(a) That approval be given to Official Plan Amendment Application OPA-08-018, by Mike Valvasori, Owner, for Official Plan Amendment No. 128 to the Town of Dundas Official Plan, for a change in designation from "Major Institutional" and "Employment/Residential Mixed-Use" to a Site-Specific "Residential Neighbourhoods" designation, in order to permit the conversion of the existing vacant 4-storey Dundas District High School for an Apartment Building containing a maximum of 45 units, for lands located at 365 Park Street West and 397 King Street West (Dundas), as shown on Appendix “A” to Report PED10142, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED10142, be adopted by City Council.
(ii) That upon adoption of Official Plan Amendment No. to the former Town of Dundas Official Plan, that the Colborne Neighbourhood Plan be amended by changing the designation of the subject lands from “Civic & Institutional” to “Medium Density Residential”.

(iii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe and Hamilton-Wentworth Official Plan.

(b) That approval be given to Zoning By-law Amendment Application ZAC-08-076, by Mike Valvasori, Owner, for changes in zoning to the Town of Dundas Zoning By-law 3581-86 from the Light Industrial “IL” Zone and Public and Private Service “PPS” Zone, to the Holding - Medium to High Density Multiple Dwelling “H-RM3/S-120” Zone, with a Special Exception and Holding Provision (Blocks 2 and 3); the removal of a portion of the subject lands from City of Hamilton By-law 05-200 and added to Dundas Zoning By-law 3581-86, to be zoned Holding - Medium to High Density Multiple Dwelling “H-RM3/S-120” Zone, with a Special Exception and Holding Provision (Block 1); for changes in zoning to the City of Hamilton Zoning By-law 05-200 from the Neighbourhood Institutional (I1) Zone to the Conservation/Hazard (P5) Zone (Block 4); and that lands shown as Block 5 be zoned as Conservation/Hazard (P5) Zone, to permit the conversion of the existing vacant Dundas District High School for a 45 unit apartment building, for the lands located at 365 Park Street West and 397 King Street West (Dundas), as shown on Appendix “A” to Report PED10142, on the following basis:

(i) That the draft By-laws, attached as Appendices “C” and “D” to Report PED10142, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the amending By-law, attached as Appendix “C”, be added to Schedule “C” of the former Town of Dundas Zoning By-law No. 3581-86.

(iii) That the amending By-law, attached as Appendix “D”, be added to Map No. 817 and Map No. 859 of City of Hamilton Zoning By-law No. 05-200.

(iv) That the proposed changes in zoning conform to the Hamilton-Wentworth Official Plan, and will conform to the Town of Dundas Official Plan upon approval of Official Plan Amendment No. 
EXECUTIVE SUMMARY

The subject lands were deemed surplus by the Hamilton-Wentworth District School Board and subsequently purchased by Valmos Developments Inc. in April, 2009. The purpose of the applications is to permit the conversion of the former Dundas District High School for a maximum of 45 residential units. In addition, in order to provide for the protection of the natural heritage/conservation area to the west, a portion of the subject lands is proposed to be placed in the Conservation/Hazard Land (P5) Zone. The requested amendments are required to allow for the proposed residential uses on the subject lands, with site-specific zoning provisions.

It is further noted that the applicant has indicated that a future Draft Plan of Condominium application will be submitted in order to establish the respective common elements and tenure with regard to the subject proposal.

The proposed applications have merit and can be supported as they are consistent with the Provincial Policy Statement, and conform to the Places to Grow Plan and the Hamilton-Wentworth Official Plan. In addition, the proposed development provides for the adaptive re-use of an architecturally and culturally significant building for Residential purposes.

Alternatives for Consideration - See Page 29.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: None.

Staffing: None.

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

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The applicant has applied for a change in designation to the Town of Dundas Official Plan from “Major Institutional” and “Employment/Residential Mixed-Use” to a site-specific “Residential Neighbourhoods” designation in order to permit the conversion of the former Dundas District High School for a 45 unit multiple residence.
The applicant has also applied for a change in zoning to By-law No. 05-200 to remove a portion of the Neighbourhood Institutional (I1) lands from the By-law, which are to be added and zoned with the Light Industrial “IL” zoned and Public and Private Service “PPS” zoned lands to a site-specific Medium to High Density Multiple Dwelling “RM3/S-120” Zone under the Town of Dundas By-law 3581-86 (see Appendix “C” - Schedule “A” - Blocks 1-3), and to add a portion from the Town of Dundas By-law 3581-86 to the City of Hamilton By-law 05-200 and zone these lands as well as a portion of the Neighbourhood Institutional (I1) Zone to the Conservation/Hazard Land (P5) Zone (see Appendix “D” - Schedule “A” - Blocks 3 and 4). Particulars of the proposed zoning provisions are provided and discussed within the Analysis/Rationale for Recommendation section in this report.

Details of Submitted Application

Location: 365 Park Street West  
397 King Street West (see Appendix “A”)

Owner(s): Valmos Developments Inc.

Applicant: IBI Group  
c/o Sergio Manchia

Property Description: Total Lot Area:  ± 1.031 ha (RM3 Modified Zone)  
± 0.294 ha (P5 Zone)

Total Lot Frontage: ± 187.560 metres  
(King Street West)

Lot Depth: ± 120.820 metres  
(Irregular Parcel)

Servicing: Existing municipal services and Stormwater outlet to creek (west) and Road Catch Basin (east)

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
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<tbody>
<tr>
<td>Vacant Institutional - Dundas District High School and Open Space</td>
<td>By-law No. 05-200</td>
<td>Neighbourhood Institutional (I1) Zone</td>
</tr>
</tbody>
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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
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**POLICY IMPLICATIONS**

**Places to Grow Plan:**

The proposed conversion of the existing school for residential purposes is consistent with the Guiding Principles, Section 1.2.2 of the Places to Grow Plan, whereby the proposed development provides for a compact, vibrant, and complete community which protects, conserves, enhances, and wisely uses the valuable natural resources of land, air, and water for current and future generations; optimizes the use of existing and new infrastructure to support growth in a compact efficient form; and is a planned and managed form of growth that supports a strong and competitive economy.

The form and location of intensification is consistent with the Managing Growth Policy Section 2.2.2.1, which directs Population and employment growth; in particular:

“Population and employment growth will be accommodated by:
a) Directing a significant portion of new growth to the built-up areas of the community through intensification;

h) Encouraging cities and towns to develop as complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space, and easy access to local stores and services;

i) Directing development to settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in settlement areas;

j) Directing major growth to settlement areas that offer municipal water and wastewater systems and limiting growth in the settlement areas that are serviced by other forms of water and wastewater service.”

Based on the foregoing, the proposed amendments conform with the Places to Grow Plan.

**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 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as transportation corridors) 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.

It is noted that the existing use is deemed a sensitive land use, and upon circulation there were no major concerns identified by CN Rail. In light of this, staff is of the opinion that residential development at this location is feasible; however, due to the proximity of the subject lands to the CN Rail Corridor, staff recommends that a detailed noise study be conducted and implemented through the future Site Plan Control application and/or Draft Plan of Condominium.

In addition, 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 maintains the heritage integrity of the site, may be permitted. In this regard, appropriate built heritage provisions have been included in the amending By-law, as per Built Heritage Policy 2.6.1.

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.

This is further reinforced by Policy 3.2.2, which 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.

There may be potential for contamination due to the historic nature of the previous institutional use, therefore, it would be appropriate for the property to be placed in an ‘H’ Holding Provision, subject to the fulfilment of a Record of Site Condition (RSC), to the satisfaction of the Director of Planning (see Appendix “C”).

Lastly, Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (ESA#30 - Spencer Gorge) unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The Hamilton Conservation Authority (HCA) has requested that an ‘H’ Holding Provision be applied for a Natural Heritage Assessment regarding the proposed Storm Water Management Option, for the areas as identified by the HCA.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement, subject to the requested Official Plan Amendment provisions and Holding Provisions being applied.

**Niagara Escarpment Plan:**

The subject lands are designated as “Escarpment Urban Area” within the Niagara Escarpment Plan (NEP), but are located outside of the Development Control Area. Permitted uses in an NEP designated “Escarpment Urban Area” are those that are identified in a municipal Official Plan and/or Zoning By-law that is not in conflict with the NEP. The proposed development conforms to the policies of the NEP, based on the submitted information.

However, the owner/applicant is advised that any alterations to the building height and/or footprint will be subject to the Development Criteria in Section 2 of the Plan, in particular, but not limited to, the following policies:
“2.2.1 Permitted uses may be allowed provided that:

a) The long term capacity of the site can support the use without a substantial negative impact on Escarpment environmental features such as contours, water quality, water quantity, natural vegetation, soil, wildlife, population, visual attractiveness, and cultural heritage features.

b) The cumulative impact of development will not have serious detrimental effects on the Escarpment environment (e.g. water quality, vegetation, soil, wildlife, and landscape)…”

2.2.4 Any development permitted should be designed and located in such a manner as to preserve the natural, visual, and cultural characteristics of the area.

2.2.6 The design of subdivisions, condominiums or other similar forms of residential lot ownership within Urban Areas, Minor Urban Centres, and Escarpment Recreation Areas should be in harmony with and maintain the existing character of the Escarpment landscape.”

As the nature of the development is a form of adaptive re-use, it would preserve the natural, visual, and cultural characteristics of the area. The former Dundas District High School is of architectural significance, and appropriate heritage preservation measures have been incorporated to retain the character and cultural importance of this structure in harmony with the existing character of the Escarpment Landscape.

Furthermore, in accordance with Section 2.2.4 of the Niagara Escarpment Plan, and subject to a Natural Heritage Assessment of the existing vegetation, the applicant has agreed to improve storm water management over the lands, while providing adequate floodplain control.

Lastly, as noted in the Niagara Escarpment Commission comments provided in response to circulation of the application, and in accordance with Section 2.2.6 of the Niagara Escarpment Plan, any proposal for increase in height and/or floor area will require a Visual Impact Assessment.

**Hamilton-Wentworth Official Plan:**

The subject property is designated as “Escarpment Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-1.5.2 a) states that on lands designated as Escarpment Urban Area, a range of uses consistent with Policy C-3.1 are permitted.
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. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. The proposed residential use, therefore, conforms to the policies above.

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. A Record of Site Condition (RSC) will be required through the recommended ‘H’ Holding provision of the implementing By-law (see Appendix “C”).

Furthermore, Policy C-1.2.2 of the Plan states that land use changes in or adjacent to Environmentally Significant Areas will only be permitted where such development:

i) Will not adversely affect, degrade, or destroy any of the qualities which are the basis for the area’s designation;

ii) Will not cause any significant impacts upon water quality and quantity; and,

iii) Will not adversely affect the implementation of any resource protection policies or plans.

As documented above, a Natural Heritage Assessment (Spring Inventory) of the proposed storm water management option has been incorporated as a condition of the ‘H’ Holding Provision (see Appendix “C”).

It is noted that preliminary field investigations have begun based on the preliminary storm water management works which has been accepted, in principle, by the Hamilton Conservation Authority. However, until such time as the required Natural Heritage Assessment has been submitted, to the satisfaction of the City of Hamilton and Hamilton Conservation Authority, demonstrating that the required works will not significantly impact the existing natural heritage, staff recommends inclusion of an ‘H’ Holding provision as part of the implementing By-law.

Lastly, 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.
An archaeological assessment is not required, but monitoring by a qualified archaeologist during any construction and/or site works will be required through the future Site Plan Control application. With regard to built heritage, protection provisions have been included within the proposed Official Plan Amendment and implementing By-law.

Based on the foregoing, the conversion of the existing building for residential purposes, where full municipal services are available and subject to the ‘H’ Holding provision of the implementing By-laws, conforms to the policies of the Hamilton-Wentworth Official Plan.

**Town of Dundas Official Plan:**

The applicant has requested a change in designation from the current “Major Institutional” and “Employment/Residential Mixed-Use” designation to the “Residential Neighbourhoods” designation with a site-specific modification to the “Residential Exception” Section 3.1.4 of the Plan, to permit for the conversion of the existing school to a maximum 45 residential dwelling units within the existing 4-storey, 14.7m high building.

The “Residential Exception” is required as the “Residential Neighbourhoods” designation permits single detached, semi-detached, duplex, townhouse dwelling units, and legal residential units. Apartment buildings are only permitted within Residential Intensification Areas, as shown on Schedule “A” of the Town of Dundas Official Plan. As such, a “Residential Exception” is required.

With regard to the “Employment/Residential Mixed-Use” designation for 365 Park Street West, the designation permits multiple family residential such as apartments, as per Policy 3.4.3.1.

However, in order to ensure consistency and to avoid dual designations over the subject lands, and as no commercial component is being proposed within the ground floor of the existing structure, the applicant has requested that these lands also be included for re-designation to the “Residential Neighbourhoods” designation.

The conversion of the existing school is in line with the Housing objectives and policies as it will provide a housing type and tenure currently not found in the area, while adaptively re-using a building of architectural and cultural significance. In particular, the following polices, among others, apply:

> **2.3.3.1** A local housing environment that is responsive to changing needs of area residents is crucial in maintaining a successful and healthy community. Accordingly, the Town will:
a) Support residential development that provides a range of types and tenure to satisfy the needs of residents of Dundas at densities and scales compatible with the established development pattern;

b) Facilitate the process of residential infill, intensification, and reurbanization, as outlined in the Urban Design Policies of this Plan, as a means of using the available urban land supply as efficiently as possible, reducing servicing costs, and creating a more amenable urban environment;

c) Promote the restoration and/or rehabilitation of housing structures exhibiting architectural or historical merit…”

However, the subject lands are located in proximity to a Major Arterial, King Street West, and the Canadian National Railway line to the north and are, therefore, subject to the Noise and Vibration Policy Section 2.1.4. As the proposed development is similar to the existing sensitive land use of a secondary school, and as there are no areas which meet the minimum requirements of an “Outdoor Amenity Area” as defined by the Ministry of the Environment, save for the large patio on the east side which, in the opinion of staff, is adequately screened by the existing buildings, a noise feasibility study to demonstrate the appropriateness and feasibility of the proposed Residential land use in this location will not be required.

However, the owner/applicant is advised that a “Detailed Noise Study”, which will provide the required mitigation measures to meet the Ministry of the Environment Residential Noise levels, is to be implemented through the future Site Plan Control application.

Furthermore, Section 2.1.5 provides policy regarding contamination of sites, and as mentioned previously, the appropriate ‘H’ Holding provision has been included within the implementing By-law.

Moreover, it is noted that a portion of the subject lands and the adjacent natural heritage feature are designated “Special Policy Area 1 - Floodplain” on Schedule B-3 - Special Policy Areas. Policy Section 3.10.3.1 provides direction for Special Policy Area 1:

“3.10.3.1 Special Policy Area 1: Council recognizes the inherent dangers to development in areas subject to flooding and the constraints required to minimize the loss of life and property. Accordingly, the following policies will apply within the Floodplain area shown on Schedule “B-3” as Special Policy Area 1.
a) It is the intent of Council to limit development within the Floodplain areas defined by the Hamilton Region Conservation Authority, of Spencer, Ann and Sydenham Creeks. In this regard, the policies of this Sub-section will apply to floodplain areas identified from time-to-time as “floodway” or “flood fringe” by the above-noted Conservation Authority in consultation with the Town.

b) Where a proposal is made for development or redevelopment within or in proximity to Special Policy Area 1, Council will request the proponent to contact the Hamilton Region Conservation Authority to determine if and what flood protection measures are necessary, or other limitations to development…”

The applicant has provided a detailed storm water management option demonstrating the flooding issues can be satisfactorily addressed, and that floodwaters can be diverted from the lot without negatively impacting neighbouring properties; however, the existing natural heritage/vegetation for the areas of proposed works have yet to be evaluated.

At the request of the Hamilton Conservation Authority, completion of a Natural Heritage Assessment (Spring Inventory) for the proposed storm water management option will be required, and this has been made a condition of the ‘H’ Holding provision in the amending By-law (see Appendix “C”).

In addition, the subject lands are of built and cultural heritage resource potential and, therefore, subject to the Historic and Architectural Resource Policies of Section 2.4 of the Town of Dundas Official Plan.

In order to address these concerns, adequate cultural and built heritage provisions have been incorporated within the proposed Official Plan Amendment and implementing Zoning By-law, and monitoring by a licensed archaeologist during development and/or site works will be required through the future Site Plan Control application.

Based on the foregoing, the proposed redevelopment is in conformity with the intensification policies of the Town of Dundas Official Plan, the proposal is, in principle, in conformity with the intent and purpose of the Town of Dundas Official Plan.

New Urban Hamilton Official Plan:

The Urban Hamilton Official Plan has been sent to the Ministry of Municipal Affairs and Housing for approval. Once a final decision is given by the Province, the Official Plan can no longer be modified in the absence of an Official Plan Amendment. The timing of the final decision is unknown and, therefore, it affects how and when changes to the Urban Hamilton Official Plan can be made.
The subject lands are designated as “Escarpment Urban Area” on Schedule A - Provincial Plans, “Core Area” on Schedule B - Natural Heritage System, and “Neighbourhoods” on Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations.

As the subject lands are designated Escarpment Urban Area, the following policies, among others apply:

“C-1.1.6 To minimize the impact and further encroachments in the Escarpment environment, for those lands located within the Niagara Escarpment Plan area identified on Schedule A - Provincial Plan, the following policies shall apply:

a) the design of the development shall be compatible with the visual and natural environment;

b) setbacks and screening adequate to minimize the visual impact of the development on the Escarpment landscape shall be required; …

C-1.1.10 On lands located within Urban Hamilton and identified as Niagara Escarpment Plan Urban Area on Schedule A - Provincial Plans, the following policies shall apply:

a) Where lands are designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations, the policies contained in Section E.3.0 - Neighbourhoods designation apply…”

The proposed development is a form of adaptive re-use and, therefore, the design and setbacks are compatible with the visual and natural environment in the area, and appropriate screening from adjacent residential development will be established through the future Site Plan Control application. It should be noted that the Niagara Escarpment Commission has advised that any addition to the height and/or floor area may necessitate a Visual Impact Statement. With regard to the Neighbourhoods Policies, Section E.3.0, the following policies among others apply:

“E.3.2.1 Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities as well as supporting uses indeed to serve the local residents.

E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:
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a) residential dwellings, including second dwelling units and housing with supports;

b) open space and parks;…”

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential Intensification within these areas shall enhance and be compatible with the scale and character of the existing Residential Neighbourhood in accordance with Section B.2.4 - Residential Intensification and other applicable policies of this Plan.

E.3.2.13 The City supports residential intensification on lands within the Neighbourhoods designation in accordance with Section B.2.4 - Residential Intensification Policies, F.1.14 - Lot Creation, and other applicable policies.

E.3.2.15 The City shall encourage the adaptive reuse of the existing building stock for appropriate land uses. Rezoning applications for new uses shall be evaluated to ensure compatibility with surrounding land uses.

E.3.3.2 Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area. “

As the proposed development is a form of adaptive re-use of the existing building, and is a use compatible with the surrounding land uses, the proposed development conforms to the General Residential policies.

In review of the proposal against the General Residential Intensification Policies, Section 2.4.1, the following policies, among others, apply:

“B.2.4.1.1 Residential intensification shall be encouraged throughout the entire built-up area in accordance with the policies of Chapter E - Urban Systems and Designations and Chapter F - Implementation.

B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

a) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
b) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;

c) that compatible integration of the development with the surrounding area in terms of use, scale, form, and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

d) the development contribution to achieving the planned urban structure as described in Section E.2.0 - Urban Structure;

e) infrastructure and transportation capacity; and,

f) the ability for the development to comply with all applicable policies.”

As the subject lands fall within the Built-up area, as shown on Schedule G - Boundaries Map of this Plan, and is an adaptive re-use of the existing building, maintaining the existing character of the area, the proposal conforms to the above noted policies.

Section B.2.4.2 provides additional direction for residential intensification within the Neighbourhoods designation. The following policies, among others, apply:

“B.2.4.2.1 Residential intensification within lands designated Neighbourhoods identified on Schedule E-1 - Urban Land Use Designations shall comply with Section E.3.0 - Neighbourhoods Designation.

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

a) the matters listed in B.2.4.1.4;

b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;

c) the relationship of proposed building(s) with the height, massing, and scale of nearby residential buildings;

d) the consideration of transitions in height and density to adjacent residential buildings;

e) the relation of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
SUBJECT: Application for an Amendment to the Town of Dundas Official Plan and Zoning By-law No. 3581-86 for the Lands Located at 365 Park Street West and 397 King Street West (Dundas) (PED10142) (Ward 13) - Page 16 of 30

As mentioned above, the subject lands are in close proximity to existing passive recreational uses and also include a change in zoning for the westerly portion of the subject lands (Blocks 3 and 4 to the Conservation/Hazard Lands (P5) Zone - see Appendix "D"). Furthermore, the proposed development is an adaptive re-use of the existing building stock and will, therefore, maintain the existing development pattern, character, scale, height, setbacks, and building separations currently found in the neighbourhood.

In addition, it is noted that the lands are of archaeological potential, as well as being a building of architectural/cultural interest. As such, the Cultural Heritage Policies of Section 3.4 apply.

However, as the subject proposal is for the adaptive re-use of the existing structure with minimal site works, additional site investigation regarding the built and/or cultural heritage is not required; subject to monitoring by a licensed archaeologist during any construction and/or site works and the inclusion of the appropriate built heritage protection zoning provisions for the facades of architectural/cultural interest.

Furthermore, due to the former use (institutional/community) and the potential for site contamination, the Health and Public Safety policies of Section B.3.6 are applicable. As there exists potential for contamination based on the historical use of the property, staff has requested that an ‘H’ Holding provision be applied prohibiting any development and/or site works until such time as a Record of Site Condition has been submitted, to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the Ministry of the Environment, and submission of the City of Hamilton’s current RSC administration fee (see Appendix “C”).

Moreover, Policy Section B.3.6 also covers noise mitigation for sensitive land uses due to proximity to, in this case, the Canadian National Railway line to the north and King Street West being a Major Arterial roadway as identified on Schedule C - Functional Road Classification.
The previous use (institutional) and the proposed residential conversion are both sensitive land uses and, therefore, will not require a noise feasibility study to demonstrate appropriateness of the proposed land use. However, a “Detailed Noise Study”, with required implementation of any noise mitigation measures to the satisfaction of the City of Hamilton, will be required through the future Site Plan Control application to demonstrate compliance in achieving the Ministry of Environment noise levels.

The subject lands are also designated “UD-1” on Map D-1 - Area Specific Policies. This area requires, as per the Dundas Two Zone Flood Plain Area, UD-1, found in Volume 3, Section B.2, consultation and mitigation of floodplain issues with the Hamilton Conservation Authority.

As mentioned above, the applicant has satisfied the concerns of the Hamilton Conservation Authority; however, the Hamilton Conservation Authority has expressed concerns with regards to the vegetation that may be affected by the proposed storm water management works and has requested, as a condition of the ‘H’ Holding provision, that a Natural Heritage Assessment (Spring Inventory) be conducted for the areas of concern (see Appendix “C”). The owner/applicant is hereby advised that a Hamilton Conservation Authority Fill Permit will be required through the future Site Plan Control application.

Based on the foregoing, as the proposed development is an adaptive re-use of an existing building, and maintains the existing character, scale, and configuration of the neighbourhood, where full municipal services are available, the proposal would conform to the intent and purpose of the New Urban Hamilton Official Plan, subject to the ‘H’ Holding provision.

**Colborne Neighbourhood Plan:**

The subject lands are designated as “Civic and Institutional” within the Colborne Neighbourhood Plan. It is noted that the Colborne Neighbourhood Plan does not form part of the Dundas Official Plan and is provided for information purposes only.

Objective 2 of the Plan limits the height of new development to 25 feet or 7.62m. However, as the proposal is for the adaptive re-use of the existing building, being 14.7m in height, the proposed redevelopment is, in principle, consistent with the above objective as the existing scale and character of the neighbourhood is maintained.

Based on the foregoing, the approval of the applications would necessitate a re-designation to “Medium Density Residential”.

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The following Departments and Agencies had no comments or objections to the applications:

- Tax Administration/Banking Section, Corporate Services Department.
- Horizon Utilities.
- Hydro One.

**Public Works Department, Traffic Engineering Section**

Traffic Engineering staff originally commented on January 16, 2009, whereby it was identified that due to the vertical and horizontal curve along King Street West, any proposed access to King Street West may require a sight-line study.

In receipt of the preliminary site plan, additional comments were provided on April 29, 2010, whereby based on the 42 units, the ITE trip generation manual estimates this development will generate 13 a.m. peak hour trips and 16 p.m. peak hour trips. These volumes do not warrant multiple accesses to the site. In this regard, we will not grant an access permit for the inbound access from King Street, and should be removed from the plan.

It is noted that technical details, such as access, will be reviewed and implemented through the future Site Plan Control application.

The applicant has revised the maximum unit yield to 45 units, and as confirmed by Traffic Engineering staff in their e-mail dated May 11, 2010, the increase of 3 units still will not warrant multiple accesses to the site.

**Public Works Department, Forestry and Horticulture Section**

In review of the subject application, there are potential Urban Forestry conflicts that can be resolved with the submission of a Tree Management Plan, specifically for the Road Allowance Trees. A review of the Site Plan and Re-grading Diagram shows that there are four Municipal Tree Assets located on the road allowance of King Street just east of Spencer Creek.

A Mulberry and three Spruce, all 15cm d.b.h. without Asset numbers, were found to be in good condition but are at risk from the movement of heavy equipment during development.
Additionally, there may be Municipal trees located west of the Spencer Creek and south of the areas shown as FOD5 & CUW1a on Appendix C, the Canada Land Use Inventory.

The Forestry and Horticulture Section requests that a Tree Management Plan be prepared by a Landscape Architect. All trees within the road allowance of the proposed development area must be surveyed, identified, and accurately plotted 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. The ownership of each tree inventoried must be clearly stated as Municipal or Private.

If it is determined and verified 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.

It is compulsory that all proposed surface treatment changes within individual driplines, as well as property lines, building footprints, driveways, utility construction corridors, heavy equipment parking, and temporary access roads be accurately depicted on the submission.

Trees can define and humanize a thoroughfare, and one of the Conditions of Approval will be the submission of a Landscape Plan. 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 (south west prevailing winds). Species diversification must always be maintained, and the use of Carolinian species is encouraged whenever possible.

In conclusion, a landscape planting plan, prepared and signed by a Landscape Architect, will be required to show new vegetation on Public property, along with the Tree Management Plan to be reviewed through the future Site Plan Control application.

**Hamilton Conservation Authority (HCA)**

Original comments, dated January 28, 2009, advised that the subject property is located entirely within the Regulatory Floodplain of the Lower Spencer Creek and is, therefore, affected by the HCA Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04. A permit is required from the HCA for the proposed development.
The proposed development does not conform to those land uses permitted within a one-zone floodplain according to HCA Planning and Regulation Policies and Guidelines (December, 2006) as based on current data, under a regulatory storm event, flows in Lower Spencer Creek will significantly over-top the concrete retaining wall located at the foot of the escarpment and the school building would be subject to significant flooding and flow velocities. In order for re-development of the property to occur, the applicant must demonstrate that through engineering means the flooding issue can be satisfactorily addressed and that floodwaters can be diverted from the lot without negatively impacting neighbouring properties.

However, the owner/applicant has submitted a detailed storm water management option, which has been accepted, in principle, by the Conservation Authority subject to the Natural Heritage Assessment as required by the ‘H’ Holding provision, and the future Site Plan control condition regarding the submission and approval of a Fill Permit from the Conservation Authority.

**Niagara Escarpment Commission**

The original circulation comments, dated February 9, 2009, stated that the subject lands are within the urban serviced area of the Town of Dundas and are designated by the Niagara Escarpment Plan (NEP) as Urban Area. Permitted uses within the NEP designated Urban Area are those that are identified in a municipal Official Plan and/or Zoning By-law that is not in conflict with the NEP.

However, it should be further noted that just to the north, and above the CN Rail line, is the “Dundas Peak” accessed via the Bruce Trail associated with the HCA-owned Spencer Gorge Wilderness Area, which is visually dramatic and a prominent Escarpment feature. View for the Peak affords a wide panorama of surrounding Escarpment lands and the Town. As such, the objective of the NEP Urban area is to “…minimize the impact and further encroachment of urban growth on the Escarpment environment.”

The following is a key Urban Area Development Objective:

“1. All development should be of an urban design compatible with the visual and natural environment of the Escarpment. Where appropriate, provisions for adequate setbacks and screening should be required to minimize the visual impact of urban development on the Escarpment landscape.”

Development Criteria in Part 2 of the NEP that apply, in our opinion, include 2.2.1(a) and (b), 2.2.4 and 2.2.6, which all deal with maintaining the visual attractiveness and natural characteristics of the Escarpment Landscape.
There are no proposed changes to the existing vacant school; however, the owner/applicant is advised that it may be found to be necessary that a Visual Impact Study be prepared that identifies the impacts associated with any proposed additions to the height and/or footprint of the existing built-form on the visual and natural characteristics of the Escarpment landscape.

This would be consistent with the NEC recommendations provided on similar developments immediately to the east. The Study, if required, would be prepared in accordance with the NEC Visual Assessment Guidelines, approved in July 2008, and which are available on-line at www.escarpment.org.

**Canadian National Railway Company (CN Rail)**

CN Rail provided comments on January 14, 2009, indicating that they have been in contact with the proponent’s representatives who are aware that CN’s attached standard requirements for new development adjacent to a principal main line will apply to this proposal. As the building exists, and is sufficiently set back from the railway right-of-way, there are not likely any additional provisions that need to be secured in the By-law and, similarly, it is assumed that provisions exist within the OP to ensure that noise, vibration, and safety will be addressed during development approval.

As such, CN has no objections to the two applications, but expects that the principal main line requirements will be subsequently incorporated as conditions of development approval.

**Bell Canada**

In comments received January 30, 2009, a detailed review of the Official Plan Amendment and Zoning By-law Amendment application has been completed, and an easement may be required to service the subject property depending on a review of more detailed applications under the Planning Act.

Please be advised that Bell Canada requests to be circulated on any future Draft Plan of Subdivision, Draft Plan of Condominium, Site Plan, or any other development application that is proposed to implement the subject Official Plan Amendment and Zoning By-law Amendment application. Through these processes, Bell Canada will provide a more detailed review and comments with respect to any requirements Bell Canada may have to service the subject property.
Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, 74 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on January 9, 2009, requesting comments on the application.

To date, 2 letters have been received from members of the public (see Appendix “F”). The comments received pertain to appropriate screening and buffering from the adjacent residences on Bond Street North, the location of any mechanical/air conditioning away from existing residential, maintenance of the hazard/conservation lands, and maintenance of the existing fencing along 366 Park Street. These concerns have been addressed in the Analysis/Rationale for Recommendation section below.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the policies of the Provincial Policy Statement and general intent and purpose of the Places to Grow Act.

   (ii) It conforms with the “Urban Area” designation of the Hamilton-Wentworth Official Plan.

   (iii) It conforms to the Niagara Escarpment Plan.

   (iv) It provides for the adaptive re-use of a building of architectural and cultural significance.

2. The purpose of the proposed Official Plan Amendment is for a change in designation for 365 Park Street West and 397 King Street West from the “Major Institutional” and “Employment/Residential Mixed-Use” designation to the “Residential Neighbourhoods” designation, and to add a site-specific Exception to permit the conversion of the existing four storey, 14.7m building to a 45 unit apartment building (see Appendix “B”).

   It is noted that the Dundas Official Plan does not provide specific policies with regard to Residential Intensification outside of the “Residential Intensification Areas”, as shown on Schedule “A” to this Plan.
In light of this, staff has reviewed the proposed development against the intensification policies for direction in locating such forms of adaptive re-use and redevelopment. Policy 3.1.3.5 states that:

“In considering an application for an amendment to the Zoning By-law to permit intensification in a Residential Intensification Area, Council shall be satisfied that the following principles will be attained:

a) development shall not exceed 75 units per net hectare;

b) building height shall not exceed 3 storey; or a maximum of 10.5 metres whichever is lesser;

c) the development will reflect the existing character of the surrounding residential neighbourhood;

d) the development will not overload existing storm and sanitary sewers;

e) schools, parks and neighbourhood commercial facilities will be adequate for the increased residential density resulting from the development;

f) ingress and egress to the property will not create congestion on surrounding local streets;

g) the site will have a size and shape to accommodate the proposed development, plus on-site parking, landscaping, and amenity area;

h) local streets can accommodate the additional traffic generated by the proposal; and,

i) the development will be consistent with the Intensification Guidelines contained in Sub-section 2.5.5 of this Plan.”

The proposed development of 45 residential units will establish a density of approximately 44 units per hectare on the subject lands. As the proposal is a form of adaptive re-use of the existing building, utilizing the existing municipal services, the character of the surrounding neighbourhood is maintained.

It is noted that from a use perspective there are no perceived traffic or ingress/egress issues; however, based on current and projected transportation volumes, the proposed access from King Street West is not warranted and recommended to be removed from the Preliminary Site Plan; such matters along
with additional details regarding servicing, landscaping will be reviewed through the future Site Plan Control Application, as per Policy 3.1.3.6, which states that:

“Intensification proposals in Residential Intensification Areas shall be developed on the basis of comprehensive site plans, according to Sub-Section 5.6, Site Plan Control.”

With regard to the Intensification Guidelines contained in Sub-Section 2.5.5 of the Plan, as the proposal is for the adaptive re-use of the existing building with no proposed additions, the redevelopment is, in principle, consistent with the above noted policies as the height, bulk, design, gradation of densities, and corresponding impacts are currently in existence, with no proposed changes.

Based on the foregoing, the proposed development would meet the requirements for intensification

3. Based on a review of the concept plan submitted by the applicant (see Appendix “E”), the following special zoning provisions are required:

Permitted Uses; Density; Setbacks; and, Height:

As the proposal is for the conversion of the existing vacant Dundas District High School for Residential purposes, the permitted uses shall be restricted to a maximum of 45 dwelling units, only within the existing building, thereby maintaining the setbacks and height existing at the date of passing of the amending By-law.

Fences:

In order to provide adequate screening from adjacent low density residential detached dwellings along Bond Street North, the amending By-law requires a visual barrier along the easterly lot line with a maximum permitted height of 0.9m for the first 16.8m from the limits of King Street West, and a maximum of 1.83m for the remainder of the fence to be provided along the east property line.

The proposed visual barrier and accompanying maximum heights will provide adequate screening and will not interfere with sight-lines along King Street West or Park Street West and are, therefore, supportable.
Access:

The applicant has requested a reduction in the setback for the proposed Park Street West access from the required 3.0m to 2.0m from the common boundary between the zone in which the apartment building is located, and the zone that does not permit such uses.

As per the submitted conceptual site plan, under File PSR-10-063 (see Appendix “E”), the requested reduction will not be visually apparent as it is the intent of the applicant to provide a boulevard of approximately 10m from the proposed parking area at 365 Park Street West.

In addition, the applicant has requested the use of vegetation for the purpose of a visual barrier; this is consistent with the new definition provided within the City of Hamilton By-law 05-200 and is, therefore, supportable.

Off-street Loading Space Requirements:

The applicant has requested a reduction in the number of required loading spaces from the required 1 space to 0 spaces. Based on the submitted conceptual site plan under File PSR-10-063, attached as Appendix “E”, sufficient layover area is provided adjacent to the main entrance and drop-off bay. Based on the foregoing, staff supports the proposed reduction in loading space requirement.

Dimensions for the Design of Parking Areas:

The applicant has requested reductions to the parking space dimensions from the required 2.7m x 6.0m to 2.5m x 5.5m, and to establish a barrier free parking space dimension of 4.4m x 5.5m.

It is noted that the requested reduction is consistent with the new parking dimension standards, as established by the City of Hamilton By-law 05-200. It should be further noted that the former Town of Dundas Zoning By-law 3581-86 does not contain dimensions for Barrier Free parking. Therefore, the requested reduction in parking space dimensions, and the establishment of a Barrier Free parking space dimension, is supportable.

Buffer Strip

The proposed redevelopment includes ground floor patios along the east side of the building located within the required 3.0m buffer strip. However, by definition, a patio cannot be included within a buffer strip.
As the requested amendment is technical in nature, and as a 3.0m separation between the adjacent residence and the existing structure shall be maintained, with the inclusion of a 0.9m high visual barrier from the limit of King Street West extending 16.8m on the east property line, and a 1.83m high visual barrier along the remainder of the east property line up to Park Street West, staff supports the proposed amendment as the intent and purpose of the buffer strip has been maintained. Based on the foregoing, staff supports the proposed reduction.

Heritage Preservation Provisions:

As noted in the “Policy Implications” section above, the subject lands, although not designated, are of architectural and cultural significance. It is the intent of the City of Hamilton Council to designate the subject lands through the Ontario Heritage Act.

At its meeting of May 24, 2007, the Hamilton Local Architectural Conservation Advisory Committee (LACAC) recommended that staff be directed by Council to undertake a Cultural Heritage Assessment of the property. On September 18, 2007, the Economic Development and Planning Committee tabled the recommended direction of the Hamilton Local Architectural Conservation Advisory Committee (LACAC) to undertake discussions with the City-School Board Liaison Committee. Upon resolution of these matters, Council, on October 29, 2008, passed the following motion directing the Hamilton Municipal Heritage Committee (HMHC) under Report PED08211:

“The designation of the property at 397 King Street West, Dundas (Dundas District High School) be assigned a high priority, and that Council direct staff to carry out a Cultural Heritage Assessment, a Statement of Cultural Heritage Value and Description of Heritage Attributes for Council’s consideration for designation under Part IV of the Ontario Heritage Act.”

It is noted that the requested assessments and works are in the 2010 Heritage and Urban Design Work Plan, but have yet to be completed and, accordingly, the subject building has yet to be designated under Part IV of the Ontario Heritage Act; as such, staff has included appropriate heritage preservation provisions within the implementing By-law in the interim. An excerpt of the required provisions has been provided below for reference.

- The entire south (front) façade, the east façade, extending a minimum of 6.7 metres from the front façade, and the west façade extending a minimum of 18.7 metres from the front façade, shall be retained in its appearance and condition as of the date of the passing of the By-law.
- The height of the existing flat roof, to a depth of at least 18.7 metres measured from the front façade, shall be retained as of the date of the passing of the By-law, with the exception of the addition of any required mechanical equipment, an elevator penthouse, or skylight windows.

- With the exception of the transoms and the leaded windows over the two main entrances on the south elevation, the replacement of windows shall be permitted.

- No buildings or structures shall be permitted in the front yard or side yards as of the date of the passing of the By-law.

‘H’ Holding Provision:

As documented in the “Policy Implication” section above, due to the potential for contamination of the subject lands as result of the historical land use, a Record of Site Condition is required.

Furthermore, as a result of the vegetation that may be affected by the proposed Storm Water Management option, a Natural Heritage Assessment (Spring Inventory) is required.

Accordingly, an ‘H’ Holding Provision is required for the following items:

(a) The owner/applicant submits a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.

(b) The owner/applicant has submitted and received clearance of a Natural Heritage Assessment (Spring Inventory) for the areas identified by and to the satisfaction of the Hamilton Conservation Authority, for the proposed Storm Water Management option.

4. In review of the submitted preliminary site plan, attached as Appendix “E”, and based on the comments received, the owner/applicant is advised that the following items, among others, may be required at the future Site Plan Control stage:

- A Tree Management Plan and Landscape Planting Plan.
Should an increase in height and/or floor area be proposed, a Visual Impact Statement, to the satisfaction of the Niagara Escarpment Commission and the Director of Planning, may be required.

Upon future detailed review of the proposed access from King Street West and the corresponding vertical and horizontal curve, a sight-line study may be required.

To date, 2 letters have been received from members of the public (see Appendix “F”). The comments received pertain to appropriate screening and buffering from the adjacent residences on Bond Street North, the location of any mechanical/air conditioning away from existing residential, maintenance of the hazard/conservation lands, and maintenance of the existing fencing along 366 Park Street.

Staff notes that mechanical/unitary equipment is subject to existing zoning provisions of Section 6.6.10, which would require a minimum 5m setback from front and rear lot lines, and 2.4m from any side lot line.

Furthermore, it is noted that multiple residences are typically serviced by roof-top mechanical/unitary equipment. The location of such unitary equipment will be reviewed for zoning compliance through the future Site Plan Control application. With regard to the hazard/conservation lands, the applicant has proposed to rezone the requisite lands to the Conservation/Hazard Lands (P5) Zone within the City of Hamilton By-law 05-200, which shall protect these lands from development save and except for Conservation, Floor and Erosion Control Facilities and/or Passive Recreational uses.

It is further noted that in consultation with the applicant, the conservation/hazard lands are proposed to be dedicated to the Hamilton Conservation Authority, if requested/required. Based on the foregoing, the lands will be protected and remain in their natural state.

Lastly, with regards to fencing along the easterly property line, staff has included the requirement for a 1.83m high fence to be provided along the east side lot line from the front of the existing building to the limit of Park Street West to ensure appropriate privacy for the abutting residential dwellings. Based on the foregoing, the concerns raised by the public submissions have been adequately addressed.
ALTERNATIVES FOR CONSIDERATION
(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the proposed amendments not be approved, the owner/applicant has the option of developing the existing school (Blocks 1 and 4 on Appendix “C”) for uses permitted within the existing Neighbourhood Institutional (I1) Zone.

The lands to the north (Block 2 of Appendix “C”) may be developed for a variety of service and educational type uses within the Public and Private Service “PPS” Zone.

The parking area on the north side of Park Street West (Block 3 on Appendix “C”) can be developed for a variety of industrial uses, as provided within Section 24 of the By-law Uses Permitted in Industrial Zones, ranging from, but not limited to, manufacturing, retail trade, and health and social services industries.

The lands to the west (Block 5 on Appendix “C”) would have limited development potential for passive recreational uses operated by a Public Authority under the existing Open Space - Conservation (OS) Zone.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


Financial Sustainability

• Effective and sustainable Growth Management.
• Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner.
• Generate assessment growth/non-tax revenues.

Environmental Stewardship

• Natural resources are protected and enhanced.
• Reduced impact of City activities on the environment.

Healthy Community

• Plan and manage the built environment.

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
APPENDICES / SCHEDULES

- Appendix “A”: Location Map.
- Appendix “B”: Proposed Amendment to the Former Town of Dundas Official Plan.
- Appendix “C”: Proposed Amendment to the Former Town of Dundas Zoning By-law No. 3581-86.
- Appendix “D”: Proposed Amendment to the City of Hamilton Zoning By-law No. 05-200.
- Appendix “E”: Preliminary Site Plan (Conceptual).
- Appendix “F”: Public Comments/Submissions.

:AC
Attachs. (7)
Draft Amendment No. [ ] to the

Official Plan of the Former Town of Dundas

The following text, together with Schedule “A” - Land Use - Schedule A, and Schedule “B” - Exceptions - Schedule B-1, attached hereto, constitutes Official Plan Amendment No. [ ] to the Official Plan of the former Town of Dundas.

Purpose:

The purpose of this Amendment is for a change in designation for the subject lands from “Major Institutional” and “Employment/Residential Mixed-Use” to the “Residential Neighbourhoods” designation; and, to add a site-specific exception to permit the conversion of the existing four storey, 14.7m high building to a maximum 45 unit apartment building, on lands located at 365 Park Street West and 397 King Street West, in the former Town of Dundas.

Location:

The lands affected by this Amendment are approximately 1.03 hectares (2.55 acres) in size, located at 365 Park Street West and 397 King Street West, on the north side, east of the intersection of Bond Street North and King Street West, in the former Town of Dundas.

Basis:

The basis for permitting the proposal is as follows:

• The proposal is consistent with the Provincial Policy Statement.

• The proposed development offers an opportunity for Residential Intensification within the built boundary, and conforms to the intent and purpose of the Growth Plan for the Greater Golden Horseshoe.

• The proposal conforms to the policies of the Niagara Escarpment Plan.

• The proposal conforms to the former Region of Hamilton-Wentworth Official Plan.

• The property is located on a major arterial road, and the proposal is consistent with the intent and purpose of the policies with regard to Residential Intensification within the former Town of Dundas Official Plan.
• The proposal is a form of adaptive re-use and is, therefore, consistent with the existing building setbacks and massing found within the neighbourhood, while providing for a mix of housing opportunities in terms of unit size, type, and tenure.

• A modification/amendment to the Urban Hamilton Official Plan has also been passed by Council to provide for similar site-specific policies for these lands. The Urban Hamilton Official Plan will be amended/modified at the appropriate time.

**Actual Changes:**

**Text Changes:**

1. Subsection 3.1.4: **Residential Exceptions** be amended by adding an additional policy as follows:

   • **3.1.4.**

   Notwithstanding Policy 3.1.3.1, for the lands consisting of an area of approximately 1.03 hectares (2.55 acres) situated on the northwest corner of King Street West and Bond Street North, known municipally as 365 Park Street West and 397 King Street West, and identified on Schedule “B-1” as **Exception R**, permitted uses shall be limited to:

   a. A maximum of 45 residential units within the existing four storey, 14.7m high building; and,

   b. Accessory buildings and structures within the rear yard only.

**Schedule Changes:**

1. Schedule “A” - Land Use - be revised by re-designating the subject lands from “Major Institutional” and “Employment/Residential Mixed-Use” to the “Residential Neighbourhoods” designation, as shown on the attached Schedule “A” of this amendment.

2. Schedule “B-1” - Exceptions - be revised by identifying the subject lands as **Exception R**, as shown on the attached Schedule “B” of this amendment.
Implementation:

A Zoning By-law Amendment, Site Plan Application, and Draft Plan of Condominium will give effect to this Amendment.

This is Schedule "1" to By-law No. 10-____, passed on the ____ day of ____ , 2010.

The City of Hamilton

_______________________                         _________________
Fred Eisenberger          Rose Caterini
Mayor                      Clerk
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 3581-86 (Dundas)
Respecting Lands Located at 397 King Street West

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 area municipality known as the “The Corporation of the Town of Dundas” 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 Zoning By-law No. 3581-86 (Dundas) was enacted on the 22nd day of May, 1986, and approved by the Ontario Municipal Board on the 10th day of May, 1988;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ___ of Report 10-___ of the Economic Development and Planning Committee, at its meeting held on the ___ day of ___, 2010, recommended that Zoning By-law No. 3581-86 (Dundas), be amended as hereinafter provided;

AND WHEREAS this by-law will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Dundas) upon the approval of Official Plan Amendment No. ___;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Schedule “L” (Spencer Creek) is amended by deleting lands, the extent and boundaries of which are shown as “Block 5” on a plan hereto annexed as Schedule “A”.

2. That Schedule “B” (Colborne), appended to and forming part of By-law No. 3581-86 (Dundas), is amended by adding lands and zoning them Holding - Medium to High Density Multiple Dwelling “H-RM3/S-120” Zone, the extent and boundaries of which are shown as Block “1” on a plan hereto annexed as Schedule “A”.

3. That Schedule “B” (Colborne), appended to and forming part of By-law No. 3581-86 (Dundas), is amended by changing the zoning from the Public and Private Service “PPS” Zone and the Light Industrial “IL” Zone to a Holding - Medium to High Density Multiple Dwelling “H-RM3/S-120” Zone, on the lands the extent and boundaries of which are shown as Blocks “2” and “3”, on a plan hereto annexed as Schedule “A”.

4. That Section 32, “Exceptions”, of Zoning By-law No. 3581-86 (Dundas), is hereby further amended by adding the following subsection:

Medium to High Density Multiple Dwelling Zone “H-RM3/S-120”

(i) Notwithstanding the provisions of Section 14: **Medium to High Density Multiple Dwelling “RM3” ZONE**, the following special provisions shall apply on the lands zoned “H-RM3/S-120” on Schedule “B” (Colborne):

14.4 Permitted Uses:

Notwithstanding Section 14.1: **Permitted Uses**, only a Multiple Dwelling having a maximum 45 units within the building existing on the date of the passing of this by-law, being the _____ day of _____, 2010, shall be permitted.

14.4.1 Definitions:

Notwithstanding Section 3.2.54: **Lot Line, Front**, and Section 3.2.55: **Lot Line, Rear**: King Street West shall be deemed the front lot line, and any lot line abutting the rail corridor, save and except for the 44.96m lot line to the west, shall be deemed a rear lot line.

Notwithstanding Section 3.2.97: **Visual Barrier**, a visual barrier shall include a continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth.
14.4.2 Fences:

Notwithstanding Section 6.8: **Fences**, any fence, free standing walls or similar structures shall be a maximum of 1.9 metres in height, save and except for a Crash Wall as required by the Canadian National Railway Company.

14.4.3 Access:

Notwithstanding Section 7.3.3: **Access**, any vehicular access shall be permitted within 2.0m of any zone boundary, and shall include a visual barrier of not less than 1.2 metres nor greater than 1.8 metres in height.

14.4.4 Loading Spaces

Notwithstanding Section 7.6: **Loading Spaces**, no loading space shall be required

14.4.5 Dimensions for the Design of Parking Areas:

Notwithstanding Section 7.14: **Dimensions for the Design of Parking Areas**, no Parking Space shall be less than 2.6 metres in width by 5.5 metres in length, save and except for a Barrier Free parking space which shall be a minimum of 4.4 metres in width by 5.5 metres in length.

14.4.6 Buffer Strip:

Notwithstanding Section 14.2.7: **Landscaping Requirements**, a buffer strip of not less than 3.0m in width, which shall permit the inclusion of a ground floor patio and shall also include a 0.9m high privacy fence, shall be provided and maintained along the east property line from the limit of King Street West for a distance of 16.8m, and a 1.83m high fence shall be provided and maintained along the remainder of the east property line extending to Park Street West.

A buffer strip of not less than 2.0m in width shall be provided and maintained along the north and east side of the proposed vehicular access from Park Street West, and shall include a visual barrier, as defined above under Sub-section 14.4.1.
14.4.7  Built Heritage Structure and Features:

14.4.7.1  Building Facades and Features:

The entire south (front) façade, the east façade extending a minimum of 6.7 metres from the front façade, and the west façade extending a minimum of 18.7 metres from the front façade shall be retained in its design and appearance as of the date of the passing of this by-law, being the [insert date] day of [insert month], 2010, save and except for two ground floor patio access doors on the west façade and one ground floor patio access door on the east façade.

14.4.7.2  Building Height:

The height of the existing flat roof, to a depth of at least 18.7 metres measured from the front façade, shall be retained with the exception of the addition of any required mechanical equipment, elevator penthouse, or skylight windows, as of the date of the passing of this by-law, being the [insert date] day of [insert month], 2010.

14.4.7.3  Windows:

With the exception of the transoms and the leaded windows over the two main entrances on the south elevation, the replacement of windows shall be permitted.

14.4.7.4  Front and Side Yards:

No buildings or structures shall be permitted in the front yard or side yards as of the date of the passing of this by-law, being the [insert date] day of [insert month], 2010.
14.4.7.5 **Ontario Heritage Act:**

Notwithstanding the above, should the lands be designated under the Ontario Heritage Act, any alternative building design or building materials approved through the issuance of a Heritage Permit, shall be deemed to comply with Section 14.4 of this By-law.

The ‘H’ symbol may be removed at such time as the following have been satisfied:

a. The owner/applicant submits a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.

b. The owner/applicant has submitted and received clearance of a Natural Heritage Assessment (Spring Inventory) regarding the proposed Storm Water Management Option, for the areas identified by and to the satisfaction of the Hamilton Conservation Authority.

5. That By-law No. 3581-86 (Dundas) is amended by adding this by-law to Section 32 as Schedule “S-120”.

6. That Schedule “B” (Colborne) of the Zoning Schedule Key Map is amended by marking the lands referred to in Sections 2 and 3 of this by-law as “H-RM3/S-120”.

7. 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 [ ] day of [ ], 2010.

_________________________________________  _______________________________________
Fred Eisenberger  Rose Caterini
Mayor  Clerk

ZAC-08-076/OPA-08-018
This is Schedule "A" to By-Law No. 10-
Passed the ............ day of ......................, 2010

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 10-____
to Amend By-law No. 3581-86

<table>
<thead>
<tr>
<th>Subject Property</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Block 1</strong>: Lands to be zoned Holding - Medium to High Density Residential Multiple Dwelling &quot;H-RM3/S-120&quot; Zone</td>
</tr>
<tr>
<td><strong>Block 2</strong>: Change in zoning from Public and Private Service &quot;PPS&quot; Zone to a Holding - Medium to High Density Residential Multiple Dwelling &quot;H - RM3/S-120&quot; Zone</td>
</tr>
<tr>
<td><strong>Block 3</strong>: Change in zoning from the Light Industrial &quot;IL&quot; Zone to a Holding - Medium to High Residential Density Multiple Dwelling &quot;H-RM3/S-120&quot; Zone</td>
</tr>
<tr>
<td><strong>Block 4</strong>: Refer to City of Hamilton By-Law No. 05-200</td>
</tr>
<tr>
<td><strong>Block 5</strong>: Lands to be deleted from Town of Dundas By-law No. 350-1-86</td>
</tr>
</tbody>
</table>

Scale:
N.T.S.

File Name/Number:
ZAC-08-076

Date:
June 11, 2010

Planner/Technician:
AC/NB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
CITY OF HAMILTON

BY-LAW NO. ______

To Remove a Portion of the Lands from and to Amend Zoning By-law No. 05-200 Respecting Lands Located at 397 King Street West (Dundas)

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, Statutes of Ontario, 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 No. 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 Zoning By-law, being By-law No. 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ______ of Report 10-____ of the Economic Development and Planning Committee, at its meeting held on the _____ day of ______, 2010, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND WHEREAS this by-law will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Dundas) upon the approval of Official Plan Amendment No. ______;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Schedule “A” of By-law 05-200 is amended by deleting lands, the extent and boundaries of which are shown as “Block 1” on a plan hereto annexed as Schedule “A”, from Map No. 817 and Map No. 859.
2. That Schedule “A” of By-law 05-200 is amended by changing the zoning from Neighbourhood Institutional (I1) Zone to the Conservation/Hazard (P5) Zone, on the lands, the extent and boundaries of which are shown as “Block 3” on a plan hereto annexed as Schedule “A”.

3. That Schedule “A” of By-law 05-200 is amended by adding lands to Map No. 817 and Map No. 859, the extent and boundaries of which are shown as “Block 4” on a plan hereto annexed as Schedule “A”, to be zoned Conservation/Hazard Land “P5” Zone.

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.

5. That this By-law No. ______ shall come into force and be deemed to have come into force in accordance with Subsection 34(21) of the Planning Act, either upon the date of passage of this By-law or as provided by the said Subsection.

PASSED and ENACTED this ______ day of ______, 2010.

____________________ __________________________
Fred Eisenberger Rose Caterini
Mayor Clerk

ZAC-08-076/OPA-08-018
From: Gerry Maloney
Sent: Wednesday, January 14, 2009 10:11 AM
To: Chan, Alvin
Subject: ZAC-08-076/OPA-08-018

Dear Mr. Chan,

I received the changes to the District School property at the above address and I have a few questions I would like to ask you regarding the changes:

1. The site diagram shows that a part of the existing property at 397 King St. stretches over to the west side of Spencer Creek. This small plot of land is presently derelict, in that it was cleaned up and made usable for the public in past years, but is now overgrown with weeds, fallen tree limbs, and is not usable by the public. Will this area be included in the development of 397 King St. into residential use and will that development be part of any new residential buildings that will occupy 397 King St., or will the public be able to use that small plot?

2. At the present, the whole property in question is surrounded by a wire fence. Will that fence be allowed to remain or will it be removed, as a portion of it borders on my property at 366 Park St., and I want it left intact?

Sincerely,
Gerry Maloney
366 Park St. W.
Dundas, ON
L9H 1Z6
Re Application for an Official plan and zoning by law amendment from Mike Valvasori for lands located at 397 King St. West Dundas.

File No OPA-08-018 and ZAC-08-076

Home owners
Keith & Christine Green
4 Bond St. North
Dundas, Ont L9H 3A8

To the Economic Development and the Planning Committee:

January 14, 2009

We do not want any outside air conditioners outside of any windows that face Bond St. North, nor do we want anything that makes a noise on that side of the building on the roof.

We have lived in our home for 30 years and have built a porch that in the summer we sit out and enjoy the quiet and relax and when the high school put 2 air conditioners in the windows they left them on constantly all summer and the drone of them was unbearable. To sit out there was not pleasant nor could we sleep out there on hot nights.