SUBJECT: Application for an Amendment to the City of Hamilton Zoning By-law No. 6593, for the Lands Located at the Southwest Corner of Stone Church Road East and the Trinity Church Road Extension (Hamilton) (PED09188) (Ward 6)

RECOMMENDATION:

(a) That approval be given to Amended Zoning Application ZAC-07-104, by Ministry of Energy and Infrastructure, Owner, for a change in zoning from the “M-14” (Prestige Industrial) District (Block 1) and “M-12”(Prestige Industrial) District (Block 2) to the “M-14/S-1583” (Prestige Industrial) District, with a Special Exception in Zoning By-law No. 6593 (Hamilton), to permit prestige industrial development on the lands located on Part of Lot 34, Concession 7 (Saltfleet), as shown on Appendix “A” to Report PED09188, on the following basis

(i) That the draft By-law, attached as Appendix “B” to Report PED09188, which has been prepared in a form satisfactory to the City Solicitor, be held in abeyance until such time that the Owner has entered into an Agreement with the City of Hamilton for the transfer of the Trinity Church Road Corridor and east-west corridor lands, to the satisfaction of the Directors of Planning and Development Engineering.

(ii) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.
(b) That upon finalization of the implementing By-law, the East Mountain Industrial-Business Park Neighbourhood Plan be amended to redesignate a portion of the lands, shown as Block 2 on Appendix “A” to Report PED09188, from “Restricted Industrial-Commercial” to “Restricted Industrial”.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of this application is to apply consistent industrial zoning on the subject lands (see Appendix “A”), and expand the range of permitted uses, to include a transportation depot and accessory retail uses, in keeping with the draft employment zones for the City’s new Zoning By-law No. 05-200.

The proposal has merit and can be supported since the changes in zoning are consistent with the Provincial Policy Statement, and conform to the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan. The proposal is consistent with, and complementary to, the existing and proposed development in the immediate area.

The Owner is in the process of finalizing an Agreement with the City for the transfer of the Trinity Church Road and east-west corridor lands. As such, it is appropriate to hold the implementing Zoning By-law Amendment in abeyance until the Agreement is finalized.

BACKGROUND:

Proposal

The subject lands have been deemed surplus by the applicant (Ministry of Energy and Infrastructure), who wishes to secure the necessary planning approvals from the City of Hamilton in advance of selling the lands to a third party for development purposes. As part of this application, an adjacent parcel of land (Part of Block 2, shown as No. 30 Highland Road West on Appendix “A”), which is owned by the City of Hamilton, will also be rezoned to provide consistent industrial zoning in the area.

The purpose of the application is to rezone the lands from the “M-14” (Prestige Industrial) District (Block 1) and “M-12” (Prestige Industrial) District (Block 2) to the site-specific “M-14/S-1583” (Prestige Industrial) District, Modified, as shown on Appendix “A”. The intent of the application is to create uniform zoning to permit future prestige industrial development.
The proposed site-specific “M-14/S-1583” (Prestige Industrial) District, Modified, is based on the draft Prestige Business Park (M3) Zone for inclusion in the City’s new Zoning By-law No. 05-200, and has been developed through extensive consultation between the applicant and staff.

Details of Submitted Application

**Location:** Southwest corner of Stone Church Road East and the future Trinity Church Road Extension (Hamilton)

**Owner/Applicant:** Ministry of Energy and Infrastructure

**Agent:** Ontario Realty Corporation

**Property Description:**
- Total Lot Frontage: +/- 170m
- Total Lot Depth: 186.9m
- Total Lot Area: 3.5 ha (8.6 acres)
- Servicing: No Municipal Services

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
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<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
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<td>Subject Land:</td>
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<td>“M-12” (Prestige Industrial) District “M-14” (Prestige Industrial) District</td>
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<td>North:</td>
<td>Vacant</td>
<td>“AA” (Agricultural) District “M-12” (Prestige Industrial) District</td>
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<tr>
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<td></td>
<td>“M-14” (Prestige Industrial) District Neighbourhood Development “ND” Zone</td>
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<tr>
<td>West:</td>
<td>Industrial</td>
<td>“M-14” (Prestige Industrial) District</td>
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<tr>
<td>South:</td>
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<td>“M-12” (Prestige Industrial) District “M-13” (Prestige Industrial) District</td>
</tr>
<tr>
<td>East:</td>
<td>Future Trinity Church Road Extension</td>
<td>Neighbourhood Development “ND” Zone (Stoney Creek)</td>
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**ANALYSIS/RATIONALE:**

1. The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:

(i) The proposed development is consistent with the Provincial Policy Statement.
SUBJECT: Application for an Amendment to the City of Hamilton Zoning By-law No. 6593, for the Lands Located at the Southwest Corner of Stone Church Road East and the Trinity Church Road Extension (Hamilton) (PED09188) (Ward 6) - Page 4 of 12

(ii) The proposed development conforms to the Hamilton-Wentworth Official Plan.

(iii) The proposed development conforms to the City of Hamilton Official Plan.

(iv) The proposal provides for uniform zoning on the subject lands.

2. The subject lands have been deemed surplus by the applicant (Ministry of Energy and Infrastructure), who wishes to secure the necessary approvals in order to sell it to a third party for development purposes. The applicant has also provided studies and reports in support of the application with respect to environmental contamination, archaeological potential, the extent of karst features, traffic volumes, and servicing considerations of the proposal. An analysis of these matters is presented below.

(i) A Phase I Environmental Site Assessment was conducted in 2005 to evaluate the environmental conditions of the site and to determine whether there is potential or actual evidence that contamination exists on the property. The assessment concluded that evidence of potential for contamination was found to be associated with the two residential dwellings on-site (i.e. replacement of an oil heating tank and vinyl flooring), and a diesel fuel leak resulting from a vehicle collision to the east of the subject property. Staff is satisfied that no significant contamination exists on the subject property.

(ii) A Traffic Brief had been prepared for the subject application, which identified the transportation aspects of the subject property, including current and proposed roads to service the site. The brief identified that access to the site will be limited to connections to Stone Church Road and Highland Road, and that the preferred access arrangement would be near the westerly limit of the subject property. A further review of access to the site will be considered upon the future submission of development application(s). The document concluded that the proposed Zoning Amendment would not increase the traffic activity generated by the development of the lands, in comparison with the existing zoning. As indicated in the brief, staff will require a sight line review to be submitted at the site plan stage of development, due to the curvature of Stone Church Road, and that the applicant will be required to dedicate all required road dedications at the same time.

On the eastern edge of the subject property is the planned Trinity Church Road extension. The City of Hamilton’s Environmental Assessment for the Trinity Church Road extension project has been finalized, including the approximate location for the road extension. It has been determined that the road extension will require a 60 metre wide right-of-way, which will abut the subject property. The construction of a roundabout is planned for the intersection of the proposed Trinity Church Road extension and Highland Road, which will require the City’s acquisition of a portion of the lands, the value of which shall be based on (pre-planning approval) fair market value.
The applicant has also agreed not to transfer any portion of the Trinity Church Road corridor required by the City to third parties. No access to the subject lands will be permitted from the proposed Trinity Church Road corridor, as it will be a limited access major arterial road.

The Owner is in the process of finalizing an Agreement for the transfer of the Trinity Church Road and east-west corridor lands, and has agreed not to transfer any portion of the Trinity Church Road corridor required by the City to third parties. To ensure that the City is able to obtain these lands from the applicant, staff recommends that the implementing Zoning By-law Amendment be held in abeyance until this agreement has been finalized (Recommendation “A (i)”).

(iii) The Servicing Report addressed the engineering constraints and opportunities for the subject property, recognizing that there are limited municipal services to adequately service the site. The report recommended that the existing watermain be extended from Stone Church Road East and Pritchard Road to connect with the existing watermain extended along Stone Church Road East, and a connection be made to provide water service to the subject property. Sanitary service would be provided to the southern portion of the site by connecting with the existing sanitary sewer on Highland Road West, while the northern portion would be serviced by extending the gravity sanitary from the intersection of Stone Church Road East and Pritchard Road to the proposed Trinity Church Road interchange. The southern portion of the site would be serviced by the existing storm sewer system along Highland Road West, and the northern portion by extending the system from the intersection of Stone Church Road East and Pritchard Road to the proposed Trinity Church Road interchange. The report also recommended that the subject property conform to the requirements of the Central Mountain Stormwater Management Class EA and the Hannon Creek Sub-watershed Study, as no additional stormwater management facilities are proposed for this site. An internal road network may be considered through subdivision or development review, at which time, siltation and erosion control measures will be required throughout the construction process. Development Engineering, in conjunction with Capital Planning and Implementation, is undertaking a servicing strategy review for the lands abutting the planned Trinity Church Road extension, in conjunction with the preliminary design for the future road.

(iv) A Stage 1 - 3 Archaeological Assessment was prepared and determined that most of the 20 sites found on the subject property were insignificant, however, 4 sites were considered to be potentially significant, 1 of which required a Stage 4 Archaeological Assessment. The Stage 4 Archaeological Assessment included the investigation and salvaging of artifacts within the identified site, and the Ministry of Culture has reviewed and provided clearance for both assessments. Staff is satisfied that development of the site will not impact any archaeological resources.
The applicant submitted a Karst Assessment for the subject property, which provided a technical analysis of the sub-surface water flow, evaluated the potential for development according to the Davis Creek Subwatershed Study (2006), evaluated the site for karst hazards according to the Provincial Policy Statement and Hamilton Conservation Authority’s Planning and Regulation Policies and Guidelines, and compared pre- and post-development scenarios. The Assessment concluded that there are no karst-based risks on the subject property, as no sinking streams or other surface-type karst features are present. Since the bedrock associated with the buried Eramosa Escarpment is at a shallow depth and is karstified, the report recommended that a geotechnical study be prepared for any large buildings that would require extensive intrusions into the karstified bedrock at the development stage. Infrastructure and Source Water Planning staff concurs that the construction of buried infrastructure and building foundations could intercept a confined overburden/bedrock interface aquifer, and potentially create a flowing water condition. Therefore, future development applications on the subject lands may be required to evaluate the surface and vertical groundwater flow gradients prior to construction.

3. In consultation with the applicant, the retail uses originally proposed in the application were removed from the list of permitted uses in the site-specific Zoning By-law (Appendix “B”) in order to uphold the intent of the proposed employment policies and prestige business park zone. To ensure that any permitted retail and ancillary facilities within the subject property are associated with the employment uses proposed, the site-specific Zoning By-law requires that retail and showroom uses are accessory to the industrial use of the land, thereby limiting the gross floor area. The site-specific zone incorporates new definitions and provisions that are consistent with the draft Prestige Business Park (M3) Zone for inclusion in the City’s new Zoning By-law No. 05-200.

The rationale for applying the provisions of the draft zone, rather than building upon the existing By-law provisions, includes the fact that the permitted uses and regulations are designed to enhance the image of the business parks within the City, such as incorporating a higher calibre of design standards, and the draft zone upholds the provincial policy direction in protecting employment areas.

4. The East Mountain Industrial-Business Park Neighbourhood Plan, approved by Council in November 1971, provides guidance for the future development of the subject lands and the surrounding lands within the former City of Hamilton. This particular neighbourhood plan includes a land use map and, in order to reflect the limited industrial uses permitted applied to the subject property, the Plan should be amended to redesignate the eastern portion of the subject lands (Block 2 - Appendix “A”) from “Restricted Industrial-Commercial” to “Restricted Industrial”.
5. The proposed development will be subject to Site Plan Control, at which time architectural design, a stormwater management report, a servicing report, as well as road dedications and any necessary upgrades, will be required. Other matters, such as access, grading, geotechnical issues, landscaping, etc., will be also be reviewed in detail at the site plan stage of development, including the requirement for upgrades to Stone Church Road East and Highland Road.

**ALTERNATIVES FOR CONSIDERATION:**

In the event that Council does not support the applications, the lands would then be subject to the existing “M-12” (Prestige Industrial) District and “M-14” (Prestige Industrial) District provisions, which would permit a range of employment uses.

**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.

“Employment Areas” are defined in the PPS as:

> “Those areas designated in an Official Plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.”

The application is consistent with the policies of the PPS that promote economic development and competitiveness in employment areas, as identified in Policy 1.3.1, such as protecting and preserving employment areas for current and future uses.
**Growth Plan for the Greater Golden Horseshoe (Places to Grow)**

The definition of “Employment Areas” within the Growth Plan is derived from the Provincial Policy Statement, and Section 2.2.6 of the Growth Plan provides policies concerning Employment Lands. This application is consistent with the Employment policies in the Growth Plan that preserve employment areas for current and future uses, particularly in the vicinity of existing and proposed major highway interchanges for manufacturing, warehousing, and associated office and ancillary facilities. The application also facilitates transit-supportive and compact built form, as encouraged by the Growth Plan.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area - Business Park” in the Hamilton-Wentworth Official Plan, and Section C-3.1.3 contains policies concerning the range of industrial type uses permitted. Rather than competing with other employment areas, Business Parks are intended to expand upon the employment areas in the Region. Policy C-3.1.3.1 states that Business Parks shall provide a full range of manufacturing, construction, wholesale establishments, research and development uses and office development associated with these uses.

The proposed development conforms to the Hamilton-Wentworth Official Plan.

**The City of Hamilton Official Plan**

The Hamilton Official Plan places a high priority on maintaining and enhancing Hamilton’s position as a major industrial centre in the Province through the retention of existing industries and the stimulation of new industrial growth, and particularly promotes Light Industrial areas since they have minimal environmental impacts. As Industry is the primary use permitted in such areas, any other uses must support and have similar characteristics or functional requirements as industries.

The subject property is designated “Industrial” on Schedule “A” - Land Use Concept, and Schedules “B” - Special Policy Areas and "B-3” - Other Special Policy Areas refer to the lands as Area 11(a). In addition to the general provisions of A.2.3 - Industrial Uses, the subject property is subject to Policy A.2.9.3.9, which states that:

"…in addition to the light industrial uses, business and professional offices and home improvement uses will be permitted…"

In terms of urban design, Policies 2.3.16 and 2.3.17 indicate that all development in the prestige Industrial Districts will be subject to Site Plan Control, and that Council will encourage all new developments in Light Industrial precincts to adhere to good architectural quality in building design.

The proposed development conforms to the Hamilton Official Plan.
Urban Hamilton Official Plan

The New Urban Official Plan for the City of Hamilton was adopted by Council on July 9, 2009. The Plan has been forwarded to the Province of Ontario for final approval, and is not yet in effect. The lands are designated as “Business Park” on the Schedule “E-1” - Urban Land Use Designations Schedule, which is consistent with the land uses being proposed by the current application.

RELEVANT CONSULTATION:

Agencies/Departments Having No Concern or Objections:

- Public Works Department, Capital Planning and Implementation Division, Strategic and Environmental Planning Section.
- Public Works Department, Operations and Maintenance Division, Forestry and Horticulture Section.
- Community Services Department, Recreation Division, Recreation Section.
- Corporate Services Department, Budgets and Finance Division, Budgets Section.
- Taxation Division.
- Emergency Services.
- Union Gas.
- Bell Canada.
- Canada Post.
- Horizon Utilities Corporation.
- Source Cable and Wireless.
- Ministry of Environment.
- Ministry of Natural Resources.

Hamilton Conservation Authority

The Hamilton Conservation Authority has no objection to the rezoning of the subject property. However, any future development of the site will be subject to the recommendations of the Hannon Creek Subwatershed Master Drainage Study.
Public Health Services Department, Health Protection Division, Environmental Health Section

Public Health has not objection, provided that any existing or proposed structures are connected to the available municipal sewers and water supply.

Trans-Northern Pipelines

Trans-Northern Pipelines do not object to the proposed changes in land use designation and zoning, but reserves the right to object to forms of development which might endanger the pipeline or interfere unreasonably with its operation and maintenance. Facilities crossings of the pipeline or construction works which impinge on the pipeline right-of-way must be approved and completed in accordance with the National Energy Board Act and the Pipeline Crossing Regulations, Part I.

Public Works Department, Operations and Maintenance Division, Infrastructure and Source Water Planning Section

The Water and Wastewater Treatment Section advises that the subject land could be serviced through either District 5 off Stone Church Road or District 7 off Highland Road, and that sanitary sewer servicing of the subject lands had been adequately addressed in the servicing report submitted. A detailed servicing report that accounts for all the lands to be developed under the GRIDS scenario will be required upon the submission of a development application.

With respect to the potential for karst type features, staff concur that due to the presence of moderately thick to thick low permeability overburden and the absence of the Eramosa Dolostone, it is unlikely that any sink or seep features will exist, and hence, no further concern from a hydrogeological perspective remains on the subject property. However, staff recommends that the surface elevation be evaluated prior to the construction of buried infrastructure and building foundations, as such action could intercept a confined overburden/bedrock interface aquifer, and potentially create a flowing water condition.

Public Works Department, Operations and Maintenance Division, Traffic Engineering and Operations Section

Traffic Planning advises that no access to the Trinity Church Arterial Corridor (TCAC) will be permitted, however, access to the subject property will be permitted from Highland Road at least 70m west of the TCAC, and access from Stone Church Road will be restricted to the westerly portion of the property in a right turn in/right turn out function due to the curvature of the road along the northern portion of the lands. At the development stage, the owner/applicant will be required to undertake a sight-line review for potential access to the site, in accordance with the City of Hamilton and Transportation Association of Ontario Guidelines, to the satisfaction of staff.
The dedication of any lands necessary for road allowance purposes on both Stone Church and Highland Roads, as well as daylight triangles for the construction of the TCAC, signal control at the intersection of Stone Church Road at the TCAC and roundabout intersection control at TCAC and Highland Road, will be required at the development review stage. Depending on the proposed use of the site, a detailed traffic impact study may also be required that includes the intersections of Stone Church Road at Pritchard Road and TCAC, and determines whether the proposed three lane cross-section along Stone Church Road, as identified in the City’s Transportation Master Plan, is sufficient. Also required at the development stage will be the urbanization of Highland Road, including the completion of a centreline profile of the road and the location of site driveways that maximize the sightlines of users, as well as any other improvements, such as design, construction, pavement widening of existing roads for additional turning lanes, pavement markings, and signage. The owner/applicant will be responsible for any roadway improvements to Stone Church Road and Highland Road, which may include design, new roadway construction, pavement widening of existing roads, and urbanization.

**Public Works Department, Capital Planning and Implementation Division, Open Space Development and Park Planning Section**

Open Space Development and Park Planning Section staff identified that Stone Church Road is an on-street bike route.

**Public Works Department, Transit Division, Transit (Hamilton Street Railway) Section**

The Transit Division commented that two bus routes currently service the area, with minor changes being reviewed. It is also noted that Highland and Rymal Roads are potential east-west transit corridors, which indicate that additional transit service may be extended to this area. The inclusion of high quality pedestrian amenities, such as walkways and lighting, as well as street orientation and pedestrian entrances to buildings, should be strongly encouraged at the development stage. The Section also noted that any traffic calming devices on collector roads should allow for the passage of 12.2m long transit buses.

**Public Consultation**

In accordance with the new provisions of the *Planning Act* and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 37 property owners within 120 metres of the subject property on May 16, 2008. One letter of opposition to the proposal was received from a lawyer representing Heritage Greene GP Limited (“Heritage Greene”), which is included as Appendix “C” of this Report. The concerns raised in their letter pertain to cost-sharing for infrastructure improvements, however, this development will not be connecting to any private infrastructure built by Heritage Greene, nor will the industrial uses proposed conflict with the commercial uses within the Heritage Greene Development (see Paragraph #2 (iii) of the Analysis/Rationale section of this Report).
A second letter, requesting copies of the subject application, was received by a land use planner representing Heritage Greene GP Limited (“Heritage Greene”), and is also included as Appendix “C” of this report.

A Public Notice sign was erected on the subject property on May 29, 2008, and Notice of the Public Meeting was given in accordance with 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
  The principles of intensification and best use of available land are applied.

- **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

:DM

Attachs. (3)
Appendix "A" to Report PED09188
(Page 1 of 1)

Location Map

Subject Property
Southwest Corner of Stone Church Road East and the Proposed Trinity Church Road Extension

- **Block 1** - Change in Zoning from the "M-14" (Prestige Industrial) District to the "M-14/S-1883" (Prestige Industrial) District, Modified

- **Block 2** - Change in Zoning from the "M-12" (Prestige Industrial) District to the "M-14/S-1883" (Prestige Industrial) District, Modified

File Name/Number: ZAC-07-104
Date: January 15, 2009
Appendix "A"
Scale: N.T.S.
Planner/Technician: DM / NH

Ward 9 Key Map N.T.S.
CITY OF HAMILTON

BY-LAW NO.  

To Amend Zoning By-law No. 6593 (Hamilton)  
Respecting Lands located at the southwest corner of Stone Church Road East and the Trinity Church Road Extension on Part of Lot 34, Concession 7, Former Township of Saltfleet, Now in the City of Hamilton

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 Item  of Report of the Economic Development and Planning Committee at its meeting held on the day of 2009, 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-79C of the District maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended:

   (a) by changing from the “M-14” (Prestige Industrial) District to the “M-14/S-1583” (Prestige Industrial) District, Modified, the lands comprised of Block 1; and,

   (b) by changing from the “M-12” (Prestige Industrial) District to the “M-14/S-1583” (Prestige Industrial) District, Modified, the lands comprised of Block 2;

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

2. That the “M-14” (Prestige Industrial) District regulations, as contained in Section 17 F of Zoning By-law No. 6593, applicable to Blocks 1 and 2, are modified to include the following special requirements:

   (1) That notwithstanding Sections 3 (3) (v) and 17 F (1) of Zoning By-law No. 6593, only the following uses shall be permitted:

       Commercial Motor Vehicle Sales, Rental and Service Establishment  
       Communications Establishment  
       Conference and Convention Centre  
       Equipment Sales, Rental and Service Establishment  
       Industrial Administrative Office  
       Labour Association Hall  
       Manufacturing  
       Office  
       Research and Development Establishment  
       Surveying, Engineering, Planning or Design Business  
       Trade School  
       Tradesperson’s Shop  
       Transportation Depot  
       Warehouse  

       Accessory uses, buildings and structures.

   (2) That notwithstanding Section 17 F (1) of Zoning By-law No. 6593, the following types of manufacturing uses are prohibited, except if these uses are considered only as an accessory use to another permitted manufacturing use:

       Beverage Distillation  
       Breweries  
       Manufacturing of Asbestos, Phosphate or Sulphur Products  
       Primary Production of Chemicals, Synthetic Rubber, Plastic, Asphalt or Cement, not including mixing, blending, treatment or similar process  
       Processing or Refining of Petroleum or Coal  
       Processing, Milling or Packaging of Animal Feed  
       Salvage, Recycling or Scrap Yard
Slaughtering, Eviscerating, Rendering or Cleaning of Meat, Poultry or Fish or by-products thereof  
Smelting, Refining, Rolling, Forging, or Extruding of Ore or Metal  
Stamping, Blanking or Punch-Pressing of Metal  
Tanning or Chemical Processing of Pelts or Leather  
Vulcanizing of Rubber or Rubber Products  
Explosives Manufacturing  
Pulp and Paper Mills  

(3) That notwithstanding Section 17 F (1) of Zoning By-law No. 6593, the following use is prohibited, even as an accessory use:  

Dwelling Unit  

(4) Notwithstanding Section 2 of Zoning By-law No. 6593, the following definitions shall apply:  

Accessory: Shall mean, when used to describe a use of land, building or structure, a use which is commonly incidental, subordinate and exclusively devoted to the main use or main building situate on the same lot.  

Commercial Motor Vehicle Sales, Rental and Service Establishment:  

Shall mean an establishment where new or used commercial motor vehicles are stored and displayed for the purpose of sale, lease or hire, and shall include facilities for the storage and sale of parts accessory to such vehicles, together with the repair and service of the vehicles.  

Communications Establishment:  

Shall mean an establishment used for the broadcasting and production of information through various media, and shall include but not be limited to print, television, radio and electronic media, and which may include facilities for the printing or broadcasting of information but shall not include a call centre.  

Conference and Convention Centre:  

Shall mean an establishment, which is not a hotel, where facilities are provided for meetings, seminars, workshops, social gatherings and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants.
**Equipment Sales, Rental and Service Establishment:**

Shall mean the use of land, building or structure for the display, sale, lease or rental of commercial or industrial equipment and machinery, and shall include facilities for the storage and sale of parts accessory to such equipment, together with the repair, service, cleaning and painting of industrial equipment.

**Industrial Administrative Office:**

Shall mean an office for the management or administration of manufacturing establishments.

**Labour Association Hall:**

Shall mean a building or part thereof, used as a meeting place by labour or trade unions and which is operated for the exclusive use of members and their guests and is not open to the general public on an equal basis, and may include but not be limited to administrative offices, training facilities and meeting rooms. A Labour Association Hall may also include a Trade School.

**Manufacturing:**

Shall mean the production, fabrication, compounding, processing, packaging, crafting, bottling, packing, recycling or assembling of raw or semi-processed or fully-processed goods or materials, and shall include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Pharmaceutical and Medical Establishment, Printing Establishment and/or a Science and Technology Establishment.

**Office:**

Shall mean a building or part of a building in which management, clerical, administrative, consulting, advisory or training services are offered or performed and shall include an Industrial Administrative Office, but shall not include a Medical Clinic, or a Surveying, Engineering, Planning or Design Business.

**Outdoor Assembly:**

Shall mean an area of land or structure that is not fully enclosed, used in conjunction with a business located within a building or structure on the same lot, for the assemblage of goods and materials.
Outdoor Display: Shall mean an area of land used in conjunction with a business located within a building or structure on the same lot, for the display or sale, rent or lease of produce or merchandise.

Outdoor Storage: Shall mean an area of land or structure that is not fully enclosed, used in conjunction with a business located within a building or structure on the same lot, for the storage of goods and materials.

Research and Development Establishment: Shall mean an establishment or part thereof, used for the purpose of conducting pure and applied research, analysis and experimentation in any field of science, medicine, technology and manufacturing, and shall include but not be limited to facilities such as lecture rooms, administrative offices, laboratories, training facilities, display rooms, pilot plants, prototypical manufacturing, simulating equipment and the like, and service and machine shops to serve the Research and Development Establishment. A Research and Development Establishment shall also include but not be limited to a Biotechnological Establishment, Computer, Electronic and Data Processing Establishment, Laboratory, Pharmaceutical and Medical Establishment, and/or a Science and Technology Establishment.

Surveying, Engineering, Planning or Design Business: Shall mean a building or part of a building in which professionals in the field of surveying, engineering, planning or design provide technical consultation, analysis, advisory or administrative services.

Trade School: Shall mean a school in which specialized instruction in a skilled trade is provided, and which may include but not be limited to construction, industrial and motive power trades, and which is operated on a financial profit basis, but shall not include a Commercial School or an Educational Establishment.

Tradesperson’s Shop: Shall mean a building in which is provided to the public a non-personal service or trade, and shall include but not be limited to, a carpenter’s shop,
contractor’s shop, electrician shop, painter’s shop, plumber’s shop and other shops that provide an installation service.

**Transportation Depot:** Shall mean the use of land where commercial motor vehicles pick up and discharge fare-paying passengers or dispatch vehicles for such purpose and shall also include courier service facilities.

**Warehouse:** Shall mean a building used for the bulk storage and/or distribution of goods to industrial, commercial or institutional business users or other wholesalers, but shall not include the retailing of goods to the general public.

(5) That notwithstanding Sections 17 F (2), 18 and 18 A of Zoning By-law No. 6593, only the following provisions shall apply:

- **(a) Minimum Lot Area:** 4,000.0 square metres
- **(b) Minimum Lot Width:** 60 metres
- **(c) Front Yard:** i) Minimum 6.0 metres
  ii) Maximum 25.0 metres
- **(d) Minimum Side Yard:** 3.0 metres
- **(e) Flankage Yard:** (i) Minimum 6.0 metres
  (ii) Maximum 25.0 metres
- **(f) Lot Coverage:** Not required
- **(g) Maximum Floor Area Ratio:** 0.6 of the lot area
- **(h) Building Height:** No maximum
- **(i) Maximum Gross Floor Area for Accessory Retail and Showroom Area:**
  25% of the gross floor area of the principal use or 500 square metres gross floor area, whichever is the lesser.

- **(j) Maximum Gross Floor Area for Office or Non-Manufacturing Use:**
Where a building is solely used for an Office or another non-Manufacturing use, an individual office building shall be restricted to a maximum gross floor area of 2,000 square metres.

(k) **Maximum Gross Floor Area for Industrial Administrative Office or Surveying, Engineering, Planning or Design Business Use:**

No Industrial Administrative Office or Surveying, Engineering, Planning or Design Business building shall have a gross floor area of 10,000 square metres or greater.

(l) **Location Restriction of Manufacturing Uses:**

Any building or structure used for Manufacturing shall be setback a minimum 20.0 metres from any portion of a lot line abutting a lot line within a Residential Zone or an Institutional Zone.

(m) **Landscaped Area:**

A minimum 6.0 metre wide landscaped area shall be provided and maintained abutting a street, except for points of ingress and egress, but shall not include any lands within a hydro corridor or hydro right-of-way.

(n) **Accessory Buildings:**

Accessory buildings are not permitted within the required front yard or required flankage yard and must be set back a minimum 3.0m from any other lot line.

(o) **Parking Location:**

The following provisions apply to all uses:

(i) Required parking facilities shall be located on the same lot as the use requiring the parking.

(ii) Notwithstanding Subsection (i) above, where the provision of parking on the same lot as the use requiring such parking is not possible, or not practical, such parking facilities may be located on another lot within 300.0 metres of the lot containing the use requiring the parking. Such alternate parking shall only be situated in a Commercial or Industrial Zone or within the same zone as the use requiring such parking, and shall be subject to Subsection (iii) herein.

(iii) Where the required parking is provided in accordance with Subsection (ii) above, the
owners of both lots shall enter into an agreement with the City to be registered against the title of both the lot upon which parking is to be provided and the lot containing the use requiring the parking. The lot upon which the parking is located, pursuant to the agreement, shall continue to be so used only for such purposes until alternate parking spaces in conformity with the regulations of this By-law are provided.

(iv) Parking as provided for in Subsection (iii) may be transferred to another lot in accordance with Subsection (ii), provided that an agreement as required by Subsection (iii) is registered on title of said other lot.

(v) Parking spaces and aisles, giving direct access to abutting parking spaces, excluding driveways extending directly from the street, shall not be located within 6.0 metres of a street line, and subject to a 6.0 metre wide planting strip being required and permanently maintained between the street line and the said parking spaces or aisle.

(p) Parking Design Standards:

(i) No parking space shall be less than 2.6 metres in width by 5.5 metres in length, unless otherwise provided for in this By-law;

(ii) All required parking shall be provided with adequate means of ingress and egress to and from the street or laneway, and shall be arranged so as not to interfere with normal public use of the street or laneway. Any parking lot shall provide for ingress and egress of vehicles to and from a street in a forward motion only;

(iii) Notwithstanding Subsection (i) herein, in the case of parallel parking:

(a) Each parallel parking space shall have a minimum width of 2.4 metres and a minimum length of 6.7 metres. End spaces which have a clear, unobstructed approach, shall have a minimum length of 5.5 metres; and,
(b) The aisle giving access to a parallel parking space shall have a minimum width of 3.6 metres for one-way traffic and a minimum width of 6.0 metres for two-way traffic;

(iv) Parking spaces, driveways, and any widening(s) thereof shall be provided and maintained with stable surfaces such as asphalt, concrete or other hard surfaced material, crushed stone or gravel, and shall be maintained in a dust free condition. Parking lots shall be designed and maintained with stable surfaces such as asphalt, concrete or other hard-surfaced material;

(v) Notwithstanding Subsection (i) herein, in the case of a barrier free parking, each parking space shall have a minimum width of 4.4 metres and a minimum length of 5.5 metres.

(q) Parking Schedules: Parking spaces shall be provided in the minimum quantity specified in Column 2 hereunder for each use listed in Column 1:

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Educational Uses</td>
<td></td>
</tr>
<tr>
<td>Trade School</td>
<td>1 for each 30.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>ii. Commercial Uses</td>
<td></td>
</tr>
<tr>
<td>Commercial Motor Vehicle Sales, Rental and Service Establishment</td>
<td>1 for each 100 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>Equipment Sales, Rental and Service Establishment</td>
<td></td>
</tr>
<tr>
<td>Conference or Convention Centre</td>
<td>1 for each 50.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>Industrial Administrative Office Office</td>
<td>1 for each 30.0 square metres of gross floor area, which accommodates such use.</td>
</tr>
<tr>
<td>Surveying, Engineering, Planning or Design Business</td>
<td></td>
</tr>
<tr>
<td>Labour Association Hall</td>
<td>1 for each 30.0 square metres of gross floor area, which</td>
</tr>
</tbody>
</table>
Other Commercial Uses not Listed Above 1 for each 30.0 square metres of gross floor area, which accommodates such use.

### iii. Industrial Uses

| Research and Development Establishment | 1 for each 50.0 square metres of gross floor area, which accommodates such use. |
| Manufacturing, Warehouse             | 1 for each 115.0 square metres of gross floor area, which accommodates such use. |

(r) **Barrier Free Parking:** According to Subsection (q) above, where 10 or more parking spaces are required for all uses on a lot, barrier free parking shall be designated and provided as part of the required parking spaces, in accordance with the following requirements:

<table>
<thead>
<tr>
<th>Required Parking Spaces</th>
<th>Designated Barrier Free Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-50 spaces</td>
<td>Minimum 1 space</td>
</tr>
<tr>
<td>50-100 spaces</td>
<td>Minimum 2 spaces</td>
</tr>
<tr>
<td>100 or more spaces</td>
<td>Minimum 2 spaces plus for every additional 100 required spaces, 1 additional barrier free space shall be provided.</td>
</tr>
</tbody>
</table>

(s) **Loading:** Any loading doors or spaces shall be screened from view from any abutting highway by a visual barrier to be maintained and constructed to a minimum height of 1.8 metres and shall consist of the following:

(i) A wall, fence;

(ii) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

(iii) Earth berms; or,

(iv) Any combination of the above.

(t) **Location and Size of Outdoor Display:**
Outdoor Display of goods, materials or equipment shall be permitted only as an accessory use and the following regulations shall apply:

(i) Outdoor Display shall only be permitted on a lot where the principal use is contained within a building having a minimum gross floor area of 500 square metres.

(ii) Outdoor Display shall be permitted in a Front Yard or a Flankage Yard, beyond minimum yard requirement established in (c) and (e) above.

(iii) In addition to ii) above, the area devoted to Outdoor Display shall be limited to a maximum of 25% of the Front Yard.

(iv) A 6.0 metre wide planting strip shall be required and permanently maintained between the street line and the display area.

(u) Location, Size and Screening of Outdoor Storage and Outdoor Assembly:

Outdoor Storage and Outdoor Assembly of goods, materials or equipment shall be permitted only as an accessory use and the following regulations shall apply:

(i) Outdoor Storage and Outdoor Assembly shall only be permitted on a lot where the principal use is contained within a building having a minimum gross floor area of 500 square metres.

(ii) Notwithstanding (i) above, no Outdoor Storage or Outdoor Assembly shall be permitted for a Warehouse.

(iii) Outdoor Storage and Outdoor Assembly shall not be permitted in a Front Yard or a required Flankage Yard.

(iv) Outdoor Storage and Outdoor Assembly shall be set back a minimum of 70 metres from any portion of a lot line abutting a lot line within a Residential Zone or an Institutional Zone.
(v) Height of outdoor storage or outdoor assembly shall not exceed the height of the building on the lot.

(vi) Outdoor Storage and Outdoor Assembly shall be screened from view from any abutting street by a visual barrier to be maintained and constructed to a minimum height of 1.8 metres and shall consist of the following:

(a) A wall, fence;

(b) A continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth;

(c) Earth berms; or,

(d) Any combination of the above.

(v) Fuel Storage Tanks: Any fuel storage tanks provided on site shall be at, or above, grade.

(6) No vehicular access to, or egress from, or both access and egress, shall be permitted from the Trinity Church Road Extension.

3. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the “M-14” (Prestige Industrial) District provisions, subject to the special requirements referred to in Section 2 of this By-law.

4. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19 B as Schedule S-1583.

5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [day of] 2009.

_________________________  ____________________________
Fred Eisenberger  Kevin C. Christenson
Mayor  Clerk

ZAC-07-104
Appendix “B” to Report PED09188 (Page 13 of 13)

This is Schedule "A" to By-Law No. 09-
Passed the ........ day of ......................, 2009

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

Subject Property
Southwest Corner of Stone Church Road East and the Proposed Trinity Church Road Extension

Block 1 - Change in Zoning from the "M-14" (Prestige Industrial) District to the "M-14/S-1583" (Prestige Industrial) District, Modified

Block 2 - Change in Zoning from the "M-12" (Prestige Industrial) District to the "M-14/S-1583" (Prestige Industrial) District, Modified
By Facsimile: 905.546.4202
City of Hamilton
Attention: David Falletta and Peter De Iulio
Planning and Economic Development Department
Planning Division – Development Planning – East Section
77 James Street North, Suite 400
Hamilton, ON
L8R 2K3

June 26, 2008

Dear Messers Falletta and De Iulio:

Re: Notice of Complete Application regarding ORC lands
Your File Nos: ZAC-07-109 and ZAC-07-104
Our File No. 13221

We act for Heritage Greene GP Limited ("Heritage Greene"), the owner of approximately 21 hectares of land off Stone Church Road East. The Heritage Greene lands comprise the majority of the West Mountain Core Area – a mixed use focal point of the Heritage Green Secondary Plan adopted by the former City of Stoney Creek in 1989.

The purpose of this correspondence is to comment on the City’s Notices of Complete Application in respect of two Ontario Realty Corporation ("ORC") files (ZAC-07-109 and ZAC-07-104). These are the ORC lands located: (i) west of the future Trinity Church Road Extension and south of Highland Road West and (ii) at the southwest corner of Stone Church Road East and the future Trinity Church Road Extension. This letter also confirms that an extension for comments until June 27, 2008 was provided by David Falletta in light of outstanding requests for documentation pertaining to this file, which were ultimately and primarily provided.

Our clients were subject to a lengthy and detailed planning process in respect of the West Mountain Core Area leading to a carefully planned community. The Heritage Greene lands were planned for substantial commercial development, a residential component, office space, a theatre as well as a transit node. The planning and investment was significant to compliment the planned function of retail uses as part of a mixed centre which is central to the community.
At this time, we have the following concerns regarding these two applications:

(i) As part of its approval process, Heritage Greene was required to construct a storm water management pond ("SWM Pond") on 6 acres of land which will ultimately be dedicated to the City. If either of the properties in the above-mentioned applications will be accessing this SWM Pond, we remind the City of its obligation in the course of the approval process to use its best efforts to ensure benefiting owners contribute to the costs being front ended by Heritage Greene. We submit it is appropriate to include in these efforts, cost sharing contributions for the value of the land to be dedicated to the City for this pond, and

(ii) There does not appear to be a planning justification report in respect of the lands located in the ZAC-07-04 application so it is not clear what planning rationale the City is relying on to make its determinations in respect of this zoning by-law amendment. The proposed modified uses remain unknown. Absent any such justification, this application appears to be premature. Further, the impact of this application on the planned function in the West Mountain Core Area is unclear.

We look forward to receiving information regarding the planning justification and proposed uses for the ZAC-07-04 property as well as a copy of the City’s Planning Report(s) on these applications and notification of the ensuing public meeting(s). Please do not hesitate to contact us if you have any questions regarding this matter.

Sincerely,

[Signature]

Shelley Kaufman

Cc: Paul Silvestri
July 15, 2009

Mr. Delia McPhail
Planning Department
City of Hamilton
77 James St. N.
Hamilton, ON L8R 2K3

Dear Delia:

Re: ORC Lands - Heritage Green - File Nos. ZAR-07-104 and ZAR-07-109

I have been retained by Heritage Green GP Limited, the owner and developer of commercial property within the East Mountain Core Area in the East Mountain Secondary Plan to assist Ms. Shelley Kaufman and Mr. Scott Snider with respect to this project. Can you please add me to the list of persons to be contacted with respect to any applications regarding the ORC lands in the Heritage Green area, specifically:

1. OPA-07-036 and ZAC-07-112
2. OPA-07-038 and any related ZAC file
3. OPA-07-037 and ZAC-07-113
4. ZAC-07-109 and any related OPA file
5. ZAC-07-104 and any related OPA file

Can you please forward to me a copy of the initial applications made by ORC to be able to identify the specific requests that were made with respect to their applications.

I understand that with the exception of File OPA-07-038, these applications are intended to be brought forward to the August 10, 2009 meeting of the Economic Development and Planning Committee. Can you please forward a copy of the staff report to myself, Mr. Snider and Ms. Kaufman as soon as it is available.

Thank you very much.

Sincerely,

FOTHERGILL PLANNING & DEVELOPMENT INC.

E. J. Fothergill, MCIP, RPP
President

c. c. Mr. Gerald Asa, Mr. Scott Snider, Ms. Shelley Kaufman

C:\WPDOCS\FILES\Heritage Green 2008-2009\Letters-D-McPhail-July-15-09-1.wpd