SUBJECT: Application for a Change in Zoning for Lands Located at 611 Aberdeen Avenue (Hamilton) (PED07224) (Ward 1)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-07-014, Anne Dragicevic on behalf of the Canadian Pacific Railway, Owner, for a change in zoning from the “K” (Heavy Industrial, etc.) District to the “K”-‘H’ (Heavy Industrial, etc. - Holding) District, to add a Holding provision on lands located at 611 Aberdeen Avenue (Hamilton), as shown on Appendix “A” to Report PED07224, on the following basis:

(a) That the subject lands be rezoned from the “K” (Heavy Industrial, etc.) District to the “K”-‘H’ (Heavy Industrial, etc. - Holding) District.

(b) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning District. The Holding provision will prohibit the development of the subject lands until such time as all of the following has been completed to the satisfaction of the City’s Director of Planning:

(i) Provision of an adequate sanitary outlet to service these lands directly.

(ii) Dedication to the City, if required, of a portion(s) of these lands for road widening purposes.

(iii) Final approval of the West Hamilton Innovation District Secondary Plan.
City Council may remove the ‘H’ symbol and, thereby, give effect to the “K” (Heavy Industrial, etc.) District provisions by enactment of an amending By-law once the conditions are fulfilled.

(c) That the draft By-law, attached as Appendix “B” to Report PED07224, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(d) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.

(e) That upon finalization of the implementing By-law, the Chedoke Park Neighbourhood Plan be amended by re-designating the subject lands from “Utilities” to “Industrial”.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is to change the existing zoning by attaching a Holding provision to the subject lands to ensure that prior to development, that: the site is adequately serviced; road widening identified in the Kirkendall Neighbourhood Traffic Management Study are dedicated to the City; and final approval has been received for the West Hamilton Innovation District Secondary Plan. This change in zoning is required to satisfy Condition No. 3 of Committee of Adjustment decision HM/B-07:71.

The proposal has merit and can be supported since the change in zoning is consistent with the Provincial Policy Statement, and implements the intent of the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.

BACKGROUND:

Proposal

The purpose of the application is for a change in zoning to attach a Holding provision to the lands located at 611 Aberdeen Avenue (Appendix “A”). The requirement of a Holding provision is a condition of severance approval, originally imposed by the Committee of Adjustment under application HM/B-06:86 and later through application HM/B-07:71 (see Appendices “C” and “D”). The decisions allowed the severance of the Canadian Pacific Railway rail yard into two parcels. The resulting conveyed parcel of
land, being the subject lands of this application, has frontage on Aberdeen Avenue of 129.9m and an area of 0.53ha. The intended use of the lands has yet to be specified and, as such, will remain under the existing "K" (Heavy Industrial, etc.) District.

In accordance with Section 53(41) of the Planning Act, the applicant’s original application, HM/B-06:86, which was granted provisional approval by the Committee of Adjustment on June 21, 2006, was deemed refused as the applicant had not fulfilled all of the required conditions within one year of the approval. Consequently, the second application (HM/B-07:71) was filed to replace it, and approved on June 20, 2007. Staff recommended denial for both applications on the basis of prematurity, as sanitary servicing is not available and the intended use had not been determined.

Condition 3 of the June 20, 2007 decision reads as follows:

“A Holding provision under the Zoning By-law shall be placed on the conveyed lands until such time as an adequate sanitary sewer outlet is available to service these lands directly, and until such time as the Secondary Plan for the Kirkendall North Neighbourhood has been approved by the City of Hamilton. If additional lands are required by the City of Hamilton for road widening purposes, the lands must be conveyed to the City, prior to the removal of the Holding provision.”

Owner/Applicant: Anne Dragicevic on behalf of the Canadian Pacific Railway

Agent: Planning and Engineering Initiatives Ltd.

Location: 611 Aberdeen Avenue, Hamilton

Description: Frontage: 129.9 metres (Aberdeen Avenue)  Depth: 45 metres (Approx.)  Area: 0.53 ha

Details of Submitted Application

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>Rail Yard</td>
<td></td>
<td>“K” (Heavy Industrial, etc.) District</td>
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<tr>
<th>Surrounding Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Vacant warehouse buildings</td>
<td>“K” (Heavy Industrial, etc.) District as amended by Interim Control By-law 05-041</td>
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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 Provincial Policy Statement.
   
   
   iii) It implements a condition of provisional consent approval for application HM/B07:71.

2. Staff notes that the subject lands are on partial services; a sanitary sewer outlet is not provided to service these lands. The applicant initially proposed during the consent stage that the subject lands would be serviced by municipal water and by a proposed private sewage disposal system. In light of the consent condition for a Holding provision, the applicant has indicated that a sanitary sewer connection is available, subject to confirmation of capacity levels, and staff concur that such servicing is feasible.

Partial servicing is only permitted in specific situations under the Provincial Policy Statement (Policy 1.6.4.5). Staff cannot verify that the subject lands would be permitted to use partial servicing under the PPS as the intended use has not been specified and an evaluation for partial servicing cannot be conducted at this time.

The subject lands are designated as "Urban Area" within 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 following policy of Subsection B.2.2 – Servicing Strategy of the Hamilton Official Plan, is applicable:

"2.2.1 Council will encourage the Region to ensure that all new development in the City be effectively serviced by the SEWAGE DISPOSAL System. In this regard, Council will encourage the appropriate agencies to ensure that necessary improvements to, or extension of, the SEWAGE DISPOSAL System, expansions to the capacity of the Woodward Avenue Sewage Treatment Plant, and the monitoring of effluents discharged are undertaken".

The intent of the "H" Holding provision is to ensure that the site has an adequate sanitary outlet prior to development taking place. As such, the above-noted servicing policies are satisfied.

Staff notes that in addition to providing adequate servicing, the condition of consent approval for a Holding provision requires the completion of the “Secondary Plan for the Kirkendall North Neighbourhood”. The lands directly north of this property are subject to the recently Council approved West Hamilton Innovation District Secondary Plan, which has since been appealed to the Ontario Municipal Board. If approved by the OMB, this portion of the condition will be satisfied. The subject property is located at one of the primary entrances to the Plan. Accordingly, there are a number of policies that directly affect the redevelopment of the subject property.

Policy 6.5.5.4.2 of the Secondary Plan states that entrance features will be addressed through Site Plan approval in accordance with an approved Streetscape Master Plan at the intersection of Longwood Road South at Aberdeen, including any future traffic roundabout. In addition, Policy 6.5.9.6 specifically directs the City to prepare a Streetscape Master Plan for Aberdeen Avenue West of Studhome Drive. Finally, Policy 6.5.6.13 requires the City to investigate a potential traffic roundabout at the intersection of Aberdeen Avenue and Longwood Road South.

A Traffic Management Study for the Kirkendall Neighbourhood was initiated in 2005. This Study was carried out under the Class Environmental Assessment process and was extended to include the West Hamilton Innovation District Secondary Plan lands located directly across from the subject property. This study identified a potential roundabout at the intersection of Longwood Road and Aberdeen Avenue, which would impact the northwest corner of the site, and widenings along Aberdeen Avenue. The consent condition for the Holding provision identifies the need for the conveyance of lands for future road widening purposes, which relates to the recommendations of Kirkendall Traffic Management Study. The detailed requirements for road widenings will be determined through the consent agreement.
In summary, the recommended Holding provision covers the consent condition for a Holding provision by ensuring:

(a) Provision of an adequate sanitary outlet to service these lands directly.
(b) Dedication of lands, if required, for road widenings.
(c) Final approval of the West Hamilton Innovation District Secondary Plan.

The applicant has indicated their agreement to the conditions of Holding removal.

3. It is noted that the subject lands are designated “Utilities” in the approved Chedoke Park Neighbourhood Plan. An amendment to the Chedoke Park Neighbourhood Plan to redesignate these lands to “Industrial” is required.

4. The Traffic Engineering and Operations Section has provided comments regarding this application and raise no objections. They note that the intersection of Aberdeen Avenue at Longwood Road is under the jurisdiction of the Ministry of Transportation. In this regard, an access permit from the MTO may be required.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the applicant can use the subject property for the range of uses that are currently permitted under the existing “K” District.

**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 change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas, Policy 1.1.3.1.

As the nature of the application is for the establishment of an “H” Holding provision, the proposal is consistent with the policies of the Provincial Policy Statement.
Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy C-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.

As the nature of the application is for the establishment of an “H” Holding provision, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

Hamilton Official Plan

The subject property is designated “Utilities” on Schedule “A” – Land Use Plan in the former City of Hamilton Official Plan.

At the present time, the subject lands are used in conjunction with the Canadian Pacific Railway as a railway yard. The application requests that the zoning be changed to attach an “H” Holding provision to the existing zoning with the intended use of the site remaining unspecified. The proposal conforms to the Official Plan.

Neighbourhood Plan

The property is located within the Chedoke Park Neighbourhood Plan and is designated “Utilities”. An amendment will be required to redesignate the subject lands to “Industrial”.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Culture and Recreation Division, Public Health & Community Services Department.
- Forestry Section, Operations and Maintenance Division, Public Works Department.
- Hamilton Municipal Parking System.
- Bell Canada.

The Traffic Engineering and Operations Section, Public Works Department, indicates that the intersection of Aberdeen Avenue at Longwood Road is under the jurisdiction of the Ministry of Transportation. In this regard, an access permit from the Ministry of Transportation may be required.
Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, pre-circulation of the application was not required since the property was also the subject of a Consent Application within the last year, which was a public process.

The consent application to sever the subject land was provisionally approved by the Committee of Adjustment on June 20, 2007. No letters were received in response to the circulation of the severance application, and no residents were in attendance at the Committee of Adjustment hearing.

A Public Notice sign was posted on the property, and Notice of the Public Meeting will be given in accordance with the requirements of the Planning Act.

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 public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

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

:EJ
Attachs. (4)
CITY OF HAMILTON

BY-LAW NO. ________

To Amend Zoning By-law No. 6593 (Hamilton), respecting lands located at 611 Aberdeen Avenue

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

AND WHEREAS the Council of the City of Hamilton, in adopting Section     of Report     of the Economic Development and Planning Committee at its meeting held on the     day of       , 2007, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton;

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

1. That Sheet No. W24 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing from the “K” (Heavy Industrial, etc.) District, to the “K”-‘H’ (Heavy Industrial, etc. - Holding) District, the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the ‘H’ symbol applicable to the subject lands referred to in Section 1 of this By-law shall be removed conditional upon the following, to the satisfaction of the City of Hamilton’s Director of Planning:
a) Provision of an adequate sanitary sewer outlet to service these lands directly;

b) Dedication to the City of Hamilton, if required, of a portion(s) of these lands for road widening purposes; and,

c) Final approval of the West Hamilton Innovation District Secondary Plan.

The ‘H’ symbol shall be removed by amendment to this By-law and the development of the lands referred to in Section 1 of this By-law may at such time proceed in accordance with the “K” District provisions.

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 “K”-‘H’ (Heavy Industrial, etc. - Holding) District provisions.

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 ____, 2007.

______________________________  ______________________________
Fred Eisenberger               Kevin C. Christenson
Mayor                          City Clerk

ZAR-07- 014
This is Schedule "A" to By-Law No. 07-
Passed the ........... day of ......................, 2007

Schedule "A"

Map Forming Part of By-Law No. 07-______

to Amend By-law No.6593

Clerk

Mayor

Subject Property
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT/LAND SEVERANCE
APPLICATION NO. HM/B-06:86
SUBMISSION NO. B-86/06

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1):

AND IN THE MATTER OF the Premises known as lands located on the south side of Aberdeen Avenue, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Planning and Engineering Initiatives Ltd. (Sergio Manchia) on behalf of the owner Canadian Pacific Railway, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land having a frontage of 129.076m (422.4 ft), and an area of 0.53ha. (1.3ac) for industrial purposes, and to retain a parcel of land having a frontage of 86.62m (285.7 ft), and an area of 22.87ha. (56.5ac) containing an existing structure for railway activities.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner/applicant shall satisfy ALL requirements financial and otherwise of the City of Hamilton, Planning and Economic Development Department (Development Planning West Section).

2. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

3. A holding provision under the Zoning By-law be placed on the conveyed lands until such time as an adequate sanitary sewer outlet is available to service these lands directly and until such time as the Secondary Plan for the Kirkendall North Neighbourhood has been approved by the City of Hamilton. If additional lands are required by the City of Hamilton for road widening purposes the lands must be conveyed to the City, prior to the removal of the holding provision.

4. That the owner enters into a consent agreement with the City of Hamilton to deal with the grading and drainage on the subject lands. The applicant shall demonstrate to the satisfaction of the Manager of Development Engineering, that all drainage from the site shall be taken to a suitable outlet.

5. That the owner pays their share for future urbanization of Aberdeen Avenue based on the entire frontage of the subject lands.

DATED AT HAMILTON this 21st day of June, 2006.
APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. HM/B-07:71
SUBMISSION NO. B-71/07

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 611 Aberdeen Avenue, in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Planning and Engineering Initiatives Limited (Sergio Manchia) on behalf of the owner Canadian Pacific Railway (Kevin Paul), for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land having a frontage of 129.976m (426.4'), and an area of 0.53ha.± (1.3acres) for unknown purposes, and to retain a parcel of land having a frontage of 86.62m (280.7'), and an area of 22.87ha.± (56.5acres) containing an existing structure for railway activities.

THE DECISION OF THE COMMITTEE IS:

That the said application IS APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall satisfy ALL requirements financial and otherwise of the City of Hamilton, Planning and Economic Development Department, Development Planning (West) Section.

2. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

3. A holding provision under the Zoning By-law shall be placed on the conveyed lands until such time as an adequate sanitary sewer outlet is available to service these lands directly and until such time as the Secondary Plan for the Kirkendall North Neighbourhood has been approved by the City of Hamilton. If additional lands are required by the City of Hamilton for road widening purposes the lands must be conveyed to the City, prior to the removal of the holding provision.
4. That the owner enters into a consent agreement with the City of Hamilton to deal with the grading and drainage on the subject lands. The applicant shall demonstrate to the satisfaction of the Acting Manager Engineering Design and Construction that all drainage from the site shall be taken to a suitable outlet.

5. That the owner pays their share for future urbanization of Aberdeen Avenue based on the entire frontage of the subject lands.

6. That the owner submit to the Committee of Adjustment Office an administration fee of $15.00, payable to the City of Hamilton, to cover the cost of setting up a new tax account for the newly created lot.

DATED AT HAMILTON this 20th day of June, 2007.

...../2

SIGNED:

M. Dudzic, Chairman

C. Lewis

V. Abraham

D. Serwatuk

D. Drury

HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 27th, 2008) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 17th, 2007.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.