TO:  Chair and Members  
Economic Development and Planning Committee  

WARD(S) AFFECTED:  WARD 10  

COMMITTEE DATE:  ED&P - March 2, 2010  

SUBJECT/REPORT NO:  
Application for a Change in Zoning for the Lands Located at 367 Highway No. 8 (Stoney Creek) (PED10041) (Ward 10)  

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 ZAR-09-047, by 1794656 Ontario Inc., Maria Cipriani, Applicant, for a further modification in zoning to the General Commercial “GC-16” Zone, with a Special Exemption, to add a “Standard Restaurant” as a permitted use, on the lands located at 367 Highway No. 8, Stoney Creek, as shown on Appendix “A” to Report PED10041, on the following basis:  

(a)  That the draft By-law, attached as Appendix “B” to Report PED10041, 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 Stoney Creek Official Plan.
EXECUTIVE SUMMARY

The purpose of this application is for a modification in zoning to add a “Standard Restaurant” as a permitted use within the existing building (see Appendix “A”). During the review of the application, further modifications were identified to recognize the existing lot frontage and side yard setback, landscaping, and to permit a reduced parking stall size and driveway width (see Appendix “C”).

The applicant is proposing to convert existing office space on the ground floor of the mixed use building into a 65 seat restaurant, with the two existing residential units remaining on the second floor.

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 Stoney Creek Official Plan. The proposal is compatible with existing and proposed development in the area.

Alternatives for Consideration - See Page 8.

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)

Proposal

The Applicant has applied for a further modification to the General Commercial “GC-16” Zone, on the lands known as 367 Highway No. 8 (see Appendix “A”), with a Special Exemption, to add a “Standard Restaurant” as a permitted use to facilitate the establishment of a 65 seat restaurant on the ground floor of the existing two-storey, mixed use building. The applicant is proposing to expand the parking area at the rear of the subject lands to provide additional on-site parking, as shown on the concept plan (see Appendix “C”). The expanded parking area will be subject to site plan control.

Details of Submitted Application:

Location: 367 Highway No. 8, Stoney Creek.

Owner/Applicant: Kargo Properties/1794656 Ontario Inc.
**Property Description:**
- **Frontage:** Approximately 15.2 metres.
- **Depth:** Approximately 94.5 metres.
- **Area:** Approximately 0.26 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>Two-Storey Mixed Use Building</td>
<td>General Commercial “GC-16” Zone</td>
<td></td>
</tr>
</tbody>
</table>

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<thead>
<tr>
<th>Surrounding Lands</th>
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<tbody>
<tr>
<td><strong>North</strong></td>
<td>Single Detached Dwellings</td>
<td>Single Residential “R2” Zone</td>
</tr>
<tr>
<td><strong>South</strong></td>
<td>One-Storey Commercial Plaza</td>
<td>Local Commercial “LC” Zone</td>
</tr>
<tr>
<td><strong>East</strong></td>
<td>Shoppers Drug Mart, Curves, Starbucks</td>
<td>General Commercial “GC-46” Zone</td>
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<tr>
<td><strong>West</strong></td>
<td>Restaurant</td>
<td>General Commercial “GC” Zone</td>
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**POLICY IMPLICATIONS**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that promote economic development (Policy 1.3.1). The proposal is, therefore, consistent with the principles and policies of the PPS.

**Hamilton-Wentworth Official Plan**

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-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.

Policy C-3.1.1 states that a compact higher density urban form, with mixed use development in identified regional and municipal centres and along corridors, best meets the environmental, social, and economic principles of sustainable development.

Based on the foregoing, the proposal conforms to the Hamilton-Wentworth Official Plan.
Stoney Creek Official Plan

The subject property is designated “General Commercial” on both Schedule “A” General Land Use Plan, and Schedule “A1” - Western Development Area Secondary Plan, in the City of Stoney Creek Official Plan. The property is also identified as “Commercial” in the “Poplar Park” Neighbourhood Plan. The following policies, among others, apply:

“A.3.1.1 To encourage the provision of sufficient level and variety of retail activity in the City to accommodate the demand of residents;

A.3.3.2.1 The General Commercial designation applies to certain existing and proposed areas of individually managed commercial establishments located along highways and arterial roads. General Commercial uses benefit from accessibility and visibility and, thereby, provide a service to both pedestrian and automobile-borne trade;

A.3.3.2.2 Land designated General Commercial by this Plan may be used for retail and service shops, offices, financial institutions, automobile sales, service and repair establishments, printing shops, restaurants, hotels, places of assembly and entertainment, commercial marinas, local institutional and community uses, and uses similar and accessory to the foregoing, including dwelling units.”

Based on the foregoing, the proposal conforms to the “General Commercial” policies of the City of Stoney Creek Official Plan.

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 “District Commercial” on Schedule E-1, Urban Land Use Designations. Staff notes that the “Neighbourhoods” and “District Commercial” designations permit a range of residential and commercial uses, including mixed-use developments, which are compatible with the surrounding development form. As the subject proposal is to permit the conversion of an office to a 65-seat restaurant, 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.
Public Works Department, Operations and Engineering, Traffic Planning Section

Traffic Planning has indicated that there may be issues respecting truck traffic movement on the subject property, and require a condition of zoning amendment approval that the applicant demonstrate, to the satisfaction of the Manager of Traffic Engineering, that sufficient on-site manoeuvring is provided for delivery and garbage truck services, and that required parking spaces will not be impacted by those trucks. The applicant is also advised that 5.0m x 5.0m vision triangles are required at the outer edges of the access, which will require that the first parking space be relocated.

These concerns can be resolved by way of a Site Plan Control application, to the satisfaction of the Manager of Planning.

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 111 property owners within 120 metres of the subject property on December 11, 2009. To date, no formal responses have been received. 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 Stoney Creek Official Plan.

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

2. The proposed modification in zoning is to facilitate the establishment of a 65 seat restaurant in the existing building. A restaurant is an appropriate use for the subject
lands. The abutting property to the west contains a restaurant, and the abutting property to the east contains (amongst other operations) a coffee shop, therefore, the proposed addition of a ‘Standard Restaurant’ to the subject lands is not out of character with the established surrounding uses, nor will it create a conflict with the existing uses.

3. The conversion of the existing office space to a restaurant is an alteration that has the effect of substantially increasing the usability and, as such, constitutes development under Section 41 of the Planning Act, and would require a Site Plan Control application be submitted by the applicant.

4. The expansion of the existing on-site parking area to accommodate the proposed 65-seat restaurant has implications for stormwater management. Specifically, the applicant is proposing to locate an additional eleven parking spaces at the rear of the existing building. This parking area, and associated manoeuvring areas, will be required to be paved and appropriately graded and drained. The addition of a parking area to the rear of the property would be best reviewed through a Site Plan Control Application. Approval of the application will be conditional on grading and drainage approved by Development Engineering.

5. Truck movement on the property was also raised as a concern, based on similar situations along Highway No. 8. Relocation of the proposed telecommunication tower to the roof of the existing building, and submission of a Site Plan Control Application, would allow Traffic Planning to assist the applicant in establishing an appropriate manoeuvring space for truck traffic on the property. A Site Plan Control Application would also give staff the ability to ensure that the layout of the parking area on the property still operates appropriately for the proposed new use.

6. The former Stoney Creek Zoning By-law originally zoned the property Existing Residential “E3” Zone. In 1983, the property was rezoned from the “ER3” Zone to the General Commercial “C3” Zone, with site-specific restrictions, limiting the permitted commercial uses to retail stores, offices, and personal service shops to a maximum commercial floor area of 233m². This “C3” zoning, with the site-specific restrictions, was carried forward to Zoning By-law No. 3692-92 as the General Commercial “GC-16” Zone.

7. During the review of the application, further modifications to the By-law were identified to deal with existing situations on the property. The following modifications were identified:

   **Lot Frontage**

   The General Commercial “C3” Zone did not have a minimum lot frontage requirement for any use other than an automobile related use. The property was considered to be a lot of record until the rear portions (not the subject of this
application) were added in 2005. By changing the lot size, it loses its lot of record standing, and the By-law must then address the existing deficient frontage. The current By-law requires a minimum lot frontage of 45.0m, but the existing frontage of the property is only 15.22m. A modification was added to the draft By-law to legally recognize the existing frontage.

**Side Yard Setback**

The existing westerly side yard setback is a legal non-conforming setback. The current By-law requires a minimum side yard setback of 1.5m. The existing westerly side yard setback is 0.31m, and is not being changed by this application, but it is appropriate for staff to recognize this setback in the proposed By-law to legalize the location of the existing building.

**Parking Stall Size**

The provisions of By-law No. 3692-92 require that parking stalls be a minimum of 2.75m x 5.8m for a standard stall, and 4.4m x 5.8m for a physically challenged stall. The applicant is proposing to utilize the parking stall standard in Zoning By-law 05-200 (i.e. standard stalls measuring 2.6m x 5.5m, and a physically challenged parking stall measuring 4.4m x 5.5m). Staff is satisfied that the proposed stall sizes are appropriate, as they conform to the standards set out in Hamilton Zoning By-law No. 05-200.

**Landscaped Area**

The By-law requires that a 1.5m landscaped area be provided along the easterly and westerly side lot lines. Given the size and shape of the lot and the existing building, it would not be possible for the applicant to provide landscaping along the side lot lines. The applicant will still be required to provide landscaping along Highway No. 8, and will be required to maintain the sodded area abutting the residential zone at the rear of the property so staff are satisfied that there will still be adequate landscaping on the property, and that there will be no negative impacts if the landscaped areas along the easterly and westerly lot lines are not provided. There is currently no landscaping provided along the easterly and westerly lot lines abutting the commercial uses on either side, and there have been no negative impacts identified to date.

**Driveway Width**

The existing driveway between the easterly lot line and the building is 5.9m wide, and the By-law requires that two-way access driveways have a minimum width of 6.0m. Staff is satisfied that the 0.1m reduction in driveway width is minor and will still allow for proper two-way vehicle access to the rear of the property.
8. The plan provided with the application references a location for a proposed cellular communication tower (see Appendix “C”). The erection of a new telecommunication tower is subject to the City of Hamilton Telecommunication Tower and Antenna Protocol, and the final location would be addressed in the Site Plan Control Application.

**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 General Commercial “GC-16” Zone. Any future use would have to conform to the provisions of the General Commercial “GC-16” Zone.

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


**Financial Sustainability**
- Effective and sustainable Growth Management.

**Growing Our Economy**
- Newly created or revitalized employment sites.
- Competitive business environment.

**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 PED10041 - Location Map.
- Appendix “B” to Report PED10041 - Draft By-law Amendment.
- Appendix “C” to Report PED10041 - Concept Plan.

:JMB
Attachments. (3)
Appendix “A” to Report PED10041

Location Map

File Name/Number: ZAR-09-047
Date: Dec. 9, 2009
Appendix “A”
Scale: N.T.S.
Planner/Technician: MB/AL

Subject Property
367 Highway No. 6
Application for a change in zoning to permit a 65 seat standard restaurant
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 3692-92 (Stoney Creek)
Respecting the Lands Located at 367 Highway No. 8, Stoney Creek

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" 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 of the former area municipalities 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. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ______ of Report 10-____ of the Economic Development and Planning Committee, at its meeting held on the day of ______, 2010, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Subsection 8.3.8, “Special Exemptions”, of Section 8.3 General Commercial “GC” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by deleting Special Exemption, “GC-16”, and replacing it with the following

“GC-16” - 367 Highway No. 8, Schedule “A”, Map No. 6

Notwithstanding the permitted uses in Section 8.3.2 of the General Commercial “GC” Zone, the use of those lands zoned “GC-16” by this By-Law shall be limited to retail stores, professional and business offices, personal service shops, and Standard Restaurants provided the maximum commercial floor area does not exceed 233 square metres. Uses accessory to any permitted use including a maximum of two dwelling units are permitted provided that they are located over the commercial area of the building.

Notwithstanding the provisions of Paragraphs (a), (d), and (g)3. of Section 8.3.3 “Zone Regulations” of Zoning By-law No. 3692-92, on those lands zoned “GC-16” by this by-law, the following shall apply:

(a) Minimum Lot Frontage - 15.2 metres.

(d) Minimum Side Yard - 0.3 metres for the Westerly Side Yard.

(g)3. Minimum Landscaped Open Space - No landscaped strip will be required adjacent to every portion of the easterly or westerly lot lines abutting a commercial zone.

Notwithstanding the provisions of Paragraph a), Section 4.10.3 “Dimensions of Parking Spaces” of Zoning By-law No. 3692-92 on those lands zoned “GC-16” by this by-law, the following shall apply:

a) Required parking spaces for 90 degree perpendicular parking shall have minimum rectangular dimensions of 2.6 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

Notwithstanding the provisions of Paragraph a), Section 4.10.4 “Requirement For Parking Designated For Vehicles of Physically Challenged” of Zoning By-law No. 3692-92 on those lands zoned “GC-16” by this by-law, the following shall apply:

a) have minimum rectangular dimensions of 4.4 metres by 5.5 metres.
Notwithstanding the provisions of Paragraph b), Section 4.10.5 “Access To Parking Spaces” of Zoning By-law No. 3692-92 on those lands zoned “GC-16” by this by-law, the following shall apply:

b) Indirect Access - A driveway or lane which does not provide ingress and egress directly to a parking space, shall have a minimum width of 4.5 metres where designed for one-way vehicular circulation, or 5.9 metres where designed for two-way vehicular circulation.

2. 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 General Commercial “GC-16” Zone provisions, subject to the special requirements referred to in Section 1.

3. 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 [date] day of [date], 2010.

FRED EISENBERGER KEVIN C. CHRISTENSON
MAYOR CLERK

ZAR-09-047