it. This modification is considered minor as the patio is centrally located on the site so as not to directly abut adjacent existing residential properties (i.e. between Buildings “E” and “F” - Appendix “D”). Also, the previous use of the property, Dynes Tavern, had an outdoor patio.
Alternatives for Consideration:

Should the application for amendments to the Zoning By-law and Official Plan not be approved, redevelopment of the subject lands for residential and commercial development would be permitted as-of-right, in accordance with the existing Zones.

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 and Official Plan.

Policies Affecting Proposal:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

However, 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, only development and site alteration which maintain the heritage integrity of the site may be permitted. The City, in consultation with the Ministry of Culture, has provided a partial or phased approach to the approval. The only outstanding concern is with respect to 351 Beach Boulevard, which will be completed fairly quickly as it will be mechanically stripped.

Additionally, Policy 1.1.1(c) outlines that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. Staff notes that a Record of Site Condition has been prepared for 315 and 337 Beach Boulevard, and the owner provided the prescribed information and fee on July 18, 2008.

Lastly, 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. Due to the proximity of the subject lands to the Queen Elizabeth Expressway, a noise assessment is required. Staff notes that a noise study, prepared by Planning & Engineering Initiatives Ltd., dated May 2008, was submitted with the subject application. The Study is subject to a Peer Review with all associated costs borne by the owner/applicant. Staff has initiated the peer review process.

In view of the foregoing, it is recommended that the implementing By-law be held in abeyance pending completion of the above-noted studies, to the satisfaction of the City and required Provincial Ministries.

**Places to Grow**

The Places to Grow Plan is more formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the *Places to Grow Act, 2005* by the Province of Ontario. The Plan formally came into effect on June 16, 2006. The Plan was created to provide a strategic vision and key policy planning direction to planners in one of the fastest growing metropolitan areas in North America. It is expected that 3.7 million people will move to the Greater Golden Horseshoe by 2031, and that 1.8 million new jobs will also exist by that time. The Plan’s main objective is to provide direction in developing communities with a better mix of housing, jobs, shops and services in close proximity. This development proposal will meet the general intent of the Places to Grow Plan, in that the subject lands are within the built boundary and provides for redevelopment of an under utilized site for residential uses along a transit route.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” 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.

However, Policy B-2.3 states that the identification of contaminated sites is essential. Redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. As noted above, staff has received a copy of the Record of Site Condition, but still require Ministry of Environment acknowledgement.

Additionally, 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 noted above, the Ministry of Culture has maintained archaeological interest in the subject lands.

**City of Hamilton Official Plan**

315 and 337 Beach Boulevard are designated “Commercial”, while 351 Beach Boulevard is designated “Residential” on Schedule ‘A’ - Land Use Concept in the City of Hamilton Official Plan. The policy frameworks of both these designations provide direction with respect to the proposed mixed-use development, as well as direction with respect to the change in designation from “Commercial” to “Residential”.

Section 2.1.3 identifies that land uses compatible to dwellings and serving the needs of local residents will be permitted. This Section specifically permits limited individual groups of commercial uses on sites not exceeding 0.4 hectares in area in accordance with the Commercial Polices set out in Section A.2.2 of the Hamilton Official Plan. It is the intent of this policy to not permit commercial uses in excess of 0.4 hectares, regardless of the entire site area (mixed-use). Therefore, given that the proposed commercial area is calculated at only 2.4% (Total Commercial Area divided by Total Lot Area) for the entire site, the intent of this policy is being maintained.

In addition to the above, reference is made to Section A.2.2. More specifically, Subsections 2.2.25 to 2.2.28 provide direction and policy for “Local Commercial” uses. It provides that 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. Based on the preliminary concept plan, the proposed commercial units would be of a type and style more local in nature and relying more so on pedestrian traffic. In conjunction with Section 2.1.3, and the interpretation provided, the “Local Commercial” policies reiterate the fact that the maximum site area for commercial development will not exceed 0.4 hectares, and is in keeping with the intent that the proposed uses will serve the local Residential areas.

More importantly, it is the intent of Council that “Local Commercial” uses be permitted within the “Residential” designation, subject to an amendment of the Zoning By-law and without further amending the Official Plan. The proposed implementing By-law (Appendix “C”) addresses this policy and limits the size and type of the commercial uses on the subject lands. Lastly, through Site Plan Control, staff, in conjunction with the developer, will endeavour to minimize the impacts of the proposed development on the adjacent land uses, while improving the visual scale, design and character of the proposed building.

Based on the foregoing, staff is of the opinion that this proposal would conform to the “Residential” policies of the Hamilton Official Plan.
Neighbourhood Plan

The subject lands are located within the Hamilton Beach Neighbourhood and the land use designations are “Tourist Commercial” and “1 & 2 Family Residential”. A change to the Neighbourhood Plan will be required to redesignate the subject lands to “Attached Housing”.

RELEVANT CONSULTATION:

Public Works Department (Forestry and Horticulture Section) has advised that there are Municipal Urban Forestry concerns and potential conflicts. There is one mature tree and two new caliper trees located on the Road Allowance of Beach Blvd. These trees are governed under The City of Hamilton Tree By-law 06-151. With the current information provided, it appears that Municipal Tree Assets may be impacted.

Municipal Tree Asset 228470 (29cm d.b.h Norway Maple) is located in the boulevard in front of 337 Beach Blvd. Two Tree Assets 228471 and 228472 (2X 5cm Ivory Silks) are located in front of 315 Beach Blvd. These three trees were found to be in good condition. Five trees were found to be on private property, the largest of these appears to be an 81cm d.b.h Native Red Maple.

Therefore, the Forestry and Horticulture Section requests that all trees within this proposed development area be accurately plotted on the Site Plan and identified, and that a Tree Management Plan be prepared by a Landscape Architect. The following category of trees must be addressed so a final determination of construction impact can be made: all trees on the Municipal Road Allowance or other Municipal Property. All trees shall be surveyed and plotted accurately on the plan. The determination of ownership of all trees is the responsibility of the applicant, and any civil issues which may exist between property owners with respect to trees must also be resolved by the applicant.

Proposed grade and surface treatment changes within the driplines, as well as property lines, building footprints, driveways, utility construction corridors and temporary access roads must be accurately shown on the submission. If it is determined that existing trees can remain, a Tree Protection Zone Detail with notes showing Tree Preservation Techniques shall be included on the submission, as per the Tree Preservation and Protective Measures for Trees Affected by Construction Policy.

Construction outside the Tree Protection Zones may impact retained trees, 85% of a trees roots are located within the top 46cm of soil. Roots are the most important component of a tree, and soil compaction which reduces the soil pore space below an ideal 50%, can be devastating. Roots provide anchorage, storage of carbohydrates, absorption of minerals and the conduction of water and nutrients. Roots need space, oxygen and water to survive, and soil compaction during construction closes the soils pores which reduces the roots ability to function.
Grade changes resulting in the piling of soil over the root system also adversely affects the roots ability to function and can lead to tree mortality. As little as 10 centimetres of additional soil is enough to smother fine roots and harm a sensitive mature tree. The exposure and severing of roots through the grading process is no less detrimental to the vigor of trees; severing one major root can cause the loss of up to 25% of the roots system. Therefore, any construction in close proximity to Municipal trees can only have detrimental effects. With this in mind, all work adjacent to Municipal driplines should be completed with all effort to maintain a minimum impact with absolute minimal grade changes and back fills.

All possible protective measures shall be fully implemented, as indicated in the policy, before work may commence, and not removed until its completion. The writer of these comments must be contacted to conduct a site review of the completed Tree Protection Zones before grading may commence.

All healthy trees on Municipal property which are found to be in conflict with this proposed development, and do not meet our criteria for removal, will be subject to a Replacement Fee, as outlined in the Reforestation Policy - Municipally Owned Lands. Director approval (Letter of Intent for Public Tree Removal as per the Public Tree Removal Policy in Tree By-law 06-151) will be required for the removal of all healthy Municipal trees where the total number is less than twenty-five. After approval, all Municipal tree and stump removals will be the responsibility of the Developer, and shall be removed during the construction process.

A review of the Streetscape Concept shows the installation of 8 trees on Municipal property. Tree species selection should take into account cultural requirements, cultivars (fruitless etc.) salt and heat tolerance, mature tree size, potential pest concerns, as well as the exposure. Species diversification must always be maintained. Trees planted on Municipal property must not be staked and have a minimum caliper of 50mm. The above concerns shall be formally addressed at the site plan control stage.

Corporate Services Department (Budgets and Finance Section) has advised that the applicant will be required to pay the commutation amount of $3,529.97 for sanitary sewer local improvements as of June 30, 2008. This will be addressed as a condition of draft plan approval of the proposed plan of condominium.

The following Departments and Agencies had no comments or objections:

- Hamilton Emergency Services
- Hamilton Hydro
- Canada Post
- Union Gas
- Ministry of Transportation
- Hydro One Networks
- Bell Canada
Public Consultation

In accordance with the new provisions of the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 69 property owners within 120 metres of the subject lands, and a Public Notice sign was posted on the property on June 23, 2008. One email was sent (see Appendix “F”) raising concerns with respect to landscaping and existing trees on the property, as well as future construction related issues. The concerns raised in the email from the resident with respect to landscaping and construction will be addressed through the site plan process. The Notice of Public Meeting was also circulated in accordance with the provisions 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
Shelter, care and satisfying employment are accessible to all Hamiltonians.

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

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

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

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

:JM
Attachs. (6)
Amendment No. ___

to the

Official Plan for the former City of Hamilton

The following text, together with Schedule “A”, “General Land Use Plan”, of the Official Plan of the former City of Hamilton, attached hereto, constitute Official Plan Amendment No. ___.

Purpose:

The purpose of this Amendment is to redesignate the subject lands from “Commercial” to “Residential” on Schedule “A”, General Land Use Plan, in order to permit medium density residential uses with an accessory local commercial component.

Location:

The lands affected by this Amendment are known municipally as 315, 337 and 351 Beach Boulevard.

Basis:

The intent of the Amendment is to permit a medium density residential development in the form of townhouses, apartments and back-to-back maisonettes with an accessory retail/commercial component. The basis for the redesignation is as follows:

- The proposed development is consistent with the Provincial Policy Statement.
- The proposed development offers an opportunity for infill development within the built-up urban area consistent with the intent of the Places to Grow Plan.
- The proposed development conforms with the Region of Hamilton-Wentworth Official Plan.
- The proposed development is compatible with the existing and planned development in the immediate area, and is in keeping with the character of the surrounding neighbourhood.
- The proposed development exceeds density policies, while maintaining a high quality of architectural design.
Actual Changes:

1. Schedule “A”, General Land Use Plan, be revised by redesignating the subject lands from “Commercial” to “Residential”, and identifying the subject lands as OPA No. ____, as shown on the attached Schedule “A” to this Amendment.

Implementation:

An implementing Zoning By-law Amendment will give effect to the intended use on the subject lands. A site plan, as well as a future plan of condominium, will be prepared to construct the units and establish tenure.

This is Schedule "1" to By-law No._______, passed on the ___ day of ____, 2008.

The
City of Hamilton

_________________________     _______________________
Fred Eisenberger               Kevin C. Christenson
Mayor                          Clerk
CITY OF HAMILTON

BY-LAW No. [REDACTED]

To Amend Zoning By-law No. 6593
Respecting Lands Located at 315, 337 and 351 Beach Boulevard

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 [REDACTED] of Report [REDACTED] of the Economic Development and Planning Committee at its meeting held on the day of [REDACTED] 2008, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law will be conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982, upon approval of Official Plan Amendment No. [REDACTED].
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. E-80c of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by:

   (i) changing Block “1” from the “C/S-1435” (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, to the “RT-20/S-1593” (Townhouse-Maisonette) District, Modified; and,

   (ii) changing Block “2” from the “H/S-1435” (Community Shopping and Commercial, Etc.) District, Modified, to the “RT-20/S-1593” (Townhouse-Maisonette) District, Modified;

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

2. That the “RT-20” (Townhouse-Maisonette) District regulations, as contained in Section 10E of Zoning By-law No. 6593, applicable to Blocks “1” and “2”, are modified to include the following special requirements:

   (a) That notwithstanding the definition of “Dwelling, Maisonette” in Subsection 2(2)(A)(viic) of Zoning By-law No 6593, for the purposes of this implementing By-law, a maximum of 125 square metres of commercial gross floor area shall be permitted on the ground floor with two dwelling units located above the commercial space in each building containing maisonette dwelling units;

   (b) That notwithstanding Subsection 10E(2) of Zoning By-law No. 6593, the following commercial uses shall be permitted only on the ground floor of a maisonette dwelling:

      • A business or professional person’s office, not including medical clinics;
      • A bank;
      • A photographer’s or artist’s studio and/or gallery;
      • A barber shop, hairdressing establishment, beauty parlor;
      • A tailor’s shop, dressmakers establishment, millinery shop, shoe repair shop or other wearing apparel workshop;
      • One restaurant or one caterer’s shop, but not including a drive-thru restaurant;
      • One outdoor patio;
• A retail bakery store with or without a bakery as incidental thereto or a confectionary store with or without a candy kitchen as incidental thereto;

• A retail store, or a show room or sample room, including one dealing in bona fide antiques; and,

• A laundry or dry cleaning collection and distribution establishment;

(c) Notwithstanding Subsection 10E(3) of Zoning By-law No. 6593, no building or structure shall exceed 12.5 metres in height;

(d) Notwithstanding Subsection 10E(4)(a) of Zoning By-law No. 6593, a yard abutting a street shall have a depth of not less than 2.4 metres from the street line for townhouse dwelling units, and 0.0 metres for maisonette dwelling units built in conjunction with commercial uses fronting onto Beach Boulevard;

(e) Notwithstanding Subsection 10E(4)(b) of Zoning By-law 6593, the minimum southerly and northerly side yards shall be 3.0 metres when at least one window to a habitable room of an end unit is facing a yard;

(f) Notwithstanding Subsection 10E(5)(c) of Zoning By-law No. 6593, a distance of not less than 10.4 metres between two exterior walls, each of which contains at least one window to a habitable room, shall be provided and maintained;

(g) Notwithstanding Subsection 10E(7)(a)(i) and (b)(i) of Zoning By-law No. 6593, the minimum lot area shall be 8,460 square metres;

(h) Notwithstanding Subsection 10E(10) of Zoning By-law No. 6593, the minimum landscaped area shall be 30%;

(i) Notwithstanding Subsection 10E(17) of Zoning By-law No. 6593, 11 townhouse units may be permitted in a continuous row;

(j) Notwithstanding Subsection 18(3)(vi)(cc)(iii) of Zoning By-law No. 6593, a balcony may project into a required side yard if distant a least 3.5 metres from the side lot line;

(k) Notwithstanding Subsection 18(3)(vi)(d) of Zoning By-law No. 6593, a roofed-over or screened but otherwise unenclosed porch at the first and/or second storey, may project into the required front yard if distant at least 1.0 metre from the front lot line; and,

(l) Notwithstanding Subsection 18(3)(vi)(e) of Zoning By-law No. 6593, an uncovered porch at the second storey may project into a required rear yard if distant at least 1.5 metres from the rear lot line, and the stairs may project if distant at least 0.5 metres to the rear lot line;
(m) Notwithstanding Subsections 18A(10) and (22) of Zoning By-law No. 6593, tandem parking shall be permitted for townhouse and maisonette dwelling units;

(n) Notwithstanding Table A of Subsection 18A, 2 parking spaces per townhouse and maisonette unit shall be required;

(o) Notwithstanding Subsections 18A(7) and Table 1(4) of Zoning By-law No. 6593, every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6 metres wide and 5.5 metres long, and the minimum number of required visitor parking spaces for a restaurant shall be 1 space per 14 persons who may be lawfully accommodated.

(p) Notwithstanding Subsection 18(11)(b)(1) of Zoning By-law No. 6593, an outdoor patio shall be permitted on the subject lands.

3. Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1593.

4. 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 “RT-20” (Townhouse-Maisonette) District provisions, subject to the special requirements referred to in Section 2.

5. Sheet No. E-35 of the District Maps is amended by marking the lands referred in Section 1 (a) of this by-law as S-1593.

6. Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1593.

7. 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

ZAC-08-030 & OPA-08-008
This is Schedule "A" to By-Law No. 08-

Passed the ........ day of .................., 2008

Schedule "A"

Map Forming Part of By-Law No. 08-____

to Amend By-law No. 6593

Subject Property
315, 337, 351 Beach Boulevard

Block 1 - Change in zoning from the "C/S-1435" (Urban Protected Residential, Etc.) District, Modified, to the "RT-20/S-1593" (Townhouse - Maisonette) District, Modified

Block 2 - Change in zoning from the "H/S-1435" (Community Shopping and Commercial, Etc.) District, Modified, to the "RT-20/S-1593" (Townhouse - Maisonette) District, Modified
First let me thank you for your assurance, during our recent phone conversation, that you would look into the discrepancy between our actual address and the address on the City/Location maps. It was very disconcerting when we first saw it. My conversation with you went a long way toward easing this concern.

Our concerns on the Branthaven Townhouse project relate to construction and landscaping issues, as follows:

**Landscaping:**
There are several large trees on lot 351. Those trees are beautiful, create a great deal of shade, are a possible historic site, as well as an asset to the environment. It would be a disgrace and travesty of justice to allow them to be demolished. There must be a way for Branthaven and, more specifically, the City to save those trees. In consulting with a local arborist it would appear that these trees average approximately 60 years old with the oldest being approximately 90. We would like the City to offer alternatives to Branthaven and the residents if in fact the trees are scheduled to be removed.

We are avid watchers of the City Council Meetings, and as such believe that the City and all of the council members support preservation, conservation and the environment. To this end this issue needs to be addressed under the banner of preservation, conservation and the environment.

In addition, as you are aware, the City is in the draft stages of creating a bylaw to 'protect woodlands and trees on private property'. I will be very interested in seeing this bylaw and how it develops and more specifically how these trees on lot 351 should be treated. This looks very good for Hamilton to protect and preserve our very important woodlands and trees.

**Construction:**
1) There is a problem on Beach Boulevard, specifically in front of these lots, each time it rains. The road floods and it is unacceptable. A huge amount of water covers at least half of the road. I assume from your comments during our phone conversation that Branthaven must solve that problem before they proceed with their townhouse plans. Please confirm.

2) According to the ‘preliminary concept plan’ there is only one parking spot per townhouse unit. If there is additional parking required where would they park? In reviewing the plans it would appear that there will be ‘on street’ parking. Is the City going to allow parking on the Boulevard in front of this development when there is no ‘overnight parking’ allowed anywhere else on Beach Boulevard? Please advise.

3) Up to this point we have not encountered any sewer problems. However, add 55 more townhouses with 3 to 4 occupants in each and this may prove to be beyond the capacity available. I am certain the City does not want to create sewers problems for your current residents and has addressed this issue. Please provide us with your findings.

4) We are concerned about the dust etc that will be raised by the construction. I assume you will ensure the dust will be kept to a minimum as well as a proviso that Branthaven will clean off the exterior (and possible interior) of all the surrounding dwellings during
construction and finally upon completion of construction. We would like a written guarantee from Branthaven and/or the City to this effect.

5) As you indicated in our conversation there is a noise bylaw when there is construction in a mostly residential area. I assume Branthaven will be advised of this bylaw and will be required to comply. Please provide us with a copy of the bylaw and our options if we experience a situation when Branthaven or its representatives do not comply with the bylaw.

6) There is a possibility of damage to our properties/dwellings as a result of heavy equipment on the construction site. I assume Branthaven will repair all damages caused to the existing properties/dwellings. We would like a written guarantee from Branthaven and/or the City to this effect.

7) In reviewing the ‘preliminary concept plan’ it was difficult to determine if the existing sidewalk and boulevard along Beach Boulevard in front of the three properties in question will remain. Please clarify.

In order for us to support this development we need our questions answered along with the requested guarantees.

There is, notwithstanding the above, the issue of the alleged illegal ‘tearing down’ of a possible Landmark. I assume the city is going ahead with a major focus to penalize the guilty parties to the greatest extent of the law.

Thank you for this opportunity to voice our concerns about the project as well as how this will affect the community as a whole and how it will affect every one of the existing residential homes in the close proximity of the Branthaven homes development at 315, 337 and 351.

Thank you,

363 Beach Boulevard.