SUBJECT: Applications for Official Plan and Zoning By-law Amendments for Lands Located at 741 Rymal Road East (Hamilton) (PED09311) (Ward 7)

RECOMMENDATION:

(a) That approval be given to Official Plan Amendment Application OPA-07-033, by 1694416 Ontario Inc., C/O: Benny Bombardieri (Applicant), to amend the Official Plan for the City of Hamilton, to permit a 2 storey mixed use development comprised of 4 ground floor commercial units, and 5 residential units on the second floor, on the lands known as 741 Rymal Road East, Hamilton, as shown on Appendix “A” to Report PED09311, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED09311, be adopted by Council.

(ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement and Places to Grow Plan, and conforms to the Hamilton-Wentworth Official Plan.

(b) That approval be given to Zoning By-law Amendment Application ZAC-07-07, by 1694416 Ontario Inc., C/O: Benny Bombardieri (Applicant), for a change in zoning from the “C” (Urban Protected Residential, Etc.) District to a Modified “H/S-1619”- ‘H’ (Community Shopping and Commercial, Etc. - Holding) District, Modified, with a Special Exception and a Holding provision, to permit a 2 storey mixed use building with 4 ground floor commercial units and 5 second floor
residential units, on the lands known municipally as 741 Rymal Road East, as shown on Appendix “A” to Report PED09311, on the following basis:

(i) That the draft By-law, attached as Appendix “C” to Report PED09311, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the City of Hamilton Official Plan upon approval of Official Plan Amendment No. [blank].

(c) That upon finalization of the implementing By-law, the subject lands be identified as “Commercial and Apartments” within the Eleanor Neighbourhood Plan.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the applications is to amend the Official Plan and Zoning By-law of the City of Hamilton in order to permit a 2 storey mixed use building fronting onto Rymal Road East (see Appendix “A”). The proposed development will have 4 ground floor commercial units and 5 residential units on the second storey.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement and Places to Grow Plan, and conforms to the Hamilton-Wentworth Official Plan.

The proposal is a suitable form of residential intensification within the “Ribbon” form of “Extended Commercial” development policies of Section 2.2.14 of the City of Hamilton Official Plan, and is of a form compatible with the existing and proposed land uses in the surrounding area as it is a Mixed Use development along a High-Order Transit Corridor, as identified by the Growth Related Integrated Development Strategy (GRIDS), and would be subject to Site Plan Control.

BACKGROUND:

Proposal

The applicant is proposing a 2 storey mixed use building with 4 ground floor commercial units and 5 residential units on the second storey, on lands located at the North-West
corner of Rymal Road East and Eva Street, as per the preliminary concept plan shown as Appendix “D”.

To facilitate this proposal, the applicant has applied to amend the City of Hamilton Official Plan from the “Residential” designation to the “Commercial” designation.

In addition, the applicant has also applied to change the zoning from the “C” (Urban Protected Residential, Etc.) District to a Modified “H/S-1619”-‘H’ (Community Shopping and Commercial, etc.) Holding District. In particular, the effect of the zone change to the “H” (Community Shopping and Commercial, etc.) District of the City of Hamilton Zoning By-law No. 6593 is to:

- Amend the definition of a “Visual Barrier” in By-law 6593 based on the definition within City of Hamilton By-law 05-200 to permit plantings, berm, and/or a combination thereof;

- Increase the maximum permitted residential gross floor area for a mixed use building to permit an additional 72m$^2$;

- Reduce the required front yard setback to a minimum of 6.0m, whereas the By-law requires a setback equal to the setback of adjacent buildings found on the same side of the street between two intersecting streets (11m);

- Increase the required landscape strip to 3.0 metres for a parking area or manoeuvring space adjacent to a street from the required 1.5m;

- Limit the permitted Commercial uses to only the following uses:
  - Commercial School;
  - Business or Professional Person’s Office;
  - Bank;
  - Day Nursery;
  - Private Club, Lodge, Fraternity or Sorority House or Labour Union Hall;
  - Restaurant or Refreshment Room which shall not include an outdoor patio, any dancing or other entertainment except music;
  - Retail; and,
  - Photographer’s or Artist’s Studio, but not including a motion picture studio.
• Restrict the maximum permitted height for any building or structure to 2 storeys or 11 metres, whereas the “H” district permits 8 storeys.

All other provisions of the “H” (Community Shopping and Commercial, etc.) District shall continue to apply.

**Details of Submitted Application:**

**Location:** 741 Rymal Road East (Hamilton) (see Appendix “A”)

**Owner:** 1694416 Ontario Inc.  
c/o: Benny Bombardieri

**Applicant/Agent:** Two Row Architects  
c/o: Matt Hickey (Agent)

**Property Description:**  
Frontage: 31.4m  
Depth: 55.1m (after road widening dedication)  
Total Land Area: 1,863.7m²

**EXISTING LAND USE AND ZONING FOR 741 RYMAL ROAD EAST:**

<table>
<thead>
<tr>
<th>Subject Land:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Residential</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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<tr>
<th>Surrounding Land:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>North: Single Family Residential</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
<td></td>
</tr>
<tr>
<td>South: Single Family Residential</td>
<td>“C” (Urban Protected Residential, etc.) District &amp; “B” (Suburban Agriculture and Residential, etc.) District</td>
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<tr>
<td>East: Residential with a Commercial Unit</td>
<td>“C” (Urban Protected Residential, etc.) District; “AA” (Agricultural District) District; &amp; “C/S-1608” (Urban Protected Residential, etc.) District, Modified</td>
<td></td>
</tr>
<tr>
<td>West: Vacant</td>
<td>“C” (Urban Protected Residential, etc.) District</td>
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1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the policies of the Provincial Policy Statement.

   (ii) It is consistent with the Places to Grow Plan.

   (iii) It conforms with the “Urban Area” designation of the Hamilton-Wentworth Official Plan.

   (iv) It conforms with the “Neighbourhood” and “Secondary Corridor” Designation of the New Urban Hamilton Official Plan (not yet in effect).

   (v) The subject lands are located at a mid block collector and the proposed mixed-use building is compatible with the adjacent residential uses. In addition, the subject lands are located on an arterial roadway, identified as a High-Order Transit Corridor, which is suited for residential intensification, including Mixed-Use developments.

2. The purpose of the proposed Official Plan Amendment is to allow for residential intensification in a mixed-use format. This form of development requires a change in designation from “Residential” to “Commercial”.

3. Based on a review of the preliminary concept plan submitted by the applicant (see Appendix “D”), the following special zoning provisions are required:

   (i) Visual Barrier

      Council adopted the definition found below for a “Visual Barrier” on May 25, 2005, under City of Hamilton By-law 05-200. The definition, in comparison to the current applicable City of Hamilton By-law No. 6593 definition, is reflective of recent urban design and other more modern forms of visual screening.

      In addition, the visual barrier shall be increased to a height of 1.8 metres, from the minimum required 1.2 metres, in order to improve the screening of the proposed parking and manoeuvring spaces adjacent to a Residential District.

      “Visual Barrier: Where in any zone a visual barrier is required to be provided and maintained, such barrier shall act as a screen between uses and be constructed to a minimum height of 1.8 metres, and shall consist of one of the following:
(a) A wall, fence;

(b) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

(c) Earth berms; or;

(d) Any combination of the above.”

The proposed amendment is supportable, as it maintains the intent of the existing By-law while providing more innovative forms of construction / development.

(ii) Residential Uses:

The applicant has requested the change in zoning to the “H” (Community Shopping and Commercial, etc.) District to permit a Mixed-Use building with 4 ground floor commercial units and 5 residential units on the second floor.

In order to facilitate the proposed development, the Residential uses shall be restricted to a Mixed-Use building which shall not exceed 2 storeys in height and with a maximum of 455m$^2$ of Residential Gross Floor Area (GFA), notwithstanding that the Residential GFA is not to exceed that of the Commercial portion of the proposal.

It is noted that the net developable area of the subject lands is approximately 0.19ha and would, therefore, permit a total of 10 units based on the one dwelling unit per 180m$^2$ of lot area density provision.

However, as per the preliminary concept plan attached as Appendix “D”, an additional 72m$^2$ of residential gross floor area is required as the proposed residential GFA exceeds that of the commercial GFA. To address this deficiency, the amending By-law shall establish a maximum Residential GFA of 455m$^2$, and shall remove the requirement of a 1-to-1 ratio for Residential and Commercial GFA.

It is noted that the patio accessory to the café is not considered in the calculation of the commercial GFA. The additional residential GFA is approximately equivalent to that of the proposed patio and, therefore, maintains the intent of the By-law and will not have undue impact on the property or its commercial function and is, therefore, supportable.
(iii) Front Yard Setback:

The proposed 6.0 metre minimum front yard depth will maintain the existing development pattern and streetscape currently found along Rymal Road East. The current provision requires a depth at least as great as that required for any such lot on the same side of the street between two intersecting streets, being 11 metres.

It is noted that the majority of development along Rymal Road East falls within the “C” (Urban Protected Residential, etc.) District, which requires a minimum 6.0m front yard setback. Furthermore, as Rymal Road East has been identified as a High-Order Transit Corridor through GRIDS (see Appendix “E”), any future development should be oriented to pedestrians and transit use. The proposed front yard setback will maintain a setback consistent with that of adjacent districts while promoting pedestrian orientation and is, therefore, supportable.

(iv) Landscape Requirements For Commercial Uses:

The “H” (Community Shopping and Commercial, etc.) District currently requires that any parking space or manoeuvring space adjacent to a street line shall provide a minimum average width of 2.0 metres, but not less than 1.0 metres in width, along the entire street line of the lot, except for the area used for access driveways.

Based on the concept plan provided by the applicant, and to provide opportunities for enhanced landscaping along the side and rear lot lines, the implementing By-law provides for a minimum 3.0m planting strip and visual barrier.

The intent of this provision is to provide an adequate buffer of any parking space or manoeuvring space from a street line. The proposed amendment shall maintain the intent of the By-law and further minimize impacts from the proposed manoeuvring and loading area proposed along the northerly rear property line. In addition, it should be noted that Visual Barriers are required under Section 18(A)(11) and (12), subject to the amended definition under Comment 3(i) of this report (see above).

(v) Commercial Uses:

As the subject lands are located in the middle of the Eleanor Neighbourhood Secondary Plan on a collector road, which designates the intersections of Upper Sherman Avenue/Rymal Road East and Upper Gage Ave/Rymal Road East for commercial uses, the proposed commercial element on the subject lands shall be limited to serve the local
pedestrian traffic. In particular, the larger scale commercial uses would be more appropriately accommodated on the commercial properties located at the major intersections.

As such, the proposed restrictions of commercial uses on the subject lands is in keeping with the “Commercial” designation, particularly the “Ribbon” form of “Extended Commercial” development permitted by the City of Hamilton Official Plan; whereby any commercial uses are to serve predominantly residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile born traffic from beyond the local area.

In consideration of the Official Plan requirement, and in review of the projected uses for local commercial under the City of Hamilton By-law 05-200, only the following uses should be permitted:

➢ Commercial School;
➢ Business or Professional Person’s Office;
➢ Bank;
➢ Day Nursery;
➢ Private Club, Lodge, Fraternity or Sorority House or Labour Union Hall;
➢ Restaurant or Refreshment Room which shall not include an outdoor patio, any dancing or other entertainment except music;
➢ Retail; and,
➢ Photographer’s or Artist’s Studio, but not including a motion picture studio.

The proposed commercial uses are local in nature and would permit retail; in particular, the applicant proposes a Uniform Store which serves multiple clients across Hamilton, including, but not limited to the Hamilton-Wentworth Separate School Board which, in turn, shall attract automobile borne traffic from beyond the local area.

(vi) Storage:

The current “H” (Community Shopping and Commercial, etc.) District provisions restrict the storage of goods to be manufactured, assembled, or
sold upon the premises to 25% of the Gross Floor Area. The applicant has requested the use of the cellar for storage purposes.

The intent and purpose of this provision is to ensure that storage is an accessory use. As the proposed use of the cellar will not be visible from ground level, and will not interfere with either the proposed residential or commercial uses, the amendment is supportable.

(vii) **Height Requirements:**

Dependent on the provided side yards, the proposed building height within the “H” (Community Shopping and Commercial, etc.) District may vary between four and eight storeys under Section 14(2) of the City of Hamilton By-law No. 6593. In order to ensure compatibility and a scale/massing consistent with the current built environment, staff has recommended that the building height be limited to a maximum 2 storeys or 11 metres for any building or structure.

The reduction in building height will minimize visual impacts and maintain a scale/massing consistent with a pedestrian oriented design.

(viii) **‘H’ Holding Provision**

The subject lands have been determined to be of archaeological potential. In accordance with Policy B-9.2 of the Hamilton-Wentworth Official Plan and Policy 2.6.2 of the Provincial Policy Statement, an archaeological assessment is required prior to any development and/or site alteration.

Therefore, in order to ensure that both the Provincial and Municipal interests are addressed, an ‘H’ Holding provision should be applied to the subject lands. The Holding provision will prohibit the development of the subject lands until such time as the applicant/owner has satisfied the requirements for an archaeological assessment, to the satisfaction of the Director of Planning and Ministry of Culture.

Staff is of the opinion that the requested change in zoning is supportable as the proposed changes are required to aid in further minimizing impacts and land use conflicts from the proposed development, while maintaining a scale and mass consistent with the existing neighbourhood and streetscape.

4. The subject lands are designated as “Neighbourhood” on Schedule E-1 - Urban Land Use Designations; “Secondary Corridor” on Schedule E - Urban Structure, and “Major Arterial” on Schedule C - Functional Road Classification, of the New
Urban Hamilton Official Plan, which was approved by Council, but is not yet in effect.

The proposal conforms with the Urban Structure Principles of Section E.2.1, in particular the Urban Corridors policies, Section E.2.4, the Neighbourhood Policies of Section E.3.0, and the Medium Density Residential Policies of Section E.3.5. Medium Density Residential is typically characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads. Policy E.3.5.4 permits local commercial uses on the ground floor of buildings containing multiple dwellings, in accordance with Section E.3.8 - Local Commercial. Staff, therefore, supports the proposed Mixed-Use building as it would conform to the Neighbourhood Policies, Urban Corridor Policies, and the applicable Commercial Policies of the New Urban Hamilton Official Plan.

5. The proposed development will be subject to a future Site Plan Control Application, at which time matters such as access, tree management plan, road widening dedication, landscaping and screening/visual barriers, and storm water management will be addressed.

It is noted that a noise study, landscape plan, street trees, a 3.048m road widening and storm water management report will be required as part of the required Site Plan Control application.

6. To date, 5 letters have been received from members of the public in response to the preliminary circulation of the application (see Appendix “F”). The public comments received pertain to: traffic, natural vegetation, land use compatibility, and property values.

Traffic: the applicant/owner submitted a Traffic Study, prepared by Paradigm Transportation Solutions Limited dated August 28, 2009, which was reviewed by Public Works staff and received final approval from the Manager of Traffic Engineering on September 24, 2009, subject to the required 7 spaces, as per Section 18A of the City of Hamilton By-law No. 6593.

Minor concerns regarding traffic and trip generation were identified as a result of the proposed commercial uses, which have been appropriately limited to that of a local pedestrian nature.

The uniform store may attract additional automobile borne traffic; however, this business will primarily reach peak trip generation only during a certain time of the year, in particular, prior to the start of the school year.

Natural Vegetation: The existing vegetation on site will be lost as a result of the proposed development. As a result, the applicant/owner has proposed, and will be required under the Site Plan Control process, to provide replacement street
trees along both Eaglewood Drive and Eva Street within the municipal right-of-way. Additionally, 3 trees are proposed on private property to disencumber the required daylight triangle at the corner of Eva Street and Rymal Road East.

In addition, the submitted preliminary concept plan also shows the use of a vegetated visual barrier along the northerly rear property line. Although vegetation will be lost as a result of development, adequate replacement will be provided through the future Site Plan Control application.

**Land Use Compatibility and Property Values:** The subject land has been identified in the Growth Related Integrated Development Strategy as a High-Order Transit Corridor, and is a prime candidate for redevelopment and intensification which will reduce the amount of growth needed on rural lands.

The requested amendments to the By-law will limit the proposed development to a height and setback consistent with adjacent development, and is in keeping with the requirements of the Local Commercial Zone of the City of Hamilton By-law 05-200.

Furthermore, the commercial uses have been limited to those of a local nature and implement the City’s Growth option of a Node and Corridor approach, whereby a concentrated compact form of growth that supports complete communities of high density and mixed-use that are transit supportive are promoted. Staff is unaware of any empirical data with respect to property devaluation. Therefore, staff is of the opinion that the concerns expressed have been appropriately addressed and support the proposed amendments.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, then the applicant has the option of developing the subject lands for a use as permitted under the current “C” (Urban Protected Residential, etc.) District zoning.

**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 change in zoning and Official Plan Amendment.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The proposed development promotes intensification and redevelopment and is consistent with the policies that focus such growth in Settlement Areas, as per Section 1.1.3.1.

As mentioned above, the subject lands have been identified as a High-Order Transit Corridor (see Appendix “E”), and in accordance with the City’s preferred growth option, is a prime candidate for redevelopment and intensification in a concentrated, compact form that supports complete communities of a high density and mixed-use that is transit supportive.

However, Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants, and minimize risk to public health and safety. Due to the close proximity of the subject lands to an arterial road (Rymal Road East), staff recommends a noise assessment be conducted during the Site Plan Control process when building design and orientation are to be established.

Lastly, Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration, which maintains the heritage integrity of the site, may be permitted. In this regard, an archaeological assessment is required. Accordingly, an ‘H’ Holding provision should be applied, conditional upon an archaeological assessment in order to satisfy this concern.

Based on the foregoing, as the nature of the application is to allow for a 2 storey mixed-use building along a High-Order Transit Corridor, as shown on Appendix “E”, the proposal is consistent with the policies of the Provincial Policy Statement, subject to the recommended ‘H’ Holding provision, conditional upon an archaeological assessment.

Places to Grow Plan

The guiding principles of the Growth Plan, Section 1.2.2 are grounded in the following principles:

- Build compact, vibrant, and complete communities;
- Plan and manage growth to support a strong and competitive economy;
• Protect, conserve, enhance, and wisely use the valuable natural resources of the land, air, and water for current and future generations;

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

• Provide for different approaches to managing growth that recognize the diversity of communities in the Greater Golden Horseshoe; and,

• Promote collaboration among all sectors - government, private, and non-profit - and residents to achieve this vision.

The proposed development follows the City of Hamilton’s preferred growth option of Nodes and Corridors, as established through the GRIDS exercise, and will be of a compact form that will utilize existing infrastructure. The proposed development is also consistent with Policy Section 2.2.2.1, which provides direction on managing growth; in particular Subsections (a), (b) and (d); whereby population and employment growth will be accommodated by:

(a) Directing a significant portion of new growth to the built-up areas of the community through intensification;

(b) Focusing intensification in intensification areas; and,

(d) Reducing dependence on the automobile through the development of mixed-use, transit-supportive, pedestrian-friendly urban environments.

Therefore, as the nature of the development is a mixed-use form; optimizing existing infrastructure on a High-Order Transit Corridor; and implements the preferred growth option as established under GRIDS, the proposal is consistent with the policies of the Places to Grow Plan and is, therefore, supportable.

**Hamilton-Wentworth Official Plan**

The subject lands are 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. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

In addition, 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.
As previously mentioned, Rymal Road East has been identified as a High-Order Transit Corridor, which is optimal for compact higher density urban form such as the proposed mixed use development.

However, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection.

As noted above, staff recommends the use of an ‘H’ Holding provision, subject to an Archaeological Assessment for the subject property, to be submitted to and approved by the Director of Planning and the Minister of Culture, confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

As the nature of the application is to allow for the redevelopment of the subject lands to accommodate a 2 storey mixed-use building within the Urban Area along a High-Order Transit Corridor, where full municipal services are available, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan, subject to the recommended ‘H’ Holding provision.

City of Hamilton Official Plan

The subject property is designated as “Residential” on Schedule A - Land Use Concept, of the City of Hamilton Official Plan. The applicant has requested an amendment to redesignate the lands “Commercial” in order to permit the proposed mixed-use development. This form of development falls under the “Extended Commercial” sub-designation, as the subject lands are located on an existing stretch of individually managed commercial establishments along an arterial road, serving both pedestrian and automobile borne traffic from beyond the local area.

The proposed development falls under the “Ribbon” sub-category of the “Extended Commercial” sub-designation, which under Section 2.2.14, permits commercial uses predominantly served by residents and pedestrians in the vicinity with some specialized commercial uses attracting automobile traffic from beyond the local area. The amending By-law, attached as Appendix “C”, shall limit the permitted commercial uses to those that would serve primarily the residents and pedestrians in the vicinity, including a uniform store serving multiple clients within the Hamilton area attracting automobile traffic from beyond the local area.

With regard to the residential component of the proposed development, Policy 2.2.17 states that:
“Residential uses may be permitted within Extended Commercial areas without amendment to this Plan where they will not restrict or interfere with the function of the primary permitted uses, and subject to the provisions of Policy 2.2.1(i) any other related policies as set out in this subsection.”

In review of Policy 2.2.1(i), the proposed development will mitigate and minimize potential impacts on the adjacent residential uses by incorporating visual barriers and street tree plantings to be established through the future required Site Plan Control Application.

The current concept, attached as Appendix “D”, proposes the inclusion of vegetative and structural screening from noise, light, or other undesirable impacts emanating from the commercial uses, access drive and parking areas; and shall also provide sufficient amenity space physically separated from the commercial component and associated customer parking area.

Lastly, the proposal also satisfies the provisions of the Residential and Commercial Subsections, A.2.1 and C.7, as required by the above noted policy.

Therefore, as the subject property is located on an arterial road; is accessible by public transit; and, is consistent with the intent and purpose of the “Commercial” designation, the proposal, upon adoption of the requested Official Plan Amendment, would be in conformity with the City of Hamilton Official Plan.

Eleanor Neighbourhood Plan:

The subject property is designated as “Single and Double” within the Eleanor Neighbourhood Plan. It is noted that the Eleanor Neighbourhood Plan is adopted by Hamilton City Council; however, it does not form part of the City of Hamilton Official Plan. As such, upon finalization of the proposed implementing By-law, the Eleanor Neighbourhood Plan should be amended to change the designation to “Commercial and Apartments”.

New Urban Hamilton Official Plan

The subject lands are designated as “Neighbourhood” on Schedule E-1 - Urban Land Use Designations; “Secondary Corridor” on Schedule E - Urban Structure, and “Major Arterial” on Schedule C - Functional Road Classification, of the New Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009, but is not yet in effect.

The proposed development is a form or Residential Intensification and conforms to the goals of the Neighbourhood designation, as per Section E.3.1, whereby lands are to:

“3.1.1 Develop compact, mixed use, transit-supportive, and active transportation friendly neighbourhoods.”
3.1.2 Develop neighbourhoods as part of a complete community, where people can live, work, shop, learn, and play.

3.1.3 Plan and designate lands for a range of housing types and densities, taking into account affordable housing needs.

3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution.

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

Lastly, the proposal is consistent with Policy E.3.2.13, whereby the “the City supports Residential Intensification on lands within the Neighbourhoods designation in accordance with Section B.2.4 - Residential Intensification Policies, F.1.1.14 - Lot Creation, and other applicable policies.”

In review of the Residential Intensification Policies, the proposed development conforms to the “Residential Intensification in the Neighbourhoods Designation” policies of Section B.2.4.2 as the proposed development is subject to a future Site Plan Control application and subject to the amending By-law, which is consistent with and respects the adjacent existing and proposed built environments, as required by this Section of the Plan.

With respect to the “Urban Corridor Policies” of Section E.2.4, corridors have traditionally included a mix of uses providing locations for businesses and housing, as well as physical and social focal points for the adjacent neighbourhoods. The intent of this Plan is to maintain and enhance the mixed use nature of the City’s corridors, while recognizing that segments of individual corridors will differ in character and function and will evolve over time. The City’s corridors provide a significant opportunity for creating vibrant pedestrian and transit oriented place through investment in infrastructure, residential intensification, infill and redevelopment, and careful attention to Urban Design.

Furthermore, Policy E.2.4.6 states that:

“Urban corridors shall function as commercial spines providing retail stores and commercial services that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods. Small scale retail stores that cater to a broader regional market may also be permitted.”

Lastly, Policy E.2.4.12 states that:

“Secondary Corridors are currently characterized, in large measure, by single use buildings. The intent of this Plan is to evolve the Secondary Corridors to an increasing...
proportion of multiple storey, mixed use buildings in small cluster locations with at grade retail and service commercial uses.”

Therefore, as the proposal is for a mixed-use building on a major arterial roadway (Rymal Road East), and proposes ground floor retail and service commercial uses of a local nature and broader regional market, where High-Order Transit is available, the proposal would conform to the policies and intent of the New Urban Hamilton Official Plan.

**RELEVANT CONSULTATION:**

The following Departments and Agencies had no comments or objections, as it pertains to the subject Official Plan and Zoning Amendment applications:

- Public Works Department, Capital Planning and Implementation Division.
- Corporate Services Department, Taxation Division.
- Corporate Services Department, Budgets and Finance Division.
- Hamilton Municipal Parking System.
- Hamilton Street Railway (HSR).
- Hydro One.
- Horizon Utilities.

**Strategic Planning Section, Public Works Department:**

Strategic Planning Section, Public Works Department, staff advises the applicant should be aware of the recommendations of the South Mountain Area Transportation Master Plan review, as well as the Hannon Creek Subwatershed and Hannon Creek North Glanbrook Industrial Business Park Master Drainage Study. The proponent should be aware of the recommendations from the Hannon Creek Subwatershed Master Drainage Plan.

Lastly, recommendations of the City of Hamilton Stormwater Master Plan for source and conveyance control should be incorporated into the servicing plans. These issues and requirements are to be addressed through the future Site Plan Control application.

**Canada Post:**

Canada Post has advised that this development, as described, may receive a mix of mail delivery, both to the door as well as to centralized mail facilities; as such, Canada Post’s multi-unit policy, requires that the owner/developer provide the centralized mail facility at their own expense, for buildings and complexes with a common lobby, common indoor or sheltered space. Staff notes that the inclusion and location of this mail facility will be established through the future Site Plan Control application.
Traffic Engineering Section, Public Works Department:

Public Works Department, Traffic Engineering Section, has no comments or concerns as it pertains to the subject Official Plan and Zoning Amendment applications; however, in review of the submitted conceptual plans, the following comments, as they pertain to the future Site Plan Control Application, have been provided:

The applicant is advised that Traffic Signals and Systems staff require electronic drawing files of finalized (or close to final) site plan drawings to incorporate into the City’s traffic signal and pavement marking drawing. Files can be uploaded onto the Traffic sections FTP site, or emailed to Ron Gallo, Supervisor of Signals and Systems, Ron.Gallo@hamilton.ca.

The applicant should be advised that outbound left turns from their property onto Rymal Road East will be a difficult move at peak times of the day. Once the traffic signal is installed, then outbound left turning drivers may experience significant delays in turning left out onto Rymal Road East as the queue of vehicles turning left from Rymal Road onto Eva Street may block the proposed commercial driveway.

We note that a delivery or garbage truck larger than the 9m design vehicle will NOT be able to enter this site, turn around, and exit in a forward manner. All vehicles must be able to enter and exit a site in a forward manner, and not reverse on or off of Rymal Road East.

The manoeuvring area provided for the 9m long loading space may require some vehicles to complete 3 point turns to exit from the loading space into the main parking aisle.

Comments from HSR staff should be considered regarding potential relocation of the HSR bus stop on Rymal Road East.

The Site Plan stage the drawings should include the following details:

- Details on the garbage truck size from potential refuse providers.
- Details on the existing edge of pavement of Rymal Road East, edge of shoulder, ditchline, sidewalk construction, etc.
- All landscape materials must be maintained entirely on private property and not encroach into City road allowance.
- A minimum clearance of 1.2m is required between an access and existing utility poles, trees, fire hydrant, etc.
PUBLIC CONSULTATION

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, 81 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on December 1, 2008, requesting comments or support for the application. Further, a Public Notice Sign was posted on the property on December 15, 2008, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

To date, 5 letters have been received from members of the public in response to the preliminary circulation of the application (see Appendix “F”). The Public comments received pertain to Traffic, Natural Vegetation, Property Values, and Land Use Compatibilities. These concerns have been addressed in Section 6 of the Analysis/Rationale section of this report.

CITY STRATEGIC COMMITMENT:

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

Community Well-Being is enhanced. ☑ Yes ☐ No
The proposal is a suitable form of Intensification as it is a proposed mixed-use building compatible with the existing and proposed land uses in the surrounding area, is located on a High-Order Transit Corridor and arterial roadway (Rymal Road East), while providing the neighbourhood with a mix of local commercial establishments.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
A mixed-use development, serviced by public transit, will reduce vehicle-dependency and promote more environmentally efficient forms of transportation such as cycling, walking, and public transit. The vegetation lost due to construction will be offset through the inclusion of new trees on the periphery of the subject lands along both Eaglewood Drive and Eva Street via the future Site Plan Control application.

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

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

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

:AC

Attachs. (6)
Appendix “A” to Report PED09311 (Page 1 of 1)

Location Map

File Name/Number:  ZAC-07-107  
Date:  October 7, 2009

Appendix "A"  
Scale: N.T.S.  
Planner/Technician: AC/AL

Subject Property  
741 Rymal Road East

Change in zoning from the "C"  
(Urban Protected Residential, etc.) District to a  
Modified "H/S-1619"-H  
(Community Shopping and Commercial, etc.)  
Holding District.

Ward 7 Key Map  
N.T.S.
Draft Amendment No. [BLANK] to the

Official Plan of the City of Hamilton

That the following text and Schedule “A” - Land Use Concept, attached hereto, constitutes Official Plan Amendment No. [BLANK] to the Official Plan of the City of Hamilton.

**Purpose:**

The purpose of this Amendment is for a change in designation from “Residential” to “Commercial” in order to facilitate a 2 storey mixed use building with 4 ground floor commercial units and 5 second floor residential units, at 741 Rymal Road East, in the City of Hamilton.

**Location:**

The lands affected by this Amendment, being approximately 0.19ha, located at 741 Rymal Road East, on the north side, east of the intersection of Upper Sherman Avenue and Rymal Road East in the City of Hamilton.

**Basis:**

The basis for permitting the proposal is as follows:

- The proposal is consistent with the Provincial Policy Statement and Places to Grow Plan, and conforms to the former Region of Hamilton-Wentworth Official Plan.

- The property is located on a major arterial road, designated as a High-Order Transit Corridor and in close proximity to a Commercial Node. The proposed mixed use development is an appropriate form of Residential Intensification.

- The proposal is consistent with the existing building setbacks and massing found within the neighbourhood, while providing for a mix of housing opportunities in terms of unit size, type, and tenure.
Actual Changes:

Schedule Changes:

1. Schedule “A” - Land Use Concept - be revised by changing the subject lands to “Commercial” from “Residential”, as shown on the attached Schedule “A” of this amendment.

Implementation:

A Zoning By-law Amendment and Site Plan Application will give effect to this Amendment.

This is Schedule "1" to By-law No. 09-____, passed on the ____ day of ____ , 2009.

The City of Hamilton

_______________________  _____________________
Fred Eisenberger         Kevin C. Christenson
Mayor                   Clerk
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 6593 (Hamilton), Respecting 741 Rymal Road East

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 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 of Report 09- of the Economic Development and Planning Committee at its meeting held on the day of, 2009, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law will be in conformity with the Official Plan of the City of Hamilton, upon approval of Official Plan Amendment No. , proposed by the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. E38d of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton) is amended, by changing the zoning from the “C” (Urban Protected Residential, etc.) District to the Modified “H/S-1619”-‘H’ (Community Shopping and Commercial, Etc.-Holding) District, on the lands 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 provisions, as contained in Section 14 of Zoning By-law No. 6593, are modified to include the following special requirements:

   (a) That notwithstanding Section 14(1)(iiiia) “Requirements as to Use” of Zoning By-law No. 6593, only a Mixed-Use Building comprised of Residential Units above Commercial uses on the ground floor shall be permitted, subject to the following special provisions:

       Residential Uses:

       o One dwelling unit for each 180.0m$^2$ of area of the lot upon which the building is situate, provided that the building does not exceed 2 storeys in height and the gross floor area (GFA) of the building used for dwelling units should be at least equivalent to the Commercial GFA and shall not exceed 455m$^2$.

       Commercial Uses:

       o Commercial School;
       o Business or Professional Person’s Office;
       o Bank;
       o Day Nursery;
       o Private Club, Lodge, Fraternity or Sorority House or Labour Union Hall;
       o Restaurant or Refreshment Room which shall not be licensed under the Liquor License Act, and shall not include any dancing or other entertainment except music;
       o Retail; and,
       o Photographer’s or Artist’s Studio, but not including a motion picture studio.

   (b) That notwithstanding Section 14(1)(xvii) of Zoning By-law No. 6593, storage or goods to be manufactured, assembled, or sold upon the premises, shall be permitted only within the cellar of the building.

   (c) That notwithstanding Section 14(2) of Zoning By-law No. 6593, the maximum permitted height for any building or structure shall be 2 storeys or 11 metres.

   (d) That notwithstanding Section 14(3)(i) of Zoning By-law No. 6593, the minimum front yard setback for any building or structure shall be 6.0 metres.
(e) That notwithstanding Section 14(9) of Zoning By-law No. 6593, a minimum 3.0 metre wide planting strip shall be provided and maintained for any parking space or manoeuvring space adjacent to a street line.

(f) That no vehicular ingress or egress shall be permitted from the subject lands onto Eva Street and/or Eaglewood Drive.

(g) That all other provisions of the “H” (Community Shopping and Commercial, Etc.) District shall continue to apply.

3. That notwithstanding Section 2(2)(J)(xxivc) of Zoning By-law No. 6593, the definition of a “Visual Barrier” shall be defined as follows:

“Visual Barrier” Where in any zone a visual barrier is required to be provided and maintained, such barrier shall act as a screen between uses and be constructed to a minimum height of 1.8 metres and shall consist of one of the following:

(a) A wall, fence;

(b) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

(c) Earth berms; or,

(d) Any combination of the above.

4. That the ‘H’ symbol applicable to the lands referred to in Section 1 of this By-law shall be removed conditional upon:

(a) An archaeological assessment being submitted and approved, to the satisfaction of the Director of Planning and the Ministry of Culture.

City Council may remove the ‘H’ symbol and, thereby give effect to the “H/S-1619” (Community Shopping and Commercial, Etc.) District, by enactment of an amending By-law once the above condition has been fulfilled.

5. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1619.

6. That Sheet E38d of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1619.

7. 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 “H” (Community Shopping and Commercial, Etc.) District, provisions, subject to the special requirements referred to in Section 2 and 3.
8. 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 ___ day of ___ , 2009.

__________________________  ____________________________
Fred Eisenberger            Kevin C. Christenson
MAYOR                      CLERK

ZAC-07-107
This is Schedule "A" to By-Law No. 09-_____
Passed the .......... day of ...................., 2009

Schedule "A"

Map Forming Part of
By-Law No. 09-_____
to Amend By-law No.6593

Subject Property
741 Rymal Road East

Change in zoning from the "C" (Urban Protected Residential, etc.) District to a "H/S-1619"-"H" (Community Shopping and Commercial, etc. - Holding) District, Modified.
Hello.

I live on Eaglewood Drive, Ontario. The front of my home faces the back of the property at 741 Rymal Road East, Hamilton.

I would like to officially protest this change of zoning from Residential to Commercial. I bought my house in 1993 to be part of a residential area, not a commercial shopping area. I feel this will bring the property value of my house down as well as the neighbouring houses. I feel this will bring unwanted traffic to our street along with raising the noise level. I feel this is a safety risk to our children as this will increase traffic on our street and the adjoining streets.

I have already emailed Richard Canfor, Forest Conservation By-Law, City of Hamilton, on July 30/08 to voice my concerns as to the removal of the beautiful large trees on this property which provide a beautiful backdrop between my house and Rymal Road. I do not wish to wake up every morning to a view of a commercial building with asphalt for grass with trucks and cars parked all over.

I would like to be notified when this plan is either adopted or refused. I'm hoping it is REFUSED. If it is adopted I would like to know how I can voice my opinion as to where the entrance to this commercial area would be as well as wanting to keep the trees edging this property on Eaglewood Drive. I don't want cars and trucks coming in and out onto Eaglewood Drive as this is straight across from several houses and this would be a nuisance, an inconvenience and simply an eye sore. Especially in the spring, summer and fall when our kids play outside and we sit on our front porches to enjoy the day.

If you haven't already figured it out, I'm not happy about this whatsoever.

Thank you.

Melanie Marcotte
Chan, Alvin

From: Duvall, Scott
Sent: Tuesday, December 16, 2008 2:07 PM
To: Chan, Alvin
Cc: Taylor, Monique
Subject: RE: ryamal road and eva commercial zone changing

Hi Alvin

FYI

Thanks

Scott

Scott Duvall
Councillor, Ward 7
City of Hamilton
905-546-2706

-----Original Message-----
From: emilio debenedicts [mailto:emilio@quickemail.info]
Sent: Tuesday, December 16, 2008 12:07 PM
To: Duvall, Scott
Subject: ryamal road and eva commercial zone changing

Mr. Duvall

I am sending this email regards to the proposed development on the corner of Eaglewood and Eva ST. My house is located across the street. I am against this proposal for many reasons, the decrease property value along with the increase of traffic on an already narrow street. I pay taxes to live in a residential area, not commercial. I am opposed to the change in zoning regulations and I will attend the meeting 9:30am. I would like to be informed of the date as soon as possible.

Emilio DeBenedicts

PS.

Please inform me who to contact if I need to proceed to the next level and if I will need a lawyer. in
December 16 2008

Dear Mr A Chan

We are writing to you concerning the proposed change of the zoning bylaw for location of 741 Rymal Rd E. And we hereby want to state our objection to this change

(1) Traffic is a big problem at this location as it is today.

(2) We do not want to see a second UPPER JAMES. (We are already going our way to this status).

(3) We do believe that there is enough commercial land available on Rymlal RD E near Upper Sherman Ave

Therefore we would like to see this location stay as Residential.

cc S. Duvall

Thank You For Your Attention
on this matter

yours Truly Mr Mrs A Boers
208 Eleanor Ave
Hi Alvin

For your records, my office received an objection on file #ZAC-07-107, OPC-07-033 by phone on December 5th from Mr. Andy Boers 208 Eleanor [redacted]. He stated traffic at Miles and Rymal is very bad and this would add tremendous amount of traffic. After returning his call, he stated he was totally against having a commercial property in a residential area.

Thanks

Scott

Scott Duvall
Councillor, Ward 7
City of Hamilton
905-546-2706
From: Sharon D Stanshall [stanshall@hamilton.ca]
Sent: Sunday, December 21, 2008 11:32 AM
To: Chan, Alvin
Subject: Zoning Amendment file #ZAC-07-107

Please accept this written notice by email as opposed to Canada Post. We were unable to get out to the Post Office on Friday due to the severe weather conditions and we did not want to miss the quick deadline.

To: Alvin Chan, City of Hamilton
Planning and Economic Development Department
Planning Division - Development Planning - West Section
77 James Street North, Suite 400, Hamilton Ontario L8R 2K3

We the undersigned are opposed to the application for the purpose of changing the official plan designation from "Residential" to a "Commercial" designation.

The proposed land to be developed is in the middle of a residential neighbourhood. The land itself contains many very mature, majestic trees that would likely be cut down. To the east (within view) of the proposed location, is a large plaza complete with a Sobeys, a drug store, dollar store, pizza store and various other businesses. To the west is the Food Basics Plaza with a Tim Hortons, Bank, Blockbuster, Drug Store, Gym, Dentist, Eye Doctor and Paint Store. To the North is a Shoppers Drug Mart and gas station. Rymal Road is heavily travelled and the addition of yet another business at something other than a major intersection (such as Upper Wentworth, Upper Gage and Upper Sherman) will undoubtedly result in auto accidents.

We live in a "C" Urban protected Residential district and to destroy this oasis by changing our area to "G-4" (a designed neighbourhood shopping area district) when there is so much already seems ridiculous and invasive.

Sharon Stanshall - 15 Miles Road, Hamilton, Ont. L8W 1C9
Douglas Stanshall -15 Miles Road, Hamilton, Ont. L8W 1C9
Edward Van Beek - 11 Miles Road, Hamilton, Ont. L8W 1C9

We are all available for the public meeting.

Regards,

Sharon and Doug Stanshall
15 Miles Road,

Ed Van Beek
11 Miles Road