SUBJECT: Application for a Change in Zoning for the Property Located at 780 Upper Paradise Road (Hamilton) (PED06198) (Ward 8)

RECOMMENDATION:

That approval be given to Zoning Application ZAC-06-25, Toscani Developments Ltd., Owner, for a change in zoning from the “DE/S-1389” (Low Density Multiple Dwellings) District, Modified to the “DE-3” – ‘H’ (Multiple Dwellings - Holding) District, Modified, to permit nine stacked townhouse units, for the property located at 780 Upper Paradise Road (Hamilton), as shown on Appendix “A” to Report PED06198, on the following basis:

(a) That the subject lands be rezoned from the “DE/S-1389” (Low Density Multiple Dwellings) District, Modified to the “DE-3” – ‘H’ (Multiple Dwellings - Holding) District, Modified.

(b) That the amending By-law apply the Holding provisions of Section 36 (1) of the Planning Act, R.S.O., 1990, to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed Zoning District. The Holding provision will prohibit the development of the subject lands until such time that the owner/applicant submits:

(i) An archaeological assessment prepared by a qualified professional, to the satisfaction of the Ministry of Culture; and,

(ii) A noise assessment prepared by a qualified professional in accordance with the Ministry of Environment Guidelines, to the satisfaction of the City of Hamilton, Director of Development and Real Estate.

City Council may remove the ‘H’ symbol and, thereby, give effect to the “DE-3” District, Modified provisions, by enactment of an amending By-law once the conditions are satisfied.
(c) That the Draft By-law, attached as Appendix “B” to Report PED06198, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(d) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Official Plan of the City of Hamilton.

(e) That upon finalization of the implementing By-law, the Gurnett Neighbourhood Plan be amended to change the designation of the subject lands from “Attached Housing” to “Medium Density Apartments”.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The applicant has submitted an application for a change in zoning to facilitate the development of the site for nine stacked townhouse units consisting of one building. The tenure of the units will be established through a future plan of condominium. Staff recommends a ‘H’ holding provision be placed on the property to address issues with respect to archaeology and noise prior to development.

This proposal has merit and can be supported as the change in zoning is consistent with the Provincial Policy Statement and complies with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

BACKGROUND:

PROPOSAL

The applicant proposes a change in zoning for the lands located at 780 Upper Paradise Road (Appendix “A”) from the “DE/S-1389” (Low Density Multiple Dwellings) District, Modified to the “DE-3” – ‘H’ (Multiple Dwellings - Holding) District, Modified to facilitate the development of the site for stacked townhouses. One building will be constructed creating a total of nine new residential units, as shown on the preliminary site plan attached as Appendix “C”.

The subject lands will be placed in a ‘H’ Holding provision to prohibit development until such time that the owner/applicant submits an archaeological assessment prepared by a qualified professional which has been approved by the Ministry of Culture, and a noise assessment prepared by a qualified professional in accordance with the Ministry of Environment Guidelines, to the satisfaction of the City of Hamilton, Director of Development and Real Estate.
The development proposal is generally consistent with the provisions of the “DE-3” (Multiple Dwellings) District; however, a site-specific modification is being proposed to eliminate the required loading space which staff supports.

Currently, the “DE/S-1389” District allows for the construction of a maximum of 5 townhouse dwellings subject to the “RT-20” (Townhouse-Maisonette) District provisions. As well there are site specific requirements for landscaping along the northerly lot line, minimum lot area, and parking spaces.

**DETAILS OF THE APPLICATION**

**Applicant/Owner:** Toscani Developments Ltd.

**Agent:** S. Llewellyn, S. Llewellyn & Associates Limited

**Location:** 780 Upper Paradise Road

**Description:**
- Lot Frontage: 25.0m (82.0 feet)
- Lot Depth: 42.69m (140.0 feet)
- Lot Area: 0.113 ha (0.28 ac)

**EXISTING LAND USE AND ZONING**

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Subject Lands</td>
<td>Single Detached Residential</td>
<td>“DE/S-1389” (Low Density Multiple Dwellings) District, Modified</td>
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**Surrounding Land Uses**

- **North:** Townhouses  
  “D/S-430” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified

- **South:** Townhouses  
  “RT-10” (Townhouse) District, and “C” (Urban Protected Residential, etc.) District

- **East:** Single-Detached Residential  
  “C” (Urban Protected Residential, etc.) District

- **West:** Townhouses  
  “D/S-430” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified
Circulation of the proposed application to various City Departments and outside agencies resulted in no significant issues with respect to the proposed zone change. Planning staff’s evaluation of the proposed application is set out below.

1. This proposal has merit and can be supported for the following reasons:
   
   (i) The proposed change in zoning is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
   
   (ii) The proposal is compatible and complementary to the existing and planned development in the immediate area.
   
   (iii) The proposal is an appropriate infill development that will make efficient use of existing services on-site.
   
   (iv) The proposal will allow for a form of residential intensification.
   
2. The current “DE/S-1389” (Low Density Multiple Dwellings) District, Modified is no longer appropriate for the proposed development as this zoning only permits attached townhouses, whereas the development is proposing stacked townhouses. For the purpose of interpreting By-law No. 6593, the proposed form of development is considered a multiple dwelling.
   
3. With respect to the proposed form of residential development, the proposed zoning and preliminary site plan will allow for a compatible form of development in terms of height, scale, privacy, building setbacks, density and mass in accordance with the “Residential Policies” of the Hamilton Official Plan. The applicant is not requesting a modification to the maximum allowable height of 11.0 metres; therefore the scale and size of the proposed three-storey building will be compatible with the surrounding townhouse developments. Secondly, with respect to maintaining privacy for existing residents, the entrances of the building will face the side yard of the single detached dwelling to the south. As well, the rear façade of the proposed building will face the private road servicing the adjacent housing complex and the side yard of the detached dwelling to the north. Furthermore, the preliminary site plan (see Appendix “C”) provides the “DE-3” District’s minimum 1.5 metre landscaping strips along the northerly, southerly and westerly side yards, and the minimum building setback from the street. Details on the landscaping of the site will be handled through the Site Plan Control process. Lastly, although the density proposed (79.6 units per Gross Hectare) is higher than the surrounding townhouse complexes; as there is no proposed increase in height and the required minimum setbacks are maintained, the mass of building on the site is considered complementary to other developments in the surrounding area.
4. The preliminary site-plan is comprised of one stacked townhouse block which will contain nine units, as shown on Appendix “C”. Each individual townhouse sub-block will contain three dwelling units. The preliminary site plan meets the provisions of the “DE-3” (Multiple Dwellings) District, save an except for the site-specific Zoning By-law provision requested, as outlined below:

**Required Loading Space**

Zoning By-law 6593 requires one loading space be provided for the building, whereas the preliminary site plan is not providing a loading space. Staff supports the elimination of the loading space as a standard parking space and the on-site manoeuvring areas can be used for loading purposes which can accommodate smaller trucks and cube vans. Comments from the Public Works Department, Traffic Engineering and Operations Section, stated no concerns with respect to no loading space being provided.

5. In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to 183 property owners within 120 metres of the subject lands. To date no letters were received from neighbouring property owners or the public at large.

6. To ensure the application is consistent with the principles and the policies of the Provincial Policy Statement (PPS), a Holding ‘H’ provision will prohibit development until such time that the owner/applicant submits a noise assessment that has been prepared in accordance with the Ministry of Environment Guidelines, to the satisfaction of the Director of Development and Real Estate, and an archaeological assessment that has been approved by the Ministry of Culture. Staff considers the requirements of the ‘H’ Holding provision appropriate to address the Provincial Policy Statement.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, then the applicant has the option of using the property for the current range of “DE/S-1389” (Low Density Multiple Dwellings) District, Modified uses.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application is consistent with the PPS policy that focuses growth in settlement areas (Policy 1.1.3.1). However, Policy 1.1.1(c) outlines that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) 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 proximity of the subject lands to Upper Paradise Road, a noise assessment will be required to address this matter of Provincial interest.

Secondly, 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 maintain the heritage integrity of the site may be permitted. As the subject property is located within proximity to a registered archaeological site, an archaeological assessment will be required to address this matter of Provincial interest.

As the proposed Zoning By-law is recommending a ‘H’ Holding Provision be put in place on the subject lands until such time that the owner submits a noise assessment that has been prepared in accordance with the Ministry of Environment Guidelines, to the satisfaction of the Director of Development and Real Estate, and an archaeological assessment that has been approved by the Ministry of Culture, the application is consistent with the policies of the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. As well, the Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. The application conforms with the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “RESIDENTIAL” in the City of Hamilton Official Plan. The following policies of the City of Hamilton Official Plan, among others, are applicable to the proposed development:
A.2.1.1 The primary uses permitted in the areas designated on Schedule “A” as RESIDENTIAL will be for dwellings. Various types of dwellings are included within this designation, while preference will be given to the locating of similar densities of development together.

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.

C.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the need of present and future residents. Accordingly, Council will:

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.

Therefore, as the application is for a change in zoning which recognizes the scale and character of the surrounding existing residential area, the proposal complies with the City of Hamilton Official Plan.

Gurnett Neighbourhood Plan

The subject lands are designated as “Attached Housing” in the Gurnett Neighbourhood Plan. The “Attached Housing” designation does not include stacked townhouses which are considered a multiple dwelling. Therefore, an amendment to the Gurnett Neighbourhood Plan is required to re-designate the subject lands to “Medium Density Apartments”. The application will allow for a form of intensification on the subject lands that is compatible with the existing development in the area. The “Medium Density Apartment” designation typically yields an average of 30 - 50 units per gross acre, whereas the proposed density will be 32.14 units per gross acre.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Public Works (Traffic Planning).
- Public Works (Strategic and Environmental Planning).
- Parking Services.
- Hamilton-Wentworth District School Board.
Corporate Services Department (Budgets and Finance)

The Corporate Services Department has advised that payment is required for Local Improvement Charges for the construction of sidewalks along Upper Paradise Road. As the development of the site is subject to Site Plan Control, the outstanding Local Improvement Charges will be collected at that time, prior to development.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application was pre-circulated to 183 property owners within 120 metres of the subject lands. To date, no written responses have been received.

In accordance with the requirements of the Planning Act, notice of the Public Meeting will be provided to the same property owners and a sign will be posted on the site advising of the Public Meeting date.

CITY STRATEGIC COMMITMENT:

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

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

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

Economic Well-Being is enhanced. ☑ Yes ☐ No
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

SD/
Attachs. (3)
Subject Property
780 Upper Paradise Road

Change in Zoning from DE/S-1389 (Low Density Multiple Dwellings) District, Modified to DE-3-"H" (Multiple Dwellings - Holding) District, Modified.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593
Respecting the Property Located at
780 Upper Paradise Road

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the “The Corporation of the City of Hamilton” and is the successor to the former regional municipality, namely, “The Regional Municipality of Hamilton-Wentworth”;

AND WHEREAS the City of Hamilton Act, 1999, provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Section __________ of Report __________ of the Planning and Economic Development Committee at its meeting held on the __________ day of __________, 2006, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Sheet No. W-37c of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the zoning from the “DE/S-1389” (Low Density Multiple Dwellings) District, Modified to the “DE-3” – ‘H’ (Multiple Dwellings - Holding) District, Modified on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

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

   i) An archaeological assessment prepared by a qualified professional, to the satisfaction of the Ministry of Culture; and,
   ii) A noise assessment prepared by a qualified professional in accordance with the Ministry of Environment Guidelines, to the satisfaction of the City of Hamilton, Director of Development and Real Estate.

   City Council may remove the ‘H’ symbol and, thereby give effect to the “DE-3” (Multiple Dwellings) District as amended by the special requirements of Section 3 as stipulated in this By-law, by enactment of an amending By-law once the above conditions have been fulfilled.

3. That the “DE-3” (Multiple Dwellings) District regulations as contained in Section 10C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following special provision:

   a) Section 18A(i)(c) shall not apply.

4. 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 “DE-3” (Multiple Dwellings) District provisions, subject to the special requirement referred to in Section 3 of this By-law.

5. That By-law No. 6593 (City of Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1555.

6. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

   PASSED and ENACTED this day of , 2006.

   MAYOR

   CLERK

   ZAC-06-25
Appendix "B" to Report PED06198
Page 3 of 3

This is Schedule "A" to By-Law No. 06—

Passed the .................. day of ...................., 2006

Clerk

Mayor

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Schedule "A"

Map Forming Part of By-law No. 06-____

to Amend By-law No. 6593

Subject Property
780 Upper Paradise Road

Change in Zoning from DE/S-1389 (Low Density Multiple Dwellings) District, Modified to DE-3-'H'
(Multiple Dwellings - Holding) District, Modified.

Scale: Not to Scale
File Name/Number: ZAC-06-25
Date: June 2006
Planner/Technician: SD/LM