



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 1
COMMITTEE DATE: March 20, 2012	
SUBJECT/REPORT NO: Application to Amend Hamilton Zoning By-law No. 6593 for Lands Located at 235 Main Street West (Hamilton) (PED12037) (Ward 1)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Timothy Lee (905) 546-2424, Ext. 1249
SIGNATURE:	

RECOMMENDATION

That approval be given to **Zoning Application ZAC-11-068, by Manhattan West Corp., Owner**, for a change in zoning from the “G-3/S-36” (Public Parking Lots) District, Modified (Block 1), and “H/S-36” (Community Shopping and Commercial) District, Modified (Block 2), to the “H/S-36a” (Community Shopping and Commercial) District, Modified, with a Special Exception, to permit a 3-storey commercial building on lands located at 235 Main Street West (Hamilton), as shown on Appendix “A” to Report PED12037, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12037, 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 19B of Zoning By-law No. 6593 as “H/S-36a”.

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- (c) That the proposed changes in zoning are consistent with the Provincial Policy Statement, and conform to the Places To Grow Growth Plan, the Hamilton-Wentworth Official Plan, and City of Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of this application is to provide for a change and modification in zoning to permit the development of a 3-storey, commercial building with surface and underground parking (see Appendix “A”). The application will modify the current dual zoned property in order to provide a uniform zoning designation, parking space requirements, and amend the definition and requirements of a planting strip.

The proposal has merit and can be supported, as it is consistent with the Provincial Policy Statement, conforms to the Places to Grow Growth Plan, the Hamilton-Wentworth Official Plan, the New Urban Hamilton Official Plan, and the City of Hamilton Official Plan. The proposed development would be compatible with existing development in the surrounding area with respect to height, use, and intensity of development on the subject lands.

Alternatives for Consideration - See Page 17.

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

Proposal

The subject lands are located on the southwest corner of Main Street West and Queen Street South (see Appendix “A”), and have a lot area of 0.2 hectare. The lands are currently vacant, but were previously used as a gas station and public parking lot. The applicant is proposing to construct a 3-storey, commercial office building with retail on the ground floor, professional offices on the second and third floors, and provide a combination of 17 surface and 33 underground parking spaces (see Appendix “C”).

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The property has dual zoning (see Appendix "A"), however, only a gas station is permitted due to a Council-approved Site Plan By-law (see Appendix "G"). The applicant is proposing to change the zoning to provide uniform zoning to reflect the proposed use of the property, modify the planting strip requirements and amend the definition of planting strip, and repeal Schedule "A" to By-law No. 67-27, which regulated the physical development of the site by incorporating what was effectively a Site Plan into a Site-Specific By-law (see Appendix "B").

Site Plan Application (DA-11-085)

A Site Plan application was submitted in June, 2011, to permit the proposed development (see Appendix "C"). After a zoning review, a number of required modifications to the existing By-law were identified. A Minor Variance application was subsequently submitted by the applicant to address zoning deficiencies with respect to setbacks, parking space dimensions, and landscaping requirements in the planting strip (see Appendix "E"). In addition, it was identified that notwithstanding the Minor Variance application, if the plan could not be revised to limit the commercial building to the "H" (Community Shopping and Commercial) District, then a zoning application would also be required to permit commercial related uses on the southerly portion of lands currently zoned "G-3/S-36" (Public Parking Lots) District, Modified, which is the basis of this application. The remaining variances that were not approved by the Committee of Adjustment (see Appendix "E") are also being addressed in this rezoning application.

Issues such as the compatibility of the proposed development with adjacent heritage properties, engineering, landscaping, site lighting, and urban design are being addressed at the Site Plan Process stage. Approval of the Site Plan application has been held in abeyance, pending the outcome of this zoning application.

Minor Variance Application (HM/A-11:194)

The applicant submitted a Minor Variance Application to facilitate the proposed commercial development. The Committee of Adjustment approved the application on September 15, 2011, with respect to parking space dimensions, front and side yard setbacks, permitting accessory buildings in the side yard, and manoeuvring and loading space requirements (see Appendix "E").

However, the Committee of Adjustment denied the variance to add a range of permitted commercial uses on the portion of the lands zoned "G-3/S-36" (Public Parking Lots) District, Modified. As detailed in the staff Report submitted to the Committee of Adjustment, variances to add additional uses to an existing zoning designation are more appropriately addressed through a rezoning application, and in the opinion of Planning staff, such variances are not considered minor in nature.

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The variances to amend the definition of a planting strip were denied by the Committee of Adjustment. Staff was of the opinion that the variances were premature until the submission of the rezoning application.

Following the outcome of the Committee of Adjustment application, the applicant subsequently submitted the Zoning By-law Amendment application to comprehensively deal with both the land use approvals and By-law requirements. The decision of the Committee of Adjustment became final and binding on October 5, 2011.

Chronology:

- June 23, 2011: Site Plan Application DA-11-085 is deemed complete and circulated.
- September 15, 2011: Minor Variance HM/A-11:194 partially approved by Committee of Adjustment.
- October 31, 2011: Submission of Application ZAC-11-068 by Manhattan West Corp. is deemed complete.
- November 11, 2011: Circulation of Notice of Complete Application and Preliminary Circulation of Application to all residents within 120 metres of the subject lands.
- February 23, 2012: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

Details of Submitted Application:

Location: 235 Main Street West (Hamilton)

Owner/Applicant: Manhattan West Corporation

Property Description:

Lot Frontage: 46.9 metres

Lot Depth: 45.8 metres

Total Lot Area: 2,000 square metres (approx.)

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant Land	“H/S-36” (Community Shopping and Commercial) District, Modified; “G-3/S-36” (Public Parking Lots) District, Modified
<u>Surrounding Lands:</u>		
North	Commercial Retail	“H” (Community Shopping and Commercial) District; “E” (Multiple Dwellings Residential, Lodges Clubs) District
South	Consulate and Residential	“D” (Urban Protected Residential - One and Two Family Dwellings, etc.) District
East	Commercial Office	“D3” Downtown Zone; “D6” (Downtown Residential) Zone
West	Residential and Commercial	“D/S-300” (Urban Protected Residential - One and Two Family Dwellings, etc.) District, Modified; “D” (Urban Protected Residential - One and Two Family Dwellings, etc) District

POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement policies that contribute to the development of healthy, liveable, and safe communities, as contained in Section 1.1.1. In particular, the application is consistent with Section 1.1.1e), which promotes cost-effective development standards to minimize land consumption and servicing costs.

The application is consistent with Policies 1.1.3.1 and 1.3.1 with respect to focusing growth and regeneration within existing Settlement Areas, and supports land use patterns based on a variety of densities and mix of land uses.

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Based on the foregoing, the application to permit a commercial building is consistent with the Provincial Policy Statement, as it provides for a greater intensity of commercial use within the urban area.

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

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe. The subject property is located within the Built-up Area, as defined in the Places to Grow Growth Plan. The application conforms to Section 1.2.2, where guiding principles of the Plan are to “build compact, vibrant, and complete communities”, “plan and manage growth to support a strong and competitive economy”, and to “optimize the use of existing and new infrastructure to support growth in a compact, efficient form”.

The application also conforms to Section 2.2.2, as it is considered that the proposed development will reduce the dependence on the automobile through the development of mixed-use and transit supportive urban environments, encourage the development of complete communities with a diverse mix of land uses, and a range and mix of employment and housing within the surrounding area with easy access to local stores and services.

The application conforms to the Growth Plan for the Greater Golden Horseshoe to permit the development of a commercial building that will provide for a mix of commercial uses that will provide retail and services to the general population, and optimize the use of existing infrastructure services.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses such as retail and personal service uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Policy 3.1.1 encourages compact, mixed-use to ensure people are close to shopping and their workplace, and that growth can be accommodated within the existing urban area.

Policy 2.3 identifies contaminated sites as opportunities for redevelopment. However, such redevelopment must not occur until the owners/applicants undertake a remediation process involving an analysis of the soils on the site, and any remediation techniques required to remove contaminants on-site. A Record of Site Condition (RSC) was registered by the Ministry of the Environment on April 16, 2010, for the subject lands (see Appendix “F”).

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Based on the foregoing, the proposed change in zoning to permit a 3-storey, commercial building conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Hamilton Official Plan

The subject property is designated “Commercial” on Schedule “A”, Land Use Concept Plan, in the City of Hamilton Official Plan. The general intent of the policies of the “Commercial” designation is to ensure that commercial development occurs *“in an orderly manner, consistent with the needs of the community”* in order to *“best serve the residents of the City, and to recognize and accommodate the location, trade area, or special requirements of businesses of varying size and function.”*

Given the location of the subject property at the intersection of Main Street West and Queen Street South, and the close proximity of the Central Policy Area and the Downtown Hamilton Secondary Plan, the subject lands are considered “Extended” or “Ribbon” Commercial. As such, the following policies apply.

“2.2.14 The EXTENDED COMMERCIAL category applies to existing stretches of individually managed Commercial establishments located along Arterial Roads, serving both pedestrian and automobile borne trade. It consists of:

- i) "Ribbon" Commercial uses on smaller lots serving predominantly residents and pedestrians in the vicinity, with some specialized Commercial uses attracting automobile borne traffic from beyond the local area.

2.2.19 Development within EXTENDED COMMERCIAL areas will be through infilling and redevelopment in order to consolidate the viability of these areas and to restrict their indiscriminate extension into stable areas of the non-Commercial uses. Such development will only be permitted where: traffic and/or parking problems will not be created; and on Arterial Roads identified on Schedule "F".”

The subject lands are located on Main Street West, which is an arterial road containing a mix of residential and commercial uses that serves both local residents and the traveling public. The proposed commercial development is for the redevelopment of a former gas station to provide a mix of retail, professional business, and other commercial services providing local and regional retail and service commercial activity.

“2.2.22 Council will endeavour to maintain or improve the visual amenity and general attractiveness of EXTENDED COMMERCIAL areas, and, in so doing, will:

- iii) Regulate building setbacks to develop and maintain continuity and harmony with adjacent Commercial Uses;
- iv) Consider the increase in building setbacks where substantial redevelopment is proposed, to permit wider sidewalks, appropriate landscaping and street furniture to encourage pedestrian movement and improve the shopping environment.

2.2.35 Where COMMERCIAL USES are proposed to be developed adjacent to Residential land uses, Council will be satisfied that the following provisions are adequately met:

- i) Access drive, parking, and service areas will be screened and/or buffered such that noise, light, or undesirable visual impacts emanating from the COMMERCIAL USE are mitigated;
- ii) Light from standards or other external lighting fixtures, excluding those used for store and window display or wall illumination, will be directed downwards and shielded or oriented as much as practicable away from the adjacent Residential Uses; and,
- iii) Light standards will be of a height that is in scale with the facility, but will not be of a height sufficient to create a nuisance to adjacent land uses.”

The proposed building is to be setback 1.0 metre to both the Main Street West and Queen Street South lot lines, and on-site parking will be provided in the rear yard and in an underground parking garage (see Appendix “C”). This will provide a continuous and consistent streetscape and setbacks with existing buildings along Main Street West and Queen Street South, while providing appropriate pedestrian movement. In addition, the corner of the building is stepped back to provide adequate visibility for pedestrians and vehicles. Other design performance issues such as lighting to provide additional security and accessibility, visual impacts of the proposed development from the residential districts, landscaping along the planting strip, and parking, will be addressed in greater detail though final approval of the Site Plan Application (DA-11-085).

Planning staff is of the opinion that the proposal conforms to the “Commercial” policies of the Hamilton Official Plan.

New Urban Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan received ministerial approval on March 17, 2011, but has been appealed to the Ontario Municipal Board (OMB) and is, therefore, not yet in force and effect. The subject lands are designated “Primary Corridor” and “Mixed-Use - Density Commercial” on Schedule “E” - Urban Structure and Schedule “E-1” - Land Use Designation, respectively, in the Urban Hamilton Official Plan. As such, the following “Urban Corridor” policy applies:

“E.2.4.6 Urban Corridors shall function as commercial spines providing retail stores and commercial services that cater primarily to the weekly and daily needs of residents within the surrounding neighbourhoods. Small scale retail stores that cater to a broader regional market may be also permitted.

E.2.4.8 Primary Corridors shall be served by the higher order of transit service. Secondary Corridors may be served by a higher order transit service.”

The proposed development will complement existing commercial establishments along Main Street West by providing retail and commercial services catering to residents and commuters. The subject lands are located along a higher order of transit served by several bus routes and will, in the future, benefit from the current rapid transit options being considered.

The primary function of the “Mixed-Use - Medium Density” designation, as outlined in Sub-section E.4.6.1, is intended to “serve the surrounding community or series of neighbourhoods, as well as provide day-to-day retail facilities and services to residents in the immediate area.” As such, the following policies apply:

“E.4.6.2 The Mixed-Use - Medium Density designation shall be applied to traditional ‘main street’ commercial areas outside of the area designated Downtown Mixed-Use, and to promote the continuation of these areas as pedestrian oriented, mixed-use areas.”

Through the submitted concept plan and review of the Site Plan, Planning staff considered the proposal to promote pedestrian-oriented, commercial development as appropriate and in keeping with the surrounding area, as it would provide for a commercial building with a street presence and parking located to the rear, in accordance with Transit Oriented Development Guidelines.

“E.4.6.5 Commercial uses such as retail stores, auto and home centres, home improvement supply stores, offices oriented to serving residents, personal services, financial establishments, live-work units, artist studios, restaurants, and gas bars.”

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The proposed commercial use may include retail stores and restaurants on the ground floor, and professional offices on the upper floors. These uses are permitted as-of-right under the implementing “H” (Community Shopping and Commercial) District. The rezoning application will permit the same commercial uses to extend to the portion of the land currently zoned “G-3” (Public Parking Lots) District. The following design standard policies apply:

- “E.4.6.7 Lands designated Mixed-Use - Medium Density shall contain a range of building heights and densities to a maximum height of 6-storeys, which shall be set out in the implementing Zoning By-law.

- E.4.6.9 The predominant built form shall be mid rise and low rise buildings. The intent is to increase the proportion of multiple-storey, mixed-use buildings that have retail and service commercial stores at grade.

- E.4.6.17 Areas designated Mixed-Use - Medium Density are intended to develop in a compact urban form with a streetscape design and building arrangement that supports pedestrian use and circulation and creates vibrant people places.”

The proposed commercial building will have a height of 3-storeys, with retail at grade and offices on the upper floors. The proposed building will encourage pedestrianism, while creating an inviting pedestrian environment and streetscape.

- “E.4.6.24 New development shall respect the existing built form of adjacent neighbourhoods by providing a gradation in building height and densities, and by locating and designing new development to minimize the effects of shadowing and overview on properties in adjacent neighbourhoods.”

The proposed commercial building is to be setback 1.0 metre from the Main Street West and Queen Street South lot lines and, as such, the main bulk and massing of the building will be separated from the adjacent residential districts, which are located on the south and west sides of the subject property (see Appendix “C”). Furthermore, through details secured at the Site Plan Stage, sufficient boundary treatments (i.e. fencing, landscaping) will mitigate any potential spill-over impacts from the associated parking areas.

The proposed commercial use is considered an appropriate use within the “Mixed-Use - Medium Density” designation. Based on the foregoing, the proposed development would conform to the policies of the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Taxation Division, Corporate Services Department.
- Traffic Engineering Section, Public Works Department.
- Horizon Utilities.

Forestry and Horticulture Section (Public Works Department):

Staff has advised that all concerns are being addressed at the Site Plan Stage, and has no objections to this application.

Waste Management Division (Public Works Department):

Staff has no objection to the application, but has indicated that the proposed development is not eligible for municipal collection of garbage, recycling, organics and leaf and yard waste. A private hauler should be responsible for the collection of waste.

Parking and By-law Services Division (Hamilton Municipal Parking System):

The Hamilton Municipal Parking System has no concerns with the application, as all parking requirements have been met on site. Staff notes that overflow parking in the area is limited and, at times, restricted. In addition, the applicant should ensure that the parking stall size located in the underground parking can be met without encroachment of the support columns with proper ingress/egress to the parking space.

Public Transit (Hamilton Street Railway):

The Hamilton Street Railway (HSR) notes the importance of a high quality pedestrian amenity for this development such as convenient pedestrian entrances, walkways, and lighting. Construction of mixed-use, higher density development helps public transit in achieving high ridership. The HSR would like to assist the developer in constructing a pedestrian-friendly bus area along Main Street West, west of Queen Street South, including a bus shelter, benches, and litter containers.

Public Consultation

In accordance with Council's Public Participation Policy, the Zoning By-law Amendment application was circulated as part of the Notice of Complete Application to 740 residents within 120 metres of the subject lands on November 11, 2011. This is in addition to the circulation requirements for Minor Variance Application HM/A-11:194, which was circulated in August, 2011. To date, one letter has been received expressing concerns

with the application related to the building setback, the location of the parking lot, the type of businesses that will be located in the building, building height, and signage (see Appendix "D"). These concerns are evaluated in the Analysis/Rationale for Recommendation section below.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property on November 22, 2011.

ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement, and conforms to 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) The proposed development will provide for a commercial use that would be complementary to the surrounding mixed-use community in terms of intensity of use and scale of the building.

2. Zoning By-law Amendment (ZAC-11-068)

The draft By-law will change the zoning from the "G-3/S-36" (Public Parking Lots) District, Modified, and the "H/S-36" (Community Shopping and Commercial) District, Modified, to the H/S-36a" (Community Shopping and Commercial) District, Modified, with a Special Exception. In addition to modifying the zoning provisions, the draft By-law will also repeal the Council-approved Site Plan By-law for the former gas station and associated parking area, as shown on Schedule "B" of By-law No. 67-27 (see Appendix "G"). Prior to 1970, the Planning Act did not contain provisions regarding Site Plan Control. As such, it was the practice of the City of Hamilton to pass what were effectively Site Plan By-laws to regulate the physical development of a site. In order to implement the development concept proposed by the applicant for a multi-storey, commercial building with underground parking, the following modifications have been included in the By-law:

(a) Definition of Planting Strip

Section 2(2)(H)via) defines planting strip as “*an area of land growing ornamental shrubs or trees, or both, suitable to the soil and climatic conditions of the area of land for the sole purpose of providing a visual barrier or buffer*”. Based on the definition, only shrubs, trees, and other vegetation are permitted in the planting strip, but other features such as sheds and fencing are not permitted. An amendment to the definition of planting strip is required to permit the intake/exhaust grills and a portion of the proposed garbage enclosure to be located within the planting strip, and to permit an existing metal shed and concrete wall to remain within the planting strip. An existing visual barrier is also located within the planting strip, and the draft By-law will permit the maintenance and extension of the existing visual barrier.

The proposed intake/exhaust grill is an integral part of the required ventilation of the underground parking. Through the design of the underground parking, ventilation grills, with a total maximum area of 5.5 square metres, will be permitted within the planting strip. In addition, a portion of the garbage storage structure will be within the planting strip (see Appendix “C”). Enhanced landscaping can be provided to offset the potential loss of opportunity for landscaping from the proposed grills and garbage storage.

Due to the constraints of the site, the most appropriate place to locate the garbage storage is at the rear of the property. Planning staff has no issues to partially locate the garbage storage, as only a small portion of the storage unit would be within the planting strip. Issues related to the design of the garbage enclosure will be addressed at the Site Plan Review Stage.

The concrete wall and metal shed are existing conditions. The metal shed is owned by an adjacent property owner located at 244 Jackson Street West, and partially encroaches onto the planting strip of the subject lands. Similarly, the existing portion of a concrete wall and privacy wall partially encroaches on the subject property, and is part of a larger wall that borders with 244 Jackson Street West and 74 Queen Street South. Based on the foregoing, Planning staff has no objections to allow for intake/exhaust grills, an existing metal shed, privacy wall, and concrete wall to be permitted in the planting strip.

(b) Modifications to the Planting Strip

A reduction in the setback and planting strip between the parking lot and the adjoining residential district was requested for the rear and west side yard to be reduced from a minimum required 1.5 metres to 1.0 metre. The reduction can be supported as the proposal represents an example of an urban infill project adjacent to Downtown Hamilton. Modifications to the planting strip would allow for the maximum utilization of land for commercial development, while still providing an appropriate buffer with adjacent residential uses.

In addition, there is an existing retaining wall that currently surrounds the rear and west side yard. This retaining wall reduces the ability to plant trees and large vegetation, and a reduction in the planting strip would not compromise opportunities to plant other types of vegetation that will still allow for privacy and buffering to be maintained. Issues with respect to landscaping will be addressed at the Site Plan (DA-11-085) stage.

(c) Surface Public Parking Lot Uses Prohibited

By repealing Schedule “A” to the existing site-specific zoning, a public parking lot would be permitted on the subject lands. The applicant has advised that one option may be to establish a public parking lot as an interim use until construction of the commercial development commences. Planning staff is of the opinion that the proposed surface parking lot could create potential negative impacts such as visual, noise, and light. The Downtown Secondary Plan directs the City to ensure development and redevelopment in neighbourhoods and lands surrounding this Secondary Planning area reflect the scale of development identified by the Secondary Plan (Policy 6.2.3.3.1(o)). Although the Main Street/Queen Street South intersection is not identified as a Downtown Gateway in the Secondary Plan, Main Street is classified as a Mobility Street and is a primary east-west route through the south side of the downtown. The Secondary Plan directs the City to ensure a safe pedestrian environment with appropriate separation from vehicles and strengthen pedestrian linkages along Mobility Streets. Development of a public parking lot on the subject property would not be consistent with the overall vision of Downtown Hamilton given the location of the subject lands at a main intersection, its proximity to Downtown Gateways, and being on a main transportation route. Consequently, the draft By-law includes a provision prohibiting a public parking lot as a permitted use.

3. Staff notes that all development engineering requirements and concerns are being addressed at the Site Plan Application (DA-11-085) stage. Standard engineering conditions to Site Plan would apply, and the applicant will be required to address conditions respecting, among others, urban design, erosion, grading, and drainage.
4. In response to pre-circulation of the application, one letter of opposition was received by staff. The main concerns were the inconsistent height and setbacks of the building with the surrounding area, parking, type of business that will be operating in the proposed building, and signage and antennae on the roof of the proposed building (see Appendix "D"). An analysis of these concerns is as follows:

Setbacks

With respect to setbacks and height, the concept plan (see Appendix "C") shows that the 3-storey, commercial building will have a setback of 0.9 metres from Queen Street South and 1 metre from Main Street West from the building columns, and a 1.6 metre setback from the principle building along both lot lines. These variances, as approved by the Committee of Adjustment on September 15, 2011, are now final and binding.

These reduced setbacks will be consistent with other buildings that front on Main Street West and Queen Street South, as existing buildings have reduced setbacks along the front lot line with parking in the rear. Based on the foregoing, the proposed development maintains the general character of the surrounding area with respect to locating the building closer to the street and to provide for parking to the rear of the building. This would be in keeping with Transit Oriented Design principles and the goal to secure pedestrian-oriented development.

Parking

The applicant is proposing 50 parking spaces to be provided on-site (17 surface and 33 underground spaces), which exceeds the minimum required 33 parking spaces (see Appendix "C"). Providing excess parking will reduce the potential of spill-over parking onto the surrounding area. Staff from the Parking and By-law Services Division has expressed the need to ensure that all parking can be provided on-site, as there is very limited capacity on the surrounding streets to absorb any spill-over of parking (see Page 11). The provision of 17 additional spaces is an increase in the minimum required standard parking ratio that will ensure on-site parking demands are met.

A concern has been raised in the letter that there would be no control over who parks in the parking lot during off-peak time. Planning staff notes that this is a property management matter and the landowner will be responsible for enforcing parking for customers and employees.

Range of Uses

The requested “H” District zoning permits a comprehensive range of commercial uses, including a professional office, bank, retail, restaurant, and personal service establishments. The applicant is proposing retail, and possibly a restaurant at-grade and offices on the upper floors. The letter raised a concern that there is no indication as to the type of businesses that will be operating on the subject lands. No tenants have been secured at this time and, therefore, Planning staff cannot confirm the type of business or company that will be located in the proposed building. In addition, the range of permitted uses are consistent with permitted uses in the surrounding area, such as the commercial plaza on the north side of Main Street West, and properties to the east and northeast of the subject property (see Appendix “A”).

Height

The maximum height permitted under the “H” (Community Shopping and Commercial, etc.) District is 8-storeys, or 26 metres. Due to the constraints of the subject lands, the applicant is proposing a 3-storey, commercial building, well below the maximum height that is permitted. In addition, the distance between the proposed building and the adjoining residential district is 19.8 metres.

The surrounding community contains existing buildings of various heights, ranging from a 1-storey, strip plaza on the northwest corner of Main Street West and Queen Street South, to a 15-storey, multiple dwelling located at 222 Jackson Street West. Buildings that are adjacent to the subject lands are predominantly 2½-storeys. The proposed 3-storey building would be compatible with the existing development in the surrounding area.

Signage and Telecommunications Antennae

A concern was raised that signage and telecommunications antennae will be installed on the building, and will become an eyesore to the community. Signs (including wall signs and ground signs) are subject to the Sign By-law and must conform to the provisions within the By-law.

Telecommunications antennae are Federally regulated by Industry Canada. Furthermore, any such antennae that are proposed to be installed on the building would be subject to the City of Hamilton's Telecommunications Protocol, and may be subject to additional planning applications such as Site Plan Control.

ALTERNATIVES FOR CONSIDERATION

If the Zoning By-law Amendment is denied, the only permitted use on the subject lands is a gas station, in accordance with Site Plan By-Law No. 67-27 (see Appendix "G").

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

Financial Sustainability

- ◆ Effective and sustainable Growth Management.
- ◆ Generate assessment growth/non-tax revenues.

Growing Our Economy

- ◆ Newly created or revitalized employment sites.
- ◆ Competitive business environment.

Social Development

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

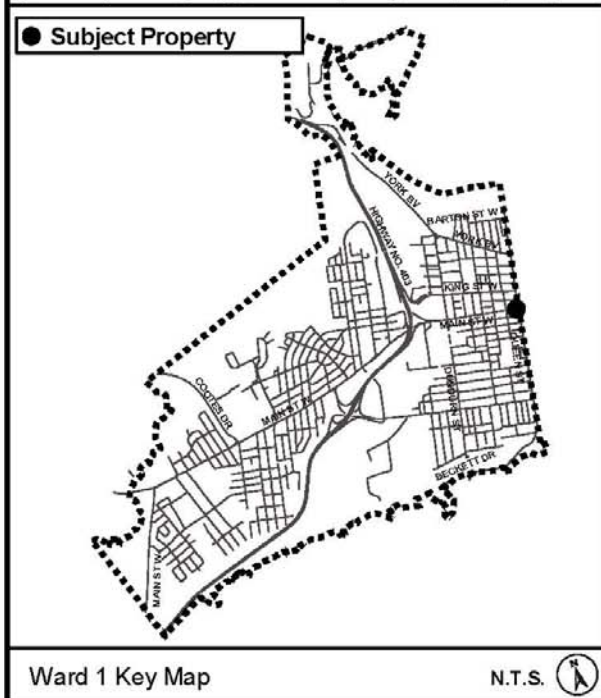
Healthy Community

- ◆ Plan and manage the built environment.

APPENDICES / SCHEDULES


- Appendix "A": Location Map
- Appendix "B": Draft Zoning By-law Amendment
- Appendix "C": Concept Plan
- Appendix "D": Letter of Opposition
- Appendix "E": Minor Variance Application HM/A-11:194
- Appendix "F": Record of Site Condition
- Appendix "G": By-law 67-27

:TL
Attachs. (7)





Location Map


PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT


Hamilton

File Name/Number: ZAC-11-068	Date: January 26, 2012
Appendix "A"	Scale: N.T.S.
Planner/Technician: TL/KA	

Subject Property

-  Block 1 - Change in Zoning from the "H/S-36" (Community Shopping and Commercial, etc.) District, Modified to the "H/S-36a" (Community Shopping and Commercial, etc.) District, Modified.
-  Block 2 - Change in Zoning from the "G-3/S-36" (Public Parking Lot) District, Modified to the "H/S-36a" (Community Shopping and Commercial, etc.) District, Modified.

Ward 1 Key Map N.T.S. 

Authority: Item [REDACTED]
Planning Committee
Report: 12-[REDACTED] (PED12037)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law 6593 (Hamilton), as Amended by By-law 67-27, Respecting Lands Located at 235 Main Street West (Hamilton)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario 1999 Chap. 14, Schedule 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 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. 6593 (Hamilton) was enacted on the 25th day of July 1950, which 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 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, 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) in accordance with the provisions of the Planning Act.

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

1. That Section 2 of Zoning By-law No. 67-27 be deleted in its entirety and subsequent sections be renumbered accordingly.
2. That Sheet No. W-13 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended as follows:
 - (a) That Block 1 be rezoned from the "H/S-36" (Community Shopping and Commercial) District, Modified, to the "H/S-36a" (Community Shopping and Commercial) District, Modified; and,
 - (b) That Block 2 be rezoned from the "G/S-36" (Public Parking Lot) District, Modified, to the "H/S-36a" (Community Shopping and Commercial) District, Modified,on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
3. That the "H" (Community Shopping and Commercial) District regulations, as contained in Section 14 of Zoning By-law No. 6593, are modified to include the following special provisions:
 - (a) That notwithstanding Section 2(2)(H) via) of Zoning By-law No. 6593, a garbage storage shed, visual barrier, intake/exhaust grills having a total maximum area of 5.5 square metres, and the existing metal shed and concrete wall existing on the date of the passing of this By-law, being the [REDACTED] day of [REDACTED], 2012, shall be permitted in a Planting Strip.
 - (b) That notwithstanding Section 18A(11)(a) of Zoning By-law No. 6593, the boundary of the parking area shall be not less than 1.0 metre from the adjoining residential district boundary.
 - (c) That notwithstanding Section 18A12(a) of Zoning By-law No. 6593, a minimum 1.0 metre wide planting strip for every parking area adjoining a residential area shall be provided and maintained.
 - (d) That notwithstanding Section 14(1)(viii) of Zoning By-law No. 6593, a public parking lot shall not be permitted.
4. That Zoning By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-36a.

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 passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2012.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAC-11-068



This is Schedule "A" to By-Law No. 12- Passed the day of, 2012	----- Clerk ----- Mayor
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<h2 style="margin: 0;">Schedule "A"</h2> <h3 style="margin: 0;">Map Forming Part of By-Law No. 12-_____</h3> <h3 style="margin: 0;">to Amend By-law No. 6593</h3>	Subject Property <div style="display: flex; align-items: flex-start; margin-bottom: 10px;"> <div style="width: 20px; height: 15px; border: 1px solid black; background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px); margin-right: 5px;"></div> <div> Block 1 - Change in Zoning from the "H/S-36" (Community Shopping and Commercial, etc.) District, Modified to the "H/S-36a" (Community Shopping and Commercial, etc.) District, Modified. </div> </div> <div style="display: flex; align-items: flex-start;"> <div style="width: 20px; height: 15px; border: 1px solid black; background: repeating-linear-gradient(-45deg, transparent, transparent 2px, black 2px, black 4px); margin-right: 5px;"></div> <div> Block 2 - Change in Zoning from the "G-3/S-36" (Public Parking Lot) District, Modified to the "H/S-36a" (Community Shopping and Commercial, etc.) District, Modified. </div> </div>
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Scale: N.T.S.	File Name/Number: ZAC-11-068	
Date: January 26, 2012	Planner/Technician: TL/KA	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

WERNER LICHTENBERGER

260 Jackson Street West
Hamilton, Ontario
Canada L8P 1M5

Mobile
Evenings
E-mail

30 Nov 2011

Attn: Timothy Lee, City on Hamilton
Planning & Economic Development Dept
Planning Division-Development Planning-West Section
71 Main St W 5th Floor Hamilton L8P4Y5

REF: File No ZAC-11-068

Dear Sir/Madam:

I disagree with the zoning amendment for the following reasons:

1. The setback of the building is not consistent with the rest of the neighbourhood and will make the intersection more dangerous because of the proximity of the building to the road restricting sight distances.
2. Adjacent buildings are set back far more than the proposed building and would serve as a better choice for alignment of the building lines on both Main and Queen Streets.
3. On the North West corner, parking is in front of the development, a precedent for commercial development in the area and a better layout for the building in question.
4. There is no temporal restriction on the use of the 50 parking spaces. They should be for the exclusive use of the building tenants & customers during normal office hours and should not serve as public parking after office hours ie for patrons of Hess Street establishments. The thought of 50 vehicles spilling out sometime after bar closing is objectionable and a danger to the neighbourhood. It was bad enough when the garage grounds were used for this purpose. There are plenty of parking lots in the area within reasonable walking distance.
5. There is no indication of what type of business will be carried out on these premises, nor what the hours of operation will be. This is a residential neighbourhood and there should not be any activity after normal business hours.
6. 3 stories exceeds surrounding elevations and is objectionable as well.
7. There does not appear to be any restriction on signage nor antennae or other paraphernalia on the roof of the development. I fear another monster sign or tower bristling with cell antennae.

Yours sincerely,

Werner Lichtenberger



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE

APPLICATION NO. HM/A-11:194
SUBMISSION NO. A-194/11

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13 as amended and of the Zoning By-Law No. 6593, of the City of Hamilton, Sections 2, 13C, 14, 18, 18A & 19B, Amending By-Law Number 67-27.

AND IN THE MATTER OF the Premises known as Municipal number 235 Main Street West, in the City of Hamilton and in a "G-3/S-36 & H/S-36" (Public Parking Lots and Community Shopping and Commercial, etc.) district;

AND IN THE MATTER OF AN APPLICATION by the agent Al Frisina on behalf of the owner Manhattan West Corporation, for relief from the provisions of the Zoning By-Law No. 6593, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the construction of a three (3) storey retail/office building notwithstanding that:

1. A portion of the building containing the retail/office uses will be located within the G-3/S-36 zoning district, which does not permit these uses;
2. The submitted site plan for this property (DA-11-085) showing the proposed commercial development and associated parking does not meet the approved site plan for this property (Schedule A of By-law 67-27)*;
3. A minimum front yard depth (Main Street West) of 0.0m shall be provided instead of the minimum required 6.0m;
4. Planting strips having minimum widths of 0.4m along the 30.946m rear lot line, 0.7m along the 16.005m southerly side lot line, and 0.3m along the 30.544m westerly side lot line shall be provided instead of the required planting strips having a minimum width of 1.5m;
5. The definition of "planting strip" shall also include transformers, intake/exhaust grills, an iron fence (located within the planting strip adjacent to the 30.946m rear lot line), a metal shed (located within the planting strip adjacent to the 16.005m southerly side lot line), and concrete walls in addition to the required ornamental shrubs or trees or both;
6. No landscaped area shall be provided for the parking space and manoeuvring space adjacent to Queen Street South instead of the minimum required landscaped area having a minimum average width of 2.0m, but not less than 1.0m in width;
7. The definition of "landscaped area" shall also include an intake grill in addition to the required natural planting of grass lawns, trees, shrubs and flowers;
8. A minimum front yard depth of 0.0m shall be provided to a canopy instead of the minimum required front yard depth of 4.5m;
9. A canopy shall be located 0.0m from the street line (Main Street West) instead of the minimum required 1.5m from a street line;
10. No loading spaces shall be provided instead of the minimum required two (2) 18.0m by 3.7m by 4.3m loading spaces;
11. A minimum manoeuvring space of 3.6m shall be provided for the parallel parking spaces 1 through 3 instead of the minimum required 3.7m;

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Page 2

12. Minimum dimensions of 2.6m wide and 5.5m long shall be provided for parking spaces 5 through 50 instead of the minimum required 2.7m wide and 6.0m long;
13. A minimum width of 2.4m shall be provided for parallel parking spaces 1 through 4 instead of the minimum required 2.5m;
14. The boundary of the parking area adjoining a residential district shall be fixed 0.3m from the 30.544m westerly side lot line, 0.7m from the 16.005m southerly side lot line, and 0.4m from the 30.946m rear lot line instead of the minimum required 1.5m;
15. The boundary of the parking area shall be fixed 3.5m from the Main Street West street line and 1.7m from the Queen Street South street line instead of the minimum required 6.0m for that portion of the parking area within 3.0m of a residential district;
16. The existing metal shed shall be located 0.0m from the 16.005m southerly side lot line instead of the minimum required 0.45m; and,
17. The existing metal shed shall be located within a side yard, which is not permitted.

* DA-11-085 shall be the approved site plan for this property and shall replace Schedule A of By-law 67-27 as the approved site plan.

NOTES:

1. These variances are necessary to facilitate site plan application DA-11-085.
2. The canopy shown to encroach onto the Main Street West and Queen Street South road allowances shall require an encroachment agreement from the Public Works Department.

THE DECISION OF THE COMMITTEE IS:

That variances 2, 3, 6 thru 13, 15, 16 and 17, as set out in paragraph three above, are **GRANTED** for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee having regard to the evidence is satisfied that there will be no adverse impact on any of the neighbouring lands.

That variances 1, 4, 5 and 14, as set out in paragraph three above, are **REFUSED** for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is not of a minor nature.
2. The relief granted is not desirable nor is it appropriate development of the land and building and is inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee is of the opinion that the variances are beyond that of a minor variance and should be considered through the Zoning By-law amendment process.
4. The Committee is of the opinion that the granting the requested variances would create an adverse impact on the adjoining property.

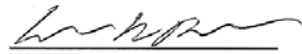
HMA-11:194
Page 3


That the said application is GRANTED subject to the following condition:

1. That a Heritage Impact Assessment be completed to the satisfaction of the Manager of Community Planning and Design.

DATED AT HAMILTON this 15th day of September, 2011



M. Dudzic (Chairman)


W. Pearce


D. Smith


L. Gaddy


D. Drury


V. Abraham

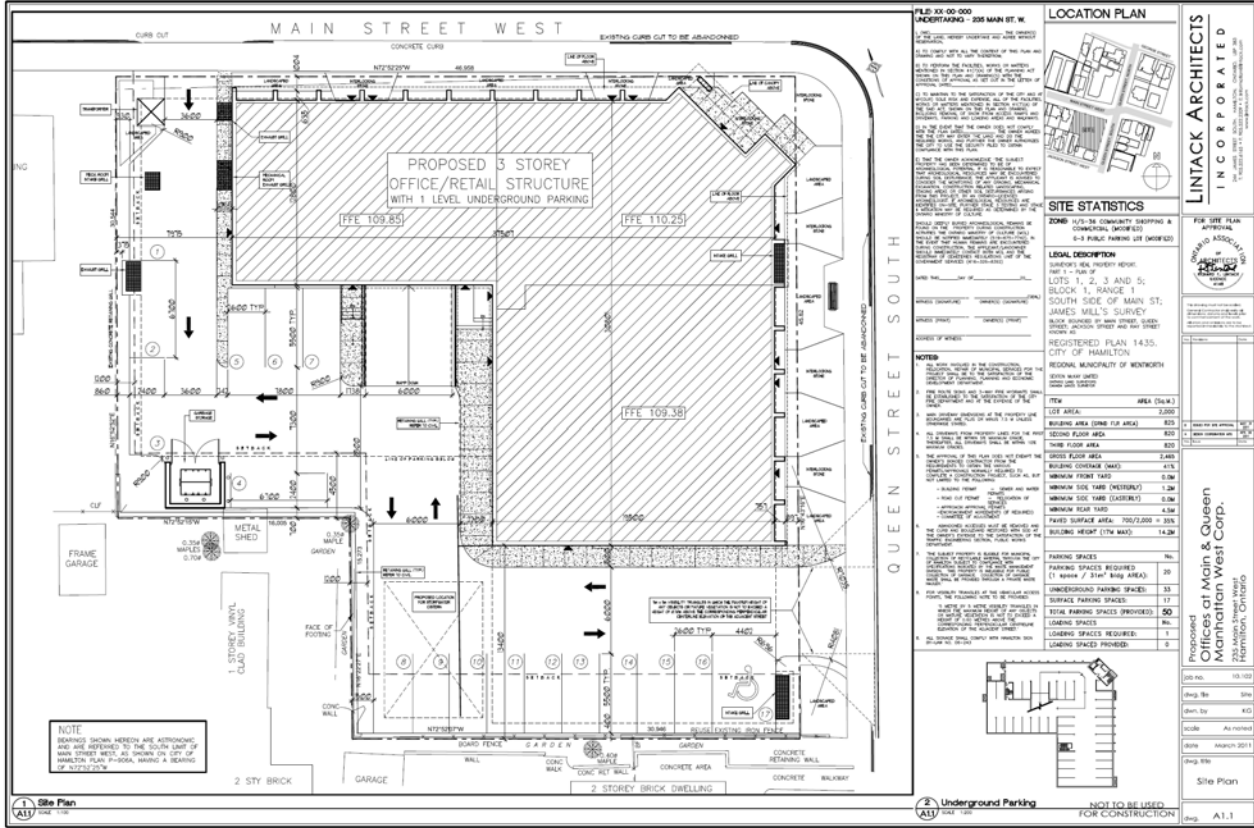
NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **October 5th, 2011**.

NOTE: This decision is not final and binding unless otherwise noted.

NOTE (TO BE INCLUDED IN DECISION IF APPROVED):

1. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Tourism and Culture. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Tourism and Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).



Ministry of the Environment
Environmental Assessment and
Approvals Branch
Program Services Section
Program Support Unit
Environmental Assessment and
Approvals Branch
Floor 12A
2 St Clair Ave W
Toronto ON M4V 1L5
Fax: (416)314-8452
Tel: (416)326-2946

Ministère de l'Environnement
Direction des évaluations et des
autorisations environnementales
Section des programmes
Unité du soutien en matière de
programmes
Direction des évaluations et des
autorisations environnementales
Étage 12A
2 av St Clair O
Toronto ON M4V 1L5
Télécopieur : (416)314-8452
Tél:(416)326-2946



Via Fax: (905)547-0062

April 16, 2010

Mr. Ralph Frisina
Manhattan West Corporation
112 Hughson St S
Hamilton, Ontario, L8N 2B2

Dear Mr. Frisina:

**Re: Acknowledgement of Filing of Record of Site Condition (RSC)
Record of Site Condition Number 74715
IDS Filing Number 8520-84KPRZ**

Pursuant to Subsection 168.4 (3) of the *Environmental Protection Act*, this is to advise you that a Record of Site Condition for 235 Main St W, Hamilton- Lt1 BLK 1 Range 1 James Mills Survey LT 2 BLK 1 Range 1 James Mills Survey LT 3 BLK 1 Range 1 James Mills Survey LT 5 BLK 1 Range 1 James Mills Survey (Btn Ray St, Jackson St, Queen St, Main St) City of Hamilton was filed on the Environmental Site Registry on April 16, 2010.

EAAB, Site Registry Office

c: Ralph Di Cienzo, Landtek Limited
Fax: (905)383-8433
Geoffrey Knapper, District Manager, MOE Hamilton District Office
Fax: (905)521-7820

Appendix "G" to Report PED12037 (Page 1 of 2)

SCHEDULE S-36

BY-LAW NO. 67-27

To Amend The Zoning By-Law No. 6593

The Council of The Corporation of the City of Hamilton enacts as follows:

1. Sheet No. W-13 of the District Maps, appended to and forming part of the Zoning By-Law No. 6593, passed on the 25th day of July, A. D. 1950, is hereby amended by changing from "D" (Urban Protected Residential--One and Two Family Dwellings, etc.) district to "G-3" (Public Parking Lots) district that parcel of land having a frontage of Fifty Feet (50') by a depth of One Hundred and One Feet (101') on the west side of Queen Street South, commencing One Hundred Feet (100') south of the southern limit of Main Street West and extending south.
2. The lands described in this paragraph comprising the lands described in Paragraph 1. above, and the lands lying to the north thereof which are zoned "H" (Community Shopping and Commercial, etc.) district shall be subject in addition to the "G-3" district and "H" district provisions of the Zoning By-Law No. 6593 to the requirement that no building or structure shall be used except in accordance with the plan hereto annexed and designated Schedule "A". The lands to which this paragraph refers may be described as being a parcel of land located at the south-west corner of Main Street West and Queen Street South which parcel may be more particularly described as follows:--

ALL AND SINGULAR those certain parcels or tracts of land situate, lying and being in the City of Hamilton, in the County of Wentworth and being composed of Lot Numbers 1, 2, 3 and 5 in the block bound by Main, Jackson, Queen and Ray Streets in the survey known as James Mill's Survey and more particularly described as follows:

COMMENCING at the south-west corner of Main and Queen Streets and thence southerly along the easterly limits of Lot 1, 2 and 3 a distance of One Hundred and Fifty point Three Zero Feet (150.30') to an iron bar;

THENCE westerly along the southerly limit of Lot 3 a distance of One Hundred and One point Five Three Feet (101.53') to an iron bar;

THENCE northerly along the westerly limit of Lot 3 a distance of Fifty point One Three Feet (50.13') to a point;

THENCE westerly along the southerly limit of Lot 5 a distance of Fifty-two point Five One Feet (52.51') to a point;

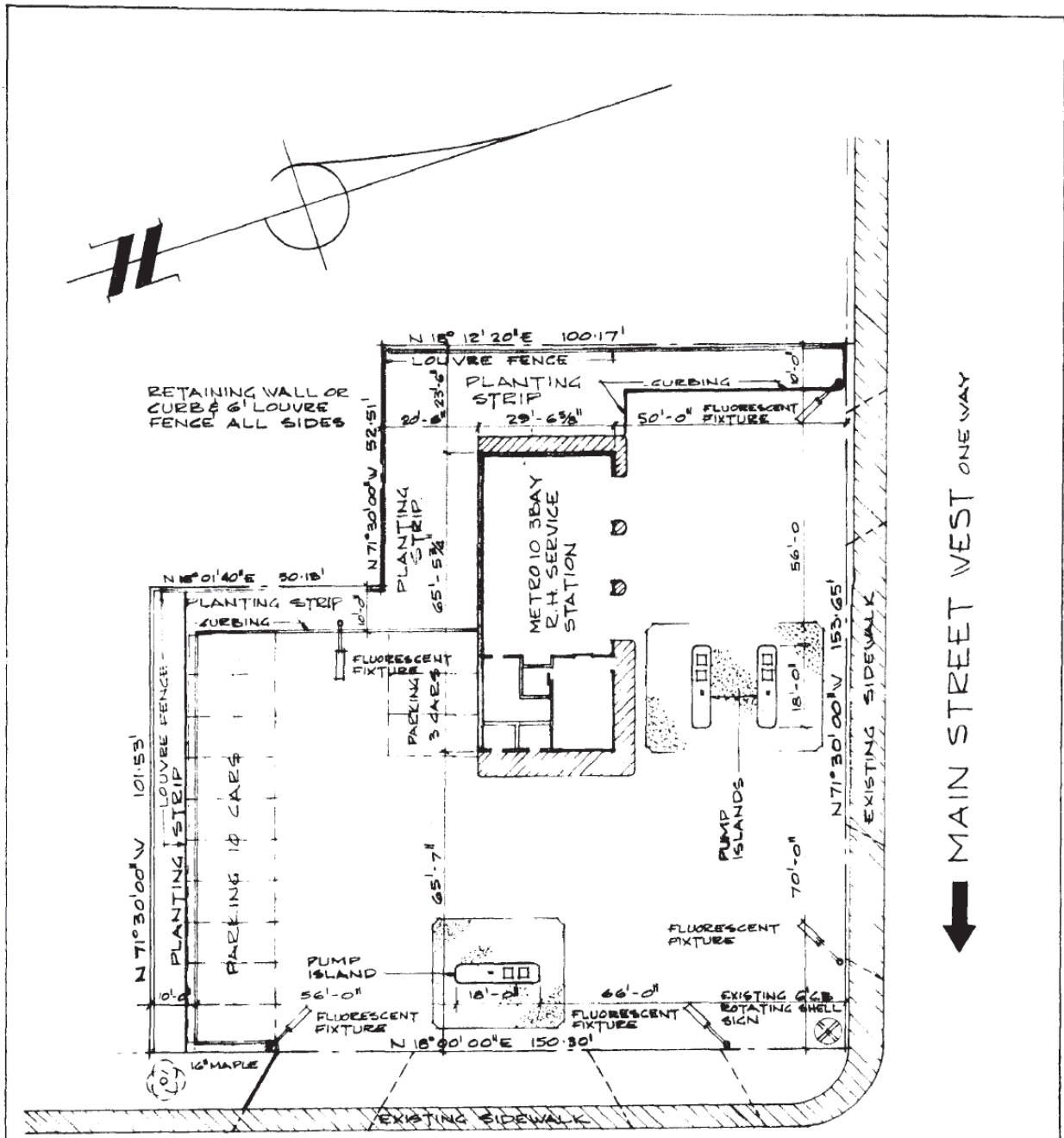
THENCE northerly along the westerly limit of Lot 5 a distance of One Hundred point One Seven Feet (100.17') to an iron bar;

THENCE easterly along the northerly limits of Lots 5 and 2 a distance of One Hundred and Fifty-three point Six Five Feet (153.65') to the place of beginning
3. Sheet No. W-13 of the District Maps appended to and forming part of the said Zoning By-Law No. 6593 is hereby amended by marking the lands described in paragraph 2. above:-- 'S-36'.
4. The said Zoning By-Law No. 6593 is further amended by adding this amending By-Law to Section 19 B as Schedule 'S-36'.
5. The City Clerk is hereby authorized and directed to proceed as soon as possible with the giving of notice of the passing of this By-Law, including a brief explanation of its purpose, and with the carrying out of all other directions of the Ontario Municipal Board relating to the giving of such notice.
6. The City Solicitor is hereby authorized and directed to make application to the Ontario Municipal Board for the necessary approval of this By-Law.

PASSED this 17th day of January, A. D. 1967

E. A. Simpson,
City Clerk.

Victor Copps,
Mayor.



SCHEDULE "A" OF BY-LAW 67-27

SCHEDULE "A"

(S-36) (b)

SHELL CANADA LTD.
 LAYOUT -
 MAIN STREET WEST &
 QUEEN STREET
 HAMILTON ONTARIO
 DEC 19 1966 SCALE: 1" = 30'-0" EM.
 REVISED 12-11-8-1967