SUBJECT: Application to Amend the Flamborough Zoning By-law No. 90-145-Z for Property Located at 937 Centre Road (Flamborough) (PED07208) (Ward 15)

RECOMMENDATION:

That approval be given to Amended Zoning Application ZAR-07-025, 1582873 Ontario Ltd., (Trevor Babott) owner, to further modify the current Settlement Commercial “SC-17” Zone to add a commercial school as a permitted use and to delete an automobile leasing business as a permitted use, for the property located at 937 Centre Road, as shown on Appendix “A” to Report PED07208, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED07208, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed Modification in zoning conforms to the Town of Flamborough Official Plan and the Hamilton-Wentworth Official Plan.

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

The effect of the proposed Zoning By-law Amendment is to add a commercial school as an additional permitted use and to delete an automobile leasing business as a permitted use in the Settlement Commercial “SC-17” Zone. The proposed commercial school will permit instruction in music, dance and musical theatre. The proposed rezoning allows re-use of an existing commercial building which will serve the rural settlement area of Flamborough Centre and the surrounding rural area.

There were no major concerns provided by the commenting agencies. The proposal is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan and the Flamborough Official Plan.

BACKGROUND:

The applicant is proposing to further modify the zoning of the property at 937 Centre Road to permit a commercial school as an additional permitted use, and to delete the permitted use of an automobile leasing business. A Commercial School is defined in By-law No. 90-145-Z as: “a school operated for gain or profit, providing instruction in dance, music, arts, business, vocations or other specialized subjects but shall not include a private school.”

The proposed commercial school, known as the “Rising Star Performing Arts Academy”, has operated for 20 years providing instruction in dance, music and musical theatre, and has relocated to the subject property from Waterdown.

The subject property is occupied by an existing commercial building, which is located near the rear portion of the site and was constructed in 1978. The building comprises 538.8 square metres of gross floor area on the ground floor and includes an apartment unit on the second floor within the central portion of the building. The proposed commercial school will consist of 3 studios and will permit instruction for up to 10 students at a time, per studio. The commercial school will operate during the evenings from 4:00 p.m. to 8:00 p.m., and on Saturdays. Under the present zoning, the facility can partially operate as a fitness centre, but instructional classes in dance and music are not permitted.

The applicant has provided a survey plan which identifies the existing building and a parking area for 47 spaces (see Appendix “C”).

Details of Submitted Application

Owner: 1582873 Ontario Ltd. (Trevor Babott)
Location: 937 Centre Road (see Appendix “A”)
Property Size:
- Frontage: 61.34 metres
- Depth: 111.66 metres
- Area: 0.768 hectares

Existing Land Use and Zoning:

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<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Subject Lands:</td>
<td>Fitness Centre</td>
<td>Settlement Commercial “SC-17” Zone</td>
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<td>Surrounding Lands:</td>
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<tr>
<td>West</td>
<td>Automotive Service</td>
<td>Settlement Commercial “SC-8” Zone</td>
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<td>Single Detached Dwellings</td>
<td>Settlement Residential “R2” Zone</td>
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<td>North</td>
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<td>East</td>
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<td>South</td>
<td>Single Detached Dwellings</td>
<td>Settlement Residential “R2” Zone</td>
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**ANALYSIS / RATIONALE:**

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

   (i) It is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan.

   (ii) It conforms to the Flamborough Official Plan which designates the property “Settlement Commercial” within a Rural Settlement Area (Flamborough Centre), and which permits uses which serve the Rural Settlement Area and the surrounding rural area.

   (iii) The proposed commercial school represents an acceptable adaptive re-use of the existing building and there are no planning concerns identified with respect to this use.

2. **Parking**

   The proposed commercial school would require a minimum of 18 parking spaces, based on 5 parking spaces per classroom (3x5), and a minimum of 3 parking
spaces for the second floor apartment. A total of 47 parking spaces are identified on the survey plan (Appendix “C”). Overall, the parking area is functional with good access and provides for 29 surplus parking spaces. On the site, 27 parking spaces have been specifically delineated through the use of railway ties.

Through a site inspection, it has been noted that there are several areas of the property that have remained unpaved with a gravel surface, such as the area adjacent to the front wall of the building and a portion of the driving aisle near the front wing of the building. It also appears that access to the smaller parking area adjacent to the south wall of the building, for spaces 28-37 on the plan, would not be wide enough to allow for 2-way traffic.

As the existing building and parking area were developed in 1978, prior to the passage of the Flamborough Zoning By-law, these features are recognized as legal non-conforming.

Planting Strip

The Flamborough Zoning By-law requires a minimum 3 metre wide planting strip for commercial properties along all lot lines abutting a street and abutting any residential zone.

It is noted that the front of the property abutting Centre Road is comprised of mature trees and landscaping, which generally extends across the frontage of the site.

Properties which are zoned Settlement Residential “R2” Zone include 931 Centre Road, abutting the southerly boundary, 264 Concession 6 Road East, abutting the westerly boundary, and 266 and 270 Concession 6 Road East, abutting part of the northerly boundary of the property. The southerly boundary is screened/buffered with a solid wood fence and a wide sodded area. This portion of the site would conform to the planting strip requirements of the Flamborough Zoning By-law.

The northerly and westerly boundaries are partially defined by an existing chain-link fence. A portion of the planting strip between the parking area and the southerly boundary is less than the required minimum 3 metres in width. However, these boundaries are legal non-conforming to the planting strip requirements of the By-law.

3. Site Plan Approval would be required in the event of redevelopment or further development, such as a new building or an expansion to the existing building.
ALTERNATIVES FOR CONSIDERATION:

Should the proposed application for amendment to the Zoning By-law be denied, the subject lands may be used in accordance with the Settlement Commercial “SC-17” Zone for the development of various types of settlement commercial uses, including an automobile leasing business.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject property is within a Hamlet in the “Protected Countryside” of the Greenbelt Plan. Policy 3.4.3.1 directs that as the property is within a Hamlet which existed at the time that the Greenbelt Plan came into effect, it will continue to be governed by municipal official plans and related programs or initiatives, and will not be subject to the policies of the Greenbelt Plan.

Provincial Policy Statement

The proposal is consistent with Policy 1.1.3.1 that encourages growth to be focused in Settlement Areas.

Hamilton-Wentworth Official Plan

The subject property is designated “Rural Settlement Area” in the Hamilton-Wentworth Official Plan. Policy 3.2.1.5 requires Rural Settlement Areas to conform to the secondary plan and be consistent with the policies of this plan. As the subject property is designated “Settlement Commercial” on Schedule “B.15” Land Use - Rural Settlement Areas: Flamborough Centre of the Flamborough Official Plan, which permits commercial, professional and personal service uses related to the needs of the residents in the Rural Settlement Area and the surrounding rural area, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.
Flamborough Official Plan


The following policy from the Flamborough Official Plan, among others, is applicable to this proposal:

“4.6.1 The permitted uses in the Settlement Commercial designation shall be commercial, professional or personal service uses related to the consumer needs of the residents in the Rural Settlement Area, and the surrounding Rural Area.”

In terms of serving the Settlement Area of Flamborough Centre and the surrounding rural area, as set out in Policy 4.6.1, staff has been advised that the proposed commercial school would primarily serve the Flamborough community, which would account for approximately 75% of the student enrolment. The remainder of the students have been found to reside in nearby urban centres such as Hamilton, Dundas and Burlington. Of the students attending from Flamborough, 56% reside in the rural settlements of Carlisle (34%), Freelton (13%) and Milgrove (9%); and 44% reside in or close to Waterdown. It is expected that most commercial uses on this site would need to draw upon the more populated surrounding rural communities in order to sustain their businesses, as it is recognized that Flamborough Centre has a very small population base. The relocation of the school from Waterdown to Flamborough Centre would allow for a more centralized location to better serve the rural area. Therefore, the commercial school is considered to reasonably serve the rural area as a significant portion of the students reside in the surrounding rural communities within a 5-10 kilometre radius of the property. Furthermore, the proposed dance and music academy would provide a service that is presently not available in Flamborough Centre and in other local Rural Settlement Areas.

There are no policies specific to Flamborough Centre in the Flamborough Official Plan.

New Rural Hamilton Official Plan (for Information Purposes only)

The subject property is designated “Settlement Commercial” on Map 6, Volume 2, for Flamborough Centre in the new Rural Hamilton Official Plan, which is pending Ministerial approval.

The following policy from the Rural Hamilton Official Plan would provide further guidance for the consideration of this proposal:
“1.4.1 Small-scale commercial, professional or personal service uses primarily related to the needs of the residents in the Rural Settlement Area be permitted subject to the following conditions:

(a) Commercial uses of a size and nature to serve the needs of primarily the local residents in the Rural Settlement Area and its surrounding rural area, and do not rely on passing, or through vehicular traffic.”

In terms of the Rural Hamilton Official Plan, the proposed commercial school would satisfy the intent of Policy 1.4.1 for the reasons noted above under the comments for the Flamborough Official Plan. The school would provide instruction for students residing within the general vicinity and would not cater to the travelling public.

RELEVANT CONSULTATION:

Departments/Agencies having no concerns or objections:

- Community Services Division, Culture and Recreation Department.
- Traffic Engineering Section, Operations and Maintenance Division, Public Works Department.
- Parking and By-law Services Division, Planning and Economic Development Department.
- Forestry and Horticulture, Operations and Maintenance Division, Public Works Department.

Public Consultation

In accordance with the Public Participation Policy, approved by City Council on May 29, 2003, this application was precirculated to all property owners within 120 metres and a sign was posted on the site. A total of 37 notices were circulated. To date, no responses have been received.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through the circulation to property owners within 120 metres of the subject lands and the through the posting of a sign on the property.
CITY STRATEGIC COMMITMENT:

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

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

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

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

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

:CT
Attachs. (3)
Appendix "A" to Report PED07208 (Page 1 of 1)

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-07-025
Date: May 28, 2007

Appendix "A"

Scale: N.T.S.
Planner/Technician: CT / MB

Subject Property
937 Centre Road (Flamborough)

Lands to be rezoned.

Ward 15 Key Map N.T.S.
To Amend Zoning By-law No. 90-145-Z (Flamborough), as amended,
Respecting Lands located at 937 Centre Road (Flamborough)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 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 Corporation of the Town of Flamborough" 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. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS the Council of the City of Hamilton, in adopting Section [Section Number] of Report [Report Number] of the Economic Development and Planning Committee at its meeting held on the [Date] day of [Month], 2007, recommended that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereinafter provided;

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

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Section 19 - Settlement Commercial Zone of Zoning By-law No. 90-145-Z, as amended, is hereby further amended by deleting Subsection 19.3.17 – “SC-17” in its entirety and replacing it with the following:

“19.3.17  “SC-17”  (See Schedule Number A-28)

Permitted Use:

(a) Any use permitted in an SC Zone.

(b) A commercial school.

Zone Provisions:

(a) All other zone provisions of Subsection 19.2 shall apply.”

2. 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] day of [date], 2007.

________________________________________  __________________________
Fred Eisenberger                        Kevin Christensen
Mayor                                Clerk

ZAC-07-025
This is Schedule "A" to By-Law No. 07-
Passed the .......... day of ................., 2007

Schedule "A"

Map Forming Part of By-Law No. 07-

to Amend By-law No. 90-145-Z

Subject Property

937 Centre Road, Flamborough Amendment to the Settlement Commercial "SC-17" Zone.