TO: Chair and Members  
Economic Development and Planning Committee  

WARD(S) AFFECTED: WARD 13

COMMITTEE DATE: May 18, 2010

SUBJECT/REPORT NO: 
Application for a Change in Zoning for Lands Located at 104 King Street West, Dundas (PED10110) (Ward 13)

SUBMITTED BY: 
Tim McCabe  
General Manager  
Planning and Economic Development Department

PREPARED BY: 
Kate Mihaljevic  
(905) 546-2424, Ext. 4424

SIGNATURE:

RECOMMENDATION:

That approval be given to Zoning Application ZAC-10-004, by 1612464 Ontario Limited, c/o Len Medeiros, Owner, for a change in zoning from the Public and Private Service (P.P.S.) Zone to the Central Area Commercial (C.A.C./S-119) Zone, Modified, with a Special Exception, to permit a range of commercial uses for lands located at 104 King Street West (Dundas), as shown on Appendix “A” to Report PED10110, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED10110, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

(b) That the amending By-law be added to Schedule "A" of Zoning By-law No. 3581-86; and,

(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and the Town of Dundas Official Plan.
EXECUTIVE SUMMARY

The purpose of the application is to amend the Town of Dundas Zoning By-law on the lands known as 104 King Street West (see Appendix “A”). The proposal will permit a range of retail, business office, and other commercial uses within the existing building formerly known as the Dundas Post Office. A preliminary concept plan is attached as Appendix “C”.

The proposal has merit and can be supported as the Zoning By-law Amendment is consistent with the Provincial Policy Statement and Places to Grow Plan, and conforms to the Hamilton-Wentworth Official Plan and the Town of Dundas Official Plan. The proposed development is considered to be compatible with, and complementary to, the surrounding area.

Alternatives for Consideration - See Page 10.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

The subject property is located on the south side of King Street West, between McMurray Street and Foundry Street. The subject lands are within the historic Downtown Dundas area and are surrounded by commercial uses.

The Dundas Post Office has been vacant since August 2009. Having recently purchased the lands with intentions for adaptive re-use of the building, the current owners made an application to change the zoning from the Public and Private Service (P.P.S.) Zone to a modified Central Area Commercial (C.A.C.) Zone in February 2010.

In March 2010, Planning staff brought forward a recommendation from the Hamilton Municipal Heritage Committee to Council (Report PED10006) to add the former Dundas Post Office to the City’s Register of Properties of Cultural Heritage Value or Interest established under the Ontario Heritage Act. This recommendation was approved, and staff were directed to carry out a Cultural Heritage Assessment to determine if the property is of cultural heritage value and worthy of designation under Part IV of the Ontario Heritage Act. The Owner's agent has had various meetings and discussions with Planning staff to discuss the preferred uses for the existing building. The preferred
list is discussed in detail in the Analysis/Rationale for Recommendation section of this report.

Details of Submitted Application

**Location:** 104 King Street West  
**Owner:** 1612464 Ontario Limited (c/o Len Medeiros)  
**Applicant:** IBI Group  
**Property Description:**  
- **Frontage:** 38.10m  
- **Lot Depth:** 30.50m  
- **Area:** 0.11 ha

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>Vacant Post Office Building</td>
<td>Public and Private Service (P.P.S.) Zone</td>
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<tr>
<th>Surrounding Lands:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>West</td>
<td>Commercial</td>
<td>Central Area Commercial (C.A.C.) Zone</td>
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<tr>
<td>North</td>
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<td>East</td>
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<tr>
<td>South</td>
<td>Commercial</td>
<td>Central Area Commercial (C.A.C.) Zone</td>
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**POLICY IMPLICATIONS**

**Provincial Growth Plan for the Greater Golden Horseshoe**

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). The application is consistent with the policies that direct new growth to the built up areas, as per the policies contained in Sections 2.2.2 and 2.2.3 of the Places to Grow Plan. The proposal maintains the intent to develop and create compact and complete communities. Therefore, the applications are consistent with the Places to Grow Growth Plan for the Greater Golden Horseshoe.
**Provincial Policy Statement**

The proposal is consistent with the Provincial Policy Statement Policies by contributing to the development of healthy, liveable, and safe communities in accordance with Policies 1.1.3.2 (b), 1.1.3.3, and 1.7.1 (b). Furthermore, the proposal is also consistent with Cultural Heritage Policies 2.6.1 and 2.6.3, as the proposal is for the adaptive reuse of the former Dundas Post Office.

**Hamilton Wentworth Regional Official Plan**

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. The proposed change in zoning conforms to the policies of the Hamilton-Wentworth Official Plan.

**Town of Dundas Official Plan**

The subject lands are designated “Downtown Mixed-use” on Schedule ‘A’, Land Use plan in the Town of Dundas Official Plan. The primary goal of the "Downtown Mixed-use" designation is to preserve and enhance the unique character of the Downtown. The proposed adaptive re-use will utilize the former Dundas Post Office for a range of commercial uses in conformity with the Official Plan.

The adaptive re-use is consistent with Policy 3.5.2.3 by maintaining and strengthening the strong pedestrian orientation of the Downtown Mixed-use area. The site conditions are limited and cannot accommodate additional parking for the proposed uses. However, there are various municipal parking spaces available in the vicinity in the form of on-street parking on King Street, McMurray Street, and Foundry Street, or municipal parking lots, such as the one directly behind the subject lands. Generally, as the proposed uses for the existing building are not high traffic generators, the proposal is not expected to attract significant vehicular traffic, thereby being consistent with Policy 4.2.5.1, which states that adequate off-street parking will be required for uses whose activities attract significant vehicle traffic.

Further, the adaptive re-use will maintain and enhance the physical appearance, historic characteristics, and cultural heritage resources of the downtown in accordance with Section 2.4 “Historic and Architectural Resource”, more specifically Policies 2.4.2.1 and 2.4.3.4.; as well as conforming to Policies 3.5.2.5, 3.5.3.4, 3.5.3.5 and 3.5.3.7. Therefore, the proposal conforms to the Policies of the Town of Dundas Official Plan.
New Urban Hamilton Official Plan (Council Adopted)

The New Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province for approval, but is not yet in effect. The subject lands are designated “Mixed-use - Medium Density” on Schedule E - Urban Structure and Schedule E-1 - Urban Land Use Designations of the New Urban Hamilton Official Plan. The following Policies apply to the “Mixed-use - Medium Density” land use designation:

“4.1.1 Create and retain vibrant mixed-use areas that accommodate a range of uses and are accessible by automobile, transit, and active transportation.

4.1.3 Create comfortable, walkable, and stimulating pedestrian streets along key roads within the mixed-use areas.

4.6.1 The range of commercial uses is intended to serve the surrounding community or series of neighbourhoods, as well as provide day-to-day retail facilities and services to residents in the immediate area. These areas shall also serve as a focus for the community, creating a sense of place.

4.6.2 The Mixed-use - Medium Density designation shall be applied to traditional ‘main street’ commercial areas outside of the area designated Downtown Mixed-use, and promote the continuation of these areas as pedestrian oriented mixed-use areas. Retail and service commercial uses are key elements in maintaining that function and ensuring the continued vibrancy of the pedestrian realm.

4.6.18 In the historic former downtowns and main streets, a strong historic pedestrian focus is long established, and shall be enhanced through new development.

4.6.19 To strengthen the pedestrian focus in areas where it does not currently exist, the City shall require infilling of retail, service commercial, and mixed-use buildings in a physical arrangement which assists in creating a vibrant and active street environment. Such buildings shall be located up to the street along a pedestrian predominant street.”

The proposed development on the subject lands would achieve the above policies as the proposed mixed-use building would complement the character of historic Downtown Dundas. Therefore, based on the foregoing, the proposal would conform to the “Mixed-use - Medium Density” policies of the New Urban Hamilton Official Plan.
RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

1. Budgets and Finance Division, Corporate Services Department.
2. Urban Forestry, Public Works Department.
3. Transit Planning Section, Public Works Department.
4. Canada Post.
5. Hydro One Networks Inc.

**Hamilton Municipal Parking System (Parking)** - The applicant had originally submitted a concept plan which proposed 14 parking spaces on-site. These included 5 parking spaces off of McMurray Street, 6 parking spaces off of Foundry Street, as well as 3 parking spaces in tandem. The existing on-site parking is provided off of Foundry Street. It has been identified that the parking spaces proposed on McMurray Street did not meet minimum requirements and, therefore, could not be accommodated. Parking staff has reviewed the application and has advised that there are municipal parking spaces available for the proposal. The proposal has since been modified to recognize the existing 5 parking spaces and 1 loading space on the east side of the property (see Appendix “C”). As the existing site conditions limit the opportunity to provide additional on-site parking, and municipal spaces are available, the proposal does not present a negative impact on existing parking conditions.

**Public Works Department (Traffic Planning)** - Traffic Planning has also identified that the parking spaces proposed along McMurray Street, noted on the original concept plan, were substandard in size and would interfere with pedestrian movements, as well as being too close to King Street, which will impact maneuvering. Therefore, an access permit for these spaces would not be provided. The concept plan has since been modified to address these concerns, and parking will only be provided from the existing spaces off of Foundry Street. As municipal parking is available in the area, increasing the usability of the existing building, while maintaining the existing parking conditions, will not negatively impact area parking conditions.

**Public Consultation**

In accordance with Council’s Public Participation Policy, the application was circulated as part of the Notice of Complete Application to 244 residents within 120 metres of the subject lands on March 5, 2010. As a result of the pre-circulation, no letters were received expressing concerns on the application.

Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act through circulation to property owners within 120 metres of the subject lands. In addition, a Public Notice Sign was posted on the property on April 13, 2010.
ANALYSIS / RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement and the Places to Grow Growth Plan;

   (ii) It conforms with and implements the “Urban” designation of the Hamilton-Wentworth Regional Official Plan;

   (iii) It conforms to the “Downtown Mixed-use” designation of the Town of Dundas Official Plan, as the proposed commercial uses are consistent with the uses permitted within this designation; and,

   (iv) It provides for the adaptive re-use of a building of Architectural and/or Historical Interest.

2. The former Dundas Post Office was constructed from 1911-1913 and is currently listed on the City’s Inventory of Buildings of Architectural and/or Historical Interest. The Post Office was closed to the Public in 1991, followed by a relocation of its operations in 2009 leaving the building vacant. Canada Post sold the property in 2009. Prior to the sale of the subject lands, Canada Post completed a Cultural Heritage Assessment (September 14, 2009). The Cultural Heritage Assessment addressed a number of matters, including the preferred type of adaptive re-use to be multi-purpose, utilizing all three floors of the building for a variety of commercial uses, office space, restaurants, and retail or service businesses. The proposed adaptive re-use of the existing building will provide adequate retail, office, and other commercial space for the Dundas Community to better enjoy the building which has been closed to the public for almost a decade. The Assessment concluded that a recommendation to City Council to designate the building should proceed following the passing of the building into private/public ownership. As the Cultural Heritage Assessment was not required for the submission of the Zoning By-law Amendment application, Planning staff has received the document for information purposes only.

Following a request for the property’s designation under the Ontario Heritage Act by the Hamilton Municipal Heritage Committee, Council adopted the following staff recommendations at its March 10, 2010, meeting:

“1. Request to Designate 104 King Street West, Dundas (Former Dundas Post Office) Under Part IV of the Ontario Heritage Act (PED10006) (Ward 13) (Item 5.1)
(a) That Council direct staff to carry out a Cultural Heritage Assessment of 104 King Street West, Dundas, to determine whether the property is of cultural heritage value, and worthy of designation under Part IV of the Ontario Heritage Act.

(b) That Council include 104 King Street West, Dundas, in the Register of Property of Cultural Heritage Value or Interest, following consultation with the Hamilton Municipal Heritage Committee, as per Recommendation (e) to Report PED10006 and the provisions of the Ontario Heritage Act, and that staff make appropriate amendments to the Register of Property of Cultural Heritage Value or Interest.

(c) That if 104 King Street West, Dundas, is determined to be of cultural heritage value or interest, a Statement of Cultural Heritage Value and Description of Heritage Attributes be prepared by staff for Council’s consideration for designation under Part IV of the Ontario Heritage Act.

(d) That the Cultural Heritage Assessment work be assigned a high priority, and be added to staff’s work program for completion in 2010, as per the attached Appendix “G” to Report PED10006.

(e) That Report PED10006 be forwarded to the Hamilton Municipal Heritage Committee for information and consultation prior to the Council approved inclusion of 104 King Street West, Dundas, in the Register of Property of Cultural Heritage Value or Interest.

(f) That Report PED10006 be forwarded to the owner of the property for information."

3. The requested change in zoning from Public and Private Service (P.P.S.) Zone to the Central Area Commercial (C.A.C./S-119) Zone, Modified, will permit Retail, Professional Office, and other commercial uses within the existing building formerly known as the Dundas Post Office. The applicant provided a concept plan (see Appendix “C”), as well as a listing of preferred uses for the existing building. As certain parking requirements cannot be accommodated for uses attracting large amounts of vehicular traffic, the uses are complementary of those within the Downtown Dundas Area and will not negatively impact the existing parking conditions within the Downtown area. The proposed uses can be grouped in the following categories: General, Boutique and Specialty Retail; General and Professional and Technical Offices (not including medical, dental, or drugless practitioners); Fitness Studios; Finance, Legal, Real Estate and Insurance Industries; Licensed and Unlicensed Restaurants (excluding Drive-thrus); and Organization Offices.
The existing building has three levels, which may be subdivided on each level to permit multiple uses per floor. Each of the proposed uses is complementary to each other and could occupy the building in harmony, as well as meeting the needs of the local community.

As the proposal is for the adaptive re-use of the existing building, the amending By-law will address the existing site conditions and built heritage attributes, as well as reducing the required parking on-site. The modifications include:

Yards and Height

The proposal is for the adaptive reuse of the existing building, therefore, the amending By-law will recognize the established front, rear, and side yard setbacks, as well as the height, including the clock tower. As the subject lands are currently under review for Heritage considerations, the amending By-law will also recognize the existing built form.

Off-Street Parking and Loading

The applicant amended their original concept plan from providing 14 parking spaces to maintaining the existing 5 parking spaces. As additional parking cannot be provided as prescribed by the By-law, the subject lands will maintain the existing 5 parking spaces only, which can be accommodated on the east side of the subject lands off of Foundry Street. These parking spaces will be permitted to be located within 0.0 metres of the side and rear lot lines. A new loading space will be provided adjacent to the parking area, off of Foundry Street, as shown on the Concept Plan (see Appendix “C”). The existing loading space off of McMurray Street will also be permitted to be located within 0.0 metres of the side and rear lot lines. Parking stall size will be permitted to be 2.6 metres in width, and 5.5 metres in length, which is consistent with the Parking Requirements prescribed by the new City of Hamilton Zoning By-law 05-200. As site conditions are limited, manoeuvring space will be provided off-site.

Landscaping

In order to maintain the existing site conditions, no additional landscaping or planting strips abutting the street lines are required. The front yard is currently landscaped with interlocking stone and various planting areas built in. The existing site conditions will be provided and maintained in the amending By-law.

Built Heritage

Due to the property’s established built heritage values vested in the surviving century-old structure, the Draft By-law provides a number of provisions that address the continued conservation of the existing building and features until the
Cultural Heritage Assessment and designation process is finalized.

These provisions do not hinder the successful development of the property, and will provide an interim measure that assists in implementing and addressing Section 2 (d) of the Planning Act and PPS Policy 2.6.3.

**ALTERNATIVES FOR CONSIDERATION:**

1. If the proposed amendment to the Zoning By-law is denied, the subject lands could be developed for uses permitted within the existing Public and Private Service (P.P.S.) Zone.

2. Prior to the passing of the By-law, the owner would be required to enter into a Heritage Easement Agreement with the City in order to protect the existing building, property, and features until such time as the Cultural Heritage Assessment and designation process is finalized. Under this alternative, the Heritage Provisions of the Draft By-law (see Appendix B - Section 2.6) would be removed.

**CORPORATE STRATEGIC PLAN**


**Growing Our Economy**

• Newly created or revitalized employment sites.
• Adaptive reuse of existing heritage structures.

**Healthy Community**

• Plan and manage the built environment.
• Managing Cultural Heritage resources to ensure their ongoing conservation.

**APPENDICES / SCHEDULES**

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

:KM
Attachs. (3)
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 area municipality known as the “The Corporation of the Town of Dundas” 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 Zoning By-law No. 3581-86 (Dundas) was enacted on the 22nd day of May 1986, and approved by the Ontario Municipal Board on the 10th day of May, 1988;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [ ] of Report 10-[ ] of the Economic Development and Planning Committee, at its meeting held on the [ ] day of [ ], 2010, recommended that Zoning By-law No. 3581-86, be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Dundas) in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Schedule “A”, appended to and forming part of By-law No. 3581-86 (Dundas), as amended, is hereby further amended by changing the zoning from the Public and Private Service (P.P.S.) Zone to the Central Area Commercial (C.A.C./S-119) Modified, on the lands the extent and boundaries of which are more particularly shown on Schedule “A” attached hereto and forming part of this by-law.

2. That Section 32 - “EXCEPTIONS” of Zoning By-law No. 3581-86 (Dundas), as amended, is hereby further amended by adding the following subsection:

**C.A.C./S-119**

That notwithstanding the provisions of Section 18: Central Area Commercial, Section 6.11.2: Buffer Strip, Section 7: Off-Street Parking and Loading, and Section 3.2.56: Front Lot Line, the following Special Provisions shall apply to the lands known municipally as 104 King Street West, shown as C.A.C./S-119 on Schedule “A”.

1. **PERMITTED USES:**

Only the following uses shall be permitted and only within the building existing on the date of the passing of this by-law, being the [ ] day of [ ], 2010:

- Courier Service Industry; (SIC 4842)
- Food Stores (SIC 601)
- Liquor, Wine and Beer Stores (SIC 602)
- Shoe, Apparel, Fabric and Yarn Industries, Retail; (SIC 61)
- General Merchandise Stores; (SIC 641)
- Book and Stationery Stores; (SIC 651)
- Florist Shops (SIC 6521)
- Jewellery Stores and Watch and Jewellery Repair Shops;
- Toy, Hobby, Novelty, and Souvenir Stores; (SIC 658)
- Other Retail Stores excluding: (659)
  1. Monument and Tombstone Dealers; and,
  2. Mobile Home Dealers
- Deposit Accepting Intermediary Industries; (SIC 70)
- Consumer and Business Financing Intermediary Industries; (SIC 71)
- Investment Intermediary Industries; (SIC 72)
- Insurance Industries; (SIC 73)
- Other Financial Intermediary Industries; (SIC 74)
- Insurance and Real Estate Agent Industries; (SIC 76)
- Accounting and Bookkeeping Services; (SIC 773)
- Advertising Services; (SIC 774)
- Architectural Engineering and Other Scientific and Technical Services;
- Offices of Lawyers and Notaries; (SIC 776)
- Management Consulting Services; (SIC 777)
- Other Business Services; (SIC 779)
Restaurants, Licenced; (SIC 9211)
Restaurants, Unlicenced (Excluding Drive-Ins); (SIC 9212)
Other Sports and Recreation Clubs, limited to Health Clubs (excluding health spas and reducing salons);
Dance Halls, Studios and Schools; (SIC 9693)
Barber and Beauty Shops; (SIC 971)
Business Associations; (SIC 982)
Professional Membership Associations; (SIC 983)
Labour Organizations; (SIC 984)
Political Organizations; (SIC 985)
Civic and Fraternal Organizations; (SIC 986)
Photographers; (SIC 993)
Travel Services; (SIC 996)
Other Services (excluding Humane Societies, Taxidermy, and Trade Fairs);
Accessory Buildings, Structures and Uses.

2. REGULATIONS FOR PERMITTED USES

2.1 Off-Street Parking and Loading

A minimum of five (5) Parking Spaces and one (1) Loading Space shall be provided and maintained on the subject lands.

2.1.1 Location

Parking and Loading Spaces shall be provided and maintained only in the easterly side yard and shall be permitted to be 0.0m from a public thoroughfare.

2.1.2 Dimensions for the Design of Parking Areas

Each required parking space shall be not less than 2.6 metres in width and 5.5 metres in length.

2.1.3 Manoeuvering Space

Manoeuvering space for off-street parking and loading spaces may be provided off-site.

2.2 Front Lot Line

The front lot line shall be the property line which abuts King Street West.
2.6 Built Heritage Structure and Features

2.6.1 Building Envelope

The external appearance of the east, west, north, and south building facades, including building materials, stone sills and lintels, brickwork, existing door and window openings, and the height and form of all roofs, dormers, and roofing materials shall be retained in their appearance and condition as of the date of the passing of this by-law, being the [insert] day of [insert], 2010.

2.6.2 Windows and Doors

Notwithstanding the provisions of 2.6.1, the installation of new windows and doors into existing and unaltered window and door openings shall be permitted if required by the Ontario Building Code.

2.6.3 Mechanical Equipment

Notwithstanding the provisions of 2.6.1, the installation of required mechanical equipment in the flat roof area at the rear of the existing heritage structure shall be permitted if required by the Ontario Building Code.

2.6.4 Ontario Heritage Act

Notwithstanding the above, should the lands be designated under the Ontario Heritage Act, any alternative building design or building materials approved through the issuance of a Heritage Permit shall be deemed to comply with Section 2.6.

3. That By-law No. 3581-86 (Dundas) is amended by adding this by-law to Section 32 as Schedule S-119.

4. That Schedule “A” of the Zoning Schedule Key Map is amended by marking the lands referred to in Section 1 of this by-law as C.A.C./S-119.
5. 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 [blank] day of [blank], 2010,

__________________________  ____________________________
Fred Eisenberger              Rose Caterini
Mayor                        Clerk

ZAC-10-004
This is Schedule "A" to By-Law No. 10-

Passed the ........... day of .................., 2010

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Clerk

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Mayor

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Schedule "A"

Map Forming Part of
By-Law No. 10-_____

to Amend By-law No. 3581-86

Subject Property
104 King Street West

Change in Zoning from the Public and Private Service "PPS" Zone to the Central Area Commercial "C.A.C./S-119" Zone Modified.