SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 6593 for Lands Located at 639 Rymal Road West (PED07039) (Ward 8)

RECOMMENDATION:

That approval be given to Amended Zoning Application ZAC-06-64, Thomas Sullivan, Martin Sullivan and Lynda Campbell, owners, for a change in zoning from the “AA” (Agricultural) District to the “C”-‘H’ (Urban Protected Residential, etc. – Holding) District, to permit the development of five single detached dwellings on separate lots, for the property located at 639 Rymal Road West (Hamilton), as shown on Appendix “A” to Report PED07039, on the following basis:

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

(b) That the amending By-law apply the Holding provisions of Section 36 (1) of the Planning Act, R.S.O., 1990 to the subject lands, 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 that:

i) The owner/applicant conducts an archaeological assessment of the entire development property and mitigates, 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 approval from the City of Hamilton’s Director of Development and Real Estate and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements;
ii) The owner/applicant investigates the noise levels on the site and determines the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s 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 Development and Real Estate; and,

iii) Sufficient capacity of the municipal sanitary sewer system is available for the proposed development to the satisfaction of the Manager of Development Engineering.

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.

(c) That the draft By-law, attached as Appendix “B” to Report PED07039, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

(d) That the proposed change in zoning conforms to 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 is requesting a Zoning By-law Amendment to permit the subject lands to be developed for five single detached dwellings on separate lots in accordance with the “C” (Urban Protected Residential, etc.) District provisions. Staff recommends that a Holding provision be added to the zoning to require an archaeological assessment, noise study, and to ensure adequate sanitary servicing is available prior to development.

The proposal has merit and can be supported as the change in zoning is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the general “Residential” policies of the City of Hamilton Official Plan. The proposed development efficiently uses urban land and is compatible with adjacent land uses.
BACKGROUND:

Proposal

The applicant is requesting a change in zoning from the current “AA” (Agricultural) District to the “C” (Urban Protected Residential, etc.) District to permit five single detached dwellings on separate lots. As recommended by staff, development of the lands will be deferred until such time as the removal of an ‘H’ Holding symbol has been completed in accordance with the requirements of the Planning Act to address archaeological, noise and sanitary servicing concerns.

The subject lands are located at the southeast corner of Upper Paradise Road and Rymal Road West along the periphery of the Carpenter Neighbourhood (see Appendix “A”). This property is located at the only entrance currently existing into this neighbourhood. Existing single detached dwellings on separate lots are adjacent to the subject lands to the south.

The applicant originally proposed six dwellings on six lots for this parcel of land. Deficient lot areas and lot frontages inconsistent with the existing lots fronting along Upper Paradise Road were indicated as concerns by staff and, as a result, the application was amended to permit five dwellings on five lots. The amended application increases the minimum lot frontages and lot areas to sizes more compatible with the existing surrounding lots. The proposed frontages range from 13.32 metres to 15.57 metres, while the proposed lot areas range from 360 square metres to 668.4 square metres (see Appendix “D”).

The creation of these proposed lots will be completed through the consent process. It is at this time that the applicant will be required to enter into a consent agreement to cover development issues such as lot grading and servicing details. Final lot sizes and configuration will be determined through the Committee of Adjustment process in conformity to the recommended zoning.

Location: 639 Rymal Road West
Owner: Thomas Sullivan, Martin Sullivan & Lynda Campbell
Property Description: Frontage: 24 metres (Rymal Road West)
Depth: 80.54 metres
Lot Area: 2,108.5 square metres
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Single Detached</td>
<td>“AA” (Agricultural) District</td>
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<tr>
<td></td>
<td>Dwelling</td>
<td>(to be removed)</td>
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Surrounding Lands

<table>
<thead>
<tr>
<th>North</th>
<th>Day Nursery</th>
<th>“AA/S-807” (Agricultural) District, Modified</th>
</tr>
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<tbody>
<tr>
<td>East</td>
<td>Single Detached Dwelling</td>
<td>“B” (Suburban Agriculture and Residential, etc.) District</td>
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<tr>
<td>South</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
</tr>
<tr>
<td>West</td>
<td>Single Detached Dwelling</td>
<td>“B” (Suburban Agriculture and Residential, etc.) District</td>
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</tbody>
</table>

ANALYSIS/RATIONALE:

1. The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:

   i) The proposal is consistent with the Provincial Policy Statement.


   iii) The proposal is consistent with the “Residential – Single & Double” designation of the Carpenter Neighbourhood Plan.

   iv) The proposed development is compatible with the surrounding area and efficiently uses urban land.
2. In response to pre-circulation of this application, four letters were received.

Concern was raised that the proposal would diminish property values in the area. Staff has no information to indicate that this proposal would have any adverse impact on property values.

A concern regarding increased traffic congestion from the proposal and a request for the installation of a northbound right-turn lane at the Upper Paradise/Rymal intersection were noted. Traffic and Operations staff have not indicated any concern regarding congestion or a need for a turn lane.

A concern regarding the drainage of the lands was indicated. This issue will be examined and addressed through a future consent agreement as a condition of land severance. The proposal will not be permitted to increase off-site flows from those existing.

Concern regarding noise and light pollution as a result of this proposed development was expressed. The City's Official Plan permits the development of these lands for low density residential use and significant adverse impacts from noise and light pollution are not expected from single detached residential development.

An objection to this proposal was received based on the lack of sanitary sewer capacity. This property is located within the Twenty Road Sanitary Catchment Area. The Twenty Road Pumping Station is currently operating at or beyond its capacity limits and is presently being upgraded to increase capacity. The current estimated time of completion is early Spring 2007. Staff is including a condition in the Holding provision that will prohibit the development of these lands until such time as adequate sanitary sewer capacity is available.

Lastly, concerns were expressed about the proposal constituting an overuse of these lands and being out of character with the surrounding area. These concerns are addressed in Comment 3 (below).

3. The “C” (Urban Protected Residential, etc.) District requires a minimum lot frontage of 12.0 metres and a minimum lot area of 360.0 square metres. The future lots will be required to meet the minimum lot area and frontage requirements in accordance with the recommended zoning. Comments from concerned neighbours indicated that the originally proposed six dwelling units/lots would be out of character with the surrounding properties. The application has since been amended to permit five dwelling units/lots. The developed area to the south is currently zoned “C” (Urban Protected Residential, etc.) District which is the same zoning as recommended for the subject site. The lot frontages existing on Upper Paradise Road range from 11 metres to approximately 15 metres. The proposed 13.3 metre frontages fall within this
range of frontages (see Appendix “D”). The lot areas existing on Upper Paradise Road range from 400 square metres to approximately 600 square metres. The proposed lot at the south-east corner of Rymal Road West and Upper Paradise Road will have a lot area of 668 square metres. The other four (4) proposed 360 square metre lot areas are similar in size to the existing lots to the south. The configuration of the proposed development is also compatible with the lot layout to the south and the proposed zoning will permit a natural extension of this existing layout. As a result, the proposal is compatible in terms of density and character with the developed area to the south.

4. An ‘H’ Holding symbol is being recommended by staff to satisfy Provincial/City archaeological policies, Provincial noise policies, and sanitary servicing concerns. The Holding provision can be removed by an amending By-law after these issues have been satisfactorily addressed.

5. Existing services (sanitary, storm and water) are available on Upper Paradise Road for the proposal (a Holding symbol for sanitary capacity is recommended - see Comment 2). The applicant will be required to connect to these existing services at their sole expense. A consent agreement will be required at the time of development. This future agreement will also cover such items as lot grading and future costs related to the urbanization of Rymal Road West.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed application for amendment to the Zoning By-law be denied, the subject lands may be used in accordance with the “AA” (Agricultural) District.

**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 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 2.6.2 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 may be permitted. No demolition, grading or soil disturbances shall take place on the subject area prior to the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements. An ‘H’ Holding symbol in the zoning will address this policy.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, noise or other contaminants, and to minimize risk to public health and safety. Due to the location of the subject lands to Upper Paradise Road and Rymal Road West, a noise study is requested to address this concern. This requirement will be addressed through an ‘H’ Holding symbol on the lands.

**Hamilton-Wentworth Official Plan**

The subject property is 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. As well, the Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Policy 9.2 states that protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, will be conducted in the review of proposals for development and redevelopment. Staff recommends that an archaeological assessment be conducted prior to the lifting an ‘H’ Holding symbol to address this concern.

Therefore, as the nature of the application is for the rezoning of the subject lands to facilitate development for residential purposes where municipal services are available, the proposal conforms to the intent of the Hamilton-Wentworth Official Plan policies.

**City of Hamilton Official Plan**

The subject property is designated “Residential” on Schedule “A” – Land Use Concept. The following policies from the City of Hamilton Official Plan, among others, are applicable to the proposal:

“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
SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 6593 for Lands Located at 639 Rymal Road West (PED07039) (Ward 8) - Page 8 of 9

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.

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 Zoning Amendment application is to rezone the subject parcel of land from the existing “AA” (Agriculture) District to the “C” – ‘H’ (Urban Protected Residential, etc. - Holding) District, to allow the use of single detached dwellings. The subject proposal is to permit an infill development of compatible scale and character with the surrounding lands. The proposal takes advantage of the existing infrastructure, while adding to available housing stock. Based on this, the proposal complies with the City of Hamilton Official Plan.

Neighbourhood Plan

The subject lands are designated “Residential – Single and Double” in the approved Carpenter Neighbourhood Plan. The proposed use conforms to the Neighbourhood Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Public Works Department (Strategic & Environmental Planning Section)
- Public Works Department (Traffic Engineering & Operations Section)
- Planning and Economic Development Department (Municipal Parking System)
- Corporate Services Department (Budgets and Finance Division)
- Horizon Utilities Corporation
Corporate Services Department (Taxation Division)

Has advised an outstanding property tax balance is owing on the subject lands. Any outstanding balance would have to be brought into good standing as a condition of approval at the severance stage of development.

Public Consultation

This application was subject to the Public Participation Policy that was approved by Council on May 29, 2003. The initial Pre-Circulation letter was circulated on September 29, 2006, to 60 property owners within 120 metres of the subject property. Four letters with comments were received regarding this application which are addressed in the Analysis/Rationale section of this report (Appendix “C”).

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, and 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

:SB
Attachs. (4)
Authority: Item , Economic Development and Planning Committee Report 07- (PED07039)

Bill No.

CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), Respecting lands located at 639 Rymal Road West

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 Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July 1950, and approved by the Ontario Municipal Board on the 7th day of December, 1951;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report of the Economic Development and Planning Committee at its meeting held on the day of , 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 City of Hamilton in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet “W-37e” of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), as amended, is hereby further amended by changing the zoning from the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. - Holding) District on 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 of this By-law shall be removed conditional upon:

   a) The owner/applicant conducting an archaeological assessment of the entire development property and mitigating, 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 from the City of Hamilton’s Director of Development and Real Estate and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements;

   b) The owner/applicant investigating the noise levels on the site and determining the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s 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 Development and Real Estate; and,

   c) Sufficient capacity of the municipal sanitary sewer system being available, to the satisfaction of the City of Hamilton, Manager of Development Engineering.

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.

4. That the 'H' symbol shall be removed by amendment to this by-law and the development of the lands referred to in Section 1 of this By-law may at such time proceed in accordance with the "C" District provisions.

PASSED and ENACTED this day of , 2007.

MAYOR

CLERK

ZAC-06-64
Change in Zoning from the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. – Holding) District.

This is Schedule “A” to By-Law No. 07

Passed the __________ day of __________, 2007

Schedule “A”

Map Forming Part of By-law No. 07

to Amend By-law No. 6593

Subject Property
639 Rymal Road West, Hamilton

Change in Zoning from the “AA” (Agricultural) District to the “C” – ‘H’ (Urban Protected Residential, etc. – Holding) District.
Scott Baldry, Development Planner 11
City of Hamilton
Planning & Economic Development Dept.,
Development and Real Estate Division (West)
City Hall, 71 Main Street West
Hamilton, ON L8P 4Y5

Dear Sir:

RE: File ZAC-06-64

As residents in the area of the proposed zoning change we object to the referenced zoning application for the following reasons.

1. The size of the lots proposed under this application does not conform to the lots already developed in this survey. We believe that this will have the effect of altering the character of our neighbourhood and significantly devaluing our properties. In our opinion the development of this property would be more practical if it was done in conjunction with a larger project e.g., with the property(s) to the east.

2. Upper Paradise is the only entrance into this survey. In that this is precisely where the proposed rezoning and development is to take place the congestion at the entrance of the survey would be made more severe.

3. We have observed that the opening of the mini plaza on the northwest corner has created a traffic hazard with northbound vehicles attempting to make a left turn into the plaza. In busy times we have seen vehicles stranded in the middle of the intersection. The traffic department at city hall will likely be able to verify an increase in motor vehicle accidents at this intersection since the opening of the plaza. We believe that no development of the proposed rezoned lands should take place without the installation of a northbound right turn lane.

We trust that the committee will see the above objections as valid and appreciate your consideration of our concerns.

Yours truly
Objections from 419 Rymal Rd West

If fill is put in #39 to raise it to level of sidewalks, water will drain down to our property (#19).

Do not want any small business or Tim Hortons in the corner (#39) would bring added traffic and more noise.

- Do not want 6 single dwellings to be built on #39.
- Different land elevation and water drainage as mentioned above.
- More noise, traffic, etc.
- There has been development behind us in front of us north west corner of Upper Paradise and we are fed up with it.

Thank you,

[Signature]

419 Rymal Rd West
Hamilton ON
L9B 1B7
October 3, 2006

City of Hamilton
Planning & Economic Development Department
Development and Real Estate Division (West)
71 Main Street West
Hamilton, Ontario
L8P 4Y9

Attention: Mr. Scott Baldry, Development Planner

Dear Sirs:

Re: Zoning Amendment Application ZAC-06-64
Thomas Sullivan, Martin Sullivan and Lynda Campbell
639 Ryndal Road West, Hamilton, Ontario *

We are the solicitors for DiCenzo Construction Company Limited. Our client, in conjunction with Vedemo Construction Limited, own lands to the south-east of the above-captioned property. Our client’s lands have been draft plan approved for a residential plan of subdivision. As you are aware, the City has taken steps to impose a development freeze in the area identified as the Twenty Road Sanitary Catchment Area, in the southwest quadrant of the City of Hamilton. We have been led to understand that this development freeze relate to a lack of capacity of the sewage pumping station at Twenty Road and Upper James Street pending capital improvements, including a twinning of the existing foreman in Upper James Street. Accordingly, it is unclear to our client why the City would consider a new zoning amendment application, the result of which would be to create five (5) new single detached dwellings within an area for which the City has taken the position that there is insufficient capacity to move forward with already approved developments. Our client is adamant that priority should be given to ensuring that existing approved developments be allowed to move forward in this area before accommodation is made for new development lands. As such, our client herewith objects to the subject zoning amendment application. Kindly ensure that a copy of staff’s report in respect of this application is forwarded to our office prior to the public meeting to be held in respect of this application.

In the interim Should you have any questions, or require anything further, please do not hesitate to call.

Yours very truly,

DICENZO & ASSOCIATES
PROFESSIONAL CORPORATION

Per: Allen Buist
AB/s

 hamiltonoffice: 1000 square church road east, unit 2, hamilton, ontario l8w 1k8
 telephoner: (905) 634-3100 fax: (905) 634-1766
 toronto office: 23 queen street west suite 1000, box 14, toronto, ontario m5h 3k4
 telephoner: (416) 968-2028 fax: (416) 968-1478
 e-mail: db@dicenzo.com
Objections from 625

1. If 639 is raised with fill to the height of Rymal Road as north on upper paradise west water will run down east towards 625.

2. If a small commercial business (s) (Tim Hortons) is made it will create traffic, noise pollution, more car fumes and light pollution.

3. If 6 single dwellings are built on 639 it will be over crowded space + area. The property is better suited for 2 or 3 single dwellings instead of 6. This will obviously create increase residents, noise, pollution.

Sincerely,
Ben Pattiit
625 Rymal Road West
Hamilton, Ontario