

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: April 9, 2015

CASE NO(S): PL110331
PL090779
PL101381
PL120574
PL131287

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellants: See Schedule "1"
Subject: Official Plan Amendment No. 35 to the Region of Hamilton-Wentworth Official Plan
Municipality: City of Hamilton
OMB Case No.: PL090779
OMB File No.: PL090779 (See Schedule "1")

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellants: See Schedule "1"
Subject: Official Plan Amendment No. 128 to the Town of Ancaster Official Plan (PL090780);
Official Plan Amendment No. 18 to the Town of Dundas Official Plan (PL090781);
Official Plan Amendment No. 118 to the Town of Flamborough Official Plan (PL090782);
Official Plan Amendment No. 75 to the Township of Glanbrook Official Plan (PL090783);
Official Plan Amendment No. 220 to the City of Hamilton Official Plan (PL090784);
Official Plan Amendment No. 149 to the City of Stoney Creek Official Plan (PL090785)
Municipality: City of Hamilton
OMB Case No.: PL090779
OMB File Nos.: PL090780-PL090785 (See Schedule "1")

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: See Schedule "2"
 Subject: Failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan
 Municipality: City of Hamilton
 OMB Case No.: PL101381
 OMB File No.: PL101381 (See Schedule "2")

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellants: See Schedule "3"
 Subject: The new City of Hamilton Urban Official Plan
 Municipality: City of Hamilton
 OMB Case No.: PL110331
 OMB File No.: PL110331 (See Schedule "3")

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Auburn Developments Inc.
 Subject: Application to amend Zoning By-law 6593 – Refusal of application by the City of Hamilton
 Existing Zoning: "J" (Light and Limited Heavy Industrial, etc.) District
 Proposed Zoning: "E-3" (High Density Multiple Dwellings) District
 Purpose: To permit a 10 storey student residential building
 Property Address/Description: 17 Ewen Road
 Municipality: City of Hamilton
 Municipal File No.: ZAC-07-062
 OMB Case No.: PL120574
 OMB File No.: PL120574

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Auburn Developments Inc.
 Subject: Request to amend the Official Plan – Refusal of request by the City of Hamilton
 Existing Designation: "Industrial"
 Proposed Designation: "High Density Residential"

Purpose: To permit a 10 storey student residential building
 Property Address/Description: 17 Ewen Road
 Municipality: City of Hamilton
 Approval Authority File No.: OPA-07-016
 OMB Case No.: PL120574
 OMB File No.: PL120575

Schedule “1”

Appellants to the amendments to the in-force Official Plans of the former Region of Hamilton-Wentworth, Towns of Ancaster, Dundas and Flamborough, Township of Glanbrook and Cities of Hamilton and Stoney Creek (OMB Case No. PL090779)

<i>OMB FILE NO.</i>	<i>APPELLANT NAME</i>
PL090784	Shawcor Ltd.

Schedule “2”

Appellants to the failure of the Minister of Municipal Affairs and Housing to announce a decision respecting the City of Hamilton Urban Official Plan (OMB Case No. PL101381)

<i>OMB FILE NO.</i>	<i>APPELLANT NAME</i>
PL101381	A. DeSantis Developments Ltd.
	LIUNA Group Corp.
	St. Joseph’s Villa

Schedule “3”

Appellants to the new City of Hamilton Urban Official Plan (OMB Case No. PL110331)

<i>OMB FILE NO.</i>	<i>APPELLANT NAME</i>
PL110331	2000963 Ontario Inc.
	2051206 Ontario Inc.
	2084696 Ontario Inc.
	2188410 Ontario Inc.
	456941 Ontario Ltd., 1263339 Ontario Ltd., and Lea Silvestri
	909940 Ontario Inc.
	Artstone Holdings Limited
	Carmen Chiaravelle, 1694408 Ontario Ltd., John Edward Demik, Peter Demik, Demik Brothers Hamilton Ltd., and Elaine Vyn
	City of Hamilton

	Corpveil Holdings Limited
	Flamborough Power Centre Inc., Flamborough South Centre Inc., Clappison Five Six Properties Inc.
	Freeland Developments Limited
	Gino and Olindo DalBello
	Lynmount Developments Limited
	Mondelēz Canada Inc. (formerly Kraft Canada Inc.)
	Mud and First Inc.
	Multi-Area Developments Inc.
	Norman Vartanian
	Paletta International Corporation
	Paletta International Corporation (re: Elfrida)
	Spallacci & Sons Limited
	Sullstar Twenty Limited
	Twenty Road Developments Inc.
	Upper Centennial Developments Ltd.
	Waterdown Bay Ltd.

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: City of Hamilton
Subject: Failure of Ministry of Municipal Affairs and Housing to announce a decision respecting Proposed Official Plan Amendment No. 25-OP-2009

Municipality: City of Hamilton
OMB Case No.: PL131287
OMB File No.: PL131287

Heard: March 6, 2015 in Hamilton, Ontario

APPEARANCES:

Parties

City of Hamilton

Auburn Developments Inc.
17 Ewen (Hamilton) Corp.

Mondelez Canada Inc.

Counsel

M. Minkowski

I. Kagan

M. Bull

**MEMORANDUM OF ORAL DECISION DELIVERED BY SUSAN de AVELLAR
SCHILLER ON MARCH 6, 2015 AND ORDER OF THE BOARD**

INTRODUCTION

[1] The matters before the Board are appeals related to the new City of Hamilton (“City”) Urban Hamilton Official Plan (“UHOP”) adopted by the City on July 9, 2009, and approved by the Minister of Municipal Affairs and Housing (“MMAH”) with modifications on March 16, 2011, appeals of the failure of the MMAH to make a decision regarding the UHOP, prior to March 16, 2011, and appeals related to amendments to the in-force official plans of the former Region of Hamilton-Wentworth, Towns of Ancaster, Dundas and Flamborough, Township of Glanbrook and Cities of Hamilton and Stoney Creek.

[2] Also before the Board are appeals by Auburn Developments Inc. (“Auburn”) regarding a proposed official plan amendment and associated zoning by-law amendment to permit a 10-storey student residence on lands zoned and designated for industrial use.

[3] At the parties’ request, the Board agreed to divide the hearing into several segments. Each hearing segment deals with one or more specific topic areas. Pre-hearing conferences to deal with motions, settlements, procedural orders for various hearing segments, and so on, have been, and will continue to be, interspersed between hearing segments to move matters along in an efficient manner. Decisions issued at the close of each segment set out the specific matters dealt with at that segment.

[4] This appearance deals with the Auburn appeal.

[5] At the outset of the hearing, the Board was advised that Auburn had sold the property and that 17 Ewen (Hamilton) Corp. (known as “Rise”) has carried the appeal forward.

[6] These matters, previously scheduled for hearing, were adjourned to permit the parties to consider the implications of new noise guidelines issued by the former

Ministry of the Environment, now Ministry of the Environment and Climate Change (“MECC”). The new guideline applicable to this matter is NPC – 300, which replaces NPC – 205.

[7] The Rise proposal before the Board is for a 10-storey student residence within the block bounded by Main Street West to the north, Ewen Road to the west, Rifle Range Road to the east and Whitney Avenue to the south. The site has frontage on both Ewen Road and Rifle Range Road.

[8] Immediately south of the proposed student residence is the Mondelez industrial operation known in the neighbourhood as the Cadbury Candy Factory. This facility operates on 24 hour shifts, seven days a week, all year.

[9] The Hamilton – Brantford Rail Trail is a cycling and pedestrian trail. It separates the Rise site from the Mondelez site to the south.

[10] The site is within the Ainslee Wood – Westdale Secondary Plan area.

[11] The Rise site is and the Mondelez site are within a relatively small enclave of predominantly industrial uses that is surrounded by residential uses.

[12] The Rise site held an earlier designation as Industrial, with associated zoning. The UHOP redesignated the site for residential use. Mondelez appealed this redesignation.

[13] Auburn filed a site-specific official plan amendment and associated zoning by-law to permit the student residence on the site. The City failed to make a decision on these site specific applications and Auburn appealed the non-decision to this Board.

[14] At the outset of the hearing, the Board was advised that Rise, the City and Mondelez had now reached a settlement and all appeared in support of proposed modifications to the UHOP and to the zoning by-law.

[15] The Board heard from two expert witnesses, Chris Pidgeon and John Ariens. Both men are full Members of the Canadian Institute of Planners and Registered Professional Planners in Ontario. Both men also executed the Board's Acknowledgement of Expert's Duty form. The Board qualified each man to provide the Board with independent expert opinion evidence in land use planning matters.

[16] In summary, the settlement applies the requirements of the NPC -300 noise guidelines, removes outdoor amenity space including balconies, re-designates some surrounding lands Mixed Use, District Commercial and Employment Area – Industrial Lands and provides for vehicular access only from Rifle Range Road.

[17] The purpose of these changes is to strike an appropriate balance between the interests of the residential neighbourhood that surrounds this industrial area, the interests of the future residents of the proposed Rise student housing, the interests of Mondelez to continue to operate this key industrial facility and the interests of the City to maintain employment uses compatibly within a larger residential area.

[18] To implement the settlement, the parties have proposed certain modifications to the UHOP as set out in Tab 6 of Exhibit 73 as filed in these proceedings and found at Attachment 1 to this decision. There are also proposed amendments to Zoning By-law No. 6593 (Hamilton) ("By-law") as set out in Tab 7 of Exhibit 73 as filed in these proceedings and as found at Attachment 2 to this decision.

[19] The By-law includes a key holding provision as follows:

That the 'H' symbol applicable to lands referred to in Section 1 of this By-law shall be removed conditional upon:

- a. The submission of a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, Director of Planning, including an acknowledgement of receipt of the RSC by the MOE; and
- b. That conditional site plan approval has been granted which, among other things, includes noise mitigation to implement MOE Noise Guideline NPC-300.

[20] Since one purpose of the settlement is to ensure that Mondelez can continue to operate its facility with the proposed student residence nearby, the parties have asked the Board to withhold its Order regarding the By-law until the Board has been advised by the parties that the further necessary steps have progressed sufficiently to ensure that Mondelez is able to continue to secure its environmental compliance approvals relating to its operation in close proximity to the proposed student residence.

[21] The Board also heard from two participants.

[22] Lavinia Welsh represents the Ainslee Wood/Westdale Community Association of Resident Homeowners Inc. She testified that this organization supports the settlement and the Rise proposal. Discussions between her organization and Rise have resulted in an agreement in principle regarding bicycle parking, a shuttle bus for students to reach campus for special events, an advisory committee to deal with problems which may arise and a financial contribution for community purposes.

[23] Mary Kiss is part of an unincorporated group of area volunteers. She appeared in opposition to the Rise proposal and to the settlement. She continued to express concerns particularly regarding the protection of employment lands and the continued operation of the Mondelez facility. She disagreed with the results of the extensive studies undertaken on the Rise proposal but, as a participant, she called no evidence to challenge the expert work and analysis that underpins the proposed modifications.

[24] The Board attaches little weight to Ms. Kiss's testimony. The proposal has been the subject of extensive, detailed study resulting in proposed modifications to the UHOP and amendments to the By-law. While Ms. Kiss may express her worry over the impact on the Mondelez plant, the Board finds that the best evidence on this impact was presented by Mondelez itself who is a party to these proceedings and appeared in support of the proposals now before the Board.

[25] On the unchallenged evidence of Messrs. Pidgeon and Ariens, the Board finds that the proposed modifications to the UHOP and the proposed amendments to the By-

law have had appropriate regard for the matters of provincial interest as set out in s. 2 of the *Planning Act*, R.S.O. 1990, c. P. 13 (“Act”), are consistent with the 2014 Provincial Policy Statement and conform to the Growth Plan for the Greater Golden Horseshoe.

[26] The Board also finds that the By-law conforms to the UHOP as modified.

[27] Having regard to s. 2.1 of the Act, the Board notes that the matters before the Board have been adopted by the City as part of the settlement.

[28] Rise advised the Board that with the proposed modifications to the UHOP, the appeal regarding the site-specific official plan amendment is withdrawn.

[29] Mondelez advised the Board that with the proposed modifications to the UHOP, the balance of the Mondelez appeal of the UHOP is now settled.

[30] The appeal by Auburn Developments Inc., continued by 17 Ewen (Hamilton) Corp., regarding Zoning By-law No. 6593 is allowed in part and Zoning By-law No. 6593 is amended as set out in Attachment 2 to this decision. At the request of the parties, the Board’s Order is withheld until the parties advise the Board that sufficient progress has been made such that the Order may issue.

ORDER

[31] The Board orders that the appeal by Mondelez Canada Inc. is allowed in part and the Urban Hamilton Official Plan is modified as set out in Attachment 1 to this decision.

“Susan de Avellar Schiller”

SUSAN de AVELLAR SCHILLER
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

Modification to the Urban Hamilton Official Plan

Mapping Changes

1. Modify Schedule E-1 to the Urban Hamilton Official Plan as follows and as illustrated in attached Schedule A:
 - a. re-designate the lands located at 45 Ewen Road (Mondelez Canada plant) from Neighbourhoods to Industrial Land;
 - b. re-designate the lands located at 20, 22, 28, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road from Neighbourhoods to District Commercial; and
 - c) re-designate the lands located at 17 Ewen Road from Neighbourhoods to Mixed Use Medium Density.
2. Modify Map B 6.2-1 to the Ainslie Woods Westdale Secondary Plan as follows and as illustrated on attached Schedule B:
 - a. delete Area C and replace it with a new Area C comprising the lands at 20, 22, 28, 45, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road.
 - b. re-designate the lands located at 45 Ewen Road (Mondelez Canada plant) from Mixed Use - Medium Density, Site Specific Policy - Area C to Employment Area - Industrial Lands, Site Specific Policy - Area C
 - c. re-designate the lands located at 20, 22, 28, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road from Mixed Use - Medium Density, Site Specific Policy - Area C to District Commercial, Site Specific Policy - Area C;
 - d. re-designate the lands located at 64 and 66 Ewen Road from Mixed Use – Medium Density, Site Specific Policy - Area C to Low Density Residential 2; and
 - e. re-designate the lands located at 17 Ewen Road from District Commercial, Site Specific Policy – Area D to Mixed Use – Medium Density, Site Specific Policy – Area D.

Text Changes

1. Volume 2, Chapter B, Policy 6.2.4(i) is to be deleted.
2. Volume 2, Chapter B, Policy 6.2.16.1(c), is to be deleted and replaced with the following:

6.2.16.1(c) Site Specific Policy – Area C – Lands located at 20, 22, 28, 45, 58 and 60 Ewen Road, and 5 Ofield Road.

3. Volume 2, Chapter B, Policy 6.2.16.4 is to be deleted and replaced with the following:

6.2.16.4 The lands located at 20, 22, 28, 45, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road, designated as Employment Area - Industrial Land or District Commercial, are identified as Site Specific Policy – Area C on Map B.6.2-1 – Ainslie Wood Westdale – Land Use Plan. The following policies shall apply to Site Specific Policy – Area C.

- a) The objective for 45 Ewen Road is to protect employment uses from new sensitive land uses that are not compatible with employment land uses.
- b) Notwithstanding the permitted uses of Sections E.5.2.4, E.5.2.5, E.5.3.2 of Volume 1 – Industrial designations, only manufacturing, warehousing, and storage uses and accessory uses shall be permitted on the lands located at 45 Ewen Road.
- c) The permission to allow “live work units” in Section E.4.7.2a) and all of Section E.4.7.2c) of Volume 1 shall not apply to the lands located at 20, 22, 28, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road.
- d) Subject to c) above, in addition to the permitted uses in Sections E.4.2.5, E.4.7.1, E.4.7.2 of Volume 1 – District Commercial designation, the following additional uses may be permitted for the lands located at 20, 22, 28, 58 and 60 Ewen Road, 5 Ofield Road and 20 Rifle Range Road, provided they comply with criteria in Policy 6.2.16.4:
 - i) uses existing at the date of the Urban Hamilton Official Plan comes into effect for these sites;
 - ii) open space and recreation;
 - iii) light employment uses such as storage or warehousing; and
 - iv) institutional uses related to McMaster University or the Medical Centre, such as a research and development facility.
- e) Notwithstanding Section 6.2.16.4 d), the lands shall be zoned on a site specific basis to allow for the continuation of existing employment (industrial) uses that existed on the day of the adoption of Urban Hamilton Official Plan.
- f) The following criteria shall be used in the evaluation of future rezoning applications for the lands located within Site Specific Policy Area - C:
 - i) the type, form, height and other features of the new proposed land use shall be compatible with and not create a negative effect on adjacent land uses;

- ii) the use shall not negatively impact the planned function of the area;
 - iii) the new proposed land use is permitted within the existing land use designation;
 - iv) a Record of Site Condition has been completed and filed with the City and the Province for the proposed use;
 - v) the use must have regard for Provincial guidelines; and
 - vi) it must be demonstrated that the proposed development will be compatible with existing uses.
- g) Should manufacturing, warehousing, and storage uses and accessory uses cease at 45 Ewen Road, the lands identified in Site Specific Policy – Area C may be re-designated to Mixed Use - Medium Density designation without the need to undertake a Municipally Initiated Comprehensive Review for employment lands.

4. Volume 2, Chapter B, Policy 6.2.16.5 is to be deleted and replaced with the following:

Site Specific Policy – Area D

6.2.16.5 Notwithstanding Policy B.6.2.5.5 a) and b), for the lands designated Mixed Use – Medium Density, located at 17 Ewen Road, and identified as Site Specific Policy – Area D on Map B.6.2-1 – Ainslie Wood Westdale – Land Use Plan, the following policies shall apply:

- a) the maximum height of any proposed building or structure shall be limited to 10 storeys;
- b) the maximum residential densities shall range from 300 to 375 units per gross hectare;
- c) as long as manufacturing, warehousing, storage and accessory uses continue to operate at 45 Ewen Road, any use on the lands shall:
 - (i) not contain any outdoor amenity areas as defined by Ministry of the Environment Guideline NPC-300; and
 - (ii) any multiple dwelling shall be designed as student accommodation.
- (d) The following criteria shall be used in the evaluation of future applications under the *Planning Act* for the lands located within Site Specific Policy Area - D:
 - (i) The development will be compatible with and not create a negative effect on the industrial uses at 45 Ewen Road; and

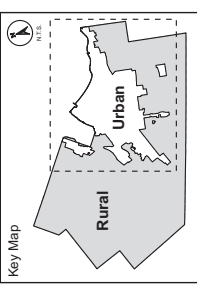
- (ii) The development will have regard for Ministry of the Environment Guideline NPC 300.
- e) Site Specific Policy Area D is hereby identified as a Class 4 Area pursuant to Ministry of the Environment Guideline NPC 300.

**OMB Settlement (Group 4 - Mondeleze (formerly Kraft)/Auburn Development
Urban Hamilton Official Plan
Case No. PL110331/PL120574**

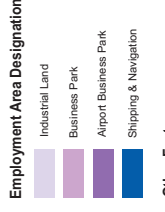
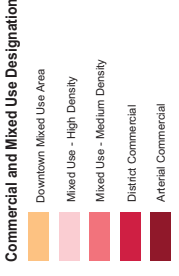
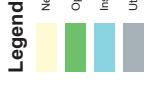
APPEALS

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the East Side Business Park, Hamilton International Airport, Business Park, and following Twenty Road and Garner Road to Fiddlers Green Road in the west remains under appeal.

Lands Under Appeal
 -17, 20, 22, 26, 28, 56 and 60 Elven Road, 50 Field Road and 20 Rife Range Road (ANW Lands)
 -272 First Road West (PIN No. 170971125)
 -0 Rymal Road East (PIN No. 170840029)
 -212 Glover Road (PIN No. 170840059)



Note: For Rural Land Use Designations, refer to Schedule D of the Rural Hamilton Official Plan.



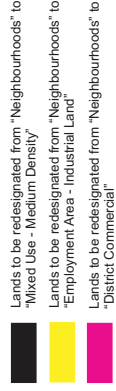
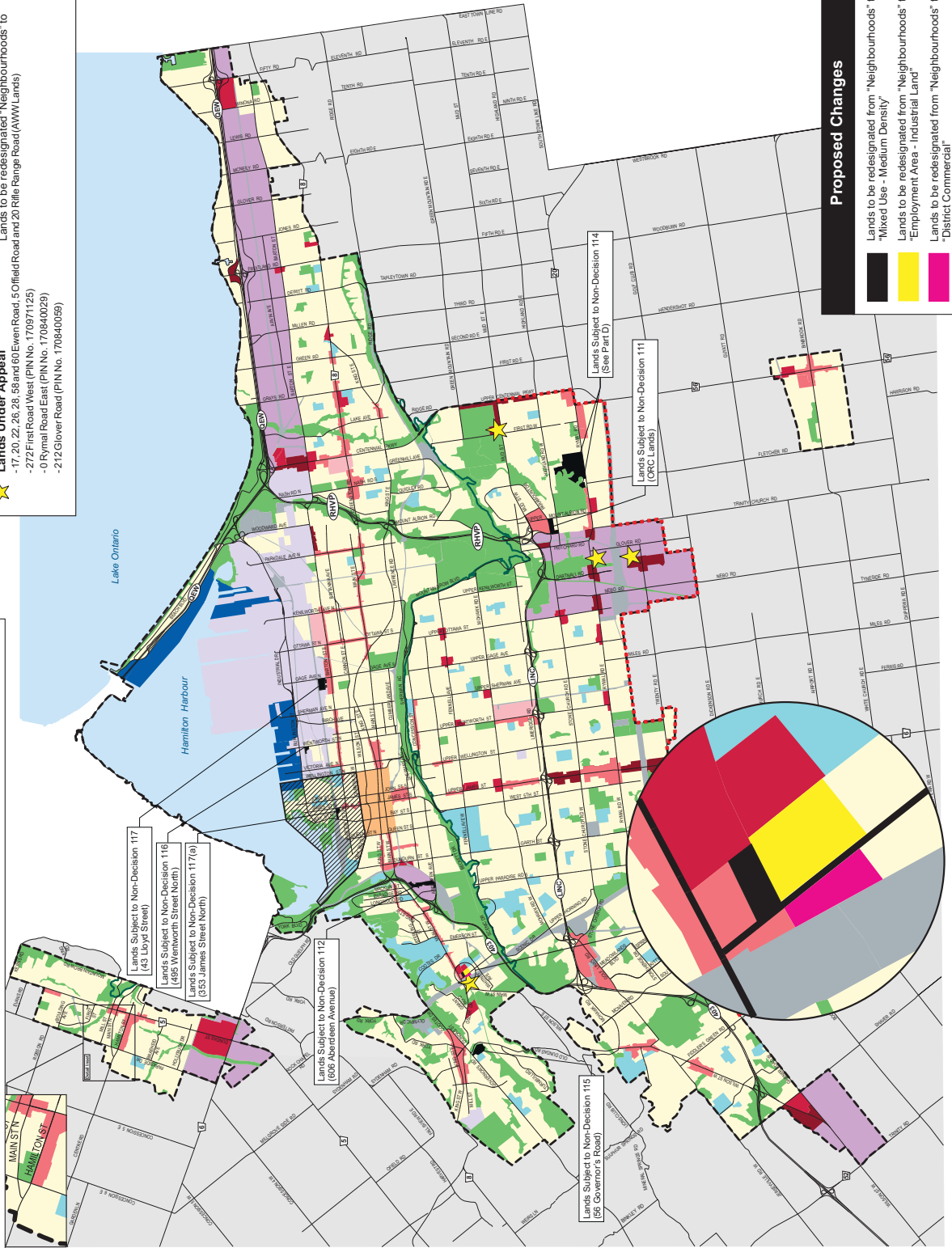
Council Adoption: July 9, 2009
 Ministerial Approval: March 16, 2011
 Effective Date: August 16, 2013

**Urban Hamilton Official Plan
Schedule E-1
Urban Land Use Designations**

Not To Scale
 Date: April 24, 2014








PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
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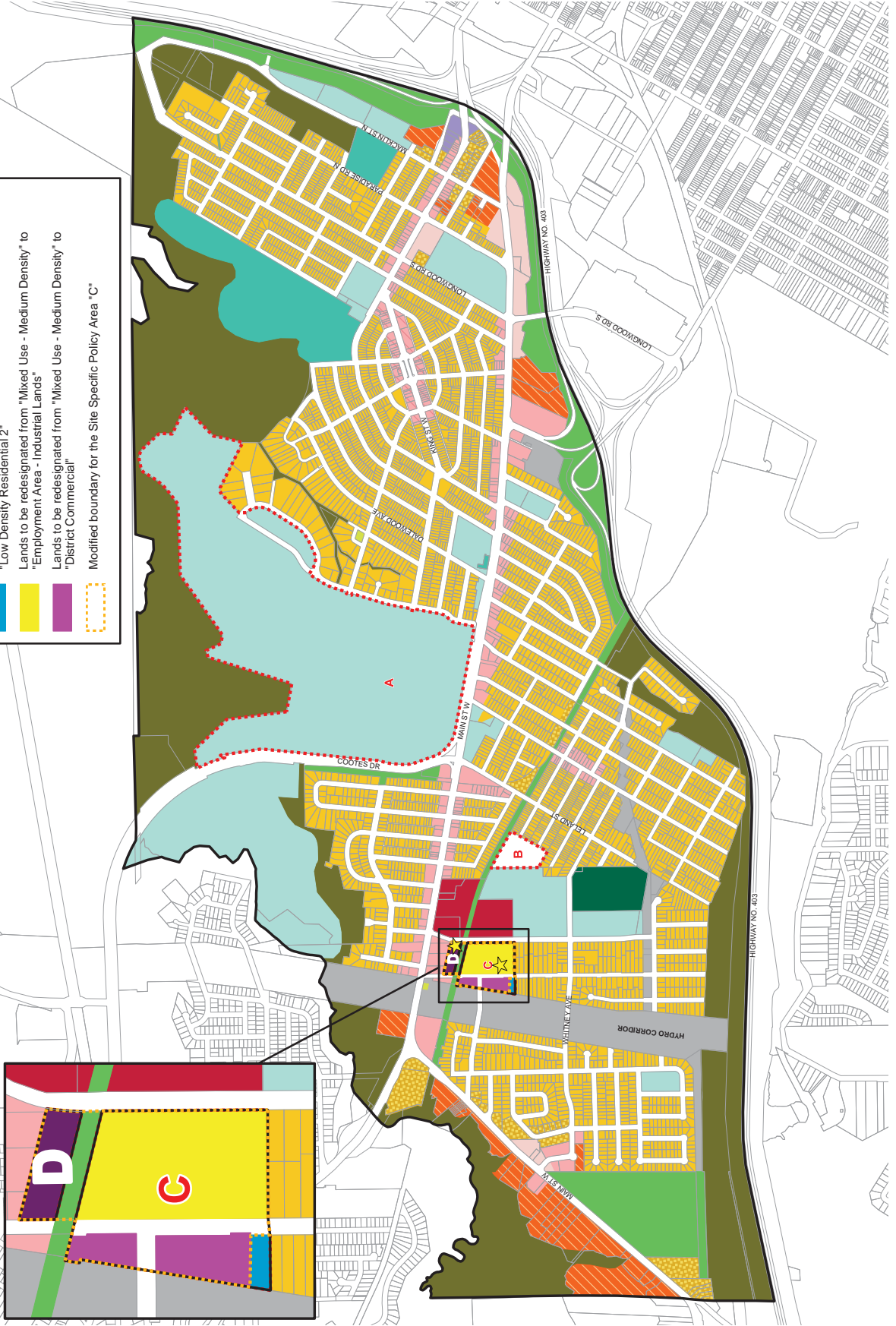


**OMB Settlement (Group 4 - Mondeleze (formerly Krafty)/Auburn Development
Urban Hamilton Official Plan
Case No. PL11033/PL120574**



Proposed Changes





-  Lands to be redesignated from "High Density Residential 1" to "Mixed Use - Medium Density"
-  Lands to be redesignated from "Mixed Use - Medium Density" to "Low Density Residential 2"
-  Lands to be redesignated from "Mixed Use - Medium Density" to "Employment Area - Industrial Lands"
-  Lands to be redesignated from "Mixed Use - Medium Density" to "District Commercial"
-  Modified boundary for the Site Specific Policy Area "C"

Lands Under Appeal
- Specific Policy Areas C & D








Legend




- Residential Designations**
-  Low Density Residential 2
 -  Low Density Residential 3C
 -  High Density Residential 1

- Commercial and Mixed Use Designations**
-  Local Commercial
 -  Mixed Use - Medium Density
 -  Mixed Use - Medium Density - Pedestrian Predominant
 -  District Commercial

Parks and Open Space Designations

-  Parkette
-  Neighbourhood Park
-  Community Park
-  General Open Space
-  Natural Open Space

Other Designations

-  Institutional
-  Employment Area - Industrial Lands
-  Utility

Other Features

-  Area of Site Specific Policy
-  Secondary Plan Boundary

Council Adopted: July 9, 2009
Ministerial Approval: March 16, 2011
Effective Date: August 16, 2013

Urban Hamilton Official Plan
Ainslie Wood Westdale
Secondary Plan
Land Use Plan
Map B.6.2-1



Date: Aug. 9, 2013
No. 15-5646
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
City of Hamilton
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ATTACHMENT 2

CITY OF HAMILTON BY-LAW NO.

To Amend Zoning By-law No. 6593 (Hamilton), respecting lands located at 17 Ewen Road

September 8, 2014

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

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan under the Planning Act, upon approval by the Ontario Municipal Board of the Urban Hamilton Official Plan, as modified;

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

1. That Sheet No. W-46 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the zoning from the “J/S-1552” (Light and Limited Heavy Industry, Etc.) District, Modified, to the “E-3”-‘H’ (High Density Multiple Residential – Holding) District, Modified, on the lands the extent and boundaries of which are shown on the plans hereto annexed as Schedule “A”.
2. That the “E-3”-‘H’ (High Density Multiple Residential – Holding) District regulations, as contained in Section 11C of Zoning By-law No. 6593, be modified to include the following special requirements:
 - (a) That notwithstanding Section 11C.(1) of Zoning By-law No. 6593, the following use shall be the only permitted:
 - (i) A “**Student Residence**”
 - (b) For the purposes of this By-law, a “**Student Residence**” shall be defined as:

“Student Residence” means the whole of any multiple dwelling designed for accommodating students and consisting of 3 or more **Dwelling Units**, each providing up to 5 bedrooms for hire or gain directly or indirectly that does not have the exclusive use of both a kitchen and a bathroom. The building may also include common areas.

- (c) That notwithstanding Section 11C (1a) of Zoning By-law No. 6593, the height of a building or structure shall not exceed 10-storeys and 35 metres.
- (d) That notwithstanding Section 11C(2) of Zoning By-law No. 6593, the following yards shall be required:
 - 1) A westerly yard (Ewen Road) having a depth of not less than 2.1 metres adjacent to a building height of 21 metres (7 storeys); 5.9 metres adjacent to a building height of 24 metres (8 storeys); and 11.39 metres adjacent to a building height of 35 metres (10 storeys), shall be provided and maintained for all buildings and structures.
 - 2) A northerly yard having a depth of not less than 12 metres shall be provided and maintained for all buildings and structures.
 - 3) A southerly yard having a depth of not less than 3.0 metres shall be provided and maintained for all buildings and structures.
 - 4) An easterly yard (Rifle Range Road) having a depth of not less than 2.1 metres adjacent to a building height of 21 metres (7 storeys); and 13.7 metres adjacent to a building height of 35 metres (10 storeys), shall be provided and maintained for all buildings and structures.
- (e) That notwithstanding Section 11C(4) of Zoning By-law No. 6593, no buildings or structures shall have a total Gross Floor Area of more than 19,000m².
- (f) That notwithstanding Section 11C(5) of Zoning By-law No. 6593, there shall be provided and maintained at least 15% of the area of the lot as landscaped area.
- (g) That notwithstanding Section 18A. (1) of Zoning By-law No. 6593, the minimum parking ratio shall be 1.3 parking spaces per unit inclusive of visitor parking;
- (h) That notwithstanding Section 18A. (1)(c) of Zoning By-law No. 6593, no loading spaces shall be required.
- (h) That notwithstanding Section 18A. (14g) of Zoning By-law No. 6593, required parking shall be permitted in a required front yard.
- (i) That no vehicular access or egress shall be provided to Ewen Road.
- (j) That the maximum density shall be 375 units per hectare.

- (k) That the principal pedestrian entrance shall be from/to Rifle Range Road.
 - (l) That no communal outdoor amenity areas and no rooftop amenity area shall be permitted.
3. That the 'H' symbol applicable to lands referred to in Section 1 of this By-law shall be removed conditional upon:
- a. The submission of a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, Director of Planning, including an acknowledgement of receipt of the RSC by the MOE; and
 - b. That conditional site plan approval has been granted which, among other things, includes noise mitigation to implement MOE Noise Guideline NPC-300.

The 'H' symbol shall be removed by amendment to this By-law, and the development of the lands referred to in Section 1 of this By-law may, at such time, proceed in accordance with the "E-3" District, Modified provisions, subject to the special requirement referred to in Section 2 of this By-law.

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 "E-3" (High Density Multiple Residential) District provisions, subject to the special requirements referred to in Sections 2 and 3.
5. That By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1609.
6. That Sheet No. W-46 of the District Maps is amended by marking the lands referred in Section 1 of this By-law as S-1609.
7. 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 ____ day of _____, 2014.



This is Schedule "A" to By-Law No. 14-

Passed the day of, 2014

Clerk

Mayor


Schedule "A"

Map Forming Part of
By-Law No. 14-_____

to Amend By-law No. 6593

Subject Property

17 Ewen Road, Hamilton

 Change in Zoning from the "J" (Light and Limited Heavy Industrial, etc) District, Modified, to the "E-3"- "H" (High Density Multiple Residential Holding) District, Modified.

Scale:
N.T.S.

File Name/Number:
ZAC-07-062

Date:
September 4, 2014

Planner/Technician:
EJVS



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT