SUBJECT: Application for a Further Modification in Zoning for the Property Located at 872 Concession Street (Hamilton) (PED06366) (Ward 6)

RECOMMENDATION:

That approval be given to **Zoning Application ZAR-06-014, by John Harvey and Kimberley Leone, owners**, for a further modification to the “D/S-1523” (Urban Protected Residential – One and Two Family Dwellings) District in order to permit a General Office on the ground floor and a Residential unit on the second floor, as well as special regulations for a business sign, for the property located at 872 Concession Street (Hamilton), as shown on Appendix “A” to Report PED06366, on the following basis:

(a) That the draft By-law, attached as Appendix “D” to Report PED06366, 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 the Hamilton Official Plan.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
EXECUTIVE SUMMARY:

The purpose of the application is for a modification in zoning to permit a General Office (Real Estate Office) on the ground floor and a Residential unit on the second floor of an existing dwelling, as shown on Appendix “B”.

The proposal has merit and can be supported since the modification in zoning conforms with the Hamilton-Wentworth Official Plan and City of Hamilton Official Plan. The proposal is compatible with existing development in the neighbourhood.

BACKGROUND:

Proposal

The subject lands are located at the southwest corner of Concession Street and East 36th Street, in the Raleigh Neighbourhood, as shown on Appendix “A”. The purpose of the application is to permit a general office (real estate office) use on the ground floor and a residential unit on the second floor of the existing dwelling, as shown on Appendix “B”. There are seven parking spaces proposed, which will be accessed from both Concession Street and East 36th Street (see Appendix “B”).

Zoning Amendment Application ZAR-05-17

On May 11, 2005, By-law No. 05-120 was adopted by Council which rezoned the lands from “RT-30 (Street-Townhouse) District, Modified to “D” (Urban Protected Residential – One and Two Family Dwellings) District, Modified, in order to permit a semi-detached dwelling on the lands to be severed and to recognize the existing single family dwelling (see Appendix ‘C’).

Zoning Amendment Application ZAC-04-61

On November 24, 2004, By-law No. 04-296 was adopted by Council which rezoned the lands from “C” (Urban Protected Residential) District to the “RT-30” (Street-Townhouse) District, Modified to permit six street townhouses fronting onto East 36th Street (see Appendix “E”). Due to concerns over servicing costs for the street townhouses, the property owners revised their development proposal which resulted in the above mentioned rezoning application, ZAR-05-17.

Consent Application HM/B-05:36

The Committee of Adjustment conditionally approved consent application HM/B-05:36 on March 16, 2005. The approval allowed the property to be severed into 3 parts, as shown on Appendix ‘C’. Parts 2 and 3 were conveyed for the purpose of the proposed semi-detached dwelling fronting onto East 36th Street, while Part 1 was for the existing
single family dwelling fronting onto Concession Street. A condition of this approval required final approval of rezoning application ZAR-05-17.

Details of Submitted Application

Location: 872 Concession Street, Hamilton
Owner: John Harvey and Kimberley Leone
Agent: Planning and Engineering Initiatives Ltd.

Property Description: Frontage on Concession: 27.43 metres
Frontage on East 36th Street: 24.61 metres
Area: 675.15 square metres

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Residential (single detached)</td>
<td>“E” (Multiple Dwellings, Lodges, Clubs) District</td>
</tr>
<tr>
<td>South</td>
<td>Residential (single detached)</td>
<td>“D/S-1523” Urban Protected Residential) District</td>
</tr>
<tr>
<td>East</td>
<td>Commercial (medical office)</td>
<td>“C/S-653” Urban Protected Residential) District</td>
</tr>
<tr>
<td>West</td>
<td>Residential (street townhouses)</td>
<td>“E” (Multiple Dwellings, Lodges, Clubs) District</td>
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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 it conforms to the Hamilton–Wentworth Official Plan and the City of Hamilton Official Plan.

   (ii) The proposal is compatible with the existing development in the neighbourhood.
2. The applicant submitted a preliminary site plan with their application, which has been reviewed against the requirements of the “D/S-1523” (Urban Protected Residential – One and Two Family Dwellings) District, Modified. The proposal meets the minimum requirements for the District, except for the proposed ground sign, which is not permitted. An amendment is required in order to permit the proposed sign. The requirements for maximum height and maximum sign area will be consistent with the requirements for the City’s new Sign By-law No. 06-243, which will come into force and effect on February 1, 2007. A maximum height of 2.2 metres and a maximum sign area of 2.3 square metres are being proposed, which is less than what the new By-law will permit. The sign is to be set back 4.5 metres from Concession Street and 5.0 metres from East 36th Street. These setbacks exceed the new By-law requirements. As the subject property is surrounded by residential uses, staff is of the opinion that the proposed sign area, height, and setbacks are appropriate.

3. There are existing watermains available on both Concession Street and East 36th Street to service the subject lands. There are separate storm and sanitary sewers available on Concession Street to service the subject lands, however, no sewers are available immediately adjacent the property on East 36th Street. In addition, the existing combined sewer on East 36th Street, south of the subject lands, has limited capacity and any further development of these lands, which increases drainage to East 36th Street, will require full municipal services, both storm and sanitary, and be constructed to the full extent of the property at the owner’s cost.

Therefore, as a condition of future development approval, the owner will be required to either enter into an appropriate agreement with the City of Hamilton to extend full municipal sewers to the limit of the lands, service the lands entirely to the Concession Street sewers, or alternatively, provide a storm water management report and design which clearly demonstrates that there will be no increase in drainage to East 36th Street.

4. In accordance with Council’s Public Participation Policy, the application was pre-circulated to all property owners within 120 metres of the subject lands. There were no written responses received. However, several residents verbally expressed concerns with regards to on-street parking in the neighbourhood. Due to the close proximity of Henderson Hospital, on street parking is limited. The current proposal for a general office (real estate office) use on the ground floor and residential on the second floor will provide seven parking spaces, whereas the By-law only requires one. Therefore, staff is of the opinion that the proposal would be providing adequate parking on site.

The City’s Forestry Section indicated that they had been approached by residents who were inquiring about the proposed status of the trees on the subject lands. They indicated that opposition to remove trees on site was evident. Forestry conducted an on site investigation and determined that none of the trees are located on municipal
property. The proposed development will be subject to Site Plan Control and the preservation of existing trees, where feasible, can be addressed during that process.

5. The subject property is located four blocks from the easterly boundary of the Concession Street Business Improvement Area (BIA). The commercial district runs from East 15th Street to East 33rd Street and that the edge of the Concession Street BIA is primarily residential. The intent is to retain the existing dwelling and maintain a residential dwelling unit within the building. The proposed end use is for a real estate office. Staff also notes that there is another commercial property located on the south east corner of Concession Street and East 36th, which permits a medical office.

6. Although the applicant’s proposal is for a “real estate office”. The amending By-law will permit a “general office”. This will provide a degree of flexibility in use by allowing for other office uses such as a lawyers office, insurance office, etc. However, it does not include high-traffic generating uses such as a medical or dental office.

7. All commercial development in Hamilton is subject to Site Plan Control. Through this process matters such as grading, servicing, landscaping, parking, etc. for the proposed development will be reviewed in detail.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is not approved, the lands could only be used for the range of uses permitted under the current D/S-1523 (Urban Protected Residential – One and Two Family Dwellings) District, which does not include a general office use.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: No financial implications.

Staffing: No staffing implications.

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**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the principles and policies of the PPS.
The subject property is designated as “Urban Area” in 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 the nature of the application is for a further modification in zoning to allow for a General Office (real estate office) use on the ground floor and one Residential unit on the second floor, where full municipal services are available, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.

The subject property is designated “Residential” in the Hamilton Official Plan. The following policies, among others, are applicable to the proposed development:

“A.2.1.3 Within areas designated RESIDENTIAL, land uses compatible to dwellings and serving the needs of local residents will be permitted, including, but not limited to:

iv) Limited individual groups of commercial uses on sites not exceeding 0.4 hectare in area, excluding Automobile Service Centres, in accordance with the Commercial Policies as set out in Subsection A.2.2 of this Plan. (O.P.A. 128)

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;

ii) Light from standards or other external lighting fixtures, excluding those used for store and window display or wall illumination, will be directed downwards and shielded or oriented as much as practicable away from Residential Uses; and,

iii) Light standards will be of a height that is in scale with the facility, but will not be of a height sufficient to create a nuisance to adjacent land uses (O.P.A. No. 46). “

The proposal is compatible with the existing adjacent uses. The proposal is in accordance with the Official Plan criteria for a commercial use within a residential designation. As such, the proposal conforms to the Hamilton Official Plan.
Neighbourhood Plan

The subject lands are located within the Raleigh Neighbourhood. There is no approved Neighbourhood Plan for the Raleigh Neighbourhood.

RELEVANT CONSULTATION:

Agencies/Departments Having no Comment or Objections

- Corporate Services Department (Budgets Section)
- Public Works Department (Forestry Section)
- Hamilton Conservation Authority

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application and notice of Public Meeting were pre-circulated to all property owners within 120 metres of the subject property. A total of 628 notices were circulated. A sign was also posted on the property which stated the date of the Public Meeting. There were no formal responses received. However, several verbal responses were received which are discussed in the Analysis/Rationale Section of this report.

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
The proposed development is subject to Site Plan Control and all environmental concerns will be addressed through the Site Plan process.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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. (5)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton),
as Amended by By-law No. 04-296 and By-law No. 05-120
Respecting Lands Located at 872 Concession 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. E-35 of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing from the “D/S-1523” (Urban Protected Residential – One and Two Family Dwelling, etc.) District to the “D/S-1562” (Urban Protected Residential – One and Two family Dwellings, etc.), the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. The “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District provisions applicable to the lands referred to in Section 1 are amended to the extent of the following special requirements:

   (a) Notwithstanding Subsection 10(1) of Zoning By-law No.6593, the following uses shall also be permitted:

      (i) A General Office Use and one (1) residential dwelling unit within the building existing on the date of the passing of this By-law being , 2006; and,

      (ii) One business identification ground sign accessory to the commercial use having a maximum sign area of 2.3 square metres and a maximum height of 2.2 metres. The sign is to be setback a minimum of 4.5 metres from Concession Street and a minimum of 5.0 metres from East 36th Street.

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 “D” District provisions, subject to the special requirements referred to in Section 2 of this By-law.

4. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1562.

5. 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-06-45
Schedule "A"

Map Forming Part of By-law No. 06-____ to Amend By-law No. 3692-92

Subject Property
872 Concession Street

- 872 Concession St - Change in Zoning from the D/S-1523 (Urban Protected Residential - One and Two Family Dwellings) to D/S-1562 (Urban Protected Residential - One and Two Family Dwellings)
Appendix "E" to Report PED06366 (Page 1 of 1)

Planning and Development Department

Location Map

File Name/Number: ZAR-05-17  Date: February 23, 2005

Appendix "A"  Scale: N.T.S  Technician: L.C.

Subject Property
872 Concession Street
Change in Zoning from "RT-30" (Street – Townhouse) District, Modified, to "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified