TO: Chair and Members Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 7

COMMITTEE DATE: February 16, 2010

SUBJECT/REPORT NO: Application for a Change in Zoning for the Lands Located at 1540 Upper Gage Avenue (Hamilton) (PED10029) (Ward 7)

SUBMITTED BY: Tim McCabe  
General Manager 
Planning and Economic Development Department

PREPARED BY: Edward John  
(905) 546 2424, Ext. 5803

SIGNATURE: 

RECOMMENDATION: 

That approval be given to Amended Zoning Application ZAC-08-087, by Malatesta Bros. Construction Co. Ltd., Owner, for a change in zoning from the “L-mr-1/S-401” (Planned Development) District, Modified, to the “RT-30/S-1614” (Street - Townhouse) District, with a Special Exception in Zoning By-law 6593 (Hamilton), in order to permit the construction of an 11 unit townhouse complex, on the lands located at 1540 Upper Gage Avenue, as shown on Appendix “A” to Report PED10029, on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED10029, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
(iii) That the proposed changes in zoning are in conformity with the approved Eleanor Neighbourhood Plan.

(iv) That the proposed development is compatible with the existing and planned uses in the surrounding area.

**EXECUTIVE SUMMARY**

The purpose of this application, as amended, is to change the zoning on the subject lands from the “L-mr-1/S-401” (Planned Development) District, Modified, to the “RT-30/S-1614” (Street - Townhouse) District, with a Special Exception in Zoning By-law 6593 (Hamilton), to permit the construction of an 11 unit townhouse complex. The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Places to Grow Plan, the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the approved Eleanor Neighbourhood Plan.

*Alternatives for Consideration - See Page 16*

**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)

Proposition

The Owner, Malatesta Bros. Construction Co. Ltd., originally applied for a change in zoning to permit the construction of a 12 unit townhouse complex on the lands known as 1540 Upper Gage Avenue (see Appendix “A”). Following review of the application, staff has recommended that this proposal be amended to an 11 unit townhouse complex. The applicant has agreed to this amendment.

The applicant proposes to demolish the existing single detached dwelling and construct a two-block townhouse complex accessed by a private road, as shown on Appendix “C”. The subject property is surrounded by small lot single detached dwellings.
Details of Submitted Application:

**Location:** 1540 Upper Gage Avenue

**Owner/Applicant:** Malatesta Bros. Construction Co. Ltd.

**Property Description:**
- **Frontage:** Approximately 30.48 metres
- **Depth:** Approximately 84.90 metres
- **Area:** Approximately 0.26 hectares

EXISTING LAND USE AND ZONING:

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POLICY IMPLICATIONS

**Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act.
In Policy 1.1.1, the PPS identifies healthy, liveable, and safe communities as being sustained by efficient development and land use patterns that accommodate an appropriate range and mix of residential, employment, recreational, and open space uses to meet long-term needs, and promoting cost-effective development standards to minimize land consumption and servicing costs. The PPS also directs Municipalities to promote opportunities for intensification where it can be accommodated, taking into account the existing building stock (Policy 1.1.3.3).

Policy 1.1.3.2 of the PPS states that,

“Land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources and are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available.”

Likewise, long-term economic prosperity should be supported by optimizing the long-term use of land, resources, infrastructure, and public service facilities. It is considered that given the location of the subject lands adjacent an arterial route, with existing services available, the site is an ideal location to consider for intensification.

Policy 1.4.1 states:

“To provide for an appropriate range of housing types and densities required to meet projected requirements of current and future resident…”

The proposal to provide townhouses in a manner that ensures the potential impacts upon existing single detached dwellings adjacent the subject lands are mitigated ensures the range and density options available within the area are both appropriate and in accordance with the direction and goals of residential intensification.

Policy 2.6.2 of the PPS outlines that development and site alteration shall only be permitted on lands containing areas of archaeological potential if archaeological significant resources have been conserved. Staff has identified that the subject property is within 100 metres of a historic transportation corridor, however, this criterion alone is not sufficient to identify the site as having archaeological potential. Should deeply buried archaeological remains be found on the property during any of the above development activities, the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the applicant/landowner should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government Services (416.326.8392).

Therefore, the proposed development is consistent with the Provincial Policy Statement.
Growth Plan for the Greater Golden Horseshoe (Places to Grow)

The Provincial Growth Plan provides a framework for guiding decisions on a wide range of issues, including land-use planning, in the interest of promoting economic prosperity. In support of the Plan’s guiding principles, the proposed development will:

- Contribute to building compact, vibrant, and complete communities;

- Protect, conserve, enhance, and wisely use the valuable natural resource of land for current and future generations; and,

- Optimize the use of existing and new infrastructure to support growth in a compact, efficient form.

Policy 2.2.2.1 of the Provincial Growth Plan refers to managing growth by directing new growth to the built-up area, providing convenient access to intra- and inter-city transit, as well as providing a range of housing types.

The proposal is also consistent with the general intensification policies, specifically Policy 2.2.3.1, which states that by the year 2015, and for each year thereafter, a minimum of 40% of all residential development occurring annually within each single-tier municipality will be within the built-up area.

Based on the foregoing, the proposal conforms to Places to Grow.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan, and Section C-3.1 outlines that a wide range of urban uses will be concentrated in the Urban Areas, which are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

The proposal is also consistent with the policies in Section 3.1.1 concerning sustainable development, such as providing a higher density urban form thereby reducing per capita servicing costs and making more efficient use of existing services. Section 3.1.1.9 also allows municipalities to encourage infill development at a density comparable to the existing neighbourhood, where full municipal services are available.

The proposed development conforms to the Hamilton-Wentworth Official Plan.

Hamilton Official Plan

“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.”

With regard to the above policy, staff considers that the introduction of townhouses in an area that is immediately adjacent single detached homes implements the intent of the above policy to provide a mix of housing options and densities.

“C.7.7.1 In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:

i) Provision and maintenance of adequate off-street parking.

ii) Alteration of traffic flows.

iii) Improvement and maintenance of street landscaping.

iv) Acquisition, removal, or improvement of buildings or uses incompatible with a zoning district.

v) Provision of advice and assistance in the improvement and maintenance of private dwellings.

vi) Investigation into, and application of, other methods of encouraging the maintenance and improvements of buildings in RESIDENTIAL areas.

vii) The maintenance of adequate separation distances and the placement of buffering features between RESIDENTIAL and Industrial uses.

viii) Other similar actions or matters as Council may deem appropriate.”

As discussed within the Analysis/Rationale for Recommendation section of the report, staff considers the proposed development to be both in keeping with the character of the area and of sufficient density to ensure the subject lands are efficiently utilized.

“C.7.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity, and value.”

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It is considered that the density of development proposed is sufficiently separated from adjacent lower density residential development, while maintaining the intent to locate higher density development closer to transportation and transit corridors.

“C.7.7.3  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; (O.P.A No. 128).

(v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales 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.

D.2.2  The detailed planning for the distribution and location of various land uses in each PLANNING UNIT will be determined or reviewed through the preparation of NEIGHBOURHOOD PLANS. In this regard, Council will ensure that all new development and/or redevelopment complies with the provisions of this Plan and the NEIGHBOURHOOD PLAN. However, Council may permit a minor extension to, or the intensification of, an existing use or a use that is deemed temporary which does not meet the intent of the NEIGHBOURHOOD PLAN, provided that such a use is appropriately regulated in the Zoning By-law.

D.2.9  When considering development proposals, subdivisions, street works, other public works, and any other municipal actions or approvals, Council will refer to, and be guided by, adopted NEIGHBOURHOOD PLANS.”

The proposal will increase the supply of housing in the Eleanor Neighbourhood in a manner that is compatible with existing surrounding residential uses. The proposal represents an appropriate example of infill development that implements the development of the lands as intended in the existing Eleanor Neighbourhood, as it is designated ‘Attached Housing’, and will make efficient use of existing services, while ensuring that the existing character of the neighbourhood is maintained.

Based upon the forgoing, Planning staff is of the opinion that the proposed development of the lands would be appropriate and would conform to the Hamilton Official Plan.
New Hamilton Urban Official Plan

The proposal has also been evaluated against the policies of the Council adopted Urban Official Plan, which is currently awaiting Ministerial approval. The site is located within the Neighbourhoods Designation and, as such, the following Policies have been considered:

“Policy E.3.1.5 Promote and support residential intensification of appropriate scale and in appropriate locations throughout the neighbourhoods.”

Given the site context and location, staff is satisfied that the lands are appropriate for infill development. The addition of townhouses would maintain the general scale and bulk of existing single detached dwellings in the area, but would provide greater housing styles and types within the area.

“Policy 3.3.1.4 Create communities that are transit-supportive and promote active transportation.”

The proposal to accommodate townhouses that are both in close proximity to arterial routes and transit routes is considered to meet the intent of the above policy.

“Policy 3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood…”

Based upon the forgoing, Planning staff is of the opinion that the development of the lands for residential would be appropriate, and would conform to the new Urban Official Plan.

Site Plan Guidelines (2005)

The applicant has submitted a conceptual site plan for the subject lands (see Appendix “C”). In order to satisfy Council approved Site Plan Guidelines (2005), the proposed development should address the following:

1. Unit 1 should be designed to address the street by locating the main entry into the dwelling facing the street and accentuated with a porch or portico.

2. The exterior architectural façade design of Unit 1 should feature varied rooflines.

3. A pedestrian walkway should be extended from the public sidewalk into the development offering a safe path from the sidewalk to the dwellings.
4. At the site plan stage, landscape and grading drawings will be required for review.

**RELEVANT CONSULTATION**

**Agencies/Departments Having No Concern or Objections:**

- Environmental Planning Section, Capital Planning and Implementation Division, Public Works Department.
- Bell Canada.
- Hamilton-Wentworth District School Board.

**Hamilton Municipal Parking System**

Staff has no concerns respecting the Zoning Amendment, however, the applicant should ensure that all existing and future parking requirements are met on-site, and that all on-site parking spaces are suitably dimensioned. Staff also notes that on-street parking is limited on the adjacent residential streets. It should be noted that the By-law required 14 spaces for the “RT-20” District, and the applicant is providing 15 spaces (1 in each garage and 4 visitor), in addition to the opportunity to park a further 11 cars in the individual driveways of each unit, for a total of 26 spaces.

**Public Works Department, Operations and Maintenance Division, Traffic Engineering and Operations Section:**

A standard access for a townhouse development should be a minimum of 7.5m in width at the road allowance with 7.0m radii. All driveway curbing must end at the property line and not encroach into adjacent properties. As a condition of site plan approval, the owner/applicant must apply for and receive an Access Permit from the Public Works Department. Prior to commencing any work within the road allowance, the owner/applicant should contact all the respective utility companies, and any costs associated with the relocation of utilities or other items are the sole responsibility of the owner/applicant. A minimum of 1.2m clearance is required between the proposed accesses and any adjacent fire hydrant, utility pole, street sign, etc. Any relocation of those items is the responsibility of the owner/applicant.

Truck loading/garbage areas must provide enough manoeuvring area so that trucks can enter the site in a forward manner, turn around on private property, and enter the municipal roadway in a forward manner. There must be sufficient manoeuvring room provided for a vehicle backing out of the driveway of Lot 8 and the last visitor’s parking space. This will be reviewed and secured at site plan stage.
Public Works Department, Strategic Planning Section

The proponent should be advised that the Hannon Creek Subwatershed/North Glenbrook Industrial Business Park Master Drainage Study is currently underway, which will provide direction for the overall stormwater in the vicinity of the subject lands. The proponent must be aware of any recommendations of the Hannon Creek Subwatershed Master Drainage Plan. The recommendations of The City of Hamilton Stormwater Master Plan for source and conveyance control should be incorporated into the servicing plans due to the increase of impervious area on the subject property.

Development Engineering should provide detailed stormwater management comments regarding the updated Storm Drainage Policy and Criteria and Guidelines for Stormwater Infrastructure Design.

Public Works Department, Operations and Maintenance Division, Forestry and Horticulture Section:

Staff advises that the proposed development concept plan poses Urban Forestry conflicts. The two tree assets located on the road allowance of Upper Gage Avenue, which are governed under the City of Hamilton Tree By-law, must be identified on any subsequent application and their removal will incur a replacement value of $1,800.00, plus GST, as per the Reforestation Policy - Municipally Owned Lands. A Landscape Plan, prepared by a Landscape Architect, will also be required with a future site plan application. Forestry and Horticulture staff will be required to approve the Disconnection of Services application related to the removal of the existing structure on site.

These approvals and all associated works will be considered and secured through site plan approval.

Public Works Department, Transit Division, Transit (Hamilton Street Railway) Section

The Hamilton Street Railway (HSR) currently runs Route #23 Upper Gage buses along Upper Gage with not planned changes in service. Street orientation and pedestrian entrances are important - direct, short walking distances between dwellings and transit services are preferable. The HSR supports the inclusion of high quality pedestrian amenities (i.e. walkways, lighting, etc.) at this development, as transit customers, especially those using personal mobility devises, appreciate such amenities.

Public Consultation

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 180 property owners within 120 metres of the subject property on February 16,
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2009. Four letters, and one letter/petition having the support of 40 residents, were received in opposition to this proposal (Appendix “D”). Common concerns included increased traffic congestion and safety issues, an increase in on-street parking, and a decrease in land values, resulting from the proposed development. Other issues raised include the over-intensification of site, increased over-crowding of area schools, construction impacts, and a previous failed attempt to redevelop the property. These issues are addressed in detail in the Analysis / Rationale for Recommendation section of this report (refer to Page 11)

A Public Notice sign was erected on the subject property on January 23, 2009, and Notice of the Public Meeting was given in accordance with the Planning Act.

Finally, a Public Open House was conducted on November 9, 2009, a list of the attendees and comments are included in Appendix “E”.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

1. The amended proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement and conforms with the Places to Grow Plan.

   (ii) It conforms with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

   (iii) The proposed changes in zoning are in conformity with, and implement, the approved Eleanor Neighbourhood Plan.

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

2. The original proposed 12 unit townhouse complex proposed a reduced side yard setback of 1.5m. As is discussed in more detail in the following assessment, staff maintained concerns with the 12 units, as proposed, while still allowing for appropriate set-backs from existing residential development. Staff is, therefore, recommending an amended proposal, which reduces the number of units located across the rear portion of the property from 5 units to 4 units. This would result in an overall reduction from the proposed 12 units to 11 units. This amended proposal is supportable, as it conforms to the “Residential” policies of the City of Hamilton Official Plan in that it assists in the provision of a variety of housing styles, types, and densities within a residential area, while maintaining sufficient distances between developments of different densities. The applicant has agreed to this amended recommendation.
3. Staff has identified that there are public watermains, as well as separate storm and sanitary sewers, fronting the subject property on Upper Gage Avenue. At the development stage, the applicant will be required to submit a detailed Storm Water Management Report, to the satisfaction of the Manager of Engineering Design and Construction, addressing the fact that, in the absence of an overland flow route, the 100-year storm shall be controlled to the capacity of the pipe to which the system outlets. In the absence of an actual capacity analysis, the allowable release rate of flows from the proposed development is to be determined by the original design criteria of the existing system. On-site storm water storage may be required. The applicant is also advised that, as a condition of future development approval, a widening of 10 feet (3.048 metres) will be required across the entire frontage of the subject lands, in accordance with the designated road allowance for Upper Gage Avenue of 120 feet (36.576 metres).

4. As detailed in the previous section, a number of concerns were raised following the public consultation. These included increased traffic congestion and safety issues, an increase in on-street parking, and a decrease in land values, resulting from the proposed development. Other issues raised include the over-intensification of site, increased over-crowding of area schools, construction impacts, and a previous failed attempt to redevelop the property.

**Over Intensification and Site History**

With regard to over intensification, staff is of the opinion that the site is ideally suited to benefit from increased densities given its location within the urban area, and the fact it is adjacent to an arterial route that is serviced by public transit. Contemplating such an increase would, therefore, be in accordance with the PPS and Growth Plan, as well as Hamilton’s Official Plan, in general, and adopted Neighbourhood Plan designation (attached housing) set within the Eleanor Neighbourhood, in particular.

It should also be noted that both the subdivision to the north and south were approved for development of single detached units despite their previous designation for attached housing. As part of the justification to approve these subdivisions, and create, as a result, a modest parcel between the two subdivisions, the applicant was required to demonstrate that the remnant parcel (the current subject lands) could be developed in the future for attached housing.

In light of the current Policy Framework, in addition to the site’s planned history, staff is, therefore, of the opinion that the proposal does not represent over intensification. However, this recommendation is based upon an amended scheme, which would result in the reduction in the overall number of units. Discussion and justification for the reduction is detailed in the review of required modifications (see Comment 5, Page 13).
Traffic and Parking

The proposal has been reviewed by City staff in the Traffic Division who have not raised any objection to the proposal based on volume or safety issues. A number of modifications were requested regarding access widths, however, this will be addressed at the site plan stage. On the matter of parking, the proposed development would provide parking in accordance with the standard regulations in effect for this type of development. This would consist of four visitor parking spaces, and the provision within each unit of a garage and driveway capable of parking another vehicle off the street. Consequently, staff is satisfied that any potential impacts from traffic or parking issues would be acceptable.

Overcrowding of Schools and Land Values

Concerns have been raised related to the proposed development reducing the values of the existing properties in the neighbourhood. As noted earlier, the subject application proposes townhouse units with lot frontages and areas similar to those existing in the neighbourhood. Staff is, therefore, not aware of any data that would support this opinion. Similarly, no information or concerns were raised from the School Boards following circulation of the application with respect to enrollment capacities.

Construction Impacts

Other concerns were expressed concerning safety, nuisances, and damages related to construction. These concerns will be addressed in the Condominium Agreement, which provides requirements for: prohibition against debris on the subject lands; street cleaning, deficiencies in work; state of site; stop work; maintenance of works; inspection, testing and emergency repairs; snow removal; and liability of the owner.

Based on the foregoing, staff is satisfied that all of the concerns outlined above can be adequately addressed.

5. In order to accommodate the amended proposal, a number of modifications would be necessary to the implementing “RT-30” District. One of these modifications would be technical in nature, and include a change to the definition of ‘private road’. This modification is required to recognize the tenure of the proposed properties and access road into the site, and does not affect the built form, as proposed. As a result, staff is in a position to support these changes.

The modifications that will impact the built form under the standard “RT-30” District include modifications to the Minimum Rear Yard, Minimum Front Yard; Minimum Lot Area and Width; Location of an Accessory Structure in a Side Yard (recycling and waste storage area); and Location of an Access Driveway. Staff is also recommending further modifications in order to limit the number of overall units and
provide wider side yards than would be required under the standard “RT-30” regulations. These modifications will be discussed individually.

**Minimum Side Yard**

The original application sought the development of 12 units, and requested a modification to the required side yard from 2.5m to 1.5m. In reviewing this request, staff maintained concerns with regard to the proximity of the new units to the existing single detached units to the north and south of the subject lands with respect to scale, bulk, and massing, as well as potential impacts on privacy. This concern pertained to the subsequent orientation of the townhouses proposed towards the rear of the site. Staff concluded that although fewer units could be developed, a minimum 3.0m side yard would be more appropriate in safeguarding neighbouring amenity given the relationship between the subject property and surrounding residential development.

Staff considers that a minimum 3.0m side yard would afford sufficient privacy to the existing neighbouring units. This reduction would also be on the basis that no habitable windows be permitted in the side elevation above ground floor level. This provision would ensure that there would be no direct overlooking of neighbouring properties as habitable windows in the side elevation would only be permitted on the ground floor, which would be effectively screened by required boundary treatments. This provision is recommended in the amending By-law (see Appendix “B”).

It is also considered that a minimum 3.0m side yard would provide greater distance between the proposed use and the existing adjacent uses mitigating potential impacts based on the scale and massing of the proposed units. This would be more complementary to the character of the existing single detached units to the north and south, providing a more appropriate gradation. Consequently, given the above justification to allow habitable room windows only on the ground floor, both scale and bulk, as well as privacy impacts, are considered acceptable.

**Minimum Front Yard**

The applicant has requested the minimum front yard be modified from a required minimum of 6.0m to 4.5m fronting onto a condominium road. Staff can support the request, as the setback to the garage would remain at 6.0m in order to maintain a parking space in the driveway. Secondly, access to the site would be from a private road and, as such, the existing character of the street scene from any public vantage point would remain unaffected.

It should also be noted that both single detached properties to the north and south are orientated in a similar fashion (both have side yards facing Upper Gage Avenue), and both existing properties benefit from standard minimum side yards (1.2m). The proposed 3.0m side yard that would face Upper Gage Avenue is,
therefore, not considered to compromise the established street line or lotting fabric existing along Upper Gage. Staff is also encouraging a further encroachment into this yard be permitted in order that the Owner can provide more articulation to this side elevation (in the form of porches and the like). This treatment will not only maintain the character of the area but provide for greater design features when viewed from the arterial route. This will be further reviewed at site plan stage.

**Minimum Rear Yard**

Given the physical constraints of the site, the applicant has requested the reduction of the minimum rear yard from 7.5m to 6.0m. It is considered that this reduction, if supported, would result in the provision of modest rear yards; however, staff is of the opinion that these yards would still provide sufficient amenity space, particularly with respect to the size of the unit that would be developed.

Furthermore, a minimum 6.0m rear yard is consistent with the setback required under the “RT-20” District for block townhouses; however, because of the tenure relationship in this development (the access way would be private but the lots under freehold ownership), the development has been reviewed under the Street Townhouse “RT-30” District.

**Location of an Accessory Structure**

In order to provide for a waste and recycling storage area, the applicant has requested a modification to the By-law in order to permit an accessory structure to be located in a required side yard. It is noted that concern was raised in the Public “Open House” over the location of the garbage enclosure, particularly with regard to odours and vermin. It should be noted that the waste facility will be required to be located in an enclosed roofed-over structure and, as such, should not result in issues with either odours or vermin. In addition, the applicant has provided details of the proposed facility, which has a technological system to further mitigate unwelcome impacts. Based on the above, and given the opportunity to further review the location and design at site plan stage, staff supports the requested modification.

**Minimum Frontage and Lot Area**

In order to accommodate the above provisions, modifications to the minimum frontage and lot area would be required. It is considered that the reductions to these regulations would continue to maintain sufficient amenity space and front yard landscaping for each unit.

With regard to the wider impact upon character, it is noted that the proposed street townhouses would, in fact, be accessed from a private condominium driveway.

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Consequently, these units would not be assessed against and, therefore, not appear incongruent with the established lotting fabric in the area.

**Location of an Access Driveway**

The proposed access driveway would be located within 1.2m of the side lot line, whereas the standard regulation would require a setback of 3.0m. Given the physical constraints of the site, there is limited opportunity to provide the required 3.0m landscape strip and, as such, the applicant has requested that this regulation be modified to 1.2m. Staff is of the opinion that the 1.2m would still provide the opportunity for landscaping, in addition to the presence of a board-on-board fence along the north property line, which will mitigate noise and light impacts that would otherwise be experienced by existing residents. Both the fencing and landscaping details would also be further reviewed at site plan stage. In light of these circumstances, staff is satisfied and can support the requested modification.

In conclusion, staff considers that the required modifications are appropriate and that the townhouse complex, as amended, is supportable as it conforms to the Council Approved Eleanor Neighbourhood Plan, which designates the property as “Attached Housing”. Furthermore, it should be noted that the intent of the existing “L-mr-1/S-401” Zoning Classification is to identify the principle of development of the lands which, in this case, would be for multiple dwellings and townhouses. The current application implements this zoning subject to a number of site-specific modifications.

6. Finally, as previously mentioned, the proposed use will be subject to site plan approval, which will provide staff control of the landscaping and elevations to ensure that the townhouse complex enhances the character of the neighbourhood. Other matters, such as stormwater management, road dedications, etc., will also be reviewed, in detail, at the site plan stage of development.

**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 “L-mr-1/S-401” (Planned Development) District, with a Special Exception, in Zoning By-law 6593 (Hamilton), which would permit the existing single family dwelling.
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CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


**Skilled, Innovative & Respectful Organization**
- A culture of excellence

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

**Intergovernmental Relationships**
- Maintain effective relationships with other public agencies

APPENDICES / SCHEDULES

Appendix “A” - Location Plan  
Appendix “B” - Draft By-law  
Appendix “C” - Concept Plan  
Appendix “D” - Public Representations  
Appendix “E” - Open House Information

:EJ  
Attachs. (5)
CITY OF HAMILTON

BY-LAW NO. [Blank]

To Amend Zoning By-law No. 6593 (Hamilton)
Respecting Lands located at 1540 Upper Gage Avenue, Hamilton

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 Item [Blank] of Report 10- [Blank] of the Economic Development and Planning Committee, at its meeting held on the [Blank] day of [Blank] 2010, 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 Sheet No. E-38d of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended by changing from the “L-mr-2/S-401” (Multiple Residential Uses) District, Modified, to the “RT-30/S-1614” (Street - Townhouse) District, Modified, on the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “RT-30” (Street - Townhouse) District regulations, as contained in Section 10F of Zoning By-law No. 6593, are modified to include the following:

   (a) That, notwithstanding Section 2 (Definitions) of Zoning By-law 6593, for the purposes of frontage, a private road within a Registered Plan of Condominium shall be considered a public highway.

   (b) That, notwithstanding Section 10F(4)(a), a minimum front yard depth of not less than 4.5 metres to the front face of a dwelling and a minimum 6.0m to the front face of the garage shall be provided and maintained.

   (c) That, notwithstanding Section 10F(4)(b), a minimum rear yard depth of 6.0 metres shall be provided and maintained.

   (d) That, notwithstanding Section 10F(4)(c), a side yard abutting a wall that is not a party wall, shall have a depth of not less than 3.0 metres, except for any side yard abutting a parking area, in which case a minimum side yard of 1.2 metres shall be provided and maintained.

   (e) That, notwithstanding Section 10F(4)(c), where a side yard abuts any other lot, no habitable windows shall be permitted in the side elevation of a unit above ground floor level.

   (f) That, notwithstanding Section 10F(6)(i), a lot area not less than 125 square metres for each dwelling unit shall be provided and maintained.

   (g) That, notwithstanding Section 10F(6)(ii), a width of not less than 5.5m for each dwelling unit shall be provided and maintained.

   (h) That, notwithstanding Section 18A(25), every access driveway shall be located not less than 1.2m from the common boundary.

   (i) A visual barrier, not less than 1.2m in height, and not greater than 2.0m in height, shall be provided and maintained along the boundary of the lot where it abuts a residential district.
(j) That, notwithstanding Section 18, an accessory building (enclosed garbage area) will be permitted to be located on a condominium road. The accessory building shall measure no more than 6 metres in width and 2 metres in height.

(k) That, notwithstanding Section 18A (11) and (12), no visual barrier or planting strip shall be required between the parking area and adjacent lot.

(l) That a maximum of eleven dwelling units shall be permitted.

3. 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 “RT-30” (Street - Townhouse) District provisions, subject to the special requirements referred to in Section 2 of this By-law.

4. That By-law 6593 (City of Hamilton) is amended by adding this By-law to Section 19 B as Schedule S-1614.

5. 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 [redacted] day of [redacted], 2010.

_____________________________    _______________________________
Fred Eisenberger              Kevin C. Christenson
Mayor                          Clerk

ZAC-08-087
Schedule "A"

Map Forming Part of By-Law No. 10-____ to Amend By-law No. 6593

Subject Property
1540 Upper Gage Avenue

Change in Zoning from "L-mm-2/S-401" (Multiple Residential Uses) District, Modified to the "RT-30/S-1614" (Street Townhouse) District, Modified.

This is Schedule "A" to By-Law No. 10-

Passed the .......... day of ....................., 2010

Clerk

Mayor

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Hi,

We are responding to the letter received in the mail today Re: 1540 Upper Gage Avenue, Hamilton Notice of Complete Application and Preliminary Circulation to amend zoning by-law 6593.

If you look at the diagram that was attached to the document our house is #417 on Eaglewood Drive. One of the many houses directly affected by the 12 two storey, townhouses that are being proposed to be built at 1540 Upper Gage. We are appealing to the Hamilton Council to decline this rezoning.

Why you ask? Perhaps our family does not want to live with blasting, construction, dirt, noise, and dust in our back yard for months on end. Perhaps we would like to come home from work and sit in our back yard and enjoy the peaceful neighbourhood we live in, and not stare at the back of 2 storey townhouses. Perhaps we love our house, and where we live and don’t wish to move because of this.

Are there really not enough townhouses on Upper Gage? We are being inundated with townhouses in this area? Is there not a by-law that states how many can be built in a certain area?

To Scott I hope that you stand up and speak for the people in your Ward and express how disappointed, and upset we are. Please don’t let these developers dictate what happens in our own neighbourhood. I assure you there will be many in our area that will share our opinion.

Mike & Liz Feeney

2/25/2009
Mr. Blevins:

My name is Warren Douglas. I am secondary school teacher with the HWDSB and I live at 32 Royalvista Dr., very close to the proposed 12 townhouse units.

I am writing to put forth my complete objection and total disagreement to such construction. Firstly, I moved into this area because of its clean living space and relative quietness. Twelve more residences added in such a small land area makes for more air and noise pollution. Secondly, I used to live in an area with several townhouse units. One of the reasons I moved away from there was to avoid the commonplace disturbances and hassles that seemingly accompany townhouse dwellings due to their tendency to attract people of dubious character. I lived it, I saw it...it is a fact. Thirdly, I paid 275, 000 dollars for my home and pay 3,800 dollars a year in property taxes! I am pulling my weight in this community and am a good, upstanding member of the neighbourhood. This accounts for something, and I feel I definitely have a say in the matter.

So, in conclusion, I must reiterate that I am diametrically opposed to the construction of a 12 unit townhouse development at 1540 Upper Gage.

Thank you very much,
Warren Allan Douglas

Windows Live Messenger. Multitasking at its finest.
Original Message
From: Jack Jackson [redacted]
Sent: Tuesday, February 24, 2009 11:36 AM
To: Duvall, Scott
Subject: 1540 Upper Gage Application for Zoning Amendment

Hello Mr. Duvall,

My name is Jack Jackson, homeowner of 8 Farah Court in Ward 7.

I have left you a voicemail today and just wanted to follow up on an e-mail in regards to the rezoning of 1540 Upper Gage property to allow the construction of 12 townhomes.

There are many issues to this rezoning that would affect the neighbourhood where we have lived for the past 5 years. Let alone having 12 houses built on a property that is no more than 100 feet wide by 400 feet long.

We have many townhomes around our court already that constantly take up our only 5 parking spots that are in our court. Upper Gage has tremendously grown in traffic with the addition of the Red Hill Creek Expressway and we are overburdened with townhouses in the small area from Stonechurch to Rymal.

These are a few of the issues that affect our neighbourhood, let alone the ability to build and affect so many people in such a small area.

I would enjoy a conversation with you and possibly a visit to the property to understand the impact this would have.

Thank you for your time,

Jack Jackson
Cell: [redacted]
Home: [redacted]
Via Email: Matthew.Blevins@hamilton.ca

February 28, 2009

J. Matthew Blevins
City of Hamilton
Planning and Economic Development Department
Planning Division-Development Planning-West Section
77 James Street North, Suite 400
Hamilton ON L3R 2K3

Re: File No: ZAR-08-087 -1540 Upper Gage Avenue, Hamilton
Amendment of Zoning By-Law 6593 to allow
Construction of a 12 Unit Townhouse Development

Regarding the above referenced proposed zoning change, as residents of an adjacent subdivision, we would like to offer the following comments for consideration as the City of Hamilton evaluates the Amendment and considers approval for the proposed construction of a 12 Unit Townhouse Development.

Background:
The parcel of land in question is between developed Court subdivisions (Farah Court and Erminia Court). Erminia Court has been in existence since 1990 and Farah Court is a recent development of about 6 years. The distance between Erminia Court and the intersection of Upper Gage and Royal Vista is about 200 metres. In this area there are 12 houses in Erminia Court, 12 houses in Farah Court and an existing multi-unit townhouse complex across the street featuring about 40 units. Upper Gage is one lane each way instead of two with one centre turning lane.

Observations and objections to the proposed development are:

- **Traffic congestion and safety:** Currently, there is significant traffic congestion on Upper Gage between Erminia Court and the Royal Vista intersection, especially during rush hours. Upper Gage is a thorough fare from Rymal Road to the “Linc” Parkway on-ramps. Frequently, traffic in this area is backed up (Northbound) from the Royal Vista stoplight intersection south to past Erminia Court, making access to Upper Gage (turning North) very difficult from Erminia and Farah Courts and arguably, quite dangerous when city buses and school buses and children are present. Adding an additional 12 units of townhomes between Erminia and Farah is irresponsible given the proximity to Erminia and Farah Courts, to the Royal Vista intersection and current vehicle traffic volumes. Currently, there are challenges to access Upper Gage (Northbound) on most mornings from Erminia and Farah Courts. If this project is approved, these additional units would bring at least 12 and probably more vehicles needing access to an already congested Upper Gage. We do not see how these
vehicles will be able to safely gain access to Upper Gage (especially Northbound) given present traffic conditions as described without causing traffic chaos or very dangerous driving situations. In addition, such traffic congestion causes significant emission pollution from idling vehicles “stuck in traffic.”

- **Parking:** Currently, Erminia Court and Farah Court homeowners typically utilize most of the few available road parking spaces for their own parking needs in their own respective Courts. These Court locations frequently also receive overflow vehicle parking from the townhome subdivision (East side) across the street on Upper Gage when existing parking spaces are not available there. Adding an additional 12 units as proposed in this project will only further add to these parking problems as the 12 unit proposed project will probably not be able accommodate all visitors in its visitor parking area due to the limited space. Additionally, this also poses safety concern affecting children playing in the Courts if more vehicles enter the area looking for visitor parking.

- **Home Values:** The homes on Erminia Court and Farah Court are custom build homes (valued at well over $300,000 each). The proposed townhome subdivision will negatively impact market values of homes in both Court locations. The area is already saturated with multi-unit dwellings. There are multi-unit townhomes across the street (East side of Upper Gage) and a significant multi-unit housing complex toward Rymal Road (West side). More multi-unit developments in this area must be stopped! If the proposed project cannot be stopped, the residents of this area expect that stipulations be instituted requiring the developer to build executive/upscale type townhomes only, so as to not negatively affect the market values of adjacent properties in Farah and Erminia Courts and to ensure that the neighborhood maintains a consistent, upscale and attractive architectural view.

We appreciate this opportunity and remain available for additional comment, if required.

Sincerely,

Rose and Vincent Guglielmo
6 Erminia Court, Hamilton

cc. Councillor Scott Duvall, Ward 7
March 1, 2009

J. Matthew Blevins, City of Hamilton
Planning and Economic Development Department
77 James Street North, Suite 400
Hamilton, ON L8R 2K3

Subject: 1540 Upper Gage Avenue, Hamilton Notice to Complete Application and Preliminary Circulation to amend Zoning by-law 6593 (File No. ZAR-08-087)

Dear Mr. Blevins:

As taxpayers in Farah Court, Erminia Court and Eaglewood Drive, we are opposed to the development of 1540 Upper Gage Avenue for the proposed location of 12 townhouses. All adjoining homes to this property have 100% unanimously agreed and signed this letter.

Some of the major reasons to this opposition:

- **Parking** — Farah Court has only 5 parking spots, Erminia Court only has 3 parking spots. Building 12 townhouses with only 4 visitors parking spots will subject our courts to the overflow. There are already 20 townhouses across the street, (Lot RT-20/5-1227), which do not show on your map of the area the City of Hamilton provided. The residents of these 20 townhouses use our courts for parking now since there are only 4 visitor parking and single car driveways in their existing townhouse complex.

- **Suitability** — Townhouses squeezed in between our 2 courts on land that is only 100 feet wide does not fit into the neighbourhood that we continually strive to keep in immaculate condition and have invested our lives in. This does not enhance the quality of life for anyone.

- **Zoning** — this land was never zoned for townhouses and from our understanding does require a variance to even be considered. When we built our homes, City Hall advised this land was for a single family dwelling only. Not fair to change on us taxpayers when we have invested our lives and hundreds of thousands of dollars in our properties.

- **Traffic** — Upper Gage traffic has increased tremendously since Red Hill Creek has opened. Adding another 12 townhouses turning out onto Upper Gage will only add to the unsafe road this is becoming.

- **Size of Lot** — this area is roughly 100ft by 400ft which is almost inhumane to add 12 homes with upwards of 30+ people landlocked between existing homes in 1,000 square feet townhouses.

- **Size of Townhouses** — Considering the land, these homes can be no more than 20 feet wide and 25 feet deep with 18 feet backyards. Considering our home values range from $300,000 to $500,000 in value, this does not fit into the general condition of the area for our value.
• Schools – Templemead is brand new and already has 8 portables added, St. Jean de Brebeuf High School has over 20 portables. Even Mother Teresa continues to have portables with the building of Pope John Paul School.

• 100% Opposed – This letter has 100% unanimous opposition of all that are directly affected by their homes in contact with this property. Every citizen in Farah Court, Erminia Court and adjacent properties on Eaglewood Drive has signed this letter.

• Already Been There – Recently, Builder Dan Valentini attempted to build 14 townhouses three years ago and never continued after opposition from taxpayers (attached letter). City again assured us that this is a single residential property that is not large enough for townhouses. Talked with many individuals, Owen Quinn, Trevor in Planning, Cathy and Danielle.

• Opportunity to Develop in 2004 – The owner of land (reside in Toronto) had opportunity to sell to the developer of Farah Court (Dussin Homes) to enhance the property to a cul-de-sac. The owners put the price so high, it was impossible to develop for Dussin Homes and they backed out. Why would the city allow this land and home to become so derelict from absent landlords and now force “25lbs of potatoes into a 5lb sack?”

• No Investment for Hamilton – The landowner and developer are from Toronto. They are not here to enhance the property or add to the community, just here to make a quick buck at our expense. The current derelict house has been rented for 20 years and should be condemned. Why would we reward this behaviour?

• Too Many Townhouses – If you Google map the area and count, there are over 400+ townhouses along Upper Gage from Lincoln Alexander Parkway to Fymal Road already existing. This is only considering one residential street in from Upper Gage on either side. This area is already over burdened with townhouses.

• Unsold Townhouses after 1 year – There was a development of 16 townhouses less than one block north of 1540 Upper Gage. One year later and still 6 units are for sale. This area is too saturated with no privacy and too many people for the public when considering the value, they can’t give them away.

• Open a floodgate – If townhouses are approved to be built on land this small, Hamilton will open floodgates that can’t be stopped as there are numerous pieces of land similar to this along Upper Gage that the City won’t be able to stop by setting this precedent.

• Taxes – We pay high taxes (my house is $5,600 for 2008) with little requirement of maintenance. I am sure our pavement will last over 30 years. Other than some snow-plowing and garbage pickup, we are low maintenance. Please consider what we have built and how we continue to support the city with our tax money that de-valuing our neighbourhood is not why we built our homes here.

• Signatures – Mr. Blevins, you will find attached 7 pages of signatures of the homeowners most affected by this proposed development. All 28 homes adjacent to this property have agreed to the opposition of this development and we will continue to provide more signatures when required.
I look forward to hearing from the city on the Public Meeting and will be more than ready to participate.

Regards,
Jack Jackson
8 Farah Court
Hamilton, ON L6W 3Z8
Cell: [Redacted]
Home: [Redacted]

I agree with above letter and look forward to a meeting to discuss this proposal:

Name: Susan & Mark Deary
Address: 90 Farah Court
Signature: [Signature]

Name: Vito Coraci
Address: 16 Farah Court
Signature: [Signature]

Name: [Redacted]
Address: 12 Farah Court
Signature: [Signature]

Name: [Redacted]
Address: 19 Farah Court
Signature: [Signature]

Name: [Redacted]
Address: 4 Farah Court
Signature: [Signature]
Name: MIKE POLITEWICZ  (Downstairs Unit)
Address: 22 Ermnia Crt
Signature: [signature]

Name: RICHARD POLITEWICZ  (Upstairs)
Address: 22 Ermnia Crt
Signature: [signature]

Name: Name: Oweshi
Address: 23 Ermnia Crt (Stairs)
Signature: [signature]

Name: Skiis Oweshi
Address: 23 Ermnia Crt (Upstairs)
Signature: [signature]

Name: BRIAN VUKMANICH
Address: 15 Ermnia Crt
Signature: B. Vukmanich upstairs unit

Name: RICHARD PICKEN
Address: 15 Ermnia Crt
Signature: D. Picken lower unit

Name: Vince & Rose Engleman
Address: 6 Ermnia Crt
Signature: [signature]
Name: STANLEY KIET CHUNG
Address: 7 ERMINIA CRT.
Signature: 

Name: Victor & Rose Hwanghelmo
Address: 9 ERMINIA CRT.
Signature: 

Name: Cimas Lopez
Address: 14 ERMINIA CRT.
Signature: 

Name: Joanna Barbosa
Address: 18 ERMINIA CRT.
Signature: 

Name: Palitewi rz
Address: 22 ERMINIA CRT
Signature: 

Name: MRS Qureshi
Address: 23 ERMINIA CRT
Signature: 

Page
Name: Lisa
Address: 14 Eastview CA
Signature: [Signature]

Name: Steve Sidwell
Address: 12 Eastview CA
Signature: [Signature]

Name: Susan Male
Address: 409 Eaglewood Dr.
Signature: [Signature]

Name: Liz Feehan
Address: 147 Eaglewood Dr.
Signature: [Signature]

Name: Judy Ausen
Address: 421 Eaglewood CA
Signature: [Signature]
Dear Home Owner:  

We are currently looking at developing the property at 1547 Upper Gage. If we proceed with the development, it will consist of approximately 14 upper scale executive town homes. Since the property is close to your home, we would like to know your reaction to such a development happening.  

These homes will berenched and traditionally are purchased by young executive singles or couples or by retired empty nesters that do not want to require a large property to maintain. They will consist of architecturally attractive designs with brick, stucco, siding and stucco facades and with single or double garages. The property will be marketed as a small prestigious gated development with the homes being priced in the low to mid two hundred thousand dollar range. This type of development is sure to enhance the value of surrounding properties.  

At this time we would be pleased to know your thoughts on the type of development taking place as we value any suggestions you may have. If you have any questions please do not hesitate to contact us.  

Best regards,  

Dan Valentini, Developers Inc.
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<tr>
<th>NAME</th>
<th>ADDRESS</th>
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<td>15 Erminia Ct.</td>
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<td>Mike &amp; Lyn Feney</td>
<td>417 Eaglewood Dr</td>
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<td>Susan &amp; Mark Deary</td>
<td>20 Farah CRT</td>
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Neighbourhood Meeting
November 9, 2009
Re: 1540 Upper Gage Ave.