That approval be given to Zoning Application ZAC-11-045, by Collin Pepper, Owner, for a change in zoning from the Prestige Business Park (M3) Zone to the Prestige Business Park (M3, 44) Zone, with a Special Exception, to permit an Indoor Sports Facility with accessory uses, having a maximum Gross Floor Area of 1,785 square metres within the existing building, on lands located at 70 Innovation Drive (Flamborough), as shown on Appendix "A" to Report PED11195, on the following basis:

(a) That the draft By-law, attached as Appendix "B" to Report PED11195, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement, conforms with the Places to Grow Plan, and conforms with the Hamilton-Wentworth and the Town of Flamborough Official Plans.
EXECUTIVE SUMMARY

The purpose of this application is to modify the existing Prestige Business Park (M3) Zone to permit an Indoor Sports Facility with accessory uses, having a maximum Gross Floor Area of 1,785 square metres within the existing building, located at 70 Innovation Drive (Flamborough) (see Appendix “A”). This application has been submitted by the applicant, Goals Indoor Sports Club Inc., on behalf of the owner.

The proposal can be supported as it is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan. The proposal also conforms to the New Urban Hamilton Official Plan.

Alternatives for Consideration - See Page 8.

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 an amendment to the Zoning By-law.

HISTORICAL BACKGROUND

Proposal:

The subject lands are located at the northeast corner of South Street and Innovation Drive in Flamborough (see Appendix “A”). The tenant at 70 Innovation Drive, Goals Indoor Sports Club Inc., has applied for an amendment to City of Hamilton Zoning By-law 05-200 to recognize the existing Indoor Sports Facility and accessory uses, with a maximum Gross Floor Area of 1,785 square metres.

The applicant established the Sports Facility on the subject lands in 2010, prior to the adoption of the new Industrial Zones for Hamilton Zoning By-law 05-200, with no interior renovations required. The applicant failed to obtain the required change-of-use permit to legally establish the use. Therefore, the lands were not included on the list of site-specific amendments brought forward with the new Industrial Zones. On May 17, 2011, Planning Committee passed a motion to waive the Planning Fees associated with this application.
The proposal conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan. The proposal is also consistent with the policies of the Provincial Policy Statement, and conforms to the Places to Grow Plan.

**Chronology of Events:**

- **April 19, 2010:** Applicant signs lease for Indoor Sports Facility at 70 Innovation Drive (Flamborough).
- **May 24, 2010:** Industrial Zones for Hamilton Zoning By-law 05-200 adopted by Council.
- **May 17, 2011:** Planning Committee passes motion to waive the Planning Fees associated with any necessary Official Plan and Zoning By-law Amendment Applications.
- **September 1, 2011:** A notice of complete application mailed to all land owners within 120 metres of the subject property.
- **November 4, 2011:** A notice of Public Meeting mailed to all land owners within 120 metres of the subject property.

**Details of Submitted Application**

**Location:** 70 Innovation Drive (Flamborough)

**Owner:** Collin Pepper

**Applicant:** Goals Indoor Sports Club Inc.

**Agent:** John Mokrycke Architect

**Property Description:**

- **Frontage:** 79.87 metres
- **Lot Depth:** 80.18 metres
- **Area:** 6,404 square metres
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></td>
<td>Industrial</td>
<td>Prestige Business Park (M3) Zone</td>
</tr>
</tbody>
</table>

Surrounding Lands:

<table>
<thead>
<tr>
<th></th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>Residential</td>
<td>Agriculture “A” Zone (By-law No. 90-145-Z)</td>
</tr>
<tr>
<td>North</td>
<td>Industrial</td>
<td>Prestige Business Park (M3) Zone</td>
</tr>
<tr>
<td>East</td>
<td>Industrial</td>
<td>Prestige Business Park (M3) Zone</td>
</tr>
<tr>
<td>South</td>
<td>Vacant</td>
<td>Prestige Business Park (M3) Zone</td>
</tr>
</tbody>
</table>

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 application conforms to the Places to Grow Growth Plan for the Greater Golden Horseshoe.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Policy 1.1.1 (b) states:

“healthy, liveable, and safe communities are sustained by accommodating an appropriate range and mix of residential, employment (including industrial, commercial, and institutional uses), recreational, and open space uses to meet long-term needs.”
The subject lands are considered to be within a Settlement Area, as defined by the PPS. As such, in accordance with Policy 1.1.3.3, intensification and re-development shall be accommodated, taking into account existing building stock or areas. Therefore, this application is consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated as “Business Parks” on Map No. 1 Regional Development Pattern of the Hamilton-Wentworth Official Plan. Policy C.3.1.3.1 - Business Parks states that Ancillary uses, which primarily support businesses and employees within the Business Parks, shall also be permitted. The proposal to recognize the Indoor Sports Facility and accessory uses which supports the employees of the Business Park conforms to the general intent of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The subject lands are designated “General Industrial - Business” on Schedule “A-1” - Land Use Plan: Flamborough Business Park Secondary Plan. Policy A.6.2.4.1, as amended by By-law 10-127, states:

“General Industrial-Business uses shall be located in the central areas of the Industrial-Business Park generally bounded by the Prestige Industrial-Business land use. The uses permitted in the General Industrial-Business designation shall be limited to the uses permitted in Policy A.6.2.1.1 and the policies of A.6.2.1.3, A.6.2.1.4, and A.6.2.1.5.”

Further, Policy A.6.2.1.1 (iii), also as amended by By-law 10-127, states:

“ancillary uses which primarily support businesses and employees within Business Parks, including hotels, fitness centres, financial establishments, restaurants, personal services, motor vehicle service stations and washing, retail establishments, and commercial parking facilities;”

The previous policies of the Flamborough Official Plan permitted public and private sports clubs to be located in the Business Parks. Under the current policy, the Indoor Sports Facility is considered to be a fitness centre use and is intended to support the employees of the Business Park. As such, the proposal meets the general intent of the Flamborough Official Plan.

New Urban Hamilton Official Plan (Under Appeal)

The Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and is currently under appeal.
The subject lands are designated as “Employment Area - Business Park” on Schedule E-1 of the Urban Hamilton Official Plan. Section E.5.4 in Volume 1 addresses the Employment Area - Business Park designation. Further, Policy E.5.4.3(c) in Volume 1 states that uses which primarily support business and employees within the Business Park, including health and recreational facilities, are permitted. Therefore, the proposal to recognize the existing Indoor Sports Facility and accessory uses would conform to the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Infrastructure and Source Water Planning Section, Public Works Department.
- Parking and By-law Services Division.
- Ministry of Transportation.
- Union Gas.
- Canada Post.
- Bell Canada.
- Hydro.

PUBLIC CONSULTATION

In accordance with the new provisions of the Planning Act and Council’s Public Participation Policy, 40 Notices of Complete Application and Preliminary Circulation were sent to property owners within 120 metres of the subject property on September 1, 2011, requesting public input on the application. To date, no comments have been received.

Further, a Public Notice sign was posted on the property on September 12, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

ANALYSIS / RATIONALE FOR RECOMMENDATION

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

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

   (ii) It conforms to the Hamilton-Wentworth Official Plan and the Town of Flamborough Official Plan; and,
(iii) It is compatible with the existing and planned development in the area.

2. Zoning By-law Amendment

The proposal is an administrative technicality, in that the use was caught in the transition to the new Industrial Zoning. More specifically, the proposal is for a modification to the Prestige Business Park (M3) Zone to recognize the existing Indoor Sports Facility with accessory uses, with a maximum Gross Floor Area of 1,785 square metres, within the existing building. As indicated by the applicant, accessory uses include but are not limited to business functions, birthday parties, and child minding services. The applicant established this use on the property prior to the adoption of the new Industrial Zones for Zoning By-law 05-200. No Building Permit was required, however, the applicant did not obtain the necessary change-of-use permit required to legally establish the use.

The Indoor Sports Facility and accessory uses were permitted under the previous Town of Flamborough Zoning By-law 90-145-Z and Town of Flamborough Official Plan. Similar uses existing throughout the City were adopted into the new City of Hamilton Zoning By-law 05-200 on a site-specific basis. Commercial Recreational uses can be supported on a site-specific basis within industrial areas where similar uses do not already provide this function. Further, restricting the use to an Indoor Sports Facility, with a maximum Gross Floor Area of 1,785 square metres, will limit a full range of Commercial Recreational uses not envisioned for the Business Park.

The applicant approached the Planning Committee for a waiver of the Planning Fees associated with the necessary applications to permit the existing use following discussions with staff regarding the adoption of the new Industrial Zones. On May 17, 2011, the Planning Committee passed a motion that the Planning Fees be waived for any necessary Official Plan and Zoning By-law Amendment Applications. As an Official Plan Amendment is not required for this proposal, a Zoning By-law Amendment application was submitted.

The Hamilton-Wentworth, Town of Flamborough and new Urban Hamilton Official Plans support ancillary uses within a Business Park which support the needs of employees in the Business Park. The existing Indoor Sports Facility provides support to the employees of the Business Park and was a permitted use under the previous By-law when it was established. Therefore, the proposal can be supported.
ALTERTATIONS FOR CONSIDERATION:

If the application is denied, the applicant would have the option to utilize the lands in accordance with the provisions of the Prestige Business Park (M3) Zone.

CORPORATE STRATEGIC PLAN


Healthy Community

- Plan and manage the built environment.

APPENDICES / SCHEDULES

- Appendix “A”: Location Map
- Appendix “B”: Draft Zoning By-law Amendment

:KM
Attachs. (2)
CITY OF HAMILTON

BY-LAW NO. [REDacted]

To Amend Zoning By-law No. 05-200, Respecting Lands Located at 70 Innovation Drive, in the former Town of Flamborough, now in the City of Hamilton

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

AND WHEREAS Zoning By-law No. 05-200, as amended by By-law 10-128, was enacted on the 25th day of May, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDacted] of Report 11-[REDacted] of the Planning Committee, at its meeting held on the [REDacted] day of [REDacted], 2011, recommended that Zoning By-law No. 05-200, 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 Flamborough) in accordance with the provisions of the Planning Act.

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

1. That Map 612 of Schedule “A” - Zoning Maps of By-law 05-200 be amended by changing the zoning from the Prestige Business Park (M3) Zone to the Prestige Business Park (M3, 44) Zone, on the lands the extent and boundaries of which are shown on the plan hereto annexed as Schedule “A” of this By-law.
2. That Schedule “C” - Special Exceptions of Zoning By-law 05-200, be amended by adding the following Sub-section:

   “44. In addition to the uses permitted in Section 9.3: Industrial Zones, on those lands zoned Prestige Business Park (M3, 44) Zone, as identified on Map 612 of Schedule “A” - Zoning Maps, also described as 70 Innovation Drive, an Indoor Sports Facility and accessory uses, having a maximum Gross Floor Area of 1,785 square metres within the existing building, is also permitted.”

3. 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.

4. That this By-law No. shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

PASSED and ENACTED this day of , 2011.

_________________________________________   ___________________________________________
R. Bratina                                      Rose Caterini
Mayor                                          Clerk

ZAR-11-045
This is Schedule "A" to By-Law No. 11-
Passed the .......... day of .................., 2011

Schedule "A"

Map Forming Part of
By-Law No. 11-_____ 

Map Forming Part of
By-Law No. 11-_____ 

to Amend By-law No. 05-200

Map 612

Subject Property

- Change in Zoning from Prestige Business Park (M3) Zone to the Prestige Business Park (M3, 44) Zone.