SUBJECT: Application for an Amendment to the City of Hamilton Zoning By-law No. 6593, for the Lands Located at the Southwest Corner of Highland Road and the Trinity Church Road Extension (Hamilton) (PED09189) (Ward 6)

RECOMMENDATION:

(a) That approval be given to Amended Zoning Application ZAC-07-109, by Ministry of Energy and Infrastructure, Owner, for changes in zoning from the “M-12” (Prestige Industrial), the “M-13” (Prestige Industrial), and the “M-14” (Prestige Industrial) Districts, to the “M-14/S-1607(H)” (Prestige Industrial - Holding) District, with a Holding Provision and a Special Exception in Zoning By-law No. 6593 (Hamilton), for the lands located on Part of Lot 34, Concession 8 (Saltfleet), as shown on Appendix “A” to Report PED09189, on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED09189, which has been prepared in a form satisfactory to the City Solicitor, be held in abeyance until such time that the Owner has entered into an Agreement with the City of Hamilton for the transfer of the Trinity Church Road Corridor and east-west corridor lands, to the satisfaction of the Directors of Planning and Development Engineering.

(ii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
(b) That upon finalization of the implementing By-law, the East Mountain Industrial-Business Park Neighbourhood Plan be amended to redesignate the subject lands from “Restricted Industrial - Commercial” to “Restricted Industrial”.

EXECUTIVE SUMMARY:

The purpose of this application is to apply consistent zoning on the subject lands (see Appendix “A”), and expand the range of permitted uses to include a transportation depot and accessory retail uses, in keeping with the draft employment zones for the City's new Zoning By-law No. 05-200. Given that the subject property has been identified as having archaeological resources requiring excavation and documentation, as well as karst features requiring further investigation, it is recommended that an ‘H’ Holding provision be added to the proposed site-specific zoning.

The proposal has merit and can be supported since the changes in zoning are consistent with the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is consistent with, and complementary to, the existing and proposed development in the immediate area.

The Owner is in the process of finalizing an Agreement with the City for the transfer of the Trinity Church Road and east-west corridor lands. As such, it is appropriate to hold the implementing Zoning By-law Amendment in abeyance until the Agreement is finalized.

BACKGROUND:

Proposal

The subject lands have been deemed surplus by the applicant (Ministry of Energy and Infrastructure), who wishes to secure the necessary approvals in order to sell it to a third party for development purposes.

The purpose of the application is to rezone the lands from the “M-12” (Prestige Industrial) District, “M-13” (Prestige Industrial) District, and “M-14” (Prestige Industrial) District, to the site-specific “M-14/S-1607-‘H’” (Prestige Industrial - Holding) District, Modified (see Appendix “A”).
SUBJECT: Application for an Amendment to the City of Hamilton Zoning By-law No. 6593, for the Lands Located at the Southwest Corner of Highland Road and the Trinity Church Road Extension (Hamilton) (PED09189) (Ward 6) - Page 3 of 15

The intent of the application is to create uniform zoning to permit prestige industrial development. The proposed site-specific “M-14/S-1607-H” (Prestige Industrial - Holding) District, Modified, has been developed through extensive consultation between the applicant and staff, and is based on the draft Prestige Business Park (M3) Zone proposed for inclusion in the City’s new Zoning By-law No. 05-200.

Details of Submitted Application

Location: Southwest Corner of Highland Road and the Trinity Church Road Extension (Hamilton)

Owner/Applicant: Ministry of Energy and Infrastructure

Agent: Ontario Realty Corporation

Property Description:
- Total Lot Frontage: +/- 196m
- Total Lot Depth: 675m
- Total Lot Area: 12.45 ha (30.76 acres)
- Servicing: Partial Municipal Services

EXISTING LAND USE AND ZONING:

<table>
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<th>Subject Land:</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<td>East</td>
<td>Future Trinity Church Road Extension</td>
<td>Neighbourhood Development “ND” Zone Service Commercial “CS-1” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:

   (i) The proposed development is consistent with the Provincial Policy Statement and Places to Grow.

   (ii) The proposed development conforms to the Hamilton-Wentworth Official Plan.

   (iii) The proposed development conforms to the City of Hamilton Official Plan.

   (iv) The proposal provides for uniform zoning on the subject lands.

2. The subject lands have been deemed surplus by the applicant (Ministry of Energy and Infrastructure), who wishes to secure the necessary approvals in order to sell it to a third party for development purposes. The applicant has also provided studies and reports in support of the application with respect to environmental contamination, archaeological potential, the extent of karst features, traffic volumes, and servicing considerations of the proposal. An analysis of these matters is presented below.

   (i) A Phase I Environmental Site Assessment was conducted in 2005 to evaluate the environmental conditions of the site and to determine whether there is potential or actual evidence that contamination exists on the property. The assessment concluded that evidence of potential for contamination was found to be associated with a diesel fuel leak resulting from a vehicle collision northeast of the subject property. Staff is satisfied that no significant contamination exists on the subject property.

   (ii) A Traffic Brief had been prepared for the subject application, which identified the transportation aspects of the subject property, including current and proposed roads to service the site. The brief identified that access to the site will be bisected by an east-west mid-block collector road that will accommodate a crossing of the planned East Mountain Trail. The document concluded that the subject lands are well served by existing and future arterial roads, including Highland Road and the proposed mid-block collector.

   (iii) The Servicing Report submitted addressed the engineering constraints and opportunities affecting the site, and recommended that servicing for the site include a connection to the existing water service along Highland Road, that sanitary sewers be constructed on Highland Road at the intersection of Upper Mount Albion, flowing easterly, and that storm drainage be directed to a new centralized stormwater facility within the Trinity Secondary Plan Area to the east.
Staff notes that there is an existing watermain on Highland Road West that can service the site depending on the density and ultimate form of development. Until the Trinity West Secondary Plan is completed, it is unknown whether or not a watermain will be installed along the Trinity Church Road extension. Therefore, the Owner should be prepared to install an internal watermain to service the lands.

The northern portion of the lands will outlet to the existing sanitary service along Highland Road, while the majority of the southern sub-catchment area will require an easement in order to access the sanitary sewers located along Anchor Road. The development density of the subject lands will ultimately determine whether sufficient sanitary sewer capacity exists.

With respect to stormwater, the small northerly sub-catchment area that fronts onto Highland Road West can be serviced by the existing sewers located on Highland Road West, while the northwest sub-catchment area will outlet into the existing storm sewer located at the Pritchard Road and Highland Road intersection. The southwest sub-catchment area will outlet to the Anchor Road trunk storm sewer, however, an easement will be required as there is no direct access from the subject property. The easterly sub-catchment area will outlet to the trunk sewer located just west of Winterberry Drive and north of Highland Road, which would require that storm sewers be extended westerly along Highland Road to the subject land. Staff indicates that the development of these lands is subject to the recommendations of the Central Mountain Stormwater Management Class EA and the Hannon Creek Subwatershed Study, Master Drainage Plan.

Development Engineering, in conjunction with Capital Planning and Implementation, is undertaking a servicing strategy review for the lands abutting the planned Trinity Church Road extension, in conjunction with the preliminary design for the future road.

(iv) A Stage 3 Archaeological Assessment was prepared for the subject property and adjacent lands owned by the applicant. The Assessment recommended that the two archaeological sites located on the subject property (AhGw-197 and AhGw-198) have been sufficiently documented and are now considered free of any further archaeological concern. The Ministry of Culture has reviewed the Stage 3 Assessment, and concurs with this recommendation.

(v) The applicant submitted a Karst Assessment for the subject property, which provided a technical analysis of the sub-surface water flow, evaluated the potential for development according to the Davis Creek Subwatershed Study (2006), evaluated the site for karst hazards according to the Provincial Policy Statement and Hamilton Conservation Authority’s Planning and Regulation Policies and Guidelines, and compared pre- and post-development scenarios. The report concluded that the thickness of the clayey silt till overburden varies across the subject property, and that two sinkholes exist on the southern
portion of the site where the Eramosa Escarpment (buried bedrock feature) traverses the property. The report recommended that the one in-filled sinkhole located on the property be properly closed-out by a geotechnical engineer and karst specialist.

In consultation with outside experts, staff suggests that the recommended sealing of the sinking features and management of the excess waters through engineering controls is not considerate of the overall or regional karst environment. Therefore, an ‘H’ Holding provision has been placed on the proposed zone, which will require additional analysis and further review of the karst features on the site in order for development to proceed. The potential ecological impacts of development, resulting from the additional review, should be analyzed and vetted through the Conservation Authority and the City's Natural Heritage Planning section for comment.

Staff also indicates that the Owner will be required to identify and implement any measures required to facilitate the installation of municipal infrastructure which may be affected by the subsurface conditions noted in the Karst Assessment Report and any similar reports prepared for the subject property.

3. In consultation with the applicant, the retail uses originally proposed in the application were removed from the list of permitted uses in the site-specific Zoning By-law (Appendix “B”) in order to uphold the intent of the proposed employment policies and prestige business park zone. To ensure that any permitted retail and ancillary facilities within the subject property are associated with the employment uses proposed, the site-specific Zoning By-law requires that retail and showroom uses are accessory to the industrial use of the land, thereby limiting the gross floor area. The site-specific zone incorporates new definitions and provisions that are consistent with the draft Prestige Business Park (M3) Zone for inclusion in the City's new Zoning By-law No. 05-200.

The rationale for applying the provisions of the draft zone, rather than building upon the existing By-law provisions, includes the fact that the permitted uses and regulations are designed to enhance the image of the business parks within the City, such as incorporating a higher calibre of design standards, and the draft zone upholds the provincial policy direction in protecting employment areas.

The site-specific Zoning By-law (Appendix “B”) has been developed as a comprehensive By-law because the range of permitted uses has been expanded and additional regulations have been applied, in comparison to Zoning By-law No. 6593. Likewise, the inclusion of definitions for the permitted uses and terms introduced by the regulations was necessary because the terminology differed from the parent By-law.
4. The East Mountain Industrial-Business Park Neighbourhood Plan, approved by Council in November 1971, provides guidance for the future development of the subject lands and the surrounding lands within the former City of Hamilton. This particular neighbourhood plan includes a land use map and, in order to reflect the limited industrial uses permitted applied to the subject property, the Plan should be amended to designate a portion of the subject lands (Blocks 1, 2, 4 and 5 - Appendix “A”) from “Restricted Industrial - Commercial” to “Restricted Industrial”.

The Neighbourhood Plan also identifies a mid-block collector road south of Highland Road, which extends from Anchor Road to the future Trinity Church Road Extension. Because the mid-block collector is planned to extend as far east as Upper Mt. Albion Road, the actual alignment is subject to the Trinity West Secondary Plan, which is currently under review.

5. On the eastern edge of the subject property is the planned Trinity Church Road extension. The City of Hamilton’s Environmental Assessment for the Trinity Church Road extension project has been finalized, including the approximate location for the road extension. Plans for the road have now moved to the detailed design stage. It has been determined that the road extension will require a 60 metre wide right of way, which will traverse the southeast portion of the subject property (Block 5 - Appendix “A”). Roundabouts are planned for the intersection of the proposed Trinity Church Road extension and Highland Road, as well as the mid-block collector. Both intersections, as well as the portion of the roadway that traverses the property, will require the City’s acquisition of a portion of the subject lands, the value of which shall be based on (pre-planning approval) fair market value. The applicant has also agreed not to transfer any portion of the Trinity Church Road corridor required by the City to third parties. Depending upon the final location of the mid-block collector, limited access to the subject lands may be permitted from the proposed Trinity Church Road extension south of the mid-block collector, as a right-in, right-out function. Upon the completion of the Trinity West Secondary Plan Area review, any remaining portion of the subject lands east of the Trinity Church Road Extension will be rezoned in accordance with the future land use designation applied to the lands.

The Owner is in the process of finalizing an Agreement for the transfer of the Trinity Church Road and east-west corridor lands, and has agreed not to transfer any portion of the Trinity Church Road corridor required by the City to third parties. To ensure that the City is able to obtain these lands from the applicant, staff recommends that the implementing Zoning By-law Amendment be held in abeyance until this agreement has been finalized (Recommendation “A (i)”).

6. Further, an ‘H’ Holding provision has been applied to the portion of the subject lands to be rezoned “M14/S-1607-'H’” (see Appendix “A” - Blocks 1, 2, 4, 5 and 6). The Holding provision establishes requisite conditions that must be dealt with prior to the ultimate development of the subject lands, in accordance with the policies of the Official Plan. These factors include:
(a) The completion of a hydrogeological and geotechnical study, to the satisfaction of the Director of Development Engineering, in consultation with the Senior Director of Water and Wastewater Division, and the Planning Director of the Hamilton Conservation Authority.

(b) The submission and implementation of a functional servicing report that addresses such matters as, but is not limited to, stormwater management and sanitary capacity for proposed development densities, to the satisfaction of the Director of Development Engineering.

7. Future development will be subject to subdivision (i.e. subdivision, consent or condominium) and Site Plan Control, at which time road and trail dedications will be required. Other matters, such as easements, access, grading, architectural design, parking, landscaping, etc., will also be reviewed in detail at the aforementioned stages of development.

**ALTERNATIVES FOR CONSIDERATION:**

In the event that Council does not support the application, the lands would then be subject to the existing “M-12” (Prestige Industrial) District, “M-13” (Prestige Industrial) District, “M-14” (Prestige Industrial) District, and “A” (Conservation, Open Space, Recreation) District provisions, which would permit a range of employment, agricultural and recreational uses.

**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 Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act.
“Employment Areas” are defined in the PPS as:

“Those areas designated in an Official Plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.”

The application is consistent with the policies of the PPS that promote economic development and competitiveness in employment areas, as identified in Policy 1.3.1, such as protecting and preserving employment areas for current and future uses.

Policy 3.1 of the PPS directs development away from natural hazards, including hazardous sites, which includes unstable bedrock (e.g. karst topography). Further, Policy 3.1.6 identifies that development may occur where the effects and risk to public safety are minor so as to be managed or mitigated, as determined by the demonstration and achievement of all of the following:

“(a) Development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;

(b) Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion, and other emergencies;

(c) New hazards are not created and existing hazards are not aggravated; and,

(d) No adverse environmental impacts will result.”

Staff is satisfied that, through the required hydrogeological and geotechnical study for the removal of the Holding provision, any natural hazards will be identified and mitigated accordingly, in keeping with the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshoe (Places to Grow)**

The definition of “Employment Areas” within the Growth Plan is derived from the Provincial Policy Statement, and Section 2.2.6 of the Growth Plan provides policies concerning Employment Lands. This application is consistent with the Employment policies in the Growth Plan that preserve employment areas for current and future uses, particularly in the vicinity of existing and proposed major highway interchanges, for manufacturing, warehousing, and associated office and ancillary facilities. The application also facilitates transit-supportive and compact built form, as encouraged by the Growth Plan.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area - Business Park” in the Hamilton-Wentworth Official Plan, and Section C-3.1.3 contains policies concerning the range of industrial type uses permitted. Rather than competing with other employment areas, Business Parks are intended to expand upon the employment areas in the Region.
Policy C-3.1.3.1 states that Business Parks shall provide a full range of manufacturing, construction, wholesale establishments, research and development uses and office development associated with these uses.

Section 1.3.2 requires, among other things, that municipalities have appropriate zoning for Hazard Lands that impose building setbacks in relation to the severity of existing and potential environmental hazards.

The proposed development conforms to the Hamilton-Wentworth Official Plan.

**The City of Hamilton Official Plan**

The Hamilton Official Plan places a high priority on maintaining and enhancing Hamilton's position as a major industrial centre in the Province through the retention of existing industries and the stimulation of new industrial growth, and particularly promotes Light Industrial areas since they have minimal environmental impacts. As Industry is the primary use permitted in such areas, any other uses must support and have similar characteristics or functional requirements as industries.

The subject property is designated “Industrial” on Schedule “A” - Land Use Concept, and Schedules “B” - Special Policy Areas and "B-3" - Other Special Policy Areas refer to the lands as Area 11(a). In addition to the general provisions of A.2.3 - Industrial Uses, the subject property is subject to Policy A.2.9.3.9, which states that:

“…in addition to the light industrial uses, business and professional offices and home improvement uses will be permitted…”

In terms of urban design, Policies 2.3.16 and 2.3.17 indicate that all development in the Prestige Industrial Districts will be subject to site plan control, and that Council will encourage all new developments in such districts to adhere to good architectural quality in building design.

The “Utilities” designation applies to a portion of Blocks 1, 3, 4 and 6, as shown in Appendix “A”, which includes the hydro corridor and pipeline easement. Policy 2.7.4 of the Official Plan provides that additional uses may be permitted on Ontario Hydro Lands where Council deems it compatible with adjacent land uses, by agreement of the land owner, and subject to the Neighbourhood Plan.

The portion of the lands designated “Open Space” is subject to Subsection A.2.4 - Open Space, and because the City of Hamilton Official Plan encourages the preservation, conservation, and optimum use of the City's natural environment, the Open Space designation on the lands will be preserved.

The proposed development conforms to the Hamilton Official Plan.
Urban Hamilton Official Plan

The Urban Official Plan for the City of Hamilton was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province of Ontario for final approval, and is not yet in effect. The lands are designated as “Business Park” on the Schedule “E-1” - Urban Land Use Designations, which is consistent with the land uses being proposed by the current application.

RELEVANT CONSULTATION:

Agencies/Departments Having No Concern or Objections:

- Public Works Department, Operations and Maintenance Division, Forestry and Horticulture Section.
- Community Services Department, Recreation Division, Recreation Section.
- Taxation Division.
- Emergency Services Division.
- Union Gas.
- Canada Post.
- Horizon Utilities Corporation.
- Source Cable and Wireless.
- Ministry of Environment.
- Ministry of Natural Resources.
- Hamilton Conservation Authority.

Corporate Services Department, Budgets and Finance Division, Budgets Section:

The applicant/owner should be aware of the annual $781.32 sidewalk Local Improvement charge, expiring December 31, 2012. This annual charge must be commuted at severance, site plan and/or subdivision applications. Also, a sanitary sewer mainline fee of $5,000.00 each for properties 000 Rymal Road West and Upper Mt. Albion Road, totalling $10,000.00, is payable at permit issuance, severance, subdivision and/or site plan applications.
Public Health Services Department, Health Protection Division, Environmental Health Section:

Public Health has no objection provided that any existing or proposed structures are connected to the available municipal sewers and water supply.

Public Works Department, Capital Planning and Implementation Division, Strategic and Environmental Planning Section:

The Strategic and Environmental Planning Section advises that the applicant become familiar with the Trinity Church Road Extension EA Report, and that the right-of-way requirements for the roundabout intersections will be known after a preliminary design is done for the roundabouts. This Corridor will be designed with limited access.

Public Works Department, Operations and Maintenance Division, Infrastructure and Source Water Planning Section:

The Trinity Church Road Extension may or may not include the installation of a watermain, in which case the applicant should be prepared to either install an internal watermain to service the lands or to share the cost of installing a watermain on the Corridor. The applicant will be required to provide a tabular comparison of the densities and ultimate equivalent populations associated with the proposal, and a detailed servicing report that accounts for all the lands to be developed under the GRIDS scenario, upon the submission of a development application.

The Karst report identifies karst features in Area C (i.e. subject lands), and the report further recognizes alterations to the sinks and related seeps from anthropogenic landscape alterations. While the recommendations propose sealing of the sinking features and management of the excess waters through engineered controls, the approach is not considerate of the overall or regional karst environment. The report is limited, as would be expected, to the subject site and, therefore, does not delineate the potential impacts that may exist outside the boundary of the site and to the overall karst system in general. In the absence of a more regional karst study (inventory, evaluation, and subsequent management strategy) for the broader area, these features will continually be assessed on a site-by-site basis. On a site-by-site basis, the conclusion will generally be to manage the features as is proposed in this report, however, the inter-dependence of the entire system remains unknown. Staff recommends the completion of a review of available information (aerial photos, historic drainage maps/records) to determine the historical location of the seep(s) originating from SH-1 as it was likely more prominent in its pre-altered condition. In doing so, an analysis of the receiving system(s) will be capable to assess the impacts from stopping up the flow from SH-1. The potential ecological impacts, resulting from the additional geotechnical review, should be analyzed and vetted through the Conservation Authority and the City's Natural Heritage Planning section for comment.
Public Works Department, Operations and Maintenance Division, Traffic Engineering and Operations Section:

Traffic Planning advises that access to the subject property will be permitted from Highland Road, at least 70m west of the Trinity Church Arterial Corridor (TCAC), in order to provide sufficient clearance. Access to the TCAC will not be permitted between Highland Road and the proposed mid-block collector, however, staff indicates that, although not recommended, consideration may be given at the development stage to a possible connection with the TCAC south of the proposed mid-block collector as a right turn in/right turn out function, depending on the final determination of the mid-block collector.

At the development stage, the owner/applicant will be required to undertake a sight line review for potential access to the site, in accordance with the City of Hamilton and Transportation Association of Ontario Guidelines, to the satisfaction of staff.

The dedication of any lands necessary for road allowance purposes on Highland Road, the proposed mid-block collector road, the TCAC, as well as daylight triangles for the construction of the TCAC, signal control at the intersection of Highland Road at the TCAC and roundabout intersection control at TCAC and Highland Road, will be required at the development review stage.

Also required at the development stage will be the construction of the mid-block collector and the urbanization of Highland Road from the TCAC to Pritchard Road, including the completion of a centreline profile of the road and the location of site driveways that maximize the sightlines of users, as well as any other improvements, such as design, construction, pavement widening of existing roads for additional turning lanes, pavement markings, and signage.

Public Works Department, Transit Division, Transit (Hamilton Street Railway) Section:

The Transit Division commented that two bus routes currently service the area, with minor changes being reviewed. It is also noted that Highland and Rymal Roads are potential east-west transit corridors, which indicate that additional transit service may be extended to this area. The inclusion of high quality pedestrian amenities, such as walkways and lighting, as well as street orientation and pedestrian entrances to buildings, should be strongly encouraged at the development stage. The section also noted that any traffic calming devices on collector roads should allow for the passage of 12.2m long transit buses.
Public Works Department, Capital Planning and Implementation Division, Open Space Development and Park Planning Section:

Open Space Development and Park Planning Section staff identified that the portion of the subject property within the “A” (Conservation, Open Space, Park and Recreation) District is included in the 10km “East Mountain Trail Loop” in the Hamilton Trail Master Plan. Staff advises that these lands will provide the critical east-west connection between the proposed parks within the Trinity Secondary Plan Area. A hard surfaced pedestrian walkway that connects the recreation trail to the west of the subject property to the said parks shall be constructed, to the satisfaction of staff, and will be required at either the plan of subdivision or site plan stage of development or the construction of the mid-block collector, whichever comes first.

Bell Canada:

Bell Canada has identified that the subject property may be affected by an existing toll easement and will require the Owner to obtain verification with the company’s Municipal Liaison Team in Toronto.

Trans-Northern Pipelines:

Trans-Northern Pipelines do not object to the proposed changes in land use designation and zoning, but reserves the right to object to forms of development which might endanger the pipeline, which traverses the property, or interfere unreasonably with its operation and maintenance. Facilities crossings of the pipeline or construction works which impinge on the pipeline right-of-way must be approved and realized in accordance with the National Energy Board Act and the Pipeline Crossing Regulations, Part I.

Public Consultation

In accordance with the new provisions of the Planning Act and Council's Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to sixteen property owners within 120 metres of the subject property on May 16, 2008. One letter of opposition to the proposal was received from a lawyer representing Heritage Greene GP Limited (“Heritage Greene”), which is included as Appendix “C” of this Report. The concerns raised in their letter pertain to cost-sharing for infrastructure improvements, however, this development will not be connecting to any infrastructure built by Heritage Greene, nor will the industrial uses proposed conflict with the commercial uses within the Heritage Greene Development (see Paragraphs #2 (iii) and #3 of the Analysis/Rationale section of this Report).
A second letter, requesting copies of the subject application, was received by a land use planner representing Heritage Greene GP Limited (“Heritage Greene”), and is also included as Appendix “C” of this report.

Finally, a Public Notice sign was erected on the subject property on May 29, 2008, and Notice of the Public Meeting will be given in accordance with 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
Shelter, care and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
The principles of intensification and best use of available land are applied.

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

:DM
Attaches. (3)
Appendix "A" to Report PED09189

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-07-109
Date: July 20, 2009
Appendix "A"

Subject Property

Blocks 1 & 4 - Change in Zoning from the "M-13" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified.

Blocks 2 & 5 - Change in Zoning from the "M-12" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified.

Block 3 - Lands to remain "A" (Conservation, Open Space, Park and Recreation) District.

Block 6 - Change in Zoning from the "M-14" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified.
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 Corporation 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 Item of Report 09- of the Economic Development and Planning Committee at its meeting held on the day of 2009, 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 Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Sheet No. E-79D of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended:

(a) by changing from the “M-13” (Prestige Industrial) District to the “M-14/S-1607-‘H’” (Prestige Industrial - Holding) District, Modified, the lands comprised of Blocks 1 and 4;

(b) by changing from the “M-12” (Prestige Industrial) District to the “M-14/S-1607-‘H’” (Prestige Industrial - Holding) District, Modified, the lands comprised of Blocks 2 and 5; and,

(c) by changing from the “M-14” (Prestige Industrial) District to the “M-14/S-1607-‘H’” (Prestige Industrial - Holding) District, Modified, the lands comprised of Block 6;

the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That the “M-14” (Prestige Industrial) District regulations, as contained in Section 17 F of Zoning By-law No. 6593, applicable to Blocks 1, 2, 4, 5 and 6 are modified to include the following special requirements:

(1) That notwithstanding Sections 3 (3) (v) and 17 F (1) of Zoning By-law No. 6593, only the following uses shall be permitted:

Commercial Motor Vehicle Sales, Rental and Service Establishment
Communications Establishment
Conference and Convention Centre
Equipment Sales, Rental and Service Establishment
Industrial Administrative Office
Labour Association Hall
Manufacturing Office
Research and Development Establishment
Surveying, Engineering, Planning or Design Business
Trade School
Tradesperson’s Shop
Transportation Depot
Warehouse

Accessory uses, buildings and structures.

(2) That notwithstanding Section 17 F (1) of Zoning By-law No. 6593, the following types of manufacturing uses are prohibited, except if these uses are considered only as an accessory use to another permitted manufacturing use:

Beverage Distillation
Breweries
Manufacturing of Asbestos, Phosphate or Sulphur Products
Primary Production of Chemicals, Synthetic Rubber, Plastic, Asphalt or Cement, not including mixing, blending, treatment or similar process
Processing or Refining of Petroleum or Coal
Processing, Milling or Packaging of Animal Feed
Salvage, Recycling or Scrap Yard
Slaughtering, Eviscerating, Rendering or Cleaning of Meat, Poultry or Fish or by-products thereof
Smelting, Refining, Rolling, Forging, or Extruding of Ore or Metal
Stamping, Blanking or Punch-Pressing of Metal
Tanning or Chemical Processing of Pelts or Leather
Vulcanizing of Rubber or Rubber Products
Explosives Manufacturing
Pulp and Paper Mills

(3) That notwithstanding Section 17 F (1) of Zoning By-law No. 6593, the following use is prohibited, even as an accessory use:

Dwelling Unit

(4) Notwithstanding Section 2 of Zoning By-law No. 6593, the following definitions shall apply:

Accessory: Shall mean, when used to describe a use of land, building or structure, a use which is commonly incidental, subordinate and exclusively devoted to the main use or main building situate on the same lot.

Commercial Motor Vehicle Sales, Rental and Service Establishment:

Shall mean an establishment where new or used commercial motor vehicles are stored and displayed for the purpose of sale, lease or hire, and shall include facilities for the storage and sale of parts accessory to such vehicles, together with the repair and service of the vehicles.

Communications Establishment:

Shall mean an establishment used for the broadcasting and production of information through various media, and shall include but not be limited to print, television, radio and electronic media, and which may include facilities for the printing or broadcasting of information but shall not include a call centre.

Conference and Convention Centre:
Shall mean an establishment, which is not a hotel, where facilities are provided for meetings, seminars, workshops, social gatherings and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants.

**Equipment Sales, Rental and Service Establishment:**

Shall mean the use of land, building or structure for the display, sale, lease or rental of commercial or industrial equipment and machinery, and shall include facilities for the storage and sale of parts accessory to such equipment, together with the repair, service, cleaning and painting of industrial equipment.

**Industrial Administrative Office:**

Shall mean an office for the management or administration of manufacturing establishments.

**Labour Association Hall:**

Shall mean a building or part thereof, used as a meeting place by labour or trade unions and which is operated for the exclusive use of members and their guests and is not open to the general public on an equal basis, and may include but not be limited to administrative offices, training facilities and meeting rooms. A Labour Association Hall may also include a Trade School.

**Manufacturing:**

Shall mean the production, fabrication, compounding, processing, packaging, crafting, bottling, packing, recycling or assembling of raw or semi-processed or fully-processed goods or materials, and shall include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Pharmaceutical and Medical Establishment, Printing Establishment and/or a Science and Technology Establishment.

**Office:**

Shall mean a building or part of a building in which management, clerical, administrative, consulting, advisory or training services are offered or performed and shall include an Industrial Administrative Office, but shall not
include a Medical Clinic, or a Surveying, Engineering, Planning or Design Business.

**Outdoor Assembly:** Shall mean an area of land or structure that is not fully enclosed, used in conjunction with a business located within a building or structure on the same lot, for the assemblage of goods and materials.

**Outdoor Display:** Shall mean an area of land used in conjunction with a business located within a building or structure on the same lot, for the display or sale, rent or lease of produce or merchandise.

**Outdoor Storage:** Shall mean an area of land or structure that is not fully enclosed, used in conjunction with a business located within a building or structure on the same lot, for the storage of goods and materials.

**Research and Development Establishment:** Shall mean an establishment or part thereof, used for the purpose of conducting pure and applied research, analysis and experimentation in any field of science, medicine, technology and manufacturing, and shall include but not be limited to facilities such as lecture rooms, administrative offices, laboratories, training facilities, display rooms, pilot plants, prototypical manufacturing, simulating equipment and the like, and service and machine shops to serve the Research and Development Establishment. A Research and Development Establishment shall also include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Laboratory, Pharmaceutical and Medical Establishment, and/or a Science and Technology Establishment.

**Surveying, Engineering, Planning or Design Business:** Shall mean a building or part of a building in which professionals in the field of surveying, engineering, planning or design provide technical consultation, analysis, advisory or administrative services.

**Trade School:** Shall mean a school in which specialized instruction in a skilled trade is provided, and
which may include but not be limited to construction, industrial and motive power trades, and which is operated on a financial profit basis, but shall not include a Commercial School or an Educational Establishment.

**Tradesperson’s Shop:** Shall mean a building in which is provided to the public a non-personal service or trade, and shall include but not be limited to, a carpenter’s shop, contractor’s shop, electrician shop, painter’s shop, plumber’s shop and other shops that provide an installation service.

**Transportation Depot:** Shall mean the use of land where commercial motor vehicles pick up and discharge fare-paying passengers or dispatch vehicles for such purpose and shall also include courier service facilities.

**Warehouse:** Shall mean a building used for the bulk storage and/or distribution of goods to industrial, commercial or institutional business users or other wholesalers, but shall not include the retailing of goods to the general public.

(5) That notwithstanding Sections 17 F (2), 18 and 18 A of Zoning By-law No. 6593, only the following provisions shall apply:

- **Minimum Lot Area:** 4,000.0 square metres
- **Minimum Lot Width:** 60 metres
- **Front Yard:**
  - i) Minimum 6.0 metres
  - ii) Maximum 25.0 metres
- **Minimum Side Yard:** 3.0 metres
- **Flankage Yard:**
  - i) Minimum 6.0 metres
  - ii) Maximum 25.0 metres
- **Lot Coverage:** Not required
- **Maximum Floor Area Ratio:** 0.6 of the lot area
- **Building Height:** No maximum

- **Maximum Gross Floor Area for Accessory Retail and Showroom Area:**
25% of the gross floor area of the principal use or
500 square metres gross floor area, whichever is
the lesser.

(j) Maximum Gross Floor Area for Office or Non-Manufacturing Use:

Where a building is solely used for an Office or
another non-Manufacturing use, an individual
office building shall be restricted to a maximum
gross floor area of 2,000 square metres.

(k) Maximum Gross Floor Area for Industrial Administrative Office or
Surveying, Engineering, Planning or Design Business Use:

No Industrial Administrative Office or Surveying,
Engineering, Planning or Design Business
building shall have a gross floor area of 10,000
square metres or greater.

(l) Location Restriction of Manufacturing Uses:

Any building or structure used for Manufacturing
shall be setback a minimum 20.0 metres from any
portion of a lot line abutting a lot line within a
Residential Zone or an Institutional Zone.

(m) Landscaped Area:

A minimum 6.0 metre wide landscaped area shall
be provided and maintained abutting a street,
except for points of ingress and egress, but shall
not include any lands within a hydro corridor or
hydro right-of-way.

(n) Accessory Buildings:

Accessory buildings are not permitted within the
required front yard or required flankage yard and
must be set back a minimum 3.0m from any
other lot line.

(o) Parking Location:

The following provisions apply to all uses:

(i) Required parking facilities shall be located on
the same lot as the use requiring the parking.

(ii) Notwithstanding Subsection (i) above, where
the provision of parking on the same lot as the
use requiring such parking is not possible, or
not practical, such parking facilities may be
located on another lot within 300.0 metres of
the lot containing the use requiring the parking. Such alternate parking shall only be
situated in a Commercial or Industrial Zone or
within the same zone as the use requiring such parking, and shall be subject to Subsection (iii) herein.

(iii) Where the required parking is provided in accordance with Subsection (ii) above, the owners of both lots shall enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the use requiring the parking. The lot upon which the parking is located, pursuant to the agreement, shall continue to be so used only for such purposes until alternate parking spaces in conformity with the regulations of this By-law are provided.

(iv) Parking as provided for in Subsection (iii) may be transferred to another lot in accordance with Subsection (ii), provided that an agreement as required by Subsection (iii) is registered on title of said other lot.

(v) Parking spaces and aisles, giving direct access to abutting parking spaces, excluding driveways extending directly from the street, shall not be located within 6.0 metres of a street line, and subject to a 6.0 metre wide planting strip being required and permanently maintained between the street line and the said parking spaces or aisle.

(p) Parking Design Standards:

(i) No parking space shall be less than 2.6 metres in width by 5.5 metres in length, unless otherwise provided for in this By-law;

(ii) All required parking shall be provided with adequate means of ingress and egress to and from the street or laneway, and shall be arranged so as not to interfere with normal public use of the street or laneway. Any parking lot shall provide for ingress and egress of vehicles to and from a street in a forward motion only;

(iii) Notwithstanding Subsection (i) herein, in the case of parallel parking:
(a) Each parallel parking space shall have a minimum width of 2.4 metres and a minimum length of 6.7 metres. End spaces which have a clear, unobstructed approach, shall have a minimum length of 5.5 metres; and,

(b) The aisle giving access to a parallel parking space shall have a minimum width of 3.6 metres for one-way traffic and a minimum width of 6.0 metres for two-way traffic;

(iv) Parking spaces, driveways, and any widening(s) thereof shall be provided and maintained with stable surfaces such as asphalt, concrete or other hard surfaced material, crushed stone or gravel, and shall be maintained in a dust free condition. Parking lots shall be designed and maintained with stable surfaces such as asphalt, concrete or other hard-surfaced material;

(v) Notwithstanding Subsection (i) herein, in the case of a barrier free parking, each parking space shall have a minimum width of 4.4 metres and a minimum length of 5.5 metres.

(q) **Parking Schedules:** Parking spaces shall be provided in the minimum quantity specified in Column 2 hereunder for each use listed in Column 1:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. <strong>Educational Uses</strong></td>
<td></td>
</tr>
<tr>
<td>Trade School</td>
<td>1 for each 30.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>ii. <strong>Commercial Uses</strong></td>
<td></td>
</tr>
<tr>
<td>Commercial Motor Vehicle Sales,</td>
<td>1 for each 100 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>Rental and Service Establishment</td>
<td></td>
</tr>
<tr>
<td>Equipment Sales, Rental and</td>
<td></td>
</tr>
<tr>
<td>Service Establishment</td>
<td></td>
</tr>
<tr>
<td>Conference or Convention Centre</td>
<td>1 for each 50.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
</tbody>
</table>
| Industrial Administrative Office  
    Office  
    Surveying, Engineering, 
    Planning or Design  
    Business | 1 for each 30.0 square metres of gross floor area, which accommodates such use. |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Association Hall</td>
<td>1 for each 30.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>Other Commercial Uses not Listed Above</td>
<td>1 for each 30.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
</tbody>
</table>

### iii. Industrial Uses

| Research and Development Establishment | 1 for each 50.0 square metres of gross floor area, which accommodates such use. |
| Manufacturing, Warehouse | 1 for each 115.0 square metres of gross floor area, which accommodates such use. |

**(r) Barrier Free Parking:** According to Subsection (q) above, where 10 or more parking spaces are required for all uses on a lot, barrier free parking shall be designated and provided as part of the required parking spaces, in accordance with the following requirements:

<table>
<thead>
<tr>
<th>Required Parking Spaces</th>
<th>Designated Barrier Free Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-50 spaces</td>
<td>Minimum 1 space</td>
</tr>
<tr>
<td>50-100 spaces</td>
<td>Minimum 2 spaces</td>
</tr>
<tr>
<td>100 or more spaces</td>
<td>Minimum 2 spaces plus for every additional 100 required spaces, 1 additional barrier free space shall be provided.</td>
</tr>
</tbody>
</table>

**(s) Loading:** Any loading doors or spaces shall be screened from view from any abutting highway by a visual barrier to be maintained and constructed to a minimum height of 1.8 metres and shall consist of the following:

1. A wall, fence;
2. A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;
3. Earth berms; or,
4. Any combination of the above.
(t) **Location and Size of Outdoor Display:**

Outdoor Display of goods, materials or equipment shall be permitted only as an accessory use and the following regulations shall apply:

(i) Outdoor Display shall only be permitted on a lot where the principal use is contained within a building having a minimum gross floor area of 500 square metres.

(ii) Outdoor Display shall be permitted in a Front Yard or a Flankage Yard, beyond minimum yard requirement established in (c) and (e) above.

(iii) In addition to ii) above, the area devoted to Outdoor Display shall be limited to a maximum of 25% of the Front Yard.

(iv) A 6.0 metre wide planting strip shall be required and permanently maintained between the street line and the display area.

(u) **Location, Size and Screening of Outdoor Storage and Outdoor Assembly:**

Outdoor Storage and Outdoor Assembly of goods, materials or equipment shall be permitted only as an accessory use and the following regulations shall apply:

(i) Outdoor Storage and Outdoor Assembly shall only be permitted on a lot where the principal use is contained within a building having a minimum gross floor area of 500 square metres.

(ii) Notwithstanding (i) above, no Outdoor Storage or Outdoor Assembly shall be permitted for a Warehouse.

(iii) Outdoor Storage and Outdoor Assembly shall not be permitted in a Front Yard or a required Flankage Yard.

(iv) Outdoor Storage and Outdoor Assembly shall be set back a minimum of 70 metres from any portion of a lot line abutting a lot line within a Residential Zone or an Institutional Zone.
(v) Height of outdoor storage or outdoor assembly shall not exceed the height of the building on the lot.

(vi) Outdoor Storage and Outdoor Assembly shall be screened from view from any abutting street by a visual barrier to be maintained and constructed to a minimum height of 1.8 metres and shall consist of the following:

(a) A wall, fence;

(b) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

(c) Earth berms; or,

(d) Any combination of the above.

(v) **Fuel Storage Tanks:** Any fuel storage tanks provided on site shall be at, or above, grade.

3. That the ‘H’ symbol, applicable to the lands referred to in Sections 1 (a), (b) and (c) of this By-law, shall be removed conditional upon:

(a) The Owner completing a hydrogeological and geotechnical study, to the satisfaction of the Director of Development Engineering, in consultation with the Senior Director of Water and Wastewater Division, and the Planning Director of the Hamilton Conservation Authority.

(b) The Owner submitting and implementing a functional servicing report that addresses such matters as, but is not limited to, stormwater management and sanitary capacity for proposed development densities, to the satisfaction of the Director of Development Engineering.

City Council may remove the ‘H’ symbol, and thereby give effect to the “M-14/S-1607” (Prestige Industrial) District, by enactment of an amending By-law once the above conditions have been fulfilled.

4. That 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 “M-14” (Prestige Industrial) District provisions, subject to the special requirements referred to in Section 2 of this By-law.
5. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19 B as Schedule S-1607.

6. 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 [date] day of [date], 2009.

__________________________          ____________________________
Fred Eisenberger               Kevin C. Christenson
Mayor                         Clerk

ZAC-07-109
This is Schedule "A" to By-Law No. 09-
Passed the .......... day of ................... 2009

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Schedule "A"

Map Forming Part of By-Law No. 09-____
to Amend By-law No. 6593

Subject Property

- **Block 1 & 4**: Change in Zoning from the "M-13" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified
- **Block 2 & 5**: Change in Zoning from the "M-12" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified
- **Block 3**: Lands to remain "A" (Conservation, Open Space, Park and Recreation) District
- **Block 6**: Change in Zoning from the "M-14" (Prestige Industrial) District to the "M-14/S-1607-H" (Prestige Industrial - Holding) District, Modified

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Scale: N.T.S.
Date: July 17, 2009
Planner/Technician: DM / AL

[Hamilton]

Planning and Economic Development Department
By Facsimile: 905.546.4202
City of Hamilton
Attention: David Falletta and Peter De Iulio
Planning and Economic Development Department
Planning Division – Development Planning – East Section
77 James Street North, Suite 400
Hamilton, ON
L8R 2K3

June 26, 2008

Dear Messieurs Falletta and De Iulio:

Re: Notice of Complete Application regarding ORC lands
Your File Nos: ZAC-07-109 and ZAC-07-104
Our File No. 13221

We act for Heritage Greene GP Limited (“Heritage Greene”), the owner of approximately 21 hectares of land off Stone Church Road East. The Heritage Greene lands comprise the majority of the West Mountain Core Area – a mixed use focal point of the Heritage Green Secondary Plan adopted by the former City of Stoney Creek in 1989.

The purpose of this correspondence is to comment on the City’s Notices of Complete Application in respect of two Ontario Realty Corporation (“ORC”) files (ZAC-07-109 and ZAC-07-104). These are the ORC lands located: (i) west of the future Trinity Church Road Extension and south of Highland Road West and (ii) at the southwest corner of Stone Church Road East and the future Trinity Church Road Extension. This letter also confirms that an extension for comments until June 27, 2008 was provided by David Falletta in light of outstanding requests for documentation pertaining to this file, which were ultimately and primarily provided.

Our clients were subject to a lengthy and detailed planning process in respect of the West Mountain Core Area leading to a carefully planned community. The Heritage Greene lands were planned for substantial commercial development, a residential component, office space, a theatre as well as a transit node. The planning and investment was significant to compliment the planned function of retail uses as part of a mixed centre which is central to the community.
At this time, we have the following concerns regarding these two applications:

(i) As part of its approval process, Heritage Greene was required to construct a storm water management pond ("SWM Pond") on 6 acres of land which will ultimately be dedicated to the City. If either of the properties in the above-mentioned applications will be accessing this SWM Pond, we remind the City of its obligation in the course of the approval process to use its best efforts to ensure benefiting owners contribute to the costs being front ended by Heritage Greene. We submit it is appropriate to include in these efforts, cost sharing contributions for the value of the land to be dedicated to the City for this pond; and

(ii) There does not appear to be a planning justification report in respect of the lands located in the ZAC-07-04 application so it is not clear what planning rationale the City is relying on to make its determinations in respect of this zoning by-law amendment. The proposed modified uses remain unknown. Absent any such justification, this application appears to be premature. Further, the impact of this application on the planned function in the West Mountain Core Area is unclear.

We look forward to receiving information regarding the planning justification and proposed uses for the ZAC-07-04 property as well as a copy of the City’s Planning Report(s) on these applications and notification of the ensuing public meeting(s). Please do not hesitate to contact us if you have any questions regarding this matter.

Sincerely,

Shelley Kaufman

Cc: Paul Silvestri
July 15, 2009

Mr. Delia McPhail
Planning Department
City of Hamilton
77 James St. N.
Hamilton, ON L8R 2K3

Dear Delia:

Re: ORC Lands - Heritage Green - File Nos. ZAR-07-104 and ZAR-07-109

I have been retained by Heritage Green GP Limited, the owner and developer of commercial property within the East Mountain Core Area in the East Mountain Secondary Plan to assist Ms. Shelley Kaufman and Mr. Scott Snider with respect to this project. Can you please add me to the list of persons to be contacted with respect to any applications regarding the ORC lands in the Heritage Green area, specifically:

1. OPA-07-036 and ZAC-07-112
2. OPA-07-038 and any related ZAC file
3. OPA-07-037 and ZAC-07-113
4. ZAC-07-109 and any related OPA file
5. ZAC-07-104 and any related OPA file

Can you please forward to me a copy of the initial applications made by ORC to be able to identify the specific requests that were made with respect to their applications.

I understand that with the exception of File OPA-07-038, these applications are intended to be brought forward to the August 10, 2009 meeting of the Economic Development and Planning Committee. Can you please forward a copy of the staff report to myself, Mr. Snider and Ms. Kaufman as soon as it is available.

Thank you very much.

Sincerely,

FOTHERGILL PLANNING & DEVELOPMENT INC.

E. J. Fothergill, MCIP, RPP
President

c. c. Mr. Gerald Asa, Mr. Scott Snider, Ms. Shelley Kaufman

C:\WPDOCS\FILES\Heritage Green 2008-2009\Letters-McPhail-July-15-09-1.wpd