

ISSUE DATE:

**Mar. 24, 2010**



PL090764

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Environment Hamilton Incorporated  
Appellant: Hamiltonians for Progressive Development  
Appellant: Purolator Courier Ltd.  
Subject: Proposed Official Plan Amendment No. 219  
Municipality: City of Hamilton  
OMB Case No.: PL090764  
OMB File No.: PL090764

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Environment Hamilton Incorporated  
Appellant: Hamiltonians for Progressive Development  
Appellant: Purolator Courier Ltd.  
Subject: By-law No. 09-164  
Municipality: City of Hamilton  
OMB Case No.: PL090764  
OMB File No.: PL090765

**APPEARANCES:**

**Parties**

**Counsel**

Confederation Park Shopping Centre

D. Wood

City of Hamilton

A. Zuidema

Hamiltonians for Progressive Development  
and Environment Hamilton Incorporated

E. Gillespie

Purolator Courier Ltd.

M. Bowman

**MEMORANDUM OF ORAL DECISION DELIVERED BY K. J. HUSSEY ON  
MARCH 11, 2010 AND ORDER OF THE BOARD**

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On consent, this hearing was convened by teleconference for the Board to consider Official Plan Amendment 219 as modified, and Zoning By-law Amendment 09-164. These proposals resulted from the settlement reached by Confederation Park Shopping Centre ("Applicant"), and Hamiltonians for Progressive Development and Environment Hamilton Incorporated.

The Applicant and the Appellant Purolator Courier Ltd. also reached an understanding and have entered into minutes of settlement. As a result, Purolator withdrew the appeals that it made to the Board.

Before the hearing, the Board received the affidavit evidence of Land Use Consultant Planner Eric Saulesleja, who was retained by the Applicant. Mr. Saulesleja was available at this hearing to provide an overview of the proposal and to answer questions which might have arisen from his evidence.

On the basis of Mr. Saulesleja's unchallenged expert planning evidence, the Board approves the proposed Official Plan and Zoning By-law Amendments appended to this Decision as Attachments "1" and "2".

The subject property is located on the east side of Centennial Parkway North, south of the QEW, in the former City of Hamilton, which is now part of the Amalgamated City of Hamilton. The subject site is designated "Urban" in the Regional Official Plan, "Industrial" in the City of Hamilton Official Plan ("Existing Plan") and is zoned "KK" (*Restricted Heavy Industrial District*).

By way of background, on May 18, 2007, the Applicant submitted applications to amend the existing Official Plan and Zoning By-law to permit redevelopment of the subject site for a mixed-use commercial centre that will comprise a Wal-Mart department store and other retail service uses, employment use and a 120-room hotel. Council approved the application and adopted Official Plan Amendment 219 and Zoning By-law 09-164 to permit the proposed development. This decision was appealed by the three above named Appellants.

A settlement was reached with the Appellants Hamiltonians for Progressive Development and Environment Hamilton Incorporated, the terms of which required OPA 219 to be modified and Zoning By-law 09-164 to be amended. On February 10, 2010,

City Council passed a resolution supporting the settlement and the modified OPA 219 and the amended Zoning By-law 09-164. The Applicant now seeks the Board's approval of these instruments.

The modified OPA 219 designates 3.2 acres of the subject site "Industrial" with the remainder (32.8 acres) designated "Commercial". It also identifies the entire site as being subject to a Special Policy Area 99, which specifies maximum permitted gross floor area, phasing policies and urban design direction.

The proposed amended Zoning By-law 09-164, which conforms to and implements modified OPA 219, zones 3.72 acres of the subject site "M-14-'H'/S.-1613" (*Prestige Industrial-Holding District, Modified*), which further defines permitted uses on the portion of the site subject to this zone. The entire site is subject to site-specific zoning provisions which allow for the site to be developed on a comprehensive basis, specifies maximum gross floor area permitted, specifies development phasing provisions, contains specific height, setback, parking and loading requirements, and places two holding provisions.

The holding provisions contained within this amended Zoning By-law require that:

- a) a detailed traffic study be undertaken to the satisfaction of the City and Ministry of Transportation. The findings of this study will be appropriately implemented at the site plan review and approval stage; and,
- b) the Owner/Applicant submit a signed record of site condition to the City and the Ministry of Environment.

As part of the settlement, the Applicant has also agreed to provide additional transportation elements including a bus lay-over on the subject site, and the construction of a sidewalk connection along a certain portion of the east side of Centennial Parkway North. These elements are subject to obtaining necessary approvals.

Mr. Saulesleja's evidence is that his planning opinion remains unchanged regarding the appropriateness of the proposed development, notwithstanding the

modified OPA 219 and the amended Zoning By-law 09-164, as the form of development permitted by the modified documents remains essentially the same.

Mr. Saulesleja's opinion is that the subject site is an appropriate location for the proposed development, to which all necessary services can be provided. It is a brownfield site that will be remediated to appropriate provincial standards and the proposed development will intensify its use. The proposal will facilitate development of a gateway and improve the appearance of Centennial Parkway; it will provide substantial employment to the City and will not have any significant adverse impact on the function of the Downtown, the main streets, and other commercial areas in the vicinity of the subject site. Mr. Saulesleja opined that the proposal provides an appropriate range of commercial and other employment uses and the design policies in the modified OPA 219 will provide for a visually appealing development, which is desirable as the site is a visually prominent location from the QEW and Centennial Parkway North.

Mr. Saulesleja concluded that the modified OPA 219 and the amended Zoning By-law 09-164 constitute good land use planning; these instruments conform to the Growth Plan, are consistent with the PPS, and satisfy the policies of the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

The Board accepts the evidence presented and is satisfied that the proposed amendments represent good planning.

Accordingly, the Board Orders as follows:

1. Official Plan Amendment 219 to the Official Plan for the former City of Hamilton is approved, as modified, in the manner set out in Attachment "1" to this Decision.
2. Zoning By-law Amendment 09-164 to the City of Hamilton Zoning By-law is approved as set out in Attachment "2" to this Decision.

The Appeals are hereby dismissed.

This is the Order of the Board.

"K. J. Hussey"

K. J. HUSSEY  
MEMBER

**ATTACHMENT "1"**  
**Amendment No. 219**  
**to the**  
**former City of Hamilton Official Plan**

The following text, together with:

- Schedule "A" (Schedule "A" - Land Use Concept); and,
- Schedule "B" (Schedule "B" - Special Policy Areas);

attached hereto, constitute Official Plan Amendment No. 219 to the City of Hamilton Official Plan.

**Purpose and Effect:**

The purpose of the Amendment is to redesignate a portion of the subject lands from "Industrial" to "Commercial" to permit a mix of commercial uses, and to add a special policy area to allow for specific uses and to establish design direction to recognize the visual prominence of the location.

**Location:**

The lands affected by this Amendment comprise approximately 14.75 hectares bounded by the South Service Road, Centennial Parkway North, Canadian National Railway Line, and Warrington Street, municipally known as 480 and 500 Centennial Parkway North and 20 Warrington Street, in the former City of Hamilton.

**Basis:**

The amendment can be supported on the following basis:

- The lands are suitably located for the planned commercial uses given their location adjacent to a major highway and arterial roads.
- The lands are a brownfield site, and are being redeveloped.
- The proposed policies ensure that the development is compatible with the surrounding existing and planned development, and ensures the physical form is compact, human in scale, and designed to be pedestrian friendly and transit supportive, in accordance with the proposed Urban Design Guidelines.
- The proposal is consistent with the City of Hamilton Official Plan policies for the "Commercial" designation.

**Actual Changes:**

**Map Changes:**

- (a) Schedule "A" - Land Use Concept - be revised by redesignating a portion of the subject lands from "Industrial" to "Commercial", as shown on the attached Schedule "A" of this Amendment.
- (b) Schedule "B" - Site-Specific Policy Areas - be revised by removing the subject lands from Special Policy Area 11, and adding a new Special Policy Area as Special Policy Area 99, as shown on the attached Schedule "B" of this Amendment.

**Text Changes:**

- (a) The following new policies are added to Subsection A.2.9.3 - Other Policy Areas as Policy A.2.9.3.92:

"A.2.9.3.92 In addition to Subsection A.2.2 - Commercial Uses and Subsection A.2.3-Industrial Uses, for those lands located at 480 and 500 Centennial Parkway North and 20 Warrington Street, designated "Commercial" and "Industrial" on Schedule "A" and shown on Schedule "B" as Special Policy Area 99, the following policies will apply:

- i) The portion of the Centennial Parkway North site designated "Commercial" on Schedule "A"-Land Use Concept will be recognized as a SHOPPING CENTRE, which comprises a mix of retail and non-retail uses, and serves as a mixed-use gateway into the City of Hamilton along a major highway (Queen Elizabeth Way) and at the head of a major arterial street (Centennial Parkway North).
  - a) Notwithstanding Section A.2.2.8 to A.2.2.10, Shopping Centres of this Plan, the maximum floor area for a single retail store will be 18,581 square metres.
- ii) In addition to Section A.2.3.1, the following uses will be permitted on lands designated Industrial on Schedule "A"-Land Use Concept:
  - a) hotel; and
  - b) offices including limited ancillary uses and convenience retail, as defined in the Zoning By-law, shall be permitted on the ground floor of an office building with a minimum gross floor area of 2,000 sq. m and a maximum gross floor area of 9,999 sq.m.
- iii) Notwithstanding Subsections A.2.2.8 to A.2.2.10, Shopping Centres and A.2.3-Industrial of this Plan, the following provisions will apply to the lands designated Commercial and Industrial on Schedule "A"-Land Use Concept and shown as Special Policy Area 99 on Schedule "B"- Special Policy Areas:

- a) A maximum total floor area of 45,058 square metres will be permitted of which, a maximum floor area devoted to retail and service uses will be 23,226 square metres on lands designated Commercial .
- b) An additional 1 square metre of retail and service uses will be permitted on lands designated Commercial for every 1 square metre of non-retail and service uses located on lands designated Commercial or Industrial, as identified in the Zoning By-law, for which construction has substantially commenced on the site.

Urban Design Guidelines

- iv) prior to development of 480 and 500 Centennial Parkway North and 20 Warrington Street, shown as Special Policy Area 99, the proponent will complete urban design guidelines for the development of the site, to the satisfaction of the City. Urban design guidelines will be in accordance with the Urban Design Principles and Policies in Policies A.2.9.3.92 v) and vi).

v) Urban Design Principles

The Centennial Parkway North site is a gateway location in the City of Hamilton, arriving from the Queen Elizabeth Way along Centennial Parkway North. The site will evolve as a mixed-use area with a physical form that is human-scaled, pedestrian-friendly, and transit-supportive. The following urban design principles will direct the development of the site:

- 1. The site will:
  - a) Have a high quality form of urban design including streetscapes, views and vistas, gateways, walkways, and amenity spaces;
  - b) Be a "gateway" location into the City that promotes a sense of arrival;
  - c) Be a mixed-use area with a range of commercial uses, employment uses, and amenity spaces;
  - d) Have a concentration and arrangement of uses and buildings that encourages comfortable pedestrian activity on and surrounding the site, and which facilitates public transit ridership;
  - e) Have a connected circulation system internally that comfortably and efficiently links all buildings, transit facilities, parking areas, and amenity spaces to the bounding public streets;
  - f) Have a prominent multi-storey building, or buildings, of high quality architectural design at the intersection of Centennial Parkway North and the South Service Road;
  - g) Have a strong edge and frame facing the bounding public streets, including the placement and design of buildings and high quality landscaping;



- h) Have an incorporation of framing views and vistas within the site by aligning buildings and building elements to create terminus views; and,
- ii) Have an appropriate transition to surrounding properties in terms of buffering and screening.

vi) Design Policies

The Centennial Park North site will be developed in accordance with the following urban design policies. In the event that conditions and/or restrictions arise as a result of the Record of Site Condition, specific design solutions will be incorporated in consultation with the City through the Site Plan approvals process.

1. Entrance Gateways

Entrance Gateways are access points to a site, and provide a sense of arrival to a development. Two types of Entrance Gateways will be provided at the site: Primary Entrance Gateways, and Secondary Entrance Gateways.

- a) Primary Entrance Gateways identify the principal vehicular and pedestrian entry point to the site, and may include information signage for traffic circulation through the site. There should be one Primary Entrance Gateway to the site, from Centennial Parkway North.
- b) Secondary Entrance Gateways serve as secondary vehicular and pedestrian entry points to the site. There could be multiple Secondary Entrance Gateways to the site, from South Service Road and Warrington Street.
- c) All Entrance Gateways should be given special built form and landscape treatment, including the consideration of appropriate positioning of buildings, adequate sight lines, and the inclusion of both vertical and horizontal elements, including signage and landscape features. Given their principal function, the Primary Entrance Gateway should be more visually prominent than the Secondary Entrance Gateway(s) in terms of scale and design.

2. Built Form

- a) For all buildings on the site, the following policies apply:
  - i) Buildings will be sited and designed to enhance the public nature of streets, amenity spaces, and pedestrian routes.
  - ii) Buildings should be generally sited parallel to the public street.
  - iii) The principal building façade will be the building wall containing

the primary building entrance. The principal building façade will be varied and articulated, through the use of elements such as bay projections, canopies and/or varied roof lines, in order to provide visual interest and to break up long walls to create the impression of smaller building units.

- iv) Principal building entrances will be located at grade, and will be easily accessed from the public sidewalk on the bounding public streets and the pedestrian walkways internal to the site.
  - v) Principal building entrances will be emphasized on the building's façade through architectural treatments.
  - vi) Other building façades will be designed in a similar fashion to the principal building façade, in regards to colour, material, and articulation.
  - vii) All building signage will be designed in a manner integral to the building design in terms of size, form, material, and colour.
  - viii) Roof-top mechanical equipment will be enclosed or screened, particularly in a manner integral with the overall building design in terms of form, material, and colour.
  - ix) Canopies over doorways, arcades and other treatments are encouraged in the design of a building façade, particularly along pedestrian routes, to provide a comfortable pedestrian environment for walking.
  - x) Stacking lanes and order stations for drive-through facilities will not be located between a building wall and the road allowance of a bounding public street.
- b) For buildings that are located abutting Centennial Parkway North and South Service Road, the following additional policies apply:
- i) Buildings along Centennial Parkway North will be located close to the edge of the respective road allowance so as to frame the streetscape.
  - ii) Buildings along the South Service Road may be located further from the street edge with landscape treatment to define the street edge, which may contain a tiered design of lawn, low hedges, trees, masonry, and decorative metal fences and gates culminating in taller plantings.
  - iii) The streetscape will create a positive community image, which may include the coordinated use of high quality paving materials, wide sidewalks, street furniture, pedestrian-scale lighting and signage, and enhanced landscaping.

- c) For buildings abutting Warrington Street, the rail line, and the hydro corridor, the following additional policies apply:
  - i) Loading and service areas will be adequately screened with the use of a landscaped buffer, which may contain landscape berms, evergreen and deciduous trees and shrubs, and fencing.
  - ii) Façades that face a loading area or service area will be finished with material and architectural features consistent with the principal façade of the building.
- d) For the prominent buildings at the Centennial Parkway North and South Service Road intersection, the following policies will apply:
  - i) Buildings will be placed so the tallest buildings are at the corner of Centennial Parkway North and the South Service Road.
  - ii) Buildings will have a distinct architectural appearance, including a high level of architectural detailing, given their prominence on the site. Detailing may include varied rooflines, canopies, decorative architectural details, and projecting bays. Large blank walls and a continuous, repetitive façade will not be permitted.
  - iii) Buildings will have articulated facades facing both the bounding public streets and the interior of the site.
  - iv) A high quality of landscape design along the edges of the property and within the interior will provide a setting that is pedestrian-friendly and visually attractive.
  - v) Design of the buildings will complement the landscape design between the building wall and the road allowances at the corner, in order to promote a sense of entry into the site and into the City from the Queen Elizabeth Way.
  - vi) Loading areas and service areas will not be located between a building's wall and the road allowance of Centennial Parkway North or South Service Road.
  - vii) Buildings and their landscape features are encouraged to have feature lighting to signify and highlight these buildings during night-time.

### 3. Pedestrian Realm

- a) Pedestrian routes that connect to buildings, transit stops or facilities, and pedestrian routes in the surrounding community will be provided. Internal walkways and linkages will be designed as a condition of Site Plan Approval.
- b) Pedestrian walkways that connect parking areas to building entrances

will be provided. These walkways will be designed to contribute to the safety and visual continuity of the entire pedestrian system, and may include such elements as special paving materials, trees, and lighting.

- c) Barrier-free design of buildings, streets, and publicly accessible exterior spaces will be implemented.
- d) Crosswalks and differentiated paving materials and patterns will be constructed at primary crossings of principal internal streets to provide connectivity between the site's different areas.
- e) Parking areas, servicing lanes, utility and mechanical equipment, and drop off and loading zones will be designed and located in a manner that has minimal physical impact on public sidewalks and accessible exterior spaces. Shared driveways and service lanes at the side and rear of buildings are to be provided for these functions.

#### 4. Landscaped Areas

- a) Landscaping will be used to enhance the overall aesthetic qualities of the development with a high quality design. This design may include a range of different hard and soft landscape elements and features to create pedestrian comfort, soften the site's edges, highlight Entrance Gateways, prominent buildings, screen loading and service areas, and buffer the site from neighbouring uses, as necessary.
- b) Landscaped areas will be provided as a screen or buffer to address the interface with the publicly accessible or visual areas of the site.
- c) Landscaped buffers and/or visual barriers will be provided to screen loading and service areas from users using the bounding public streets or internal drive aisles.
- d) Landscaped islands will be provided throughout parking lots to identify, reinforce and connect pedestrian routes, separate roads from parking areas, define edges, and to visually and physically divide large parking areas into smaller sections.

#### 5. Parking Entrances, Loading Zones and Service Lanes

- a) The location of entrances to parking areas, loading zones, and service lanes will be coordinated with the location of pedestrian routes to limit vehicular and pedestrian movement conflicts on the site.
- b) A landscaped strip will be provided between any surface parking area that abuts a public street to define the street edge and screen the parking area. The minimum width of the landscaped strip will be set out in the implementing Zoning By-law.

- c) All loading zones and service lanes will be screened and landscaped. Screens will be designed to complement the materials and details of the associated building facades.
- d) Wherever possible, on-site loading zones and service lanes will be consolidated and shared at the rear or side of buildings.
- e) On-street parking along internal drive aisles is encouraged to provide the 'look and feel' of a public street.

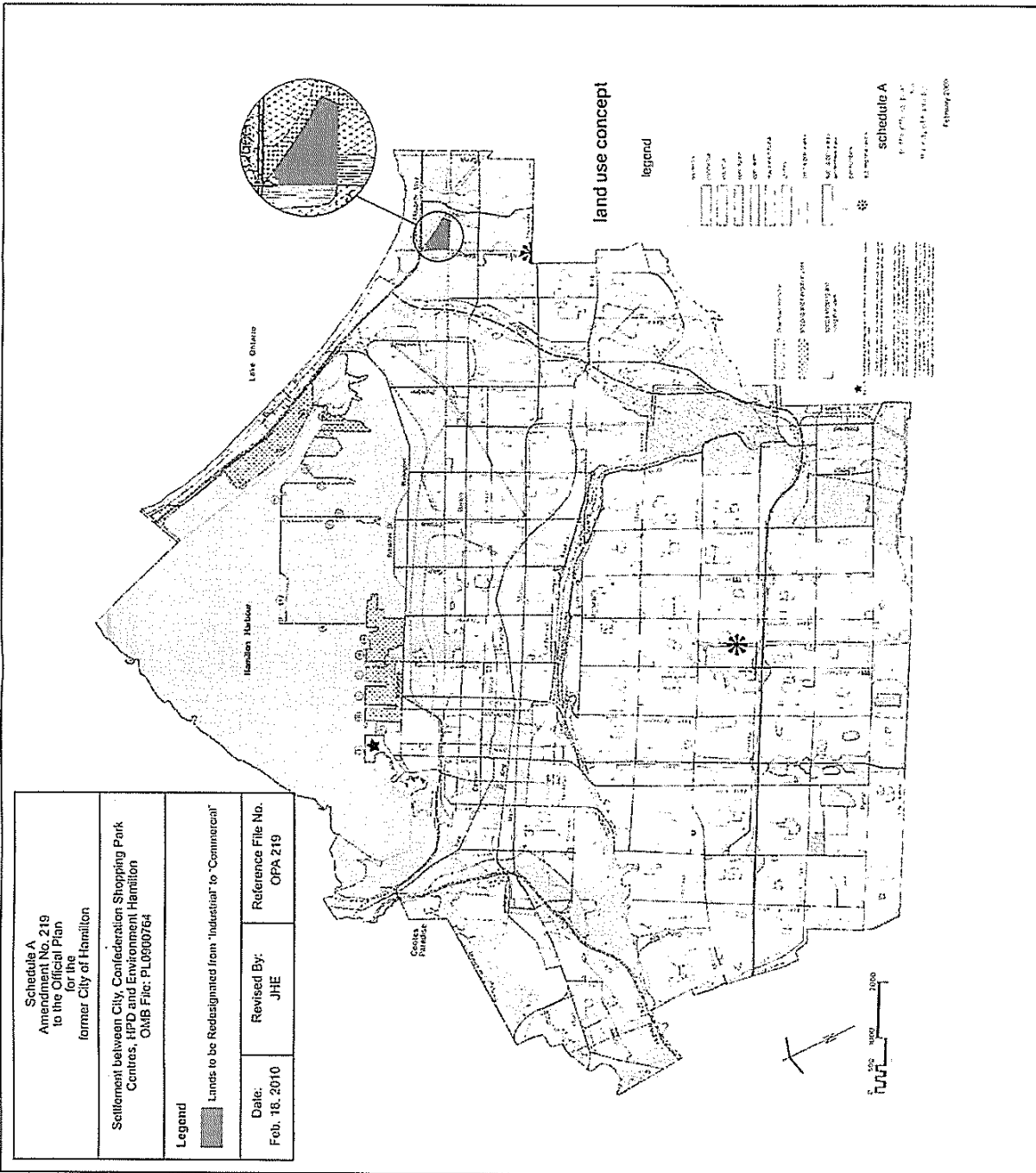
6. Vehicular Access


- a) The number and location of vehicular access points will be limited so as to minimize disruption to traffic flow and to minimize the impact on local streets.

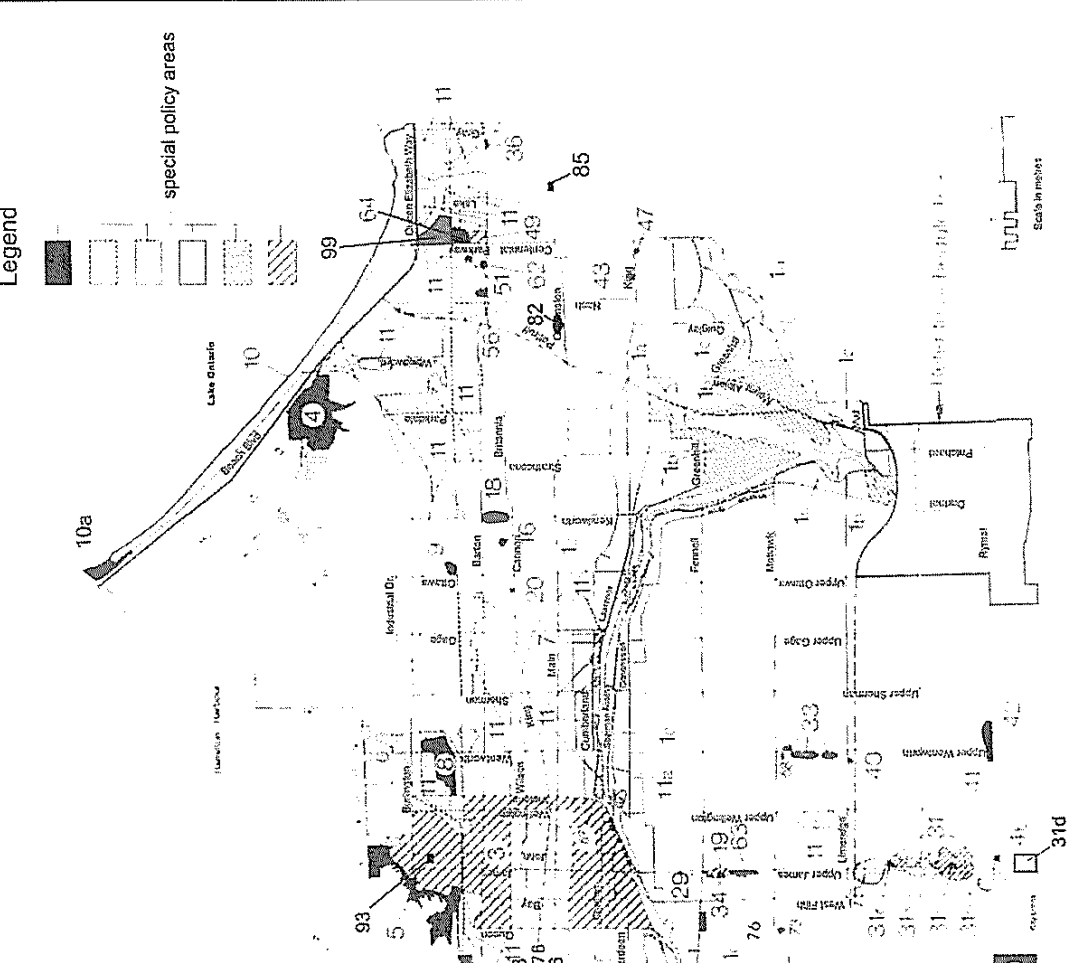
**Implementation:**

An implementing Zoning By-law and Site Plan Control will give effect to this Amendment.

**Ontario Municipal Board Order/Decision dated**



Schedule B Amendment No. 219 to the Official Plan for the former City of Hamilton		Reference File No. OPA 219
Settlement between City, Confederation Shopping Park Centres, HPD and Environment Hamilton OMB File: PL0900764		
Legend  Lands to be removed from SPA 11 and shown as SPA 99		
Date: Feb. 16, 2010	Revised By: RM	



special policy areas

AREA	REFER TO POLICY	AREA	REFER TO POLICY
10a	A2.9.1	59	A2.9.361
10b	A2.9.1	60	A2.9.362
11	A2.9.1	61	A2.9.363
12	A2.9.1	62	A2.9.364
13	A2.9.1	63	A2.9.365
14	A2.9.1	64	A2.9.366
15	A2.9.1	65	A2.9.367
16	A2.9.1	66	A2.9.368
17	A2.9.1	67	A2.9.369
18	A2.9.1	68	A2.9.370
19	A2.9.1	69	A2.9.371
20	A2.9.1	70	A2.9.372
21	A2.9.1	71	A2.9.373
22	A2.9.1	72	A2.9.374
23	A2.9.1	73	A2.9.375
24	A2.9.1	74	A2.9.376
25	A2.9.1	75	A2.9.377
26	A2.9.1	76	A2.9.378
27	A2.9.1	77	A2.9.379
28	A2.9.1	78	A2.9.380
29	A2.9.1	79	A2.9.381
30	A2.9.1	80	A2.9.382
31	A2.9.1	81	A2.9.383
32	A2.9.1	82	A2.9.384
33	A2.9.1	83	A2.9.385
34	A2.9.1	84	A2.9.386
35	A2.9.1	85	A2.9.387
36	A2.9.1	86	A2.9.388
37	A2.9.1	87	A2.9.389
38	A2.9.1	88	A2.9.390
39	A2.9.1	89	A2.9.391
40	A2.9.1	90	A2.9.392
41	A2.9.1	91	A2.9.393
42	A2.9.1	92	A2.9.394
43	A2.9.1	93	A2.9.395
44	A2.9.1	94	A2.9.396
45	A2.9.1	95	A2.9.397
46	A2.9.1	96	A2.9.398
47	A2.9.1	97	A2.9.399
48	A2.9.1	98	A2.9.400
49	A2.9.1	99	A2.9.401
50	A2.9.1	100	A2.9.402
51	A2.9.1		
52	A2.9.1		
53	A2.9.1		
54	A2.9.1		
55	A2.9.1		

For other Special Policy Areas numbers, refer to Schedules: B-1, B-2, and B-3.

schedule B  
to the official plan  
for  
the City of Hamilton  
January 2007

**ATTACHMENT "2"****Zoning By-law Respecting 480 and 500 Centennial Parkway North  
and 20 Warrington Street**

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

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item 14 of Report 09-014 of the Economic Development and Planning Committee at its meeting held on the 24<sup>th</sup> day of July, 2009, recommended that Zoning By-law No. 6593 (Hamilton), be amended;

**AND WHEREAS** this by-law will be in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982, upon the approval of Official Plan Amendment No. 219;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item (o)(i) of Economic Development and Planning Committee Report 10-002, at the Council meeting held on the 10<sup>th</sup> day of February, 2010, recommended that Official Plan Amendment 219 be modified and Zoning Bylaw Amendment 09-164 be modified, as amended hereinafter;

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

1. That Sheet No. E-112 of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), as amended, is hereby amended as follows:



- (a) By changing from the "KK" (Restricted Heavy Industrial) District to the "G-1-'H'/S-1613" (Designed Shopping Centre - Holding) District, Modified, the lands comprised of Block 1; and,
- (b) By changing from the "KK" (Restricted Heavy Industrial) District to the "M-14-'H'/S-1613" (Prestige Industrial - Holding) District, Modified, the lands comprised of Block 2;

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

- 2. That the "G-1" (Designed Shopping Centre) District regulations, as contained in Section 13A of Zoning By-law No. 6593, applicable to Block 1, and the "M-14" (Prestige Industrial) District regulations, as contained in Section 17F of Zoning By-law No. 6593, applicable to Block 2, be modified to include the following special requirements:

2.1 Block 1

- (a) In addition to the permitted uses of Section 13A. (1), a hotel, and conference or convention centre shall also be permitted.
- (b) Notwithstanding the permitted uses of Section 13A. (1), Institutional and Public uses shall be prohibited.
- (c) A maximum gross floor area of 18,851 square metres for a single retail store shall be permitted.

2.2 Block 2

(a) Only the following uses shall be permitted:

- (i) Building or Contracting Supply Establishment;
- (ii) Commercial Motor Vehicle Sales, Rental and Service Establishment;
- (iii) Communications Establishment;
- (iv) Conference or Convention Centre;
- (v) Courier Establishment;
- (vi) Equipment and Machinery Sales, Rental and Service Establishment;
- (vii) Hotel;
- (viii) Industrial Administrative Office;
- (ix) Laboratory;
- (x) Labour Association Hall;
- (xi) Manufacturing;

- (xii) Motor Vehicle Service Station;
- (xiii) Office;
- (xiv) Public Library;
- (xv) Research and Development Establishment;
- (xvi) Surveying, Engineering, Planning or Design Business;
- (xvii) Trade School;
- (xviii) Tradeperson's Shop;
- (xix) Transportation Depot;
- (xx) Warehouse.

(b) Notwithstanding 2.2(a) above, the following types of manufacturing uses shall be prohibited, even as an accessory use:

- (i) Beverage Distillation;
- (ii) Breweries;
- (iii) Manufacturing of Asbestos, Phosphate or Sulphur Products;
- (iv) Primary Production of Chemicals, Synthetic Rubber, Plastic, Asphalt or Cement, not including mixing, blending, treatment or similar process;
- (v) Processing or Refining of Petroleum or Coal;
- (vi) Processing, Milling or Packaging of Animal Feed;
- (vii) Salvage Yard;
- (viii) Slaughtering, Eviscerating, Rendering or Cleaning of Meat, Poultry or Fish by-products thereof;
- (ix) Smelting of Ore or Metal;
- (x) Tanning or Chemical Processing of Pelts or Leather;
- (xi) Vulcanizing of Rubber or Rubber Products;
- (xii) Explosives Manufacturing; and,
- (xiii) Pulp and Paper Mills.

(c) Notwithstanding 2.2(a) above, the following uses are prohibited, even as accessory uses:

- (i) Day Nursery;
- (ii) Dwelling Unit; and,
- (iii) Place of Worship.

(d) The following uses shall only be permitted on the ground floor of an office building having a minimum gross floor area of 2,000 square metres and a minimum height of 2 storeys:

- (i) Convenience Retail restricted to a maximum gross floor area of 250 square metres;
- (ii) Restaurant;

- (iii) Personal Services;
- (iv) Financial Establishment;
- (v) Commercial School;
- (vi) Fitness Centre.

### 2.3 Blocks 1 and 2

(a) A maximum total gross floor area of 45,058 square metres shall be permitted subject to (b) below.

(b) A maximum gross floor area of 23,226 square metres of retail and service uses shall be permitted, plus an additional 1 square metre of retail and service use for every 1 square metre of the following non-retail and service uses for which construction has substantially commenced:

- (i) Hotel;
- (ii) Business or Professional Persons Office;
- (iii) Conference or Convention Centre;
- (iv) Commercial School;
- (v) Commercial Lending Library;
- (vi) Photographer's or Artist's Studio;
- (vii) Theatre;
- (viii) Bowling Alley or Billiard Hall;
- (ix) Place of Amusement that provides only children's rides and penny arcades;
- (x) Building or Contracting Supply Establishment;
- (xi) Commercial Motor Vehicle Sales, Rental and Service Establishment;
- (xii) Communications Establishment;
- (xiii) Courier Establishment;
- (xiv) Equipment and Machinery Sales, Rental and Service Establishment;
- (xv) Fitness Centre
- (xvi) Industrial Administrative Office;
- (xvii) Laboratory;
- (xviii) Labour Association Hall;
- (xix) Manufacturing;
- (xx) Motor Vehicle Service Station;
- (xxi) Office;
- (xxii) Public Library;
- (xxiii) Research and Development Establishment;
- (xxiv) Surveying, Engineering, Planning or Design Business;
- (xxv) Trade School;
- (xxvi) Tradeperson's Shop;
- (xxvii) Transportation Depot; and,

(xxviii) Warehouse.

- (c) A maximum gross floor area of 10,000 square metres of Office and Business or Professional Person’s Office shall be permitted.
- (d) No building shall exceed twelve storeys, and no structure shall exceed 60.0 metres, in height.
- (e) The following setbacks shall apply:
  - (i) Centennial Parkway: - 6 metres (minimum)
  - (ii) Warrington Street - 2 metres (minimum)
  - (iii) South Service Road - 14 metres (minimum) for all buildings, and parking and landscaping required by the By-law.
- (f) The parking ratio applicable to retail uses and service uses shall be 1 parking space per 20 square metres of floor area. For all other uses, the requirements of Section 18A shall apply.
- (g) Buildings having less than 1,552 square metres (16,700 square feet) of floor area shall not be required to provide a loading space.
- (h) Every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6 metres wide and 5.5 metres long.
- (i) That the site- specific regulations shall apply to the entire property as if it were one lot, regardless of any future consent(s).
- (j) For the purposes of this By-law the following definitions shall apply:

**Adult Entertainment Parlour**

Shall mean a use which provides entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations provided on the premises and shall include a Body Rub Parlour.

<b>Amusement Arcade</b>	Shall mean an establishment containing more than three pinball machines, or other mechanical game machines, or electronic game machines provided for public amusement.
<b>Biotechnological Establishment</b>	Shall mean an establishment used for the research, development, application, prototypical manufacturing and production of bio-organisms, which may or may not be used in a manufacturing process, and shall in no way be construed to be the slaughtering, eviscerating, rendering, or cleaning of meat, poultry, or fish or by-products thereof, or animal husbandry, or the raising of animals.
<b>Body Rub Parlour</b>	Shall mean a use which includes kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a person's body or part thereof, performed, offered or solicited in pursuance of a trade, calling, business, but shall not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered.
<b>Building or Contracting Supply Establishment</b>	Shall mean the use of land, building or structure, or part thereof, in which building, construction or home improvement materials are warehoused and which may include accessory retail.
<b>Commercial Entertainment</b>	Shall mean a use of an establishment for the general

purpose of providing entertainment or amusement for a fee and shall include, for example, but not be limited to cinemas, performing arts theatres, bingo halls, dance club, cultural events but shall not include an amusement arcade or adult entertainment parlour. (By-law 06-324, October 25, 2006)

**Commercial Recreation**

Shall mean the use of an establishment, for a fee, for the provision of athletic and amusement facilities involving the active participation of the user-public in a sports-related activity and shall include but not be limited to such facilities as racquet courts, fitness clubs, billiard parlour, bowling alley, golf course, driving range, skating or curling surfaces, riding stables, water sports, go-kart track or amusement parks, but shall not include an amusement arcade.

**Commercial School**

Shall mean a school where academic, vocational or technical subjects are taught and which is operated on a financial profit basis but shall not include an educational establishment.

**Communications Establishment**

Shall mean an establishment used for the broadcasting and production of information through various media, and shall include but not be limited to print, television, radio and electronic media and which may include facilities for the printing or broadcasting of information but shall not include a call centre.

**Computer, Electronic and Data Processing Establishment**

Shall mean an establishment used for the research, development, input, prototypical manufacturing, processing and printing of data and which may include the design, manufacturing and distribution of electronic equipment and/or software.

**Conference or Convention Centre**

Shall mean an establishment, which is not a hotel, where facilities are provided for meetings, seminars, workshops, social gatherings and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants.

**Convenience Retail**

Shall mean a retail store used for the sale of convenience goods and items of day-to-day personal or household use or necessity including food, beverages, pharmaceutical drugs, limited hardware products, tobacco products and periodicals.

**Dry Cleaning Plant**

Shall mean a building where dry cleaning, dry dyeing, washing or pressing of articles of clothing is conducted.

**Educational Establishment**

Shall mean a Provincially approved institution for academic instruction and shall include a

public, private or separate school, college or university.

**Equipment and Machinery  
Sales, Rental and Service Establishment**

Shall mean the use of land, building or structure, or part thereof, for the display, sale, lease, rental or repair of commercial, industrial, farm or agricultural equipment and machinery and which may include facilities for the storage and sale of parts accessory to such equipment and machinery, together with the repair, painting and service of such equipment and machinery.

**Exhibition Facility**

Shall mean a place which is used to house an exhibition, operated over the duration of four consecutive weeks or less and limited to only those exhibitors registered with the organization holding the exhibition. The retailing of goods, materials or services, including motor vehicles and major recreational equipment, associated with the exhibition may be permitted in such a facility subject to municipal licensing requirements where applicable. An exhibition facility shall in no way be construed to include a conference or convention centre.

**Hotel**

Shall mean a commercial establishment used for the temporary rental sleeping accommodation for travelers and which may offer other facilities such as personal service establishments, restaurants, retail stores, conference or convention



facilities, exhibition facilities, commercial entertainment or commercial recreation and for the purposes of this By-law, a motel, motor hotel or an apartment hotel shall be deemed to be a "hotel".

**Industrial Administrative Office**

Shall mean an office for the management or administration of Manufacturing establishments.

**Labour Association Hall**

Shall mean a building or part thereof, used as a meeting place by labour or trade unions and which is operated for the exclusive use of members and their guests and is not open to the general public on an equal basis, and may include but not be limited to administrative offices, training facilities and meeting rooms. A Labour Association Hall may also include a Trade School.

**Manufacturing**

Shall mean the production, fabrication, compounding, processing, packaging, crafting, bottling, packing, recycling or assembling of raw or semi-processed or fully-processed goods or materials, and shall include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Pharmaceutical and Medical Establishment, Printing Establishment and/or a Science and Technology Establishment. Manufacturing may also include a Private Power Generation Facility as an accessory use, but shall not include a Waste Management Facility.

<b>Medical Clinic</b>	Shall mean a building, or part thereof, which is used jointly by three or more health professionals for the purpose of consultation, diagnosis and/or treatment of persons and shall include but not be limited to laboratories, dispensaries or other similar facilities, but shall not include overnight accommodation for in-patient care resulting from surgery.
<b>Medical Office</b>	Shall mean a building, or part thereof, in which a maximum of two health professionals provide consultative, diagnostic and treatment services.
<b>Motor Vehicle Collision Repair Establishment</b>	Shall mean the use of land, building or structure, or part thereof, for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and which may also include the reconstruction of motor vehicles, the painting or repainting of motor vehicles, the rebuilding or conversion of automotive engines or engine parts and which may also include an accessory Towing Establishment, but shall not include a Motor Vehicle Gas Bar, Motor Vehicle Service Station, Motor Vehicle Washing Establishment or Motor Vehicle Wrecking Establishment.
<b>Motor Vehicle Gas Bar</b>	Shall mean a use on a lot, where fuel or lubricants are offered for sale but where no provision is made for the repair or maintenance of motor vehicles and may include the sale of foods and convenience items but shall not include a Motor Vehicle

Collision Repair Establishment, Motor Vehicle Wrecking Establishment or a Motor Vehicle Service Station.

**Motor Vehicle Sales and Service Establishment**

Shall mean a use within a building or structure, or part thereof, where new and/or used motor vehicles are stored or displayed for the purpose of sale, rental or leasing and may include a building for the storage and sale of accessories and lubricants for motor vehicles and an associated Motor Vehicle Service Station.

**Motor Vehicle Service Station**

Shall mean an establishment used for the sale of fuel, automotive accessories and/or convenience goods, the repair or replacement of parts in a motor vehicle and shall include but not be limited to the repair or replacement of mufflers, exhaust systems, shock absorbers, transmissions, gears, brakes, clutch assemblies, steering systems, tires, wheels, windshields, windows and other mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement but shall not include Motor Vehicle Collision Repair Establishment, Motor Vehicle Sales and Service Establishment, Motor Vehicle Washing Establishment, and/or a Motor Vehicle Wrecking Establishment.

**Motor Vehicle Washing Establishment**

Shall mean a building or structure or part thereof, used for either the mechanical or manual cleaning or

washing of motor vehicles and shall include motor vehicle detailing.

**Motor Vehicle Wrecking Establishment**

Shall mean the use of land, building or structure, or part thereof, for the storage, dismantling, crushing or demolition of unlicensed, inoperable or derelict Motor Vehicles or Commercial Motor Vehicles and which may include the storage and sale of salvaged material or parts obtained therefrom, but shall not include a Motor Vehicle Collision Repair Establishment, Motor Vehicle Service Station, Motor Vehicle Washing Establishment or a Salvage Yard.

**Office**

Shall mean a building or part of a building in which management, clerical, administrative, consulting, advisory or training services are offered or performed and shall include but not be limited to an Industrial Administrative Office and a Surveying, Engineering, Planning or Design Business, but shall not include a Medical Clinic or a Medical Office.

**Personal Services**

Shall mean the provision of services involving the health, beauty or grooming of a person or the maintenance or cleaning of apparel, but shall not include a Dry Cleaning Plant or a Body Rub Parlour.

**Pharmaceutical and Medical Establishment**

Shall mean an establishment or part thereof, where research,

investigation, development, manufacturing and/or technical experimentation, related to the medical field, is carried out and shall include but not be limited to clinical testing, prototype production facilities and overnight patient accommodation related to such research, clinical trials, investigation or experimentation.

**Private Power Generation Facility**

Shall mean the use of land, building or structure, or part thereof, for the generation and transmission of heat, steam or electricity, and which may include the sale of electricity back into the grid, but shall not include a Waste Management Facility.

**Research and Development Establishment**

Shall mean the use of land, building or structure, or part thereof, for the purpose of conducting pure and applied research, analysis and experimentation in any field of science, medicine, technology and manufacturing and shall include but not be limited to facilities such as lecture rooms, administrative offices, laboratories, training facilities, display rooms, pilot plants, prototypical manufacturing, simulating equipment and the like, and service and machine shops to serve the Research and Development Establishment. A Research and Development Establishment shall also include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Laboratory, Pharmaceutical and Medical Establishment, and/or a

Science and Technology Establishment.

**Restaurant** Shall mean a building where food and/or drink is prepared and sold for immediate consumption, either on or off site, and which may offer commercial entertainment only if the premises are licensed under the Liquor Licence Act.

**Retail** Shall mean the sale or rental of goods or materials to the ultimate consumer including "convenience retail" goods, but shall not include a restaurant or the sale or rental of motor vehicles, motor vehicle fuel or major recreational equipment.

**Salvage Yard** Shall mean the use of land, building or structure, or part thereof, for storing, wrecking, dismantling, processing, recycling and selling used goods, wares, materials and which may include, but not be limited to household items, clothing, furniture, paper, bottles, building materials, scrap metal, machinery, heavy equipment or parts thereof, and shall include but not be limited to a Motor Vehicle Wrecking Establishment. A Salvage Yard shall not include a Waste Management Facility.

**Science and Technology Establishment** Shall mean the use of land, building or structure, or part thereof, where scientific and technological research, investigation, development, manufacturing and/or technical experimentation is carried out and shall include but not be limited to

facilities such as laboratories, pilot plants and prototype manufacturing.

**Surveying, Engineering, Planning or Design Business**

Shall mean the use of land, building or structure, or part thereof in which professionals in the field of surveying, engineering, planning or design provide technical consultation, analysis, advisory or administrative services.

**Towing Establishment**

Shall mean the use of land, building or structure, or part thereof, for the keeping of tow trucks, and to which disabled or impounded motor vehicles or mobile equipment are taken or towed and stored temporarily until reclaimed, but shall not include a Motor Vehicle Wrecking Establishment or a Salvage Yard.

**Tradesperson's Shop**

Shall mean the use of land, building or structure, or part thereof in which is provided to the public a non-personal service or trade, and shall include but not be limited to, a carpenter's shop, contractor's shop, electrician shop, painters shop, plumbers shop and other shops that provide an installation service.

**Trade School**

Shall mean a school in which specialized instruction in a skilled trade is provided and which may include but not be limited to construction, industrial and motive power trades and Commercial Motor Vehicle training and which is operated on a financial profit basis, but shall not include a

Commercial School or an Educational Establishment.

**Transportation Depot**

Shall mean the use of land, building or structure, or part thereof, where commercial motor vehicles pick up and discharge fare-paying passengers or dispatch vehicles for such purpose and shall also include courier service facilities.

**Warehouse**

Shall mean the use of land, building or structure, or part thereof, for the bulk storage or distribution of goods to industrial, commercial or institutional business users or other wholesalers, but shall not include the retailing of goods to the general public. A Warehouse shall not include a Waste Management Facility, Salvage Yard or Towing Establishment.

**Waste Management Facility**

Shall mean the use of land, building or structure, or part thereof, for the storage, processing or disposition of Waste or Hazardous Waste and for which a Certificate of Approval for such purpose under Part V of the Environmental Protection Act is required. Waste Management Facilities shall include the following uses: Waste Processing Facilities; Waste Transfer Facilities; Hazardous Waste Management Facilities; and, Waste Disposal Facilities.

3. That the 'H' symbol(s) referred to in Section 1 of this By-law shall be removed conditional upon:



- (a) That the owner/applicant shall complete a Traffic Impact Study, which also addresses the access requirements of 21 Warrington Street, to the satisfaction of the Ministry of Transportation, and Manager of Traffic Engineering, Public Works Department, and the applicant/owner enters into and executes an agreement with the City of Hamilton, and provides securities for 100% of the costs including contingencies, to implement the Traffic Impact Study to the satisfaction of the Manager of Traffic Engineering, Public Works and the Director of Development Engineering; and,
  - (b) That the owner/applicant shall submit a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.
- 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 "G-1" (Designed Shopping Centre) District and "M-14" (Prestige Industrial) District provisions, subject to the special requirements referred to in Section 2.
  - 5. That sheet No. E-112 of the district maps is amended by marking the lands referred to in Section 1 of this By-law as S-1613.
  - 6. That Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1613.
  - 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.

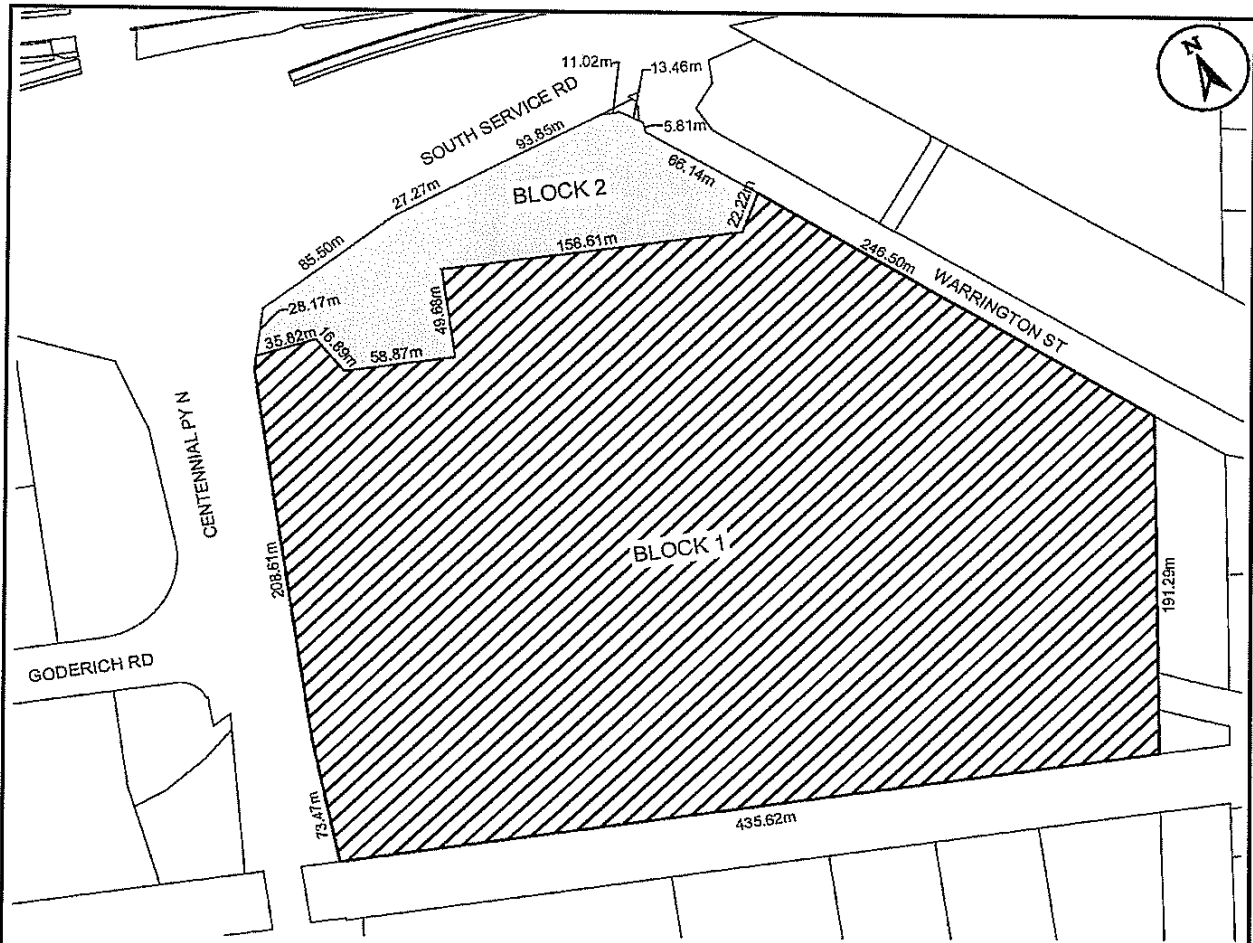
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Fred Eisenberger  
Mayor

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Kevin C. Christenson  
City Clerk

ZAC-07-029





This is Schedule "A" to By-Law No. 10-  
 Passed the ..... day of ....., 2010

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 Clerk  
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 Mayor

**Schedule "A"**  
 Map Forming Part of  
 By-Law No. 10-\_\_\_\_\_  
 to Amend By-law No.6593

**Subject Property**  
 480 - 500 Centennial Pkwy N  
 and 20 Warrington Street

 Block 1 - Change in Zoning from the "KK" (Restricted Heavy Industrial) District to the "G-1-'H'/S-1613" (Designed Shopping Centre - Holding) District, Modified

 Block 2 - Change in Zoning from the "KK" (Restricted Heavy Industrial) District to the "M-14-'H'/S-1613" (Prestige Industrial - Holding) District, Modified

Scale: N.T.S.	File Name/Number: OPA-07-08/ZAC-07-029
Date: February 4, 2010	Planner/Technician: PD/NB



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT