SUBJECT: Application to Amend the Town of Dundas Zoning By-law No. 1964 for Property Located at 9 Meadow Lane (Dundas) (PED08097) (Ward 13)

RECOMMENDATION:

That approval be given to Zoning By-law Amendment Application ZAR-07-055, by Welcan Inc., owner, for a change in zoning from the General Industrial “M3” Zone to the General Industrial “M3-7” Zone, to permit a commercial motor vehicle repair shop, within a portion of the existing industrial building located at 9 Meadow Lane, Dundas, as shown on Appendix “A” to Report PED08097, on the following basis:

(a) That the Draft By-law, attached as Appendix “B” to Report PED08097, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and Town of Dundas Official Plan.

Tim McCabe
General Manager
Planning and Economic Development Department


EXECUTIVE SUMMARY:

The application is for a Zoning By-law Amendment to permit the existing commercial motor vehicle repair shop, within a portion of an existing industrial building.

The proposal has merit and can be supported as the proposed change in zoning is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan, and the Dundas Official Plan. The proposed development is to be restricted to the existing building and is compatible with the existing development in the area.

BACKGROUND:

Proposal

The applicant has applied to modify the zoning of the subject lands, known as 9 Meadow Lane (see Appendix “A”), in order to permit a commercial motor vehicle repair shop within an existing industrial building.

The modifications in zoning would permit a motor vehicle repair shop, with a maximum gross floor area of 250 square metres within the existing building, in addition to the uses currently permitted in the General Industrial “M3” Zone.

Details of Submitted Application:

Owner: Welcan Inc.
Applicant: Stan Kobylinski
Location: 9 Meadow Lane (see Appendix “A”).

Description:

- Frontage: 67.7m
- Depth: 80.5m
- Area: 0.54ha

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>(Welcan Inc.)</td>
<td>Industrial</td>
<td>General Industrial</td>
</tr>
<tr>
<td></td>
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<td>“M3” Zone</td>
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<thead>
<tr>
<th>Surrounding Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>North</td>
<td>Natural Area</td>
<td>General Industrial</td>
</tr>
<tr>
<td></td>
<td>(Spencer Creek)</td>
<td>“M3” Zone</td>
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South
Industrial, Commercial, and Single Detached Dwellings
General Industrial “M3” Zone and Temporary Open Space “O1” Zone

East
Industrial (Canadian Tire Warehouse)
General Industrial “M3” Zone

West
Industrial and Single Detached Dwellings
General Industrial “M3” Zone

ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) It is consistent with the Provincial Policy Statement.
   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Dundas Official Plan.
   (iii) It is compatible with the existing and planned development in the immediate area.

2. The subject lands are designated as “Conservation/Hazard Area” in the Town of Dundas Official Plan. Policy 3.5.4.6 permits the consideration of Zoning By-law Amendments when land acquisitions are not contemplated and approval from the relevant Conservation Authority has been obtained.
   
   As the application is to legalize an existing commercial use within an existing building, and there are no alterations/renovations to the existing building, the Hamilton Conservation Authority has indicated they have no concerns with the proposed amendment. Based on the foregoing, the proposal conforms to the Dundas Official Plan.
   
   It should be noted that any future renovations will require written approval of the Hamilton Conservation Authority, and will need to ensure that the renovations are consistent with flood proofing standards.

3. The subject lands are zoned General Industrial “M3” zone in the Town of Dundas Zoning By-law No. 1964. This zone does not permit a motor vehicle repair shop as a permitted use. The proposed site-specific General Industrial “M3-7” Zone would permit a motor vehicle repair shop with a maximum gross floor area of 250 square metres within the existing building, and all other permitted uses of the
General Industrial “M3” Zone (i.e. Warehousing, Transportation Terminals, Manufacturing, etc.).

4. The abutting properties are zoned and used for Industrial purposes.

To the south of the subject property there is a mix of legal non-conforming industrial, commercial, and residential uses. As the proposed Commercial use is to be restricted to the existing building, the proposal will have little impact on the properties in the surrounding area.

5. The subject property is serviced through municipal water and a private septic system. The subject property is subject to Site Plan Control, and any substantial changes/renovations to the building would require Site Plan Approval. Prior to the issuance of any building permit, the owner will have to demonstrate that there is adequate water and sewage capacity available to meet the needs of the proposed Industrial and Commercial uses.

ALTERNATIVES FOR CONSIDERATION:

If the application is denied, then the applicant will have to discontinue the use of the property as a motor vehicle repair shop and will have the option of using the property for the current range of General Industrial “M3” Zone uses.

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:

Provincial Policy Statement

The proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetland) 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 the ecological functions. The subject lands are within Environmentally Sensitive Area No. 41 - Dundas Valley. Since
the applicant will be using the existing building for the requested additional use, and the Hamilton Conservation Authority has advised they have no concerns, the proposal meets the intent of the PPS.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

Additionally, Policy C-1.2.2 (a) 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 of the area’s designation;

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

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

Staff notes that the subject lands fall within ESA #41 (Dundas Valley). However, Natural Heritage staff and the Hamilton Conservation Authority have reviewed the application and do not have any concerns as the proposed use is within an existing building.

**The Town of Dundas Official Plan**

The subject lands are designated as “Conservation/Hazard Area” in the Town of Dundas Official Plan. Policy 3.9.4.6 of the Dundas Official Plan states:

“Where acquisition is not contemplated, Council may consider an application for an amendment to the implementing Zoning By-law, subject to the following provisions:

(a) For areas within the floodplain indicated on Schedule “B-3” Special Policy Areas, the provisions of all affected Special Policy Areas contained in Sub-section 3.10 will apply;

(b) For all other floodplain areas, no building or the placing of or removal of fill will be permitted on the proposed site without the Conservation Authority having jurisdiction;
(c) Any grading or change in elevation or change in ground cover on the proposed site which would alter the surface drainage pattern will require the approval of the Conservation Authority having jurisdiction and the Town;

(d) Appropriate building setbacks may be established from the edge of the watercourse by the Conservation Authority having jurisdiction in consultation with the Town;

(e) Those setbacks will be required to incorporate any flood control and/or flood proofing measures as may be prescribed by the Conservation Authority having jurisdiction; and;

(f) Any development proposals on Conservation/Hazard Lands within the Parkway Belt West Area will be subject to Ontario Land Use Regulations 484/73, 486/73, and Ontario Regulation 150/90 and, where applicable, the Town’s Zoning By-law.”

As the application is to permit the existing commercial motor vehicle repair shop, and there are no alterations/renovations to the existing building, the Hamilton Conservation Authority has indicated they have no concerns with the proposal. Therefore, the proposal conforms to the Dundas Official Plan.

**RELEVANT CONSULTATION:**

**The following Departments and Agencies had no comments or objections:**

- Downtown and Community Renewal Division
- Traffic Engineering and Operations Section, Public Works Department
- Forestry and Horticulture Section, Public Works Department
- Horizon Utilities

**Hamilton Conservation Authority**

The Hamilton Conservation Authority has indicated that the subject property is located within the Floodplain of Lower Spencer Creek and is also located within Special Policy Area 2 of the Town of Dundas Official Plan.

The Hamilton Conservation Authority has indicated that as long as there are no alterations/renovations to the existing building that they have no concerns, however, if any future renovations are proposed, written approval from the Conservation Authority will be required to ensure that the renovations are consistent with flood-proofing standards.
Ministry of the Environment

The Ministry of the Environment advises that the applicant will likely be required to obtain approvals pursuant to the Environmental Protection Act for any equipment relating to the venting of air emissions, paint spray booth, etc. This use will also likely result in waste oils and other spent automotive liquids, lubricants and solvent products that must be stored and disposed of in accordance with the legislation. The applicant should be advised of these requirements. For further direction as to required approvals, consultation with the Hamilton District Office staff would be appropriate.

Public Consultation:

In accordance with Council's Public Participation Policy, this application was pre-circulated to forty-two property owners within 120 metres of the subject lands. To date, no comments have been received. In addition, a Public Notice sign was posted on the property on November 19, 2007.

Notice of the Public Meeting for this rezoning application will be circulated to property owners within 120 metres of the subject lands, and through a sign posted on the property, in accordance with the requirements of the Planning Act.

CITY STRATEGIC COMMITMENT:

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

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

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

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

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

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

:DB
Attachs. (3)
Location Map

Site of the Application

Subject Property

9 Meadow Lane
Lands to be rezoned from (General Industrial) "M3" Zone to the (General Industrial) "M3-7" Zone to permit a motor vehicle repair shop.

Ward 13 Key Map  N.T.S.
CITY OF HAMILTON

BY-LAW NO. [Blank]

To Amend Zoning By-law No. 1964 (Dundas), as amended
Respecting Lands located at 9 Meadow Lane, (Dundas)

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 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. 1964 (Dundas) was enacted on the 7th day of May 1962;

AND WHEREAS the Council of the City of Hamilton, in adopting Section [Blank] of Report [Blank] of the Economic Development and Planning Committee, at its meeting held on the [Blank] day of [Blank], 2008, recommended that Zoning By-law No. 1964 (Dundas), be amended as hereinafter provided;

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

1. Schedule “A” Zoning Map, attached to and forming part of Zoning By-law No. 1964 (Dundas), as amended, is hereby further amended by changing the zoning:

   (a) from the General Industrial “M3” Zone to the General Industrial “M3-7” Zone, on those lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”. 
2. Section 23 – General Industrial Zone of Zoning By-law No. 1964 (Dundas) is hereby amended by adding the following Subsection:

"23.1(g) “M3-7” (see Schedule “A”)

Permitted Uses

(a) A motor vehicle repair shop only within the building existing on the date of the passing of this By-law being the ___ day of ______, 2008.

(b) All other uses permitted in Subsection 23.1.

Zoning Provisions

(a) A maximum Gross Floor Area of 250 square metres for a motor vehicle repair shop.

(b) All other zone provisions of Subsection 23.2 shall apply."

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 ________, 2008.

______________________________  ______________________________
Fred Eisenberger               Kevin Christenson
Mayor                        Clerk

ZAR-07-055
This is Schedule "A" to By-Law No. 08-
Passed the ............ day of ....................., 2008

Schedule "A"

Map Forming Part of
By-Law No. 08-_____
to Amend By-law No.1964

Subject Property

9 Meadow Lane
Lands to be rezoned from (General Industrial) "M3" Zone to the (General Industrial) "M3-7" Zone.