TO: Chair and Members Economic Development and Planning Committee  
WARD(S) AFFECTED: WARD 1

COMMITTEE DATE: June 15, 2010

SUBJECT/REPORT NO: 
Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103(a)) (Ward 1)

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

PREPARED BY:  
Edward John  
(905) 546-2424, Ext. 5803

SIGNATURE:

Committee Direction:

Following a Public Meeting held to discuss the merits of a proposed Official Plan Amendment and change in zoning to permit the development of the lands for a 10-storey multiple residential building intended to be used for the purposes of student accommodation, the Economic Development and Planning Committee, on April 21, 2009, deferred consideration of the report pending the completion of a noise study, and recommended that the applicants, Auburn Developments and Cadbury, meet and discuss the proposal.

The original recommendation to Committee, contained within staff Report PED09103 (Appendix “D”), recommended approval of the application subject to the property being placed under an ‘H’ Holding provision in order that all noise issues, consisting of both noise impact from the Cadbury Plant and other stationary noise, as well as noise resulting from the site’s proximity to Main Street West, be addressed. During the Public Meeting, the Economic Development and Planning Committee heard delegations from the adjacent landowners, including the Plant Manager of Cadbury, who noted the potential for noise emitted from the Cadbury Plant to be “reflected” by the proposed multiple dwelling back into the residential portion of the neighbourhood. Committee, consequently, deferred decision on the application pending completion of a revised noise study for the subject property.
Information:

The subject lands comprise approximately 0.42 hectares (1.06 acres) of land within the Urban Area. The site is located in the block contained by Main Street West to the north, Rifle Range Road to the east, Ewen Road to the west, and Whitney Avenue to the south, with frontage directly along Ewen Road and Rifle Range Road, as shown on Appendix “A” to this report. Notable surrounding uses include the former CNIB building (recently converted to a 9-storey building for the purpose of student accommodation) and the Cadbury Candy Factory located immediately south of the subject property.

The site currently maintains an industrial designation in the Hamilton Official Plan, the Ainslie Wood Secondary Plan, and the Hamilton Zoning By-law. The site was formally used as a warehouse facility, and remains occupied by two buildings which are proposed to be demolished in order to permit the proposed residential development.

The application would result in the conversion of the lands from their “Industrial” designation. This has been assessed through the City initiated Municipal Comprehensive Review, adopted by Council on June 25, 2008 (Report 08-022) and, as such, staff is satisfied that the conversion from this designation is appropriate. The proposal would consist of a 10-storey purpose built student apartment building, providing approximately 150 units. The subject lands have frontage on both Rifle Range Road and Ewen Road, with access to the building provided from Rifle Range Road. A total of 195 parking spaces will be provided in two levels of underground parking (166 spaces) and surface parking (29 spaces). No access to the site is proposed from Ewen Road.

As mentioned previously, staff supported the proposed applications on the basis of a Holding provision that would ensure a comprehensive noise study be completed. At the Economic Development and Planning Committee, and based on the information presented by the adjacent landowners, Committee members, however, considered it prudent to have this information prior to granting any approvals. Consequently, the item was deferred in order for this study to be conducted, with particular emphasis on the ‘reflection’ of noise emitted by the Cadbury Plant.

The applicant has undertaken additional analysis examining the impact of noise ‘reflection’. Staff is of the understanding that this analysis has been provided to the Manager of the Cadbury Plant by the applicant. The applicant’s agent, Chris Pidgeon, has confirmed to staff that, to date, they have not had any responses or communications with the Cadbury Plant regarding the information provided.

Staff contacted the Cadbury Plant Manager directly, who has confirmed through an e-mail received on April 23, 2010, that Cadbury is currently completing a comprehensive analysis regarding the compatibility of residential encroachment near their plant, and that noise is but one aspect. They further confirmed that this analysis is on-going, and once completed, they would be in a better position to advise as to the compatibility of the
proposed residential use. They anticipate completing this analysis later this year. Staff has undertaken their own review of the noise information provided by the applicant in light of Committee's deferral of the applications and provides the following comments:

(1) The November 21, 2007, memo (Appendix “B”) indicates that Cadbury requires mitigation measures to be in compliance at existing receptors, and additional mitigation will be required at the Cadbury facility as a result of the Auburn residences. The memo also indicates that the additional mitigation costs are the responsibility of Auburn development, and a co-operative effort between Cadbury and Auburn is suggested. Staff has not received any information indicating that Auburn and Cadbury have come to any agreements pertaining to mitigation measures;

(2) The November 21, 2007, memo (Appendix “B”) does not provide any information on what the actual sound levels would be in the plane of a window (POW) at the proposed development as a result of the Cadbury site. This is required in order to determine if the MOE sound level limits at the POW can be met or, if not, what the excess in sound level is (i.e. is the excess minor);

(3) The June 22, 2009, RWDI letter (Appendix “C”) states that although mitigation at the source of the noise is preferred under the MOE guidelines, receptor-based mitigation (i.e. at the proposed Auburn development) is permitted under certain circumstances. While receptor-based mitigation may be an option under certain scenarios, the MOE guidelines are clear that this is only when dealing with minor noise excesses. As such, and in accordance with Comment 2, the sound level limits at the POW must first be established in order to determine whether central air conditioning is an acceptable mitigation measure, and that the warning clause for stationary sources is not being used to justify an excess over the criteria. Based on the extent of the excess, building design may be a required noise mitigation measure; and,

(4) There is nothing within the information provided that addresses the noise impact of Main Street West and other stationary noise sources in close proximity to the proposed development (i.e. drive-through restaurant, auto repair shop).

Based on the foregoing, staff is of the opinion that further revisions/analysis is required. A comprehensive noise study should be provided, which addresses the above noted comments, and provides a clear set of recommendations on the required noise mitigation measures which would need to be implemented prior to the proposed development proceeding.
Conclusion

In the absence of a complete and comprehensive noise study, staff continue to support the application but maintain the recommendation for a Holding provision in order to ensure the said study is conducted and completed, to the satisfaction of the City of Hamilton.

- Appendix “A”: Location Plan
- Appendix “B”: November 21, 2007, Memo
- Appendix “C”: June 22, 2009, RWDI Letter
- Appendix “D”: Staff Report

:EJ
Attachs. (4)
Change in Zoning from the "J" Light and Limited Heavy Industrial, etc.)" District to the "E-3"-'H' (High Density Multiple Dwellings – Holding) District and Official Plan Amendment from "Industrial to "High Density Residential"."
June 22, 2009

GSP Group Inc.
201-72 Victoria Street South
Kitchener, Ontario  N2G 4Y9

Attn: Ms. Kristen Barisdale, MCIP, RPP
Email: kbarisdale@gspgroup.ca

Re: Auburn Developments – 17 Ewen Road, Hamilton Project
Applicability of Receptor-Based Mitigation Measures
RWDI Project W07-5023A

RWDI AIR Inc. (RWDI) was retained by GSP Group Inc., on behalf of Auburn Developments to conduct an environmental noise assessment for their proposed 17 Ewen Road development, located in Hamilton, Ontario. The focus of the study was on noise impacts from Cadbury Adams (Cadbury) plant, located adjacent to the south of the site.

Detailed noise modelling of Cadbury was conducted, and our results were summarized in a memo dated November 21, 2007.

Under Ministry of the Environment (MOE) Publication LU-131, mitigation at the source of the noise (i.e., Cadbury, in this case) is preferred. Tables outlining the noise sources at Cadbury requiring mitigation for various scenarios were provided in the November 2007 memorandum.

Receptor-based mitigation (i.e., at the proposed development, instead of at Cadbury) is allowed under Publication LU-131 in certain circumstances. The mitigation would involve the use of central air conditioning and sealed (inoperable) windows. These may be considered as a possible mitigation measure option:

- For high-rise multiple unit residential uses; and
- When the area is designated by the municipality as undergoing a transition from industrial to residential land uses;

Per our conversation, this appears to be the case for the 17 Ewen Road site; thus, under LU-131, mitigation at the development may be allowed.

The required receptor-based mitigation would be:

a) Mandatory central air conditioning of the development,
June 22, 2009
Ms. Kristen Barisdale, MCIP, RPP
Auburn Developments – Ewen Road Project

b) Sealed (inoperable) windows,

c) No balconies or outdoor amenity areas on the exposed side of the building, directly facing Cadbury,

d) The following noise warning clauses registered on Title:

"Purchasers are advised that due to the proximity of adjacent industries, including Cadbury, sound levels from these industries may at times be audible."

and

"Purchasers are advised that despite the inclusion of noise control measures within the development area and within individual building units, noise levels may become of concern, occasionally interfering with some activities of the occupants."

Should you have any questions or concerns, please feel free to contact us.

Yours very truly,
RWDI AIR Inc.

[Signature]

Project Director / Associate
INTRODUCTION
This memo has been prepared in regards to noise issues that are predicted to occur at a future residential building proposed by Auburn Developments (Auburn), located at 17 Ewen Road in Hamilton, Ontario. The main source of industrial noise that will impact the residence is the Cadbury Adams (Cadbury) candy and confections manufacturing facility located to the south of the site. A detailed noise assessment of the Cadbury facility has been completed, and recommendations for both the Cadbury facility and Auburn are presented.

BACKGROUND
Auburn Developments has proposed to construct a residential building at 17 Ewen Road in Hamilton, Ontario. The site is not currently zoned for residential use and currently is occupied by a public storage facility. As part of rezoning, the City of Hamilton has requested that a noise study be completed. The criteria for this study are set out in the Ministry of the Environment (MOE) guideline LU-131 for land use planning. The applicable guidelines for evaluating noise impacts from "stationary" sources in a land-use planning context are the MOE’s Publication LU-131 guideline limits. These guidelines state that one-hour average sound exposures from facility operations should not exceed that of the background, where the background is defined as the ambient sound levels present in the environment without the facility operating, or set minimum levels depending on the nature of the area. While the guideline is no longer directly enforced by the MOE, municipalities tend to use LU-131 to provide guidance in land-use planning decisions and these guidelines are accepted by the Ontario Municipal Board for decisions with regard to land use disputes.

The building proposed for the site is anticipated to be subject to environmental noise impacts from the surrounding transportation and industrial noise sources. Industrial noise results from the Cadbury facility located to the south of the site, at 45 Ewen Road, and from a Union Gas metering station across Ewen Road to the west. Road noise results primarily from Main Street, to the north. When the impacts from transportation or from industrial sources exceed the limits set out in LU-131, they should be mitigated to ensure an adequate noise environment for the residents of the proposed building. Noise impacts from transportation sources have been assessed and reported separately from this memo. This memo deals with noise from the adjacent Cadbury and Union Gas facilities only.
The background sound levels used to establish the applicable guideline limits for industrial noise were obtained through measurement. Long-term sound level measurements were conducted in October 2006 at the 17 Ewen Road site. Results indicated that MOE guideline minimum sound level limits of 50 dBA and 45 dBA apply for daytime and night-time periods, respectively. These limits are the maximum cumulative sound level that the Cadbury facility can create at noise sensitive receptors in the area and still comply with MOE guidelines.

ANALYSIS OF CADBURY FACILITY

Initial analysis of industrial noise impacts from Cadbury indicated that detailed analysis was necessary. The detailed analysis was based on source-specific noise emission data and modelling. Measurements of the individual noise sources at Cadbury were conducted by RWDI personnel in March 2007. Using sound measurement data, published manufacturer's sound data, and engineering calculations, a model representative of Cadbury's noise emissions was created.

The model confirmed the initial analysis that Cadbury's noise impacts are above the LU-131 limits at the proposed Auburn development. Since Auburn is proposing to rezone the land at 17 Ewen to residential, under LU-131 guidelines, it is Auburn's responsibility to ensure that sound levels meet the MOE guideline limits on their property. To meet this requirement, it is normally most cost-effective that noise mitigation measures be installed at the source of the noise.

Our assessment also leads us to believe that Cadbury may have reason to work cooperatively with Auburn in reducing their noise emissions. Cadbury is required to have a Certificate of Approval (CoA) from the MOE for operations at their site. However it is not clear if Cadbury has a CoA. If Cadbury were to apply for a new Certificate of Approval, the MOE would expect Cadbury to ensure that sound levels meet the MOE Publication NPC-205 noise guideline limits at the existing noise sensitive receptors. Based on the information available, Cadbury's noise emissions at the nearest existing houses do not appear to meet these limits.

RECOMMENDATIONS

Noise mitigation measures needed to achieve the sound level limits have been developed. Suggested mitigation measures for Cadbury to be in compliance at their existing receptors are shown in Table 1. Table 2 provides the additional mitigation needed to achieve compliance at 17 Ewen Road after Cadbury is in compliance at its existing receptors. A third scenario presented in Table 3 has been developed where the two parties work cooperatively and take advantage of the other's mitigation needs. Cost sharing would enable both parties to achieve the desired end goal for a reduced total cost. The benefit to cooperation is accentuated because in general it is significantly more costly to retrofit existing mitigation measures to make small increases in the amounts of mitigation needed. It is in the interest of both parties to work co-operatively towards an optimized combined solution.
CONCLUSIONS

An assessment of noise from the adjacent Cadbury facility has been completed. Since noise impacts from the Cadbury facility are predicted to be above the LU-131 limits, detailed analysis was used to develop these suggested mitigation scenarios. If Cadbury applies for a CoFA, then Cadbury is responsible for bringing their facility into compliance with respect to existing noise receptors. These mitigation measures are presented in Table 1. However with the development of the Auburn residence, additional mitigation will be required on the Cadbury facility as described in Table 2. The additional cost of further mitigation on Cadbury noise sources is Auburn’s responsibility. It is therefore suggested that Cadbury and Auburn work together to achieve compliance with their respective MOE guideline limits.

If you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,
RWDI Air Inc.

Nigel Taylor
Project Manager
### Table 1: Mitigation Needed for Cadbury to Comply at Existing Noise Receptors

<table>
<thead>
<tr>
<th>Cadbury Source Name</th>
<th>Required Mitigation</th>
<th>Suggested Mitigation Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fan aircoils Hussman</td>
<td>10</td>
<td>Low noise fans, barriers</td>
</tr>
<tr>
<td>Fan aircoils Blanchard Bohn</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Fan aircoils Carrier</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Boiler stack 1</td>
<td>-</td>
<td>Stack silencer</td>
</tr>
<tr>
<td>Boiler stack 2</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Cooling tower 1</td>
<td>10</td>
<td>Silencer or acoustic house</td>
</tr>
<tr>
<td>Cooling tower 2</td>
<td>10</td>
<td>Low noise fans</td>
</tr>
<tr>
<td>Exhaust stack 1</td>
<td>15</td>
<td>Stack silencer</td>
</tr>
<tr>
<td>Exhaust stack 2</td>
<td>20</td>
<td></td>
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<tr>
<td>Exhaust stack 3</td>
<td>20</td>
<td></td>
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<tr>
<td>Exhaust stack 4</td>
<td>10</td>
<td></td>
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<tr>
<td>Exhaust stack 5</td>
<td>10</td>
<td></td>
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<tr>
<td>Exhaust stack 6</td>
<td>-</td>
<td>n/a</td>
</tr>
<tr>
<td>Exhaust stack 7</td>
<td>-</td>
<td>n/a</td>
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<tr>
<td>Exhaust stack 8</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Exhaust fan 09</td>
<td>10</td>
<td>Stack silencer</td>
</tr>
<tr>
<td>Exhaust fan 10 CARNES</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Exhaust stack 11</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Exhaust stack 12</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Gas valves</td>
<td>-</td>
<td>n/a</td>
</tr>
<tr>
<td>Refrigeration units on trucks</td>
<td>33</td>
<td>Full enclosure of trailer or on-facility cooling equipment</td>
</tr>
<tr>
<td>Sidewall fan 01</td>
<td>-</td>
<td>Silencer, acoustic house</td>
</tr>
<tr>
<td>Bulk unloading</td>
<td>8</td>
<td>Silencer on trucks, or enclosure for trucks, or unloading with on-site pump</td>
</tr>
<tr>
<td>Bulk unloading</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>Pan aircoils ICP</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Fan aircoils Trane 01</td>
<td>10</td>
<td>Low noise fans, barriers</td>
</tr>
<tr>
<td>Fan aircoils Trane 02</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Fan aircoils Trane 03</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

Note: All mitigation values are a reduction of the overall noise source sound power level in decibels (dB). n/a – not applicable.
Table 2: Mitigation Needed for Compliance at the Anburn Development, after Mitigation of Existing Noise Receptors

<table>
<thead>
<tr>
<th>Cadbury Source Name</th>
<th>Required Additional Mitigation</th>
<th>Suggested Mitigation Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fan aircoils Husman</td>
<td>5 New</td>
<td>Low noise fans, barriers</td>
</tr>
<tr>
<td>Fan aircoils Blanchard Bohn</td>
<td></td>
<td>Stack silencer</td>
</tr>
<tr>
<td>Fan aircoils Carrier</td>
<td>7 Upgrade from 5</td>
<td>Stack silencer</td>
</tr>
<tr>
<td>Boiler stack 1</td>
<td>12 New</td>
<td>Low noise fans</td>
</tr>
<tr>
<td>Cooling tower 1</td>
<td>15 Upgrade from 10</td>
<td>Low noise fans</td>
</tr>
<tr>
<td>Cooling tower 2</td>
<td>15 Upgrade from 10</td>
<td></td>
</tr>
<tr>
<td>Exhaust stack 1</td>
<td></td>
<td>Stack silencer</td>
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<tr>
<td>Exhaust stack 2</td>
<td></td>
<td></td>
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<td>Exhaust stack 3</td>
<td></td>
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<tr>
<td>Exhaust stack 4</td>
<td></td>
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<tr>
<td>Exhaust stack 5</td>
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<tr>
<td>Exhaust stack 6</td>
<td></td>
<td></td>
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<tr>
<td>Exhaust stack 7</td>
<td>10 New</td>
<td></td>
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<tr>
<td>Exhaust stack 8</td>
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<td>Exhaust fan 09</td>
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<td></td>
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<tr>
<td>Exhaust fan 10 CARINES</td>
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<td></td>
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<tr>
<td>Exhaust stack 11</td>
<td>10 New</td>
<td></td>
</tr>
<tr>
<td>Exhaust stack 12</td>
<td>10 New</td>
<td></td>
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<tr>
<td>Gas valves</td>
<td></td>
<td></td>
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<tr>
<td>Refrigeration units on trucks</td>
<td></td>
<td></td>
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<tr>
<td>Sidewall fan 01</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulk unloading</td>
<td>20 Upgrade from 8</td>
<td>Silence or acoustic barriers</td>
</tr>
<tr>
<td>Bulk unloading</td>
<td></td>
<td>or unloading with on-site pump</td>
</tr>
<tr>
<td>Fan aircoils ICP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fan aircoils Trane 01</td>
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<tr>
<td>Fan aircoils Trane 02</td>
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<tr>
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Note: All mitigation values are a reduction of the overall noise source sound power level in decibels (dB).

*NA* = not applicable
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<td>Stack silencer</td>
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<tr>
<td>Pan aircoils Carrier</td>
<td>10</td>
<td>Silencer or acoustic louver</td>
</tr>
<tr>
<td>Boiler stack 1</td>
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<td>Low noise fans</td>
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<td>Exhaust stack 11</td>
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<td>Exhaust stack 12</td>
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<tr>
<td>Gas valves</td>
<td>-</td>
<td>Full enclosure of silencer</td>
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<td>Refrigeration units on trucks</td>
<td>33</td>
<td>or on-facility cooling equipment</td>
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<td>Silencer, acoustic louver</td>
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<td>Bulk unloading</td>
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<td>Pan aircoils Trans 01</td>
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<td></td>
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<td>10</td>
<td></td>
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<tr>
<td>Pan aircoils Trans 03</td>
<td>10</td>
<td></td>
</tr>
</tbody>
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CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

Report to: Chair and Members Economic Development and Planning Committee
Submitted by: Tim McCabe General Manager Planning and Economic Development Department
Date: March 30, 2009
Files: ZAC-07-062 and OPA-07-016
Prepared by: Edward John (905) 546-2424, Ext. 5803

SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103) (Ward 1)

RECOMMENDATION:

(a) That approval be given to Official Plan Amendment Application OPA-07-016, Auburn Developments Inc. (Jamie Crich), Owner, for Amendment No. 1.2 to the City of Hamilton Official Plan for changes in designations on Schedule “A” - Land Use Concept of the City of Hamilton Official Plan from “Industrial” to “Residential”, and to remove the lands from Schedule “B” - Special Policy Area of the City of Hamilton Official Plan, and on Schedule “N1” Land Use Plan, of the Ainslie Wood Secondary Plan in the City of Hamilton Official Plan from “Industrial” to “High Density Residential”, to permit a 10 storey multiple residential building, intended for the purpose of student accommodations, on lands located at 17 Ewen Road (Hamilton), as shown on Appendix “A” to Report PED09103, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED09103, be adopted by City Council.

(ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.

(b) That approval be given to Zoning Application ZAC-07-062, Auburn Developments Inc. (Jamie Crich), Owner, for a change in zoning from the “J” (Light and Limited Heavy Industry, Etc.) District, Modified, to the “E-3”-“H” (High Density Multiple Residential - Holding) District, Modified, to permit the development of a 10 storey multiple residential building, on lands located at 17 Ewen Road, as shown on Appendix “A” to Report PED09103, on the following basis:
SUBJECT: Applications for Approval of an Official Plan Amendment and an Amendment to Hamilton Zoning By-law No. 6593 for Lands Known as 17 Ewen Road (Hamilton) (PED09103) (Ward 1) - Page 2 of 21

(i) That the draft By-law, attached as Appendix "C" to Report PED09103, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990 to the subject lands by introducing the Holding symbol 'H' as a suffix to the proposed Zoning District. The Holding provision will prohibit the development of the subject lands until such time as a Record of Site Condition (RSC) and noise study have been submitted, to the satisfaction of the City of Hamilton’s Director of Planning, including an acknowledgement of receipt of the RSC by the Ministry of Environment (MOE).

(iii) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the Hamilton Official Plan upon approval of Official Plan Amendment No. 1.

______________________________
Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of these applications is to amend the City Of Hamilton Official Plan, Ainslie Wood Westdale Secondary Plan (see Appendix "B"), and to amend the City of Hamilton Zoning By-law No. 6593 (see Appendix "C"), to permit the development of the lands for a 10 storey multiple residential building intended to be used for the purposes of student accommodation. The building would consist of approximately 150 units on a 0.42 ha parcel of land.

As the proposal would require the conversion of a site currently designated Employment Lands, the City, in accordance with the Provincial Policy Statement (PPS) and Places to Grow Legislation, was first required to identify and assess the potential and acceptability of the conversion through a Municipal Comprehensive Review. This review was conducted as part of the Hemson Report, which concluded that the lands subject to this application were deemed appropriate for conversion. The current application, therefore, seeks to determine a detailed land use alternative for the site in the form of a high density residential building.
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The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement, and implement the intent of the Hamilton-Wentworth Official Plan. The proposal is compatible with surrounding uses, protects existing residential character and amenity, and is an appropriate development that will contribute to the range and density of residential opportunities within the City of Hamilton.

BACKGROUND:

Hemson Report / Municipal Comprehensive Review

The Provincial Policy Statement (PPS) requires that a ‘comprehensive review’ of all employment lands be accepted by a Council prior to any decision on private applications for re-designating industrial land to other uses. According to the PPS, a ‘comprehensive review’ must provide a technical basis for defensible employment land decisions.

Furthermore, the Places to Grow Plan similarly requires the municipality to identify areas/sites for potential conversion through the completion of a Municipal Comprehensive Review. The comprehensive review must ensure that any sites that are chosen for potential conversion do not impair the municipality’s ability to meet its employment targets, the viability of the employment area is not undermined, there is a need for the conversion, and the infrastructure can accommodate another use.

Consequently, the City retained Hemson Inc. to complete this review for City Wide industrial designated lands. The report provided by Hemson also provided key inputs into the City's own “Growth Related Integrated Development Strategy” (GRIDS) and the related infrastructure master plans. Conclusions based upon this review indicated that the conversion of industrial lands at 17 Ewen Road, in particular, were both appropriate and desirable over the long term.

The official adoption of this Municipal Comprehensive Review is through the Province, as they are the legislative body that approves the City's Official Plan. Based on preliminary discussions, it appears that a municipal comprehensive / conversion analysis review is deemed complete once the Official Plan has been amended to implement its conclusions. However, it is staff’s position that private development applications for the conversion sites should proceed since Council has approved the removal of the subject lands from the City’s employment land supply, and that the new Official Plan will not be adopted until June 2009, and may be subject to appeals to the Ontario Municipal Board (OMB).

As a consequence, staff is satisfied that the conversion of 17 Ewen Road represents an appropriate conversion of Industrial lands in accordance with the PPS and Places to Grow legislation, and that any recommendation upon these applications should proceed prior to the formal adoption of the Municipal Comprehensive Review / Conversion Analysis into the forthcoming Official Plan.
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Proposal

The proposal would consist of a 10 storey purpose built student apartment building, providing approximately 150 units. The subject lands has frontage on both Rifle Range Road and Ewen Road, with access to the building provided from Rifle Range Road. A total of 195 parking spaces will be provided in two levels of underground parking (166 spaces) and surface parking (29 spaces). No access to the site is proposed from Ewen Road.

The proposal has been assessed against the “E-3” High Density Multiple Dwellings District and, as such, a number of modifications are required to accommodate the 10 storey residential building.

- Increase the maximum Gross Floor Area from 255% to 450%;
- Reduce the minimum West Yard Setback (Ewen Road) from 3.0m to 2.1m;
- Reduce the maximum North Yard Setback from 13.5m to 12.0m;
- Reduce the minimum South Yard Setback from 4.5m to 3.0m;
- Reduce the minimum East Yard Setback (Rifle Range Road) from 4.5m to 2.1m;
- Reduce the Minimum Required Landscaping from 40% to 15%;
- Reduce the Maximum Building Height from 18-storeys (57m) to 10 storeys;
- Omit the requirement for 2 loading spaces, whereas 2 are required; and,
- Permit parking to be located within the front yard.

These modifications, in addition to the merits of the Official Plan Amendment and Zoning By-law Amendment, will be discussed in detail in the Analysis/Rationale section of the report.

Details of Submitted Application

Owner/Applicant: Auburn Developments Inc. (Jamie Crich), Owner
Agent: GSP Group Inc.
Location: 17 Ewen Road
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Description:  
Frontage: 125 metres  
Lot Area: 0.42 hectares

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Warehouse</td>
<td>&quot;J/S-1522&quot; (Light and Limited Heavy Industry, Etc.) District, Modified.</td>
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<thead>
<tr>
<th>Surrounding Lands</th>
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<th></th>
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<tbody>
<tr>
<td>North</td>
<td>Commercial</td>
<td>&quot;H/S-1522&quot; (Community Shopping and Commercial, Etc.) District, Modified.</td>
</tr>
<tr>
<td>South</td>
<td>Industrial (Cadbury Building)</td>
<td>&quot;J/S-1522&quot; (Light and Limited Heavy Industry, Etc.) District, Modified.</td>
</tr>
<tr>
<td>East</td>
<td>Commercial</td>
<td>&quot;H/S-1468a&quot; (Community Shopping and Commercial, Etc.) District, Modified.</td>
</tr>
<tr>
<td>West</td>
<td>Commercial/Industrial/Utility</td>
<td>&quot;H/S-1046&quot; (Community Shopping and Commercial, Etc.) District, Modified / &quot;A/S-395&quot; (Agricultural) District, Modified / &quot;J/S-1522&quot; (Light and Limited Heavy Industry, Etc.) District, Modified.</td>
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ANALYSIS/RATIONALE:

1. The proposed changes in Zoning and Official Plan Amendment have merit and can be supported for the following reasons:
   i) It is consistent with the Provincial Policy Statement and Places to Grow Legislation, and conforms to the Hamilton-Wentworth Official Plan.
   ii) It is compatible with the type and form of development in the surrounding neighbourhood.
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iii) It is an appropriate development that will contribute to the range of residential options available to existing and future residents.

2. The subject lands comprise approximately 0.42 hectares (1.06 acres) of land within the Urban Area. The site is located in the block contained by Main Street West to the north, Rifle Range Road to the east, Ewen Road to the west, and Whitney Avenue to the south, with frontage directly along Ewen Road and Rifle Range Road. Notable surrounding uses include the former CNIB building (recently converted to a 9-storey building for the purpose of student accommodation), and the Cadbury Candy Factory located immediately south of the subject property.

The site currently maintains an industrial designation in the Hamilton Official Plan, Ainslie Wood Secondary Plan, and the Hamilton Zoning By-law. The site was formally used as a warehouse facility, and remains occupied by two buildings which are proposed to be demolished in order to permit the proposed residential development.

As detailed previously, the conversion of the lands from their industrial designation has been assessed through a City initiated Municipal Comprehensive Review and, as such, staff is satisfied that the conversion from this designation is appropriate (see Page 3 - Background). With regard to the proposed use, staff considers that the form and intensity of residential development proposed is acceptable, and would be both compatible with the surrounding area and conform to the Official Plan policies regarding new residential developments (see Page 9 - Density and Streetscape Character for further analysis). With regard to the amending Zoning By-law, modifications to the “E-3” District have been requested to accommodate the proposed building with respect to setbacks, landscaping, Gross Floor Area, and parking/loading arrangements. These modifications are discussed in detail in the following sections of the report.

3. Staff notes that there are municipal combined storm and sanitary sewers and watermains available to service the subject lands. As detailed in the Functional Servicing Report provided by Stantec in June 2007, it is intended that the site be serviced for storm and sanitary sewers to the municipal combined sewer on Rifle Range Road. This will be reviewed in more detail at the time of development.

The existing road allowance width of Ewen Road is 15.2m (50 ft.), and Rifle Range Road is 20.12m (66 ft.). Therefore, no road allowance widenings are required at this time.

Given that the previous use of the lands was for industrial purposes, and that the proposed use is for residential, a mandatory filing of a Record of Site Condition will be required. Staff, therefore, recommends that the lands be placed within an ‘H’ Holding provision in order to ensure the lands, if necessary, are remediated.
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In addition, due to the proximity of the subject lands to Main Street West (Arterial Road) and the adjacent industries and large scale commercial facilities, staff requests that a noise assessment be conducted to address this concern. This request will also form part of the 'H' Holding provision attached to the subject lands in order to ensure any mitigation measures are appropriately accommodated.

Staff notes that the site is adjacent to the Hamilton-Brantford Rail Trail. The concept plan does not indicate any direct pedestrian connections to Ewen Road or Riffle Range Road, however, both Ewen Road and Riffle Range Road have direct trail access. It is considered that connectivity with respect to the trail system in and around this site should be reviewed and considered at the site plan stage.

4. In accordance with the new provisions of the Planning Act and the Council Approved Public Participation Policy, a Preliminary Circulation was sent to 52 property owners within 120 metres of the subject lands, and a public notice sign was placed on the property. A petition with approximately 300 names on it, and 15 formal letters, were received in response to the preliminary notice of circulation (attached as Appendix "E"). One letter was received in support of the proposal, and one letter was received from the Ainslie Wood / Westdale Community Association.

Many of the letters received stated concerns including the potential for anti-social behaviour as a result of the saturation of students; unacceptable increase in traffic and inadequate parking; loss of greenspace; negative impact on surrounding uses - particularly residential and commercial; loss of amenity from privacy, loss of views, overshadowing and excessive wind tunnelling; aesthetically damaging and incongruent impact when compared with existing low profile neighbourhood; unsuitable access from a side street; not in accordance with existing secondary plan; would lower property values and water pressures; negatively affect the environment; and concerns over the existing soil stability to maintain the building. Finally, concern was also raised over the potential of the building to be converted into condominiums in the future with sub-standard parking availability.

As detailed above, a letter was also received from the Ainslie Wood / Westdale Community Association. The letter stated concern over the scale and massing of the project and the inadequate supply of parking. These issues raised will be discussed, in detail, in the following sections.

5. Anti-Social Behaviour:

Concerns have been raised with regard to the potential for increased anti-social behaviour following the ‘saturation’ of students into the area. In terms of land use, the Official Plan Amendment and Zoning By-law Amendment strictly provide
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the opportunity under the Planning Act to evaluate the appropriateness of the proposed use - that of residential - as opposed to assessing any demographic stratification thereof. Consequently, any assessment based upon particular characteristics of a residential group, in this case students, would constitute a contravention to the Planning Act, in addition to other Legislative Acts.

However, staff notes that the impacts associated with the introduction of additional residents, facilitated through the high density form of development proposed, can be considered and assessed with respect to amenity, traffic, and overall character of the area. These issues will be addressed in the following sections.

6. Traffic/Safety and Parking Issues:

With respect to traffic, concerns from local residents included issues with both the increased volumes along the major and local streets in the vicinity of the proposed development, and also with the loss of parking within the area, particularly the residential neighbourhoods.

In addressing the issue of capacity, the application included a Traffic Impact Study, compiled by Paradigm Transportation Solutions Ltd. (February 2007). The study assessed current traffic conditions in the vicinity of the development, as well as developed estimates of the future traffic that will occur as a result of the proposed development. The study concludes that the site generated traffic, as a result of build-out of the subject site, is not expected to result in a noticeable change in the level of service at any of the intersections within the study area. In addition, it was noted that no traffic control signals are warranted for the intersection of Ewen Road and Main Street West, nor will any remedial measures be warranted in order to accommodate the site generated traffic.

Staff reviewed the impact assessment report and requested additional information regarding trip generation calculations. These concerns were addressed in a memorandum revision, submitted by Paradigm Transportation Solutions Ltd., in May 2008. Conclusions drawn from the revised calculations did not affect the original conclusions of the report and, as such, staff is satisfied that the proposal would not result in a significant impact upon existing traffic flows or pedestrian safety. Furthermore, in response to the concerns raised by local residents, the amending By-law will prohibit access to the subject lands from Ewen Road, which is not signalized (see Appendix "C"), ensuring access would be from Rifle Range Road, which is signalized, at Main Street West.

With regard to the impact upon parking, the proposal would include both surface parking (29 spaces) and underground parking (168 spaces), providing a total of 195 spaces. The number of spaces provided would exceed the number of spaces required for a 150 unit multiple dwelling in accordance with the parking requirements of Section 18A of By-law No. 6593 (1.25 spaces/unit = 188
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spaces). However, staff acknowledge that based on the definition in the By-law, the proposal is not considered a student residence, but a multiple dwelling. Consequently, the parking standards are based upon the number of proposed dwelling units (150), and are not based on the total number of residents (600 students).

In response to this, residents have raised concerns which identify that, as a result of the intended demographic to reside at this location (all adults), there would be a greater pressure and demand upon parking. Staff considers that such pressure must be offset against both the provision of well serviced public transit and also the proximity of McMaster University to the subject lands. In addition, it must be noted that the ratio of parking available exceeds that provided on the recently developed student residence on an adjacent site (former CNIB). The ratio of parking spaces per unit for the former CNIB site is 0.98 parking spaces per unit, while the parking ratio for this proposal is 1.30 parking spaces per unit. In light of this situation, staff is satisfied that the parking provided would satisfactorily accommodate the proposed use.

In order to accommodate the development as proposed, the “E-3” District would require modifications to the number of required loading spaces, and would also need to be modified in order to permit parking in a required front yard. The standard “E-3” District requires provision of 2 loading spaces, however, the applicant has requested that no loading spaces be provided.

In the Planning Justification Report (and supplementary response submitted December 2008) provided by GSP Group in support of the application, they detail that the owners of the building (Auburn Developments) will operate a formal and regimented move in/out program for all tenants. The schedule consists of allocating a one-hour timeslot for each student, in which they are allowed to move into the building. This requires the temporary elimination of six surface parking spaces at the north side of the building, and access to an interior corridor and elevator. If a student misses this timeslot, they will be required to reschedule. Staff considers that this procedure, in addition to the fact that they will be providing 7 parking spaces above that required in the proposed District, will ensure that there remains, at all times, satisfactory parking and loading for the intended use.

In regard to the modification to permit parking in a required front yard, staff notes that the subject lands are considered a through lot (as it has frontage on both Rifle Range Road and Ewen Road). Consequently, under By-law 6593, the subject lands are considered to have two front yards. Under these circumstances, staff is satisfied that the modification can be supported, as it represents a technicality, which is not considered to have a significant nor detrimental impact upon the streetscape.
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Finally, in response to traffic issues, staff also notes that the south property line constitutes the approximate location designated in the City of Hamilton Master Trails Plan for the Hamilton-Brantford rail trail link. Discussions have taken place with staff and the two adjacent landowners, and it is considered the provision of the trail can be realized. Staff is, therefore, satisfied that discussions regarding easement/dedication for such a trail link can be addressed at the site plan stage and through further discussions with the adjacent landowners. The remaining traffic issues raised by staff concerning the development will be dealt with through the Standard Site Plan Process.

7. Density and Streetscape Character:

The subject lands are located within the Ainslie Wood Secondary Plan area, which is bordered by Highway 403 to the south, and is bisected by Main Street West, which runs through the centre of the neighbourhood. The predominant form of land use is residential, accompanied by a large portion of institutional to the north east (McMaster University). In addition to this, several large areas of parkland exist towards the periphery of the Plan Area; mixed use and commercial areas are located along either side of Main Street West; and an industrial pocket along Ewen Road and Ripple Range Road (which includes the subject lands).

The majority of the industrial area is occupied by the Cadbury Candy Factory located immediately south of the subject property. Immediately to the north, land uses include a number of commercial properties, including a fast food restaurant and car rental facility.

The proposal would consist of a 10 storey purpose built student apartment building, providing approximately 150 units, with a site area of approximately 0.42 ha. Given the height and subsequent density of development, concern has been raised with regard to the potential erosion of character of the surrounding residential neighbourhood.

In terms of policy framework, at the Provincial level, both the Provincial Policy Statement (PPS) and the Places to Grow (Growth Plan 2006) Legislation, which supplements the basic intent of the PPS, provides general directions towards guiding new development. With regard to the PPS, Policy 1.1.3.1 states the intent to focus growth in settlement areas. Similarly, the Growth Plan in Section 2.2.2.1 - Managing Growth, details that population and employment growth will be accommodated by directing it to built-up areas through intensification. The applications are, therefore, considered to be consistent with this legislation.

However, in terms of assessing the built form, character and particular merits of the proposal, staff must look toward the intent and policies of the Hamilton Official Plan in general, and the Ainslie Wood Westdale Secondary Plan in particular. As discussed previously, staff has committed to, and is satisfied with, the conversion of the lands from Industrial. Given Council’s position on the
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subject lands the applicant has requested, through the proposed applications, the consideration of an alternative use of the site in the form of high density residential development. In this regard, the residential policies of the Hamilton Official Plan and Ainslie Wood Secondary Plan (in addition to other general policies of both documents) have been used to assess the compatibility of the proposal.

Policy A.2.1.8 states it is the intent of Council that a variety of housing styles, types, and densities be available in all residential areas of the City, and that development shall contribute to the desired mix of housing where practical. In this regard, staff considers that the proposal would further contribute to the variety in the type and density of development provided for within the City. Policy C.7.3 furthers this intent, detailing that regard must also be given to building height, setbacks, mass, and privacy of the existing residential area.

Staff considers that although the proposal would be 10 storeys in height, the mass of the building would be considerably mitigated through its design. The amending By-law shall incorporate as a requirement the two proposed "step-backs" on both ends of the building (those facing Ewen Road and Rifle Range Road), at the eighth and ninth/tenth floors. In addition, it should be noted that although setbacks and increases to the GFA would be required to facilitate this development, these modifications are supportable given that the land uses immediately surrounding the site consist of larger buildings used for either industrial or commercial purposes. Consequently, the height and subsequent density of development proposed is not considered to appear as incongruent as it would otherwise appear if it were abutting low profile residential areas.

On this matter, objections received identified a policy in the Ainslie Wood Secondary Plan (Policy 6.4.5 ix), which prescribes 4-6 storeys and that, therefore, at 10 storeys, this proposal would not be in accordance with the intent to maintain lower profile developments throughout the Secondary Plan. Staff notes that the intent for this policy is to guide development either side of Main Street West in order to facilitate mixed use development that would compliment the existing, low profile residential uses along Main Street West. The subject lands are, therefore, not considered to be inconsistent with this intent, given that it is not immediately adjacent to Main Street West, and that it is surrounded by commercial and industrial land uses, as opposed to low profile residential development.

In returning to the issue of density, staff notes that while the level of high density development proposed would exceed those general densities anticipated for this designation in the Secondary Plan (357 units per ha, as opposed to 50-125 units per ha), the overall impact would be both appropriate and acceptable given the proximity of the building to major transit corridors and transportation networks. In addition, it must be noted that given that this would be the only residential use within the front portion of the block of lands bounded by Ewen Road, Rifle Range
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Road, Whitney Avenue, and Main Street West, the cumulative impact of the density proposed is considerably mitigated. The Secondary Plan Policy regarding density calculations for this particular site will, therefore, be amended accordingly in order to permit the level of density proposed.

Finally, in terms of urban design, the concept plan and statement of intent provided by the applicant indicates that the materials used and site functionality will respect, and be sympathetic to, the surrounding area. The proposed reduction in landscaping, in particular, can be supported as it is considered the unique characteristics of the site, and that surrounding it can accommodate such a reduction without significant impacts upon the character or amenity of the area. Furthermore, staff will conduct further review of these details, including pedestrian and cycling connectivity, and ensure conformity with the design policies of the Secondary Plan, at the Site Plan stage.

8. Amenity:

In addition to the issues addressed above, given the scale and massing of the proposal, the applicant submitted a wind and sun-shadow assessment in support of the 10 storey residential building, in accordance with Policy 6.4.1.4 (i) of the Ainslie Wood Westdale Secondary Plan. The sun-shadow report concluded that while surrounding properties would be affected, the duration of impact would be limited to a few hours per day, and that no site would be affected for an entire day during the winter period. Furthermore, those uses most affected consisted primarily of the adjacent industrial and commercial uses. As such, staff is satisfied that the impacts illustrated within the sun-shadow study would not be unacceptable and would maintain sufficient and appropriate amenity for surrounding land uses.

With respect to the Pedestrian Wind Assessment (compiled by RWDI Consulting Engineers & Scientists, March 2006), the report concluded that no significant wind impacts are expected with build out of the building off-site, and that conditions are considered suitable for the expected usage of the area. It was also noted in the report that any potential impacts created would be further mitigated through the provision of landscaping including tall trees and grade level terraces. The elevational design and landscaping treatment implementing these measures will be addressed at the site plan stage.

The potential for surrounding residential areas to experience a loss of privacy as a result of the proposal is not considered significant. Uses immediately surrounding the building are either industrial or commercial and, as such, do not benefit from the same level of protection afforded to residential uses. Furthermore, the building will have its principle fenestrations directed towards Main Street West, and have also removed all previously proposed balconies to the rear (in order to satisfy stationary noise concerns emitted from the Cadbury Candy Factory located to the south). It is, therefore, considered that those
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residential areas in the vicinity of the building would not endure an unacceptable loss of privacy, given that they will be separated from the development by a mix of industrial and commercial uses and public streets.

With respect to the preservation of views, it is noted that while some existing views of the Escarpment would be interrupted, the extent of this impact upon the vista, given the location, orientation, and architectural design of the building, would not be significant.

Finally, consideration has been given to the prospective tenants of the proposed building with regard to the noise impacts that would be experienced as a result of the buildings proximity to adjacent industrial uses and arterial roads/highways. Staff has, therefore, recommended that the subject lands be placed under a “H” Holding provision in order to prohibit development until such point that a noise study has been submitted and approved, to the satisfaction of Director of Planning.

9. Use Compatibility:

As detailed previously, the conversion of the site and adjacent site from “industrial” to other uses has been examined and qualified through a Municipal Comprehensive Review. The conclusions drawn from that study identify this pocket of Industrial lands as suitable for conversion given the characteristics of the Industrial area currently existing and the range of uses surrounding. The Ainslie Wood Westdale Secondary Plan, while designating the area as Industrial, reflect these conclusions in their policies, which identify the increasing transition of these uses out of the area. In particular Policy 8.4.6 (i) makes reference to lands presently used for industrial purposes and states that these will be encouraged to convert to alternative uses in the long term. This trend has already been witnessed in the past within the Secondary Plan Area, including the current Fortino’s grocery store which was converted from previously zoned industrial land.

Staff is, therefore, satisfied that the viability of Industrial development in and around this area has been assessed, and conclude that the phasing out and transition away from such uses is both appropriate and desirable. Those policies prescribed in the PPS and Places to Grow legislation, which relate to the protection of viable Industrial lands, therefore, do not conflict with staff’s position as all conditions for conversion have been satisfied.

Notwithstanding the above, the remaining industrial uses (in particular the Cadbury Candy Factory) will continue to operate and be recognized and permitted under a Special Policy Area. It is considered that given the requested noise study, both uses could function satisfactorily together despite their close proximity. With regard to existing commercial areas, it is considered that the influx of residents (and by virtue consumers) into the area, would result in a
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relationship that is both compatible and complementary. Finally, as discussed in previous sections, the proposed development is considered compatible with the range of residential uses in the surrounding area.

10. Open Space / Greenspace:

Staff does not consider the existing subject lands as greenspace and, as such, does not agree that the proposed development would result in any significant loss. Furthermore, it should be noted that several large parks and green open spaces exist within the Secondary Plan Area, and that these are well connected to the site by existing and proposed trails. Such provisions provide more than adequate amenity space for existing and proposed residents within the area.

In accordance with the City of Hamilton’s Parkland Dedication and Cash-in-Lieu of Parkland By-law, the application is subject to a parkland dedication, or a Cash-in-Lieu of parkland dedication payment. Therefore, in accordance with City By-laws, a cash payment to the City of Hamilton, in-lieu of the conveyance of the land, will be required prior to the issuance of a building permit for the proposed development. This will be required as a condition of Site Plan Approval.

11. Property Values and Soil Stability:

Finally, there are concerns related to the proposed development reducing the values of the existing properties in the neighbourhood. As noted earlier, the subject applications propose high density residential development in the form of purpose built student accommodation. Staff is not aware of any data that would support this opinion.

On the subject of soil stability, staff is not aware of any pre-existing condition that would suggest the development could not proceed based on existing soil conditions. Notwithstanding this, it is considered that the required building permit process provides sufficient safeguards to ensure the soil stability and structural soundness of the building.

ALTERNATIVES FOR CONSIDERATION:

If the application is denied, the applicant has the option of using the property for the current range of uses permitted in the “J-S/1522” (Light and Limited Heavy Industry, Etc.) District, Modified, which provides for a range of light industrial, manufacturing, and warehouse type uses.

FINANCIAL/STAFFING/Legal implications:

Financial - N/A.

Staffing - N/A.
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Legal - As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for approval of an Official Plan Amendment and change in Zoning.

POLICIES AFFECTING PROPOSAL:

Provincial Growth Plan for the Greater Golden Horseshoe

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff considers the application to be consistent with the policies that manage growth and direct general residential intensification to the built-up areas, as per the Policies contained in 2.2.2 and 2.2.3.

Following completion of the Municipal Comprehensive Review, staff is satisfied that the conversion of lands designated as "Industrial" are appropriate and in accordance with Policy 2.2.6.

The proposal maintains the intent to create vibrant neighbourhoods, which provide residential uses that are transit supportive.

Provincial Policy Statement

The applications have been reviewed with respect to the Provincial Policy Statement (PPS). The applications are consistent with Policy 1.1.3.1 of the PPS, which focuses growth in settlement areas.

Also, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants, and to minimize risk to public health and safety. Due to the proximity of the subject lands to adjacent industrial uses, the Owner is required to conduct a noise assessment. The lands will subsequently be placed in an "H" Holding provision in order to ensure this study is conducted.

Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. Therefore, due to the fact the previous use of the site was for industrial purposes, and the proposed use is residential, Ontario Regulation 153/04 requires a mandatory filing of a Record of Site Condition (RSC) for the area. Staff has, therefore, recommended an ‘H’ Holding symbol in the zoning to ensure site remediation, and to ensure the proposal is consistent with the principles and policies of the PPS.
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Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” within the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas.

Policy 3.1.1 states that a compact higher density urban form with mixed use development along corridors, best meets the environmental, social, and economic principles of sustainable development. Mixed form of development within an Urban Area is preferable to widespread, low density residential development, and scattered rural development.

Policy B.2.3 states that identification of contaminated sites is essential, and that redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. Subsequent sub-policies direct proponents to submit a professional analysis of soils on the site in accordance with Ministry of the Environment and Energy requirements. Staff has recommended an ‘H’ Holding symbol in the zoning to ensure site remediation, and to ensure the proposal conforms to the Hamilton-Wentworth Official Plan.

Hamilton Official Plan

The subject property is designated “Industrial” on Schedule “A”, Land Use Plan in the former City of Hamilton Official Plan and Special Policy 11 on Schedule “B” - Special Policy Areas. The proposal seeks to amend the designation to “Residential” and, as such, the following policies of the Hamilton Official Plan, among others, are applicable to the subject lands:

“A.2.3.12 Council will ensure that non-industrial land uses abutting GENERAL INDUSTRIAL areas are protected from any adverse impacts through the provision of adequate separation, screening, barriers, fencing, and landscaping or other like measures.”

Although the proposed residential development would abut an existing light industrial use (Cadbury's), staff is satisfied that sufficient opportunity exists, given that this would be a new development, to investigate and implement any mitigation measures deemed necessary to protect against any adverse impacts. To ensure this is completed, staff has attached a Holding provision into the implementing By-law, restricting any development until such time as a noise study has been completed and the mitigation measures implemented.

“A.2.1.8 It is the intent of Council that a variety of housing styles, types, and densities be available in all RESIDENTIAL areas of the City, and further, that proposals for new development or redevelopment will contribute to the desired mix of housing where practicable. In this regard, Council will
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be guided by the Housing Policies of Subsection C.7 and the Neighbourhood Plan Policies of Subsection D.2."

"C.7.7.1 In the development of new RESIDENTIAL areas and, as far as practicable, in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of RESIDENTIAL amenity:

i) Provision and maintenance of adequate off-street parking.

ii) Alteration of traffic flows.

iii) Improvement and maintenance of street landscaping.

iv) Acquisition, removal or improvement of buildings or uses incompatible with a zoning district.

v) Provision of advice and assistance in the improvement and maintenance of private dwellings.

vi) Investigation into, and application of, other methods of encouraging the maintenance and improvements of buildings in RESIDENTIAL areas.

vii) The maintenance of adequate separation distances and the placement of buffering features between RESIDENTIAL and Industrial uses.

viii) Other similar actions or matters as Council may deem appropriate."

As discussed within the Analysis/Rationale section of the report, staff considers the proposed development to be both in keeping with the character of the area and of sufficient density to ensure the subject lands are efficiently utilized.

"C.7.7.2 Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value."

It is considered that the high density development proposed is sufficiently separated from adjacent lower density residential development, while maintaining the intent to locate higher density development closer to transportation and transit corridors.

"C.7.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:
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(iii) Support RESIDENTIAL development such as infilling,
redevelopment, and the conversion of non-residential structures
that makes more efficient use of the existing building stock and/or
physical infrastructure that recognize and enhance the scale and
character of the existing residential area by having regard to natural
vegetation, lot frontages and areas, building height, coverage,
mass, setbacks, privacy and overview; (O.P.A No. 128).

(v) Encourage new RESIDENTIAL development that provides a range
of dwelling types at densities and scales that recognize and
enhance the scale and character of the existing residential area by
having regard to natural vegetation, lot frontages and areas,
building height, coverage, mass, setbacks, privacy and overview;”

The proposal will increase the supply of housing in the neighbourhood in a manner that
is compatible with existing surrounding residential uses. The proposal represents an
appropriate example of infill development that will make efficient use of existing
services, while ensuring that the existing character of the neighbourhood is maintained.

Based upon the forgoing, Planning staff is of the opinion that the conversion of the lands
to residential would be appropriate and would conform to the Hamilton Official Plan.

Secondary Plan

The subject lands are located within the Ainslie Wood Westdale Secondary Plan and
are currently designated “Industrial” on Schedule “N1” - Land Use Plan. It is proposed
that the lands be re-designated to “High Density Residential” from “Industrial”. As such,
the following policies of the Secondary Plan, among others, are applicable to the subject
lands:

“6.4.6 (i) Lands presently used for industrial purposes, such as heavy
manufacturing, will be encouraged to convert in the long term to less
intensive uses…”

The conversion of the lands to residential is considered in-keeping with the transition
away from Industrial uses within the Ainslie Wood Westdale Secondary Plan.

“6.4.1.4(i) High Density Residential areas permit multiple dwellings to a maximum
height of 10 storeys, except in the case of existing buildings which may be
higher. Additional height is permitted for new buildings, provided it will not
produce any adverse wind impacts, or adverse shadow impacts on public
spaces and/or private outdoor amenity spaces.”

The applications included sufficient wind and shadow studies to justify the height and
massing of the building and, in addition, it would not be higher than 10 storeys. As
such, staff is satisfied that the proposal conforms with the above policy.
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"6.4.1.4(ii) The residential densities associated with the High Density Residential uses will generally be about 50-125 units per gross hectare."

It is observed that the units per hectare for the proposal would exceed the generally anticipated residential density, however, the individual merits of the subject lands are considered to warrant an amendment to this policy.

"6.4.1.4 (iii) These High Density Residential areas are located along major roads, specifically sections of Main Street West..."

It is considered that the proximity of the subject lands to Main Street West ensures compatibility with this policy, and its intent to ensure all High Density Developments are readily accessible to major transportation networks.

"6.4.11 (vi) Views and vistas which are important to the Ainslie Wood Westdale area, including views of the Niagara Escarpment and Cootes Paradise, will be identified and preserved in development/redevelopment..."

As discussed previously, although the proposal at 10 storeys in height will interrupt certain vistas of the Escarpment, it is considered that the scale, bulk, and massing of the project, in addition to its location, satisfactorily mitigates against significant loss of views.

"6.4.12 (v) Extension of the Hamilton Brantford Rail Trail from Ewen Road east to Highway 403 and towards downtown will be considered a priority, and will be facilitated by coordinated City actions..."

Review of the location and implementation of the Rail Trail with respect to the current proposal will be conducted in more detail at the site plan stage. It is considered that this development represents an important opportunity to secure portions of this trail, providing a necessary and desirable network for existing and future residents.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comments/Objections

- Budgets, Taxation and Policy Services, Corporate Services Department.
- Public Works Department (Traffic Engineering and Operations Section).
- Public Works Department (Forestry and Horticulture Section).
- Hamilton-Wentworth District School Board.
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Open Space Development and Park Planning

Open Space Development and Park Planning identify that the subject site is situated adjacent to the Hamilton-Brantford Rail Trail. The site plan does not indicate any direct pedestrian connections to Ewen Road or Rifle Range Road. Ewen Road is part of the City's on-street cycling route. Both Ewen Road and Rifle Range Road have direct trail access that will be well utilized by students in this complex.

Hamilton Street Railway

- HSR operates various bus routes along Main Street with no planned changes in service.
- HSR supports the inclusion of high quality pedestrian amenities at this development like walkways, lighting, etc.
- Street orientation and pedestrian entrances are important.
- High density development located close to Main Street West is extremely transit supportive, in that it will generate additional passenger revenue without the need to extend routes or increase service frequency.

Public Consultation

In accordance with the new provisions of the Planning Act and the Council Approved Public Participation Policy, a Preliminary Circulation was sent to 52 property owners within 120 metres of the subject lands, and a public notice sign was placed on the property. A petition with approximately 300 names on it, and 15 formal letters, were received in response to the preliminary notice of circulation (attached as Appendix "E"). One letter was received in support of the proposal, and one letter was received from the Ainslie Wood/Westdale Community Association.

The letters and petition that stated concern with the proposal raised issues, including the potential for anti-social behaviour as a result of the saturation of students; unacceptable increase in traffic and inadequate parking; loss of greenspace; negative impact on surrounding uses - particularly residential and commercial; loss of amenity from privacy, loss of views, overshadowing and excessive wind tunnelling; aesthetically damaging and incongruent impact when compared with existing low profile neighbourhood; unsuitable access from a side street; not in accordance with existing secondary plan; would lower property values and water pressures; negatively affect the environment; and concerns over the existing soil stability to maintain the building. Finally concern was also raised over the potential of the building to be converted into condominiums in the future with sub-standard parking availability.
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As detailed above, a letter was also received from the Ainslie Wood/Westdale
Community Association. The letter stated concern over the scale and massing of the
project and the inadequate supply of parking. These issues have been discussed in
detail in the Analysis/Rationale section of this report.

In accordance with the requirements of the Planning Act, notice of the Public Meeting
will be sent to owners within 120m of the subject lands.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make
choices that create value across all three bottom lines, moving us closer to our vision for a sustainable
community, and Provincial interests.

Community Well-Being is enhanced. ☐ Yes ☐ No
The public are involved in the definition and development of local solutions. In response to concerns
raised, the applicant has provided technical (wind and shadow) studies in support of the application.

Environmental Well-Being is enhanced. ☐ Yes ☐ No
Applying the principles of intensification and best use of available land, while ensuring impacts are
mitigated and existing contaminated areas are remediated.

Economic Well-Being is enhanced. ☐ Yes ☐ No
Investment in Hamilton is enhanced and supported since the proposal provides for increased tax
revenues.

Does the option you are recommending create value across all three bottom lines?
☐ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance
public servants? ☐ Yes ☐ No

:EJ
Attachments. (5)
Draft Amendment No. ___
to the
City of Hamilton Official Plan

The following text, together with Schedule “A”, “Land Use Concept”; Schedule “B”, “Special Policy Areas”; and Schedule “N1”, “Land Use Plan - Ainslie Wood Westdale Secondary Plan” of the Official Plan of the former City of Hamilton, attached hereto, constitute Official Plan Amendment No. _____.

Purpose:

The purpose of this Amendment is to re-designate the subject lands from “Industrial” to “Residential” on Schedule “A”, Land Use Concept, delete the lands from Schedule “B”, Special Policy Area - City of Hamilton Official Plan, and re-designate the subject lands from “Industrial” to “High Density Residential” on Schedule “N1”, Land Use Plan - Ainslie Wood Secondary Plan, in order to permit a 10 storey residential building with a maximum density of 375 units per gross hectare.

Location:

The lands affected by this Amendment are known municipally as 17 Ewen Road, and have an area of approximately 0.42 Hectares.

Basis:

The intent of the Amendment is to permit a 10 storey residential building. The basis for the re-designation is as follows:

- The proposed development is consistent with the Provincial Policy Statement;
- The proposed development offers an opportunity for infill development within the built-up urban area conforms to the intent of the Places to Grow Plan, and proposes conversion of existing employment lands that have been supported through a City Initiated Municipal Comprehensive Review;
- The proposed development conforms with the Region of Hamilton-Wentworth Official Plan;
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- The proposal is consistent with the "Residential" designation of the City of Hamilton Official Plan, and the "High Density Residential" designation of the Ainslie Wood Westdale Secondary Plan;

- The proposed development is suitably located in proximity to a major arterial road (Main Street West) with direct access to public transit, and is in close proximity to the McMaster University campus;

- The proposed development is compatible with the existing and planned development in the immediate area, and will not detract from the character of the surrounding neighbourhood; and,

- It is an appropriate development that will contribute to the range of residential options available to existing and future residents.

**Actual Changes:**

1. Schedule "A", Land Use Concept, be revised by re-designating the subject lands from "Industrial" to "Residential", as shown on the attached Schedule "A" to this Amendment.

2. Schedule "B", Special Policy Areas, be revised by deleting the subject lands from the Plan Area, as shown on the attached Schedule "B" to this Amendment.

3. Schedule "N1" Land Use Plan - Ainslie Wood Westdale Secondary Plan, be revised by re-designating the subject lands from "Industrial" to "High Density Residential", as shown on the attached Schedule "C" to this Amendment.

4. That the following Policy 6.4.1.4 (iii) be added as follows:

   6.4.1.4 (iii) Notwithstanding Policies 6.4.1.4 (i) and 6.4.1.4 (ii), for the lands known municipally as 17 Ewen Road with an area of approximately 0.42 hectares (1.06 acres) and designated High Density Residential on Schedule N1, Land Use Plan, the maximum height of any proposed building or structure shall be limited to 10 storeys, and the residential densities associated with the High Density Residential uses shall range from 300 to 375 units per gross hectare.
Implementation:

An implementing Zoning By-law Amendment and site plan will give effect to the intended use on the subject lands.

This is Schedule "1" to By-law No., passed on the ___ day of ____, 2009.

The
City of Hamilton

__________________________  _____________________________
Fred Eisenberger          Kevin C. Christenson
Mayor                    Clerk
Appendix “C” to Report PED09103 (Page 1 of 5)

Authority: Item [redacted], Economic Development and Planning Committee
Report: 09- [redacted] (PED09103)
CM:

Bill No.

CITY OF HAMILTON
BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), respecting lands located at 17 Ewen Road

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item [redacted] of Report 09- [redacted] of the Economic Development and Planning Committee at its meeting held on the [redacted] day of [redacted], 2009, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law will be in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982, upon approval of Official Plan Amendment No. [redacted], proposed by the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. That Sheet No. W46 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the zoning from the “J/S-1552” (Light and Limited Heavy Industry, Etc.) District, Modified, to the “E-3’-H” (High Density Multiple Residential - Holding) District, Modified, on the lands the extent and boundaries of which are shown on the plans hereto annexed as Schedule “A”.

2. That the “E-3’-H” (High Density Multiple Residential - Holding) District regulations, as contained in Section 11C of Zoning By-law No. 6593, be modified to include the following special requirements:

(a) That notwithstanding Section 11C (1a) of Zoning By-law No. 6593, the height of a building or structure shall not exceed 10-storeys and 35 metres.

(b) That notwithstanding Section 11C(4) of Zoning By-law No. 6593, no buildings or structures shall have a total Gross Floor Area of more than 19,000m².

(c) That notwithstanding Section 11C(2) of Zoning By-law No. 6593, the following yards shall be required:

1) A westerly yard (Ewen Road) having a depth of not less than 2.1 metres adjacent to a building height of 21 metres (7 storeys); 5.9 metres adjacent to a building height of 24 metres (8 storeys); and 11.39 metres adjacent to a building height of 35 metres (10 storeys), shall be provided and maintained for all buildings and structures.

2) A northerly yard having a depth of not less than 12 metres shall be provided and maintained for all buildings and structures.

3) A southerly yard having a depth of not less than 3.0 metres shall be provided and maintained for all buildings and structures.

4) An easterly yard (Riffe Range Road) having a depth of not less than 2.1 metres adjacent to a building height of 21 metres (7 storeys); 5.7 metres adjacent to a building height of 24 metres (8 storeys); and 13.7 metres adjacent to a building height of 35 metres (10 storeys), shall be provided and maintained for all buildings and structures.

(d) That notwithstanding Section 11C(5) of Zoning By-law No. 6593, there shall be provided and maintained at least 15% of the area of the lot as landscaped area.
(e) That notwithstanding Section 18A.(1)(c) of Zoning By-law No. 6593, no loading spaces shall be required.

(f) That notwithstanding Section 18A.(14g) of Zoning By-law No. 6593, required parking shall be permitted in a required front yard.

(g) That no vehicular access or egress shall be provided to Ewen Road.

3. That the 'H' symbol applicable to lands referred to in Section 1 of this By-law shall be removed conditional upon:

a) The submission of a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, Director of Planning, including an acknowledgement of receipt of the RSC by the MOE.

b) That the Owner shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment's recommended sound level limits. An acoustical report, prepared by a qualified professional Engineer containing the recommended control measures, shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning.

The 'H' symbol shall be removed by amendment to this By-law, and the development of the lands referred to in Section 1 of this By-law may, at such time, proceed in accordance with the "E-3" District, Modified provisions, subject to the special requirements referred to in Section 2 of this By-law.

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 "E-3" (High Density Multiple Residential) District provisions, subject to the special requirements referred to in Sections 2 and 3.

5. That By-law No. 6593 (Hamilton) is amended by adding this by-law to Schedule S-1609.

6. That Sheet No. W46 of the District Maps is amended by marking the lands referred in Section 1 of this By-law as S-1609.
7. 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
Mayor

__________________________
Kevin C. Christenson
Clerk

ZAC-07-062
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Appendix "C" to Report PED09103 (Page 5 of 5)

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

Subject Property
17 Ewen Road, Hamilton

Change in Zoning from the "J" (Light and Limited Heavy Industrial, etc) District, Modified, to the "E-3" -H (High Density Multiple Residential - Holding) District, Modified.