

ISSUE DATE:

Mar. 24, 2010



PL090764

By-law No. 10-080

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Environment Hamilton Incorporated
Appellant: Hamiltonians for Progressive Development
Appellant: Purolator Courier Ltd.
Subject: Proposed Official Plan Amendment No. 219
Municipality: City of Hamilton
OMB Case No.: PL090764
OMB File No.: PL090764

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Environment Hamilton Incorporated
Appellant: Hamiltonians for Progressive Development
Appellant: Purolator Courier Ltd.
Subject: By-law No. 09-164
Municipality: City of Hamilton
OMB Case No.: PL090764
OMB File No.: PL090765

APPEARANCES:

Parties

Counsel

Confederation Park Shopping Centre

D. Wood

City of Hamilton

A. Zuidema

Hamiltonians for Progressive Development
and Environment Hamilton Incorporated

E. Gillespie

Purolator Courier Ltd.

M. Bowman

**MEMORANDUM OF ORAL DECISION DELIVERED BY K. J. HUSSEY ON
MARCH 11, 2010 AND ORDER OF THE BOARD**

On consent, this hearing was convened by teleconference for the Board to consider Official Plan Amendment 219 as modified, and Zoning By-law Amendment 09-164. These proposals resulted from the settlement reached by Confederation Park Shopping Centre ("Applicant"), and Hamiltonians for Progressive Development and Environment Hamilton Incorporated.

The Applicant and the Appellant Purolator Courier Ltd. also reached an understanding and have entered into minutes of settlement. As a result, Purolator withdrew the appeals that it made to the Board.

Before the hearing, the Board received the affidavit evidence of Land Use Consultant Planner Eric Saulesleja, who was retained by the Applicant. Mr. Saulesleja was available at this hearing to provide an overview of the proposal and to answer questions which might have arisen from his evidence.

On the basis of Mr. Saulesleja's unchallenged expert planning evidence, the Board approves the proposed Official Plan and Zoning By-law Amendments appended to this Decision as Attachments "1" and "2".

The subject property is located on the east side of Centennial Parkway North, south of the QEW, in the former City of Hamilton, which is now part of the Amalgamated City of Hamilton. The subject site is designated "Urban" in the Regional Official Plan, "Industrial" in the City of Hamilton Official Plan ("Existing Plan") and is zoned "KK" (*Restricted Heavy Industrial District*).

By way of background, on May 18, 2007, the Applicant submitted applications to amend the existing Official Plan and Zoning By-law to permit redevelopment of the subject site for a mixed-use commercial centre that will comprise a Wal-Mart department store and other retail service uses, employment use and a 120-room hotel. Council approved the application and adopted Official Plan Amendment 219 and Zoning By-law 09-164 to permit the proposed development. This decision was appealed by the three above named Appellants.

A settlement was reached with the Appellants Hamiltonians for Progressive Development and Environment Hamilton Incorporated, the terms of which required OPA 219 to be modified and Zoning By-law 09-164 to be amended. On February 10, 2010,

City Council passed a resolution supporting the settlement and the modified OPA 219 and the amended Zoning By-law 09-164. The Applicant now seeks the Board's approval of these instruments.

The modified OPA 219 designates 3.2 acres of the subject site "Industrial" with the remainder (32.8 acres) designated "Commercial". It also identifies the entire site as being subject to a Special Policy Area 99, which specifies maximum permitted gross floor area, phasing policies and urban design direction.

The proposed amended Zoning By-law 09-164, which conforms to and implements modified OPA 219, zones 3.72 acres of the subject site "M-14-'H'/S.-1613" (*Prestige Industrial-Holding*) District, Modified, which further defines permitted uses on the portion of the site subject to this zone. The entire site is subject to site-specific zoning provisions which allow for the site to be developed on a comprehensive basis, specifies maximum gross floor area permitted, specifies development phasing provisions, contains specific height, setback, parking and loading requirements, and places two holding provisions.

The holding provisions contained within this amended Zoning By-law require that:

- a) a detailed traffic study be undertaken to the satisfaction of the City and Ministry of Transportation. The findings of this study will be appropriately implemented at the site plan review and approval stage; and,
- b) the Owner/Applicant submit a signed record of site condition to the City and the Ministry of Environment.

As part of the settlement, the Applicant has also agreed to provide additional transportation elements including a bus lay-over on the subject site, and the construction of a sidewalk connection along a certain portion of the east side of Centennial Parkway North. These elements are subject to obtaining necessary approvals.

Mr. Saulesleja's evidence is that his planning opinion remains unchanged regarding the appropriateness of the proposed development, notwithstanding the

modified OPA 219 and the amended Zoning By-law 09-164, as the form of development permitted by the modified documents remains essentially the same.

Mr. Saulesleja's opinion is that the subject site is an appropriate location for the proposed development, to which all necessary services can be provided. It is a brownfield site that will be remediated to appropriate provincial standards and the proposed development will intensify its use. The proposal will facilitate development of a gateway and improve the appearance of Centennial Parkway; it will provide substantial employment to the City and will not have any significant adverse impact on the function of the Downtown, the main streets, and other commercial areas in the vicinity of the subject site. Mr. Saulesleja opined that the proposal provides an appropriate range of commercial and other employment uses and the design policies in the modified OPA 219 will provide for a visually appealing development, which is desirable as the site is a visually prominent location from the QEW and Centennial Parkway North.

Mr. Saulesleja concluded that the modified OPA 219 and the amended Zoning By-law 09-164 constitute good land use planning: these instruments conform to the Growth Plan, are consistent with the PPS, and satisfy the policies of the Hamilton-Wentworth Official Plan and the City of Hamilton Official Plan.

The Board accepts the evidence presented and is satisfied that the proposed amendments represent good planning.

Accordingly, the Board Orders as follows:

1. Official Plan Amendment 219 to the Official Plan for the former City of Hamilton is approved, as modified, in the manner set out in Attachment "1" to this Decision.
2. Zoning By-law Amendment 09-164 to the City of Hamilton Zoning By-law is approved as set out in Attachment "2" to this Decision.

The Appeals are hereby dismissed.

This is the Order of the Board.

"K. J. Hussey"

K. J. HUSSEY
MEMBER

ATTACHMENT "1"

Amendment No. 219

to the

former City of Hamilton Official Plan

The following text, together with:

- Schedule "A" (Schedule "A" - Land Use Concept); and,
- Schedule "B" (Schedule "B" - Special Policy Areas);

attached hereto, constitute Official Plan Amendment No. 219 to the City of Hamilton Official Plan.

Purpose and Effect:

The purpose of the Amendment is to redesignate a portion of the subject lands from "Industrial" to "Commercial" to permit a mix of commercial uses, and to add a special policy area to allow for specific uses and to establish design direction to recognize the visual prominence of the location.

Location:

The lands affected by this Amendment comprise approximately 14.75 hectares bounded by the South Service Road, Centennial Parkway North, Canadian National Railway Line, and Warrington Street, municipally known as 480 and 500 Centennial Parkway North and 20 Warrington Street, in the former City of Hamilton.

Basis:

The amendment can be supported on the following basis:

- The lands are suitably located for the planned commercial uses given their location adjacent to a major highway and arterial roads.
- The lands are a brownfield site, and are being redeveloped.
- The proposed policies ensure that the development is compatible with the surrounding existing and planned development, and ensures the physical form is compact, human in scale, and designed to be pedestrian friendly and transit supportive, in accordance with the proposed Urban Design Guidelines.
- The proposal is consistent with the City of Hamilton Official Plan policies for the "Commercial" designation.

Actual Changes:

Map Changes:

- (a) Schedule "A" - Land Use Concept - be revised by redesignating a portion of the subject lands from "Industrial" to "Commercial", as shown on the attached Schedule "A" of this Amendment.
- (b) Schedule "B" - Site-Specific Policy Areas - be revised by removing the subject lands from Special Policy Area 11, and adding a new Special Policy Area as Special Policy Area 99, as shown on the attached Schedule "B" of this Amendment.

Text Changes:

- (a) The following new policies are added to Subsection A.2.9.3 - Other Policy Areas as Policy A.2.9.3.92:

"A.2.9.3.92 In addition to Subsection A.2.2 - Commercial Uses and Subsection A.2.3-Industrial Uses, for those lands located at 480 and 500 Centennial Parkway North and 20 Warrington Street, designated "Commercial" and "Industrial" on Schedule "A" and shown on Schedule "B" as Special Policy Area 99, the following policies will apply:

- i) The portion of the Centennial Parkway North site designated "Commercial" on Schedule "A"-Land Use Concept will be recognized as a SHOPPING CENTRE, which comprises a mix of retail and non-retail uses, and serves as a mixed-use gateway into the City of Hamilton along a major highway (Queen Elizabeth Way) and at the head of a major arterial street (Centennial Parkway North).
 - a) Notwithstanding Section A.2.2.8 to A.2.2.10, Shopping Centres of this Plan, the maximum floor area for a single retail store will be 18,581 square metres.
- ii) In addition to Section A.2.3.1, the following uses will be permitted on lands designated Industrial on Schedule "A"-Land Use Concept:
 - a) hotel; and
 - b) offices including limited ancillary uses and convenience retail, as defined in the Zoning By-law, shall be permitted on the ground floor of an office building with a minimum gross floor area of 2,000 sq. m and a maximum gross floor area of 9,999 sq.m.
- iii) Notwithstanding Subsections A.2.2.8 to A.2.2.10, Shopping Centres and A.2.3-Industrial of this Plan, the following provisions will apply to the lands designated Commercial and Industrial on Schedule "A"-Land Use Concept and shown as Special Policy Area 99 on Schedule "B"- Special Policy Areas:

- a) A maximum total floor area of 45,058 square metres will be permitted of which, a maximum floor area devoted to retail and service uses will be 23,226 square metres on lands designated Commercial .
- b) An additional 1 square metre of retail and service uses will be permitted on lands designated Commercial for every 1 square metre of non-retail and service uses located on lands designated Commercial or Industrial, as identified in the Zoning By-law, for which construction has substantially commenced on the site.

Urban Design Guidelines

- iv) prior to development of 480 and 500 Centennial Parkway North and 20 Warrington Street, shown as Special Policy Area 99, the proponent will complete urban design guidelines for the development of the site, to the satisfaction of the City. Urban design guidelines will be in accordance with the Urban Design Principles and Policies in Policies A.2.9.3.92 v) and vi).

v) Urban Design Principles

The Centennial Parkway North site is a gateway location in the City of Hamilton, arriving from the Queen Elizabeth Way along Centennial Parkway North. The site will evolve as a mixed-use area with a physical form that is human-scaled, pedestrian-friendly, and transit-supportive. The following urban design principles will direct the development of the site:

1. The site will:
 - a) Have a high quality form of urban design including streetscapes, views and vistas, gateways, walkways, and amenity spaces;
 - b) Be a "gateway" location into the City that promotes a sense of arrival;
 - c) Be a mixed-use area with a range of commercial uses, employment uses, and amenity spaces;
 - d) Have a concentration and arrangement of uses and buildings that encourages comfortable pedestrian activity on and surrounding the site, and which facilitates public transit ridership;
 - e) Have a connected circulation system internally that comfortably and efficiently links all buildings, transit facilities, parking areas, and amenity spaces to the bounding public streets;
 - f) Have a prominent multi-storey building, or buildings, of high quality architectural design at the intersection of Centennial Parkway North and the South Service Road;
 - g) Have a strong edge and frame facing the bounding public streets, including the placement and design of buildings and high quality landscaping;

- h) Have an incorporation of framing views and vistas within the site by aligning buildings and building elements to create terminus views; and,
- ii) Have an appropriate transition to surrounding properties in terms of buffering and screening.

vi) Design Policies

The Centennial Park North site will be developed in accordance with the following urban design policies. In the event that conditions and/or restrictions arise as a result of the Record of Site Condition, specific design solutions will be incorporated in consultation with the City through the Site Plan approvals process.

1. Entrance Gateways

Entrance Gateways are access points to a site, and provide a sense of arrival to a development. Two types of Entrance Gateways will be provided at the site: Primary Entrance Gateways, and Secondary Entrance Gateways.

- a) Primary Entrance Gateways identify the principal vehicular and pedestrian entry point to the site, and may include information signage for traffic circulation through the site. There should be one Primary Entrance Gateway to the site, from Centennial Parkway North.
- b) Secondary Entrance Gateways serve as secondary vehicular and pedestrian entry points to the site. There could be multiple Secondary Entrance Gateways to the site, from South Service Road and Warrington Street.
- c) All Entrance Gateways should be given special built form and landscape treatment, including the consideration of appropriate positioning of buildings, adequate sight lines, and the inclusion of both vertical and horizontal elements, including signage and landscape features. Given their principal function, the Primary Entrance Gateway should be more visually prominent than the Secondary Entrance Gateway(s) in terms of scale and design.

2. Built Form

- a) For all buildings on the site, the following policies apply:
 - i) Buildings will be sited and designed to enhance the public nature of streets, amenity spaces, and pedestrian routes.
 - ii) Buildings should be generally sited parallel to the public street.
 - iii) The principal building façade will be the building wall containing

the primary building entrance. The principal building façade will be varied and articulated, through the use of elements such as bay projections, canopies and/or varied roof lines, in order to provide visual interest and to break up long walls to create the impression of smaller building units.

- iv) Principal building entrances will be located at grade, and will be easily accessed from the public sidewalk on the bounding public streets and the pedestrian walkways internal to the site.
 - v) Principal building entrances will be emphasized on the building's façade through architectural treatments.
 - vi) Other building façades will be designed in a similar fashion to the principal building façade, in regards to colour, material, and articulation.
 - vii) All building signage will be designed in a manner integral to the building design in terms of size, form, material, and colour.
 - viii) Roof-top mechanical equipment will be enclosed or screened, particularly in a manner integral with the overall building design in terms of form, material, and colour.
 - ix) Canopies over doorways, arcades and other treatments are encouraged in the design of a building façade, particularly along pedestrian routes, to provide a comfortable pedestrian environment for walking.
 - x) Stacking lanes and order stations for drive-through facilities will not be located between a building wall and the road allowance of a bounding public street.
- b) For buildings that are located abutting Centennial Parkway North and South Service Road, the following additional policies apply:
- i) Buildings along Centennial Parkway North will be located close to the edge of the respective road allowance so as to frame the streetscape.
 - ii) Buildings along the South Service Road may be located further from the street edge with landscape treatment to define the street edge, which may contain a tiered design of lawn, low hedges, trees, masonry, and decorative metal fences and gates culminating in taller plantings.
 - iii) The streetscape will create a positive community image, which may include the coordinated use of high quality paving materials, wide sidewalks, street furniture, pedestrian-scale lighting and signage, and enhanced landscaping.

- c) For buildings abutting Warrington Street, the rail line, and the hydro corridor, the following additional policies apply:
 - i) Loading and service areas will be adequately screened with the use of a landscaped buffer, which may contain landscape berms, evergreen and deciduous trees and shrubs, and fencing.
 - ii) Façades that face a loading area or service area will be finished with material and architectural features consistent with the principal façade of the building.
- d) For the prominent buildings at the Centennial Parkway North and South Service Road intersection, the following policies will apply:
 - i) Buildings will be placed so the tallest buildings are at the corner of Centennial Parkway North and the South Service Road.
 - ii) Buildings will have a distinct architectural appearance, including a high level of architectural detailing, given their prominence on the site. Detailing may include varied rooflines, canopies, decorative architectural details, and projecting bays. Large blank walls and a continuous, repetitive façade will not be permitted.
 - iii) Buildings will have articulated facades facing both the bounding public streets and the interior of the site.
 - iv) A high quality of landscape design along the edges of the property and within the interior will provide a setting that is pedestrian-friendly and visually attractive.
 - v) Design of the buildings will complement the landscape design between the building wall and the road allowances at the corner, in order to promote a sense of entry into the site and into the City from the Queen Elizabeth Way.
 - vii) Loading areas and service areas will not be located between a building's wall and the road allowance of Centennial Parkway North or South Service Road.
 - viii) Buildings and their landscape features are encouraged to have feature lighting to signify and highlight these buildings during night-time.

3. Pedestrian Realm

- a) Pedestrian routes that connect to buildings, transit stops or facilities, and pedestrian routes in the surrounding community will be provided. Internal walkways and linkages will be designed as a condition of Site Plan Approval.
- b) Pedestrian walkways that connect parking areas to building entrances

will be provided. These walkways will be designed to contribute to the safety and visual continuity of the entire pedestrian system, and may include such elements as special paving materials, trees, and lighting.

- c) Barrier-free design of buildings, streets, and publicly accessible exterior spaces will be implemented.
- d) Crosswalks and differentiated paving materials and patterns will be constructed at primary crossings of principal internal streets to provide connectivity between the site's different areas.
- e) Parking areas, servicing lanes, utility and mechanical equipment, and drop off and loading zones will be designed and located in a manner that has minimal physical impact on public sidewalks and accessible exterior spaces. Shared driveways and service lanes at the side and rear of buildings are to be provided for these functions.

4. Landscaped Areas

- a) Landscaping will be used to enhance the overall aesthetic qualities of the development with a high quality design. This design may include a range of different hard and soft landscape elements and features to create pedestrian comfort, soften the site's edges, highlight Entrance Gateways, prominent buildings, screen loading and service areas, and buffer the site from neighbouring uses, as necessary.
- b) Landscaped areas will be provided as a screen or buffer to address the interface with the publicly accessible or visual areas of the site.
- c) Landscaped buffers and/or visual barriers will be provided to screen loading and service areas from users using the bounding public streets or internal drive aisles.
- d) Landscaped islands will be provided throughout parking lots to identify, reinforce and connect pedestrian routes, separate roads from parking areas, define edges, and to visually and physically divide large parking areas into smaller sections.

5. Parking Entrances, Loading Zones and Service Lanes

- a) The location of entrances to parking areas, loading zones, and service lanes will be coordinated with the location of pedestrian routes to limit vehicular and pedestrian movement conflicts on the site.
- b) A landscaped strip will be provided between any surface parking area that abuts a public street to define the street edge and screen the parking area. The minimum width of the landscaped strip will be set out in the implementing Zoning By-law.

- c) All loading zones and service lanes will be screened and landscaped. Screens will be designed to complement the materials and details of the associated building facades.
 - d) Wherever possible, on-site loading zones and service lanes will be consolidated and shared at the rear or side of buildings.
 - e) On-street parking along internal drive aisles is encouraged to provide the 'look and feel' of a public street.
6. Vehicular Access
- a) The number and location of vehicular access points will be limited so as to minimize disruption to traffic flow and to minimize the impact on local streets.

Implementation:

An implementing Zoning By-law and Site Plan Control will give effect to this Amendment.

Ontario Municipal Board Order/Decision dated

Schedule A
Amendment No. 219
to the Official Plan
for the
former City of Hamilton

Settlement between City, Confederation Shopping Park
Centres, HPD and Environment Hamilton
OMB File: PL0900764

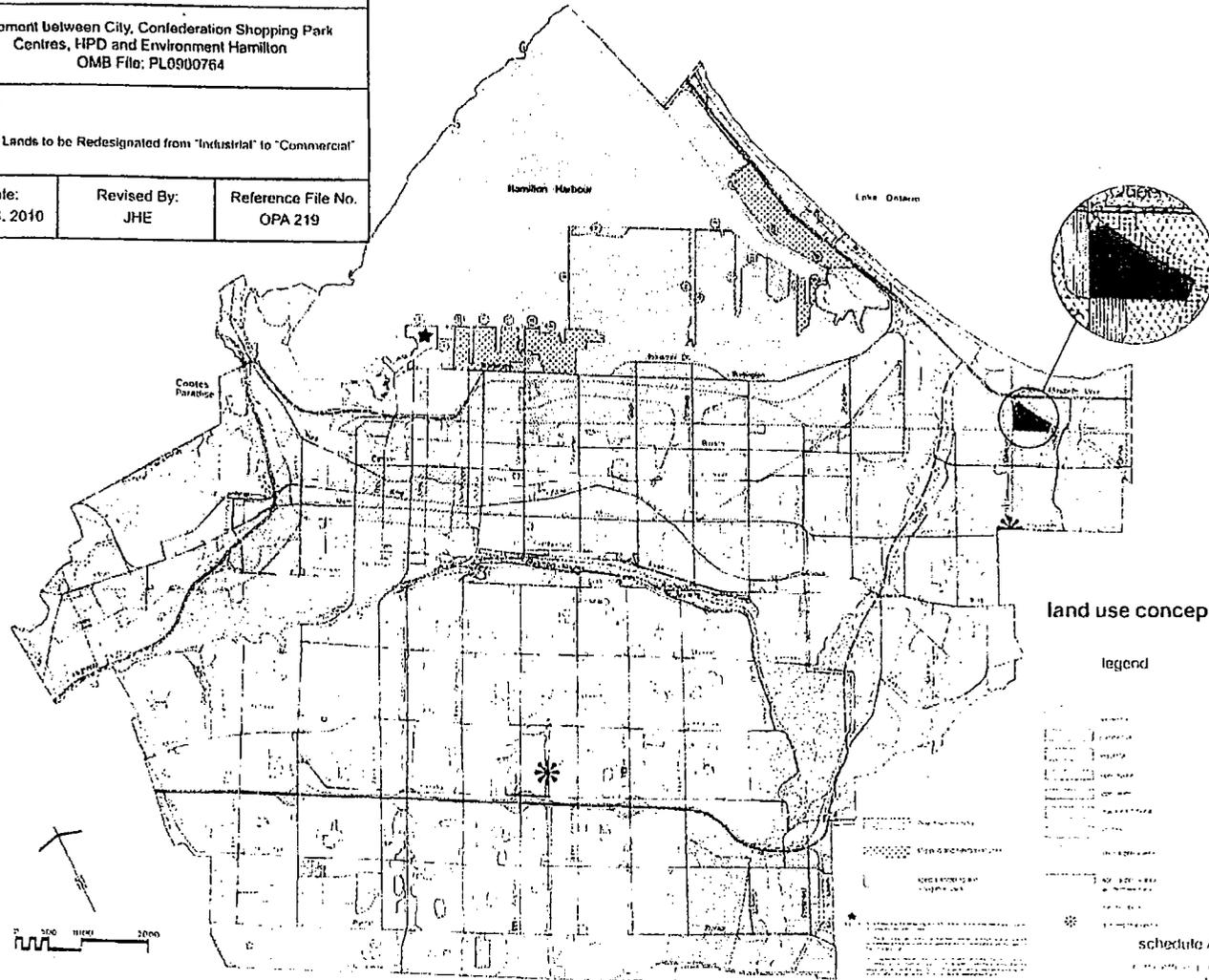
Legend

 Lands to be Redesignated from "Industrial" to "Commercial"

Date:
Feb. 18, 2010

Revised By:
JHE

Reference File No.
OPA 219



land use concept

legend

-  Residential
-  Commercial
-  Industrial
-  Office
-  Community
-  Institutional
-  Employment
-  Recreation
-  Agriculture
-  Forest
-  Water

schedule A

-  Lands to be Redesignated from "Industrial" to "Commercial"

February 2010

Schedule B
Amendment No. 219
to the Official Plan
for the
former City of Hamilton

Settlement between City, Confederation Shopping Park
Centres, HPD and Environment Hamilton
OMB File: PL0900764

Legend

 Lands to be removed from SPA 11 and shown
as SPA 99

| | | |
|---------------|-------------|--------------------|
| Date: | Revised By: | Reference File No. |
| Feb. 18, 2010 | RM | OPA 219 |

Legend



special policy areas

special policy areas

| AREA | REFER NO | AREA | REFER NO |
|-------|------------|------|----------------|
| | POLICY | | POLICY |
| 1(a) | A 2 9 1 | 55 | A 2 9 3 51 |
| 1(b) | A 2 9 1 | 62 | A 2 9 3 57 |
| 1(c) | A 2 9 1 | 63 | A 2 9 3 55 |
| 2 | A 2 9 2 | 64 | A 2 9 3 55 |
| 3 | A 2 9 3 | 65 | A 2 9 3 55 |
| | A 2 9 3 1 | 66 | A 2 9 3 61 |
| 4 | A 2 9 3 2 | 67 | Deleted |
| 6 | A 2 9 3 3 | 68 | A 2 9 3 63 |
| 6 | A 2 9 3 4 | 69 | A 2 9 3 64 |
| 7 | A 2 9 3 5 | 70 | A 2 9 3 65 |
| 8 | A 2 9 3 6 | 71 | A 2 9 3 65 |
| 9 | A 2 9 3 7 | 72 | A 2 9 3 67 |
| 10 | A 2 9 3 8 | 73 | A 2 9 3 68 |
| 10(a) | A 2 9 3 6 | 74 | A 2 9 3 69 |
| 11 | A 2 9 3 9 | 75 | A 2 9 3 70 |
| 11(a) | A 2 9 3 9 | 76 | A 2 9 3 71 |
| 16 | A 2 9 3 14 | 77 | A 2 9 3 72 |
| 17 | "Deleted" | 78 | A 2 9 3 73 |
| 18 | A 2 9 3 16 | 79 | "Deleted" |
| 19 | A 2 9 3 17 | 80 | Carried by CMB |
| 20 | A 2 9 3 18 | 81 | A 2 9 3 76 |
| 25 | A 2 9 3 21 | 82 | A 2 9 3 77 |
| 27 | A 2 9 3 22 | 83 | A 2 9 3 78 |
| 29 | A 2 9 3 26 | 84 | Pending |
| 30 | A 2 9 3 25 | 85 | A 2 9 3 80 |
| 31 | A 2 9 3 26 | 86 | A 2 9 3 81 |
| 31(a) | A 2 9 3 26 | 87 | A 2 9 3 82 |
| 31(b) | A 2 9 3 26 | 88 | Pending CMB |
| 31(c) | A 2 9 3 26 | 89 | A 2 9 3 85 |
| 32 | A 2 9 3 27 | 91 | A 2 9 3 91 |
| 33 | A 2 9 3 28 | 92 | A 2 9 3 92 |
| 34 | A 2 9 3 29 | 93 | A 2 9 3 93 |
| 35 | A 2 9 3 30 | | |
| 36 | A 2 9 3 31 | | |
| 37 | A 2 9 3 32 | | |
| 38 | "Deleted" | | |
| 40 | A 2 9 3 35 | | |
| 41 | A 2 9 3 36 | | |
| 42 | A 2 9 3 37 | | |
| 43 | A 2 9 3 38 | | |
| 45 | A 2 9 3 40 | | |
| 46 | A 2 9 3 41 | | |
| 47 | A 2 9 3 42 | | |
| 48 | "Deleted" | | |
| 49 | A 2 9 3 44 | | |
| 50 | A 2 9 3 45 | | |
| 51 | A 2 9 3 46 | | |
| 53 | "Deleted" | | |
| 54 | "Deleted" | | |
| 55 | A 2 9 3 50 | | |

For other Special Policy Areas
numbers, refer to Schedules:
B-1, B-2, and B-3.

schedule B

to the official plan
for
the City of Hamilton

January 2007

