



Hamilton

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD AFFECTED:</b> WARD 12
<b>COMMITTEE DATE:</b> November 22, 2011	
<b>SUBJECT/REPORT NO:</b> Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster) (PED11202) (Ward 12)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Cam Thomas (905) 546-2424, Ext. 4229
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

That approval be given to **Amended Zoning Application ZAC-01-011, by Bud’s Spas and Pools, Owner**, for changes in zoning from the Agricultural “A” Zone to the Neighbourhood Commercial “H-C1-636” Holding Zone, Modified, with a Special Exception and Holding Provision, to permit a driveway, associated landscaping, and a private sanitary system for a spa and swimming pool business (Block 1), and from the Rural Commercial “C5-269” Zone, Modified, to the Neighbourhood Commercial “C1-631” Zone, Modified, with a Special Exception, to permit a spa and pool business (Block 2), on lands known as 587 and 591 Garner Road East, in the former Town of Ancaster, shown as Blocks 1 and 2 on Appendix “A” to Report PED11202, on the following basis:

- (a) That the Draft By-law, attached as Appendix “C” to Report PED11202, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.
- (b) That the amending By-law be added to Map 1 to Schedule “B” of Zoning By-law No. 87-57.

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- (c) 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 for Block 1. The Holding provision will prohibit the development of the subject lands until such time as the following conditions have been satisfied:
- (i) The assembly of 581, 587, and 591 Garner Road East, incorporating all of the affected parcels, to the satisfaction of the Director of Planning; and,
  - (ii) Site Plan approval for 581, 587, and 591 Garner Road has occurred for comprehensive development on the assembled parcels, to the satisfaction of the Director of Planning.
- (d) That the proposed changes in zoning conform to the Places to Grow Growth Plan, and are consistent with the Provincial Policy Statement.
- (e) That the proposed changes in zoning conform to the Hamilton-Wentworth Official Plan.
- (f) That the proposed changes in Zoning are in conformity with the Town of Ancaster Official Plan, the Meadowlands Neighbourhood III Secondary Plan, and the new Urban Hamilton Official Plan.

### **EXECUTIVE SUMMARY**

The purpose of this application is to amend the Ancaster Zoning By-law to permit the proposed redevelopment of an existing business at 591 Garner Road East, known as Bud's Spas and Pools, in conjunction with the adjacent lands to the west at 587 Garner Road East (see Appendix "A"). The proposed redevelopment and expansion of the property is to facilitate the reorganization of the business to provide improved access and circulation, and the removal of outdoor storage.

The property at 587 Garner Road East would only be used for access and landscaping, and the redevelopment of the pool and spa business would occur only on 591 Garner Road East. The proposal has merit and can be supported because Holding 'H' provisions would be applied to 587 Garner Road East to implement the Meadowlands Neighbourhood III Secondary Plan to ensure that the properties at 581, 587, and 591 Garner Road East are assembled and subject to Site Plan approval for the eventual development of a Neighbourhood Commercial Centre. As the proposal involves changes to accommodate an existing use, private services would continue to be permitted until sanitary services along Garner Road become available. The proposed Zoning Amendment, as recommended by staff, is consistent with the Provincial Policy Statement, conforms to the Places to Grow Growth Plan, the Hamilton-Wentworth

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Official Plan, the Ancaster Official Plan, the Meadowlands Neighbourhood III Secondary Plan, and the new Urban Hamilton Official Plan.

*Alternatives for Consideration - See Page 20.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** None.

**Staffing:** None.

**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.

**HISTORICAL BACKGROUND**

The use, known as Bud's Spas and Pools, has operated on the property at 591 Garner Road East since 1974 (see Appendix "A"). The existing business operates as a sales showroom and retail centre for pools, hot tubs, and pool supplies, and also has a service component which provides deliveries, installation, and maintenance for spas and swimming pools within the surrounding area. The yard behind and west of the store includes an area for the outdoor storage of pool and spa parts and 2 workshops (see Appendix "C"). This area is fenced and is not visible from Garner Road. The service vehicles park on the westerly side of the property within a fenced area.

The property is currently zoned Rural Commercial "C5-269" Zone in the Ancaster Zoning By-law, which permits the existing uses for "swimming pool sales and service."

The adjacent property to the west at 587 Garner Road East is zoned Agricultural "A" Zone, and has 15.5 metres of frontage and a lot area of 0.12 hectares. The property is currently vacant, but was previously occupied by a single-detached dwelling. The property was acquired by Bud's Spas and Pools, and the rear portion of the property is being used for outdoor storage and for the parking of service vehicles.

**Zoning Application ZAC-11-011**

The purpose of the proposed rezoning is to accommodate a new pool and spa showroom and an expanded parking area for Bud's Spa and Pools by merging the existing parcel with the abutting property to the west (approximately 1,187.7 square metres), located at 587 Garner Road East (see Appendix "C"). The proposal is intended to facilitate the improved development and functioning of the site by providing a suitably-sized showroom that would eliminate the need for outdoor storage, and by providing improved parking facilities, access, and circulation on the site. The proposed

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redevelopment is also intended to accommodate the continuation of the property on private sanitary services until the planned extension of the sanitary trunk system occurs along Garner Road East.

Based on the conceptual site plan, the proposed 609.9 square metre showroom is identified on the existing site, and the property at 587 Garner Road East is intended for access and landscaping. The existing frame storage building located at the rear of 591 Garner Road East is shown to be retained on the property, and the smaller storage building abutting 587 Garner Road East would be removed.

The expanded property would have 50 metres of frontage and 0.41 hectares (1 acre) of total lot area. The concept plan identifies the building to be centrally located on the site with the following setbacks:

- Front Setback 22.57m
- Easterly Side Yard Setback 14.37m
- Westerly Side Yard Setback 13.81m
- Rear Yard Setback 20.30m

The concept plan identifies access driveways on the easterly and westerly sides of the property, and the provision of 26 parking spaces within the front yard area and surrounding the building. The proposed parking allotment is consistent with the requirements of the Ancaster Zoning By-law. The concept plan further proposes a 3.72m wide buffer along the westerly property boundary abutting the residential property at 581 Garner Road East.

**Chronology:**

December 14, 2009: Completion of Review of the application under Formal Consultation Application (FC-11-011).

February, 16, 2011: Submission of Application ZAC-11-011 by WEBB Planning Consultants Inc.

February 18, 2011: Application ZAC-11-011 is deemed complete.

March 2, 2011: Site Visit.

March 3, 2011: Circulation of Notice of Complete Application and Preliminary Circulation for Application ZAC-11-011 to all property owners within 120m of the subject lands.

November 4, 2011: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands.

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**Details of Submitted Application**

**Owner:** Bud's Spas and Pools (William Bell)  
**Location:** 587 and 591 Garner Road East (Ancaster) (see Schedule "A")

<b><u>Property Size:</u></b>	<b><u>Existing Showroom</u></b> (591 Garner Rd. E.)	<b><u>Proposed Lot to be</u></b> <b><u>Added</u></b> (587 Garner Rd. E.)	<b><u>Overall</u></b>
<b><u>Frontage:</u></b>	35.35m	15.54m	50.89m
<b><u>Depth:</u></b>	80.45m	80.45m	80.45m
<b><u>Area:</u></b>	2,915.7m <sup>2</sup>	1,187.7m <sup>2</sup>	4,103.4m <sup>2</sup>

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Pool and Spa Showroom (591 Garner Road East)	Site-Specific Rural Commercial "C5-269" Zone
	Vacant (587 Garner Road East)	Agricultural "A" Zone
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Single-Detached Dwellings	Agricultural "A" Zone
<b>East</b>	Auto Collision and Repair Service (Car Star)	Site-Specific Commercial "C6-343" Zone
<b>South</b>	Golf Driving Range	Site-Specific Agricultural "H-A-455" Zone
<b>West</b>	Single-Detached Dwellings	Agricultural "A" Zone

<b>POLICY IMPLICATIONS</b>
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**Provincial Policy Statement**

The following policies from the PPS are of relevance to the proposed expansion and redevelopment of the commercial spa and pool showroom:

*“1.1.1 Healthy, livable, and safe communities are sustained by:*

- b) accommodating an appropriate range and mix of residential, employment (including, industrial, commercial, and institutional uses), recreational, and open spaces to meet long-term needs;*
- c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;”*

The policies are general in nature and can support a range of uses within communities. However, it would be appropriate to ensure that the proposed spa and pool business can be developed in an efficient and comprehensive manner that will provide for future commercial uses to serve the surrounding neighbourhood and which would minimize impacts on the adjacent area.

With respect to servicing, the following policies are provided concerning the use of partial services which apply to this application:

*“1.6.4.5 Partial services shall only be permitted in the following circumstances:*

- (a) where they are necessary to address failed individual on-site sewage services and individual on-site water services in existing development; and,*
- (b) within Settlement Areas, to allow for infilling and rounding out of existing development on partial services provided that:*
  - i) the development is within the reserve sewage system capacity and reserve water system capacity;*
  - ii) site conditions are suitable for the long-term provision of such services.”*

With respect to the above-noted policies, the use of partial services (i.e. private sanitary and storm drainage systems) was requested to permit the proposed redevelopment of the spa and pool business to continue to operate on private sanitary services. This allowance would typically be suitable for an interim period. Under the anticipated scenario for comprehensive development, involving 591, 587, and 581 Garner Road East, it would be necessary for the commercial use to operate on full municipal services.

Staff would note that the subject lands are within an area that is under review for an Environmental Assessment as part of the Airport Employment Growth District (AEGD). The Secondary Plan for AEGD lands and the associated Environmental Assessment for the services are under appeal to the Ontario Municipal Board and the Environmental Review Tribunal, respectively. Based on the City’s direction for the development of the

AEGD Lands, the future servicing for Garner Road in the vicinity of the subject lands is recognized as a development priority for the City, but is subject to a favourable decision of the Ontario Municipal Board and Environmental Review Tribunal in order for the services to be implemented. As the timing for the extension of the sanitary trunk sewer along Garner Road is not known at this time, and since a number of uses have been operating in this area on partial services for several decades, the proposed development is considered to be consistent with Policy 1.6.4.5 (b) (ii).

Therefore, based on the foregoing, the proposal as recommended is consistent with the PPS.

### **Places to Grow Plan**

The following policies from the Places to Grow Growth Plan relate to policies for managing growth and infrastructure, including water and wastewater systems:

*“2.2.2h) Encouraging cities and towns to develop as complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space, and easy access to local stores and services.*

*3.2.6.3 An appropriate range of community infrastructure should be planned to meet the needs resulting from population change and to foster complete communities.*

With respect to Policy 2.2.2h), as noted above, the proposed redevelopment would allow for improvements to the site, which would contribute to the development of a more complete community and which would support and encourage comprehensive development. Staff’s recommendation to encourage comprehensive development through further land assembly and the use of a Holding ‘H’ provision, and by providing a broader range of commercial uses in the amending Zoning By-law to eventually serve the surrounding neighbourhood, would be consistent with this policy.

With respect to Policy 3.2.6.3, the proposal is within an area that is expected to eventually transition from partial to full municipal services. The extension of services along Garner Road is required for the development of the AEGD lands to the south, but will be dependent upon the resolution of appeals to the AEGD Secondary Plan and Environmental Assessment. In the event that the AEGD lands are approved, extensive infrastructure planning, through the EA process, will be required to address the development of future services for the employment lands.

Until the provision of full services becomes available along Garner Road East, the allowance for the proposed showroom to be redeveloped, and to continue to operate on private services, is considered to be a reasonable option for the renovated property because the proposal would maintain an existing use that would not be further intensified. (For the proposed redevelopment, a septic system is required and is subject to a permit under the Ontario Building Code.)

Based on the foregoing, the recommended proposal conforms to the Places to Grow Growth Plan.

### **Hamilton Wentworth Official Plan**

The lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan. The following policies from the Hamilton-Wentworth Official Plan are considered to be applicable to this proposal:

*“C-3.1 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.*

*C-3.1.6.1 Direct retail/commercial/office uses to locate in Mixed-Use Activity Centres and Corridors, shopping centres, and existing planned retail areas.*

With respect to Policy C.3.1, it is recognized that while the Urban Area is intended to have full municipal services over time, there are areas along the City’s Urban-Rural boundaries that are on partial or private services. Such areas are expected to transition to full municipal services through the development process. The subject property is situated along the Urban-Rural Boundary on partial services, and is within an area of priority development for the extension of the sanitary trunk sewer pending the approval of the AEGD lands. The allowance for the pool and spa business to continue to operate on private sanitary services is considered to be reasonable because the redevelopment of the building would occur only on the existing property at 591 Garner Road East and the acquired parcel would only be used for access purposes and landscaping.

With respect to Policy C-3.1.6.1, it is noted that the subject property is part of a planned commercial area in the Ancaster Official Plan, which is intended to serve the adjacent urbanizing neighbourhood. The proposed expansion of the property to accommodate an existing commercial use would be considered consistent with this policy recognizing the improvements to the site which may facilitate future neighbourhood commercial development (i.e. improved parking and access, landscaping, and the removal of outdoor storage) and in recognition that full services would be required for the comprehensive development of the future Neighbourhood Commercial Centre.



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Based on the foregoing, the recommended proposal conforms to the Hamilton-Wentworth Official Plan on the basis that the redevelopment is reasonable (i.e. not an expansion) and would facilitate comprehensive development when full municipal services are available.

**Ancaster Official Plan**

The subject property is designated “Residential” on Schedule “B”, Land Use Plan for the Urban Area. However, the lands are also included within the Meadowlands Neighbourhood III Secondary Plan, and are more specifically designated “Commercial” (see Appendix “E”). Policy 6.6.28(c) of the Ancaster Official Plan directs that the policies of the Secondary Plan will prevail in such instances where there are conflicts due to more than one land use designation.

The Ancaster Meadowlands Neighbourhood III Secondary Plan applies to lands between Stonehenge Drive on the north, and Garner Road East on the south, and between Southcote Road on the west, and Redeemer University on the east.

The Commercial policies applicable to this proposal are intended for local or neighbourhood commercial development on 0.97 ha (2.4 acres) and apply to the following properties identified on Map 1, Land Uses (see Appendix “E”):

- 581 Garner Road East (a 0.21 ha residential lot with a single-detached dwelling);
- 587 Garner Road East (a 0.12 ha partially vacant property, which is intended for the redevelopment of Bud’s Spas and Pools);
- 591 Garner Road East ( Bud’s Spas and Pools, a 0.29 ha property); and,
- 605 Garner Road East (Car Star Collision Centre, a 0.35 ha property).

The following commercial policies are applicable to the proposed rezoning application:

“6.6.10(a) *Council shall utilize a Holding (H) provision in order to ensure that the subject lands are assembled and developed in a comprehensive manner. The subject lands shall be comprehensively planned incorporating all of the affected parcels. The Holding (H) provision shall not be removed until such time as Site Plan Approval has been granted on the assembled parcel. Site planning shall ensure access driveways onto Garner Road East are minimized and properly sited.*

- 6.6.10(b) *Until such time as the Holding (H) provision is removed and the lands are redeveloped, the existing residential uses and the existing commercial use may continue, and minor additions, alterations, or renovations shall be permitted. Any intensification that compromises the comprehensive redevelopment of the lands shall be prohibited.*
- 6.6.10(c) *Permitted uses shall include existing uses, retail, and personal services that primarily serve the day-to-day needs of Meadowlands Neighbourhood III residents such as a milk store, variety store, drug store, dry cleaning depot, walk-in medical clinic, or community service office.*
- 6.6.10(d) *The Town's Zoning By-law may restrict gross floor area of commercial operations within Meadowlands Neighbourhood III."*

Concerning Policy 6.6.10(a), the comprehensive development of the 4 commercial properties at 581, 587, 591, and 605 Garner Road East has not yet occurred, most likely because the area does not have full municipal services (i.e. storm and sanitary sewers). This has resulted in the retention of existing residential and commercial uses on these properties on private services. The use of a Holding (H) Provision for the 4 properties was also never implemented under the former Town of Ancaster. It would not be appropriate to extend the provisions of the Holding 'H' symbol to the property occupied by Car Star at 605 Garner Road East in any future land assembly at this time because it is an existing use established circa 1990, and does not constitute part of the subject application. However, staff is of the opinion that the intent of the Official Plan could be maintained through the requirement for a land assembly involving the properties at 581, 587, and 591 Garner Road East, which comprise approximately 64% of the designated commercial lands. In addition, any future proposal to redevelop the lands located at 605 Garner Road East will be required to demonstrate how it will be developed comprehensively with the adjacent lands.

The proposal to expand Bud's Spas and Pools would have the effect of allowing for the redevelopment of an existing commercial use, however, the expanded use would be entirely on the existing property allowing the additional parcel to be used for access and landscaping purposes. The proposal would allow the site to be better maintained and organized by allowing for improved parking and site circulation, and by eliminating the need for outdoor storage. The improvements to the site would enable the expanded parcel to be easily integrated with 581 Garner Road for the development of a small neighbourhood commercial centre.

The use of Holding 'H' provisions in the amending zoning would remain in effect for the acquired parcel (587 Garner Road East) to limit the use to access and landscaping purposes only until the lands at 581, 587, and 591 Garner Road East have been assembled and have been granted Site Plan Approval to ensure that proper access and circulation and other development interests are addressed.

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Concerning Policy 6.6.1(b), the existing spa and pool business is a type of arterial or rural commercial use that would be most appropriately located along a major commercial corridor or within a major commercial centre. However, as noted, the proposed redevelopment to include 587 Garner Road East is considered a positive change for the site that would not compromise the comprehensive commercial development of the adjacent properties. The site improvements such as access, circulation, parking, the provision of landscaping, and the removal of outdoor storage would contribute to better site functioning and more compatible development with adjacent future residential development.

To illustrate a possible form for comprehensive development, a concept is provided which shows the integration of the spa and pool business as part of a developed commercial area (see Appendix “G”).

Concerning Policy 6.6.10(c), as the recommended approach of staff would maintain an existing commercial use, provide improvements to the functioning of the site, and opportunities for neighbourhood-type commercial uses through comprehensive development, it would conform to this policy. Moreover, the recommended amending zoning, including the use of Holding provisions, would allow for the development of neighbourhood commercial uses, consistent with the Official Plan policy, following the assembly of the properties and site plan approval.

Concerning Policy 6.6.10(d), the recommended By-law for the amended zoning for 591 Garner Road East will address the maximum gross floor area for the showroom (i.e. maximum 610 square metres), which is based on the applicant’s conceptual site plan (see Appendix “C”).

The property abuts lands to the north, which are part of 509 Southcote Road. The rear portion of this property is designated “Low Density Residential 2” in the Meadowlands Neighbourhood III Secondary Plan, which permits single and semi-detached dwellings. The lands include a portion of the Southcote Road Subdivision (25T-200906), which was recently approved for smaller lot, single-detached lots, and abut the Mattamy Subdivision to the southeast which has recently been developed for street townhouses and single-detached dwellings. The proposed redevelopment of the spa and pool showroom, as part of a comprehensive plan and land assembly, would provide for greater compatibility for the adjacent future residential development due to the removal of outdoor storage from the rear of the site and the creation of improved site circulation.

In addition to the above, the following infrastructure policies are also relevant to this proposal:

*“6.6.16(a) The Meadowlands Neighbourhood III shall be developed on the basis of full municipal services in accordance with the Environmental Services and Infrastructure policies in Section 2 of the Official Plan.”*

- 3.3.1 *Notwithstanding Policy 3.1.6 of this Plan, development of the urban Area shall be permitted only on the basis of full municipal services, including storm sewers designed to take surface run-off. (abbrev.)*

As Neighbourhood III is within the Urban Area and is part of the former Regional system, full services are expected to be provided along Garner Road East in accordance with Policy 6.6.16(a). In this regard, if the AEGD Secondary Plan is approved, it may be possible for the proposed showroom to be developed on full municipal services; however, the timing of this is not known. Additionally, the comprehensive development of 581, 587, and 591 Garner Road East as a Neighbourhood Commercial Centre could only occur when full municipal services are available which would be consistent with the Meadowlands Neighbourhood III Secondary Plan. Since the redevelopment of the pool and spa business on partial services is intended for an interim period, and is to reorganize an existing use through improved access on the acquired parcel without further intensification, the proposal would conform to the servicing policies of the Official Plan.

Therefore, based on the foregoing, the proposal conforms with the Ancaster Official Plan on the basis that the approval is subject to Holding provisions to ensure comprehensive development through land assembly and Site Plan Approval, as well as ensuring that planned development will occur on full municipal services.

### **New Urban Hamilton Official Plan (Council Adopted)**

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been approved by the Ministry of Municipal Affairs and Housing, but has been appealed, and is not yet in effect.

Under the Meadowlands Neighbourhood III Secondary Plan in the Urban Hamilton Official Plan, the subject property is more specifically designated "Local Commercial" (see Appendix "F"). The Secondary Plan policies include the following:

- "2.5.2.1 a) *Within the Local Commercial designation, as identified on Map B.2.5.1, Meadowlands Neighbourhood II - Land Use Plan, a commercial facility shall be permitted subject to the following criteria:*
- i) *Permitted uses shall be existing uses, retail, and personal services that primarily serve the day-to-day needs of Meadowlands Neighbourhood III residents such as a milk store, variety store, dry cleaning depot, walk-in medical clinic, or community service office.*

- ii) *Council shall use a Holding provision in order to ensure that the subject lands are assembled and developed in a comprehensive manner. The subject lands shall be comprehensively planned incorporating all of the affected parcels. The Holding (H) provision shall not be removed until such time as Site Plan Approval has been granted on the assembled property. Site planning shall ensure that access driveways onto Garner Road East are minimized and properly sited.*
  
- iii) *Until such time as the Holding (H) provision is removed and the lands are redeveloped, the existing residential uses and the existing commercial use may continue, and minor additions, alterations, or renovations may be permitted. Any intensification that compromises redevelopment of these lands shall be prohibited.”*

The policies are consistent with the Meadowlands Neighbourhood III Secondary Plan of the Ancaster Official Plan, except that the policy to restrict gross floor area of commercial operations in the Zoning By-law has been omitted. For the analysis of these policies, please refer to the Ancaster Official Plan policy discussion.

The subject property is within the “Neighbourhoods” designation in the Hamilton Urban Official Plan, which permits local commercial uses.

The applicable commercial polices include the following:

*“3.8.1 Local commercial uses that primarily cater to the weekly and daily needs of residents within the surrounding neighbourhood may be permitted within the Neighbourhood’s designation.*

*3.8.2 The following uses shall be permitted:*

- a) *retail and service uses such as a craftsperson shop, day nursery, commercial school, financial establishment, medical office, business office, professional office, motor vehicle service station, place of worship, repair services, restaurant, studio, art gallery, tradesperson’s shop, and veterinary service.”*

With respect to Policies 3.8.1 and 3.8.2, staff would note that the spa and pool showroom is a specialized use that would generally serve a broader population base than the surrounding neighbourhood, and which would also be suitably located in a specialized commercial area such as the District or Arterial Commercial designation. However, staff also recognizes the business as an existing use which has served the surrounding area for over 40 years, and as a provider of pool chemicals and supplies

which serve the surrounding neighbourhoods. Although existing uses are not included in the above-noted general policies, they are recognized in the policies that apply to the Ancaster Meadowlands Neighbourhood III Secondary Plan. On this basis, the redevelopment of the existing use to allow for improvements to the functioning of the site would be appropriate.

*“3.8.4 Local commercial uses may be permitted in the following built forms:*

- a) small single use buildings such as those occupied by a convenience store or a medical office;*
- b) a plaza form at varying scales containing multiple commercial uses;*
- c) a main street configuration with multiple commercial uses; or,*
- d) multiple storey buildings with the local commercial uses on the ground floor and residential units above.”*

Staff supports the assembly of 581, 587, and 591 Garner Road East to ensure comprehensive development. The form of the development will be consistent with the above policy and will be examined through the Site Plan Approval process.

With respect to infrastructure, the following policies are considered relevant to this proposal:

*“5.3.5 All new development and redevelopment within the urban area shall be connected to the City’s water and wastewater system.*

*5.3.14 Expansion of water and wastewater systems within the urban area shall be in accordance with the Water and Wastewater Master Plan and Staging of Development Plan, as well as supporting the City’s density and intensification targets, as detailed in Sections A.2.3.3 - Other Targets and b.2.5 - residential Intensification.”*

Concerning Policies 5.3.5 and 5.3.14, it has been noted that sanitary services are currently not available, and are tied to the development of the AEGD lands which are currently under appeal to the Board. As previously noted, staff is in support of the proposed redevelopment of the property on private services because it would allow for the continuation and improvement to an existing use. When the services become available, and prior to any comprehensive development being permitted, the private sanitary services will need to be decommissioned and replaced with full services in accordance with these policies.

Therefore, the proposal conforms with the policy direction provided in the Urban Hamilton Official Plan.

### **PUBLIC CONSULTATION**

In accordance with Council's Public Participation Policy, the applications were pre-circulated to all property owners within 120 metres, and a sign was posted on the site. A total of 69 notices were circulated. To date, no letters have been received from the public for this application. Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through the circulation of the property owners within 120 metres of the subject lands and through the posting of a sign on the property.

### **RELEVANT CONSULTATION**

The following internal departments and external agencies had no concerns or objections to the proposed applications:

- Hamilton Municipal Parking System.
- Budgets and Finance Division, Corporate Services Department.
- Traffic Planning.
- Horizon Utilities.

#### **Rapid Transit Section (Public Works Department)**

Rapid Transit has advised that the City has proposed a potential expansion of higher order Rapid Transit along Rymal Road (Garner Road) in the long term. From a Rapid Transit perspective, the proposal does not impact the Corridor and does not compromise the potential for development of this Corridor for higher order transit.

All road widenings that are required, as defined by the Official Plan, should be taken in order to facilitate a future design of a Rapid Transit Corridor along Rymal Road (Garner Road).

#### **Source Water Protection (Public Works Department)**

For the proposed expansion of the showroom, an increase in permeable surfaces is expected with the creation of a new building and parking area on the lot. With this increase, an increase in runoff should be expected and, as a result, a Stormwater Management Report, prepared by a competent authority, should be included for the proposed structure and parking area. Silt and sediment control measures should be implemented during the construction phases, and recommendations from the City of Hamilton Stormwater Master Plan for source and conveyance control should be incorporated into the service plan.

**Infrastructure and Source Water Planning (Public Works Department)**

Infrastructure and Sourcewater Planning is satisfied under Section 8.8.1.2 (d) that a tank (Class 5 - larger than present, if required, considering anticipated flows with expansion) is far superior to installing a complete Class 4 system (with tile bed) given the intent to provide municipal sewage services for the area in the future. A temporary tank is highly preferable to installing a temporary tile system in this case. The longer term impact associated with a tile bed installation would be far greater than a temporary holding tank. (Note: However, given the unknown timing of the sanitary service, it is recognized that a holding tank would not be permitted unless services are imminent and that a septic system would be required.)

Municipal water is currently available. Continued reliance on any existing private wells in the area should not be affected by the temporary installation of a larger Class 5 system, however, all eligible water users in the urban area should be connecting to the existing municipal water system as soon as possible.

**Forestry and Horticulture Section (Public Works Department)**

There are no Municipal Tree Assets on the current road allowance fronting the proposed development. More detailed tree management information concerning these trees within the required road widening and in proximity to the road widening will be required at the Site Plan Approval stage.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

1. The proposal can be supported for the following reasons:
  - (i) It is consistent with the intent of the Provincial Policy Statement and conforms to the Places to Grow Growth Plan, which provides certain allowances for development on private services;
  - (ii) It conforms with the intent of the policies of the Hamilton-Wentworth Official Plan, which supports a full range of urban uses and for planned development to occur on full municipal services;
  - (iii) It conforms to the former Town of Ancaster Official Plan and the Meadowlands Neighbourhood III Secondary Plan; and,
  - (iv) It conforms to the Urban Hamilton Official Plan, which permits existing and neighbourhood-oriented commercial uses along a specific portion of Garner Road.



2. The proposed redevelopment of Bud's Spas and Pools was examined from an Official Plan policy perspective (Section 6.6.10) which considered the suitability of the expansion in light of policies for the development of a Neighbourhood Commercial Centre (within Meadowlands Neighbourhood III) and also with respect to the servicing requirements (Policy 6.6.16 (a)).

As noted, that there are no municipal sanitary or storm sewers on Garner Road fronting the subject lands. The catalyst for the provision of services along Garner Road will be the development of the AEGD lands. If the AEGD lands and servicing EA are approved, the timing for the provision of services along Garner Road will be developed through further processes. Under this context, staff does not object to the proposed redevelopment of the pool and spa business through the continuation of private services as an interim form of development and subject to the necessary approvals under the Ontario Building Code.

Due to the unknown time frame for the use of the private services, the proposal would require the provision of a septic system to replace the existing holding tank. While holding tanks are typically intended for short term periods and are preferable from an environmental standpoint, the provision of a septic system would allow for longer term use in accordance with the Ontario Building Code. Currently, the City's practice has been to only issue permits for holding tanks when services are recognized as being imminent; that is, within a 1 year period. Therefore, for the current proposal, a holding tank would not be a suitable or practical option for the development. It is further noted that there are no active wells on the north side of Garner Road East in the vicinity of the subject lands which could affect the development of a septic system.)

Staff is of the opinion that the Official Plan servicing policies would be maintained because the proposal concerns the reorganization of a site to better accommodate an existing use, rather than allowing for a new type of use. In spite of the proposed increase in floor area, the intensity of the use and the occupant load would remain unchanged from the current development. In the event that services are provided following the proposed redevelopment, it would be possible for this requirement to be addressed through the Site Plan Approval process by means of securities and a development agreement to ensure that the development is connected to the City's sanitary services in accordance with Policy 6.6.16 (a). Similarly, this would also apply to the decommissioning requirements for the septic system. Finally, the comprehensive development of the neighbourhood commercial centre would be on full services, which would be in accordance with the policy direction of the Meadowlands Neighbourhood III Secondary Plan.

Staff is also of the opinion that the use of the properties at 581 and 587 Garner Road East as part of a neighbourhood commercial centre would not be compromised by the development of the proposed showroom. The reorganization and improvements to the functioning of the site are recognized, and would allow for improved compatibility with adjacent residential, improved access and better integration with future commercial uses as part of a commercial centre, through the provision of landscaping and paved parking areas. On this basis, the proposal is considered to be consistent with the direction of the Official Plan so as to not compromise the future development of a Neighbourhood Commercial Centre.

Holding provisions were not previously applied by the Town of Ancaster to the properties in this area designated for Neighbourhood Commercial to address the requirement for comprehensive development. The use of a Holding provision would be applied only to the site-specific zoning for 587 Garner Road East to require land assembly and site plan approval before neighbourhood commercial development can occur, which is consistent with Policy 6.6.10(ii). The Holding provision would restrict the use of 587 Garner Road East to an access driveway and landscaping associated with the pool and spa business. Once the Holding provision has been lifted, the Site-Specific Zoning would allow for the full range of Neighbourhood Commercial “C1” Zone uses to better serve the surrounding neighbourhood, consistent with Policy 6.6.10(i).

3. The applicant has development rights under the Rural Commercial “C5-269” Zone that would allow for the redevelopment of the existing spa and pool operation only at 591 Garner Road East through Site Plan Approval. In this regard, the existing zoning would allow for up to 30% lot coverage or 851 square metres, whereas the proposed building is 610 square metres.

The recommended zoning (Appendix “B”) has been developed to conform to the direction of the Ancaster Meadowlands Neighbourhood III Secondary Plan, and would involve the creation of a modified Neighbourhood Commercial “C1-631” Zone for the property at 591 Garner Road East, and a modified Neighbourhood Commercial “H-C1-636” Holding Zone for the property at 587 Garner Road East.

In addition to permitting a spa and pool showroom, the “C1-631” Zone is recommended to also permit the full range of “C1” Zone uses, which recognizes the intent for the development of a future neighbourhood commercial centre on the property to serve the surrounding Meadowlands III Neighbourhood. The standard “C1” Zone uses include the following:

- Auctioneer establishments
- Barber shops, hairdressing shops, and beauty shops
- Business and professional offices

- Convenience retail stores
- Dressmaker or tailor shops
- Drugstores
- Dry-cleaning depots
- Insurance offices
- Libraries, museums, and art galleries
- LCBO stores
- Lounge
- Real estate offices
- Restaurants and fast food restaurants - existing
- Travel agencies
- Uses, buildings, and structures accessory to permitted uses, but excluding open storage and residential uses

The proposed redevelopment for 591 Garner Road would be generally developed in accordance with the standard provisions of the Neighbourhood Commercial “C1” Zone, with several exceptions. In particular, the front, side, and rear yard setbacks would meet the minimum “C1” Zone requirements of 13.5m, 7.5m, and 7.5m, respectively. The site-specific zoning provisions, which are required, would be addressed under modified zoning to be known as the Site-Specific “C1-631” Zone, as follows:

(a) Maximum Floor Area

- To limit the gross floor area of the main building to 610 square metres

The use of a provision to regulate the maximum gross floor area of the building would maintain the building at an appropriate scale recognizing that the use is an arterial commercial rather than a neighbourhood commercial use. This would provide better opportunities for integration as part of a comprehensive commercial development.

(b) Accessory Buildings

- To recognize the existing accessory buildings on the property at 591 Garner Road East

The existing storage buildings would be permitted to remain on the site as they provide indoor storage space for equipment and are buffered by existing mature coniferous trees along the rear property line. The consideration of new accessory buildings would be subject to the general provisions of the Ancaster Zoning By-law.

Holding Zone for 587 Garner Road East

The modified Neighbourhood Commercial “H-C1-636” Holding Zone, which is recommended for 587 Garner Road East, would permit only vehicular access, a private sanitary system, and landscaping for the pool and spa business to be redeveloped at 591 Garner Road until the ‘H’ provision is removed. The requirements for the lifting of the Holding ‘H’ provision are for the assembly of 581, 587, and 591 Garner Road as a single parcel and for Site Plan Approval to be granted on the assembled parcel, to the satisfaction of the Director of Planning. After the Holding ‘H’ provision has been removed, the full range of Neighbourhood Commercial ‘C1’ Zone uses would be permitted under the “C1-636” Zone to allow for the development of a neighbourhood commercial centre in accordance with the policy direction of the Ancaster Meadowlands Neighbourhood III Secondary Plan.

4. Prior to the review of any site plan to address the assembled parcel comprising 581, 587, and 591 Garner Road East, a rezoning application would be required for the property at 581 Garner Road East to change the zoning from the Agricultural “A” Zone to the Neighbourhood Commercial “C1” Zone to permit neighbourhood commercial uses.

Following the approval of the rezoning for 581 Garner Road East, the Site Plan Approval for the assembled parcel would be required to address issues related to the development of the site, which include conformity to the approved zoning, grading, stormwater management, landscaping, pedestrian access, driveways, parking, and building design. A road widening of 8.23m, which is shown on the conceptual site plan (see Appendix “C”), will be required as part of the Site Plan approval process.

A Development Agreement may be required to address financial securities for the future connection and costs associated with the municipal sewer installation and responsibilities for the removal of the temporary private system.

As storm sewers are not presently available, the owner will be required to submit a Stormwater Management Report to show how quality and quantity flows from the site will be addressed, and to demonstrate that the flows will be taken to a suitable outlet, to the satisfaction of the Senior Director of Growth Management.

**ALTERNATIVES FOR CONSIDERATION:**

Should the proposed Zoning By-law Amendment application be denied, the property known as 587 Garner Road East could be used for a single-detached dwelling under the Agricultural “A” Zone of the Ancaster Zoning By-law, and the property known as 591

**SUBJECT: Proposed Zoning By-law Amendment Affecting Lands Located at 587 and 591 Garner Road East (Ancaster) (PED11202) (Ward 12)**  
**- Page 21 of 21**

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Garner Road East could be used for the existing spa and pool business under the Rural Commercial “C5-269” Zone of the Ancaster Zoning By-law.

**CORPORATE STRATEGIC PLAN**

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

**Social Development**

- ◆ Residents in need have access to adequate support services.

**Growing Our Economy**

- ◆ Competitive business environment.
- ◆ Revitalized employment sites.
- ◆ Support of the application would improve the amenity of the property and may facilitate future development interest on the abutting sites to the west.

**Social Development**

- ◆ Hamilton residents are optimally employed earning a living wage.

**Healthy Community**

- ◆ Plan and manage the built environment.

**APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Draft Zoning By-law Amendment
- Appendix “C”: Proposed Development Concept for Expanded Showroom
- Appendix “D”: Proposed Building Elevations (Front and Side)
- Appendix “E”: Ancaster Official Plan: Ancaster Meadowlands Neighbourhood III Secondary Plan
- Appendix “F”: Urban Hamilton Official Plan: Ancaster Meadowlands Neighbourhood III Secondary Plan
- Appendix “G”: Plan Showing Concept for Future Comprehensive Development

:CT  
Attachs. (7)



**Authority:** Item [REDACTED]  
Planning Committee  
Report: 11-[REDACTED] (PED11202)  
CM: [REDACTED]

**Bill No.** [REDACTED]

## CITY OF HAMILTON

**BY-LAW NO.** [REDACTED]

**To Amend Zoning By-law No. 87-57 (Ancaster),  
respecting lands located at 587 and 591 Garner  
Road East, in the former Town of Ancaster, now in  
the City of Hamilton**

**WHEREAS** the City of Hamilton Act, 1999, Statues of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1<sup>st</sup>, 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 Township of Ancaster" and is the successor of 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 or the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 87-57 (Ancaster) was enacted on the 22<sup>nd</sup> day of, June 1987, and approved by the Ontario Municipal Board on the 23rd day of January, 1989;

**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. 87-57 (Ancaster) be amended as hereinafter provided;

**AND WHEREAS** this By-law is in conformity with the Ancaster Official Plan in accordance with the provisions of the Planning Act.

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

1. That Map 1 to Schedule "B", appended to and forming part of By-law No. 87-57 (Ancaster), as amended, is hereby further amended:
  - (a) by changing the zoning on the lands shown as Block 1 from the Agricultural "A" Zone to the Neighbourhood Commercial "H-C1-636" Holding Zone, Modified; and,
  - (b) by changing the zoning on the lands shown as Block 2 from the Rural Commercial "C5-269" Zone, Modified, to the Neighbourhood Commercial "C1-631" Zone, Modified;

the extent and boundaries of which are shown on Schedule "A", annexed hereto and forming part of this By-law.

2. That Section 34, Exceptions of Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following Sub-sections:

**"H-C1-636"**

Notwithstanding any provisions to the contrary of Section 22.1, Table 1 Permitted Uses, and Section 22.2, Table 2 Regulations of Neighbourhood Commercial "C1" Zone, of By-law 87-57 (Ancaster), the following special provisions shall apply to the lands zoned "H-C1-636" Holding Zone:

- |  |  |
|--|--|
| <ol style="list-style-type: none"><li>(a) Permitted Uses</li></ol> | Until the Holding Provision 'H' is removed, the "H-C1-636" Zone shall only be used for an access driveway, landscaping, and private sanitary system in association with a pool and spa business located at 591 Garner Road East. |
|--|--|

The 'H' Holding prefix shall be lifted from the "**H-C1-631**" Zone once the following conditions have been completed, to the satisfaction of the Director of Planning:

- (i) The assembly of 581, 587, and 591 Garner Road East, incorporating all of the affected parcels; and,



- (ii) Site Plan approval for 581, 587, and 591 Garner Road East has occurred on the assembled parcels for comprehensive development and access driveways onto Garner Road East are minimized and properly sited.

City Council may remove the (H) symbol, and thereby give effect to the "C1-631" Zone, by enactment of an amending By-law once the above conditions have been fulfilled.

### **"H-C1-631"**

Notwithstanding any provisions to the contrary of Section 22.1, Table 1 Permitted Uses, and Section 22.2, Table 2 Regulations of Neighbourhood Commercial "C1" Zone, of By-law 87-57 (Ancaster), the following permitted uses and special provisions shall apply to the lands zoned "H-C1-631" Holding Zone:

#### Permitted Uses

The following additional use shall be permitted:

A retail showroom for a spa and pool business with accessory offices and storage areas.

#### Zone Provisions

- (a) Maximum Floor Area                      610 square metres.
  - (b) Accessory Buildings                      Notwithstanding Table 2 of Section 22.2, accessory buildings existing on the day of passing of the By-law, being the [REDACTED] day of [REDACTED], 2011, shall be permitted.
  - (c) All other zone provisions of Section 22 and Section 7 shall apply.
3. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

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

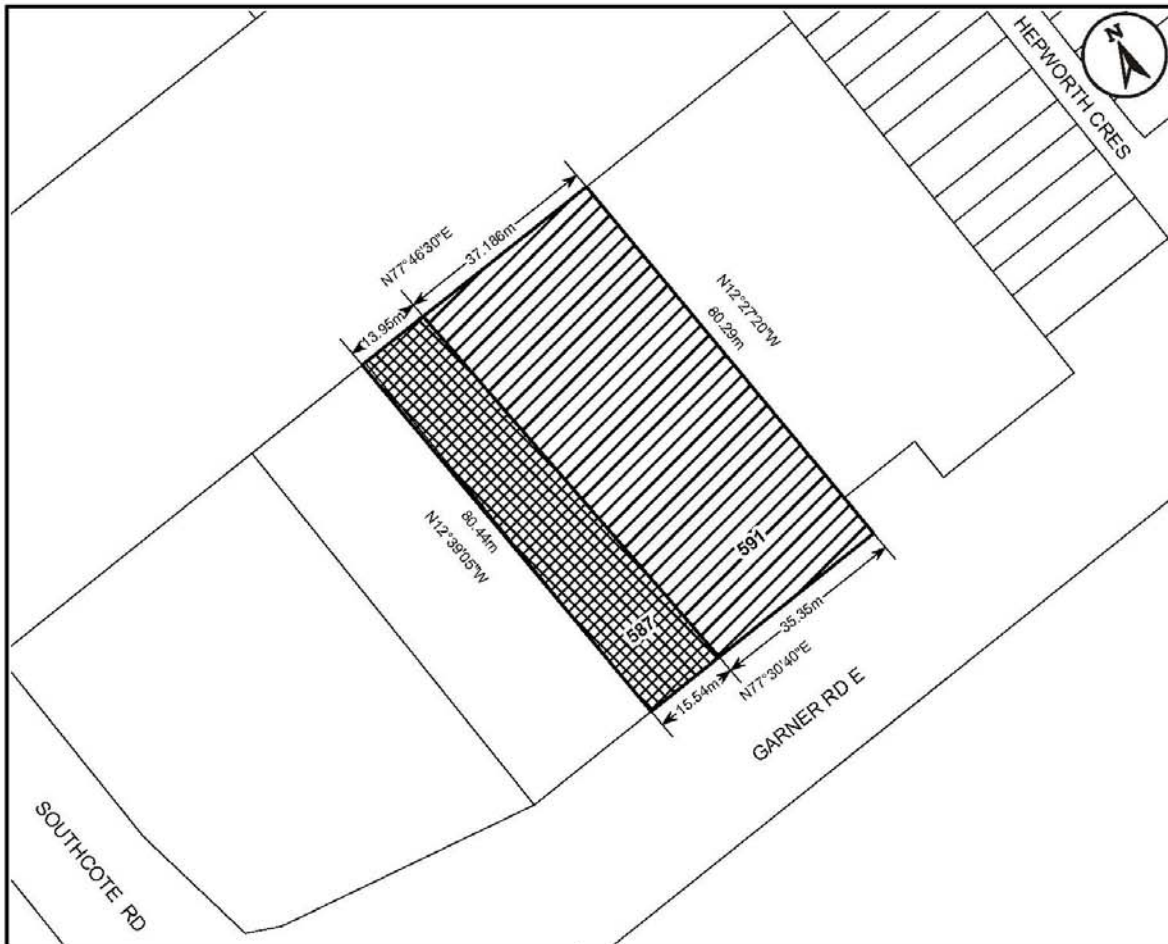
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R. Bratina  
Mayor

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Rose Caterini  
City Clerk

ZAC-11-011

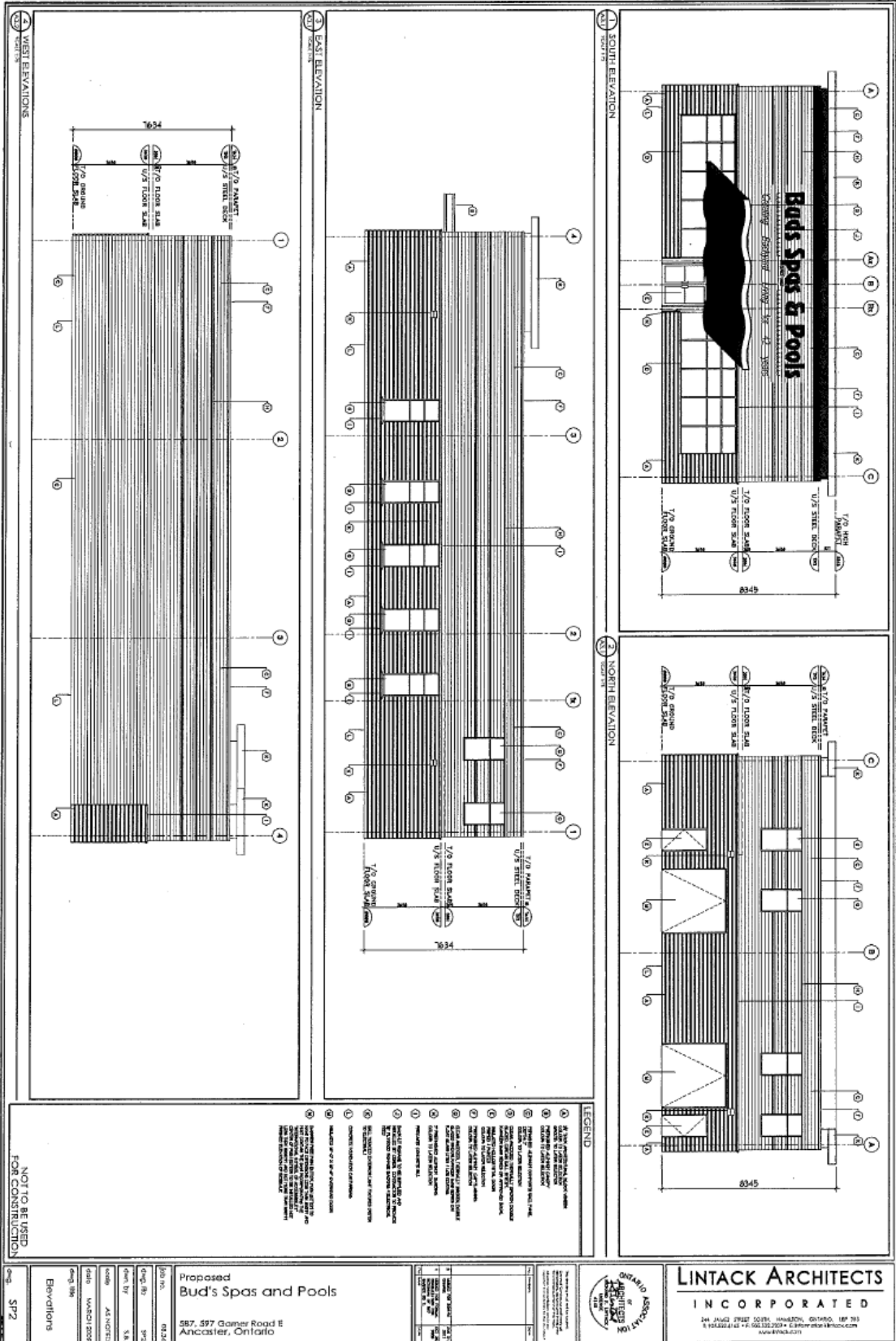


<p>This is Schedule "A" to By-Law No. 11-</p> <p>Passed the ..... day of ....., 2011</p>	<p>-----</p> <p style="text-align: center;">Clerk</p> <p>-----</p> <p style="text-align: center;">Mayor</p>
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<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-Law No. 11-_____</p> <p style="margin: 0 0 0 0;">to Amend By-law No. 87-57</p>	<p><b>Subject Property</b> 587 &amp; 591 Garner Road East</p> <p> <b>Block 1-</b> Change in Zoning from the Agricultural "A" Zone to the Neighbourhood Commercial "H-C1-636" Holding Zone, Modified</p> <p> <b>Block 2 -</b> Change in Zoning from the Rural Commercial "C5-269" Zone to the Neighbourhood Commercial "C1-631" Zone, Modified</p>
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<p><b>Scale:</b> N.T.S.</p>	<p><b>File Name/Number:</b> ZAC-11-011</p>	
<p><b>Date:</b> Sep. 28, 2011</p>	<p><b>Planner/Technician:</b> CT/NB</p>	
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>		





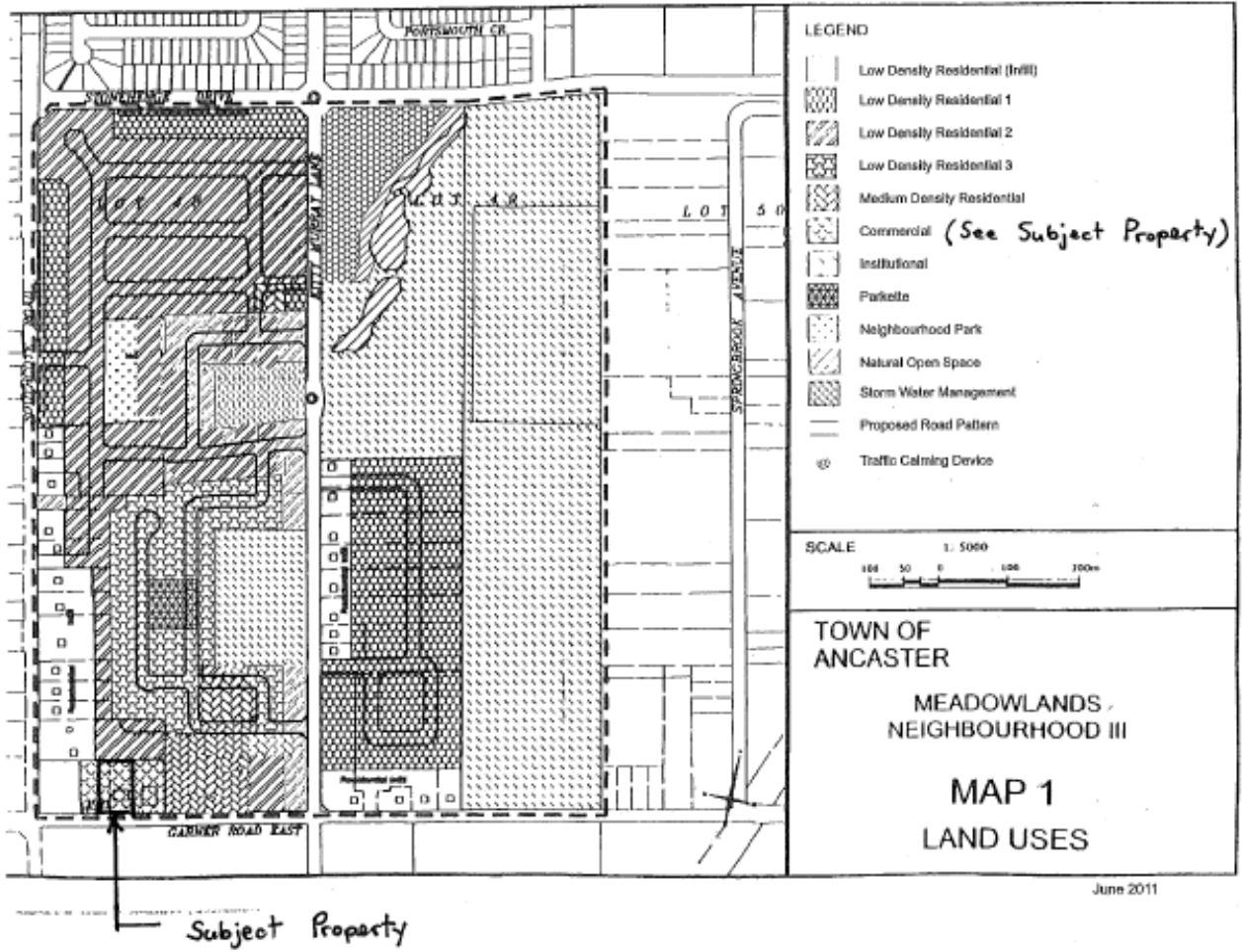
NOT TO BE USED FOR CONSTRUCTION

<p><b>Proposed Bud's Spas and Pools</b></p> <p>887, 897 Gainer Road #          Ancaster, Ontario</p>		<p>DATE: 08/20/2008          TIME: 10:00 AM</p>	<p>PROJECT: 08-001          SHEET: 01</p>	<p>SCALE: 1/8" = 1'-0"</p>	<p>DATE: 08/20/2008          TIME: 10:00 AM</p>
<p>Drawn By: S.M.</p> <p>Checked: A.S. (MCH)</p> <p>Date: March 2008</p> <p>Project: 08-001</p>	<p>Sheet: 01</p> <p>Project: 08-001</p>				

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Appendix "E" to Report PED11202  
 Meadowlands Neighbourhood III Land Use Plan  
 (Page 1 of 1)



Appendix "F" to Report PED11202  
 Urban Hamilton Official Plan  
 Meadowlands Neighbourhood III Land Use Plan  
 (Page 1 of 1)

