



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 2
COMMITTEE DATE: August 8, 2011	
SUBJECT/REPORT NO: Application for Amendment to Zoning By-law No. 6593 for Lands Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Chris Bell (905) 546-2424, Ext. 1262
SIGNATURE:	

RECOMMENDATION:

That approval be given to **Amended Zoning Application ZAR-10-043, by RMAI Mortgage Concepts, Owner**, for a change in zoning from the “H” (Community Shopping and Commercial, etc.) District, to the “H - ‘H’/S-1647” (Community Shopping and Commercial, etc. - Holding) District, Modified, to permit the conversion of an existing commercial building for up to 16 apartment units, on lands located at 151 John Street South (Hamilton) as shown on Appendix “A” to Report PED11132, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED11132, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (b) That the amending By-law be added to Schedule “A”, Map No. E5, of Zoning By-law No. 6593.
- (c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

EXECUTIVE SUMMARY

The lands subject to this application consist of a 0.04 hectare (0.1 acre) parcel fronting onto the east side of John Street south between Augusta Street and the Hunter Street railway underpass. The property contains a 2-storey brick building with a footprint of approximately 198 square metres and a small asphalted area at the rear of the building accessed by a mutual right-of-way with the adjacent property. The building, which was initially constructed as an office, currently comprises 18 residential units. The existing use does not comply with the regulations of the Zoning By-law.

The purpose of this application is to modify the Community Shopping and Commercial “H” Zone that applies to the subject property to additionally permit the existing building to be used for up to 16 apartment units.

Planning staff is satisfied that the proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, conforms with the Hamilton-Wentworth Official Plan, and City of Hamilton Official Plan. The proposed development is also compatible with existing and planned development in the surrounding area.

Issues with respect to parking, garbage collection, noise warning clauses due to proximity to the railway and Ontario Building Code compliance may all be addressed with the combination of a Holding ‘H’ provision and the submission of a future site plan application.

Alternatives for Consideration - See Page 15.

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 applications for Amendments to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The 0.04 hectare parcel of land subject to this application contains a 2-storey building with a footprint of 198 square metres that is currently used for 18 apartment units. Said use is currently contrary to the regulations of the Zoning By-law.

**SUBJECT: Application for Amendment to Zoning By-law No. 6593 for Lands
Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)
- Page 3 of 16**

The proponents had initially submitted rezoning applications to allow for the existing building to be used for up to 18 residential dwelling units. However, upon review of the size of the proposed units, and in recognition of the fact that some units would not likely comply with Ontario Building Code requirements, the proponent amended the application in order to seek approvals for a maximum of 16 marginally larger residential units.

Chronology:

- September 8, 2010: A Formal Consultation Meeting was held to assist in identifying the material required to consider a complete zoning application.
- October 8, 2010: Submission of Application ZAR-10-043 by RMAI Mortgage Concepts.
- October 19, 2010: Application ZAR-10-043 is deemed complete.
- October 28, 2010: Circulation of Notice of Complete Application and Preliminary Circulation for Application ZAR-10-043 to all residents within 120 metres of the subject lands.
- January 13, 2011: Planning staff and the proponent's planning consultant meet to discuss the need for additional information with respect to noise impacts and interior floor plan layout to continue with assessment of application.
- February 22, 2011: Request received from the proponent's planning consultant to revise Application ZAR-10-043 to seek approval for 16 residential units rather than 18 units.
- February 22, 2011: Noise Report received from the proponent's planning consultant.
- June 3, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application:

Location: 151 John Street South (Hamilton) (see Appendix "A")

Owner: RMAI Mortgage Concepts

Applicant: IBI Group

**SUBJECT: Application for Amendment to Zoning By-law No. 6593 for Lands
 Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)
 - Page 4 of 16**

Property Description: Total Lot Frontage: 10.05 metres onto John Street South
 Lot Depth: 39.62 metres
 Total Lot Area: 0.04 hectares

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Former Office Building Used for Multiple Residential	Community Shopping and Commercial “H” Zone
<u>Surrounding Lands:</u>		
North	Ground Floor Commercial with Residential Above	Community Shopping and Commercial “H” Zone
South	Ground Floor Commercial with Residential Above	Community Shopping and Commercial “H” Zone
East	Low Density Residential	High Density Multiple Dwellings “E-3” Zone
West	Gas Station, Taxi Dispatch and Transit Station	Community Shopping and Commercial “H” Zone and Light and Limited Heavy Industry, Etc. “J/S-409” Zone

POLICY IMPLICATIONS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in Settlement Areas, Policy 1.1.3.1.

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.

**SUBJECT: Application for Amendment to Zoning By-law No. 6593 for Lands
Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)
- Page 5 of 16**

Staff notes that the subject lands are intended to be developed to include additional residential units, and are located within approximately 72m from a **Canadian Pacific Railway Corridor**. Accordingly, staff recommends the inclusion of a noise warning clause within all future purchase and sale or lease agreements for the subject lands.

Growth Plan for the Greater Golden Horseshoe (Places to Grow):

Section 1.2.2 of the Growth Plan for the Greater Golden Horseshoe 2006 indicates that some of the guiding principles of the Plan are to “build compact, vibrant, and complete communities”, and to “optimize the use of existing and new infrastructure to support growth in a compact, efficient form”. The application is consistent with these principles, as it proposes to build a more compact community by allowing a development which will maximize the development potential of the site.

Hamilton-Wentworth Official Plan:

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan (HWOP). 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. The proposed use complies with the “Urban Area” Hamilton-Wentworth Official Plan.

New Urban Official Plan:

The Urban Hamilton Official Plan was adopted by Council on July 9, 2009, with the Ministry of Municipal Affairs and Housing issuing its Ministerial Approval on March 16, 2011. However, the Plan has been appealed to the Ontario Municipal Board in its entirety and is, therefore, not yet in effect.

The site is located within the “Mixed-Use - Medium Density” designation of the Council-adopted Urban Official Plan. According to Sub-section E.4.6 of the New Urban Hamilton Official Plan, the intent of the “Mixed-Use - Medium Density” designation is to permit a full range of retail, service commercial, entertainment, and residential accommodation at a moderate scale. Among other uses, the “Mixed-Use - Medium Density” designation allows for stand alone multiple residential building forms and uses.

When considering a residential use in the “Mixed-Use - Medium Density” designation, Sub-section E.4.6.15 notes that such uses must still ensure that the larger Mixed-Use area maintains its planned commercial function. In terms of scale, Section E.4.6.7 notes that lands within the “Mixed-Use - Medium Density” designation shall contain a range of building heights and densities to a maximum height of 6-storeys, with regulations to be set out in the implementing Zoning By-law.

**SUBJECT: Application for Amendment to Zoning By-law No. 6593 for Lands
Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)
- Page 6 of 16**

In addition, Sub-section B.2.4.1.4 contains policies that are to be assessed when reviewing residential intensification proposals. Said policies include:

- (a) The relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- (b) The development's contribution to maintaining and achieving a range of dwelling types and tenures;
- (c) The compatible integration of the development with the surrounding area in terms of use, scale, form, and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- (d) The development's contribution to achieving the planned urban structure, as described in Section E.2.0 - Urban Structure;
- (e) Infrastructure and transportation capacity; and,
- (f) The ability of the development to comply with all applicable policies.

Staff is of the opinion that the conversion of this existing building to residential would comply with the policies of the Urban Hamilton Official Plan.

City of Hamilton Official Plan:

The site is located within the Central Policy Area according to the City of Hamilton Official Plan. Sub-section 2.8.1 of the Plan notes that the CENTRAL POLICY AREA is to be a multi-use node for both the City and the Region that includes a wide range of uses where compatibility among adjacent uses can be achieved. Among other uses, the Central Policy Area permits *“residential Uses of various housing types, including, but not limited to, single-family detached, semi-detached, townhouses and apartments, and in keeping with the Residential policies set out primarily in Sub-section A.2.9.3, as well as in Sub-sections A.2.1 and C.7 of this Plan”*.

Relevant Policies of Sub-section 2.9.3.1 include:

- “2.9.3.1 The future viability and health of the Central Policy Area will be largely dependent on the quality and suitability of Residential opportunities in close proximity to the downtown. Accordingly, the following policies to promote and protect housing within the area shown as SPECIAL POLICY AREA 3 on Schedule "B" will apply, in addition to all the Residential policies of Sub-sections A.2.1 and C.7, and Policy A.2.8.1(ii); (O.P.A. No. 27)

- i) It is the intent of Council to strengthen the Residential function of this AREA to complement the multi-use nature of the Central Policy Area, to foster a wider choice in housing opportunities for all residents of the City, and to increase the resident population;
- ii) Further to the above, a wide variety of densities, unit sizes, building styles, incomes, and household groups will be accommodated. Housing suitable for families, the physically disabled, and senior citizens will be particularly encouraged;
- v) It is intended that Residential development or re-development be at a scale, density, and bulk compatible with the established character of the surrounding uses;"

Relevant policies of Sub-section A.2.1 include:

"2.1.14 In evaluating the merits of any proposal for multiple-family RESIDENTIAL development, Council will be satisfied that the following considerations are met:

- i) The height, bulk, and arrangement of buildings and structures will achieve harmonious design and integrate with the surrounding areas; and,
- ii) Appropriate open space, including landscaping and buffering, will be provided to maximize the privacy of residents and minimize the impact on adjacent lower-density uses.

2.1.15 Prior to the approval of RESIDENTIAL development adjacent to railway rights of way, Council will have regard for the requirements of Sub-sections B.3.5, C.2, and C.9. (O.P.A. No. 128)"

Relevant policies of Sub-section C.7 include:

"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, re-development, 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;

- iv) Support RESIDENTIAL conversion of underutilized commercial space to residential which does not undermine the primary commercial use/function of the neighbourhood, subject to the provisions of Sub-section A.2.2; and,
- xii) Encourage development at densities conducive to the efficient operation of Public Transit, and which utilizes designs or construction techniques that are energy efficient;"

Planning staff is satisfied that the proposed use is in compliance with relevant policies of the City of Hamilton Official Plan. Multiple unit residential uses are encouraged within the designation, and the proposed units offer an alternative housing choice in terms of size and tenure. In addition, the existing building within which the use is to occupy is similar in size, scale, and streetscape to other uses along the east side of John Street South insofar as it is 2-storeys in height, adjacent to the street line, occupies a substantial portion of the frontage, and has a substantial lot coverage.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Finance and Administration Section, Corporate Services Department.
- Recreation Division, Community Services Department.
- Union Gas.

CP Rail and Metrolinx had both advised the subject lands are approximately 75 metres from the CP Rail Hamilton Substation and the Hunter Street GO Station. Any residential units must be designed and constructed such that interior noise levels meet the Criteria of the Ministry of the Environment. Both agencies had requested that the proponent prepare a Noise Study to determine what impact, if any, railway noise would have on residents and recommend mitigation measures, if necessary.

Upon review of the proponent's Noise Study, both agencies had advised that given the results of the Noise Study, and the fact that the existing building could lawfully be used for limited residential uses, that they would be satisfied if a "WARNING CLAUSE" was affixed to the future lease agreements notifying future residents of the potential noise issue.

Parking Services staff advised that they have no additional concerns about the proposed rezoning. However, the applicant should ensure that all existing and future parking requirements are met on-site, as there is a high demand for on-street parking in the area.

Public Consultation

In accordance with the Bill 51 changes to the Planning Act and Council's Public Participation Policy, a first Notice of Complete Application and Preliminary Circulation of the applications was circulated to 31 property owners within 120 metres of the subject property on October 28, 2010. A Public Notice Sign was also posted on the subject lands at that time. As a result of preliminary circulation and notice, the owner of the adjacent property at 145 John Street South provided 3 responses. Copies of the comments received in response to the Preliminary Circulation are found in Appendix "C". The issue raised in resident's correspondence, as a result of the first notice to neighbours, is discussed in the Analysis/Rationale for Recommendation section of this Report.

Finally, Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and the Places to Grow Growth Plan;
 - (ii) It conforms to the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the New Urban Hamilton Official Plan; and,
 - (iii) It is compatible with existing development in the surrounding area.
2. The purpose of the application is to consider a Zoning By-law Amendment to allow the building located at 151 John Street South to be used exclusively for residential dwelling units.

The 2-storey building was initially built for a lawyers office. Although constructed for the purpose of office uses, the Community Shopping and Commercial "H" District zoning that applies to the property does entertain residential dwellings as a permitted use in association with a permitted commercial use, at a rate of one dwelling unit for each 180.0 square metres of lot area on which the building is situate, provided the total residential floor area does not exceed the floor area of an associated commercial use. In addition, the residential conversion regulations of Sub-section 19 (3) of the Zoning By-law allows for the conversion of existing buildings to residential uses, with up to 10 units, without the need for a Zoning By-law Amendment provided certain criteria are met that deal with distance

separation between converted residential buildings, and minimum unit sizes. Therefore, a Zoning By-law Amendment is necessary to permit the building to be used wholly for residential purposes with more than 10 residential units.

3. As noted earlier in this Report, the subject lands are located within the Central Policy Area according to the City of Hamilton Official Plan. The lands are further identified as being within Special Policy Area No. 3, an area where additional residential opportunities are encouraged in order to strengthen the health and viability of downtown Hamilton. Such residential opportunities are to include a wide variety of densities, unit sizes, building styles, income, and household groups, and be developed at a scale, density, and built form that is compatible with the established character of the surrounding uses.

Planning staff notes that the proposed residential use is in keeping with the intent of the Plan. The 2-storey building has been located on the property over a decade and is of the same size and scale as the adjacent buildings to both the north and south.

4. According to the new Urban Hamilton Official Plan, multiple dwellings such as apartments are permitted within the “Mixed-Use - Medium Density” designation that applies to the subject lands and surrounding lands fronting on the east side of John Street South. The built form within which such uses are to be accommodated is intended to be street oriented buildings with a height of up to 6-storeys. Therefore, both the proposed use and form of the existing building meet the intent of the Urban Hamilton Official Plan. In addition, based on information available through the Municipal Property Assessment Corporation (MPAC) data, the approval of this application would result in up to 37 residential apartment units within the 0.5 hectare Mixed-Use - Medium Density block fronting onto the east side John Street South between the Hunter Street GO overpass and Augusta Street. Residential density in the Urban Hamilton Official Plan, by definition, can be assessed on a block basis. The residential density within this block would be compliant with the medium density range of between 60 to 100 units per hectare.
5. The current regulations of Zoning By-law 6593 require that parking for residential dwelling units be provided at a rate of 0.8 spaces per unit, or 13 spaces. Currently, while the existing conditions for the site include an asphalted area at the rear of the property, this area is not used as formal parking spaces for the site due to access constraints. As such, the subject lands do not have any on-site parking. It will, therefore, be necessary that the implementing Zoning By-law include regulations to recognize this situation.

Planning staff is of the opinion that relief to allow reduced parking standards is reasonable in the case of the subject property. The streetscape character in the area is such that very little on-site parking is available for this property or other surrounding properties. This shared limitation of providing on-site parking is off-set by the fact that the area is characterized as a mixed-use neighbourhood where a complete range of goods, services, and recreational opportunities are within walking distance. In addition, the subject property is ideally located to take advantage of public transit, with both HSR stops for local service and the GO Transit Terminal for inter-regional service located immediately adjacent to the property.

6. As part of their planning application, the proponents have specifically requested zoning permissions to allow up to 16 dwelling units within the existing building. According to the proposed floor plan provided by the owners, the units will range in size from approximately 12.2 sq. metres (131 square feet) to 25.7 sq. metres (277 square feet). While the City of Hamilton Official Plan encourages a range of residential housing types that provide a range of rents, such as small affordable rental units, the Community Shopping and Commercial “H” Zoning District in the City of Hamilton Zoning By-law does not contain minimum size provisions for residential apartments. However, the units will be the subject of a change of use permit and building permits before they can be lawfully constructed as residential dwelling units. As part of the review of these permits, it will be necessary for the owner to demonstrate that the proposed units comply with the minimum standards of the Ontario Building Code (OBC).

While the process of having zoning in place as a first step before submitting building permits is a typical means of proceeding with municipal approvals, there is an extra element of uncertainty of outcome in the case of the subject property as the building within which the residential units are proposed to be located was not originally designed and constructed for residential purposes. Notwithstanding the implementation of appropriate zoning regulations to allow up to 16 dwelling units, it will still be necessary for the units and building to comply with OBC regulations dealing with, among other things, unit size, window size, safe ingress/egress, and other fire protection related features. Staff has had discussions with the owner’s agent about not presuming that these zoning regulations allow the 16 units as-of-right without also confirming that the units comply with OBC standards. As such, the owners are aware that the unit yield proposed as part of this application is an upset limit, and that any proposed units must first be shown to be in compliance with the OBC standards before permits will be issued.

7. The subject lands are located approximately 75 metres from the Hamilton Go Train Terminal. Sub-section 2.1.15 of the Residential policies of the Hamilton Official Plan requires that consideration be given to the impact of railway noise on sensitive residential land uses.

Since the existing building within which the residential units are proposed to be located was initially constructed as an office building, it was not assessed to determine compliance with noise mitigation standards typically associated with residential buildings. As such, Planning staff required that the proponent undertake a Noise Study to demonstrate that the building may achieve the noise level requirements of the Ministry of the Environment's D-series Guidelines. In response, the owner had submitted a Noise Report that was subsequently reviewed by the City of Hamilton, CP Rail, and Metrolinx (aka Go Transit). As a result of this review, both CP Rail and Metrolinx staff advised that they appreciated there is an existing building located on the property that is currently permitted to have residential uses in association with commercial uses as-of-right. Therefore, under the circumstances, they have advised that they would be satisfied if the following warning clause was included on title and within all future lease agreements:

"Warning: Canadian Pacific Railway and Metrolinx, carrying on business as GO Transit, as well as their assigns and successors in interest, own or operate on a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future, and the aforementioned operators or their assigns or successors may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). Canadian Pacific Railway and Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over, or under the aforesaid right-of-way."

Planning staff has been advised that this warning clause is commonly applied to existing residential uses located along the existing rail corridor used by the GO Transit. A "Holding (H)" provision will be affixed to the Zoning By-law Amendment, and will not be removed until the warning clause has been registered on title to the property.

8. As a result of the pre-circulation of the application to neighbouring property owners, staff has received three items of correspondence, all received from the same property owner (see Appendix C). The respondent advised that they are opposed to the proposed amendment on the following basis:

- a) That the building is not currently set up as self-contained residential units;
- b) That there is a shared access and limited parking available for the residential uses, which would exacerbate the existing situation where visitors park on the adjacent lot;
- c) That there is currently inadequate garbage and refuse facilities for the building, which results in garbage and refuse being left on the adjacent property; and,
- d) That there is illegal activity being conducted behind the building.

Existing Non-compliant Residential Use:

Planning staff agrees that the existing building is not currently set up to lawfully be used for residential purposes. As noted earlier in this Report, should the subject Zoning By-law Amendment be passed, it would result in providing zoning regulations to allow the existing building to be used exclusively for residential purposes. The owners would still be required to comply with all other applicable law, including Ontario Building Code regulations, and will be subject to enforcement actions if the building is used in a non-compliant manner.

Parking:

With respect to parking and traffic generation, the building was initially built as an office. As such, the circumstances related to parking and parking demand is an existing situation.

The existing building has a gross floor area of 558.4 square metres (60,113 square feet). When assessing the possible incremental change in parking impacts based on the change of use, the City of Hamilton has the zoning regulations of the historical City of Hamilton Zoning By-law and the New City of Hamilton Zoning By-law that may be considered. The chart below illustrates the parking requirements based on the current office use, as well as the proposed future 16 unit residential units:

Zoning By-law		Office		Residential	
		Regs.	Required	Regs.	Required
By-law 6593		1 sp./31m2 over 450m2	4 spaces	0.8 sp./unit	13 spaces
By-law 05-200	Downtown Zones	N/A	N/A	0.3 sp./unit under 50m2	5 spaces
	Other Areas	1 sp. 30m2	19 spaces		

The building, as originally built for offices uses, was expected to generate a need for approximately 4 and 196 parking spaces depending on whether the regulations of the old or new City of Hamilton Zoning By-laws are applied. Based on a similar analysis, a new residential building for up to 16 residential units is required to have between 5 and 13 parking spaces.

As noted earlier in this Report, staff is of the opinion that revisions to the parking requirements of the Zoning By-law to address the incremental change in parking demand are supportable. This opinion is based on the fact that this shared limitation of providing on-site parking is off-set by the fact that the area is characterized as a mixed-use neighbourhood, where a complete range of goods, services, and recreational opportunities are within walking distance. In addition, the subject property is ideally located to take advantage of public transit, with both HSR stops for local service and the GO Transit Terminal for inter-regional service located immediately adjacent to the property.

Garbage and Refuse:

The improper disposal of garbage is a legitimate concern. Planning staff is of the opinion that this concern may be addressed as part of a future site plan control application that will be required prior to the issuance of a building permit to legally use the property for residential purposes. Among other things, site plan control is commonly used to ensure that appropriate measures are in place to ensure that garbage may be adequately collected and stored for disposal. As is the case with all existing properties throughout the City, if property residents continue to improperly dispose of garbage notwithstanding the provision of adequate facilities, the matter may be dealt with via By-law enforcement.

Illegal Activity:

Staff is of the opinion that the proposed Zoning By-law Amendment will not have an impact on the likelihood of illegal activity occurring on the subject lands. To the contrary, a legal use of the site supported by a site plan application may discourage malfeasant activity as the site plan may be used to incorporate opportunities to increase the perception of surveillance on the subject lands. Such surveillance cues may include lighting, design for the proper use of the rear yard, possible additional windows, or improved entrance features. Of course, other initiatives to discourage illegal activity falls to the responsibility of the owner and tenants (i.e. property and maintenance initiatives).

9. Upon consideration of the planning policy and the issues raised by residents and circulated agencies, planning staff is of the opinion that the proposed use of the existing building for up to 16 residential dwelling units has merit. A draft implementing Zoning By-law has been included as Appendix "B" to this Report.

**SUBJECT: Application for Amendment to Zoning By-law No. 6593 for Lands
Located at 151 John Street South (Hamilton) (PED11132) (Ward 2)
- Page 15 of 16**

The implementing By-law includes site-specific special provisions to limit the number of residential units to a maximum of 16, so as to ensure that any proposal for future residential intensification, and resultant increase in parking demand, may be reviewed as part of a public process. In addition, a Holding provision has been affixed to the zoning regulations that will prohibit the property from being lawfully used for the 16 residential units until such a time as a site plan has been approved. The site plan application will allow staff and the proponent an opportunity to: a) more formally identify the parking lot on the subject property; b) include garbage and refuse storage containers; c) investigate the opportunity of increasing the perception of surveillance and territoriality (i.e. a more celebrated, formal entrance, lighting, windows, signage, and fencing) in an effort to introduce physical elements that will discourage trespassing.

Once the site plan is approved, the 'H' Holding provision may be lifted by a second By-law passed by Council, and the proponents may seek a building permit to construct the residential units in compliance with Ontario Building Code requirements.

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

The subject lands fall within the Community Shopping and Commercial, etc. "H" Zone. Should the subject rezoning not be approved, the subject lands may lawfully continue to be used for a variety of commercial uses as well as limited residential use in conjunction with said commercial uses.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

Environmental Stewardship

- ◆ Natural resources are protected and enhanced.
- ◆ Reduced impact of City activities on the environment.

Healthy Community

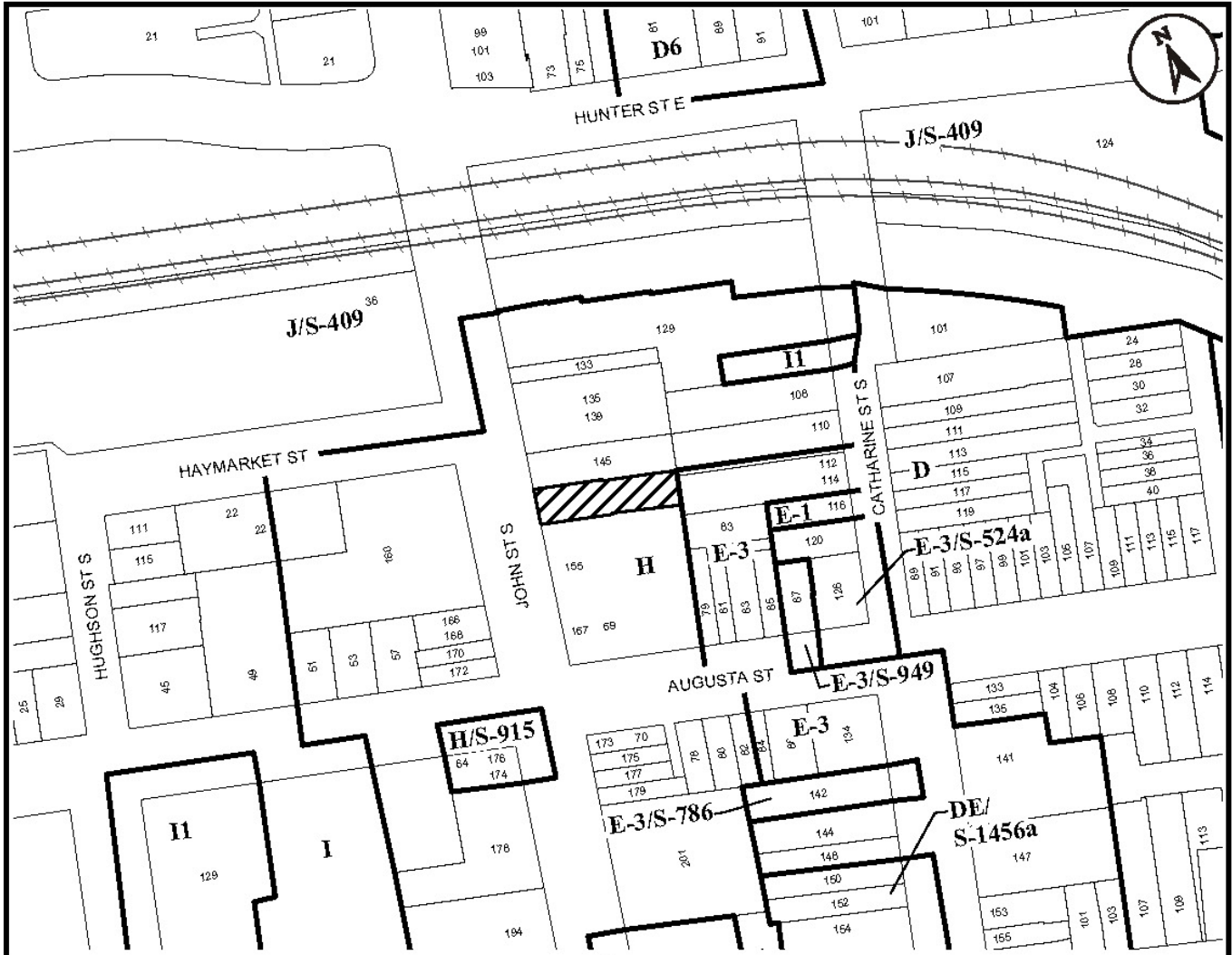
- ◆ Plan and manage the built environment.

APPENDICES / SCHEDULES

- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment
- Appendix "C": Neighbourhood Letters

:CB

Attachs. (3)



● Site of the Application



Ward 2 Key Map

N.T.S.



Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-10-043

Date:
October 19, 2010

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
CB/NB

Subject Property



151 John Street South, Hamilton

Authority: Item [REDACTED]
Planning Committee
Report 11-[REDACTED] (PED11###)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 6593 (Hamilton), as Amended,
Respecting Lands Located at 151 John Street South (Hamilton)**

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of 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 Zoning By-law No. 6593 (Hamilton) was enacted 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 [REDACTED] of Report 11-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2011, 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 City of Hamilton (the Official Plan of the former City of Hamilton).

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

1. That Map E5 of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), as amended, is hereby further amended as follows:
 - (a) By changing the zoning from the "H" (Community Shopping and Commercial, etc.) District, to the "H - 'H'/S-1647" (Community Shopping and Commercial, etc. - Holding) District, Modified, for the lands comprised of Block "1"; and,
2. That the "H" (Community Shopping and Commercial, etc.) District regulations, as contained in Section 14 of Zoning By-law No. 6593, be modified to include the following special requirements for the lands comprised of Block "1":
 - (a) Notwithstanding Sections 14.(1) and 18A of By-law No. 6593, the following uses shall also be permitted:
 1. A multiple residential dwelling within the existing building containing no more than 16 dwelling units and together with 0 parking spaces,
3. That the 'H' symbol applicable to lands referred to in Section 1 of this By-law shall be removed upon receiving:
 - (a) Final approval of a Site Plan Control application, to the satisfaction of the Manager of Development Planning.
 - (b) Proof that a noise warning clause has been registered on title to the property, to the satisfaction of the Manager of Development Planning.

The 'H' symbol shall be removed by amendment to this By-law and thereby give effect to the "H/S-1647" (Community Shopping and Commercial, etc.) District, Modified, once the above condition has been fulfilled.
4. That By-law No. 6593 (City of Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1647.
5. 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" district provisions, subject to the special requirements in Section 3 of this By-law.

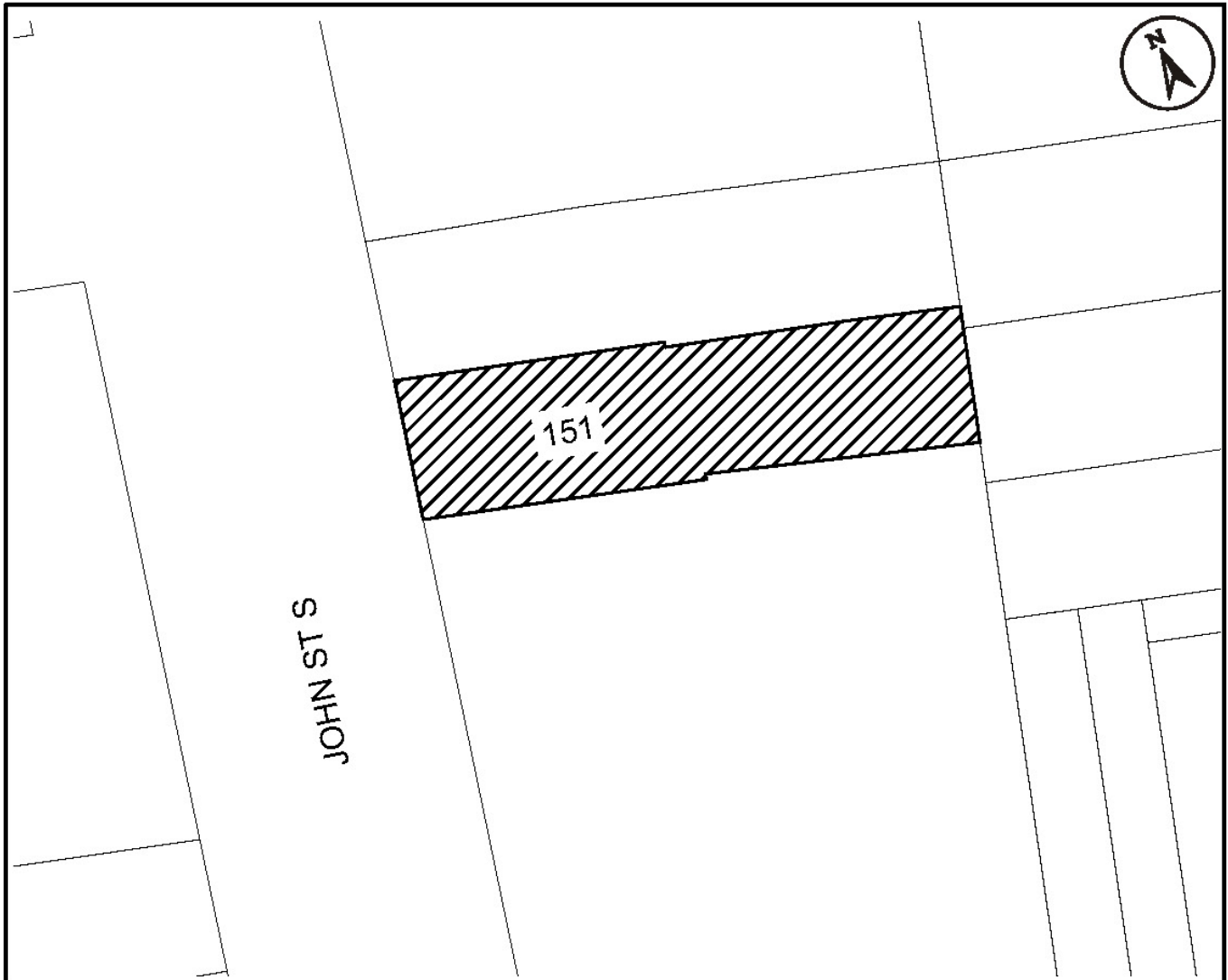
6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED on this [REDACTED] day of [REDACTED], 2011.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAR-10-043



This is Schedule "A" to By-Law No. 11-

Passed the day of, 2011

Clerk

Mayor

Schedule "A"

Map Forming Part of
By-Law No. 11-_____

to Amend By-law No.6593

Subject Property

151 John Street South, Hamilton



Change in zoning from the "H" (Community Shopping and Commercial, etc.) District to the "H-H/S-1647" (Community Shopping and Commercial, etc. - Holding) District, Modified

Scale:
N.T.S.

File Name/Number:
ZAR-10-043

Date:
June 9, 2011

Planner/Technician:
CB/NB



Hamilton

1804461 ONTARIO INC.
46 FOREST AVENUE, HAMILTON,
ONTARIO, CANADA L8N 1X1

RECEIVED NOV 23 2010

November 19, 2010

Chris Bell
City of Hamilton
Planning and Economic Development Department
Planning Division – Development Planning – West Section
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

DELIVERED BY EMAIL, FAX AND HAND DELIVERY
Email: chris.bell@hamilton.ca Fax No. 905-546-4202
No. Of Pages: Operator's Name: Kim This document is confidential and privileged. Disclosure to other than the named recipient may result in breach of certain laws and infringement of third party rights. If you receive this communication in error, contact us immediately.

Dear Sir/Madam:

Re: Zoning By-Law Amended Application of 151 John Street South
Your File No. ZAR-10-043

I am a principal of the owner of 145 John Street South. This property is immediately adjacent (to the north) of 151 John Street South.

We are opposed to any bylaw variation to allow for an 18-unit apartment building for the following reasons:

1. 151 John Street South was originally built as a commercial building. It is not set up or suited to house any 18-unit apartment building;
2. Our information is that it is not in fact an 18-unit apartment building, but is rather more of a boarding or rooming house. In this regard, what is meant by this is that there are not 18 self-contained units with kitchens and washrooms of their own. Rather they are shared facilities;
3. The occupants of 151 John Street South regularly interfere with our use of 145 John Street South. In particular, the following is noted:
 - a. The occupants of 151 John Street South regularly, despite the posting of signs, park on the property at 145 John Street South. This supports the fact that the use of this property as an 18-unit building is not appropriate;
 - b. 151 John Street South only has three parking spots. Again, this supports the fact that this building is not suited to allow for 18 apartments; and
 - c. The occupants of 151 John Street South leave garbage and refuse on our property at 145 John Street South.

4. The laneway to the 3 parking spots of 151 John Street South and the 7 to 8 parking spots of 145 John Street South is a mutual laneway. Both properties have the right of way to travel over this laneway over the property. For this reason as well, it is not appropriate to have 18 apartments so as to have this mutual laneway used excessively and potentially blocked. While this has not occurred often, it has occurred and it too is a problem.

We ask that any and all submissions from surrounding neighbours or owners of property be provided to us. We also ask that all reports that are filed in response to the application from the City or on behalf of various departments of the City and other interested government offices be provided to us as well.

I thank you for your attention to this matter.

Yours very truly,

1804461 Ontario Inc.

Per:



Walter R. Wellenreiter
President



1804461 ONTARIO INC.
46 FOREST AVENUE
HAMILTON, ONTARIO L8N 1X1

March 21, 2011

Chris Bell
City of Hamilton
Planning and Economic Development Department
Planning Division – Development Planning – West Section
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

DELIVERED BY FAX ONLY Email: chris.bell@hamilton.ca Fax No. 905-548-4202 No. Of Pages: 3 Operator's Name: Kim This document is confidential and privileged. Disclosure to other than the named recipient may result in breach of certain laws and infringement of third party rights. If you receive this communication in error, contact us immediately.
--

Dear Sir/Madam:

Re: Opposition to Zoning By-Law Amended Application of 151 John Street South
Your File No. ZAR-10-043

I refer you to my letter of November 19, 2010, a copy of which is attached hereto.

Since delivering this letter to you it has come to our attention that some of the residents of 151 John Street South are engaging in illegal drug activity at the rear of the premises behind 145 John Street South and 151 John Street South. It is important to understand that drug deals and drug use are happening both in the evening time and in the middle of the day during business hours.

This drug activity is, of course, totally unacceptable and illegal. In addition, however, it lends further support to our position that the variation being sought with respect to 151 John Street South is not appropriate and should be denied. Having an 18-unit apartment building that is and would effectively be used as a boarding house for people who are engaged in illegal activity in a residence that lends itself to that use is not appropriate and cannot be permitted or condoned should the Amended Application be permitted.

I thank you for your attention to this matter.

Yours very truly,

1804461 Ontario Inc.

Per:

Walter R. Wellenreiter
President



1804461 ONTARIO INC.
46 FOREST AVENUE
HAMILTON, ONTARIO L8N 1X1

RECEIVED APR 13 2011

April 14, 2011

Chris Bell
City of Hamilton
Planning and Economic Development Department
Planning Division – Development Planning – West Section
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

DELIVERED BY FAX ONLY
Email: chris.bell@hamilton.ca
Fax No. 905-546-4202
No. Of Pages: 2
Operator's Name: Kim
This document is confidential and privileged.
Disclosure to other than the named recipient
may result in breach of certain laws and
infringement of third party rights. If you receive
this communication in error, contact us
immediately.

Dear Sir/Madam:

Re: Opposition to Zoning By-Law Amended Application of 151 John Street South
Your File No. ZAR-10-043

Please find enclosed a copy of our letter dated April 13, 2011 to the owner of 151 John Street South regarding problems with the garbage and waste disposal of the occupants of 151 John Street South.

Please add this and the attached letter to your file records regarding your file no. ZAR-10-043

Thank you for your attention to this matter.

Yours very truly,

1804461 Ontario Inc.

Per:

Walter R. Wellenreiter
President

1804461 ONTARIO INC.
46 FOREST AVENUE
HAMILTON, ONTARIO L8N 1X1

April 13, 2011

Owner/Superintendent
151 John Street South
Hamilton, ON L8N 2C3

Sent Via XpressPost

RE: Notice re. 151 John Street South - Garbage/Waste Disposal

To Whom It May Concern:

It has come to our attention that the occupants of 151 John Street South are disposing of their garbage (including food waste) by wrongly disposing of it behind our neighbouring building, being 145 John Street South each week. This must stop immediately.

This is a serious matter involving trespass, nuisance and damage to property. In addition, the garbage represents a health hazard and a trip hazard. Therefore, you are hereby placed on notice that we will be looking to you for full indemnification of costs associated with the continued cleanup of your building's garbage, as well as, with respect to any damage caused by the actions or omissions of the occupants of 151 John Street South.

There are presently several bags of garbage that were left behind our 145 John Street South building by occupants of 151 John Street South this past Tuesday morning, being garbage pick-up day. These bags need to be removed immediately and any mess needs to be cleaned up.

Please notify the occupants of 151 John Street South immediately that they may not trespass onto 145 John Street South's property.

Finally, it would appear that the garbage and waste facilities at 151 John Street South are not suitable or sufficient for the number of occupants presently occupying your premises. Please make arrangements to have proper secure garbage and waste containers placed on your premises for use by the occupants of 151 John Street South.

Thank you, in advance, for your consideration.

Yours very truly,

1804461 Ontario Inc.

Per:



Walter R. Wellenreiter
President

Cc: City of Hamilton