SUBJECT: Application for a Further Modification in Zoning for Lands Located at
700 Upper James Street, Hamilton (PED07138) (Ward 8)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-06-108, Naeem Mirza, Owner, for a further modification to the “H/S-1281” – ‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified, to permit a commercial driving school as an additional permitted use within the existing building, for the property located at 700 Upper James Street (Hamilton), as shown on Appendix “A” to Report PED07138, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED07138, which has been prepared in a form satisfactory to the City Solicitor be approved; but not be forwarded to City Council for enactment until the owner receives approval of a Minor Site Plan Application and the requisite securities for site improvements have been provided to the Manager of Development Planning.

(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
EXECUTIVE SUMMARY:

The applicant is requesting a Zoning By-law Amendment to further modify the “H” – ‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified, to permit the additional use of a commercial driving school within the existing building. This application will also facilitate the removal of the Holding provision that was implemented as part of Zoning By-law No. 92-244. Staff recommends that the amending By-law be withheld for enactment until a Minor Site Plan Application has been approved.

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

BACKGROUND:

The subject lands are located on the west side of Upper James Street, north of Mohawk Road, and have an area of approximately 412 square metres. An existing one-storey dwelling with a floor area of approximately 85 square metres is located on the subject lands.

Proposal

The applicant is requesting a Zoning By-law Amendment to further modify the zoning to permit a commercial driving school within the existing one-storey dwelling, in addition to the current range of commercial uses. The existing dwelling use will cease and be replaced with the new commercial use. This application will also facilitate the removal of the Holding provision that was implemented as part of Zoning By-law No. 92-244.

Zoning By-law No. 92-244

Zoning By-law Amendment Application 92-D was a City Initiative that rezoned the subject lands and lands to the north and south on the west side of Upper James Street to the existing “H/S-1281” – ‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified, to permit various retail, office, and service type uses only within the existing buildings. In accordance with Zoning By-law No. 92-244, the following is required: a visual barrier not less than 1.2 metres and not more than 2.0 metres in height and a landscaped planting strip not less than 1.5 metres in width, to be provided and maintained along the westerly lot line; lighting facilities to be located at the rear of the property to be installed and maintained to ensure that light is directed away from all adjacent residential uses; and a minimum of one parking space for every 31 square metres of floor area (excluding dwellings, medical offices and day nurseries). As a result, the subject lands will require a minimum of three parking spaces for the proposed use, which will be accommodated on-site.

The Holding symbol was to remain in place until such time as a Site Plan Control application was applied for, and approved, prior to the establishment of a commercial use.
SUBJECT: Application for a Further Modification in Zoning for Lands Located at 700 Upper James Street, Hamilton (PED07138) (Ward 8) - Page 3 of 7

Location: 700 Upper James Street

Owner: Naeem Mirza

Agent: Rick Cutler

Property Description: Frontage: 15.24 metres (Upper James Street)
Depth: 27.05 metres
Lot Area: 412.24 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 dwelling)</td>
<td>“H/S – 1281”-‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified</td>
</tr>
<tr>
<td>East</td>
<td>Residential (single detached dwellings)</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
</tr>
<tr>
<td>South</td>
<td>Residential (single detached dwellings)</td>
<td>“H/S – 1281”-‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified</td>
</tr>
<tr>
<td>West</td>
<td>Residential (single detached dwellings)</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
</tr>
</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 policies of the Provincial Policy Statement.

   ii) The proposal conforms to and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan and conforms with the “Commercial” policies of the City of Hamilton Official Plan.

   iii) The proposed development is compatible with the surrounding area.
2. Presently, Zoning By-law No. 92-244 permits a variety of commercial uses including, but not limited to, a business or professional person’s office, hair salon, physical fitness studio, various retail stores, retail drug store, food store, and variety store, within the existing building. The proposed commercial driving school can be considered less intensive than some of the uses that are currently permitted within the existing zoning.

3. As a result of the preliminary circulation of the application, one letter was received (see Appendix “C”). Issues raised, include, possible changes to the exterior of the building, removal of large trees, and where the parking will be located on the lot and its compatibility with residential properties to the rear. These issues are discussed below:

Possible Changes to the Exterior of the Building

In accordance with Zoning By-law No. 92-244, all commercial uses that are established on the subject lands shall be contained within the existing building and the proposed zoning maintains this requirement. The intent of this restriction is to ensure that the residential character of the street will be maintained. If the owner wishes to construct a larger and/or different building than that which presently exists, an amendment to the By-law will be necessary, which would result in an additional public process.

Tree Removal

A site visit has been completed, and it appears that there are three trees on the property. There is one tree located in the rear yard, and two in the front yard. The trees are located on private property and, as such, are not regulated by the City’s Forestry By-law. However, tree preservation will be reviewed at the time of site plan approval.

Parking Area Location and Impacts

The owner has advised that the three parking spaces required in accordance with Zoning By-law No. 92-244 will be accommodated on-site. Any parking area adjacent to the residential district at the rear requires a visual barrier not less than 1.2 metres and not more than 2.0 metres in height and a landscaped planting strip not less than 1.5 metres in width to be provided and maintained along the rear (westerly) lot line, in accordance with the current zoning regulations which will remain unchanged. Site lighting will also be reviewed at the site plan stage and will be in accordance with Zoning By-law No. 92-244, which states that lighting facilities to be located at the rear of the property shall be installed and maintained to ensure that light is directed away from all adjacent residential uses.

In addition, the operation of the commercial driving school should not create a significant increase in traffic. The majority of driver instruction will occur as on-road training, with one student at a time being present within the building. Traffic
staff has recommended that a hammerhead be constructed on-site so that vehicles can exit to Upper James Street in a forward manner.

The lands are subject to a Minor Site Plan Application and, at that time, staff will ensure that all requirements of the Zoning By-law and additional design requirements are adhered to, and the necessary securities to guarantee site improvements have been deposited with the Department.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed application for an amendment to the Zoning By-law be denied, the uses permitted on the subject lands would be in accordance with Zoning By-law No. 92-244.

**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 1.1.3.1.

As the nature of the application is for a change in zoning to allow for an additional use, the proposal is consistent with the policies of the Provincial Policy Statement.

**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 the nature of the application is for a change in zoning to allow for the establishment of an additional use, where full municipal services are available, the proposal is consistent with the policies of the Hamilton-Wentworth Official Plan.
City of Hamilton Official Plan

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

“A.2.2.14 The EXTENDED COMMERCIAL category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:

i) “Ribbon” commercial uses on smaller lots serving predominantly residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile borne traffic from beyond the local areas;

A.2.2.15 Council recognizes EXTENDED COMMERCIAL areas as viable forms of Commercial development that satisfy the needs of certain businesses for visibility and accessibility.

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.”

The proposed Zoning Amendment application is to further modify the existing “H” – ‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified, to permit the additional use of a commercial driving school within the existing building and to remove the Holding provision. As such, the proposal complies with the City of Hamilton Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Public Works Department (Capital Planning and Implementation Section)
- Corporate Services Department (Budgets and Finance Division)

Public Works Department (Traffic Engineering & Operations Section) has advised of the following:

There are no comments regarding the change in zoning. For the information of the owner, due to the expected increase in commercial traffic, it is recommended that a hammerhead be constructed on-site so that vehicles can exit to Upper James Street in a forward manner. This will be addressed at the site plan stage.
Parking Services, Downtown Renewal Division has advised of the following:

There are no concerns to the modification in zoning, however, the applicant shall ensure that all existing and future parking requirements are met on-site as there is no opportunity for overflow parking in the immediate vicinity of this property.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to 93 property owners within 120 metres of the subject lands. A Public Notice sign was also posted on the site. To date, staff has received one letter, attached as Appendix "C", which is addressed in the Analysis/Rationale Section of this report.

Notice of Public Meeting will be circulated 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
The environment is 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

:SM
Attachs. (4)
Appendix “A” to Report PED07138 (Page 1 of 1)

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAR-06-108
Date: January 04, 2007

Appendix “A” Scale: N.T.S.
Planner/Technician: SM/IF

Subject Property
700 Upper James Street

Ward 8 Keymap N.T.S.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton) as Amended by By-law No. 92-244, Respecting the Property Located at 700 Upper James 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 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 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;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. W-8 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended,

   (a) by changing from the “H/S-1281” – ‘H’ (Community Shopping and Commercial, etc. - Holding) District, Modified to the “H/S-1281a” (Community Shopping and Commercial, etc.) District, Modified;
the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “H” (Community Shopping and Commercial, etc.) District regulations, as contained in Section 14 of Zoning By-law 6593, as modified by By-law No. 92-244, be further modified as follows:

   a) That notwithstanding Section 4(a)(ii) of By-law No. 92-244, a commercial driving school, shall be permitted within the building existing on the date of the passing of this by-law, being the _____ day of _____, 2007.

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 “H/S-1281a” (Community Shopping and Commercial, etc.) District, Modified.

4. Zoning By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1281a.

5. Sheet No. W-8 of the District Maps is amended by marking the lands referred to in Section 1(a) of this by-law as S-1281a.

6. 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 __________, 2007.

Fred Eisenberger                     Kevin C. Christenson
Mayor                              City Clerk

ZAR-06-108
Change in zoning from “H/S-1281” – ‘H’ (Community Shopping and Commercial, etc.-Holding) District, Modified, to “H/S-1281a” (Community Shopping and Commercial, etc.) District, Modified
January 26, 2007

Shannah Murray, Planner
City of Hamilton
Planning & Economic Development Dept.
Development and Real Estate Division
City Hall, 71 Main Street West, 7th Floor
Hamilton, ON L8P 4Y5

Dear Shannah Murray:

Re: Preliminary Circulation for Zoning By-law Amendment Application, ZAR-06-108
700 Upper James Street, Hamilton (Ward 8)

We are the property owners at 63 West 1st Street directly situated behind 700 Upper James Street and we are responding to the circulation letter sent by you on behalf of Robert Walters regarding the above subject property.

We have some questions and concerns regarding the change of zoning to allow for a driving school. Will this zoning change allow the applicant permission to change the existing outside appearance of this property or must the applicant notify you in advance as to what his plans are to change the outside of his property?

We would like to know if the applicant is planning on making his existing front lawn a parking lot or his backyard a parking lot? This property has 3 very large trees on it and some or all would have to be removed to accommodate a parking lot. The tree removal would be a concern. If the trees were to be removed is the applicant obligated to use professional city services or can he do it himself?? The largest tree is in the backyard and is in direct line of our house.

If the applicant were to make a parking lot in the backyard there would be an issue of privacy affecting at least 5 houses. The existing backyard has a see-through chain link fence. Would the applicant be obligated to put up a professionally installed wooden privacy fence?

At this time these are our main concerns. Looking forward to seeing a copy of the staff report prior to the public meeting and being part of the meeting yet to be scheduled. We appreciate your efforts in keeping us up to date in this matter.

Thank you for your time and consideration.

Sincerely,

Beatrice (Bea) James
Kerry James
63 West 1st
Hamilton, ON
L9C 3C2