

ISSUE DATE:

Aug. 25, 2008

08-199



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL070732

PL071115

Robert Payne/SFJ Inc. (Flying J) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate land at 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.  
OMB File No. O070107

Robert Payne/SFJ Inc. (Flying J) has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 3692-92 of the City of Hamilton to rezone lands respecting 33-37 Fifty Rd to permit a travel plaza and associated uses catering to the traveling public.  
OMB File No. Z070102

Robert Payne/SFJ Inc. (Flying J) has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands located at 33-37 Fifty Church Road, in the City of Hamilton.  
OMB File No. PL071115

**APPEARANCES:**

Parties

Counsel

City of Hamilton

A. Zuidema

SFJ Inc. (Flying J)

C. Lantz

ACTION: P. De...

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. R. AKER ON JULY 2, 2008 AND ORDER OF THE BOARD**

B. Khes  
A Zuidema

Mr. Zuidema, counsel for the City of Hamilton, advised the Board that the parties have reached a settlement. The settlement requires an Official Plan amendment and two Zoning By-law amendments. Records  
ar

The subject property is located in the southeast quadrant of the QEW and Fifty Road interchange and is approximately 18 acres in size. The property will be known as 1640 South Service Road in the City of Hamilton and formerly the City of Stoney Creek.

The proposal is for a travel plaza with restaurant, driver's lounge area with change rooms, gift shop, fuel pump islands, weight scale and wash area and land for future development.

Mr. Peter De Iulio, Senior Project Manager responsible for development review in the City of Hamilton, provided opinion planning evidence in support of the proposed development.

Mr. De Iulio provided land use planning evidence with respect to the Provincial Policy Statement (2005), the Growth Plan For the Greater Golden Horseshoe (2006), the former Region Of Hamilton-Wentworth Official Plan and the City of Stoney Creek Official Plan including Special Policy Area F.

Mr. De Iulio provided opinion planning evidence on Zoning By-law 3692-92 of the former City of Stoney Creek and Zoning By-law 05-200 of the City of Hamilton.

No one spoke in opposition.

Based on the evidence, the Board finds that the proposed Official Plan amendment conforms with the policies of the Stoney Creek Official Plan and all the requirements of Special Policy Area F have been complied with.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 3692-92 is in conformity with the proposed Official Plan amendment and represents good planning.

Based on the evidence, the Board finds that the proposed Zoning By-law amendment to Zoning By-law 05-200 appropriately implements the required map changes.

Based on all the evidence, the Board finds that the proposed development represents good planning and is in the public interest and should be approved.

The Order of the Board is set out as Attachment "A" appended to this Decision.

The hearing for the determination and settlement of the site plan is scheduled to commence at 10:00 a.m. on Tuesday, July 29, 2008. Three (3) days have been

reserved on the Board's calendar. The location is the Ontario Municipal Board Hearing Room 6, McMaster Learning Centre, 50 Main Street East, Hamilton.

This member is seized.

No further notice is required.

The Board so Orders.

"J. R. Aker"

J. R. AKER  
MEMBER

**Attachment "2"**

**CITY OF HAMILTON**

**BY-LAW NO. \_\_\_\_\_**

**To Amend Zoning By-law No. 3692-92 (Stoney Creek)  
Respecting the Lands Located at 1640 South Service Road, Stoney Creek**

**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 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 8<sup>th</sup> day of December, 1992, and approved by the Ontario Municipal Board on the 31<sup>st</sup> day of May, 1994;

**AND WHEREAS** this By-law will be 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, upon approval of Official Plan Amendment No. 141;

**NOW THEREFORE** the Ontario Municipal Board enacts as follows:

1. That Map No. 9 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek) is amended by changing the zoning from the Agricultural Specialty "AS" Zone to the Business Park Industrial "MBP-3" Zone, the land comprised in Block 1, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That Subsection 9.7.6, "Special Exemptions", of Section 9.7 Business Park Industrial "MBP" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, "MBP-3", as follows:

**“MBP-3” 1640 South Service Road, Schedule “A”, Map No. 9**

Notwithstanding the uses permitted in Section 9.7.2 of the Business Park Industrial “MBP” Zone, on the lands zoned “MBP-3” by this By-law, the following uses shall also be permitted:

- (a) Motels
- (b) Tourist Information Centres
- (c) Travel Plaza

A **Travel Plaza** “means a use, building, structure, or part thereof, catering to the goods movement industry and the travelling public. In addition to the sale of fuels for motor vehicles, recreational vehicles, commercial motor vehicles and heavy motor vehicles and propane dispensing, a Travel Plaza may include a retail store, a convenience food store, a fast food restaurant, a standard restaurant, drivers lounge and personal service uses accessory and subordinate to the Travel Plaza function. Travel Plaza component uses may include, among other things, motor vehicle, recreational vehicle, commercial motor vehicle and heavy motor vehicle parking, a weigh scale, a garage - industrial, and a recreational vehicle, commercial motor vehicle and heavy motor vehicle washing establishment.”

- (d) Notwithstanding paragraph (m) of Subsection 9.7.2 of the Business Park Industrial “MBP” Zone, on the lands zoned “MBP-3” by this By-law, restaurants – standard and restaurants – outdoor patio uses are permitted to be accessory to all of the uses permitted in Subsection 9.7.2 of the Business Park Industrial “MBP” Zone and those uses identified in Section 2, Clauses (a) and (b) of this By-law, except an art shop, a bank or financial institution, a gasoline bar, a hobby shop, and a parking lot use.

Notwithstanding the provisions of paragraphs (a), (b), (d), (e) and (g) of Subsection 9.7.3 of the Business Park Industrial “MBP” Zone, on the lands zoned “MBP-3” by this By-law, the following provisions shall apply:

- (a) Minimum Lot Area 6,000 square metres
- (b) Minimum Lot Frontage 50 metres
- (d) Minimum Front Yard for all uses except a Travel Plaza 14 metres

## For a Travel Plaza:

- |       |  |            |
|-------|--|------------|
| (i)   | Maximum Front Yard (excluding setback to fuel pump islands, fuel pumps, light standards and signage)       | 72 metres  |
| (ii)  | Minimum Front Yard to Motor Vehicle and Recreational Vehicle Fuel Pump Islands and Propane Dispensing Area | 75 metres  |
| (iii) | Minimum Front Yard to Commercial Motor Vehicle and Heavy Motor Vehicle Fuel Pump Islands                   | 120 metres |
| (iv)  | Minimum Front Yard to Light Standards  | None       |
- (e) Minimum Side Yard to Weigh Scale 4.0 metres
- (g) Minimum Landscaped Open Space - 10 percent of the lot area, which shall include the following:
- (i) A landscaped strip having a minimum width of 7.5 metres shall be provided and thereafter maintained adjacent to any street except for points of ingress and egress.
  - (ii) A landscaped strip having a minimum width of 4.0 metres shall be provided and thereafter maintained along the easterly lot line, save and except for that portion of the lands zoned Conservation/Hazard Lands "P5" by By-law No. 05-200.
  - (iii) Notwithstanding the landscaped strip requirements identified in Section 2, Clause (g), Subclause (ii) of this By-law, no landscaped strip shall be required to be provided on the lands zoned Business Park Industrial "MBP-3" by this By-law that are adjacent to the lands zoned Conservation/Hazard Lands (P5) by By-law No. 05-200.
  - (iv) A landscaped strip having a minimum width of 1.5 metres shall be provided and thereafter maintained adjacent to the southerly and westerly lot lines.

Notwithstanding the provisions Subsection 9.7.4 of the Business Park Industrial "MBP" Zone, on the lands zoned "MBP-3" by this By-law, the following additional provisions shall apply:

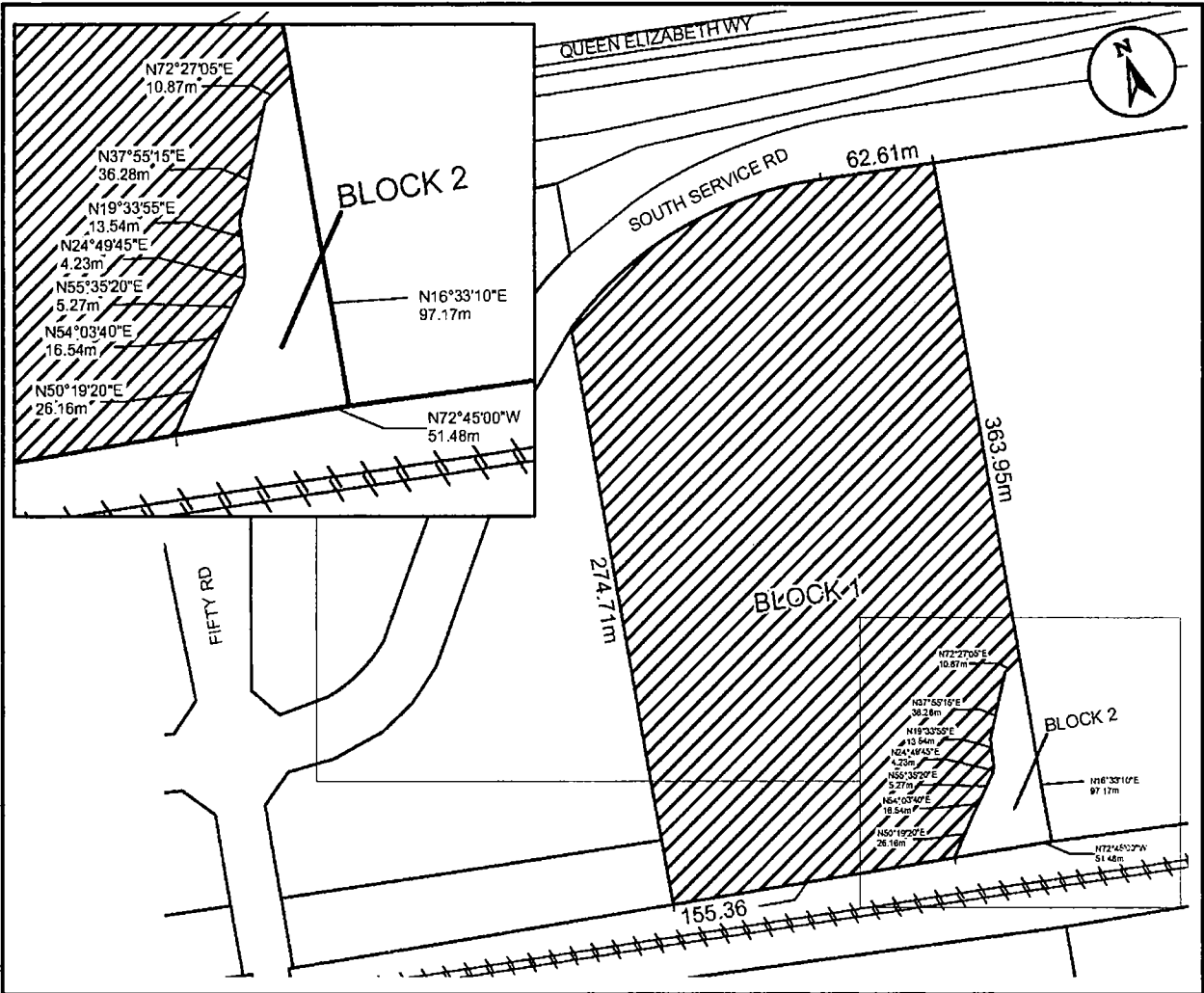
- (a) Within the Travel Plaza, a maximum of 650 square metres of the gross floor area may be used for a Retail Store and a Convenience Food Store.

Notwithstanding the provisions of paragraph (a) of Subsection 4.10.3 of the General Provisions Section, on the lands Zoned "MBP-3" by this By-law, the following provision shall apply:

- (a) Required dimensions for 90 degree perpendicular parking spaces shall be a minimum of 2.6 metres in width by 5.5 metres in length, exclusive of any lands used for access, maneuvering, driveways or a similar purpose.
- 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 Business Park Industrial "MBP" Zone provisions, subject to the special requirements referred to in Section 2.

**PASSED and ENACTED** this        day of        , 2008 by OMB Order \_\_\_\_\_.



ZAC-05-86



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

**Subject Property**  
 1640 South Service Road

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

-  BLOCK 1 - Change in zoning from the Agriculture Specialty "AS" Zone to the Business Park Industrial "MBP-3" Zone.
-  BLOCK 2 - Lands subject to By-Law No. 05-200

Scale: N.T.S.	File Name/Number: ZAC-05-86, OPA-05-17
Date: July 24, 2008	Planner/Technician: PD/BR
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

