

**Authority:** Item 13, Planning and Economic  
Development Committee  
Report: 05-003 (PD05026)  
CM: February 9, 2005

**Bill No. 021**

**CITY OF HAMILTON**

**BY-LAW NO. 05-021**

**To Amend Zoning Bylaw No. 90-145-Z (Flamborough)  
and to Amend Bylaw No. 03-332, respecting lands  
described as being within Part of Lots 12 and 13,  
Concession 3, (East Flamborough), in the former Town  
of Flamborough, 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<sup>st</sup>, 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 Town of Flamborough" and is the successor of 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Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council or the City of Hamilton;

**AND WHEREAS** Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5<sup>th</sup> day of November, 1990, and approved by the Ontario Municipal Board on the 21<sup>st</sup> day of December, 1991;

**AND WHEREAS** By-law No. 03-332 which amends Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 29<sup>th</sup> day of October, 2003, and approved in part by the Ontario Municipal Board on the 5<sup>th</sup> day of July, 2004;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Section 13 of Report 05-003 of the Planning and Economic Development Committee at its meeting held on the 9<sup>th</sup> day of February, 2005, recommended that Zoning By-law No. 90-145-Z (Flamborough) and Zoning By-law No. 03-332, be amended as hereinafter provided;

**AND WHEREAS** this by-law is in conformity with the Official Plan of the City of Hamilton, as amended by Official Plan Amendment No. 21 to the former Official Plan of The Regional Municipality of Hamilton-Wentworth and by Official Plan Amendment No. 98 to the former Official Plan of the Town of Flamborough, proposed by the Council of the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act.

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

1. That Schedule “A-29”, appended to and forming part of By-law No. 90-145-2 (Flamborough), be amended as follows:
  1. Schedule No. A-29, attached to and forming part of Zoning By-law No. 90-145-2, is hereby amended by changing the zoning from the Prestige Industrial ‘M1-1’ Zone and the General Industrial ‘M2-1’ Zone to Prestige Industrial Holding ‘MI-12-1 (H)’ Zone, Prestige Industrial Holding ‘M1-12-2 (H)’ Zone and Prestige Industrial Holding ‘M1-12-3 (H)’ Zone on those lands being Part of Lots 12 and 13, Concession 3 (Geographic Township of East Flamborough), Block 157 Registered Plan 62M-739 being in the City of Hamilton, shown on Schedule ‘A’ attached to and forming part of this By-law.
  2. Section 29 – Prestige Industrial ‘MI’ Zone of Zoning By-law No. 90-145-Z (Flamborough) is hereby amended by adding thereto the following subsection:

“29.3.12 ‘M1-12’ (see Schedule A-29)

(a) PERMITTED USES

Accessory Convenience Retail Store  
Wholesale and Retail Warehouse Facility  
Retail Establishment excluding any Retail Establishment primarily involved with food sales such as a Supermarket  
Automobile Service Station subject to Section 21.2  
Gas Bar subject to Section 21.2  
Car Wash as an accessory use to a gas bar, subject to Section 21.2  
Business, Professional or Administrative Office  
Medical Clinic  
Computer, Electronic or Data Processing Establishment  
Community Centre  
Dry Cleaning Establishment  
Dry Cleaning Distribution Station  
Exhibition Conference Hall  
Financial Institution  
Funeral Home  
Industrial Research and Development Establishment  
Personal Service Establishment  
Place of Entertainment

Place of Recreation  
 Printing or Publishing Establishment  
 Public Use  
 Restaurant - standard, convenience or fast food  
 Video Rental Establishment  
 Warehouse Membership Club  
 Motel  
 Hotel

(b)

ZONE PROVISIONS

- (i) Minimum Lot Frontage..... ..30 metres
- (ii) Minimum Lot Area..... ..8,000 square metres
- (iii) Maximum Lot Coverage.....30% except a lot with only Business, Professional or Administrative Office which shall be permitted a maximum lot coverage of 50%
- (iv) Yard abutting a streetline other than a Provincial Highway (minimum)..... ..6 metres
- (v) Yard abutting a Provincial Highway (minimum)..... ..14 metres
- (vi) Interior Side Yard (minimum)..... ..3 metres
- (vii) Rear yard not abutting a streetline or Provincial Highway (minimum)..... ..7.5 metres
- (viii) Planting Strip (minimum)..... ..6.0 metres width across all lot lines abutting a street.
- (ix) Notwithstanding Zone Provision (b)(viii) above, a minimum 15 metre by 15 metre landscaped triangle shall be provided and maintained for corner lots with one streetline on Dundas Street East, and a minimum 12 metre by 12 metre landscaped triangle shall be provided and maintained for corner lots in all other cases, which shall be suitably landscaped and designed to provide an attractive appearance. The required 15 by 15 metre landscaped triangle shall also include a gateway feature which shall be defined through site plan approval.
- (x) Maximum Total Gross Floor Area for all uses excluding Motel, Hotel Community Centre and Public Use..... ..55,740 square metres

- (xi) Retail Establishments, Wholesale and Retail Warehouse Facilities, Warehouse Membership Clubs:
  - 1. Maximum Total Gross Floor Area..... .39,110 square metres
  - 2. Maximum Gross Floor Area for any individual outlet..... 12,077 square metres
  - 3. Minimum Gross Floor Area for any individual outlet..... 1,858 square metres
  - 4. Notwithstanding Zone Provision (xi)(3) above, a maximum of 35% of the total existing Gross Floor Area of all Retail Establishments, Wholesale and Retail Warehouse Facilities and Warehouse Membership Clubs each equal to or exceeding 1,858 square metres Gross Floor Area shall be permitted as Retail Establishments each having a minimum Gross Floor Area between 465 square metres and 1,857 square metres.
  
- (xii) Minimum Gross Floor Area for each Restaurant - standard, convenience, or fast food (excluding restaurants accessory to a retail use) ..... 372 square metres
  
- (xiii) Maximum Gross Floor Area for an Accessory Convenience Retail Store..... .93 square metres
  
- (xiv) Each use other than accessory uses shall be contained in a building having all of its customer access doors opening directly outdoors and shall not open onto another store or an unenclosed corridor.
  
- (xv) Notwithstanding the provisions of Section 5.21, PARKING REGULATIONS, which shall apply only to Motel, Hotel, Community Centre, Exhibition Conference Hall and Public Use; the minimum number of parking spaces to be provided and maintained for all other uses shall be five (5) spaces per 100 square metres of Gross Floor Area.
  
- (xvi) Notwithstanding any other provisions of Zoning By-law No. 90-145-Z to the contrary, lands zoned Prestige Industrial 'M1-12' and identified on Schedule A-29 to this By-law shall be treated as a single lot for the purposes of Zone Provisions (x) and (xi) above, notwithstanding any consolidation or division of the same.
  
- (xvii) For the purposes of this By-law, a "Warehouse Membership Club" shall be defined as a building with a minimum Gross Floor Area of 7,000 square

metres, occupied by a single user, where the principal use is the sale of food and non-food products which are generally stored, displayed and offered for sale in one and the same area in a warehouse format and where customers, whether retail or wholesale, are generally required to be members of the club, but excludes department stores and supermarkets.

(xviii) All other provisions of Subsection 29.2 ('MI' Zone) shall apply.

(c) HOLDING PROVISIONS

The Holding provisions of Section 36 (1) of the Planning Act, R.S.O., 1990, as amended, apply to the lands zoned 'M1-12' by introducing the Holding symbol 'H' as a suffix to the proposed Site-Specific Prestige Industrial Zone.

The Holding Provision 'M1-12-1' will prohibit all permitted uses, except a Motel Hotel, Community Centre and Public Use on the lands zoned 'M1-12' until such time that:

- (i) A Traffic Impact Study has been submitted to the satisfaction of the Ministry of Transportation and the City of Hamilton which recommends the transportation improvements required to accommodate a maximum gross floor area of 39,947 square metres, excluding motel, hotel, community centre and public uses; and,
- (ii) Arrangements, financial and otherwise, for improvements recommended in the above study have been completed to the satisfaction of the Ministry of Transportation and the City of Hamilton.

The Holding Provision 'M1-12-2' will prohibit the gross floor area exceeding 39,947 square metres, excluding a Motel, Hotel, Community Centre and Public Use, on the lands zoned 'M1-12' until such time as:

- (i) A Traffic Impact Study has been submitted to the satisfaction of the Ministry of Transportation and the City of Hamilton which recommends the transportation improvements required; and,
- (ii) Arrangements, financial and otherwise, for any required road accesses, roadway infrastructure or interchange works recommended in the above study have been completed to the satisfaction of the Ministry of Transportation and the City of Hamilton.

The Holding provision 'M1-12-3' will prohibit the use of the lands zoned 'M1-12' for a Warehouse Membership Club until a market impact study has been submitted to the satisfaction of the City of Hamilton's Director of Development and Real Estate that demonstrates that there will be no significant impact on the planned function of other commercial areas.

City Council may remove the 'H' symbol, and thereby give effect to the Site-Specific Prestige Industrial 'M1-12' Zone provisions by enactment of an amending By-law once the conditions are fulfilled."

3. The provisions of subsection 29.3.4 – 'MI-11' of Section 2 of By-law No. 03-332 are hereby amended as follows:

(a) Provision (a) – PERMITTED USES is amended by adding the following permitted uses:

"Accessory Convenience Retail Store  
Gas Bar subject to Section 21.2  
Car Wash as an accessory use to a gas bar, subject to Section 21.2  
Community Centre  
Public Use  
Warehouse Membership Club  
Motel  
Hotel"

(b) Provision (b)(iv) is deleted in its entirety and replaced by the following:

"Maximum Total Gross Floor Area for  
all uses excluding Motel, Hotel,  
Community Centre and Public Use..... ..52,000 square metres"

(c) Sub-provisions (v), (vi) and (vii) of Provision (b) are deleted in their entirety and replaced by the following:

"(v) Retail Establishments, Wholesale and Retail Warehouse Facilities  
Warehouse Membership Clubs:

1. Maximum Gross Floor Area for  
any individual outlet..... ..12,077 square metres
2. Minimum Gross Floor Area for  
any individual outlet..... .. 1,858 square metres
3. Notwithstanding Zone Provision (v)(2) above, a maximum of 35% of the  
total existing Gross Floor Area of all Retail Establishments, Wholesale and  
Retail Warehouse Facilities and Warehouse Membership Clubs each  
equal to or exceeding 1,858 square metres Gross Floor Area shall be  
permitted as Retail Establishments each having a minimum Gross Floor  
Area between 465 square metres and 1,857 square metres."

(d) Sub-provision (viii) of Provision (b) is renumbered as sub-provision (vi).

(e) Sub-provision (ix) of Provision (b) is deleted in its entirety and replaced by the following:

“(vii) Each use other than an accessory use shall be contained in a building having all of its customer access doors opening directly outdoors and shall not open onto another store or an unenclosed corridor.”

(f) Sub-provision (x) of Provision (b) is deleted in its entirety and replaced by the following:

“(viii) Notwithstanding the provisions of Section 5.21 – PARKING REGULATIONS, which shall apply only to Motel, Hotel, Community Centre and Public Use, the minimum number of parking spaces to be provided and maintained for all other uses shall be five (5) spaces per 100 square metres of Gross Floor Area.”

(g) Sub-provision (xi) of Provision (b) is renumbered as sub-provision (ix).

(h) Sub-provision (xii) of Provision (b) is renumbered as sub-provision (xvii).

(i) The following sub-provisions are added to Provision (b):

“(x) Yard abutting a streetline other than a Provincial Highway (minimum)..... .6 metres

(xi) Yard abutting a Provincial Highway (minimum)..... .14 metres

(xii) Interior Side Yard (minimum)..... ..3 metres

(xiii) Rear yard not abutting a streetline or Provincial Highway (minimum)..... .7.5 metres

(xiv) Planting Strip (minimum)..... 6.0 metres width across all lot lines abutting a street

(xv) Maximum Gross Floor Area for an Accessory Convenience Retail Store..... .93 square metres

(xvi) For the purposes of this By-law, a “Warehouse Membership Club” shall be defined as a building with a minimum Gross Floor Area of 7,000 square metres, occupied by a single user, where the principal use is the sale of food and non-food products which are generally stored, displayed and offered for sale in one and the same area in a warehouse format and where customers, whether retail or wholesale, are generally required to be members of the club,

but excludes department stores and supermarkets.”

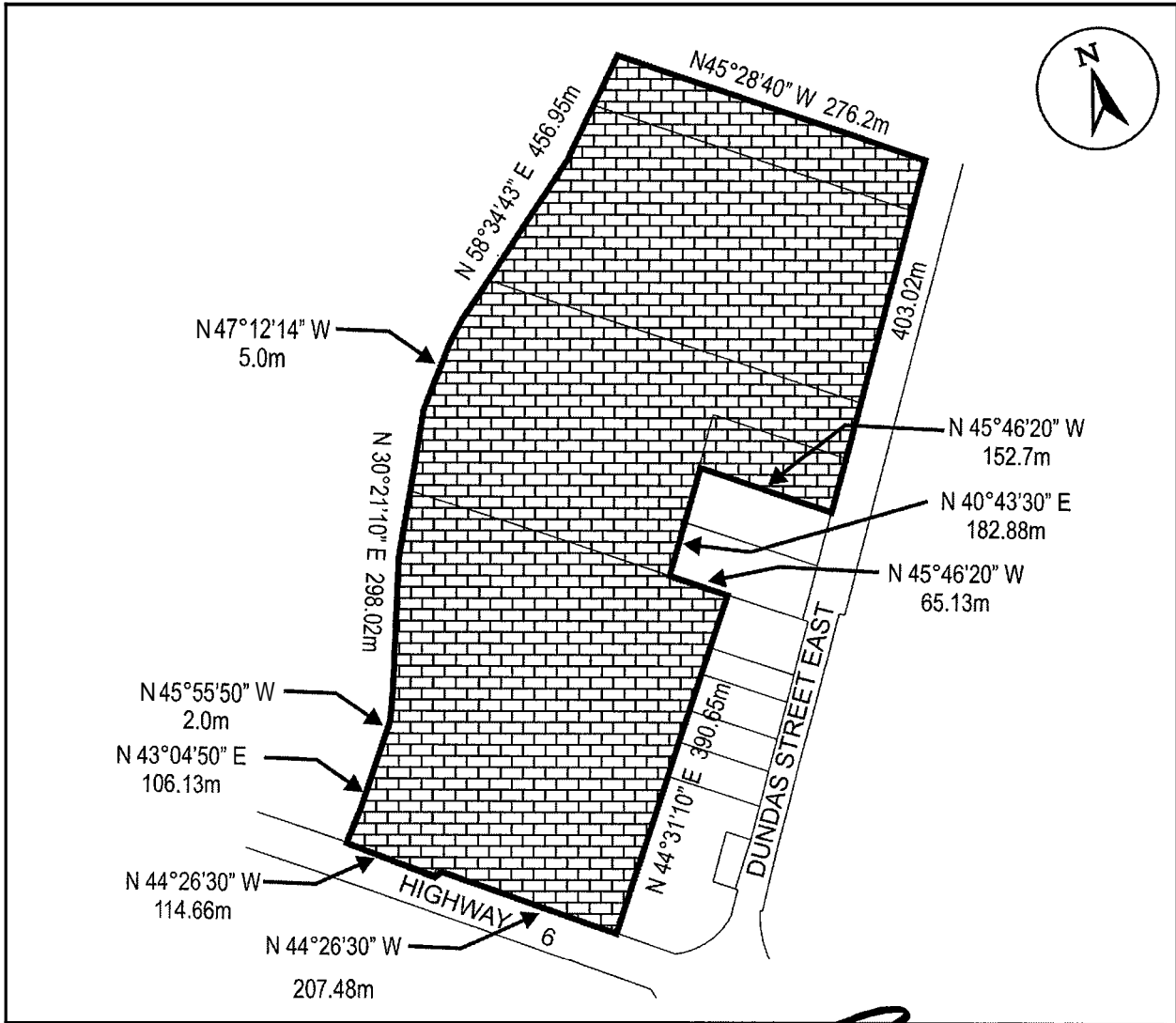
- (j) All other provisions of By-law 03-332 shall continue to apply.
- 4. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

**PASSED and ENACTED** this 9th day of February, 2005.

  
MAYOR

  
CLERK





This is Schedule "A" to By-Law No 05 - 021

Passed the 9th day of February, 2005

*[Handwritten Signature]*  
 Clerk  
 Mayor

## Schedule "A"

Map Forming Part of  
 By-Law No. 05-021  
 to Amend By-Law No. 90-145-Z



Hamilton

### Subject Property



Change in zoning to Modified M1-12-1(H), Modified M1-12-2(H), Modified M1-12-3(H).

North



Scale:  
 Not to Scale

Date:  
 February 2005

File Name/Number:  
 ZAC-03-106/ZAC-04-59/  
 ROPA-04-02/OPA-04-12  
 Planner/Technician:  
 CT/LM