SUBJECT: City Initiative for the Extension of an Interim Control By-law (CI-05-D) on the West Hamilton Industrial Area Including the Former Camco Property (PD05074(a)) (Ward 1)

RECOMMENDATION:

(a) That an Interim Control By-law No. 05-041 be extended pursuant to the provisions of Section 38 (2) of The Planning Act, R.S.O., 1990, for the lands zoned “K” District and shown on Schedule “A” of Appendix “A” to Report PD05074(a), to prohibit the use of land, buildings or structures for any uses permitted in the “K” district, for an additional period of one year from the date of the passage of By-law No. 05-041 by Council, save and except for:

(i) office uses, including laboratory, teaching, training and conference facilities;

(ii) such existing lawful uses carried on immediately prior to the passage of the Interim Control By-law and only within buildings existing as of the day of the passing of the Interim Control By-law; and/or

(iii) expansion to a maximum 10% of the existing gross floor area, or such existing lawful uses carried on immediately prior to passage of the Interim Control By-law.

(b) That the Interim Control By-law No. _____ attached as Appendix “A” to Report PD05074(a), which has been prepared in a form satisfactory to the City Solicitor, be presented to Council for passage.
(c) That the Interim Control By-law be added to Section 19B of Zoning By-law No. 6593 as Schedule S-1520 and that the subject lands on Zoning District Map Nos. W-23, W-24, W-33 and W-34 be noted as S-1520.

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Lee Ann Coveyduck
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

On February 24, 2006, Interim Control By-law No. 05-041 will expire. This By-law was put in place by Council to allow adequate time to complete the review of existing land uses and make recommendations on future land uses without the introduction of any new uses on all “K” zoned land to the north of Aberdeen Avenue, east of Highway 403, south of Main Street West, and west of the Canadian Pacific (CP) railway line, including the former Camco Property. The study is not complete and, in accordance with Section 38(2) of The Planning Act, the Interim Control By-law can be extended for a period of one year to permit the study to continue and conclude.

**BACKGROUND:**

On February 24, 2005, Council adopted By-law No. 05-041, an Interim Control By-law, which affected lands to the north of Aberdeen Avenue, east of Highway 403, south of Main Street West, and west of the Canadian Pacific (CP) railway line, including the former Camco Property (see Appendix “A” to Report PD05074(a)). The purpose of passing the Interim Control By-law on the noted lands was to prohibit the introduction of any new use permitted by the “K” district zoning for a period of one year while a study was conducted, except for office uses including laboratory, teaching, and training and conference facilities. This would allow for a complete and thorough land use review and recommendations to be made for the West Hamilton Industrial Area.

All uses existing as of the day of the passing of the By-law are permitted to continue. The West Hamilton Industrial Area land use study will not be completed prior to the February 24, 2006 expiration date and, therefore, it is necessary for By-law No. 05-041 to be extended in accordance with The Planning Act for an additional one year.
ANALYSIS/RATIONALE:

1. **The Planning Act**

   Section 38 (2) of The Planning Act states that the Council of a municipality may amend an Interim Control By-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the Interim Control By-law.

   It is noted that the Interim Control By-law was originally adopted by Council on February 24, 2005, and can be extended in accordance with the above-noted regulation in order to permit the land use study to be completed.

   Section 38(3) of The Planning Act states that notice of, or holding a hearing (Public Meeting) is not required for an Interim Control By-law. However, the Clerk is required to give notice of the decision within 30 days of passage of the By-law to the prescribed persons and public bodies. Further, there is a 60-day appeal period associated with the passage of an Interim Control By-law. These requirements of The Planning Act are also applicable to the extension of the expiration date of the Interim Control By-law.

   There were no objections to the original Interim Control By-law.

2. **The City of Hamilton Official Plan**

   The subject lands are designated Industrial on Schedule “A”, Land Use Concept of the Hamilton Official Plan. The primary uses permitted under this designation are that of industry. Industry is defined as manufacturing, processing, warehousing, repair and servicing.

   Policy D.3.7 of the Official Plan states that, in accordance with The Planning Act, Interim Control By-laws may be used to limit the use of lands or buildings where Council has directed a study of land use planning policies in a defined area of the City. The provision of The Planning Act regarding timing, notice and appeals of these By-laws will apply.

   This proposal complies with the Official Plan.

3. **The City of Hamilton Zoning By-law**

   The subject lands are zoned “K” District (Heavy Industrial) in the City of Hamilton’s Zoning By-law. This zone permits public uses such as a public garbage dump or public incinerator; commercial uses such as a lumberyard, salvage yard or adult entertainment parlour. Examples of industrial uses that
would be permitted would include a slaughterhouse, manufacturing of animal products, chemical manufacturing (fertilizers, varnish) and re-cycling plants.

The nature of the City of Hamilton's Zoning By-law is pyramidal in that what is permitted in one zone may be permitted in many other zones. For example, the “K” District permits all industrial uses permitted in the “J” District. The “K” District also permits commercial uses that are also permitted in the “J” District. This pyramidal style of the By-law opens this area up to an extremely vast range of permitted land uses. This could potentially have detrimental impact on the Secondary Planning Study, prior to land use recommendations being made in this area. The extension of the expiration date of the Interim Control By-law would prevent any of the range of land uses from being established during the time that staff is preparing land use options and final recommendations for this area and the entire study area.

4. McMaster Innovation Park

Throughout the past year the McMaster Innovation Park Liaison Committee, comprised of municipal staff, McMaster University staff and architectural consultants (Diamond and Schmitt) retained by McMaster, met monthly to develop concepts for McMaster's Innovation Park. This process culminated in a preferred concept plan presented by McMaster to the community on January 10, 2006.

The proposed preferred concept recommends an enhanced Longwood Road functioning as the main street of the McMaster Innovation Park (MIP) and the focus for public activity. In addition to carrying four lanes of traffic, its edges are proposed to have a well designed streetscape and provide for transit, cycling, and pedestrian circulation along with on-street parking. It is intended to have a mix of uses and be the commercial focus for the MIP.

A series of local streets designed in a grid pattern are proposed through the MIP connecting to Longwood Road, and ultimately, to the adjacent West Hamilton Industrial Areas to the east.

The predominant activities proposed in the MIP include research and academic facilities. The proposed plan provides for approximately 176,500 m² (1.9 million square feet) of building space with ancillary retail and service facilities proposed in close proximity to Longwood Road to support its proposed main street character.

The buildings proposed are to be street oriented and located in close proximity to the street right-of-way. This strong streetscape definition and continuous street wall is intended to provide for a pedestrian supportive street space.
The University hopes to attract research and development in such areas as advanced manufacturing and materials, biotechnology, information technology and environmental technology. The proposed research park is intended to house private, university and government laboratories in a community designed to foster innovation and increase the flow of new products, technologies and ideas to market.

Canmet is a federal facility currently located in Ottawa. Negotiations are currently underway for the relocation of this facility to the MIP in their first phase of development. Completion of this building is projected by the fall of 2008.

The next step for the MIP will be the preparation of a master servicing strategy.

5. Transportation Studies

There are currently two studies underway to address transportation management issues within the study area: the Kirkendall Neighbourhood Traffic Management Study and the Kirkendall/McMaster Innovation Park Traffic Integration Study. McCormick Rankin Corporation has been retained to undertake these studies.

These studies will be completed by summer 2006.

6. Proposed Amendments

The Official Plan Amendment and related Zoning By-law Amendment for the West Hamilton Industrial Planning Area is anticipated to be completed by the summer 2006. At that time, the existing Zoning By-law will be repealed and replaced with the new zoning.

ALTERNATIVES FOR CONSIDERATION:

The alternative is to allow the Interim Control By-law to expire and permit the full range of heavy industrial uses provided for in the “K” District zoning. Council could adopt this approach; however, Planning staff does not support this approach for the following reasons:

- The range of uses permitted in the “K” District zoning is broad including public garbage dumps, incinerators and adult entertainment parlours.

- The expiration of the Interim Control By-law may hinder staff’s ability to effectively complete the land use, transportation and servicing reviews for the study area, as new heavy industrial uses could be established in the interim that could detract from the study’s final recommendations.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial – There are no financial implications at this time, however, this By-law could be appealed to the Ontario Municipal Board.

Staffing – There are no staffing implications at this time.

Legal – Section 38(3) of The Planning Act does not require notice or a hearing (Public Meeting) for the passage of an Interim Control By-law. However, the Clerk is required to give notice of the passage of the By-law and there is a 60 day appeal period.

POLICIES AFFECTING PROPOSAL:

The subject lands are designated “Industrial” and “Utilities” on Schedule “A”, Land Use Concept of the Hamilton Official Plan. Schedule “B” of the Hamilton Official Plan applies Special Policy Area 11 to the Industrial designation, which permits Light Industrial uses such as warehousing, light manufacturing and assembly, laboratories and research facilities, communication facilities and printing and publishing plants. Business enterprises such as banks, restaurants, garages, material suppliers, day nurseries (which are intended to directly serve the industries and their personnel) are also permitted.

Notwithstanding the Official Plan land use designation, the applicable “K” District zoning permits a very broad range of uses as previously discussed, beyond those uses anticipated by the Official Plan.

Policy D.3.7 of the Hamilton Official Plan states that in accordance with The Planning Act, Interim Control By-laws may be used to limit the use of lands or buildings where Council has directed a study of land use planning policies in a defined area of the City. The provision of The Planning Act regarding timing, notice and appeals of these By-laws will apply.

The recommendations in Report PD05074(a) conform to the Official Plan.

RELEVANT CONSULTATION:

Staff has consulted with the Economic Development Division, the Development Planning Section and the McMaster Innovation Park Liaison Committee, all of which support the proposed extension of the Interim Control By-law.
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
The protection and study of revitalization opportunities in the subject area are consistent with VISION 2020 goals, including the potential to:

- make efficient and economical use of existing infrastructure and services.
- reduce commuting distances by providing increased employment opportunities in the central part of the City.
- provide higher value employment opportunities.
- promote life long learning and education.

Environmental Well-Being is enhanced.  ☑ Yes  ☐ No
The protection and study of revitalization opportunities in the West Hamilton Industrial area will prevent new, potentially in appropriate heavy industrial uses and/or commercial uses from being established until such time as the land use, urban design, servicing and transportation studies have been completed.

Economic Well-Being is enhanced.  ☑ Yes  ☐ No
The Extended Interim Control By-law and associated land use study continues to maintain employment lands with the potential provide higher value employment opportunities, which will help to implement the City’s Economic Development Strategy.

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
The Extended Interim Control By-law demonstrates due diligence on the part of the City to enhance the function and development potential of an existing employment area to promote quality planning in the best interests of the public. This in turns provides staff and Council with better tools to make decisions.

:BK/dkm
Attachs. (1)
To Extend the expiration date of Interim Control Zoning By-law No. 05-041 Respecting LANDS ZONED K including all exceptions within those zones under the City of Hamilton Zoning By-law 6593 as amended within the areas bounded by Aberdeen Avenue, Highway 403, Main Street West and the CP Railway line, as more particularly shown on Schedule A to this By-law.

WHEREAS subsection 38 of the Planning Act, R.S.O. 1990 c.P. 13 as amended, permits Council of a municipality to pass an interim control by-law where the Council has directed that a review or study be undertaken in respect of land use planning policies within the municipality or in any defined area or areas thereof;

AND WHEREAS subsection 38(2) of the Planning Act, R.S.O. 1990 c.P. 13 as amended provides as follows:

38. (2) The Council of a municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the Interim Control By-law.

AND WHEREAS the land which is the subject of this By-law was, as of January 1st, 2001, placed within the jurisdiction of the City of Hamilton, a new municipality incorporated as of January 1, 2001, by the City of Hamilton Act, 1999 (S.O. 1999, Chapter 14, Schedule C);

AND WHEREAS the land use study continues to determine the appropriate land uses and facilitate the revitalization of the former Camco property (known municipally as 175 and 279 Longwood Road South) and adjacent industrial area more particularly shown on Schedule "A" attached hereto;

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

1. It is hereby directed that a planning study continue in respect of the land use policies in the area described in Schedule "A" attached hereto.
2. No person shall use any land, building or structure shown on the plan hereto attached and identified as Schedule “A” for any uses permitted in the “K” District zone, save and except for:

   a) office uses, including laboratory, teaching, training and conference facilities;

   b) such existing lawful uses, carried on immediately prior to the passage of this By-law and only within buildings existing as of the day of the passing of this By-law; and/or,

   c) expansion to a maximum 10% of the existing gross floor area of such lawful uses carried on immediately prior to passage of this By-law.

3. This By-law shall be in effect until February 15, 2007.

4. By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-1520.

5. Sheet Nos. W-23, W-24, W-33 and W-34 of the District Maps are amended by marking the subject lands, S-1520.

6. The Municipal 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

CI-05-D
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. 6593

Subject Property

North

Scale: Not to Scale

File Name/Number: CI-05-D

Date: January 10, 2006

Planner/Technician: AW/MC