SUBJECT: Application for a Change in Zoning for Lands Located at 1286 Upper James Street (Hamilton) (PED06345) (Ward 8)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-06-33, Edward Lorne Richter, Ronald Gary Richter and Lowell Elliott Richter, owners, for a change in zoning from the “C” (Urban Protected Residential, etc.) District and the “AA” (Agricultural) District to the “H” (Community Shopping and Commercial, etc.) District (Block “1”) to permit a dental office, and from the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. – Holding) District (Block “2”) to be developed for future single detached residential purposes for lands located at 1286 Upper James Street (Hamilton), as shown on Appendix “A” to Report PED06345, on the following basis:

(a) That Block “1” be rezoned from the “C” (Urban Protected Residential, etc.) District and the “AA” (Agricultural) District to the “H” (Community Shopping and Commercial, etc.) District.

(b) That Block “2” be rezoned from the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. - Holding) District.

(c) That the amending By-law apply the Holding provisions of Section 36 (1) of the Planning Act, R.S.O., 1990, to Block “2”, as shown on Appendix “A”, by introducing the Holding symbol ‘H’ as a suffix to the proposed Zoning District. The Holding provision will prohibit the development of the subject lands until such time as:
i) The lands, described as Block “2” on Appendix “A” of this report, have been included within an approved draft plan of subdivision with the abutting northerly and southerly lands with an appropriate, integrated lotting pattern, to the satisfaction of the Manager, Development Planning. City Council may remove the ‘H’ symbol and, thereby, give effect to the “C” District provisions, by enactment of an amending By-law once the conditions are satisfied.

(d) That the Draft By-law, attached as Appendix “B” to Report PED06345, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applicant has submitted an application for a change in zoning to permit the development of a dental office on Block “1” (see Appendix “A”) and to permit the future development of single detached residential lots on Block “2” (see Appendix “A”). To facilitate orderly development, staff recommends a ‘H’ Holding provision be placed on Block “2” in order to develop those lands with the abutting northerly and southerly lands through a plan of subdivision.

The proposal has merit and can be supported since the change in zoning is consistent with the Provincial Policy Statement and conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. In addition, final approval of this application for rezoning fulfils a condition imposed through the provisional approval of Consent Application HM/B-06:54 (Appendix “C”).

BACKGROUND:

Proposal

The purpose of the application is to change the zoning of the subject lands at 1286 Upper James Street (as shown on Appendix “A”) from the “C” (Urban Protected Residential, etc.) District and the “AA” (Agricultural) District to the “H” (Community Shopping and Commercial, etc.) District to permit a dental office on Block “1”, and from
the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. – Holding) District for future single detached residential purposes on Block “2”.

Consent Application HM/B-06:54

Consent application HM/B-06:54 for the subject lands was granted provisional approval on March 17, 2006, by the Committee of Adjustment (see Appendix “C”). The approval will allow the property to be severed into two lots, as shown on Appendix “D”. A condition of this approval requires final approval of the subject Zoning By-law Amendment application.

Details of Submitted Application

Owners: Edward Lorne Richter, Ronald Gary Richter and Lowell Elliott Richter

Location: 1286 Upper James Street

Description: Frontage: 25.9 metres
Depth: 177.7 metres
Area: 4,603.8m$^2$

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>Vacant</td>
<td>“C” (Urban Protected Residential, etc.) District and “AA” (Agricultural) District</td>
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<thead>
<tr>
<th>Surrounding Land Uses</th>
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<tbody>
<tr>
<td><strong>North</strong></td>
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<tr>
<td>Residential (Single Detached Dwelling)</td>
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<tr>
<td><strong>South</strong></td>
</tr>
<tr>
<td>Residential (Single Detached Dwelling)</td>
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<tr>
<td><strong>East</strong></td>
</tr>
<tr>
<td>Commercial (Retail)</td>
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<tr>
<td><strong>West</strong></td>
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<tr>
<td>Residential (Single Detached Dwelling)</td>
</tr>
</tbody>
</table>
ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposed change in zoning is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.
   
   (ii) The proposal is in conformity with the “Residential” and “Commercial” policies of the City of Hamilton Official Plan.
   
   (iii) The proposal implements the approved Kernighan Neighbourhood Plan.
   
   (iv) The proposal is compatible with existing and planned development in the neighbourhood.
   
   (v) The proposal implements a condition of provisional approval for Consent Application HM/B-06:54 (Appendix “C”), which requires the owner to receive final approval of this Zoning Amendment Application.

2. The applicant has submitted a sketch with the application attached as Appendix “D”, which has been reviewed against the standard requirements of the “C” (Urban Protected Residential, etc.) District and the “H” (Community Shopping and Commercial, etc.) District. The proposed residential parcel (Block “2” – Appendix “A”) will meet the minimum lot frontage of 12 metres and minimum lot area of 360 square metres of the “C” (Urban Protected Residential, etc.) District. The proposed commercial parcel (Block “1” – Appendix “A”) will meet the minimum lot frontage of 12 metres and minimum lot area of 360 square metres of the “H” (Community Shopping and Commercial, etc.) District.

3. The proposed dental office is subject to Site Plan Control. In this regard, matters such as access, parking, site design, screening, drainage and signage will be reviewed at the site plan stage.

4. No further road allowance widenings are required for Forbes Street, however, the designated road allowance width of the subject section of Upper James Street is 36.58m. In order to establish this width, the owner will be required to dedicate approximately 3.048m across the entire frontage of the lands on Upper James Street, as a condition of consent approval.

   There are existing municipal services to service the proposed commercial lands (Block 1) within the Upper James Street right of way. Also, there are existing municipal services on Forbes Street to service the proposed future residential lands (Block 2).
5. Policy 1.1.1 (c) of the Provincial Policy Statement 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. Furthermore, Policy 3.2.2 of the Provincial Policy Statement indicates that contaminated sites shall be remediated, as necessary, prior to any activity on the site associated with the proposed use such that there will be no adverse effects. Since the previous use of the site was a gas station, and the proposed uses are commercial and residential, Ontario Regulation 153/04 requires a mandatory filing of a Record of Site Condition (RSC).

Also, Policy B.2.3 of the Hamilton-Wentworth Regional Official Plan indicates that redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. Furthermore, Policy B.2.3.2 (b) of the Hamilton-Wentworth Regional Official Plan requires that the proponents submit a professional analysis of soils on the site in accordance with the Ministry of Environment requirements.

A Record of Site Condition (RSC) was submitted to both the Ministry of the Environment and the City of Hamilton for review and was found to be in accordance with the Ministry of the Environment’s guidelines.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant has the option of using the property for the current range of “C” (Urban Protected Residential, etc.) District and “AA” (Agricultural) District 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 change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

Policy 3.2.2 outlines that contaminated sites shall be remediated, as necessary, prior to any activity on the site associated with the proposed use such that there will be no adverse effects. Since the previous use of the subject lands was a gas station, the filing of a Record of Site Condition with both the Ministry of Environment and City of Hamilton is required.
As noted earlier (Comment 5, Pages 4 and 5), a Record of Site Condition (RSC) was submitted to both the Ministry of the Environment and the City of Hamilton for review and was found to be in accordance with the Ministry of the Environment’s guidelines. As such, the proposal falls within the parameters and is consistent with the Provincial Policy Statement (PPS).

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 states that a wide range of urban uses, based on full municipal services, will be concentrated in the Urban Areas.

Policy B.2.3 outlines that identification of contaminated sites is essential. Redevelopment must not occur until it has been demonstrated that the proposal will not put people in significant risk. As noted earlier (Comment 5, Pages 4 and 5), both the City of Hamilton and the Ministry of Environment are satisfied with the Record of Site Condition.

Therefore, as the nature of the application is for an amendment to the existing zoning to allow for a commercial use on the eastern half of the subject property and future single-detached residential uses on the western half of the subject property, the proposal conforms to the Hamilton-Wentworth Official Plan policies.

**City Of Hamilton Official Plan**

The western half of the subject property is designated “Residential” and the eastern half of the subject property is designated “Commercial” 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.2.1.1** The primary uses permitted in the areas designated on Schedule “A” as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

- **A.2.1.8** It is the intent of Council that a variety of housing styles, types and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing, where practicable. In this regard, Council will be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2.

- **A.2.2.1** The primary uses permitted in the areas exceeding 0.4 hectare designated on Schedule “A” as COMMERCIAL, will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling
of goods and services; business offices; and hostels, convention and entertainment facilities.

A.2.2.14 The EXTENDED COMMERCIAL category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:

ii) Larger scaled “Highway” Commercial uses on deep lots, reliant on locations readily accessible to private vehicles specifically coming to, and parking on, the premises to do business.

A.2.2.35 Where COMMERCIAL USES are proposed to be developed adjacent to Residential land uses, Council will be satisfied that the following provisions are adequately met:

i) Access drive, parking and service areas will be screened and/or buffered such that noise, light or undesirable visual impacts emanating from the COMMERCIAL USE are mitigated;

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 proposed residential zoning on the western half of the subject property (Block “2”) is compatible with the abutting existing residential properties. The Holding provision (‘H’) will ensure that the western portion of the subject property is consolidated with the abutting northerly and southerly properties and developed through a plan of subdivision. This will allow for the orderly development of the lands. As such, the residential proposal conforms to the City of Hamilton Official Plan.

The proposal for the development of a dental office on the eastern half of the subject property (Block “1”) fronting onto Upper James Street complies with the “Commercial” policies of the Hamilton Official Plan. Issues with respect to access, parking, site design and buffering will be addressed through a required Site Plan Control application.
Neighbourhood Plan

The subject property is designated “Commercial & Apartments” on the eastern half of the subject property and “Single and Double – Residential” on the western half of the subject property within the Approved Kernighan Neighbourhood Plan. The “Commercial & Apartments” designation permits the proposed dental office, and the “Single & Double - Residential” designation permits the proposed single detached residential uses.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Public Works Department (Traffic Engineering and Operations Section).
- Corporate Services Department (Budget & Fiscal Policy Services).
- Corporate Services Department (Revenues Division).
- Horizon Utilities.
- Union Gas.

Public Consultation

The Public Participation Policy, approved by Council on May 29, 2003, states that preliminary circulation shall not be required if the application is part of a Planning Study or other application, such as a consent application, which has been approved within one year of other public involvement and participation opportunities. In this regard, preliminary circulation is not required.

The consent applications to sever the subject land to facilitate the creation of one new commercial property fronting onto Upper James Street and to retain a parcel that is to be developed for future residential purposes was provisionally approved by the Committee of Adjustment on May 17, 2006. No letters were received in response to the circulation of the severance applications, and no other property owners were in attendance at the Committee of Adjustment hearing.

Notice of the Public Meeting for this Zoning Amendment Application will be circulated to all property owners within 120 metres of the subject lands and a notice of the meeting will be posted on the property in accordance with the regulations 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
Ecological function and the natural heritage system 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

:DF
Attachs. (4)
Appendix “A” to Report PED06345 (Page 1 of 1)

Location Map

File Name/Number: ZAC-06-33    Date: April 27, 2006
Appendix “A”    Planner/Technician: DF/NB

Subject Property
1286 Upper James Street, (Hamilton)

Block 1 - Change in Zoning from the "C" (Urban Protected Residential, etc.) and the "AA" (Agricultural) District to the "H" (Community Shopping and Commercial, etc.) District.

Block 2 - Change in Zoning from the "AA" (Agricultural) District to the "C" - "H" (Urban Protected Residential, etc. - Holding) District.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593
Respecting Lands Located at 1286 Upper James Street

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 __________ 2006, 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-7c of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,

(a) by changing Block “1” from the “C” (Urban Protected Residential, etc.) District and the “AA” (Agricultural) District to the “H” (Community Shopping and Commercial, etc.) District; and

(b) by changing Block “2” from the “AA” (Agricultural) District to the “C” – H (Urban Protected Residential, etc. – Holding) District;

the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the 'H' symbol applicable to the lands referred to in Section 1 (b) of this By-law shall be removed conditional upon,

i) The lands, described in Section 1(b) of this by-law, being included within an approved draft plan of subdivision with the abutting northerly lands and southerly lands with an appropriate, integrated lotting pattern, to the satisfaction of the Manager, Development Planning.

City Council may remove the 'H' symbol and, thereby give effect to the “C” (Urban Protected Residential, etc.) District, by enactment of an amending By-law once the above conditions have been fulfilled.

3. 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 “C” – ‘H’ District provisions.

4. 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 , 2006.

__________________________________________  ________________________________
MAYOR                                    CLERK

ZAC-06-33
Appendix “B” to Report PED06345 (Page 3 of 3)

This is Schedule “A” to By-Law No. 06—

Passed the ………………… day of …………………., 2006

Clerk

Mayor

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Schedule “A”

Map Forming Part of By-law No. 06—

to Amend By-law No. 6593

Subject Property
1286 Upper James Street, (Hamilton)

Block 1 - Change in Zoning from the "C" (Urban Protected Residential, etc.) and the "AA" (Agricultural) District to the "H" (Community Shopping and Commercial, etc.) District.

Block 2 - Change in Zoning from the "AA" (Agricultural) District to the "C" - "H" (Urban Protected Residential, etc. - Holding) District.

Scale: Not to Scale

File Name/Number: ZAC-06-33

Date: April 27, 2006

Planner/Technician: DF/NB
Appendix “C” to Report PED06345
(Page 1 of 2)

COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. HM/B-08:54
SUBMISSION NO. B-54/05

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 1286 Upper James Street, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Stephen S. Yanover on behalf of the owners Edward Richter, Ronald Richter and Lowell Richter, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land measuring 25.9m x 83.82m for commercial (single storey commercial building for dental offices) purposes, and to retain a vacant parcel of land measuring 25.9m x 83.82m for future residential development purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

2. That the lands to be severed receive final zoning approval for the proposed commercial use to the satisfaction of the Manager, Development Planning.

3. That the lands to be retained receive final zoning approval with a holding provision which requires the owner to develop the lands to be retained with the abutting northerly lands through a plan of subdivision, to the satisfaction of the Manager, Development Planning.

4. That the owner dedicate to the City of Hamilton, by deed, 10 feet (3.048 m) of land from the conveyed lands, for road allowance widening purposes to establish the property line 60 feet (18.288 m) from the centreline of Upper James Street.

5. That the 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, if required.

DATED AT HAMILTON this 17th day of May, 2006.

M. Dudzić, Chairman

V. Abraham
THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 13th, 2006. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 13th, 2007) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS June 13th, 2006.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.