TO: Chair and Members
Economic Development and Planning Committee

WARD(S) AFFECTED: WARD 10

COMMITTEE DATE: September 7, 2010

SUBJECT/REPORT NO:
Application for a Change in Zoning for the Lands Located at 620 South Service Road
(Stoney Creek) (PED10192) (Ward 10)

SUBMITTED BY:
Tim McCabe
General Manager
Planning and Economic Development Department

PREPARED BY:
J. Matthew Blevins
(905) 546-2424, Ext. 2634

SIGNATURE:

RECOMMENDATION

That approval be given to Zoning Application ZAC-10-006, by Aftab Qaisar, Applicant, for modifications in zoning to the Business Park Industrial “MBP” Zone in the City of Stoney Creek Zoning By-law No. 3692-92 to add a stand-alone car wash, accessory retail commercial and a drive-thru restaurant as permitted uses, and for modifications in zoning to the Prestige Industrial (M3) Zone in Hamilton Zoning By-law No. 05-200 to add a stand-alone car wash as a permitted use, on the lands located at 620 South Service Road, Stoney Creek, as shown on Appendix “A” to Report PED10192, on the following basis:

(a) That the draft By-laws, attached as Appendices “B” and “I” to Report PED10192, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law, attached as Appendix “I” be added to Map No. 1149 and Map No. 1200 of Schedule “A” of the City of Hamilton Zoning By-law No. 05-200.

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Values: Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
That the proposed modifications in zoning are consistent with the Provincial Policy Statement (PPS) and Places to Grow, and conform with the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan.

EXECUTIVE SUMMARY

The purpose of this application is for modifications in zoning to add a stand-alone car wash, accessory retail commercial and a drive-thru restaurant as permitted uses to facilitate the development of a gas bar. The applicant has also requested further modifications to reduce the required landscaping adjacent to Fruitland Road, reduce the westerly side yard setback for the car wash, and to reduce the minimum lot area (see Appendix “D”).

The applicant has conditional approval of consent to sever the subject lands from the abutting property at 610 South Service Road and this rezoning application satisfies one of the conditions of the severance (see Appendix “C” SC/B-09:093 Decision).

The application can be supported since it is consistent with the Provincial Policy Statement and Places to Grow, and conforms to the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan. A gasoline bar is a permitted use in the applicable zoning for the subject lands in both the Stoney Creek Zoning By-law (3692-92) and the new Comprehensive By-law (05-200). The proposal is compatible with existing and proposed development in the area, and satisfies a condition of consent approval.

Alternatives for Consideration - See Page 10.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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.

HISTORICAL BACKGROUND (Chronology of events)

Consent Application SC/B-06:037 and Minor Variance Application SC/A-06:075

In April of 2006, the lands were subject to an application for Consent to Sever to create a parcel of land at the corner of Fruitland Road and South Service Road (see Appendix “F”) to facilitate the construction of a proposed hotel. The severance application was approved subject to several conditions, including the requirement for final approval of
any variances required by the Planning and Economic Development Department (Building and Licensing Division). Seven variances to the applicable zoning provisions were identified as being required to facilitate the creation of the proposed lot and the construction of the proposed hotel (see Appendix “G”). The consent application lapsed as a result of the conditions not being satisfied within the 12 month time limit under the Planning Act.

**Site Plan Control Application DA-06-038**

In conjunction with the above noted consent and minor variance applications, the property owner submitted Site Plan Control Application DA-06-038 to facilitate the construction of a proposed hotel (see Appendix “H”). The site plan application received conditional approval from the Manager of Planning on April 26, 2006, and lapsed one year later as the applicant had not fulfilled all of the conditions associated with their approval.

**Proposal**

The Application is for modifications to the Business Park Industrial “MBP” Zone in Stoney Creek Zoning By-law No. 3692-92 to modify the definition of a Gasoline Bar to permit accessory retail commercial, a drive-thru restaurant, and a stand-alone car wash as permitted uses, and for modifications to the Prestige Industrial (M3) Zone in Hamilton Zoning By-law No. 05-200 to add a stand-alone car wash as a permitted use, to facilitate the development of a gas bar (see Appendix “D”). Further modifications are also required to accommodate the proposed site design. The applicant has requested to reduce the required landscaping adjacent to Fruitland Road, reduce the westerly side yard setback for the car wash, and to reduce the minimum lot area.

**Details of Submitted Application:**

<table>
<thead>
<tr>
<th><strong>Location:</strong></th>
<th>620 South Service Road, Stoney Creek</th>
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<tbody>
<tr>
<td><strong>Owner/Applicant:</strong></td>
<td>Aftab Qaisar</td>
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<tr>
<td><strong>Property Description:</strong></td>
<td><strong>Frontage:</strong> Approximately 57.97 metres</td>
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<tr>
<td></td>
<td><strong>Depth:</strong>  Approximately 105.44 metres</td>
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<tr>
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<td><strong>Area:</strong>  Approximately 0.89 hectares</td>
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**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands:</th>
<th>Existing Land Uses</th>
<th>Existing Zoning</th>
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</thead>
<tbody>
<tr>
<td>Subject Lands:</td>
<td>Vacant</td>
<td>Business Park Industrial “MBP” Zone (By-law No. 3692-92)</td>
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<tr>
<td></td>
<td></td>
<td>Prestige Industrial (M3) Zone (By-law No. 05-200 as amended by By-law 10-128)</td>
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</table>

Surrounding Lands:

<table>
<thead>
<tr>
<th>North</th>
<th>Vacant</th>
<th>Neighbourhood Development “ND” Zone (By-law No. 3692-92)</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Prestige Industrial (M3) Zone (By-law No. 05-200 as amended by By-law 10-128)</td>
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<table>
<thead>
<tr>
<th>South</th>
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<tr>
<td></td>
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<td>Prestige Industrial (M3) Zone (By-law No. 05-200 as amended by By-law 10-128)</td>
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<th>East</th>
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<tr>
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<td></td>
<td>Prestige Industrial (M3) Zone (By-law No. 05-200 as amended by By-law 10-128)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>West</th>
<th>Vacant</th>
<th>Business Park Industrial “MBP” Zone (By-law No. 3692-92)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hydro One Transformer Station</td>
<td></td>
<td>General Business Park (M2) Zone (By-law No. 05-200 as amended by By-law 10-128)</td>
</tr>
</tbody>
</table>

**Vision:** To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

**Values:** Honesty, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
POLICY IMPLICATIONS

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with the policies that promote economic development (Policy 1.3.1).

Places to Grow

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 support the movement of goods (Policies 3.2.4.3 and 3.2.4.5). In addition, the definition for employment area is taken from the PPS as follows:

“Employment Area - 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. (Provincial Policy Statement, 2005)"

Staff have reviewed the application in terms of the Employment Land Conversion policies, Policy 2.2.6.2.b and are satisfied that the proposed gas bar with associated retail commercial, stand-alone car wash and drive-thru restaurant are consistent with the definition of Employment Area and, therefore, do not constitute a conversion.

Based on the foregoing, the proposal is consistent with the principles and policies of Places to Grow.

Hamilton-Wentworth Official Plan

The subject property is designated “Business Parks” in the Hamilton-Wentworth Official Plan. Policy C-3.1.3.2 sets out that grouped commercial uses of retail or service nature are permitted in business parks provided that will not adversely affect established and/or approved retail areas. It further states that such uses will be directed to locations along major roads or in designated commercial nodes within the business parks. Staff notes that both Fruitland Road and South Service Road are identified as Arterial Roads in the Plan.

Policy C-3.1.3.3 further sets out that Local Official Plans contain detailed policies to identify the type and locational criteria for permitted commercial uses.

Based on the foregoing, the proposal conforms to the Hamilton-Wentworth Official Plan.
Stoney Creek Official Plan

The subject property is designated “Industrial - Business Park” on Schedule “A” General Land Use Plan in the City of Stoney Creek Official Plan. The following policies, among others, apply:

“A.4.2.1” The primary uses permitted in the area designated on Schedule “A” as INDUSTRIAL - BUSINESS PARK shall be for manufacturing, the processing of raw materials or goods, repairing and servicing operations, warehousing and storage, and transportation terminals.

In addition to the foregoing, the following uses may be permitted in this designation:

f) such uses which are compatible with and provide a service to industry, and do not interfere with or detract from the primary function of the area;

A.4.2.7 A variety of industrial development will be promoted while reducing potential conflicts with non-compatible uses on lands not designated for industrial uses by this Plan. In this respect, development of the Industrial - Business Park shall be based upon the locational criteria:

a) Prestige industrial uses will be encouraged to locate adjacent to the South Service Road, and on lands adjacent to the Winona Urban Community; and,

A.4.2.8 Council shall ensure that non-industrial permitted uses abutting industrial development are protected from any adverse effect through the provision of adequate separation, screening, barriers, fencing and landscaping or other similar measures.”

Based on the foregoing, the proposal conforms to the “Industrial - Business Park” policies of the City of Stoney Creek Official Plan.

New Urban Hamilton Official Plan

The new Urban Hamilton Official Plan was adopted by Council on July 9, 2009. The Plan has been forwarded to the Minster of Municipal Affairs and Housing for approval, and is not yet in effect. The subject lands are designated “Employment Areas” on Schedule E, Urban Structure, and “Business Park” on Schedule E-1, Urban Land Use Designations. Staff notes that both the “Employment Areas” and “Business Park” designations permit a range of uses including non-industrial uses intended to serve the Business Park, including gas bars, which are compatible with, and support, the surrounding employment uses form. As the subject proposal is to permit the development of a gas bar with accessory retail commercial, stand-alone car wash and
drive-thru restaurant, the proposal would conform with the new Urban Hamilton Official Plan.

**RELEVANT CONSULTATION**

The following Departments/Agencies had no comments or objections:

- Capital Planning and Implementation Division, Public Works Department.
- Water and Wastewater Division, Public Works Department.
- Operations and Waste Management Division, Public Works Department.
- Budgets and Finance Division, Corporate Services Department.
- Taxation Division, Corporate Services Department.
- Hamilton Municipal Parking System.
- Hamilton Conservation Authority.
- Horizon Utilities.
- Hydro One Networks Inc.

**Traffic Engineering Section, Environment and Sustainable Infrastructure Division, Public Works Department:**

Traffic Engineering has indicated that there may be issues respecting traffic movement for the entrance onto South Service Road, and requires a condition of Zoning Amendment approval that the entrance to South Service Road be restricted to right-in, right-out movement only.

This concern can be resolved through the Site Plan Control application, to the satisfaction of the Manager of Planning.

**Public Consultation**

In accordance with the new provisions of the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Application and preliminary circulation was circulated to 56 property owners within 120 metres of the subject property on June 2, 2010. To date, one formal response has been received. In addition, a Public Notice Sign was erected on the property on June 3, 2010, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act.

One letter was received from Peter Walker of Walker, Nott, Dragicevic Associates Limited, on behalf of Multi-Area Developments Inc. (see Appendix “E”). Mr. Walker's opinion is that the proposed Zoning By-law Amendment constitutes a conversion of employment lands. Based on a complete review of the application and the policy review performed by staff, the application is consistent with the policies of the Provincial Policy Statement and the Provincial Growth Plan for the Greater Golden Horseshoe, and does not constitute a conversion of employment lands.
1. The proposal has merit and can be supported for the following reasons:

(i) It is consistent with the Provincial Policy Statement and the Provincial Growth Plan for the Greater Golden Horseshoe.

(ii) It conforms with the Hamilton-Wentworth Official Plan, the City of Stoney Creek Official Plan, and the new Urban Hamilton Official Plan.

(iii) It is compatible with the existing and planned uses in the surrounding area.

2. Stoney Creek Zoning By-law No. 3692 defines a Gasoline Bar as “a place for one or more pump islands, each consisting of one or more gasoline pumps or motor fuel pumps, and which place shall not be used for the sale of any product other than liquids and small accessories required for the operation of motor vehicles, and which shall not be used for repairs, oil changes, or greasing of motor vehicles.” Hamilton Zoning By-law No. 05-200 does not have Gasoline Bar as a defined use, but does have a definition for a Motor Vehicle Service Station: “an establishment used for the sale of fuel, automotive accessories and/or convenience goods, the repair or replacement of parts in a motor vehicle, and shall include, but not be limited to, the repair or replacement of mufflers, exhaust systems, shock absorbers, transmissions, gears, brakes clutch assemblies, steering systems, tires, wheels, windshields, windows and other mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but shall not include a Motor Vehicle Collision Repair, Motor Vehicle Sales and Service, Motor Vehicle Car Wash, and/or a Motor Vehicle Wrecking Establishment.” The two defined uses are similar, but the discrepancies between the permitted uses in the two By-laws, as well as the modifications requested, require amendments to be made to both Stoney Creek By-law No. 3692-92 and Hamilton By-law No. 05-200.

3. The proposed modification in zoning is to facilitate the development of a Gasoline Bar with a stand-alone car wash, accessory retail commercial, and a drive-thru restaurant on the subject lands. A Gasoline Bar is already permitted, while a restaurant is permitted within a hotel. A stand-alone car wash, accessory retail commercial, and a drive-thru restaurant are considered appropriate uses for the subject lands, and are also considered normal and incidental uses to a Gasoline Bar. The abutting properties are vacant and the subject lands are located in close proximity to an interchange on the Queen Elizabeth Way (QEW). Therefore, the proposed addition of a stand-alone car wash, accessory retail commercial, and a drive-thru restaurant is not out of character with the established and permitted surrounding uses, nor will it create a conflict with the existing uses.
4. Access to the property from the South Service Road was also raised as a concern. Traffic Engineering has requested that the access to South Service Road be restricted to right-in, right-out only, and staff is satisfied that this can be secured during the Site Plan Control process.

5. During the review of the application, further modifications to the By-law were identified to deal with existing situations on the property and to enhance the proposed built form. The following modifications were identified:

**Lot Area**

The Business Park Industrial “MBP” Zone has a minimum lot area requirement of 10,000m². Consent Application SC/B-09:093 will create the lot in question, but the lot will not meet the minimum lot area requirement of the “MBP” Zone. Final approval of a Zoning By-law Amendment is a condition of approval of the consent application, and staff is satisfied that a reduction in lot area to 8,899.9m² is a minor and appropriate reduction. Accordingly, staff supports the reduction in lot area. Staff notes that this reduction in lot area was previously supported through Minor Variance Application SC/A-06:075 when the lands were severed for the proposed hotel. The severance was not finalized, and the hotel was not constructed.

**Side Yard Setback**

The westerly side yard setback to the proposed stand-alone car wash on the concept plan (see Appendix “D”) does not meet the existing By-law requirement of 7.5m in By-law No. 3692-92. The proposed location for the car wash maximizes the stacking queue, as well as the separation of the car wash building from Fruitland Road. The applicant is requesting a reduction from the required 7.5m to 3.0m to facilitate appropriate traffic movement on the site, as well as maximizing the on-site landscaped area on the property adjacent to Fruitland Road. Staff is satisfied that the requested reduction in side yard setback to the proposed stand-alone car wash is minor and appropriate. Accordingly, staff supports the reduction.

**Landscaped Area**

By-law No. 05-200 requires that a 6.0m landscaped area be provided adjacent to any street with at least 3.0m of the landscaped area consisting of a Planting Strip. In their concept plan, the applicant has only provided a landscaped area of 3.0m wide adjacent to Fruitland Road, and a landscaped area ranging from 3.0m to 6.0m adjacent to South Service Road. Staff is satisfied that the applicant can accommodate a 6.0m landscaped area adjacent to both roads without having substantial impacts on the site design. Accordingly, staff does not support the requested reduction in landscaped area to the provisions of By-law No. 05-200.
By-law No. 3692-92, however, requires that a 7.5m landscaped strip be provided adjacent to any street. As mentioned above, staff is satisfied that the applicant can provide a 6.0m wide landscaped strip adjacent to both Fruitland Road and South Service Road. There is not enough room on the site to provide 7.5m wide landscaped strips, while still accommodating the requested elements of the proposal. Staff is satisfied that there is sufficient buffering provided between both South Service Road and Fruitland Road and the proposed Gasoline Bar. Additionally, the subject lands have an existing easement in favour of Hydro One along the southerly property line, and a landscaped area between the lands subject to the easement and the proposed building. Staff is satisfied that this landscaped area will enhance the proposed development, as well as provide additional opportunities for landscaping to transition from the highway interchange into the Business Park. Accordingly, staff supports the requested reduction to the required landscaped strips in By-law No. 3692-92.

**Location of Drive-Thru and Stacking Lanes**

Staff recommends a modification to prohibit any drive-thru or stacking lanes to be located closer to a street than any building or structure along that street line, in order to enhance the proposed streetscape. This requirement is consistent with the regulations being contemplated for the new Zoning By-law. As such, staff is satisfied that the proposed modification will enhance the proposed streetscape and incorporate good urban design principles.

**ALTERNATIVES FOR CONSIDERATION**

(Include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Should the application be denied, the property would remain zoned Business Park Industrial “MBP” Zone. Any future use would have to comply with the provisions of the Zone.

It is noted that upon the resolution of appeals to City of Hamilton By-law 10-128, a By-law to amend Hamilton Zoning By-law No. 05-200, the property would be zoned Prestige Industrial (M3) Zone. Any future use would then have to comply with the provisions of the zone and with By-law No. 05-200.
CORPORATE STRATEGIC PLAN  (Linkage to Desired End Results)


Growing Our Economy

• Competitive business environment.

Healthy Community

• Plan and manage the built environment.
• Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

APPENDICES / SCHEDULES

• Appendix “A”: Location Map
• Appendix “B”: Draft By-law Amendment to By-law No. 3692-92
• Appendix “C”: SC/B-09:93 Committee of Adjustment Decision
• Appendix “D”: Concept Plan
• Appendix “E”: Letter from Peter Walker
• Appendix “F”: SC/B-06:37 Committee of Adjustment Decision
• Appendix “G”: SC/A-06:75 Committee of Adjustment Decision
• Appendix “H”: DA-06-038 Draft Approved Site Plan
• Appendix “I”: Draft By-law Amendment to By-law No. 05-200

:JMB
Attachs. (9)
Location Map

File Name/Number: ZAC-10-006
Date: August 3, 2010

Appendix "A"

Scale: N.T.S.
Planner/Technician: MB/NS

Subject Property
620 South Service Road

Lands to be rezoned from "MBP" Zone to the "MBP-3" Zone

Ward 10 Key Map N.T.S.
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 3692-92 (Stoney Creek) Respecting the Lands Located at 620 South Service Road, Stoney Creek

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 10- of the Economic Development and Planning Committee, at its meeting held on the day of , 2010, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

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

1. That Map No. 2 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from the Business Park Industrial “MBP” Zone to the Business Park Industrial “MBP-3” Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 9.7.6, “Special Exemptions”, of Section 9.7 Business Park Industrial “MBP” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption, “MBP-3”, as follows:

“MBP-3” - 620 South Service Road, Schedule “A”, Map No. 2

Notwithstanding the uses permitted in Section 9.7.2 of the Business Park Industrial “MBP” Zone, on those lands zoned “MBP-3” by this by-law, a stand-alone car wash to a maximum gross floor area of 110m$^2$, accessory retail commercial to a maximum gross floor area of 125m$^2$, and a drive-thru restaurant, with no seating, to a maximum permitted gross floor area of 100m$^2$, shall also be permitted only in conjunction with a Gasoline Bar.

Notwithstanding the provisions of Paragraphs (a), (e), and (g)1 of Section 9.7.3 “Zone Regulations” of Zoning By-law No. 3692-92, on those lands zoned “MBP-3” by this by-law, the following shall apply:

(a) Minimum Lot Area: 8,890.0 square metres.

(d) Minimum Side Yard: 3.0 metres for the Westerly Side Yard.

(g)1. Minimum Landscaped Open Space - A landscaped strip having a minimum width of 6.0 metres shall be provided and thereafter maintained adjacent to any street except for points of ingress and egress.

No drive-thru or stacking lane shall be located closer to any street than any building or structure along that street lot line.

3. 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 Business Park Industrial “MBP” Zone provisions, subject to the special requirements referred to in Section 2.
4. 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 [redacted] day of [redacted], 2010.

__________________________________________  ______________________________
FRED EISENBERGER                                      ROSE CATERINI
MAYOR                                               CLERK

ZAR-10-006
Appendix “B” to Report PED10192
(Page 4 of 4)

This is Schedule "A" to By-Law No. 10-
Passed the ........... day of ......................, 2010

Schedule "A"
Map Forming Part of By-Law No. 10-____
to Amend By-law No. 3692-92

Subject Property
620 South Service Road
Lands to be rezoned from the Business Park Industrial "MBP" Zone to the Business Park Industrial "MBP-3" Zone

Clerk
Mayor

Scale: N.T.S.
Date: August 3, 2010
File Name/Number: ZAC-10-006
Planner/Technician: MB/AL

Hamilton
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. SC/B-09:93
SUBMISSION NO. B-93/09

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 620 South Service Road, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Sarah Cluett and/or Stephen Mak on behalf of the owner Fruitland Centre Inc. (c/o William Schiavone), for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular-shaped parcel of land (Parts 1 & 2 on attached sketch) having a frontage of 64.5m± (211.6'±) and an area of 0.89ha.± (2.2 acres±) containing an abandoned foundation of an old hotel (to be removed), and to retain an irregular-shaped vacant parcel of land (Part 3 on attached sketch) having a frontage of 110.9m± (363.8'±), and an area of 2.03ha.± (5.03 acres±), and to establish an easement over a parcel of land (Part 2 on attached sketch) having an area of 499.5m²± in favour of the retained lands (Part 3 on attached sketch) for access purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, IS APPROVED for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Stoney Creek Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

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 submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Section).
3. The owner shall 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.

4. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

DATED AT HAMILTON this 10th day of December, 2009.

M. Dudzic, Chairman

L. Tew

C. Lewis

D. Serwatuk

D. Smith

D. Drury

L. Gaddye

M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 17th, 2009. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (December 17th, 2010) 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 January 6th, 2010.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES:

1. Based on the attached plans, and on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be conveyed will be assigned the municipal address of 610 South Service Road, and that the lands to be retained will remain as 620 South Service Road.

2. The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the proponent is advised to conduct a Stage 1 and 2 archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Culture. All
archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Culture (MCL) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MCL and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).
June 23, 2010

City of Hamilton
Planning and Economic Development Department
77 James Street North, Suite 400
Hamilton, ON L8R 2K3

Attention: Mr. J. Matthew Blevins

Dear Sir:

Re: Application for a Zoning By-law Amendment ZAC-10-006
Aftab Qaisar (Fruitland Gas and Service Station)
610 South Service Road, Stoney Creek
Our File No. 10.606

We are planning consultants for Multi-Area Developments Inc. owner of lands located at 627 Barton Street and 327-333 Fruitland Road in Stoney Creek, located in proximity to the subject site, and we are writing to inform you that our client, at the appropriate time, will be registering its opposition to the subject application for reasons outlined below.

Per the City’s June 2, 2010 Notice of Complete Application and Preliminary Circulation we understand that the purpose of the subject zoning application is to permit the construction of a gas station with car wash, accessory retail commercial and a drive-thru restaurant on the subject property.

Under the City’s existing and proposed Official Plan and Zoning By-laws the subject property is designated as follows:

OFFICIAL PLAN:
• “Business Parks” per Map 1 Regional Development Pattern, Hamilton-Wentworth Official Plan.
• “Industrial - Business Park” per Schedule A, General Land Use Plan, City of Stoney Creek Official Plan.
• “Industrial - Business Park” per Schedule E, Planning Districts, City of Stoney Creek Official Plan.
• “Business Park” (Employment Area Designations) per Schedule E-1 Urban Land Use Designations, Urban Hamilton Official Plan (adopted).

ZONING:
• “Business Park Industrial (MBP) Zone” per City of Stoney Creek Zoning By-law No. 3692-92.
• “Prestige Business Park – M3 Zone” per Map 1149 of Schedule A, Draft City of Hamilton Zoning By-law No. 05-200 (in its appeal period).
Our client will oppose the subject application on the basis that the proposed development, as a whole, represents employment land conversion to non-employment uses, which is contrary to Provincial and City policy direction.

Below we outline some of the policy direction from the Province and the City, along with our comments in bold.

A) PROVINCIAL DIRECTION

➢ PROVINCIAL POLICY STATEMENT (PPS), 2005:
The Provincial Policy Statement provides the following direction on employment areas:

1.3 EMPLOYMENT AREAS
1.3.1 Planning authorities shall promote economic development and competitiveness by:
   a) providing for an appropriate mix and range of employment (including industrial, commercial and institutional uses) to meet long-term needs;
   b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
   c) planning for, protecting and preserving employment areas for current and future uses; and
   d) ensuring the necessary infrastructure is provided to support current and projected needs.

1.3.2 Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

Comment: The protection of employment land is highly encouraged and any conversion would require a comprehensive review. The subject Zoning By-law Amendment application would place certain non-employment uses in employment designated lands, which is not consistent with the PPS.

➢ GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE:
The Growth Plan for the Greater Golden Horseshoe, under the authority of the Places to Grow Act, 2005, provides the following direction:

2.2.2 Managing Growth
"1) ensuring the availability of sufficient land for employment to Accommodate Forecasted Growth To Support The Greater Golden Horseshoe’s Economic Competitiveness,"
2.2.6 Employment Lands
1. An adequate supply of lands providing locations for a variety of appropriate employment uses will be maintained to accommodate the growth forecasts in Schedule 3.
2. Municipalities will promote economic development and competitiveness by:
   a) providing for an appropriate mix of employment uses including industrial, commercial and institutional uses to meet long-term needs.
   b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.
   c) planning for, protecting and preserving employment areas for current and future uses.

5. Municipalities may permit conversion of lands within employment areas, to non-employment uses, only through a municipal comprehensive review where it has been demonstrated that:
   a) there is a need for the conversion.
   b) the municipality will meet the employment forecasts allocated to the municipality pursuant to this Plan.
   c) the conversion will not adversely affect the overall viability of the employment area, and achievement of the intensification target, density targets, and other policies of this Plan.
   d) there is existing or planned infrastructure to accommodate the proposed conversion.
   e) the lands are not required over the long term for the employment purposes for which they are designated.
   f) cross-jurisdictional issues have been considered.
   For the purposes of this policy, major retail uses are considered non-employment uses.

9. Municipalities are encouraged to designate and preserve lands within settlement areas in the vicinity of existing major highway interchanges, ports, rail yards and airports as areas for manufacturing, warehousing, and associated retail, office and ancillary facilities, where appropriate.

Comment: The conversion of employment lands to retail uses is not supported unless accompanied by a municipally initiated comprehensive review. We feel that due to the nature of the proposal, the development as a whole would not conform to the intent of the Growth Plan.

B) CITY DIRECTION

The City’s Planning documents designates the subject property for employment uses and at the same time provides policies that are intended to establish and protect employment lands:
Appendix “E” to Report PED10192
Page 4 of 7

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City of Hamilton  
June 23, 2010  
Page 4

➤ HAMILTON-WENTWORTH OFFICIAL PLAN:
Designation: “Business Parks”

Per Section 3.1 Urban Areas
...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. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:
• the evolving role of business parks a major economic generators;

Per Section 3.1.3, Business Parks
The main function of the Business Parks is to accommodate firms that require relatively low density sites with the locational or other advantages that come from being in a particular business park. It is intended that Business Parks augment rather than compete with other employment areas in the Region, including established retail and commercial areas in the Regional Centre and mixed use centres. Services and retail facilities located in the Business Parks should be primarily devoted to servicing industrial and business operations and employees. Some flexibility in the policies will permit consideration of mixed uses within the Business Parks.

Comment: In addition to the economic need and function of business parks, any permitted commercial/retail uses are meant to primarily serve industrial and business operations and employees, but are not meant to compete with established commercial areas.

➤ CITY OF STONEY CREEK OFFICIAL PLAN:
Designation: “Industrial – Business Park”

Subsection A.4 – Industrial – Business Park
4.1 Objectives
4.1.1 To ensure that the City will remain a viable industrial centre by preserving and enhancing the existing industrial base.
4.1.3 To diversify the City’s existing industrial base by permitting a broad range of industrial uses.

4.2 Policies
4.2.1 The Primary uses permitted in the area designated on Schedule “A”, as Industrial – Business Park shall be for manufacturing, the processing of raw materials or goods, repairing and servicing operation, warehousing and storage, and transportation terminals.

4.2.4 Council shall ensure that an adequate supply of vacant, serviced and pre-zoned industrial lands is available to meet the industrial market requirements.

4.2.8 Council may encourage and, where feasible, assist in the relocation of uses not permitted in areas designated for Industry and in the relocation of
existing industries located outside of industrial-designated areas into such areas.

4.2.16 Council shall co-operate and support the Regional Economic Development and/or other related agencies for the active promotion of industrial lands within the City.

Comment: The City encourages the availability, preservation and enhancement of the “industrial base”. The introduction of the non-employment uses in the proposed development would prove contradictory to above objectives and policies.

➢ HAMILTON URBAN OFFICIAL PLAN (Adopted):
Designation: “Employment Areas - Business Park”

The Hamilton Urban Official Plan was adopted by City Council on July 9, 2009 and has not received final approval by the Province. The following would be considered for the subject lands:

Chapter B.3.0 Quality Of Life And Complete Communities
Employment Lands:
3.1.2 The City shall:
a) protect the supply of Employment Areas, as designated on Schedule E-1 – Urban Land Use Designations, for employment uses by minimizing the establishment of non-employment lands uses, in accordance with the policies of this Plan;

Chapter E.2.7 Employment Areas
Employment Areas are the primary employment generators in the City and the location of diverse areas of employment. These employment areas range from the historic, heavy industrial, and port employment areas to planned business parks.
2.7.4 To meet the long-term market demands and locational requirements of the various industrial sectors, existing Employment Areas shall be retained.
2.7.7 Employment Areas shall be planned and designed to maximize access to goods movement corridors and the efficiency of goods movement within the Employment Areas. Goods movement includes maximizing access to the highway network, the port, and the airport.

Chapter E.5.0 Employment Area Designations
5.1 Policy Goals
The following goals shall apply to Employment Area designations:
5.1.2 Maintain an adequate supply of zoned and serviced employment lands of varying parcel sizes in various locations to meet the City’s projected employment growth forecast and to promote economic development and competitiveness.
5.1.4 Protect lands designated Employment Area from non-employment functions and to support the employment functions of the City’s Downtown,
nodes and corridors. New major retail uses shall be prohibited and office uses shall be restricted in function and scale.

5.4 Employment Area – Business Park Designation

Business Parks are planned for a broad range of employment uses compatible with the design policies for business parks. These areas are well served by roadway infrastructure and are generally more able to accommodate proper buffering from sensitive land uses. The West Hamilton Innovation District is planned as a regional technology node, focusing on a range of research and development activities in science and technology.

Function

5.4.1 The range of employment uses allows for a wide variety of industrial activity and accommodates employment support uses, such as offices, that will foster the development of a prestige employment area. The Employment Area – Business Park designation applies to the City’s business parks, excluding the Airport Business Park, identified on Schedule E-1 – Urban Land Use Designations.

5.4.2 Lands designated Employment Area – Business Park which are undeveloped, underutilized, or within the West Hamilton Innovation District, are planned for major employment growth in accordance with the employment and density targets in Section A.2.3.2 – Employment Targets and Policy A.2.3.3.3.

Permitted Uses

5.4.3 The following uses shall be permitted on lands designated Employment Area – Business Park on Schedule E-1 – Urban Land Use Designations:

a) manufacturing, warehousing, repair service, building or contracting supply establishments, transportation terminals, research and development, office, communication establishment, and private power generation. Salvage yards and other uses which are unsightly or otherwise incompatible with the design policies and image for business parks shall be prohibited;

b) uses which primarily support industry, including , labour association halls, conference and convention centres, trade schools, commercial motor vehicle and equipment sales, and commercial rental establishments;

c) ancillary uses which primarily support businesses and employees within business parks, including , hotels, health and recreational facilities, financial establishments, restaurants, personal services, motor vehicle service stations and washing, retail establishments, and commercial parking facilities;

d) waste processing facilities and waste transfer facilities; and,

e) accessory uses, such as limited retail and office.

5.4.4 Ancillary uses which serve the businesses and employees of the business park as described in Policy E.5.4.3 c), shall only be permitted at locations fronting arterial roads or collector roads into the business parks.

Comment: The primary intent of the City’s Employment Area designations is to establish and protect employment uses, specifically near accesses to provincial highways (the subject property flanks on Fruitland Road which has direct access to the Queen Elizabeth Way). We believe the subject development, as a whole, does not adhere to policies in Chapters B 3.0 and E 5.0 relating to employment lands.
subject development, as a whole, does not adhere to policies in Chapters B 3.0 and E 5.0 relating to employment lands.

EXISTING CITY OF STONEY CREEK ZONING BY-LAW NO. 3692-92 AND HAMILTON ZONING BY-LAW 05-200
"Business Park Industrial (MBP) Zone (in-force zoning by-law)
"Prestige Business Park (M3)" (proposed Comprehensive zoning by-law)

Comment: Not all the proposed uses in the development are permitted under the existing and proposed Comprehensive Zoning By-law, and as such, the development as a whole does not adhere to the Provincial and City's direction on permitted uses for employment lands.

CONCLUDING COMMENT:
Based on the above, the overriding intent of the Provincial and City documents is to provide an adequate supply and the preservation/protection of employment lands, for employment uses. We are concerned that the subject application does not meet this intent. In addition, the location and type of proposed uses do not encourage these uses to be "primarily devoted to serving industrial and business operations and employees"; they will be positioned to serve the travelling public. The proposed uses also are not required to provide essential support to the business park businesses and employees.

As such, on behalf of our client we will oppose this application and respectfully ask Staff and Council to carefully consider the application in light of Provincial and City direction against this type of use of employment lands, specifically if not carried out under a municipal comprehensive review.

We thank you for providing the opportunity to submit comments on the subject application. Please feel free to contact the undersigned with any questions or comment.

Yours very truly,

WALKER, NOTT, DRAGICEVIC ASSOCIATES LIMITED
Planning · Urban Design

[Signature]

Peter R. Walker, FCIP, RPP
President and Senior Principal

Co. Multi-Area Developments Inc., Aldo Desantis, Steve Spicer
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. SC/B-06:37
SUBMISSION NO. B-37/06

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 Municipal number 620 South Service Road (formerly known as 594 Seaman Street), formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Paul Tiefenbach on behalf of the owner Fruitland Centre Inc., 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, being irregular in shape, and having an area of 2.03ha. (5.03 acres) for prestige industrial purposes, and to retain a vacant parcel of land, also irregular in shape, and having an area of 0.89ha. (2.2 acres) for prestige industrial (hotel) purposes.

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

2. That the owner/applicant submits a Deposited Ontario Land Surveyor’s Reference Plan to the Development Planning East Team.

3. The applicant shall receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building & Licensing Division).

4. A Stage 1 and 2 archaeological assessment shall be undertaken by the landowners and/or proponent. No grading or other soil disturbances shall take place on the subject property prior to the Ontario Ministry of Culture (MCL) confirming that all archaeological resource concerns have met licensing and resource conservation requirements. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the MCL.

5. That a 12 metre by 12 metre daylighting triangle from the widened limits of the South Service Road at the intersection of Fruitland Road is dedicated to the City.
6. That mutual right-of-ways be established between the retained lands and the lands to be conveyed for pedestrian and vehicle travel.

7. That the owner/applicant provide definitive answers to questions 6.2 to 6.7 through an engineering consultant’s report with emphasis on set backs from hydro and active railway lines, to the satisfaction of the City of Hamilton, Public Health Services, Health Protection Branch.

8. That the mobile home be better supported in place to eliminate potential safety hazards, to the satisfaction of the City of Hamilton, Public Health Services, Health Protection Branch.

9. That the owner/applicant satisfy all requirements of the Ministry of Transportation including submission of a detailed Traffic Impact Study (TIS) and Storm Water Management Report.

DATED AT HAMILTON this 12th day of April, 2006.

M. Dudzic, Chairman

C. Lewis

D. Serwatuk

D. DeLullo

D. Drury

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS April 19th, 2006. HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (April 19th, 2007) 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 May 9th, 2006.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
APPLICATION NO. SC/A-06:75
SUBMISSION NO. A-75/06

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 3692-92, of the City of Hamilton (formerly Stoney Creek), Sections 4.9, 9.1 and 9.7.

AND IN THE MATTER OF the Premises known as Municipal number 620 South Service Road (formerly known as 594 Seaman Street), formerly in the City of Stoney Creek, now in the City of Hamilton and in an "MBP" (Business Park Industrial) district;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Paul Tiefenbach on behalf of the owner Fruitland Centre Inc., for relief from the provisions of the Zoning By-Law No. 3692-92, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the severance of Parts 1 & 2 on Plan 62R-16930 and to retain Parts 3 & 4 on Plan 62R-16930 in order to permit development of this lot for a hotel notwithstanding that:

1) A minimum lot area of 8,855m$^2$ shall be provided for the retained lot (Parts 3 & 4) instead of the minimum required lot area of 10,000m$^2$;

2) A front yard setback of 15.0m shall be provided (to the South Service Road lot line) for the retained lot instead of the minimum required 20m front yard;

3) No landscaped strip shall be provided along the South Service Road street line starting from the westerly corner of the retained lot and for a distance of approximately 32m easterly along the South Service Road street line instead of the minimum required 7.5m landscaped strip along the entire street line;

4) A loading space shall be located in the front yard in the area between the street and the wall of the building facing the street (South Service Road) notwithstanding that a loading space is not permitted in the front yard or in the area between the lot line abutting a street and any wall of a building facing a street;

5) A westerly side yard setback of 0.0m shall be provided to the hydro tower for the retained lot (Parts 3 & 4) instead of the minimum required 4.5m side yard;

6) An easterly side yard setback of 0.0m shall be provided to the hydro tower for the severed lot (Parts 1 & 2) instead of the minimum required 4.5m side yard; and,

7) A rear yard of 7.0m shall be provided to the hydro tower for both the retained lots (Parts 3 and 4) and the severed lot (Parts 1 and 2) instead of the minimum required setback of 15.0m from a railway right-of-way.

NOTE: This application is required to facilitate Development Agreement DA-03-34 and Severance Application SC/B-06:37.
THE DECISION OF THE COMMITTEE IS:

That the said application **IS GRANTED** for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.

3. The Committee having regard to the evidence is satisfied that there will be no adverse impact on any of the neighbouring lands.

DATED AT HAMILTON this 3rd day of May, 2006.

M. Dudzic (Chairman)  D. Drury

C. Lewis  D. Serwatuk

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **May 23rd, 2006**.

NOTE: This decision is not final and binding unless otherwise noted.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 05-200 Respecting Lands Located at 620 South Service Road (Stoney Creek)

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, Statutes of Ontario, 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 No. 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the Zoning By-law, being By-law No. 05-200, came into force on May 25, 2005;

AND WHEREAS Zoning By-law 10-128, New Comprehensive Industrial Zones, enacted May 26, 2010, but appealed to the Ontario Municipal Board, re-zoned the subject lands to the Prestige Business Park (M3) Zone;

AND WHEREAS the Council of the City of Hamilton, in adopting Item ______ of Report 10-______ of the Economic Development and Planning Committee, at its meeting held on the _____ day of _____, 2010, recommended that Zoning By-law No. 05-200, as amended by By-law 10-128 (New Comprehensive Industrial Zones), 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 City of Stoney Creek);
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map Nos. 1149 and 1200 of Schedule “A” of By-law No. 05-200 are amended by changing the zoning from the Prestige Business Park (M3) Zone to the Prestige Business Park (M3, 30) Zone, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A” to this by-law.

2. That Schedule "C" - Special Exceptions of By-law No. 05-200 is amended by adding an additional Exception as follows:

   "30. That notwithstanding Section 9.3.1, Permitted Uses, of this By-law, on those lands zoned Prestige Business Park (M3, 30) Zone, on Maps 1149 and 1200 of Schedule "A", a stand-alone car wash, accessory to a gas bar, shall also be permitted.

3. That this By-law No. shall not come into force and effect until such time as By-law 05-200, as amended by By-law 10-128, comes into force and effect.

PASSED and ENACTED this [ ] day of [ ], 2010.

________________________________________  ______________________________________
Fred Eisenberger                         Rose Caterini
Mayor                                   Clerk

ZAC-10-006
This is Schedule "A" to By-Law No. 10-
Passed the ........ day of ................... , 2010

Schedule "A"
Map Forming Part of By-Law No. 10-——
to Amend By-law No. 05-200
(Maps 1149 & 1200)

Subject Property
620 South Service Road
Lands to be rezoned from the Prestige Industrial (M3) Zone to the Prestige Industrial (M3, 30) Zone

Scale: N.T.S.
Date: August 3, 2010

File Name/Number: ZAC-10-006
Planner/Technician: MB/AL

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT