SUBJECT: Removal of the Holding 'H' Symbol from the Property Located at 675 Strathearn Avenue (Hamilton) (PED07044) (Ward 4)

RECOMMENDATION:

That approval be given to Zoning Application ZAH-06-68, by Liberty Energy Inc., applicant, for removal of the Holding 'H' symbol from the property located at 675 Strathearn Avenue, as shown on Appendix “A” to Report PED07044, on the following basis:

(a) That the zoning of the subject lands be changed from the “K/S-1527” – ‘H’ (Heavy Industry, etc. - Holding) District, Modified, to the “K/S-1527” (Heavy Industry, etc.) District, Modified.

(b) That the draft By-law, attached as Appendix “B” to Report PED07044, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
**EXECUTIVE SUMMARY:**

The purpose of the application is to remove the Holding ‘H’ symbol from the property located at 675 Strathearne Avenue (see Appendix “A”). The proposal has merit and can be supported since the Ministry of the Environment has advised that the requisite condition (i.e. Record of Site Condition) for removal of the ‘H’ symbol is no longer required.

**BACKGROUND:**

**Proposal**

The applicant has applied to remove the Holding ‘H’ symbol from the subject lands (see Appendix “A”). The applicant, Liberty Energy, is proposing to develop a private utility (electrical generating facility) on the subject lands. The proposed energy plant will generate electrical power to serve approximately 8,000 dwelling units in and around the east end of Hamilton. The proposed electrical generating facility will be powered by a mixture of biomass and biosolids.

**Background**

**Zoning Application ZAR-05-26**

On August 10, 2005, City Council passed By-law No. 05-226. The effect of the By-law is to permit a private utility (electrical generating facility) and to regulate the size and height of the outdoor storage area.

The subject lands were placed in a Holding ‘H’ Zone with the approval of By-law No. 05-226. The ‘H’ symbol can be removed from the subject lands by way of a further amendment, once the following provision has been satisfied:

(i) The owner/applicant submitting a signed Record of Site Condition to the satisfaction of the Ministry of Environment.

In addition, City Council added the following special provision to the approval:

“That the City of Hamilton request the Ministry of the Environment conduct a full Schedule C Environmental Assessment on this application and that the application be evaluated as a waste management project.”

**Preliminary Site Plan Application PSR-05-36**

Preliminary Site Plan Application PSR-05-36 (see Appendix “C”) was received on March 2, 2006, and circulated to internal departments and external agencies for review and comments. The application proposes to locate the proposed electrical generating facility within three existing buildings that will remain on-site. In addition, the construction of two new buildings, with one accessory structure, is planned for the first phase (Phase 1) of
development. The second phase of development (Phase 2) proposes the erection of one new building and one accessory structure.

Prior to any development occurring on-site, the applicant will be required to apply for and receive approval of a Site Plan Control Application.

**ANALYSIS/RATIONALE:**

1. By-law No. 05-226 contains one provision which is required to be satisfied prior to the Holding ‘H’ symbol being removed from the subject lands.

   In their letter dated June 2, 2006 (attached as Appendix “D”), the Ministry of the Environment advised that:

   “the legislation was amended as of October 1, 2005, to state that a Record of Site Condition is required to be registered on the Environmental Site Registry before a property use can change from industrial, commercial or community use to a residential, institutional, parkland or agricultural use. As the use being proposed by Liberty Energy for 675 Strathearne Avenue would not constitute a change to a more sensitive land use, the requirement for a Record of Site Condition is not triggered and, therefore, not a requirement of the legislation.”

   Based upon the forgoing, the Ministry of the Environment has indicated that a Record of Site Condition is no longer required. As such, this condition has been met to the satisfaction of the Ministry of the Environment.

2. On August 10, 2005, City Council requested that the Ministry of the Environment elevate the Environmental Screening to a full Schedule C Environmental Assessment on this application and that the application be evaluated as a waste management project. Prior to making a decision on the request to elevate the Environmental Screening, the Ministry of the Environment has identified the following issues that require further study:

   i) Cumulative Air Quality;

   ii) Health Assessment;

   iii) Biomass Fuel Storage and Odour Impact Management;

   iv) Stormwater Management Details Regarding Biomass Fuel Storage Runoff;

   v) Demonstration that Liberty Energy will not impact the Waste Management Initiatives of the City of Hamilton;

   vi) Impacts on Fly Ash Disposal; and,

   vii) Establishing a Community Liaison Committee.
Liberty Energy has submitted additional information on all of the issues, except for the Health Assessment (Issue # ii). A draft Human Health Risk Assessment has been submitted to the Ministry of the Environment who has reviewed the assessment and provided comments. Liberty Energy has indicated that the final version of the Human Health Risk Assessment will be submitted to the Ministry of the Environment Director in February 2007. Once submitted, the Director has 30 days to issue a decision on the request to elevate the Environmental Assessment Screening.

**ALTERNATIVES FOR CONSIDERATION:**

Development of the subject lands cannot occur until the Holding ‘H’ symbol has been removed by way of amending the Zoning By-law.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: The Planning Act does not require a Public Hearing to be held for the removal of a Holding ‘H’ symbol. However, notice of the intent to pass the By-law must be given to the landowner and anyone who had requested notice. There is no appeal period for the removal of a Holding ‘H’ symbol.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

This application is consistent with the principles and the policies of the Provincial Policy Statement.

**Hamilton-Wentworth Official Plan**

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

**City of Hamilton Official Plan**

The subject lands are designated “Industrial” on Schedule ‘A’ – Land Use Concept of the City of Hamilton Official Plan. This application conforms to the City of Hamilton Official Plan.
The following Departments and Agencies had no comments or objections:

- Public Works Department (Strategic and Environmental Planning Section).
- Public Works Department (Operations and Maintenance Section).
- Corporate Services Department (Budgets and Finance).

The Ministry of the Environment has indicated that the legislation was amended as of October 1, 2005, to state that a Record of Site Condition is required to be registered on the Environmental Site Registry before a property use can change from industrial, commercial or community use to a residential, institutional, parkland or agricultural use to a more sensitive land use. As the use being proposed would not constitute a change to a more sensitive land use, the requirement for a Record of Site Condition is not triggered and, therefore, not a requirement of the legislation. Furthermore, the Ministry of the Environment is reviewing the proposal pursuant to both Ontario Regulation 116/01 (the Electricity Regulation) and the Environmental Protection 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
Consumption of energy is reduced; alternative energy and co-generation are supported.

Environmental Well-Being is enhanced. ☑Yes ☐No
Waste is reduced and recycled.

Economic Well-Being is enhanced. ☑Yes ☐No
The economic base is diversified.

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
Attachments. (4)
Location Map

File Name/Number: ZAH-06-68
Date: Aug 31, 2006
Appendix "A"
Scale: N.T.S.
Planner/Technician: DF/LM

Subject Property

675 Strathearn Avenue

Change in Zoning From the "K/S-1527"-H (Heavy Industry, etc - Holding) District, Modified to the "K/S-1527" (Heavy Industry, etc) District, Modified.
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 6593 (Hamilton), as amended by Zoning By-law No. 05-226, Respecting lands located at 675 Strathearne Avenue (Hamilton)

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of 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 of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

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

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;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:
1. Sheet No. E-61 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), as amended by By-law No. 05-226, is further amended, by changing from the “K/S-1527” – ‘H’ (Heavy Industry, etc. – Holding) District, Modified to the “K/S-1527” (Heavy Industry, etc.) District, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A” and forming part of this By-law.

2. All other regulations of the “K/S-1527” (Heavy Industry, etc.) District, Modified and the General Provisions of Zoning By-law No. 6593 shall continue to apply.

3. 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.

_________________________________________  ______________________________
MAYOR                                     CLERK

ZAH-06-68
Schedule "A"

Map Forming Part of
By-Law No. 07-_____
to Amend By-law No. 6593

Subject Property

675 Strathcona Avenue
Change in Zoning From the "K/S-1527-H" (Heavy Industry, etc - Holding) District, Modified to the "K/S-1527" (Heavy Industry, etc) District, Modified.
June 2, 2006

Ms Shannah Murray
Planning and Development Department
City Hall
71 Main Street East, 6th Floor
Hamilton, Ontario
L8P 4Y5

Dear Ms Murray:

Re: Requirement for Record of Site Condition
675 Strathearne Avenue, Hamilton

As you may recall, my correspondence dated May 11, 2005 suggested that the City consider requiring Liberty Energy to conduct an assessment of the above-noted property to determine whether contamination has occurred due to previous use.

In the earlier letter I stated:

"As the site has been used for a number of waste-related activities over the years, it is possible that soil contamination is in excess of acceptable levels for the property. The proponent should be required to address this issue, in a manner that is in accordance with the requirements of O. Reg. 153/04, the Record of Site Condition Regulation."

Please be advised that the legislation was amended as of October 1, 2005 to state that a Record of Site Condition is required to be registered on the Environmental Site Registry before a property use can change from industrial, commercial or community use to a residential, institutional, parkland or agricultural use. As the use being proposed by Liberty Energy for 675 Strathearne Ave. would not constitute a change to a more sensitive land use, the requirement for a Record of Site Condition is not triggered and therefore, not a requirement of the legislation.

Should you have any questions, or wish to discuss this further, please do not hesitate to contact me at (905) 521-7864 or at Barbara.ryter@ene.gov.on.ca.

Sincerely,

Barbara Ryter
Issues Program Coordinator (Acting)
Hamilton District Office, MOE

Ms L. Helfer, Liberty Energy Inc. (VIA Email only)

Mr. A. Ciccone, Golder Associates (VIA Email only)