SUBJECT: Application for Changes in Zoning for Lands Located at 1324 Rymal Road East (Hamilton) (PED07191) (Ward 6)

RECOMMENDATION:

That approval be given to Amended Zoning Application ZAC-07-004, by Rystat Developments, owner, for changes in zoning from the “M-11” (Prestige Industrial) District to the “M-11/S-1580” – ‘H’ (Prestige Industrial - Holding) District, Modified (Block “1”), and from the “M-14” (Prestige Industrial) District to the “M-11/S-1580” – ‘H’ (Prestige Industrial – Holding) District, Modified to permit future commercial development on the lands located at 1324 Rymal Road East (Hamilton), as shown on Appendix “A” to Report PED07191, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED07191, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the amending By-law apply the Holding provisions of Section 36(1) of the Planning Act, by introducing the Holding ‘H’ symbol as a suffix to the proposed zoning. The Holding provision will prohibit the development of the subject lands until such time as:

(i) An Archaeological Assessment has been submitted to the satisfaction of the City of Hamilton’s Manager of Development Planning and the Ministry of Culture.

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

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the application is to rezone a portion of the lands located at 1324 Rymal Road East to permit the development of a gas service station with car wash, drive-thru restaurant, bank, and other commercial retail space as outlined in the proposed concept plan (attached as Appendix “C”). Given that the subject property has been identified as having potential for the discovery of archaeological resources, it is recommended that a ‘H’ Holding provision be added to the proposed zoning requiring the applicant to undertake an archaeological assessment of the subject property.

The application has merit since it is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth and Hamilton Official Plans. In addition, the proposal will provide for commercial uses that will serve the needs of industries within the East Mountain Industrial Business Park, the North Glanbrook Industrial Business Park, and the surrounding area. It also fulfils a condition of approval for a related severance application (see Appendix “D” – Condition 3).

BACKGROUND:

Proposal

As shown on Appendix “A”, the applicant has applied for a modification to the “M-11” (Prestige Industrial) District on Block “1” and to rezone a portion of the subject property from the “M-14” (Prestige Industrial) District to the “M-11” (Prestige Industrial) District, modified to permit the development of a gas service station with car wash, drive-thru restaurant, bank, and other commercial retail space as shown on Appendix “C”.

Staff have included modifications to require a maximum front yard setback of 3.0 metres, a maximum flankage side yard setback of 6.0 metres, to reduce the minimum interior side yard setback from 6.0 metres to 3.0 metres, to reduce the minimum landscaped area abutting a street from 6.0 metres to 3.0 metres, to require a minimum 1.5m wide planting strip along the rear and interior side lot lines, to require a minimum built frontage along the northerly and easterly lot lines, to require windows on façades facing a street, to require that no parking area be located closer to the street than 6.0 metres, to restrict the location of drive-thru’s and stacking lanes, and to permit an accessory structure (garbage enclosure) in the required side yard. These modifications
were included to address urban design concerns, given the subject property's prominent location at the entrance of the East Mountain Industrial Business Park.

**Consent Application HM/B-07:12**

Consent application HM/B-07:12 for the subject lands was granted provisional approval on March 7, 2007, by the Committee of Adjustment (see Appendix "D"). The approval will allow the property to be severed into two lots. A condition of this approval (Condition No. 3) requires final approval of the subject Zoning By-law Amendment application.

**Details of Submitted Application:**

The subject lands are located on the southwest corner of Rymal Road East and Dartnall Road, municipally known as 1324 Rymal Road East (Appendix “A”)

**Owner:** Rystat Developments

**Agent:** Peter Van Brugge

**Property Description:**

- **Frontage:** 108.46 metres
- **Flankage:** 141.11 metres
- **Area:** 7.011 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>Vacant</td>
<td>“M-11” (Prestige Industrial) District and “M-14” (Prestige Industrial) District</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding Land Uses</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Commercial and industrial</td>
<td>“M-11” (Prestige Industrial) District</td>
</tr>
<tr>
<td>South</td>
<td>Hydro Corridor</td>
<td>Restricted Agricultural “A2” Zone</td>
</tr>
<tr>
<td>East</td>
<td>Commercial motor home sales, Industrial trade union hall and training facilities, and a municipal animal shelter</td>
<td>“M-11/S-1117” (Prestige Industrial) District, modified; “M-13/S-1323” (Prestige Industrial) District, modified; and, “M-13/S-1280” (Prestige Industrial) District, modified</td>
</tr>
<tr>
<td>West</td>
<td>Industrial</td>
<td>“M-11” and “M-14” (Prestige Industrial) Districts</td>
</tr>
</tbody>
</table>
ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposed change in zoning is consistent with the Provincial Policy Statement, Places to Grow Plan, and conforms to the Hamilton-Wentworth Official Plan.
   
   (ii) The proposal is consistent with the “Industrial” and “Commercial” policies of the City of Hamilton Official Plan.
   
   (iii) The proposal will provide commercial uses to serve the existing and planned industrial uses within the Industrial Business Park.
   
   (iv) It fulfills a condition of approval for a related severance application (see Appendix “D” – Condition 3).

2. The subject property is situated in a prominent location at the southwest corner of Dartnall Road and Rymal Road East, which provides a primary entrance into the East Mountain Industrial Business Park as well as access to the North Glanbrook Industrial Business Park. The subject property is designated “Commercial” (northern portion) and “Industrial” (southern portion) within the Hamilton Official Plan. The commercial designation permits a range of commercial uses while the industrial designation permits commercial uses (such as, but not limited to banks, restaurants, garages, material suppliers, day nurseries, etc.) that are intended to serve the existing and planned developments within the East Mountain and North Glanbrook Industrial Business Parks.

3. The applicant has submitted a concept plan with the application, attached as Appendix “C”. Based on the plan and the review of this application, staff has identified some conditions that need to be addressed relating to: site servicing, urban design, landscaping, location of drive-thru’s and stacking lanes, and location of accessory garbage structures, which are addressed as follows:

   Site Servicing

   Initially, staff had identified that there may not be sufficient capacity within the existing infrastructure to accommodate the proposal, which permits a range of commercial uses. At the request of staff, the applicant has submitted a site servicing report (attached as Appendix “E”), prepared by J.H. Cohoon Engineering Ltd., to address the servicing issue. The report concluded that sufficient capacity is available within the Dartnall Road right-of-way to accommodate the proposal. Staff have reviewed this report and concurs with the report’s findings.

   Urban Design

   Since the subject property is situated in a prominent location and provides a primary entrance into the East Mountain Industrial Business Park, staff are
Staff recommends a maximum front yard setback of 3 metres for any building fronting onto Rymal Road East, within 30m of Dartnall Road and a maximum side yard setback abutting a street of 6 metres for any building from Dartnall Road, whereas the “M-11” District provisions require a minimum front yard setback of 12 metres and exterior side yard setback of 6 metres. Also, staff recommends a modification for a minimum built frontage of 45% of the total frontage along Rymal Road East (within 50 metres of Dartnall Road); and a modification that all buildings have windows with a maximum sill height of 1 metre and a minimum height of 2.4 metres (from finished floor) for a minimum of 25% of the length of the façade facing the street. The purpose and intent of the by-law is to require minimum building setbacks in order to maintain streetscape character and provide space for parking and landscaping. The purpose of these recommended modifications is to promote a building presence at the corner of Dartnall Road and Rymal Road East in order to enhance streetscape character. Staff is satisfied that there is adequate space on site to provide parking and landscaping.

The applicant is in agreement with the recommended modifications, and has revised the concept plan to incorporate these changes (see Appendix “C”).

Landscaping

Staff recommends modifying the “M-11” District provisions to reduce the minimum landscaped area abutting a street from 6 metres to 3 metres, and to require a minimum 1.5 metre planting strip along the rear and interior side lot lines. These modifications are consistent with the reduced building setbacks outlined above. Also, the proposed development is subject to Site Plan Control, at which time a detailed landscape plan will be required.

Location of Drive-thrus and Stacking lanes

Staff recommends a modification to prohibit any drive-thru’s 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.

Accessory Garbage Enclosure

The applicant is proposing to locate a garbage enclosure in the required interior side yard whereas the Hamilton Zoning By-law does not permit accessory structures in the side yard. Staff is of the opinion, that the proposed location of the accessory structure will not impact the aesthetic appeal of the site and will address
this in greater detail at the Site Plan Control stage of development. As such, the proposed modification can be supported.

4. The property is currently dual zoned. The portion fronting Rymal Road East (Appendix “A” – Block “1”) is zoned “M-11” (Prestige Industrial) District, and the rear portion (Appendix “A” - Block “2”) is zoned “M-14” (Prestige Industrial) District. The proposal is to extend the “M-11” (Prestige Industrial) District in order to permit the development of a gas service station with car wash, drive-thru restaurant, bank, and other commercial retail space (see Appendix “C”). The proposal allows for a comprehensive development of commercial uses that are intended to serve the existing and planned uses within the surrounding area. Also, the scale and character of the existing and planned Industrial Business Park will be enhanced, since the proposed zoning incorporates good urban design principles.

5. Approval of the application will necessitate an amendment to the East Mountain Industrial - Business Park Neighbourhood Plan, to re-designate the southern portion of the subject lands (Appendix “A” – Block “2”) from “Restricted Industrial” to “Restricted Commercial”. This amendment can be supported since it will provide for a comprehensive development of commercial uses that will serve the needs of existing and planned Industrial uses within the surrounding area.

**ALTERNATIVES FOR CONSIDERATION:**

If the application is denied, the southerly portion of the property will remain “M-14” (Prestige Industrial) District and the applicant has the option of using the southern portion of the property for the current range of “M-14” (Prestige Industrial) District uses, and the consent application approval will lapse.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for a change in Zoning.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The application is consistent with the policies that promote economic development and competitiveness in Employment Areas, as per Policy 1.3.1.

Also, Policy 2.6.2 outlines that development and site alteration may be permitted on areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site
alteration which maintain the heritage integrity of the site may be permitted. A ‘H’ Holding symbol will be applied to the zoning and lifted upon completion of an Archaeological Assessment to the satisfaction of the Manager of Development Planning and the Ministry of Culture.

This application is consistent with the Provincial Policy Statement (PPS) as the application proposes ancillary commercial development within Employment Lands of the Urban Area.

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

The application is consistent with the Employment Land policies of the Growth Plan for the Greater Golden Horseshoe 2006. Section 2.2.6 indicates that, within employment lands, municipalities will provide an appropriate mix of employment uses including commercial uses (not including major retail uses) to meet long term needs, and provide opportunities for a diversified economic base that supports a wide range of economic activities and ancillary uses.

This application is consistent with the Growth Plan for the Greater Golden Horseshoe 2006, since it proposes ancillary commercial development within designated Employment Lands.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area – Business Park” within the Hamilton-Wentworth Official Plan. Policy C-3.1.3.2 provides that grouped commercial uses, such as banks, restaurants and professional offices are permitted within Business Parks. Such uses will be directed to locations along major roads or in designated commercial nodes within the business parks.

Policy B-9.2 states that the City shall consider the protection and preservation of Regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. An ‘H’ Holding symbol will be applied to the zoning and lifted upon completion of an Archaeological Assessment to the satisfaction of the Manager of Development Planning and the Ministry of Culture.

As the nature of the application is for a change in zoning to allow for an extension of the “M-11” (Prestige Industrial) District to accommodate the development of a gas service station with car wash, drive-thru restaurant, bank, and other commercial uses, within an existing business park on a major road (Rymal Road East) where full municipal services area available, the proposal conforms with the policies of the Hamilton-Wentworth Official Plan.
The subject lands are designated “Commercial” and “Industrial”, on Schedule ‘A’ – Land Use Concept Plan in the Hamilton Official Plan. The subject lands are also identified as “Special Policy Area 11” on Schedule “B-3”, Other Special Policy Areas (East Mountain Industrial-Business Park). The following policies, among others, are applicable to the proposed development:

“A.2.2.1 The primary uses permitted in the areas exceeding 0.4 hectare designated on Schedule “A” as COMMERCIAL will be for Commerce. In this regard, Commerce is defined as establishments involved in the buying and selling of goods and services; business offices; and hotels, convention and entertainment facilities.

A.2.3.1 The primary uses permitted in the areas designated on Schedule “A” as INDUSTRIAL will be for industry. In this regard, Industry is defined as manufacturing, processing, warehousing, repair and servicing. In addition to the primary permitted uses, the following uses may be permitted within INDUSTRIAL areas:

ii) Business enterprises such as, but not limited to, banks, restaurants, garages, material suppliers, day nurseries, etc., which are intended to directly serve the industries and their personnel.

A.2.3.19 In the LIGHT INDUSTRIAL precinct known as the East Mountain Industrial-Business Park, those ancillary uses permitted within INDUSTRIAL areas as set out in Policy A.2.3.1 (ii) will be restricted to areas abutting major roads. The detailed location of these uses will be identified in the Neighbourhood Plan.

A.2.9.3.9 In keeping with the provisions of Subsection A.2.3, for those lands shown on Schedule “B” and “B-3” as SPECIAL POLICY AREA 11 and SPECIAL POLICY AREA 11A, light industrial uses will be permitted. Accordingly, all appropriate policy provisions in this Plan dealing with the light industrial land use category will apply.”

The Plan permits commercial uses, which are intended to directly serve the industries, and the surrounding area, to be located along major roads. As the nature of the application is for an extension of the “M-11” (Prestige Industrial) District to allow for the development of a gas service station with car wash, drive-thru restaurant, bank, and other commercial uses, on a major road (Rymal Road East), the proposal conforms to the Hamilton Official Plan.
Neighbourhood Plan

The subject property is designated “Restricted Commercial” (Appendix “A’ – Block “1”), and “Restricted Industrial” (Appendix “A” – Block “2”) within the East Mountain Industrial - Business Park Neighbourhood Plan. An amendment to the East Mountain Industrial - Business Park Neighbourhood Plan is required to re-designate Block “2” of the subject lands from “Restricted Industrial” to “Restricted Commercial”.

RELEVANT CONSULTATION:

The following Departments/Agencies had no comments or objections:

- Corporate Services Department (Budgets Section)
- Corporate Services Department (Taxation)
- Public Works Department (Forestry and Horticulture Section)
- Hamilton Conservation Authority
- Union Gas
- Bell Canada
- Horizon Utilities

Public Works Department (Traffic Engineering and Operations Section) has advised that an access permit is required for any new or change to the access; any new access along the Rymal Road East lot line shall be located approximately 45-50 metres east of the westerly lot line; the width and radius required for the proposed accesses should be large enough to accommodate the types of vehicles required for the proposed uses; relocation of any trees or utilities is at the sole expense of the owner; stacking lanes are to be located away from the access or access curbing; 5 metre by 5 metre vision triangles are required for any new or existing access; and a sidewalk connection from the site to Rymal Road East and Dartnall Road should be provided. These items will be addressed through the review of a Site Plan Control application.

Public Works Department (Strategic & Environmental Planning) has advised that the subject lands could be impacted by the proposed widening of Dartnall Road as a result of the Dartnall Road Extension Class Environmental Assessment Phase 3 & 4. This item will be addressed through the review of a Site Plan Control application.

Public Consultation

In accordance with the Public Participation Policy that was approved by Council on May 29, 2003, this application and Notice of Public Meeting were pre-circulated to all property owners within 120 metres of the subject property on March 7, 2007. The Public Participation Policy allows for an exemption of preliminary circulation if the application is part of another application, which has been approved within one year. Although this application is part of a related severance application (HM/B-07:12), the severance application had not yet been formally approved when the subject re-zoning application was submitted. As such, preliminary circulation was required. A total of thirteen (13) notices were circulated and a sign was also posted on the property. To date, no formal
responses have been received. Notice of the Public Meeting has been given in accordance with the requirements of the Planning Act.

**CITY STRATEGIC COMMITMENT:**

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

Community Well-Being is enhanced. ☑ Yes ☐ No
Existing services will be utilized as part of this proposal.

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

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

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

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

:DF
Attachs. (5)
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

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

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

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

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

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

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

1. That Sheet No. E-59e of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by:
Appendix “B” to Report PED07191 (Page 2 of 4)

(a) changing Block “1” from the “M-11” (Prestige Industrial) District to the “M-11/S-1580” – ‘H’ (Prestige Industrial - Holding) District Modified; and,

(b) by changing Block “2” from the “M-14” (Prestige Industrial) District to the “M-11/S-1580” - ‘H’ (Prestige Industrial - Holding) District, Modified;

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

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

(a) The owner submitting an Archaeological Assessment to the satisfaction of the City of Hamilton’s Manager of Development Planning and the Ministry of Culture.

City Council may remove the ‘H’ symbol and, thereby give effect to the “M-11” (Prestige Industrial) District, by enactment of an amending By-law once the above condition has been fulfilled.

3. That the “M-11” (Prestige Industrial) District regulations as contained in Section 17C of Zoning By-law No. 6593, applicable to the lands identified in Section 1(a) of this by-law, be modified to the extent only of the following special requirements:

(a) That in addition to the requirements of Section 2 of Zoning By-law No. 6593, the following definition shall apply to the lands referred to in Section 1 of this By-law:

(i) Façade – Shall mean a building wall or series of building walls facing a street.

(b) That notwithstanding Section 17C (2) (b) 1. (i) of Zoning By-law No. 6593, no building shall be setback more than 3.0 metres from the northerly lot line within 30.0 metres of the intersection of the northerly and easterly lot lines.

(c) That notwithstanding Section 17C (2) (b) 1. (ii) of Zoning By-law 6593, no building shall be setback less than 3.0 metres from the easterly lot line, except that a maximum setback of 6.0 metres shall be provided and maintained within 30.0 metres of the intersection of the northerly and easterly lot lines.

(d) That notwithstanding Section 17C (2) (f) 1. (i) of Zoning By-law No. 6593, except for the area used for access driveway, buildings or structures, a landscaped area in the front yard along Rymal Road East, having a depth of not less than 3.0 metres shall be provided and maintained abutting the street line.

(e) That notwithstanding Section 17C (2) (f) 1. (ii) of Zoning By-law No. 6593, where the lot or tract of land is a corner lot, except for the area used for access driveways, buildings or structures, a landscaped area in the side
yard along Dartnall Road, having a depth of not less than 3.0 metres shall be provided and maintained abutting the street.

(f) That notwithstanding Section 18A (4) (iv) of Zoning By-law No. 6593, an accessory structure for a garbage enclosure shall be permitted in a side yard not abutting a street.

(g) A planting strip of not less than 1.5 metres in width shall be provided and maintained along every rear lot line and side lot line not abutting a street.

(h) The minimum width of the building façade shall be equal to 45% of the measurement of the front lot line, being the northerly lot line, within 50 metres of the Dartnall Road lot line, being the easterly side lot line.

(i) All buildings shall have windows with a maximum sill height of 1.0 metre and a minimum height from finished floor to top of window of 2.4 metres for a minimum of 25% of the length of the façade facing the street.

(j) No parking space or part thereof shall be located and no land shall be used for the temporary parking or storage of any motor vehicle at a distance of less than 6.0 metres from a street line or closer than 1.5 metres from the rear lot line or side lot line.

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

4. 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 “M11” District provisions, subject to the special requirements referred to in Section 3.

5. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1580.

6. Sheet No. E-59e of the District Maps is amended by marking the lands referred in Section 1 (a) of this by-law as S-1580.

7. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the Planning Act.

PASSED and ENACTED this ______ day of ______, 2007.

Fred Eisenberger
Mayor

Kevin C. Christenson
Clerk

ZAC-07-004
This is Schedule "A" to By-Law No. 07-

Passed the .......... day of ................., 2007

Schedule "A"
Map Forming Part of By-Law No. 07-____
to Amend By-law No. 6593

Subject Property

Block 1 - Change in Zoning from the "M-11" (Prestige Industrial) District to the "M-11/S-1580" - "I" (Prestige Industrial - Holding) District, Modified.

Block 2 - Change in Zoning from the "M-14" (Prestige Industrial) District to the "M-11/S-1580" - "I" (Prestige Industrial - Holding) District, Modified.
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 1324 Rymal Road East, in the City of Hamilton; 

AND IN THE MATTER OF AN APPLICATION by the agent Peter Van Brugge on behalf of the owner Rystat Developments, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land having a frontage of 99.32m (325.8'), and an area of 1.606 ha. (3.96 acres) for commercial (Gas bar and plaza) purposes, and to retain an irregular-shaped vacant parcel of land having a frontage on Dartnall Road of 370m± (1,214±), and an area of 4.3 ha.± (10.6 acres) for industrial 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 submit a Deposited Ontario Land Surveyor’s Reference Plan to the Development Planning East Team.

3. That the owner/applicant receive final approval of Rezoning Application ZAC-07-004 to allow for the Commercial use on the southern portion of the conveyed lands.

4. That the Owner dedicate sufficient land, across the entire frontage of the severed and retained lands by deed to the City of Hamilton to establish the property line 60 feet from the original centerline of construction of Rymal Road East, as shown on MTO Survey Plan P-1944-26. All road widenings must be free and clear of all encumbrances.

5. That the Owner pay for the future urbanization of Rymal Road East based on the New Road Servicing Rate for the year that final approval is obtained.

6. That the Owner pay all applicable outstanding servicing costs approval, to the satisfaction of the Manager of Development Engineering.

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

DATED AT HAMILTON this 7th day of March, 2007.

.../2
THE DATE OF GIVING OF THIS NOTICE OF DECISION IS March 14th, 2007.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF
THIS NOTICE OF DECISION (March 14th, 2008) OR THE APPLICATION SHALL BE
DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
# 6717 – Sev/Rezone

April 17, 2007

City of Hamilton
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Attention: Mr. B. Reid

Re: Proposed Rezoning/Severance
Dartnall Road and Rymal Road
Hamilton, Ontario

Dear Sir:

In response to a request from Mr. P. VanBrugge of Wingbury Developments, our firm has reviewed the servicing requirements of the above noted property in order to address the City of Hamilton’s request for a preliminary servicing study on this property. Further to our telephone conversation of this date, we acknowledge the concern primarily is related to the sanitary servicing of the property with a potential change from industrial type uses to a more commercial type of development.

The following sections detail the servicing aspects of this property.

Stormwater Runoff

This site is located on the southwest corner of the intersection of Dartnall Road and Rymal Road in the City of Hamilton. The attached sketch illustrates the existing topographical features in the area. The site is approximately 1.65 ha (4 acres) in size and slopes in primarily a northerly direction into the existing roadside ditch along Rymal Road. This runoff in the ditch is collected into a ditch inlet located within the Rymal Road ditch. As is typical with developments in this area within the City of Hamilton, we would anticipate that stormwater management techniques would be required to be implemented. The requirements of the stormwater management report that will be submitted during a site plan approval stage/phase will include the need for on-site quantity and quality controls in accordance with the Ministry of the Environment’s guidelines for stormwater management.

Water Servicing

An existing 7 in. diameter watermain exists on the north side of Rymal Road with the Rymal Road right-of-way. As has been typical with servicing of other properties in the area,
Preliminary Servicing Report
Dartnall Road and Rymal Road East
Hamilton, Ontario

Page 2

direct connection of the proposed new water service will be permitted for the newly created lot. We would anticipate no quantity or pressure issues to exist with respect to this watermain.

Sanitary Servicing

The preliminary sketch of the proposed development (attached) on this property indicates that the desire is to construct a series of commercial type of buildings. Presently, sanitary sewers exist along the Rymal Road frontage and along the Dartnall Road right-of-way, which could be utilized for this development. In accordance with the Ministry Guidelines, we have estimated the daily sewage flow to be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Sq. Feet</th>
<th>Sq. Meters</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRU</td>
<td>12,400</td>
<td>1152</td>
</tr>
<tr>
<td>Bank</td>
<td>5000</td>
<td>464.5</td>
</tr>
<tr>
<td>Drive-thru Restaurant</td>
<td>3000</td>
<td>278.7</td>
</tr>
<tr>
<td>Gas Station including Kiosk and Car Wash</td>
<td>3300</td>
<td>306.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>2201.6</strong></td>
</tr>
</tbody>
</table>

Based upon the MOE guidelines for shopping centers, the estimated daily sewage flow would be approximately 11008 litres per day (based upon 5000 litres per 1000 sq.m. per day). This translates into an average daily flow of 0.000127 cu.m. per sec. We are of the opinion that this type of development is not consistent with the general provisions of the MOE guidelines.

In review of the Ontario Building Code, we estimate the following flow for the same type of development for comparison.

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CRU</td>
<td>1152 sq.m.</td>
<td>5 litres per sq.m. = 5760 litres per day</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or</td>
<td>1230 litres per water closet (estimate 4 units = 4 w/c) = 4920 litres per day</td>
<td></td>
</tr>
<tr>
<td>Bank</td>
<td>464.5 sq.m.</td>
<td>5 litres per sq.m. = 2322.5 litres per day</td>
<td></td>
</tr>
<tr>
<td></td>
<td>or</td>
<td>1230 litres per water closet (estimate 2 w/c) = 2460 litres per day</td>
<td></td>
</tr>
<tr>
<td>Drive-thru Restaurant</td>
<td>278.7</td>
<td>Donut Style Shop (assumed 30 seats)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- 400 litres per seat = 12000 litres per day</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gas Bar Kiosk and Car Wash</td>
<td>306.6</td>
<td>Gas Bar consisting of 8 pumps and 2 w/c</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- 950 litres per water closet and 560 per fuel outlet = 6380 litres per day</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Car Wash discharge based upon other similar facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- 350 cu.m. per month = 12000 litres per day</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Total Water Consumption = 18,380 litres per day</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Total Sewage Discharge = 38,600 litres per day (avg flow)

Utilizing the Ontario Building Code requirements, the estimated daily sewage flow would be approximately 38,600 litres per day. This translates into an average daily flow of 0.000447 cu.m. per sec. or 0.447 litres per day.

Extraneous flows into the sanitary sewer system would be as follows (calculated in accordance with the MOE guidelines) for a 1.6 Ha site can be calculated as follows:

Area of Site 1.6 Hectares
Infiltration - 0.28 litres/ha.s
Therefore infiltration on this site
   = 0.28 x 1.6 = 0.448 litres/sec
   = 0.000448 cu.m. per sec

In summary, the estimated design flow into the City of Hamilton sanitary sewer is 0.000895 cu.m. per sec. (average flow). The applicable peaking factor in this situation, we would estimate that a suitable peaking factor would be 2.0. The resulting peak sanitary flow would be estimated to be 0.00179 cu.m. per sec or 1.79 litres per sec.

Presently, these lands are designated industrial and as such, the sanitary sewer system in the area would be sized to accommodate sanitary discharge on the basis of the industrial use in accordance with the Ministry of the Environment Guidelines. In this application, the estimated discharge rate would be as follows:

Contributing Area = 1.6 hectares
MOE guidelines - 35 to 55 cu.m. per hectare per day
   = 35 x 1.6 = 56 cu.m. per day
   = 0.000648 cu.m per sec
Infiltration (as above) - 0.28 litres/ha.s
Therefore infiltration on this site
   = 0.28 x 1.6 = 0.448 litres/sec
   = 0.000448 cu.m. per sec

In summary, the estimated design sanitary flow for these lands including a peaking factor (which for industrial uses ranges from 5.7 to 6.3 in accordance with Moe guidelines - 5.7 has been used for a point of comparison) is (0.000648 cu.m. per sec + 0.000448 cu.m. per sec) x 5.7 = 0.006247 cu.m. per sec. The resulting peak sanitary flow would be estimated to be 0.006247 cu.m. per sec or 6.25 litres per sec.

In review of the results, the conversion of the site from an industrial use to a commercial use, the potential flows are reduced and the conclusion that can be reached is that the City of Hamilton sewer system will be capable of accommodating the flows. The design/theoretical flow rates will be reduced from 6.25 litres per sec. (industrial) to approximately 1.79 litres per sec. (commercial).
Preliminary Servicing Report  
Dartnall Road and Rymal Road East  
Hamilton, Ontario

I trust that this will meet with your approval.

Yours truly

J. H. COHOON ENGINEERING LIMITED


c.c. P. Van Brugge, Wingbury Developments