SUBJECT: Applications for a Draft Plan of Subdivision and for a Change in Zoning for Lands Located at 1201 Upper James Street (Hamilton) (PED05140) (Ward 7)

RECOMMENDATION:

(a) That approval be given to Subdivision Application 25T200505, Benemar Construction Inc., owner, to establish a draft plan of subdivision on lands located at 1201 Upper James Street (Hamilton), comprising 2.57 hectares (6.35 acres), as shown on Appendix “B” to Report PED05140, subject to the execution of a City standard form Subdivision Agreement, including the conditions contained in Appendix “C” to Report PED05140 and the following:

(i) Acknowledgement that there will be no City share for any municipal works related to this development, in accordance with the financial policies for development, as approved by Council; and,

(ii) That payment of Cash-in-Lieu of Parkland will be required for the development prior to the issuance of each building permit for the lots within the plan. The calculation of the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of the building permit;

all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

(b) That approval be given to Zoning Application ZAC-05-42, Benemar Construction Inc., owner, for a change in zoning from the “AA” (Agricultural) District to “C” (Urban Protected Residential, etc.) District to permit 42 single family dwellings on lands located at 1201 Upper James Street (Hamilton), as shown on Appendix “A” to Report PED05140, subject to the following:

(i) That the subject lands be rezoned from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District;
(ii) That the draft By-law, attached as Appendix “D” to Report PED05140, which has been prepared in a form satisfactory to Corporate Counsel, be enacted by City Council; and,

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

(c) That upon finalization of the implementing By-law, the Jerome Neighbourhood Plan be amended to reflect the change in designation from “Civic & Institutional” to “Single and Double” Residential, and to revise the road network to add a cul-de-sac shown as Street ‘A’ on Appendix “B” to Report PED05140.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applicant has submitted applications for a draft plan of subdivision and change in zoning to facilitate the development of the subject lands, known as 1201 Upper James Street, for 42 lots for single detached dwellings on a proposed cul-de-sac. An amendment to the Jerome Neighbourhood Plan is required to accommodate the proposal.

This proposal has merit and can be supported since the changes in zoning and draft plan of subdivision are consistent with the Provincial Policy Statement and comply with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is consistent with existing and planned development in the immediate area. The proposed residential lots conform to the “C” (Urban Protected Residential, etc.) District zoning provisions in the City of Hamilton Zoning By-law. In addition, the proposal is an appropriate infill development that will make use of an already serviced site.

BACKGROUND:

Proposal

The proposed development applications are for a change in zoning and approval of a draft plan of subdivision, for lands located at 1201 Upper James Street, as shown on Appendix “A”. The plan of subdivision (Appendix “B”) is comprised of 42 lots for single detached dwellings fronting onto a proposed cul-de-sac which would connect to Lorenzo Drive. A Neighbourhood Plan amendment is required to redesignate the subject lands from “Civic & Institutional” to “Single & Double” Residential on the Jerome
Neighbourhood Plan. The proposed Zoning By-law Amendment (Appendix “D”) would rezone the lands from the “AA” (Agricultural) District to “C” (Urban Protected Residential, etc.) District to permit 42 single detached dwellings.

Details of Submitted Application

Owner/Applicant: Benemar Construction Inc. (Mark De Benedictis)

Agent: Sidney W. Woods Engineering Inc. (S. Kenneth Woods)

Location: 1201 Upper James Street (Hamilton)

Description:
- Total Area: 2.57 hectares (6.35 acres)
- Width: 100.773 metres (330.6 feet)
- Depth: 251.9 metres (826.4 feet)

Existing Land Use and Zoning:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Vacant</td>
<td>“AA” (Agricultural) District</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential, etc.) District, Modified</td>
</tr>
<tr>
<td>West</td>
<td>Commercial (Restaurant and Motel)</td>
<td>“HH” (Restricted Community Shopping and Commercial) District</td>
</tr>
</tbody>
</table>

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 and a Draft Plan of Subdivision.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The applications have been reviewed with respect to the Provincial Policy Statement (PPS) to determine if the applications are consistent with this statement. Staff recognizes that the applications have shown proper regard towards focusing growth in settlement areas as per Policy 1.1.3.1.

However, Policy 2.5.2 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 will be permitted. Therefore, as the subject lands have archaeological potential, staff recommends that the owner complete an archaeological assessment of the property in accordance with Standard Planning Condition No. 10, as provided for in Appendix “C”, Condition 2(b).

In addition, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities), and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise and other contaminants, and to minimize risk to public health and safety. Due to the proximity of the subject lands to Upper James Street and the Lincoln M. Alexander Parkway, the owner will be required to complete a noise assessment in accordance with Standard Planning Condition No.’s. 8 and 9, as provided for in Appendix “C”, Condition 2(b).

Hamilton-Wentworth Official Plan

The subject lands are designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy 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. Therefore, as the nature of the applications is for the development of a residential plan of subdivision on full municipal services, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Major Institutional” in the City of Hamilton Official Plan. The following policies of the City of Hamilton Official Plan, among others, are applicable to the proposed development:

“A.2.6.5 Notwithstanding the policies set out above, in areas designated MAJOR INSTITUTIONAL, Residential uses may be permitted provided they are
compatible with the surrounding area and are in keeping with the Residential policies set out in Subsections A.2.1 and C.7 of this Plan.

C.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

iii) Support RESIDENTIAL development such as infilling, redevelopment and the conversion of non-residential structures that makes more efficient use of the existing building stock and/or physical infrastructure that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview."

The City of Hamilton Official Plan permits residential development in areas designated "Major Institutional" provided that the development is compatible with the surrounding area. The proposal represents an appropriate example of infill development that will make efficient use of existing services, while ensuring that the existing character of the neighbourhood will be maintained.

Jerome Neighbourhood Plan

The subject lands are designated “Civic and Institutional” in the approved Jerome Neighbourhood Plan. If approved, the proposal will require an amendment to the Neighbourhood Plan to re-designate the lands as “Single and Double” Residential. The Plan will also need to be amended to reflect the revised road pattern.

CONSULTATION WITH RELEVANT DEPARTMENTS/AGENCIES:

Agencies/Departments Having No Comment or Objections

- Public Health and Community Services Department, Health Protection Branch.
- Corporate Services Department – Revenues Division.
- Corporate Services Department – Budgets and Finance Division.
- Assessment Department.
- Hamilton-Wentworth District School Board
- Hamilton-Wentworth Catholic School Board.
- Hamilton Police Services.
- Cogeco Cable Canada Inc.
- Hydro One.
- Union Gas.
Public Works Department – Traffic Engineering and Operations Section

The Traffic Engineering and Operations Section has stated that they have no comments regarding the rezoning application, and have provided comments on the draft plan of subdivision. The Section requires that the applicant submit driveway details for Lots 17-27 on Street “A” to ensure that the driveways do not overlap onto adjacent properties between the road allowance limit and the road curb. This condition has been addressed through Development Engineering Condition No. 4, as contained in Appendix “C”.

Public Works Department – Operations and Maintenance Division, Forestry Section

The Forestry Section has reviewed the submitted plan and advised that there are no Municipal Forestry conflicts as there are no trees located on the road allowance of this development. This Section also requests that a Landscape Plan be submitted by the applicant. This item has been addressed under Standard Planning Conditions No. 16 and 17, as provided for in Appendix “C”, Condition 2 (b).

Public Works Department - Capital Planning and Implementation Division, Strategic and Environmental Planning Section

The Environmental Planning Section has reviewed the applications and advised that it appears that there are no Class EA requirements for the applications. Any infrastructure upgrades or expansions outside of the draft plan of subdivision would require a Class EA.

Public Works Department - Capital Planning and Implementation Division, Open Space Development and Park Planning

This Section has noted that the draft plan shows no parkland and, therefore, the applicant is required make a cash payment to the City of Hamilton, equivalent to the value of 5% of the value of each lot in lieu of the dedication of land, required prior to the issuance of building permit. In addition, the owner must agree not to dispose or stockpile any waste or surplus fill material on the subject lands, except in a manner and location approved by the City. This condition has been addressed through Standard Engineering Condition No. 29, as provided for in Appendix “C”, Condition 2(a).

Public Health & Community Services Section – Culture and Recreation Division

This Section notes that the applicant will be required to pay 5% Cash-in-Lieu of parkland dedication payment. The Section also notes that the lack of a walkway at the end of the cul-de-sac does not promote options for pedestrians or cyclists. This issue will be discussed in the Comments section below.

Hamilton Street Railway

HSR currently operates the route #27 Upper James bus along Upper James Street. There is a potential here for improved transit in the Upper James Street corridor that
would support hotel/airport development. The proposed development improves the land use mix along the transit line, which is transit supportive. Consideration should be given to the installation of a walkway between Chipman Avenue and the Lincoln M. Alexander Parkway from Upper James Street to the residential development in the Jerome Neighbourhood in a safe and direct manner.

**Hamilton Conservation Authority**

The subject property is located within the Upper Ottawa subwatershed of Red Hill Creek. Thus, these lands are within the watershed of Hamilton Harbour which has a Remedial Action Plan to restore the health of the harbour. The recommendations of the Hamilton Harbour Remedial Action Plan indicate that development should provide stormwater quality control as well as control erosion and sediment during and after construction.

The site is not within an area of combined sewers. Therefore, it should be demonstrated that water quantity and quality control has been or will be provided for this development. Being within the Upper Ottawa subwatershed, water quality control for this development may be provided by the Central Mountain stormwater facility at Mountain Brow Boulevard. It must be confirmed that this site is included within the area allocation for this facility. If capacity is not available at this facility, temporary water quality control will be required on site, to the satisfaction of the Manager, Development Engineering. Erosion and sediment control must be provided during construction to limit the off-site movement of sediment that can affect downstream fish habitat.

**Recommendations:** That Hamilton Conservation Authority Standard Conditions 1 and 2 ([Appendix “C”, Conditions 2(d)]), Hamilton Conservation Authority Condition 11, and Development Engineering Condition 10 be included in the draft plan of subdivision approval.

**Bell Canada**

Bell Canada has determined that there are adequate telecommunication facilities existing within the area and, therefore, Bell Canada does not require any easement or lease. Bell Canada has requested that a condition requiring the developer to enter into a Letter of Understanding for underground servicing be imposed on the draft plan of subdivision.

**Recommendations:** That Bell Canada Standard Condition 1 be included in the draft plan of subdivision approval ([Appendix “C”, Condition 2(c)])

**PUBLIC CONSULTATION:**

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to 78 property owners within 120 metres of the subject lands. No written responses were received as a result of this circulation. Notice of the Public Meeting will be given in accordance with the Planning Act.
CITY STRATEGIC COMMITMENT:

The subject lands are within the defined urban area and full municipal services are available. The proposed draft plan of subdivision and zone change applications are consistent with the objectives of sustainable development and support VISION 2020's goals within the Land Use in the Urban Area Theme. The goals include encouraging development which makes efficient and economical use of infrastructure and services, as well as curbing urban sprawl and suburban encroachment onto rural and agricultural lands. No adverse impacts with respect to economic, social, health and environmental matters have been identified with these applications.

COMMENTS:

Circulation of the proposed applications to various City Departments and outside agencies resulted in no significant issues with respect to the proposed zone changes, although a number of requests to impose specific conditions of draft approval for the proposed plan of subdivision were received. Planning staff’s evaluation of the proposed applications is set out below.

1. This proposal has merit and can be supported for the following reasons:
   
   (i) The proposed draft plan of subdivision and changes in zoning are consistent with the Provincial Policy Statement and conform to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan;
   
   (ii) The proposal is consistent with existing and planned residential development in the immediate area;
   
   (iii) The proposed residential lots conform to the “C” (Urban Protected Residential, etc.) District zoning provisions in the City of Hamilton Zoning By-law; and,
   
   (iv) The proposal is an appropriate infill development that will make use of an already serviced site.

2. The approved Jerome Neighbourhood Plan indicates a walkway connecting Upper James Street to the interior of the neighbourhood (as shown on Appendix “E”). The walkway is proposed to the north of 1187 Upper James Street and connects to a proposed roadway to the north of the subject lands. A walkway to provide access from the interior of the neighbourhood to Upper James Street would be beneficial somewhere between Chipman Avenue and the Lincoln M. Alexander Parkway, as has been expressed by the HSR. However, staff have determined that it is not appropriate to require the walkway connection as part of this draft plan of subdivision for the following reasons:

   • The approved Neighbourhood Plan does not indicate the walkway connecting to the subject lands, but instead to lands to the north. The lands to the north
are currently vacant, and are designated on the Neighbourhood Plan as ‘Single and Double’ Residential, with a proposed road pattern connecting to Lorenzo Drive to the south and Colin Crescent to the east. The walkway is shown on the Neighbourhood Plan connecting to a proposed crescent to the north. This would be a more suitable location for a walkway, as it would provide more direct access for more future residents. It is unknown at this time exactly how the lands to the north will develop, but it is recommended that options for providing a walkway connection to Upper James Street be explored at that time.

- A walkway connection to ‘Street A’ would be impractical as it would funnel all pedestrian traffic through the proposed cul-de-sac. This would not be the most direct route for many of the potential residents that would be using the walkway.

- There is a portion of the subject property, shown on Appendix “B” as “additional lands of the applicant”, which is not part of this draft plan of subdivision. The strip of land is approximately 10 metres wide by 134 metres long, and connects the proposed draft plan to Upper James Street. While this may appear to provide a potential walkway link between the draft plan and Upper James Street, the feasibility of actually using these lands for a walkway is questionable. The land is currently being used for parking by the existing commercial properties to the north and south on Upper James Street. The capability to use these lands as a walkway may be limited by problems arising as a result of the current use of this land by the two adjoining property owners.

3. The proposed draft plan is comprised of 42 lots for single detached dwellings, as shown on Appendix “B”. All of the proposed lots meet the minimum lot width (12 metres) and lot area (360 m²) requirements of the “C” (Urban Protected Residential, etc.) District.

4. There is an existing watermain, storm sewer, and sanitary sewer of sufficient size and capacity on Lorenzo Drive to service this development directly. Under the City of Hamilton subdivision agreement for the construction of Lorenzo Drive the developer paid for the cost of services adjacent to this draft plan. The City of Hamilton will recover the costs of the existing services adjacent to this development for that developer under the “Best Efforts” clause.

The ultimate road allowance width of Upper James Street is 36.57 metres. The existing road allowance width adjacent to this property is 30.48 metres. The owner will be required to dedicate a road widening to the City of Hamilton of 3.048 metres along the frontage of their property adjacent to Upper James Street (Development Engineering Condition # 9).

5. In accordance with the City of Hamilton’s Parkland Dedication By-law, the application is subject to a Cash-in-Lieu of parkland dedication payment. Given that the subject lands are not designated for a future park, the City does not
SUBJECT: Applications for a Draft Plan of Subdivision and for a Change in Zoning for Lands Located at 1201 Upper James Street (Hamilton) (PED05140) (Ward 7) - Page 10 of 10

require the inclusion of parkland dedication into the draft plan of subdivision. Therefore, in accordance with City By-laws, a cash payment to the City of Hamilton, equivalent to the value of 5% of the value of each lot in lieu of the dedication of land, will be required prior to the issuance of building permit.

In addition, the City’s Transition Policies would allow for the following phase-in for Cash-in-Lieu of Parkland:

(a) 3 percent of land value on the day before building permit issuance between 2003 to December 31, 2005.

(b) 4% of land value on the day before building permit issuance between January 1, 2006 to December 31, 2006.

(c) 5% of land value on the day before building permit issuance as of January 1, 2007.

6. Approval of this Draft Plan of Subdivision will be subject to the conditions included in Appendix “C”, including the applicable City’s standard conditions of approval. Several special conditions will also apply, many of which have already been referenced in this report. In addition, conditions relating to payment for survey monumentation, the requirement for a geotechnical report, sidewalk locations, required daylight triangle, and servicing costs have also been included. (Development Engineering Condition No.’s 3 and 6 to 8).

CONCLUSION:

Based on the foregoing, staff supports the applications for draft plan of subdivision and changes in zoning, as recommended for approval in the Recommendations Section of this report, subject to the draft approval conditions in Appendix “C”.

:HT

Attachs. (5)
1201 Upper James Street (25T200505) – Conditions of Draft Approval

1. That this approval apply to the Draft Plan of Subdivision entitled “1201 Upper James Street”, dated April 15, 2005, prepared by Sidney W. Woods Engineering Inc., as shown on Appendix “B” to Report PED05140, showing a maximum of forty-two (42) lots for single detached dwellings.

2. That the following standard conditions of draft plan approval from Appendix “A” of Report PD01184 (Streamlining and Harmonization of Subdivision, Condominium and Part Lot Control Approvals and Administration Processes) shall apply;

   (a) Development Engineering
       Standard Conditions Nos. 1, 2, 7, 15, 17, 21, 29, 30, and 32;

   (b) Development Planning
       Standard Conditions Nos. 2, 3, 4, 5, 8, 9, 10, 16, 17, 20, and 21;

   (c) Bell Canada
       Standard Condition No. 1;

   (d) Hamilton Conservation Authority
       Standard Conditions Nos. 1 and 2;

Development Engineering

3. That the Owner agree in writing to make a cash payment to the City in-lieu of providing Horizontal and Vertical Control Survey Monumentation, to the satisfaction of the Manager of Development Engineering.

4. That as part of the detailed engineering design, the grading plan shall indicate all proposed driveway locations for all lots. Driveways for Lots 17 to 27, inclusive, will not overlap and will have a minimum 1.0m separation at the curb line all to the satisfaction of the Manager of Development Engineering and the Supervisor of Traffic Planning.

5. That the Owner provides a geotechnical report prepared by a qualified professional engineer prior to final engineering design, to the satisfaction of the Manager of Development Engineering.

6. That the Owner agrees in writing to construct sidewalks as follows: along the south side of Street “A” adjacent to Lots 25 to 42. Further, that the Owner shall include a notice in all Purchase and Sale Agreements advising future home owners of these sidewalk requirements, to the satisfaction of the Manager of Development Engineering.
7. That the owner dedicate a 3 metre x 3 metre daylight triangle on the north and south side of the intersection of Street “A” and Lorenzo Drive, to the satisfaction of the Manager of Development Engineering.

8. That the owner pays all outstanding servicing costs adjacent to the full length of this development for Lorenzo Drive, to the satisfaction of the Manager of Development Engineering.

9. That the owners dedicate a 3.048 metre road widening along their frontage of Upper James Street, to the satisfaction of the Manager of Development Engineering.

10. That in the event that the existing stormwater quality pond at the Mountain Brow Boulevard stormwater facility does not have capacity for this development, the developer will be responsible for providing temporary water quality control on site, including maintenance, at the developer’s cost, to the satisfaction of the Manager, Development Engineering.

Hamilton Conservation Authority

11. That the applicant prepares and implements a lot grading plan to the satisfaction of the Hamilton Conservation Authority.
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Planning and Economic Development Committee at its meeting held on the day of , 2005, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

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

1. Sheet No. E9b of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton) is amended by changing from the “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District,
the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the “C” (Urban Protected Residential, etc.) District provisions.

3. 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 _____, 2005.

__________________________________________  __________________________________________
MAYOR                                      CLERK

ZAC-05-42/25T200505
Schedule "A"

Map Forming Part of By-Law No. 05-____ to Amend By-Law No. 6593

Subject Property
1201 Upper James Street
Change in zoning from "AA" (Agricultural) District to "C" (Urban Protected Residential, etc.) District.

Planning and Economic Development Department

Hamiton

Scale: Not to Scale
File Name/Number: ZAC-05-42/25T-200505
Date: September 21, 2005
Planner/Technician: HT/NB

This is Schedule "A" to By-Law No. 05—

Clerk

Passed the __________ day of __________________, 2005

Mayor