SUBJECT: Application for a Modification in Zoning for the Property Located at 2804 King Street East (Hamilton) (PED06179) (Ward 5)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-06-22, by Tamlann Investments, c/o Salvatore Destro, owner, for a further modification to the “HH/S-1007” (Restricted Community Shopping and Commercial) District, Modified, to permit an animal hospital/veterinarian practice for the lands located at 2804 King Street East, as shown on Appendix “A” to Report PED06179, on the following basis:

(a) That the draft By-law, attached as Appendix “C” to Report PED06179, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) 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
SUBJECT: Application for a Modification in Zoning for the Property Located at 2804 King Street East (Hamilton) (PED06179) (Ward 5) - Page 2 of 6

EXECUTIVE SUMMARY:

The applicant is requesting a Zoning By-law Amendment to permit the use of an animal hospital/veterinarian practice within an existing building (Tim Horton’s Restaurant) on the subject lands (see Appendix “B”). The proposed Zoning By-law Amendment has merit, as the development provides sufficient parking, it will not impact the abutting residential use, and it is consistent with the “Commercial” policies of the City of Hamilton Official Plan. The proposal is an appropriate development that efficiently uses existing urban land and services.

BACKGROUND:

Proposal

The purpose of the application is to provide for a further modification in zoning to the existing “HH/S-1007” (Restricted Community Shopping and Commercial) District, Modified. The effect of the application is to permit the use of an animal hospital/veterinarian practice within the existing building in which the Tim Horton’s Restaurant formally operated from on the subject lands (see Appendix “B”).

Site Plan Application (File No. DA-06-44)

The applicant has recently submitted an amended site plan application for an addition to the newly constructed Rainbow Variety Store/Tim Horton’s Drive-Thru building. This proposed addition is approximately 18.58m$^2$ (200 ft$^2$) and will be used by the Tim Horton’s Restaurant for storage purposes. The Tim Horton’s has now vacated the 105.50m$^2$ restaurant facility and is currently operating out of the newly constructed ESSO Station/Rainbow Convenience building.

Site Plan Application (File No. DA-04-14)

In February 2004, the applicant submitted a site plan application for the lands municipally known as 2808-2812 King Street East to permit the expansion and renovation to the Esso Gas Station, and to construct a Rainbow Variety Store with a Tim Horton’s Drive-Thru operating out of the variety store. The application was conditionally approved on June 22, 2004. That application has now been finalized and the development has been constructed.

Location: 2804 King Street East

Owner/Applicant: Tamlann Investment Ltd. c/o Salvatore Destro
Application for a Modification in Zoning for the Property Located at 2804 King Street East (Hamilton) (PED06179) (Ward 5)

Description:
- Lot Area: 3,689 square metres
- Lot Frontage: 65.4 metres along King Street East
- Lot Depth: 56.4 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>Manual Carwash/Tim Horton's/Gas Bar</td>
<td>Site Specific “HH/1007” (Restricted Community Shopping and Commercial) District</td>
<td></td>
</tr>
</tbody>
</table>

Surrounding Lands:

<table>
<thead>
<tr>
<th>North</th>
<th>Used Auto Dealership</th>
<th>“HH” (Restricted Community Shopping and Commercial) District</th>
</tr>
</thead>
<tbody>
<tr>
<td>East</td>
<td>Floral Shop</td>
<td>“HH” (Restricted Community Shopping and Commercial) District</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential Etc.) District</td>
</tr>
<tr>
<td>West</td>
<td>Townhouses</td>
<td>“G/S-966” (Neighbourhood Shopping Centre, Etc.) District</td>
</tr>
</tbody>
</table>

ANALYSIS/RATIONALE:

1. The proposed Zoning Amendment has merit and can be supported for the following reasons:
   
   i) The proposal is consistent with the Provincial Policy Statement.
   
   ii) The proposal conforms with and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan.
   
iv) The proposed use is compatible to the existing commercial uses in the neighbourhood, and is in keeping with the character of the surrounding area.

2. The proposed change in zoning would permit the property to be used for an animal hospital/veterinarian practice. The external built form will remain, with only internal building modifications required in order to establish the proposed veterinarian practice. The current proposal will not be subject to site plan control as no new development is being proposed. Items such as landscaping and privacy fencing were dealt with through Site Plan Application No. DA-04-14 as noted in the Background Section of the Report. The proposed veterinarian practice will have less of an impact than the existing Tim Hortons Restaurant on the abutting residential uses to the rear, as it will only operate during the weekday business hours, and will have no outdoor runs.

The building also has existing parking associated with the current Tim Hortons Restaurant. In order to determine the parking requirements, the proposed use would be considered as a Medical Office. The parking requirement for this use is 1 parking space for every 19.0 square metres of floor area. The required parking for the veterinarian practice is calculated at 6 spaces as the floor area of the existing building is 105.50 square metres. As the current parking allocation at the Tim Hortons is 11 spaces; there is more than sufficient parking to facilitate the proposed animal hospital/veterinarian practice. This change in zoning can be supported as it maintains the intent of the Zoning By-law.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application for a change in zoning not be approved, development of the subject lands for commercial purposes would be permitted as-of-right under the current “HH” Zoning District; however, the veterinarian clinic use would not be permitted.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by The Planning Act, Council shall hold at least one 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). The application is consistent with the policies that focus growth in settlement areas 1.1.3.1.

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 urban areas. This proposal conforms to the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated as “Commercial” on Schedule ‘A’ – Land Use Concept in the City of Hamilton Official Plan. This proposal has been reviewed against Subsection A.2.2 Commercial Uses of the City of Hamilton Official Plan. This proposal conforms to the City of Hamilton Official Plan.

Neighbourhood Plan

The subject lands are identified as “Commercial” in the approved Gershome Neighbourhood Plan. The proposed rezoning conforms to the Neighbourhood Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Public Works Department (Traffic Engineering & Operations Section)
- Public Works Department (Operations and Maintenance - Forestry Section)
- Corporate Services (Budgets and Finance)

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, the application was pre-circulated to 145 property owners within 120 metres of the subject lands, and a Public Notice sign has been posted on the property. One phone call was made to Staff from Mrs. Palermo, 10 Vienna Street. With respect to this application, her concern relates to noise from the animals at the hospital. Staff’s response to her concern was that there would be no outdoor runs associated with the
proposed use and, therefore, noise would not be an issue. Notice of the Public Meeting was also circulated in accordance with the provisions of the Planning Act.

**CITY STRATEGIC COMMITMENT:**

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

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

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

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

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

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

:JM

Attachs. (3)
Proposed Location of Animal Hospital/Veterinarian Service
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 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. That the “HH/S-1007” (Restricted Community Shopping and Commercial) District provisions as contained in Section 14A of Zoning By-law No. 6593, as amended by OMB Order (OMB File Z860036), applicable to the lands, the extent and
boundaries of which are shown on a plan hereto annexed as Schedule “A”, are further amended to the extent only of the following special requirement:

(a) That notwithstanding Section 14A. (1) an animal hospital/veterinarian practice with no outdoor runs shall be permitted.

2. 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 “HH” (Restricted Community Shopping and Commercial) District provisions, subject to the special requirements referred to in Section 1.

3. Zoning By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1007a.

4. Sheet No. E-106 of the District Maps is amended by marking the lands referred in Section 1 of this By-law as S-1007a.

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

ZAR-06-22
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. 3692-92

Subject Property

2804 King Street East, Hamilton
Further modification in zoning to the existing “HH/S-1007” (Restricted Community Shopping and Commercial) District