SUBJECT: Application for a Modification in Zoning for the Property Located at 880 South Service Road (Stoney Creek) (PED06053) (Ward 11)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-05-115, by Battlefield Equipment, owner, for a modification to the existing Prestige Industrial “MT” Zone, to permit an existing industrial garage with addition, for the property located at 880 South Service Road (Stoney Creek), as shown on Appendix “A” to Report PED06053, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED06053, 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”, Map No. 2, of Zoning By-law No. 3692-92.

(c) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Official Plan of the City of Stoney Creek.

EXECUTIVE SUMMARY:

The purpose of the application is for a modification in zoning in order to permit an existing industrial garage, with a proposed addition. The proposal has merit as the modification in zoning serves to legalize an existing use that is consistent with the
BACKGROUND:

Proposal

The applicants have applied for a modification to the existing Prestige Industrial “MT” Zone in order to permit an existing industrial garage (Battlefield Equipment Rentals), with a proposed 650m$^2$ addition, on the property located at 880 South Service Road (see Appendix “C”). The applicants have also applied for a number of additional variances in order to legalize existing setbacks and landscaping.

Site Plan Application DA-05-126

Site Plan Application DA-05-126, to amend approved Site Plan B35-13, was submitted in August 2005, to construct a 650m$^2$ building addition on the property located at 880 South Service Road. Through the review of the application it was determined that the existing Prestige Industrial “MT” Zone, under Stoney Creek Zoning By-law No. 3692-92, does not permit an industrial garage use. Therefore, an application for an expansion of a legal non-conforming use would have been required to be made to the Committee of Adjustment. However, at some time after the passage of Stoney Creek Zoning By-law 3692-92 in December 1992, Battlefield Equipment acquired abutting lands to the south and began using these lands as part of the primary industrial garage use. As these lands were acquired after 1992, an industrial garage use cannot be considered legally established non-conforming and, therefore, an application to amend the Zoning By-law to add the use of an industrial garage is required. Site Plan Application DA-05-126 has been put on hold until Zoning Application ZAR-05-115 is finalized.

Site Plan Application B35-13

Site Plan Application B35-13 was approved by the former City of Stoney Creek in 1988 for the construction of a 2,523m$^2$ industrial garage on the property located at 880 South Service Road. At that time, 880 South Service Road only consisted of the northerly portion of the existing property and was zoned “M2” by previous Stoney Creek Zoning By-law No. 2347, which permitted an “Industrial Garage”.

Location: 880 South Service Road (Stoney Creek)
Owners: Battlefield Equipment Rentals
Agents: GSP Group Inc. (c/o Cynthia Baycetich)

Property Description:
- Frontage: 156m on South Service Road
- Depth: 275m (measured along easterly property line)
- Lot Area: 5.125ha

Servicing: Full municipal services
EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Industrial Garage</td>
<td>Prestige Industrial “MT” Zone</td>
</tr>
<tr>
<td>South</td>
<td>QEW and vacant land</td>
<td>Neighbourhood Development “ND” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Vacant land and industrial uses (steel storage)</td>
<td>General Industrial “MG” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Industrial uses</td>
<td>Prestige Industrial “MT-2” Zone and General Industrial “MG” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Vacant land and industrial uses (steel storage)</td>
<td>Prestige Industrial “MT” Zone and General Industrial “MG” Zone</td>
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</tbody>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) It is consistent with the principles and policies of the Provincial Policy Statement, in that the proposal implements Policy 1.3 pertaining to the promotion of economic development by providing for an appropriate mix and range of employment, including industrial, to meet long-term needs.

   (ii) It conforms with and implements the “Urban Area - Business Parks” designation of the Hamilton-Wentworth Official Plan.

   (iii) It conforms with and implements the “Industrial – Business Park” designation of the Stoney Creek Official Plan.

   (iv) The proposal serves to legalize an existing industrial use with a minor addition that is consistent with other industrial uses in the area.

2. The purpose of the application is to legalize the existing legally established, non-conforming use of an industrial garage on the north side of the subject lands, and the existing non-conforming use of an industrial garage on the south side of the property. The nature of the existing use is the storage, rental, maintenance, cleaning, and refuelling of construction vehicles, as well as accessory office space. The proposed addition would consist of a number of additional service bays for the construction equipment.
3. The Planning Act does permit an expansion to a legally established, non-conforming use to be made through an application for a Minor Variance to the Committee of Adjustment. However, the south portion of the subject property was acquired by Battlefield Equipment Rentals after Stoney Creek Zoning By-law No. 3692-92 was passed in December, 1992. Previous Stoney Creek Zoning By-law No. 2347 permitted an industrial garage on the property when the lands were zoned “M2”. This portion of the property is currently being utilized as part of the main site operations, including the parking of construction vehicles, and also contains an existing propane fuelling station. Therefore, unless the owners completely ceased the use of the south half of the property for an industrial garage, an application for a Zoning Amendment to add the use of an industrial garage for the entire property is required.

4. In addition to the proposed modification in zoning to add the use of an “industrial garage” on the subject lands, the following modifications are required to address some existing non-conformities:

   - To permit an existing front yard setback to the South Service Road of 27.3m, whereas 30m is required.

   - To permit an existing easterly side yard setback to Glover Road for the existing propane fuelling station of 8.3m, whereas 9m is required.

   - To permit an existing 8.0m landscaped strip along the South Service Road, whereas 15.0m is required.

   - To permit an existing 6.0m landscaped strip adjacent to Constellation Drive and Glover Road, whereas 7.5m is required.

   - To permit loading spaces to be located between the rear lot line and the wall of the building facing a street.

   The above noted modifications can be supported since they reflect existing as built conditions. The landscaping and setbacks generally conform to the previous “M2” Zone provisions of Stoney Creek Zoning By-law No. 2347, but not the current Zoning By-law No. 3692-92, and were previously reviewed through the approval of Site Plan Application B35-13. In addition, through the review of Site Plan Control Application DA-05-126, an evaluation of the quality and quantity of existing landscaping will occur and, at that time, additional plantings within the existing landscaped strips could be required.

5. Comments from the Public Works Department (Traffic Engineering and Operations Section), and the Ministry of Transportation will be addressed through conditions of approval of Site Plan Control Application DA-05-126.
ALTERNATIVES FOR CONSIDERATION:

Should the application be denied, the north portion of the property could continue to be utilized as an “industrial garage”, however, any use of the south side of the property for this use would have to cease. In addition, a Minor Variance to permit the expansion of a legally established, non-conforming use would be required to permit the proposed 650m$^2$ addition.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial - N/A.

Staffing - N/A.

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

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The proposal is consistent with the principles and policies of the Provincial Policy Statement (PPS), and implements Policy 1.3 pertaining to the promotion of economic development by providing for a mix and range of employment including industrial uses.

Hamilton-Wentworth Official Plan

The subject lands are designated “Urban Area – Business Park” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans, and based on full municipal services, will be concentrated in the Urban Areas. The proposed industrial use also conforms with the range of uses contemplated for Business Parks as identified in Policy 3.1.3. The proposal conforms with the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan

The subject property is designated “Industrial – Business Park” on Schedule “A”, General Land Use Plan in the City of Stoney Creek Official Plan. The proposal would conform with and implement this designation, in that the primary permitted uses are manufacturing, the processing of raw materials or goods, repairing and servicing operations, warehousing and storage, and transportation terminals.
RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Public Works Department (Forestry and Horticulture Section).
- Corporate Services Department (Budgets Section).
- Public Works Department (Traffic Engineering and Operations Section) has advised that the overgrown access to Glover Access Road opposite the Dofasco site access must be removed and the ditch line re-instated.
- Ministry of Transportation has advised that building and land-use permits are required for all buildings and structures within 46m from the QEW and 396m from the intersection of the QEW and Glover Road.

Public Consultation

In accordance with the new Public Participation Policy that was approved by Council on May 29, 2003, the application was circulated to 33 property owners within 120 metres of the subject property, and a public notice sign was erected on the property on January 2, 2006. No comments were received as a result of the circulation of the application and public notice sign.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
Shelter, care and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The proposed development is subject to Site Plan Control and all issues pertaining to environmental protection and protection of water resources will be addressed through the Site Plan process.

Economic Well-Being is enhanced. ☑ Yes ☐ No
The proposed development will contribute to the Economic Development of the City of Hamilton and provide additional employment opportunities.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:GM
Attaches. (3)
Subject Property
880 South Service Road (Stoney Creek)
Change in zoning from the Prestige Industrial “MT” Zone to the Prestige Industrial “MT-9” Zone.
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 Stoney Creek” 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. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;  

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report 06- of the Planning and Economic Development Committee at its meeting held on the day of , 2006, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;  

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;  

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

1. That Map No. 2 of Schedule “A” appended to and forming part of By-law No. 3692-92 (Stoney Creek) is amended by changing the zoning from the Prestige Industrial “MT” Zone to the Prestige Industrial “MT-9” Zone, the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.
2. That Section 9.4.6, “Special Exemptions”, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special provision “MT-9”, to include the following:

“MT-9  880 South Service Road, Schedule “A”, Map No. 2

In addition to the permitted uses in Subsection 9.4.2 of the Prestige Industrial “MT” Zone, those lands zoned “MT-9” by this By-law may also be used for an industrial garage. Notwithstanding the provisions of Subsection 9.1.6 of Zoning By-law No. 3692-92, loading spaces are permitted in the area between the lot line abutting a street and any wall of a building facing a street except for the South Service Road. Notwithstanding the provisions of Paragraphs (d), (f), and (i) of Subsection 9.4.3 of the Prestige Industrial “MT” Zone, for those lands zoned “MT-9” by this By-law, the following shall apply:

(d) Minimum Front Yard - 27 metres

(f) Minimum Flankage Yard - 8 metres

(i) Minimum Landscaped Open Space – 8 metres along the South Service Road lot line and 6 metres along all other lot lines except for points of ingress and egress”.

3. 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 Prestige Industrial "MT" Zone provisions, subject to the special requirements referred to in Section 2.

4. 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 , 2006.

_________________________________________  _______________________________________
MAYOR  CLERK

ZAR-05-115
This is Schedule "A" to By-Law No. 06—

Passed the __________ day of ______________ 2006

Clerk

Mayor

Schedule "A"

Map Forming Part of By-Law No. 06—
to Amend By-Law No. 3692-92

Planning and Economic Development Department

Subject Property

880 South Service Road (Stoney Creek)
Change in zoning from the Prestige Industrial "MT" Zone to the Prestige Industrial "MT-9" Zone.

Scale: Not to Scale
File Name/Number: ZAR-05-115
Date: January 23, 2006
Planner/Technician: GM/NB