RECOMMENDATION:

(a) That approval be given to Zoning Application ZAC-07-079, by Pioneer Petroleum Ltd., c/o Bob Reid, for changes in zoning from the “C” (Urban Protected Residential, Etc.) District to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified (Block 1), from the “H/S-234” and “H/S-534” (Community Shopping and Commercial, Etc.) District, Modified, to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified (Block 2), from the “H/S-234” (Community Shopping and Commercial, Etc.) District, Modified, to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified (Block 3), and from the “G-3/S-234” (Public Parking Lots) District, Modified, to “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified (Block 4), to permit the redevelopment of the existing automobile service station and automated car wash on the lands located at 386 Upper Gage Avenue and 63 East 39th Street (Hamilton), as shown on Appendix “A” to Report PED08195, on the following basis:

(i) That the draft By-law, attached as Appendix “C” to Report PED08195, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(ii) That the amending By-law be added to Schedule “A” of Zoning By-law No. 6593.
EXECUTIVE SUMMARY:

The purpose of the application is for changes to the existing zoning in order to permit the redevelopment of the existing automobile service station and automated car wash, as identified in the preliminary site plan (see Appendix “B”). The demolition of the existing repair garage and single detached dwelling would facilitate the expansion and modernization of the property so as to increase the property boundaries, thereby incorporating landscaping requirements, yard setbacks and the inclusion of privacy fencing with only minor modifications to the Zoning By-law.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement, conforms with, and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan, and implements the “Commercial” designation of the City of Hamilton Official Plan.

BACKGROUND:

Proposal

The subject lands are approximately 0.30 hectares in area and have been designated and operated primarily for Commercial uses for many years. The existing Pioneer Gas Station and car wash use has existed for approximately twenty-five years on a portion of the subject lands, while the remainder of the subject lands have historically operated as an automobile repair shop. The existing Pioneer Service Station and car wash is outdated and the facility requires redevelopment to meet the growing needs of the community, and to also enhance the visual character of the site. This redevelopment will also facilitate the modernization of the site, including landscaping and yard setbacks with only minimal modifications to the Zoning By-law. In order for this development to be constructed as outlined in the preliminary site plan (see Appendix “B”), the applicant has purchased a residential lot to the south-west of the subject lands (municipally known as 63 East 39th Street), which is also addressed in this rezoning application.

Location: 386 Upper Gage Avenue and 63 East 39th Street (Hamilton)

Owner: Pioneer Petroleum Management (c/o Bob Reid)
**Property Description:**
- Length (frontage): 51.3 metres (along Upper Gage Ave.)
- Flankage: 65.23 metres (along Crockett Avenue) and 40.5 metres (along East 39th Street)
- Lot Area: 0.30 hectares (3,016 square metres)

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tr>
<td>Subject Lands</td>
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<td>South</td>
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<tr>
<td>West</td>
<td>Single Detached Dwellings</td>
<td>“C” (Urban Protected Residential, Etc.) District</td>
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**ANALYSIS/RATIONALE:**

1. The proposal has merit and can be supported for the following reasons:
   
   (i) The proposal is consistent with the Provincial Policy Statement.
   
   (ii) The proposal conforms with, and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan.
   
   (iii) The proposal conforms with and implements the “Commercial” designation of the City of Hamilton Official Plan.
(iv) The proposal is compatible with the existing and planned development in the immediate area and is in keeping with the character of the surrounding neighbourhood.

2. The changes in zoning will remove the existing three modified zones, thereby permitting a single consolidated Zone that will regulate the new gas bar and car wash.

3. Through circulation and review of the application, staff determined that since the proposed automated car wash would now be in closer proximity to existing residential uses, a noise assessment would be required. The applicant was made aware of this concern and, subsequently, retained a noise consultant to prepare a Noise Impact Study. Staff has received this Study and they are satisfied that the mitigative measures recommended by the noise consultant are satisfactory and there will be no impact to the abutting residential use. The Study recommends an acoustical barrier of 1.5 metres in height along the property at 67 East 39th Street. With respect to the Zoning By-law, a 1.2 to 2.0 metre high visual barrier is required when car washes and public garages are located adjacent to residential districts. In this regard, the implementing By-law will address the height of the visual/acoustical barrier. This is further discussed below.

4. With respect to rezoning a portion of the lands from Residential to Commercial (Appendix “A” - Block 1), the Hamilton Official Plan provides Interpretation under Subsection D.8. Specifically, Section 8.2 provides policies that speak to land use designation boundaries, and how they are only intended to be general and to not define the exact limits of any land use or policy.

   It further provides that minor adjustments may be made in respect of these boundaries in the Zoning By-law without the necessity of further amending the Hamilton Official Plan, so long as the By-law conforms to the general intent and purpose of the Plan. With respect to the boundary, the proposed adjustment is considered to be minor and effectively squares off the property. Accordingly, the proposed implementing By-law would be in conformity with the Hamilton Official Plan. Therefore, no Official Plan Amendment is required.

5. The proposed zoning modifications are explained below:

   **Landscape Requirements**

   The “H” (Community Shopping and Commercial, Etc.) District specifies landscape requirements for commercial uses. In this instance, the regulation in question refers to maintaining a minimum average width of 2.0 metres for a landscaped area, but not less than 1.0 metre in width, when adjacent to a street line. The subject lands are bounded by three streets, and the applicant is
proposing a minimum average width of 1.347 metres along East 39th, 1.46 metres along Crockett Street and 2.0 metres along Upper Gage Avenue, respectively. However, it appears that the preliminary site plan can be redesigned to meet the minimum landscaping requirements along all the streets in question. Accordingly, staff does not support any modification that would minimize landscaping requirements.

**Visual Barrier**

Section 18(3) of the Hamilton Zoning By-law specifies that a visual barrier must be erected when a public garage and car wash adjoins a residential District. For this proposal, it would mean fencing along the southerly lot lines. The By-law also identifies that the height of the visual barrier shall be between 1.2 to 2.0 metres. This proposal was also subject to a Noise Impact Study which recommended that an acoustical barrier was required at a height of 1.5 metres along the abutting property to the south, municipally known as 67 East 39th Street. In order to maintain consistency and uniformity to the entire development, the implementing By-law has been drafted to ensure that the visual barrier shall have a minimum height of 1.5 metres.

**Size of Parking Spaces**

Section 18A of the Zoning By-law provides parking requirements. The current minimum parking space size requirement is 2.7 metres by 6.5 metres, whereas the applicant is proposing 2.6 metres by 5.5 metre spaces. The new City standard, under Hamilton By-law No. 05-200, requires the parking space size to be 2.6 metres by 5.5 metres. This requirement is currently in effect for Downtown Hamilton, and will be applied throughout the entire City upon completion and approval of the consolidated Hamilton Zoning By-law. The proposed modification is supportable as it will be consistent with the new City Standard parking space size.

**Mechanical Car Wash Use**

The “H” (Community Shopping and Commercial, Etc.) District regulations identify provisions related to manual and mechanical car wash establishments. They are permitted as-of-right in the By-law under this District. However, there is a specific requirement which identifies that the car wash cannot be more than 30% of the GFA of the service station building. In this regard, the applicant has advised that the proposed single bay car wash would occupy approximately 50% of the GFA. The intent of the By-law is to ensure that the car wash is secondary to the primary service station use. Modern day service stations typically consist of a gas bar, convenience store and/or a car wash, but not a repair garage. Therefore, the implementing By-law has been drafted in a manner to ensure that the car wash is restricted to a single bay or stall, while still allowing the parent
use, but not tying in a GFA percentage in relation to the service station. Given the current preliminary site plan submitted with the application, the site is limited in area, and a car wash establishment any larger than proposed would not function with respect to vehicular maneuvering. This modification is considered supportable based on the criteria mentioned above.

**Location of Garbage Enclosure**

Section 18 of the By-law identifies Supplementary Requirements applicable to the respective zone Districts in the By-law. In regards to this proposal, the specific modifications in question relate to the location of buildings and accessory buildings in proximity to residential districts. It has been determined that the frontage of the subject lands is Upper Gage Avenue. The By-law specifies that an accessory structure may only be located in the rear yard and that any building or structure shall be 6.0 metres from the nearest boundary of a residential district. Therefore, since the garbage enclosure is roofed over, it is considered an accessory structure and must be located in the rear yard. The proposed implementing By-law has been drafted to allow a roofed over garbage enclosure in the front yard and located 3.0 metres from the nearest residential property boundary. Since the proposed enclosure will be reviewed at the site plan control stage, design of the structure will be of a highly aesthetic character, therefore, making these modifications supportable.

6. The Forestry and Horticulture Section has identified that one Municipal Tree is located on the road allowance of 63 East 39th Street. This tree is governed under The City of Hamilton Tree By-law 06-151. At the site plan control stage a Tree Management Plan shall be submitted so a final determination of construction impact may be assessed. The City will endeavour to preserve this Municipal Tree at that stage of development.

**ALTERNATIVES FOR CONSIDERATION:**

Should the application for amendments to the Zoning By-law not be approved, redevelopment of the subject lands would not take place due to the smaller land area, and the property could only be developed in accordance with the existing Zones.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

Legal: As required by The Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for an amendment to the Zoning By-law.
POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1. However, 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 minimize risk to public health and safety. Due to the relocation of the car wash facility and the proximity of the facility to the adjacent residences, staff requested that a noise assessment be conducted to address this concern. This has been completed and staff concurs with the consultant’s recommendation and is satisfied that there will be no negative impacts from the development. As a result, the proposal is consistent with the Provincial Policy Statement.

Places to Grow

The Places to Grow Plan is more formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the Places to Grow Act, 2005 by the Province of Ontario. The Plan formally came into effect on June 16, 2006. The Plan was created to provide a strategic vision and key policy planning direction to planners in one of the fastest growing metropolitan areas in North America. It is expected that 3.7 million people will move to this area by 2031, and that 1.8 million new jobs will also exist by that time. The Plan's main objective is to provide direction in developing communities with a better mix of housing, jobs, shops and services in close proximity to one another. This development proposal will meet the general intent of the Places to Grow Plan.

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-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. As the nature of the application is for the redevelopment of the existing automobile service station with associated uses; where full municipal services are available, the proposal is consistent with the policies of the Hamilton-Wentworth Official Plan.
The subject property is designated as “Commercial” and “Residential” on Schedule ‘A’ - Land Use Concept in the City of Hamilton Official Plan. The policy framework of the Commercial designation is further broken down to outline various categories of commercial uses. The lands in question would be considered “Extended Commercial - Ribbon” in Section 2.2.14 of the Official Plan, as it is an existing commercial establishment located along an arterial road which serves both pedestrian and automobile borne traffic. Section 2.2.19 of the Plan identifies that development and redevelopment in Extended Commercial areas and expansion thereto is permitted, so long as there are no negative impacts as a result of traffic and/or parking.

Section 2.2.22 provides policies that speak to improving visual amenity and general attractiveness of Extended Commercial areas. Through site plan control, the City, in conjunction with the developer, will endeavour to minimize the impacts of the proposed development on the adjacent land uses, while improving the visual scale, design and character of the proposed building.

As noted previously, Section 8.2 provides policies that speak to land use designation boundaries, and how they are only intended to be general and to not define the exact limits of any land use or policy. Since this proposal incorporates one single residential lot, it is considered a minor adjustment, thereby not requiring an amendment to the Hamilton Official Plan.

Based on the foregoing, it is staff’s opinion that this proposal conforms to the Hamilton Official Plan.

**RELEVANT CONSULTATION:**

Public Works Department (Traffic Operations and Maintenance) has advised that they have no objection to the rezoning application. As part of the formal site plan review, Traffic staff will require tanker truck circulation to be displayed on the site plan, as well as truck manoeuvring requirements outlined by the applicant. The access width or radius design required to accommodate tanker truck circulation will be undertaken at the applicant’s expense upon issuance of an Access Permit. They have also advised that a minimum 1.2 metre clearance will be required between the accesses and any adjacent tree, fire hydrant or utility pole. Any relocation or removal required to provide the 1.2 metre clearance will be at the applicant’s expense. They further advise that privacy fencing along the westerly lot line (East 39th Street) must be setback 1.0 metres from the East 39th Street road allowance limit, and that all redundant accesses must be removed by the applicant, and the curb, boulevard and sidewalk re-instated, to the satisfaction of the Director of Operations and Maintenance.
Public Works Department (Forestry and Horticulture Section) has advised that there are no Municipal Tree Assets located adjacent to 386 Upper Gage Avenue, but there is one Municipal Tree located on the road allowance of 63 East 39th Street. This tree is governed under The City of Hamilton Tree By-law 06-151. The Forestry and Horticulture Section does not oppose the current application, but would request that this tree be identified on the future site plan, and that a Tree Management Plan be submitted so a final determination of construction impact may be assessed. They also advise that the tree should be surveyed and plotted accurately on the plan. Proposed grade and surface treatment changes within the dripline as well as property lines, utility corridors and temporary access roads, must be shown. Any construction in close proximity to Municipal trees can only have detrimental effects. With this in mind, all work adjacent to Municipal driplines should be completed with all effort to maintain a minimum impact with absolute minimal grade changes and back fills.

Hamilton Conservation Authority (HCA) has advised that the subject property is located within the Greenhill subwatershed area of the Red Hill Creek watershed. They also indicated that the area drains into Hamilton Harbour, which has a Remedial Action Plan to restore the health of the harbour by reducing the amount of sediment entering the Harbour and Lake Ontario, and by improving stormwater quality. In accordance with the recommendation of the Remedial Action Plan, stormwater quality to Enhanced (Level 1) is required for the redevelopment of the site. Lastly, they advise that at the time the application is made for site plan control, they will require the submission of a Stormwater Management Brief addressing Level 1 stormwater quality and sediment and erosion control measures, as well as submission of site grading and drainage, and sediment and erosion control plans.

The following Departments and Agencies had no comments or objections:

- Hamilton Emergency Services
- Hamilton Hydro
- Canada Post
- Union Gas

Public Consultation

In accordance with the new provisions of the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 153 property owners within 120 metres of the subject lands on December 5, 2007, and a Public Notice sign was posted on the property on December 13, 2007. To date, no comments have been received from the public. The Notice of Public Meeting was also circulated in accordance with the provisions 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
Shelter, care and satisfying employment are accessible to all Hamiltonians.

**Environmental Well-Being is enhanced.** ☑ Yes ☐ No
Ecological function and the natural heritage system are protected. At the site plan stage, stormwater management to Enhanced Level 1 will be required.

**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

:JM
Attachs. (3)
### Location Map

**Subject Property**
386 Upper Gage Avenue

**Appendix "A"**

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<th>Scale</th>
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**File Name/Number:**
ZAC-07-79  

**Date:**
November 15, 2007

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**

**Block Map**

- **Block 1** - Change in Zoning from the "O" (Urban Protected Residential, Etc.) District to the "H/S-1988" (Community Shopping and Commercial, Etc.) District, Modified
- **Block 2** - Change in Zoning from the "H/S-534" (Community Shopping and Commercial, Etc.) District, Modified and "H/S-234" (Community Shopping and Commercial, Etc.) District, Modified to the "H/S-1988" (Community Shopping and Commercial, Etc.) District, Modified
- **Block 3** - Change in Zoning from the "H/S-234" (Community Shopping and Commercial, Etc.) District, Modified to the "H/S-1988" (Community Shopping and Commercial, Etc.) District, Modified
- **Block 4** - Change in Zoning from the "0-3/3-234" (Public Parking Lots, Etc.) District, Modified to the "H/S-1988" (Community Shopping and Commercial, Etc.) District, Modified

**Site of the Application**
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 [ ] 2008, 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-35 of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by:
   
   (a) changing Block “1” from the “C” (Urban Protected Residential, Etc.) District to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified;
   
   (b) changing Block “2” from the “H/S-234” and “H/S-534” (Community Shopping and Commercial, Etc.) District, Modified, to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified;
   
   (c) changing Block “3” from the “H/S-234” (Community Shopping and Commercial, Etc.) District, Modified, to the “H/S-1588” (Community Shopping and Commercial, Etc.) District, Modified;
   
   (d) changing Block “4” from the “G-3/S-234” (Public Parking Lots) District, Modified to “H/S-1588” (Community Shopping and Commercial, Etc.) 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” (Community Shopping and Commercial, Etc.) District regulations, as contained in Section 14 of Zoning By-law No. 6593, applicable to Blocks “1”, “2”, “3” and “4”, are modified to include the following special requirements:
   
   (a) Notwithstanding Subsection 14(1)(xviia) of Zoning By-law 6593, a mechanical car wash within the same building as a service station or public garage, and utilizing not more than one bay or stall, shall be permitted.
   
   (b) Notwithstanding Subsections 18(3)(ivc)(c) and 18(3)(ive)(a) of Zoning By-law No. 6593, a visual barrier not less than 1.5 metres in height and not greater than 2.0 metres, shall be erected and maintained along the southerly lot line.
   
   (c) Notwithstanding Section 18(3)(a) and (4)(iv) of Zoning By-law 6593, one accessory structure (roofed over garbage enclosure) may be located in the front yard and within 3.0 metres from the nearest boundary of a residential district.
   
   (d) Notwithstanding Subsection 18A(f)(7) of Zoning By-law No. 6593, every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6 metres wide and 5.5 metres long.
3. 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 “H” (Community Shopping and Commercial, Etc.) District provisions, subject to the special requirements referred to in Section 2.

4. Sheet No. E-35 of the District Maps is amended by marking the lands referred in Section 1 (a) of this by-law as S-1588.

5. Zoning By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1588.

6. 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 ____, 2008.

_________________________________________  __________________________________________
Fred Eisenberger                              Kevin C. Christenson
Mayor                                          Clerk

ZAC-07-079
Appendix “C” to Report PED08195
(Page 4 of 4)

This is Schedule "A" to By-Law No. 08-
Passed the .......... day of ...................., 2008

Clerk
Mayor

Schedule "A"

Map Forming Part of By-Law No. 08-____
to Amend By-law No. 6593

Subject Property
386 Upper Gage Avenue

- Block 1 - Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "H/S-1588" (Community Shopping and Commercial Etc.) District, Modified
- Block 2 - Change in Zoning from the "H/S-634" (Community Shopping and Commercial, Etc.) District, Modified and "H/S-234" (Community Shopping and Commercial, Etc.) District, Modified to the "H/S-1588" (Community Shopping and Commercial, Etc.) District, Modified
- Block 3 - Change in Zoning from the "H/S-234" (Community Shopping and Commercial, Etc.) District, Modified to the "H/S-1588" (Community Shopping and Commercial, Etc.) District, Modified
- Block 4 - Change in Zoning from the "G-3/5/6-234" (Public Parking Lots Etc.) District, Modified to the "H/S-1588" (Community Shopping and Commercial, Etc.) District, Modified

Scale: N.T.S.
File Name/Number: ZAC-07-79
Date: Nov. 15, 2007
Planner/Technician: JMMC

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT