SUBJECT: City Initiative to Amend Comprehensive Zoning By-law 05-200 and City of Hamilton By-law No. 6593 for Lands Located at 398 King Street West and 42 Pearl Street North (PED06405(b)) (Ward 1)

RECOMMENDATION:

(a) That approval be given to City Initiative CI-07-I, to amend the City's Comprehensive Zoning By-law 05-200 and the former City of Hamilton Zoning By-law 6593, to correct a mapping error and reinstate the zoning that existed prior to the implementation of the new Institutional Zoning for the properties located at 398 King Street West (Good Shepherd) and 42 Pearl Street North, as shown on Schedule "A" of Appendix "A" to Report PED06405(b).

(b) That the draft Zoning By-laws, attached as Appendices “A” and “B” to Report PED06405(b), which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

EXECUTIVE SUMMARY:

The purpose of this initiative is to re-establish the zoning on the lands located at 398 King Street West (Good Shepherd) and 42 Pearl Street North, which was inadvertently changed during the approval of the new Institutional Zones within the Comprehensive Zoning By-law. The recommendations of this report correct a mapping error and reinstate the zoning that existed prior to the implementation of the Institutional Zoning.
With regards to 398 King Street West (Good Shepherd), there are no changes from the zoning regulations approved by the Ontario Municipal Board, as it existed prior on March 28, 2007.

**BACKGROUND:**

The City has undertaken a number of stages to create a new Comprehensive Zoning By-law for the City of Hamilton. On March 28, 2007, Council approved the implementation of new Institutional Zones across the entire City, whereby hundreds of properties were rezoned. The properties rezoned related to existing Institutional uses, i.e. schools, places of worship, residential care facilities, retirement homes, etc. Where existing zoning permitted an Institutional use, but the lands are vacant, no new zoning was to be created for those lands.

The former zoning for the property located at 389 King Street West (Good Shepherd) permits a range of Institutional uses, which was approved by the Ontario Municipal Board. Throughout the consultation process, including responses at the Open Houses and telephone inquiries, staff stated that the subject property would not be zoned during the Institutional process. There was no intent to alter the Ontario Municipal Board decision, implementing Zoning By-law or applications that recently lifted the “H” - Holding Provision from a portion of the lands. The subject property was inadvertently rezoned, which would result in a substantial change to the Board approved decision.

The property located at 42 Pearl Street North was zoned for residential uses; however, it was also rezoned under the new Institutional Zones, as it was under the same ownership as 389 King Street West. This report will reinstate the “D” (Urban Protected Residential – One and Two Family, etc.) District, as it existed prior to March 28, 2007.

The effect of the proposed zoning amendment is to reinstate the zoning which existed prior to the new Institutional zoning coming into effect. There is no change to the previously Ontario Municipal Board approved zoning for 389 King Street West (Good Shepherd).

**ANALYSIS/RATIONALE:**

This report corrects an inadvertent mapping error, and reinstates the prior existing zoning on the subject lands.

**ALTERNATIVES FOR CONSIDERATION:**

The only alternative would be not to correct the zoning, which would unfairly remove property rights.

**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 amendment to the Zoning By-law.

**Policies Affecting Proposal:**

No policies affected.

**Relevant Consultation:**

The Legal Services Division was contacted, and confirmed that the approach taken with this report is the appropriate course of action.

The developer of the property has been contacted and made aware of the mapping error and the process being undertaken to correct it.

**Public Consultation**

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, preliminary circulation has not been undertaken as it is the opinion of the City’s Manager of Development Planning, in consultation with the Ward Councillor, that no purpose nor benefit would be gained from public consultation as this initiative is effectively a housekeeping amendment correcting a mapping error.

**City Strategic Commitment:**

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

- Community Well-Being is enhanced. ☑ Yes ☐ No
- Environmental Well-Being is enhanced. ☑ Yes ☐ No
- Economic Well-Being is enhanced. ☑ Yes ☐ No

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

:AF

Attachs. (2)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), Respecting the lands located at 398 King Street West and 42 Pearl Street North

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item ___ of Report 07-___ of the Economic Development and Planning Committee at its meeting held on the ___ day of August, 2007, 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. W-12 of the District Maps, appended to and forming part of By-law No. 6593, is amended, as follows:
Appendix “A” to Report PED06405(b)
Page 2 of 7

(a) That the lands comprised in Blocks “1”, “2”, “3” and “4”, be zoned “H” (Community Shopping and Commercial, etc.) District, Modified;

(b) That the lands comprised in Blocks “5” and “6”, be zoned “DE” (Low Density Multiple Dwellings) District, Modified; and,

(c) That the lands comprised in Block “7”, be zoned “D” (Urban Protected Residential – One and Two Family, etc.) District, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “H” (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks “1”, “2”, “3” and “4” are amended to the extent only of the following special requirements:

(a) That subsections 14.(1)(iiib) and (14.1)(iici) shall not apply to the subject lands;

(b) That notwithstanding Subsection 14.(3)(ii)(a), where a building or structure is comprised of residential uses and commercial uses, then a minimum side yard of 9m shall be provided and maintained for the residential use;

(c) That in addition to the requirements of Section 14 of Zoning By-law No. 6593, no residential use or accessory use shall be located,

(i) except functionally completely separate from any commercial use;

(ii) in such a manner as will interrupt or project into or through, any area otherwise,

(1) accessory, incidental, allocated to or continuous with, or,

(2) within any larger area devoted to a commercial use;

(iii) except in such a manner as will completely segregate from any commercial use pedestrian movement to and from any residential use.

(d) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, the minimum number of required parking spaces for a building or structure comprised of residential uses and commercial uses shall be:
Appendix “A” to Report PED06405(b)

(i) 1.4 spaces per 100 square metres of floor area for a medical clinic;

(ii) 1 space for every 31.0 square metres of floor area for that portion of floor area in excess of 450.0 square metres for general office uses; and,

(iii) 1 space per 6 persons who may be lawfully accommodated for a place of assembly.

3. That the “H” (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks “1” and “3” are amended to the extent only of the following special requirements:

(a) That notwithstanding Subsection 14. (1)(iiiia) of Zoning By-law No. 6593, a maximum of seventy-two (72) dwelling units shall be permitted; and,

(b) That notwithstanding Subsection 18A (1)(a) and (b) of Zoning By-law No. 6593, 0.17 spaces per Class A dwelling unit shall be provided and maintained.

4. That the “H” (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks “2” and “4” are amended to the extent only of the following special requirements:

(a) That notwithstanding Subsection 14.(1)(iiiia) of Zoning By-law No. 6593, a maximum of sixty (60) dwellings units shall be permitted;

(b) That notwithstanding Subsection 14.(2)(ii) of Zoning By-law No. 6593, the maximum height of any building, structure or portion therefore shall not exceed four (4) storeys within 84m of the northerly lot line; and,

(c) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, 0.26 spaces per Class A dwelling unit shall be provided and maintained.

5. That the “DE” (Low Density Multiple Dwellings) District provisions, as contained in Section 10A of Zoning By-law No. 6593 (City of Hamilton), applicable to Block “5” are amended to the extent only of the following special requirements:

(a) That Section 4(3)(a) shall not apply to an emergency shelter;
(b) That notwithstanding Subsection 10A.(1)(viii) of Zoning By-law No. 6593, two emergency shelters for the combined accommodation of not more than sixty (60) residents within one building shall be permitted;

(c) That notwithstanding Subsection 10A.(3)(ii)(c) of Zoning By-law No. 6593 for a multiple dwelling, a side yard along each side lot line of a width of at least 2.7 metres shall be provided and maintained;

(d) That notwithstanding Subsection 10A.(6) of Zoning By-law No. 6593 for an emergency shelter permitted under Subsection (b)(iv)(ii), every emergency shelter shall be situated on a lot having a minimum radial separation distance of not less than 120.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility; and,

(e) notwithstanding Subsection 2.A.(ixa) of Zoning By-law No. 6593. for the purposes of this by-law, an “Emergency Shelter” shall mean a fully detached building or portion thereof offering programmes in a crisis situation to:

(i) homeless women; and,
(ii) women and families who are victims of violence;

who require shelter, protection, assistance and counselling or support which is intended to be short term accommodation of a transient nature. An emergency shelter does not include a residential care facility; a lodging home; a corrections residence; a correctional facility; or any other facility which is licensed, approved or regulated under any general or special Act.

6. That the “DE” (Low Density Multiple Dwellings) District provisions, as contained in Section 10A of Zoning By-law No. 6593 (City of Hamilton), applicable to Block “6” are amended to the extent only of the following special requirements:

(a) That notwithstanding Subsection 10A.(3)(ii)(c) of Zoning By-law No. 6593, for a multiple dwelling a minimum side yard of at least 6.0m shall be provided and maintained;

(b) That notwithstanding Subsection 10A.(3)(iii) of Zoning By-law No. 6593, for a multiple dwelling a minimum rear yard of at least 2.7m shall be provided and maintained; and,
(c) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, 0.26 spaces per Class A dwelling unit shall be provided and maintained.

7. That in addition to the requirements of Subsection 10A.(1) and notwithstanding the requirements of Subsection 18A.(40) of Zoning By-law No. 6593, Table 1 of Section 18A of Zoning By-law No. 6593 and Subsections 2.(d), 3.(b), 4.(c) and 6.(c) of this By-law, a maximum of 8 of the required parking spaces may be used for public parking.

8. That Subsection 4.(3)(a) of Zoning By-law No. 6593 shall not apply to the subject lands.

9. That the amending By-law apply the holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990, to Blocks “1”, “2”, “3”, and “4” by introducing the holding symbol ‘H’ as a suffix to the proposed zoning district as follows:

(a) The holding provision will prohibit the development of Blocks “1”, “2”, “3”, and “4” until:

(i) That the owner/applicant shall conduct an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements;

(ii) That the owner/applicant shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning;

(iii) That the applicant/owner prepare and submit a tree preservation plan for the existing trees located within the King Street West, Ray Street North and Pearl Street North road allowances and the subject lands, to the satisfaction of the Manager of Forestry, Parks Division, Community Services Department and the Director of Planning;
(iv) That the owner has submitted a signed Record of Site Condition (RSC) to the Ministry of Environment. This RSC must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC from the Ministry of Environment; and,

City Council may remove the ‘H’ symbol and, thereby, give effect to the “H” (Restricted Community Shopping and Commercial) District and “DE” (Multiple Dwellings) District, as amended by the special requirements of Sections 2, 3, 4, 5, 6, 7 and 8 as stipulated in this By-law, by enactment of an amending By-law once the above conditions have been fulfilled;

10. That upon the satisfying the conditions of the ‘H’ symbols and submitting the required fees, that the General Manager, Planning and Economic Development Department, be authorized and directed to give the prescribed notice(s) in accordance with the provisions of the Planning Act and to prepare a By-law(s) in a form satisfactory to the Corporate Counsel to remove the ‘H’ symbol(s) for presentation to City Council.

11. 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 “H” District and "DE" District provisions, subject to the special requirements referred to in Sections 2, 3, 4, 5, 6, 7 and 8.

12. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1486.

13. Sheet No. W-12 of the District Maps is amended by marking the lands referred in Section 1 of the by-law as S-1486.

14. 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 , 2007.

__________________________________________________________
Fred Eisenberger
Mayor

__________________________________________________________
Kevin C. Christenson
City Clerk

CI-07-I
Schedule "A"

Map Forming Part of By-Law No. 07-____
to Amend By-law No. 6593

Subject Property
398 King Street West and 42 Pearl Street North

- Blocks 1 and 2 - Lands to be zoned to "H"
- Blocks 3 and 4 - Lands to be zoned to "H"
- Blocks 5 and 6 - Lands to be zoned to "DE"
- Block 7 - Lands to be zoned to "D" (Urban Protected Residential - One and Two Family, etc.) District

This is Schedule "A" to By-Law No. 07-
Passed the .......... day of ......................, 2007
CITY OF HAMILTON

BY-LAW No. ______

Housekeeping Amendments to By-law 05-200

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, S.O. 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 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 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ___ of Report 07-___ of the Economic Development and Planning Committee at its meeting held on the ___ day of August, 2007, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

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 Map 909 and replacing it with Map 909 as attached as Schedule “A” to this By-law.

2. 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 , 2007.

__________________________________________  __________________________________________
Fred Eisenberger  Kevin C. Christenson
Mayor  City Clerk

CI-07-I