SUBJECT: Application for a Modification to the City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 348 Fruitland Road (Stoney Creek) (PED08084) (Ward 11)

RECOMMENDATION:

That approval be given to Zoning Application ZAR-07-089, by Eventus Group Incorporated, Owner, for a modification to the General Industrial “MG” Zone in order to permit “Accessory Retail Sales” in conjunction with a wholesale use, on the lands located at 348 Fruitland Road, Stoney Creek, as shown on Appendix “A” to Report PED08084, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED08084, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That the proposed modification in zoning conforms to the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan.

EXECUTIVE SUMMARY:

The purpose of the application is to modify the General Industrial “MG” Zone on the subject lands in order to permit accessory retail sales, in conjunction with a wholesale use. The proposed modification in zoning has merit and can be supported as it is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan.
BACKGROUND:

Proposal

The applicant proposes to modify the current General Industrial “MG” Zone to add accessory retail sales, in conjunction with a wholesale use, as a permitted use on the subject lands. The subject lands are currently used for an existing wholesale landscape supply operation. This application is to allow for the accessory sale of landscape supplies to the general public.

An Accessory Use is defined in Zoning By-law No. 3692-92 as follows:

“Means a use which is incidental, secondary, subordinate and exclusively devoted to the principal use and located on the same lot as the principal use.”

Staff has added a modification, which restricts the proposed accessory retail use to a maximum of 10% of the gross floor area of any permitted wholesale use.

Details of Submitted Application

Location: 348 Fruitland Road, Stoney Creek (see Appendix “A”)

Owner: Eventus Group Incorporated

Property Description:

- **Total Lot Area:** 1.4 hectares
- **Total Lot Frontage:** 76.5 metres on Fruitland Road
  109.18 metres on Arvin Avenue

Servicing: Municipal Servicing

EXISTING LAND USE AND ZONING

<table>
<thead>
<tr>
<th>Subject Land</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Industrial</td>
<td>General Industrial “MG” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Industrial and Single Family Residential</td>
<td>General Industrial “MG” Zone</td>
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<tr>
<td>South</td>
<td>Industrial</td>
<td>General Industrial “MG” Zone</td>
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<tr>
<td>East</td>
<td>Industrial</td>
<td>General Industrial “MG” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposed zoning amendment has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement.

   (ii) It conforms to the “Urban Area” designation of the Hamilton-Wentworth Official Plan, and “Industrial - Business Park” designation of the City of Stoney Creek Official Plan.

   (iii) The proposed modification is considered to be appropriate for the desired development of the subject lands.

2. The subject lands are designated “Industrial - Business Park” in the City of Stoney Creek Official Plan. The “Industrial - Business Park” designation permits commercial uses ancillary and incidental to industrial uses, including showrooms. The subject lands are zoned General Industrial “MG” in the Stoney Creek Zoning By-law No. 3692-92, which similarly contains regulations permitting accessory retail uses for industrial uses, but not for wholesaling uses. The purpose and intent of the Zoning By-law is to provide regulations that will maintain the employment land use, and direct retail uses to the commercial and light industrial zones. Rather than allowing a “stand-alone” retail commercial use, the proposal would limit retail sales only as accessory to the permitted industrial wholesale use (presently a landscape supply operation). In staff’s opinion, the proposal maintains the general intent and purpose of the Zoning By-law, as it will enhance the viability of the existing wholesale use.

3. The General Industrial “MG” Zone contains regulations that permit retail uses accessory to any assembly, manufacturing or processing use, to a maximum of 5% of the gross floor area. The subject application proposes to modify the “MG” Zone to permit accessory retail sales to a maximum of 10% of the gross floor area of the wholesale use. This provision is consistent with the Preferred Industrial “MP”, Prestige Industrial “MT”, Special Purpose Industrial “MSP”, and Business Park Industrial “MBP” Zones of the Stoney Creek Zoning By-law 3692-92, and conforms to the policies of the Stoney Creek Official Plan. Also, it should be noted that accessory retail uses (to a maximum of 10% of the gross floor area) are being considered for the proposed Industrial Zones in the New City of Hamilton Zoning By-law. This modification will ensure that the proposed accessory retail sales remains incidental, secondary, subordinate, and exclusively devoted to the principal wholesale use.

4. The proposal seeks to add an accessory use within an existing building. While the subject lands and all other industrial lands are subject to site plan control, the modification of the use may not be considered “development” according to the Planning Act. However, the applicant has indicated an intent to redevelop the site (in the form of either a building addition or the construction of a new building) in the future. In this regard, redevelopment of the site will require the approval of a site
5. The ultimate right-of-way width has been identified as 36.58 metres for Fruitland Road and 26.21 metres for Arvin Road, as designated in the Hamilton-Wentworth Regional Official Plan. Redevelopment of the subject lands would be subject to road widening dedications on both Fruitland Road and Arvin Avenue, which would be acquired as a condition of any future site plan approvals. There are existing public watermains, and storm and sanitary sewers on Fruitland Road to service the subject lands.

**ALTERNATIVES FOR CONSIDERATION:**

In the event Council does not approve the proposed modification in zoning, the applicant will not be permitted to sell products to the general public (accessory retail sales) on the subject lands. The use of the subject lands would continue to be regulated by the existing General Industrial "MG" Zone.

**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 a Zoning By-law Amendment.

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with the policies that promote economic development and competitiveness in Employment Areas, as per Policy 1.3.1.

This application is consistent with the Provincial Policy Statement (PPS) as the application proposes accessory retail sales within Employment Lands of the Urban Area.
Hamilton-Wentworth Official Plan

The subject land is designated “Business Parks” in the Hamilton-Wentworth Official Plan. Part C 3.1.3 of the Plan outlines that a wide range of uses, including land extensive warehouse retail and wholesale uses requiring site and building specifications similar to industrial uses, shall be permitted within Business Parks. The proposed zoning modification will permit an accessory retail use within an existing wholesale garden supply operation, which conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan

The subject lands are designated “Industrial - Business Park” in the City of Stoney Creek Official Plan. Policy 4.2.1 c) of the Official Plan states that the Industrial - Business Park designation permits commercial uses ancillary and incidental to industrial uses including showrooms. Therefore, the proposed zoning modification conforms to the City of Stoney Creek Official Plan.

RELEVANT CONSULTATION:

The following Departments and Agencies had no comments or objections:

- Hamilton Municipal Parking System
- Public Works Department (Forestry and Horticulture Section)
- Health Protection Department
- Corporate Services Department (Budgets Section)
- Corporate Services Department (Taxation Division)
- Hamilton Conservation Authority
- Horizon Utilities Corporation
- Ministry of the Environment

Public Works Department (Traffic Engineering and Operations Section) has recommended that the owner pave (with asphalt) the entrance driveway area at Fruitland Road; that 5 metre by 5 metre vision triangles are required for any access in which any landscaping at maturity or entrance feature must not exceed a height of 0.7 metres above the centreline elevation of the respective roadways; and, any new or change in access requires the applicant/owner to apply for and receive an Access Permit from the Public Works Department. As noted earlier, the subject application proposes to modify the existing zoning to add an accessory retail use to the list of permitted uses, which is not considered “development”, as defined by the Planning Act. As no new development is proposed, these items would be addressed in any future redevelopment proposals at the Site Plan Approval stage.
PUBLIC CONSULTATION

In accordance with the Public Participation Policy approved by Council, preliminary consultation shall not be required if the application is to add a minor use as a special provision to an existing non-residential zoning category, unless the City’s Manager of Development Planning determines that it may be appropriate. The subject rezoning application is proposing to permit “Accessory Retail Sales” as a permitted use to the existing General Commercial “MG” Zone; therefore, preliminary circulation was not required.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act. In addition, a Public Notice Sign was erected on the property on Tuesday, January 22, 2008. To date, no inquiries have been received from members of the public.

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
Allowing an accessory retail use will provide a greater variety of services to the surrounding community.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
A retail use accessory to an existing industrial development will have no negative effects on the environment.

Economic Well-Being is enhanced. ☑ Yes ☐ No
The proposal promotes economic development and competitiveness in an appropriate location.

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. (2)
Subject Property
348 Fruitland Road

Change in zoning from the General Industrial "MG" Zone to the General Industrial "MG-12" Zone

Ward 11 Key Map
N.T.S.
CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting the Lands Located at the Rear of 348 Fruitland Road, Stoney Creek

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting 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. 3692-92 (Stoney Creek), be amended as hereinafter provided;

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

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

1. That Map No. 2 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from the General Industrial “MG” Zone to the General Industrial “MG-12” Zone, on those lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. That Subsection 9.5.7, “Special Exemptions”, of Section 9.5 General Industrial “MG” Zone, of Zoning By-law No. 3692 (Stoney Creek), be amended by adding a new special exemption, “MG-12”, as follows:
“MG-12” - 348 Fruitland Road, Schedule “A”, Map No. 2

Notwithstanding Subsections 9.5.2(t) and 9.5.4 Retail Sales of the General Industrial “MG” Zone, on those lands zoned “MG-12” by this By-law, a maximum of 10 percent of the gross floor area of a building used for a wholesale use may be used for the display of or for the retail sale of products that are sold only as an accessory use to the principal wholesale use.

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 General Industrial “MG” Zone provisions, subject to the special requirements referred to in Section 2.

4. 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

ZAR-07-089
This is Schedule "A" to By-Law No. 08-
Passed the ........... day of ................., 2008

Schedule "A"
Map Forming Part of
By-Law No. 08-____
to Amend By-law No. 3692-92

Subject Property
348 Frutiland Road

[Diagram showing a parcel of land with dimensions and notes]

Change in zoning from the General Industrial "MG" Zone to the General Industrial "MG-12" Zone