TO: Chair and Members
   Economic Development and Planning Committee

WARD(S) AFFECTED: WARD 5

COMMITTEE DATE: March 23, 2010

SUBJECT/REPORT NO:
Application for a Change in Zoning for the Lands Located at 399 Greenhill Avenue (Hamilton) (PED10060) (Ward 5)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
J. Matthew Blevins
(905) 546-2424, Ext. 2634

SIGNATURE:

RECOMMENDATION:

That approval be given to Zoning Application ZAC-09-052, by Greenhill Plaza, Owner, for a change in zoning from the “G-1” (Designed Shopping Centre) District to the “G-1/S-1627-H” (Designed Shopping Centre - Holding) District, with a Special Exemption, to permit the conversion of vacant, second floor office space into seven dwelling units, on the lands located at 399 Greenhill Avenue, Hamilton, as shown on Appendix “A” to Report PED10060, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10060, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed modification in zoning is consistent with the Provincial Policy Statement (PPS), and conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
EXECUTIVE SUMMARY

The purpose of this application is for a change in zoning on the subject lands to permit the conversion of 483m² of vacant, second floor office space into seven dwelling units (see Appendix “A”). The draft Zoning By-law proposes to place a Holding designation on the property to ensure that the addition of a sensitive land use does not create a conflict with the existing Commercial use. In order to remove the Holding provision, a Record of Site Condition and noise study must be completed.

The application can be supported since it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is compatible with existing and proposed development in the area.

Alternatives for Consideration - See Page 10.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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.

HISTORICAL BACKGROUND (Chronology of events)

Minor Variance Application HM/A-09:275

The applicant previously applied for a minor variance to permit the conversion of the existing vacant, second floor office space to seven residential dwelling units. The application was not supported by staff because it was proposing to add a permitted use to the subject lands which is beyond the scope of a minor variance application, and was denied by the Committee of Adjustment. The recommendation from staff was that the proposal was more appropriately dealt with by way of an application for Zoning By-law Amendment.

Proposal

The Owner has applied for a change in zoning on the lands known as 399 Greenhill Avenue (see Appendix “A”), from the “G-1” (Designed Shopping Centre) District to the “G-1/S-1627-H” (Designed Shopping Centre - Holding) District, with a Special Exemption and Holding provision, to permit the conversion of 483m² of vacant office
space to seven dwelling units on the second floor of the existing commercial plaza (see Appendix “C”).

**Details of Submitted Application:**

**Location:** 399 Greenhill Avenue.

**Owner/Applicant:** Greenhill Plaza.

**Property Description:**
- **Frontage:** Approximately 182.53 metres.
- **Depth:** Approximately 138.22 metres.
- **Area:** Approximately 1.48 hectares.

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Plaza</td>
<td>“G-1” (Designed Shopping Centre) District</td>
<td></td>
</tr>
</tbody>
</table>

**Surrounding Lands**

<table>
<thead>
<tr>
<th>North</th>
<th>Single Detached Dwellings</th>
<th>“D/S-360” (Urban Protected Residential - One and Two Family Dwelling, etc.) District, Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Multiple Dwelling</td>
<td>“E” (Multiple Dwellings, Lodges, Clubs, etc.) District</td>
</tr>
<tr>
<td>South</td>
<td>Townhouse Dwellings</td>
<td>“RT-20” (Townhouse - Maisonette) District</td>
</tr>
<tr>
<td></td>
<td>Semi-Detached Dwellings</td>
<td>“D/S-360” (Urban Protected Residential - One and Two Family Dwelling, etc.) District, Modified</td>
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<tr>
<td>East</td>
<td>Townhouse Dwellings</td>
<td>“DE-3/S-865” &amp; “DE-3/S-1059” (Multiple Dwellings) District, Modified</td>
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<tr>
<td>West</td>
<td>Townhouse Dwellings</td>
<td>“RT-20” (Townhouse - Maisonette) District</td>
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Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1).

Policy 1.1.1(c) 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. Further, Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. The existing commercial use and proposed addition of a residential use on the subject lands triggers a mandatory filing of a Record of Site Condition (RSC) under Ontario Regulation 153/04.

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 minimize risk to public health and safety. Staff notes that the subject lands contain commercial uses, are located adjacent to Mount Albion Road and Greenhill Avenue, and are within approximately 350m of the Red Hill Valley Parkway. The proximity of the proposed sensitive land use to road and stationary noise source triggers the requirement for a noise study.

Places to Grow

Staff notes that the subject lands are located in a built-up area, as defined by the Places to Grow Plan. Policy 2.2.3.1 states that by the year 2015, and for each year thereafter, a minimum of 40% of all residential development occurring annually within each upper-and single-tier municipality will be within the built-up area. As this proposal is to add residential units to the built-up area, it complies with the policies of the Growth Plan for the Greater Golden Horseshoe.

Hamilton-Wentworth Official Plan

The subject lands are designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3. 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. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.
However, Policy B-2.3 states that the identification of contaminated sites is essential. Redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. As noted above, the existing commercial use and proposed addition of a residential use on the subject lands triggers a mandatory filing of a Record of Site Condition (RSC) under Ontario Regulation 153/04.

**City of Hamilton Official Plan**

The subject property is located in the “Urban Area” and is designated “Commercial” on Schedule “A” Land Use Concept Plan in the City of Hamilton Official Plan. The property is also identified as “Commercial” in the “Redhill” Neighbourhood Plan. The following policies, among others, apply:

“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 hotels, convention, and entertainment facilities. In addition to the primary permitted uses, the following may be permitted within COMMERCIAL areas provided that they have been designated in the Neighbourhood Plan, where one exists:

i) Residential uses subject to the following provisions:

   (c) In the case of a Residential use ancillary to a COMMERCIAL USE, sufficient amenity space will be provided exclusively for the Residential component, and be physically separated from the COMMERCIAL component and associated customer parking areas; and,

   (d) Satisfy the provisions of Subsections A.2.1 and C.7.;

A.2.2.29 Major structures containing both residences and COMMERCIAL Uses, including offices primarily intended to offer goods and services to persons other than the residential occupants thereof, will be deemed to be mixed COMMERCIAL / RESIDENTIAL. Such uses may be permitted in areas designated COMMERCIAL provided that they have been identified in the Neighbourhood Plan and satisfy the following provisions:

i) Amenity spaces will be provided exclusively for the Residential component and will be functionally separated from the public areas associated with the COMMERCIAL component;

ii) Prior to any approval for proposed COMMERCIAL / RESIDENTIAL development, Council will be satisfied that any impacts emanating from the COMMERCIAL component, which will detract from the amenity of the associated Residential Uses, will be minimized;
iii) Customer parking areas associated with the COMMERCIAL component will preferably be physically separated from such areas provided for the Residential Uses and, in any instance, their use will not interfere with the safe and efficient use of Residential parking areas; and,

iv) Council will be satisfied that existing engineering services, school facilities, parks, and similar community facilities are, or may feasibly be made to be, adequate to serve the residents of proposed COMMERCIAL / RESIDENTIAL development prior to any approval being given;

A.2.1 It is the intent of this Plan to ensure that the RESIDENTIAL USES of land is sufficient to accommodate anticipated population growth and changing demands for RESIDENTIAL development of varied styles and densities, while ensuring the maintenance of amenities for residents. As well, the Plan is intended to ensure that new RESIDENTIAL development or redevelopment is appropriately located; is compatible with surrounding development; is not subjected to noxious impacts; and achieves the conservation and efficient use of energy;

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.2.1.14 In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:

ii) Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower-density uses;

C.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher-density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value;

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;

iv) Support RESIDENTIAL conversion of underutilized commercial space to residential which does not undermine the primary commercial use/function of the neighbourhood, subject to the provisions of Subsection A.2.2;

viii) Support the concept of accessory apartments as-of-right in all areas of the City, as regulated by the Zoning By-law; and,

ix) Support the concept of RESIDENTIAL community that provides a diversity of dwelling forms and housing options accessible to all Hamilton residents.”

Based on the foregoing, the proposal conforms to the “Commercial” designation of the City of Hamilton Official Plan, and can be supported.

**New Hamilton Urban Official Plan**

The New Urban Hamilton Official Plan was adopted by Council on June 29, 2009. The Plan has been forwarded to the Minister of Municipal Affairs and Housing for approval, and is not yet in effect. The subject lands are designated “Neighbourhoods” on Schedule E, Urban Structure, and Schedule E-1, Urban Land Use Designations. Staff notes that the “Neighbourhoods” designation permits commercial residential and mixed-use development. As the subject proposal is to permit the conversion of vacant, second floor office space to seven residential units, the proposal would conform with the new Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments/Agencies had no comments or objections:

- Capital Planning and Implementation Division, Public Works Department.
- Water and Wastewater Division, Public Works Department.
- Traffic Engineering and Operations Section, Public Works Department.
- Transit Division, Public Works Department.
- Operations and Waste Management Division, Public Works Department.
- Hamilton Municipal Parking System.
- Horizon Utilities.
- Hydro One Networks Inc.
- Hamilton-Wentworth District School Board.
- Hamilton-Wentworth Separate School Board.
- French Public School Board.
French Catholic School Board.

Public Consultation

In accordance with the new provisions of the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and pre-circulation was circulated to 674 property owners within 120 metres of the subject property on December 14, 2009. To date, one formal response has been received (see Appendix “D”) and is discussed below in the Analysis/Rationale for Recommendation section of this report. In addition, a Public Notice Sign was erected on the property, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

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 with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan;

   (iii) It provides for the adaptive reuse of a portion of the existing, vacant commercial plaza, and provides for additional housing opportunities in the Urban Area; and,

   (iv) It is compatible with the existing and planned uses in the surrounding area.

2. The Hamilton Official Plan sets out tests to permit mixed-use development in Policy A.2.29. The three tests that apply to this application are as follows:

   i) Amenity spaces will be provided exclusively for the Residential component, and will be functionally separated from the public areas associated with the COMMERCIAL component;

   ii) Prior to any approval for proposed COMMERCIAL / RESIDENTIAL development, Council will be satisfied that any impacts emanating from the COMMERCIAL component, which will detract from the amenity of the associated Residential Uses, will be minimized;

   iii) Customer parking areas associated with the COMMERCIAL component will preferably be physically separated from such areas provided for the Residential Uses and, in any instance, their use will not interfere with the safe and efficient use of Residential parking areas.
There are two control mechanisms being put in place with this application to ensure that these tests are met before the principle of the use is established. The addition of a Holding provision requiring the submission of a Record of Site Condition and noise study will ensure that the second test is satisfied by determining what, if any, impacts the existing commercial uses would have on the proposed residential use. In addition to the Holding provision, the applicant will be required to go through the Site Plan Control Process, which will separate and identify the residential parking and amenity area, as well as provide a method to implement any mitigation measures identified by the noise study. Staff are, therefore, satisfied that the Official Plan policy direction, with respect to amenity areas and parking, has been met.

3. The proposed modification in zoning is to facilitate the conversion of existing vacant office space into seven residential units. Concerns have been raised by an adjacent property owner respecting the proposed residential use (see Appendix “C”). The letter sets out six specific concerns:

(i) **Number of Units** - The applicant has requested 7 residential units to be located within the existing second floor office space. Staff is not aware of any plans or proposals for 9 units. The review of this approval is based on the 7 units, as shown in Appendix “C”.

(ii) **Parking** - The assigning of parking spaces for the proposed residences will be set out during the Site Plan Control process. The proposed location of the parking spaces for the tenants is adjacent to the proposed new landscaped amenity area along the northerly lot line. Nine spaces have been identified on the proposal for exclusive use of the residential units (see Appendix “C”).

(iii) **Landlord** - Staff appreciates the concern raised about an absentee landlord. However, the Planning Act does not regulate property standards. If property standards issues exist or result from the addition of residential units being added to the property, then enforcement measures exist to resolve those issues.

(iv) **Garbage Containers** - The location of garbage containers and pick-up for the proposed residential units will be finalized during the Site Plan Control process.

(v) **Recycling Containers** - The location of recycling containers and pick up for the proposed residential units will be finalized during the Site Plan Control process.

(vi) **Compost Containers** - The location of compost containers and pick up for the proposed residential units will be finalized during the Site Plan Control process.

The proposed residential units are consistent with the Provincial Policy Statement, conform with the Hamilton-Wentworth and City of Hamilton Official Plans, and are compatible with the existing residential uses in the surrounding neighbourhood. This
is an opportunity for intensification by establishing a mixed-use development in an existing neighbourhood without destabilizing it.

4. The Provincial Policy Statement and Hamilton-Wentworth Official Plan requires that a Record of Site Condition and noise study be submitted to the City for approval. In order to insure that the residential use can be accommodated on the property with these concerns in mind, both the Record of Site Condition and noise study will be required as conditions to remove the Holding provision to establish the use. The design and function of the units may be impacted by the results of the noise study so the implementation of the attenuation measures will be dealt with at the Site Plan Control stage.

### ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the application be denied, the property would remain zoned “G-1” (Designed Shopping Centre) District. Any future use would have to conform to the provisions of the “G-1” (Designed Shopping Centre) District.

### CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)


**Social Development**

- Everyone has a home they can afford that is well maintained and safe

**Healthy Community**

- Plan and manage the built environment
- Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

### APPENDICES / SCHEDULES

- Appendix “A” to Report PED10060 - Location Map.
- Appendix “B” to Report PED10060 - Draft By-law.
- Appendix “C” to Report PED10060 - Concept Plan.
- Appendix “D” to Report PED10060 - Public Comment.

:JMB - Attachs. (4)
Appendix "A" to Report PED10060 (Page 1 of 1)

Location Map

File Name/Number: ZAC-09-052
Date: Dec. 8, 2009

Appendix "A"

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

Subject Property
399 Greenhill Avenue, Hamilton

Application for a change in zoning to permit seven residential units on the second story.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), Respecting 399 Greenhill Avenue

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 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 10- of the Planning and Economic Development Committee, at its meeting held on the day of _____, 2010, 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. That Sheet Nos. E-87 and E-88 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), are amended by changing the zoning from the “G-1” (Designed Shopping Centre) District to the “G-1-H/S-1627” (Designed Shopping Centre - Holding) District, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “G-1” (Designed Shopping Centre) District provisions, as contained in Section 13A of Zoning By-law No. 6593, be modified to include the following special provisions:

   (a) That notwithstanding Section 13A(i) of Zoning By-law No. 6593, a maximum of 7 dwelling units in the same building with a commercial use shall be permitted on the second floor of the building existing at the time of passage of the by-law, being the __________ day of __________, 2010.

3. That the ‘H’ symbol applicable to the lands referred to in Section 1 of this By-law will prohibit any residential use until such time:

   (a) That the owner/applicant submits a Record of Site Condition, to the satisfaction of the City of Hamilton’s Manager of Development Planning and the Ministry of the Environment; and,

   (b) That the owner/applicant submits a noise study, to the satisfaction of the City of Hamilton’s Manager of Development Planning.

City Council may remove the ‘H’ symbol and, thereby, give effect to the “G-1/S-1627” (Designed Shopping Centre) District, by enactment of an amending By-law once the above conditions have been fulfilled.

4. That Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1627.

5. That 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 “G-1” District provisions, subject to the special requirements referred to in Section 2.

6. That Sheet Nos. E-87 and E-88 of the District Maps are amended by marking the lands referred to in Section 1 of this By-law as S-1627.

7. 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 of __________, 2010.

__________________________________________  ________________________________
Fred Eisenberger              Kevin Christenson
Mayor                          Clerk

ZAC-09-052
This is Schedule "A" to By-Law No. 10
Passed the .......... day of ................., 2010

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 10-_____ to Amend By-law No.6593

Subject Property
399 Greenhill Avenue, Hamilton

Lands to be rezoned from the "G-I" (Designed Shopping Centre) District to the "G-1-H/S-1627" (Designed Shopping Centre - Holding) District, Modified.
January 6, 2010

J. Matthew Blevins
City of Hamilton
Planning and Economic Development Department
77 James Street North
Suite 400
HAMILTON, Ontario
L8R 2K3

Re: File No. ZAC-09-052

Mr. Blevins:

I live behind the Plaza at 30 Harrisford Street, Hamilton, and the other part of this complex, 40 Harrisford Street, Hamilton, is located directly behind the proposed area. We are W.C.C. #76.

This area, within four city blocks, contains five condominium corporations, two large apartment buildings, and private homes, so this area is saturated with living residences.

My concerns about this proposal are listed as follows:
1. Why is the request shown as seven (7) units when your plan shows nine (9) units?
2. Where will the assigned parking areas for these tenants be?
3. This is an absentee landlord whom we have had problems with in the past.
4. Where will the garbage bins be placed? Again, this is a problem area. Please check with the City of Hamilton, Property Standards Department, as to the calls about the plaza at 399 Greenhill (Greenhill Plaza). During the month of December, 2009, three pick ups were at 5:00 a.m.
5. Where will the recycling bins be placed?
6. Where will the compost bins be placed?

Due to the fact that there is an absentee landlord we have many concerns about this change of the by-law. Again, this area has plenty of housing from King Street on the north to the edge of the
escarpment on the south, from Harrisford Street on the west to Greenhill on the east.

Please review the listed concerns and take them into consideration.

Yours very truly

Lorraine Avery