

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 4
COMMITTEE DATE: October 18, 2011	
SUBJECT/REPORT NO: Application for a Change in Zoning for the Lands Located at 75 Queenston Road (Hamilton) (PED11170) (Ward 4)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: J. Matthew Blevins (905) 546-2424, Ext. 2634
SIGNATURE:	

RECOMMENDATION

That approval be given to **Zoning Application ZAR-11-023, by Inderjit Holdings Inc., Applicant**, for a change in zoning from the “C” (Urban Protected Residential, etc.) District, the “G-3” (Public Parking Lot) District, and the “H” (Community Shopping and Commercial, etc.) District to the “H/S-1649” (Community Shopping and Commercial, etc.) District, Modified, in the City of Hamilton Zoning By-law No. 6593, to unify the zoning and to add a flea market as a permitted use, on the lands located at 75 Queenston Road (Hamilton), as shown on Appendix “A” to Report PED11170, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED11170, which have been prepared in a form satisfactory to the City Solicitor, be held in abeyance until Site Plan Control Application SPA-11-056 receives approval, with conditions, by the Manager of Development Planning.
- (b) That the proposed modifications in zoning are consistent with the Provincial Policy Statement (PPS), and conform with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of this application is for modifications in zoning to add a flea market as a permitted use and a change in zoning for two parcels of land, that were added to the property over time, to allow for one modified zoning district to apply to the entire property to facilitate the use of the existing building as a furniture and home goods store, a 72 stall flea market, and a food court area (with no food preparation on-site). The applicant has also requested further modifications to eliminate the required landscaping.

The applicant has submitted Site Plan Application SPA-11-056 in conjunction with this application to facilitate the re-development of the property for the proposed commercial configuration (see Appendix "C").

The application can be supported since it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is compatible with existing and proposed development in the area, and allows for the adaptive reuse of a vacant building.

Alternatives for Consideration - See Page 15.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a change in zoning.

HISTORICAL BACKGROUND (Chronology of events)

Chronology:

March 30, 2011: Pre-consultation by Inderjit Holdings Inc. with the City of Hamilton to determine application requirements.

April 7, 2011: Submission of Application ZAR-11-023 by Inderjit Holdings Inc.

April 17, 2011: Application ZAR-11-023 deemed complete.

SUBJECT: Application for a Change in Zoning for the Lands Located at 75 Queenston Road (Hamilton) (PED11170) (Ward 4) - Page 3 of 15

April 21, 2011: Circulation of Notice of Complete Application and Preliminary Circulation to all residents within 120 metres of the subject lands.

May 20, 2011: Submission of Site Plan Amendment Application SPA-11-056.

September 22, 2011: Sign Posting Notice issued to Applicant.

September 30, 2011: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands, and all residents who provided written comments.

Proposal

The Application is for modifications to the “H” (Community Shopping and Commercial, etc.) District in Hamilton Zoning By-law No. 6593 to add a flea market as a permitted use, and for a change in use from the “C” (Urban Protected Residential, etc.) District and the “G-3” (Public Parking) District to the Modified “H” District, to allow for uniform zoning on the subject lands to facilitate the use of the existing commercial building as a furniture and home goods store, a 72 stall flea market, and a food court area (with no food preparation on-site). Further modifications were also requested to eliminate the landscaping requirements.

Details of Submitted Application:

Location: 75 Queenston Road (Hamilton)

Owner/Applicant: Title and Jones Investments Ltd. / Inderjit Holdings Inc.

Property Description: Frontage: Approximately 82.5 metres

Depth: Approximately 91.44 metres

Area: Approximately 7,243.8 square metres

EXISTING LAND USE AND ZONING:

	<u>Existing Land Uses</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant Commercial Building	“H” (Community Shopping and Commercial, etc.) District “C” (Urban Protected Residential, etc.) District “G-3” (Public Parking) District
<u>Surrounding Lands:</u>		
North	Single Detached Dwellings and Small Commercial Buildings	“H” (Community Shopping and Commercial, etc.) District
South	Two-storey Commercial Building	“H” (Community Shopping and Commercial, etc.) District
East	Single Detached Dwellings	“C” (Urban Protected Residential, etc.) District
West	City Motor Hotel	“H” (Community Shopping and Commercial, etc.) District

POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that promote economic development (Policy 1.3.1).

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1.6.1 sets out that retail commercial uses should be directed to existing and planned retail areas unless demand can be demonstrated for a new commercial area or shopping centre. As the purpose of the application is to reuse an existing vacant commercial building for a furniture and home goods store, a 72 stall flea market, and a food court area (with no food prep on-site), staff is satisfied that the proposal conforms to 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 following policies, among others, apply:

- “A.2.2 ...The Plan promotes a high aesthetic quality in all COMMERCIAL areas and endeavours to minimize their impacts on adjacent land uses, most importantly, Residential uses. It is intended that all COMMERCIAL areas be readily and safely accessible and be provided with adequate parking and loading facilities...;
- A.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;
- A.2.2.15 Council recognizes EXTENDED COMMERCIAL areas as viable forms of Commercial Development that satisfy the needs of certain businesses for visibility and accessibility;
- A.2.2.19 Development within EXTENDED COMMERCIAL areas will be through infilling and re-development in order to consolidate the viability of these areas and to restrict their indiscriminate extension into stable areas of 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”;
- A.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:
- i) Encourage the restoration, rehabilitation, or repair of existing storefronts and facades to complement the scale, design, and character of other Commercial developments in the area; and,
- A.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 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 applicant has requested the elimination of landscaping requirements with the justification that appropriate landscaping will be identified and provided at the Site Plan Control stage. Staff is not satisfied that this approach is appropriate, and is not supportive of the elimination of landscaping requirements in the Zoning By-law. In addition, the submission for SPA-11-056 does not show any landscaping on the property; but rather, it only shows the existing conditions. Based on a review of Site Plan Application SPA-11-056, staff is satisfied that the required landscaping can be accommodated on the property without negatively impacting the parking. Accordingly, staff is satisfied that Policy A.2.2.35 of the City of Hamilton Official Plan has been satisfied by the proposal.

As the proposal is to reuse the existing commercial building for a furniture and home goods store, a 72 stall flea market, and a food court, staff is satisfied that the application conforms to the policies of the Hamilton Official Plan.

New Urban Hamilton Official Plan

The new Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved by the Minister of Municipal Affairs and Housing on March 16, 2011. The Ministerial Approval has been appealed to the Ontario Municipal Board, and the plan is not yet in full force and effect. The subject lands are designated “Primary Corridor” on Schedule E, Urban Structure, and “Mixed-Use - Medium Density” on Schedule E-1, Urban Land Use Designations. Staff notes that both the “Mixed-Use - Medium Density” and “Primary Corridor” designations permit a range of uses, including commercial uses. As the subject proposal is to permit the reuse of the vacant commercial building, staff is satisfied that the proposal is in conformity with the new Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments/Agencies had no comments or objections:

- Recreation Division, Community Services Department.
- Water and Wastewater Division, Public Works Department.
- Operations and Waste Management Division, Public Works Department.
- Budgets and Finance Division, Corporate Services Department.
- Taxation Division, Corporate Services Department.

- Hamilton Municipal Parking System.
- Horizon Utilities.
- Hydro One Networks Inc.

Traffic Engineering Section, Environment and Sustainable Infrastructure Division, Public Works Department:

Traffic Engineering has indicated that there may be issues respecting traffic movement for the entrances onto Queenston Road, as there is inadequate separation between the entrances and they are located on the curve of Queenston Road, which does not allow for adequate sight lines. Traffic Engineering has recommended removal of full access from the entrance adjacent to Rosewood Road and removal of the access in the intersection of Queenston Road at Cochrane. Staff is satisfied that these concerns can be addressed and resolved through the Site Plan Control application, to the satisfaction of the Manager of Development Planning.

Forestry and Horticulture Section, Environmental Services Group, Operations and Waste Management Division, Public Works Department:

Urban Forestry has indicated that there are no Municipal Tree Assets located on Queenston or Rosewood Roads fronting or flanking the proposed development, and there are also no Tree Assets on the Main Street side between Municipal Nos. 1646 and 1652. The applicant has requested relief from the requirement for landscape strips abutting Queenston and Rosewood Roads. Urban Forestry has indicated that they are not in support of this request, and have indicated that a Tree Planting Plan will be required at the Site Plan Control stage. Accordingly, staff is satisfied that the inclusion of street trees and a Tree Planting Plan can be adequately addressed through the Site Plan Control application, to the satisfaction of the Manager of Development Planning.

Hamilton Street Railway (HSR), Route Planning and Scheduling Section, Transportation, Energy and Facilities Division, Public Works Department:

The HSR has indicated that service levels for this area are currently under review to determine if increased service levels will be provided, in select time periods, in the future. The HSR comments also note the importance of street orientation and pedestrian entrances and connections noting that short walking distances between retail land uses and transit service are preferable. One of the justifications submitted by the applicant in support of the requested relief from landscaping requirements is to allow free pedestrian movement to and from the site and minimizing potential for maintenance issues respecting blowing debris and mud. Staff is not satisfied that an appropriately maintained landscaped area would create mud or property maintenance issues, and through the Site Specific regulations built into the draft Zoning By-law (see Appendix "B") and the Site Plan Control application, staff is satisfied that appropriate landscaping containing pedestrian connections from the proposed retail use and the existing transit stop will be incorporated on the site.

Public Consultation

In accordance with the new provisions of the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Application and preliminary circulation was circulated to 183 property owners within 120 metres of the subject property on April 21, 2011. To date, 2 formal responses have been received. In addition, a Public Notice Sign was erected on the property on April 25, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

Two letters were received from area residents in opposition to the proposal citing several concerns (see Appendix "D"). The letters have several similar concerns regarding the proposal, specifically that it will result in an unacceptable increase in traffic, noise, and illegal parking on the surrounding residential streets. Both letters also mention a concern with the proximity of the proposed use to a local park and area schools. The other concerns that were raised deal with the details of the operation of the flea market component, ensuring that the property is maintained in an appropriate manner, and concerns that the proposed use is not the most appropriate use for the subject lands. These concerns have been addressed in the Analysis/Rationale for Recommendation section below.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement;
 - (ii) It conforms with the Hamilton-Wentworth Official Plan, the City of Hamilton Official Plan, and the new Urban Hamilton Official Plan; and,
 - (iii) It is compatible with the existing and planned uses in the surrounding area.
2. The proposed modification in zoning is to facilitate the re-development of the property to include a furniture and home goods store, a 72 stall flea market, and a food court area (with no food preparation on-site). The majority of the site is zoned "H" District, which permits a wide range of commercial uses as-of-right, but does not permit the proposed flea market. The property abuts the Motor City Hotel to the west and smaller scale commercial uses and single detached dwellings to the north, single detached dwellings to the east, and a 2-storey commercial development to the south. The property currently contains a vacant commercial building and the associated parking. The proposed uses are not out of character with the established and permitted surrounding uses, nor will it create a conflict with the existing uses.

3. Hamilton Zoning By-law No. 6593, as amended by By-law No. 89-35, defines a Flea Market as follows:

"**Flea Market**" means a place, building, or structure on or in which are situated stands at which trades, callings, businesses, or occupations are carried on by separate vendors.

The main difference between a flea market and a more standard retail establishment is that there are multiple vendors in one location selling various goods, rather than one retailer selling various goods.

City Initiative File CI-86-U led to the passage of By-law No. 89-35 which, in addition to defining flea markets, set out appropriate zones to permit the flea markets and regulations to mitigate potential conflicts with residential uses.

Based on the recommendations in the staff report, flea markets were limited to the "G-2" (Regional Shopping Centre) District and the "I" (Central Business District, etc.) District. Due to the nature of By-law No. 6593, permitting flea markets in the "I" District would also then permit them in the "J" (Light and Limited Heavy Industry, etc.) District and the "K" (Heavy Industry, etc.) District. By-law No. 89-35 also imposed limitations that the flea market be prohibited outdoors and where it abuts a residential district, except in a "G-2" District.

The report indicates that one of the reasons for restricting the locations of flea markets is to mitigate any parking problems, and that "one of the most appropriate solutions is to limit flea markets to commercial and industrial areas where larger parking lots are available and public transit is easily accessible." When the City Initiative was undertaken, Sunday shopping was not permitted, so flea markets served as an alternative for people who either weren't able to get out and shop during the week or who preferred to shop on Sunday. The report speaks to the uses generally operating on Sundays, so there would not be a conflict with parking from the other uses on the property and the parking for the flea market. With the advent of Sunday shopping, flea markets no longer operate in the same manner and, as such, will not have as large a concentration of shoppers at one time as there are more opportunities for customers to shop at the market itself, as well as other alternatives, should they wish to shop elsewhere.

The report also prohibits the operation of a flea market outdoors to ensure that they do not create a conflict with residential uses with respect to excessive noise. Staff is satisfied that this restriction is still appropriate, and has included it in the draft By-law appended to this Report.

The overarching concern, as indicated in the City Initiative CI-86-U Report, is to mitigate potential negative impacts from flea markets on residential uses. The report clearly indicates that the most appropriate manner of achieving this goal is to locate flea markets on properties with adequate parking and access to transit, and to prohibit them from operating outside. The site plan identifies 105 parking spaces on the subject lands, which exceeds the required 69 parking spaces and abuts the B-Line Rapid Transit Corridor. Staff is satisfied that the intent of By-law No. 89-35 is still being maintained.

By-law No. 89-35 did not contemplate flea markets in their current form with the hours of operation and licensing controls currently being applied, nor did it contemplate the general retail environment in its current form. The proposed flea market use would operate similarly to a standard retail use. The clarification for a second-hand goods shop provided in the By-law also gives some direction as to the appropriate uses to be considered in an “H” District. The applicant is proposing a furniture and home goods store, a 72 stall flea market, and a food court area. The flea market will function as any other standard retail establishment, and as a “retail store of any kind” is a permitted use, it is appropriate to permit the flea market. Accordingly, staff supports the addition of a flea market as a permitted use.

4. During the review of the application, and the related Site Plan Control submission, further modifications to the By-law were identified to deal with existing situations on the property and to enhance the landscaping of the subject lands. The following modifications were identified:

Landscape Requirements:

Planting Strips Abutting Residential District/Use:

The “H” District requires a minimum 1.5m wide planting strip where a commercial use abuts a residential district or use. The northern end of the property abuts 3 properties, which are each used for residential purposes. Both 1652 and 1654 Main Street East (see Appendix “A”) have grassed rear yards, with some parking at 1652 and a detached garage at 1654, with a board-on-board fence abutting the subject lands. Further, 1646 Main Street East (see Appendix “A”) is all paved, with the rear portion serving as a parking area, and continuous to the parking lot of the subject lands. Staff is satisfied that there is sufficient space to accommodate the required 1.5m planting strip abutting these properties. Accordingly, staff cannot support the requested relief from the provision requiring a 1.5m wide planting strip abutting a residential district or use.

Landscaped Area for Parking Abutting a Street:

The applicant has requested relief from landscaping requirements, specifically to exempt the subject lands from providing landscaping adjacent to the road allowance. Staff is not supportive of the elimination of this requirement. Based on a review of the site plan, staff is satisfied that the minimum required landscaped area, having an average width of 2.0m but not less than 1.0m, can be provided abutting both the Rosewood Road and Queenston Road street lines. The parking area, as it exists today, does not have any landscaping or plantings to act as a buffer between the commercial use and the residential properties. Imposing the full landscaping requirement would mean the elimination of approximately 17 parking spaces, which would still leave them with an excess of approximately 20 spaces over the minimum requirement. Staff is satisfied that the parking area design can be adjusted to maximize the parking opportunities, while still providing the required landscaping. Concerns have been raised by the neighbours that adequate parking will not be provided, however, the applicant can provide the required landscaping and still provide more parking than is required. Accordingly, staff cannot support the request for the elimination of required landscaping.

Loading Spaces:

Hamilton Zoning By-law No. 6593 requires that a minimum of 2 loading spaces, measuring 18.0m x 3.7m with a clear height of 4.3m, be provided. The existing commercial building has 1 overhead door with a recessed loading dock extending north from the rear of the building. Staff is satisfied that 1 loading space will be adequate for the operation of the proposed use. Accordingly, a site-specific provision has been included to only require 1 loading space measuring 18.0m x 3.7m x 4.3m.

Parking:

Parking Space Size:

The minimum parking space standard in By-law No. 6593 is that each parking space measure at least 2.7m x 6.0m, however, in the comprehensive Hamilton Zoning By-law No. 05-200, the minimum parking standard has been set as a minimum of 2.6m x 5.5m for each parking space. While the applicant has not requested this reduction, staff has recommended it to ensure that some landscaping can be accommodated on the property to improve the property and to minimize any impacts on the abutting residential properties. Accordingly, staff has added a site-specific modification to the draft By-law to set the minimum parking space standard to 2.6m x 5.5m.

Manoeuvring Space Aisle Width:

In order to accommodate landscaping on the subject lands with minimal impacts on the parking to be provided, staff has also recommended the reduction in the minimum required manoeuvring space aisle width from 6.0m, which is required by By-law No. 6593, to 5.5m, which will still allow for adequate access to the parking spaces and will not have a negative impact on the functionality of the parking area. Accordingly, staff has included a specific clause in the By-law to accommodate this.

5. Access to the property from the Queensland Road entrances was raised as a concern. Traffic Engineering has requested that the access to Queenston Road at Cochrane Road be removed, and that the access to Queenston Road adjacent to Rosewood Road be restricted to right-in, right-out only. Staff is satisfied that this will be secured during the Site Plan Control process. The property also has accesses onto Rosewood Road to the east and Main Street to the north. Staff is satisfied that there will be sufficient access to the site, both by transit and foot traffic from the local neighbourhood, as well as vehicular access on Main Street and Rosewood Road, that the property will not suffer from removing the westerly access on Queenston Road at Cochrane Road and limiting the entrance on Queenston Road adjacent to Rosewood Road to right-in, right-out. This will also serve to reduce impacts to the traffic on Queenston Road, and should not have any negative impacts on the future development of the B-Line Rapid Transit Corridor.
6. Urban Forestry has indicated a concern with the request for relief from the landscaping requirements, for the landscaping to be addressed at the Site Plan Control stage only. Staff has a similar concern that the elimination of landscaping requirements on the property is not desirable and can lead to complications in the future. Staff is satisfied that the required landscaping can be accommodated on the property without negatively impacting the parking. Accordingly, staff cannot support the requested elimination of required landscaping.
7. Several concerns were raised as a result of the public consultation, as outlined in the letters received as a result of the Notice of Complete Application and Pre-circulation (see Appendix "D"). The concerns raised are as follows:

Traffic: Both letters indicate a concern over the increase in traffic that will be generated by the proposed flea market use. The comments received from Traffic cited a concern with the flow of the traffic to the site in terms of its impact on Queenston Road. In the instance of the entrance to be removed, there was concern that the site lines were inadequate and, as such, the access would be dangerous in its current location. Staff is satisfied that, while the proposed use will generate more traffic in the area, the site is capable of accommodating the number of vehicles and that there is sufficient access to the site that it shouldn't result in a negative impact on surrounding property owners.

Illegal Parking: The letters also both indicate a concern that the property does not contain sufficient parking to support the proposed use, and that this will result in over-flow parking occurring illegally on the surrounding local streets. Hamilton Zoning By-law No. 6593 requires a minimum of 69 parking spaces, with the parking requirement calculated at a rate of 1 space for every 31.0m² of Gross Floor Area (GFA). The site plan identifies 105 parking spaces. The property is also located on the B-Line Rapid Transit Corridor, and currently has access to several bus routes in the area to accommodate trips generated by both customers and employees. Staff is satisfied that the site will be able to accommodate the parking generated by the use without over-flow parking on the surrounding local roads.

Proximity to Local Park and Area Schools: Concerns were raised about the proximity of the property to a local park and area schools in relation to the proposed use as a flea market. The applicant is proposing a retail use on a commercially zoned property within an established neighbourhood. The nature of the retail use requires a Zoning By-law Amendment, as it is not permitted as-of-right. The use will operate in much the same way as a typical retail store, which would be permitted as-of-right in the existing building without requiring any improvements to the property. Staff is satisfied that the use is appropriate for the property and will not have any impact on surrounding parks or schools.

Property Values: There was a concern raised that the proposal would result in a reduction in property values. The majority of the subject lands are already zoned to permit commercial uses, but the use proposed by the applicant was not permitted in the zoning district, resulting in this application for a Zoning By-law Amendment. The intent and purpose of this application is to unify the zoning on the property so that only one set of zoning provisions applies, and to permit an additional commercial use. Staff is unaware of any empirical data with respect to property devaluation as a result of redevelopment of nearby lands. Therefore, staff is of the opinion that the concerns expressed have been appropriately addressed and support the proposed amendments.

Hours of Operation and Unregulated Vendors: A concern was raised about the hours of operation of the proposed flea market, and that it should be controlled in some way. The hours of operation of a commercial use is not something that staff can control through a Zoning By-law Amendment. In addition, Schedule 6 of the Business License By-law deals with specific regulations for flea markets, and Sub-section 5.(2) states that “every flea market shall open not earlier than 10:00 o’clock in the forenoon, and close not later than 5:00 o’clock in the afternoon of the same day, and shall remain closed during other hours of the day”. Accordingly, as the hours of operation are regulated through the Licensing By-law, no limitations of that nature have been included in the draft By-law appended to this Report.

A second concern was raised about the possibility of unregulated vendors selling goods within the flea market component of the proposed use. The City of Hamilton Business License By-law No. 07-170 does not require each individual vendor in a flea market to have their own licence (depending on the products they sell), but the operator of the flea market is required to hold a Municipal Business Licence. Any infraction by one of their vendors may result in the revocation of the operator's licence. In addition, Schedule 6 of the Business License By-law deals with specific regulations for flea markets, and Sub-section 5.(1)(b) requires the operator of the flea market to submit a list containing the names and contact information for the stallholders, the types or classes of goods being sold, and the date of commencement and termination of the use of each stand with the issuer of the licence at the end of every month. As such, no limitations of that nature have been included in the draft By-law appended to this Report.

Home and Property Security: Concerns have been raised about the safety of the surrounding residential properties in conjunction with the proposed use. Staff is not aware of any empirical data that the existence of a commercial retail use would negatively impact on the security of a dwelling or residential property in proximity to the commercial use.

Transient Customers: The applicant has proposed a commercial retail operation for the subject lands, which requires a Zoning By-law Amendment. The Planning Act (The Act) grants municipalities certain authorities to enact By-laws to deal with the use of land to regulate not only what uses are permitted, but also what performance standards or regulations those uses should be subject to. The Act does not, however, permit a municipality to zone people. In addition, staff is not aware of any empirical data that would suggest that the proposed furniture and home goods store, a 72 stall flea market and food court area would attract different customers than any other commercial retail use that would be permitted as-of-right on the property. Staff is satisfied that the use will function similar to how a shopping mall might function, only on a much smaller scale.

Property Standards: The current condition of the property was raised as a concern with graffiti on the building and garbage all over the subject lands. The maintenance of the property is ultimately the responsibility of the owner, as any infractions to the Property Standards By-law will be sent to their attention. Staff is satisfied that when the building houses an operational business, the applicant will be in regular attendance at the property and can ensure that any refuse in the parking lot is cleaned up, and that any graffiti that may occur on the property is dealt with in a timely manner. The applicant has also submitted a Site Plan Control application that will result in site and landscape plans, approved by the Manager of Development Planning, which are enforceable under the Property Standards By-law, so the applicant will be required to maintain the development, as approved, or they may be issued an infraction notice by a By-law Enforcement Officer to bring the property

back into conformity. Staff is satisfied that the applicant will maintain the property in an appropriate fashion once they are able to establish their business.

ALTERNATIVES FOR CONSIDERATION

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

Should the application be denied, the property would remain zoned “H” (Community Shopping and Commercial, etc.) District, “C” (Urban Protected Residential, etc.) District, and “G-3” (Public Parking) District. Any future use would have to conform to the provisions of the “H” (Designed Shopping Centre) District, “C” (Urban Protected Residential, etc.) District, and “G-3” (Public Parking) District.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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

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.
- ◆ An engaged Citizenry.
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Draft By-law
- Appendix “C”: Concept Plan
- Appendix “D”: Public Comments

:JMB - Attachs. (4)



● Site of the Application



Ward 4 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-11-023

Date:
April 11, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
MB/AL

Subject Property

75 Queenston Road



Block 1 - Change in zoning from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified



Block 2 - Change in zoning from the "C" (Urban Protected Residential, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified



Block 3 - Change in zoning from the "G-3" (Public Parking Lots) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified



Block 4 - Change in zoning from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified

Authority: Item [REDACTED]
Planning Committee
Report: 11-[REDACTED] (PED11170)
CM: [REDACTED]

Bill No.

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 6593 (Hamilton),
Respecting 75 Queenston Road**

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 11-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2011, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

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

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

1. That Sheet No. E-54 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), are amended:
 - (a) by changing the zoning from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified, on the lands identified as "Block 1";
 - (b) by changing the zoning from the "C" (Urban Protected Residential, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified, the lands identified as "Block 2";
 - (c) by changing the zoning from the "G-3" (Public Parking Lot) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified, the lands identified as "Block 3"; and,
 - (d) by changing the zoning from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified, on the lands identified as "Block 4";

the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the "H" (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593, be modified to include the following special provisions:
 - (a) That notwithstanding Section 14(1) of Zoning By-law No. 6593, a flea market, having a maximum of 72 stalls, provided that it shall not be located outdoors, shall also be permitted;
 - (b) That notwithstanding Sections 18A(1)(d) and (e) of Zoning By-law No. 6593, one loading space, with a minimum size of 18.0m x 3.7m x 4.3m, shall be provided and maintained;
 - (c) That notwithstanding Section 18A(1)(f) of Zoning By-law No. 6593, a minimum manoeuvring space aisle width of 5.5m shall be provided and maintained; and,
 - (d) That notwithstanding Section 18A(7) of Zoning By-law No. 6593, parking spaces having a minimum size of 2.6m (W) x 5.5m (L) shall be provided and maintained;

3. That Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1649.
4. 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 referred to in Section 2.
5. That Sheet No. E-54 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1649.
6. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

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

B. Bratina
Mayor

R. Caterini
Clerk

ZAR-11-023







This is Schedule "A" to By-Law No. 11-
 Passed the day of, 2011

 Clerk

 Mayor

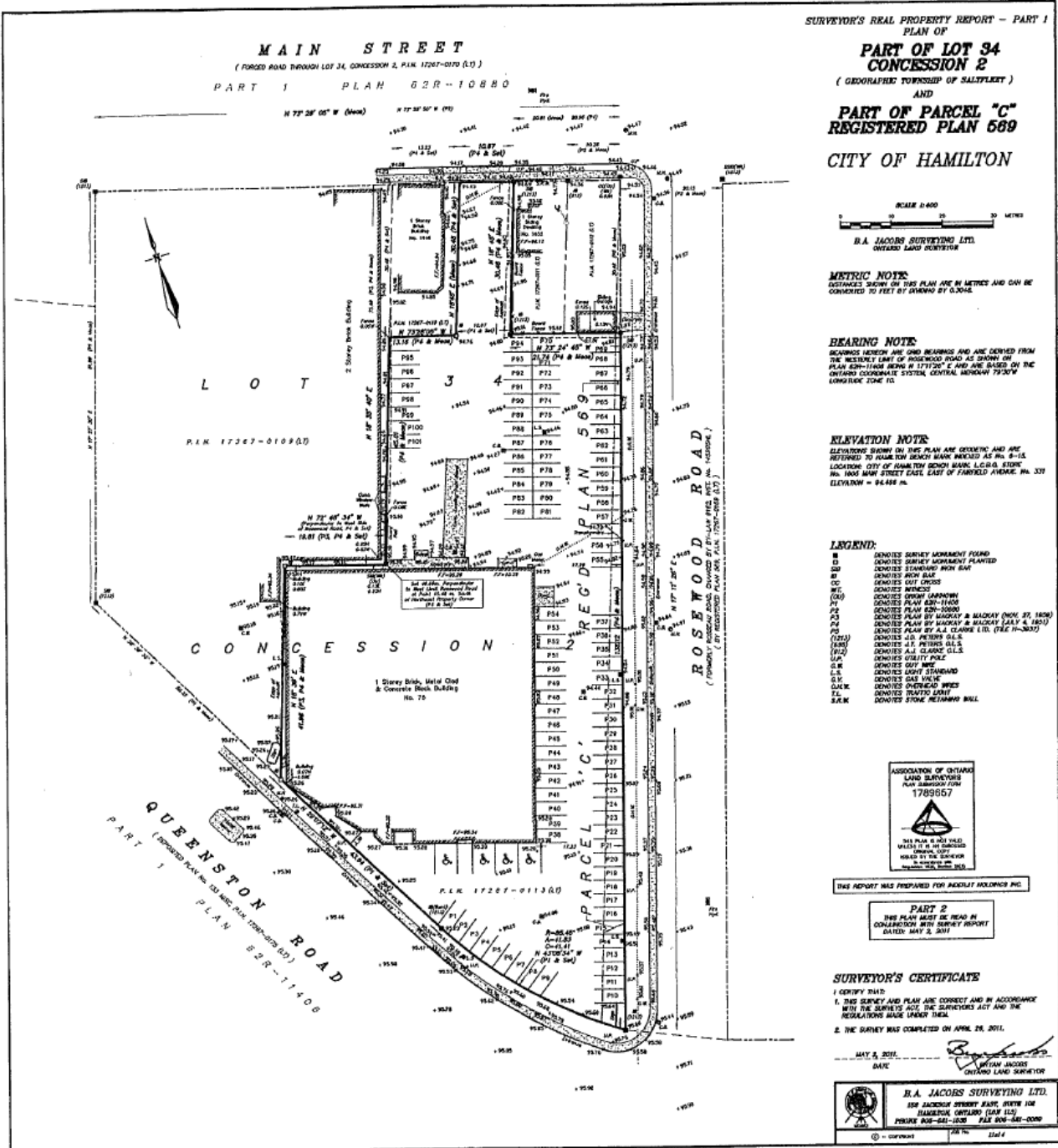
Schedule "A"
 Map Forming Part of
 By-Law No. 11-_____
 to Amend By-law No. 6593

- Subject Property**
 75 Queenston Road
-  Block 1 - Lands to be rezoned from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified
 -  Block 2 - Lands to be rezoned from the "C" (Urban Protected Residential, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified
 -  Block 3 - Lands to be rezoned from the "G-3" (Public Parking Lots) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified
 -  Block 4 - Lands to be rezoned from the "H" (Community Shopping and Commercial, etc.) District to the "H/S-1649" (Community Shopping and Commercial, etc.) District, Modified

Scale:
 N.T.S.
 Date:
 Sept. 28, 2011

File Name/Number:
 ZAR-11-023
 Planner/Technician:
 MB/AL





Blevins, Matthew

From: Mary Tassone [redacted]
Sent: Friday, May 20, 2011 1:30 PM
To: Blevins, Matthew
Subject: File Number ZAR 11-023

Dear Mr. Blevins:

I am writing this letter in response to the application to re-zone the lands at 75 Queenston Road, File Number ZAR 11-023.

I wish to express my protest and register my concerns, complaints and comments in regards to the planned re development of the current land.

The building in question is located in an area that is close to parks and business that already have much congestion and traffic. Children are often walking, and biking their way to a park and school in this area. As well, in this established neighbourhood, there are many seniors with limited accessibility and families with children who would benefit from a much needed grocery store to buy the essentials like milk, bread, fresh fruit and vegetables. The nearest grocery store is located near Ottawa, or Barton, or Eastgate. This is hardly handy for many seniors who have physical disabilities and are unable to walk very far.

Having a flea market so close to residential homes will bring down the value of my home and homes in this area down due to increased influx of shoppers and congestion and noise level. This area cannot support a flea market due to the volume of customers' cars and people it will attract that will not only cause much congestion in a small area, but will bring an influx of illegal parked cars on the adjacent residential side streets.

A flea market should be located among other businesses that is zoned as commercial and can physically support the anticipated volume of cars. I have the support of my neighbours who are in agreement with me and strongly oppose the operation and re-zoning of the by-law for a flea market. What is needed and would be welcomed by the community is a grocery store that can benefit all residents in this area.

I will forward a petition of names in this neighbourhood that oppose the flea market re-zoning by-law.

Yours truly,

Mary Tassone

Blevins, Matthew

From: Phyllis Riley-Larman [REDACTED]
Sent: Friday, May 13, 2011 9:20 AM
To: Blevins, Matthew; De Iulio, Peter
Cc: Mallard, Paul; Robichaud, Steve; Merulla, Sam
Subject: RE: File No: ZAR-11-023

2011-05-13

J. Matthew Blevins,
City of Hamilton,
Planning and Economic Development Department,
Planning Division – Development Planning – East Section,
71 Main Street West,
5th Floor,
Hamilton, ON
L8P 4Y5

RE: File No: ZAR-11-023

Dear Mr. Blevins:

Thank you for your information regarding possible use and zoning changes to the property located at 75 Queenston Road and allowing us to provide input into this matter.

While we recognize the benefit of having a commercial tenant at 75 Queenston Road we do not feel that a Flea Market, due to the nature of this type of business, is an appropriate use for this facility.

Some of concerns are as follows:

- hours of operation
- increase in traffic
- increase noise
- increase in the amount of garbage being dispersed throughout the neighbourhood
- street parking
- home and property security
- unregulated vendors
- transient customers
- proximity to area schools
- please refer to the attached pictures to illustrate how the current state of the property is being maintained. The introduction of such an establishment could lend itself to further deterioration of the property.

We realize that the initial issue of the information received deals with the rezoning of certain portions of this property but would ask that consideration be given to addressing the concerns mentioned above.

Suggestions to minimize the concerns indicated above:

- limit days and hours of operation
- require the erection of fencing around the perimeter to limit the dispersal of garbage to

neighbouring households

- not allowing portable signs to be used on the site
- change current pedestrian light at Cochrane and Queenston to a proper traffic light
- enforce current noise, graffiti, and property maintenance bylaws
- mandate the screening of vendors to include Police checks
- institute permit only parking on Rosewood Road north of Queenston and south of Main
- increase Police presence in the area during operating hours or include in the operators license the requirement for the employ of off-duty officers and security cameras.

Please let us know of any meetings or decisions related to this matter.

Yours Truly,

Gary Larman
37 Rosewood Road
[REDACTED]

Phyllis Riley-Larman
37 Rosewood Road

Wendy Moore
41 Rosewood Road
[REDACTED]

Deanna Wilson
8 Craigroyston Road

Adelina Grillo
33 Rosewood Road
[REDACTED]

Winnifrid Wilson
8 Craigroyston Road

Phyllis Riley-Larman
[REDACTED]











