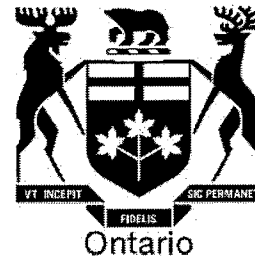


Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

17-090 OMB
Attachment 1

17-091-OMB
Attachment 2



ISSUE DATE: May 02, 2017

CASE NO(S): PL100630
PL101300

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Ontario Conference of Seventh-day Adventist Church
Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment
Existing Designation: Business Park
Proposed Designation: Business Park
Purpose: To identify a special Policy Area in which a place a worship and accessory use are allowed within the Airport Business Park
Property Address/Description: 2012 Upper James Street
Municipality: City of Hamilton
Approval Authority File No.: ROPA-08-001
OMB Case No.: PL100630
OMB File No.: PL100630
OMB Case Name: Ontario Conference of Seventh-day Adventist Church v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Ontario Conference of Seventh-day Adventist Church
Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment
Existing Designation: Airport-Industrial Business Park
Proposed Designation: Airport-Industrial Business Park
Purpose: To identify a special Policy Area in which a place a worship and accessory use are allowed within the Airport Business Park
Property Address/Description: 2012 Upper James Street

Municipality: City of Hamilton
 Approval Authority File No.: OPA-08-004
 OMB Case No.: PL100630
 OMB File No.: PL100631

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: Ontario Conference of Seventh-day Adventist Church
 Subject: Application to amend Zoning By-law No. 464 – Neglect of application by the City of Hamilton
 Existing Zoning: Deferred Development "DD" and "DD-079" Zone and Open Space - Conservation "OS-4" Zone
 Proposed Zoning: Modified Airport - Related Prestige Industrial "M3" Zone and Conservation/Hazard Land "P5" Zone
 Purpose: To identify a special Policy Area in which a place a worship and accessory use are allowed within the Airport Business Park
 Property Address/Description: 2012 Upper James Street
 Municipality: City of Hamilton
 OMB Case No.: PL100630
 OMB File No.: PL100632

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: 2051205 Ontario Inc.
 Appellant: 456941 Ontario Ltd., 1263339 Ontario Ltd., Lea Silvestri, Lea Silvestri Investments Limited ("Silvestri Investments")
 Appellant: 909940 Ontario Inc. and Lynmount Developments Ltd.
 Appellant: Alex Milojevich; and others
 Subject: ROPA 41
 Municipality: City of Hamilton
 OMB Case No.: PL101300
 OMB File No.: PL101300

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: 2051205 Ontario Inc.
Appellant: 456941 Ontario Ltd., 1263339 Ontario Ltd.,
Lea Silvestri, Lea Silvestri Investments Limited
("Silvestri Investments")
Appellant: 909940 Ontario Inc. and Lynmount
Developments Ltd.
Appellant: Alex Milojevich; and others
Subject: OPA 135
Municipality: City of Hamilton
OMB Case No.: PL101300
OMB File No.: PL101301

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, C. P. 13, as amended

Appellant: 2051205 Ontario Inc.
Appellant: 456941 Ontario Ltd., 1263339 Ontario Ltd.,
Lea Silvestri, Lea Silvestri Investments Limited
("Silvestri Investments")
Appellant: 909940 Ontario Inc. and Lynmount
Developments Ltd.
Appellant: Environment Hamilton; and others
Subject: OPA 82
Municipality: City of Hamilton
OMB Case No.: PL101300
OMB File No.: PL101302

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: 2051205 Ontario Inc.
Appellant: 456941 Ontario Ltd., 1263339 Ontario Ltd.,
Lea Silvestri, Lea Silvestri Investments Limited
("Silvestri Investments")
Appellant: 909940 Ontario Inc. and Lynmount
Developments Ltd.
Appellant: Alex Milojevich; and others
Subject: By-law No. 10-288
Municipality: City of Hamilton
OMB Case No.: PL101300
OMB File No.: PL101303

Heard: April 18, 2017 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel

Living Word Christian Fellowship
(Ontario Conference of Seventh Day
Adventist Church)

R. Cheeseman

City of Hamilton

J. Wice

MEMORANDUM OF ORAL DECISION DELIVERED ON APRIL 18, 2017 BY STEFAN KRZECZUNOWICZ AND ORDER OF THE BOARD

[1] This was a settlement hearing into longstanding appeals by the Living Word Christian Fellowship (the “Applicant”) of the refusal of the City of Hamilton (the “City”) to amend the Region of Hamilton-Wentworth Official Plan and the former Township of Glanbrook Official Plan and Zoning By-law 464. The amendments would permit a place of worship in the City’s Airport Employment Growth District.

[2] In a decision of July 4, 2011 allowing the appeals, the Board withheld its order to allow the parties to agree on the final form of the amending instruments. A final order was contingent on:

- a. The final amending instruments being essentially in accordance with what had been submitted in evidence to the Board.
- b. Application and approval of a site plan, with the application to include studies of environmental, traffic, and noise impacts.

[3] The parties had previously consented that the Board’s order would apply and be incorporated into official plans then being developed. On April 10, 2015, in a separate proceeding, the Board allowed appeals that affected the operative designations and

zoning that applied to the Applicant's site. Given the ongoing work to resolve outstanding site plan issues, the Board in 2015 simply confirmed its withheld order of 2011 in respect of the new designations and zoning.

[4] The conditions of the 2011 order have now been met. Environmental, traffic, and noise impact studies have been completed to the satisfaction of the City. Conditional site plan approval has been secured. Amending instruments to the now in-force Urban Hamilton Official Plan (Exhibit 2) and Zoning By-law 05-200 (Exhibit 3) have been finalized.

[5] The amending instruments address minor site-specific issues that have arisen since 2011: parking requirements; Conservation/Hazard Land Zone boundaries; and holding provisions whose purpose is to add special protection to lands at the north-west of the site. As well, the municipal address of the site has been changed from 2012 Upper James Street to 2060 Upper James Street.

[6] The Board heard uncontested expert opinion evidence from Melanie Schneider, the City planner responsible for the file, that the amending instruments are substantively the same as those presented to the Board in 2011 and represent good planning. The Board agrees.

ORDER

[7] The Board orders that the withheld Board orders of July 4, 2011, and April 10, 2015 relating to this appeal are to take effect and the Urban Hamilton Official Plan and Zoning By-law 05-200 are to be hereby amended in the manner set out in Attachments 1 and 2. The Board authorizes the municipal clerk to assign a number to the amending by-law in Attachment 2 for record keeping purposes.

"Stefan Krzeczunowicz"

STEFAN KRZECZUNOWICZ
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

Amendment No. 74
to the
Urban Hamilton Official Plan

The following text constitutes Official Plan Amendment 74 to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose and effect of this Amendment is to permit a place of worship within the lands designated Airport Prestige Business in the Airport Employment Growth District Secondary Plan.

2.0 Location:

The lands affected by this Amendment are known municipally as 2012 Upper James Street (to be changed to 2060 Upper James Street), in the former Town of Glanbrook.

3.0 Basis:

The basis for permitting this Amendment is as follows:

- The proposed amendment is consistent with the Provincial Policy Statement and conforms to the Growth Plan for the Greater Golden Horseshoe.
- The proposed amendment is administrative and implements the OMB Decisions dated July 10, 2011 (PL100630) and April 10, 2015 (PL101300).

4.0 Actual Changes:

4.1 Text Changes – Volume 2, Chapter B.8.1 – Airport Employment Growth District Secondary Plan:

That Section B.8.1 – Airport Employment Growth District Secondary Plan be amended by adding the following Site Specific Policy Area as follows:

“Site Specific Policy – Area J

8.17.10: In addition to Policy B.8.4.5.1, the lands designated Airport Prestige Business, located at 2012 Upper James Street (to be changed to 2060 Upper James Street) and identified on Airport Employment Growth District Secondary Plan – Land Use Plan, Map B.8-1, a Place of Worship shall also be permitted on the portion of lands designated Airport Prestige Business.”

4.2 Schedule Changes - Volume 2 - Chapter B.8.1 – Airport Employment Growth District Secondary Plan:

Map B.8-1 Airport Employment Growth District Secondary Plan – Land Use Plan, is amended by identifying the subject lands as Site-Specific Policy – Area J, as shown on Appendix “A” attached to this amendment.

5.0 Implementation:

An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

The City of Hamilton

F. Eisenberger
MAYOR

R. Caterini
CITY CLERK

OMB Decisions PL100630 and PL101300

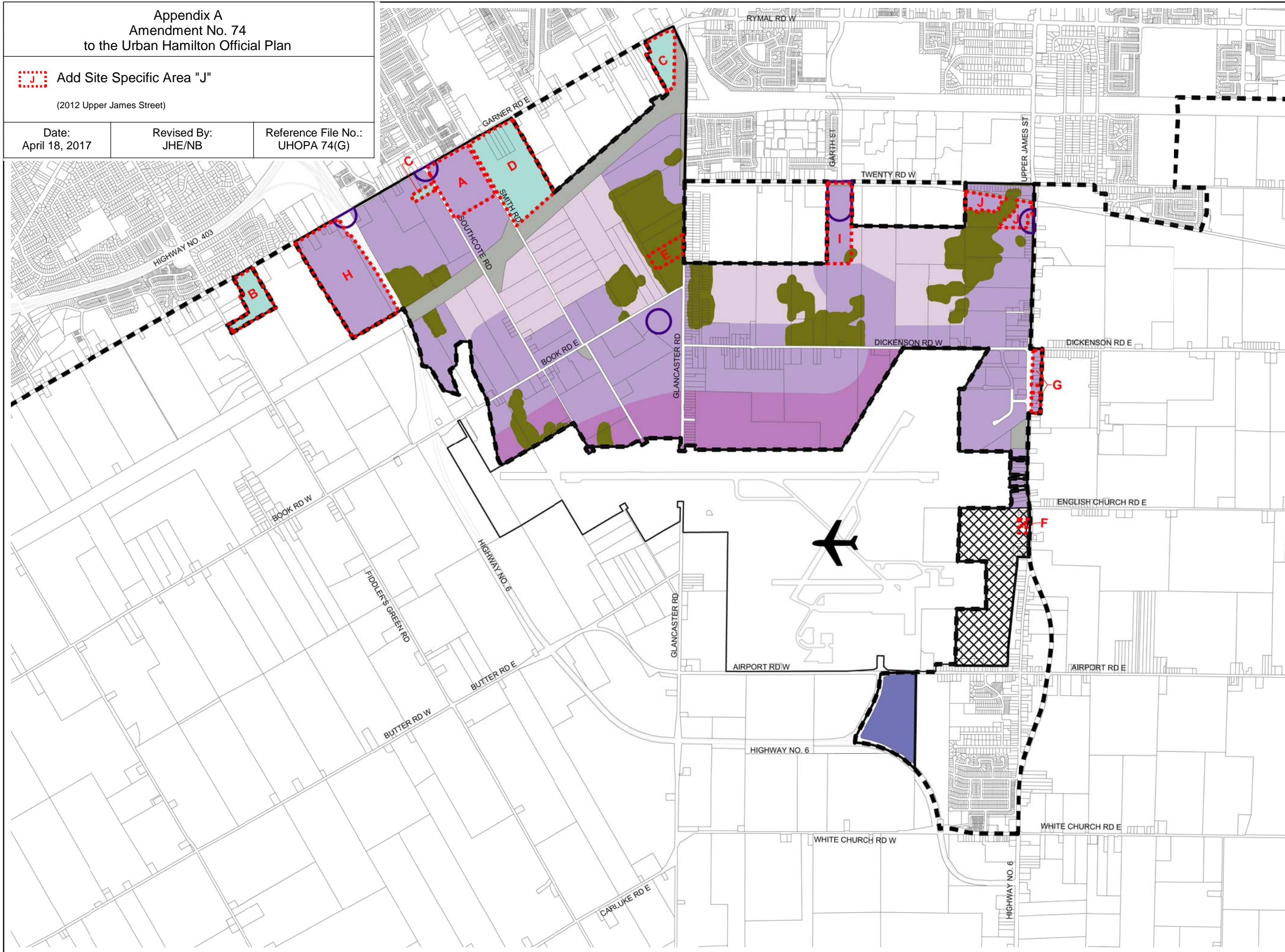
Appendix A
Amendment No. 74
to the Urban Hamilton Official Plan

Add Site Specific Area "J"
(2012 Upper James Street)

Date:
April 18, 2017

Revised By:
JHE/NB

Reference File No.:
UHOPA 74(G)



Legend

- Land Use Designations**
- Airport Light Industrial
 - Airport Prestige Business
 - Airport Related Business
 - Airside Industrial
 - Institutional
 - Natural Open Space
 - Airport Reserve
 - Utilities
- Other Features**
- Area or Site Specific Policy
 - Employment Supportive Centres
 - John C. Munro Hamilton International Airport
 - Urban Boundary
 - Secondary Plan Boundary

Urban Hamilton Official Plan
Airport Employment
Growth District Secondary Plan
Land Use Plan
Map B.8-1

ATTACHMENT 2

PL100630

PL101300

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 05-200,
Respecting Lands Located at 2012 Upper James Street (2060 Upper James
Street) (Glanbrook)**

WHEREAS Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS a zoning amendment for this property has been before the Ontario Municipal Board in case number PL100630, and subsequently reserved for in By-law 05-200 in case number PL101300;

AND WHEREAS this By-law conforms with the Urban Hamilton Official Plan approved August 16, 2013;

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

1. That Maps 1493, 1494, 1540 and 1541 of Schedule "A" to Zoning By-law No. 05-200 be amended by changing the zoning from the Airport Prestige Business (M11, 35, H37) Holding Zone, Airport Prestige Business (M11, H37) Holding Zone, and Conservation / Hazard Land (P5) Zone to the Airport Prestige Business (M11 H37, H93) Holding Zone, Airport Prestige Business (M11 480) Zone and Conservation / Hazard Land (P5) Zone, for the lands, the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.

2. That Schedule "C" of By-law No. 05-200 is amended by adding an additional exception as follows:

"480. In addition to Subsections 9.11.1 and 9.11.3, notwithstanding Subsection 9.11.2ii) of this By-law, and in addition to Section 5 of this By-law, within the lands zoned Airport Prestige Business (M11, 480) Zone, identified on Maps 1936, 1494, 1540, and 1541 of Schedule "A" to By-law 05-200 and described as 2060 Upper James Street, the following special provisions shall apply:

- | | | |
|-----|-------------------------|---|
| (a) | PERMITTED USES | Place of Worship; |
| (b) | YARD ABUTTING A STREET | Subsection 9.11.3c) shall not apply to a Place of Worship; |
| (c) | MINIMUM LANDSCAPED AREA | Subsection 9.11.3k) ii) shall not apply to a Place of Worship; and, |
| (c) | PARKING | One (1) parking space for every 11.8 square metres of gross floor area, inclusive of a basement or cellar, to accommodate such use. |

3. That Maps No. 1493, 1494, 1540, and 1541 of Schedule "A" to Zoning By-law No. 05-200, is amended, by incorporating Conservation/Hazard Lands (P5) Zone boundaries, for the applicable lands, the lands, the extent and boundaries of which are shown on Schedule "A" as "Block 2" annexed hereto and forming part of this By-law.

4. That Schedule "D" – Holding Provisions, of By-law No. 05-200, be amended by adding additional Holding provisions as follows:

93 Notwithstanding Section 9.11 of this By-law, within the lands zoned Airport Prestige Business (M11, H37, H93) Holding Zone, Modified, on Maps

1493, 1494, 1540, and 1541 of Schedule "A" to Zoning By-law No. 05-200, site alteration shall be conditional upon the following:

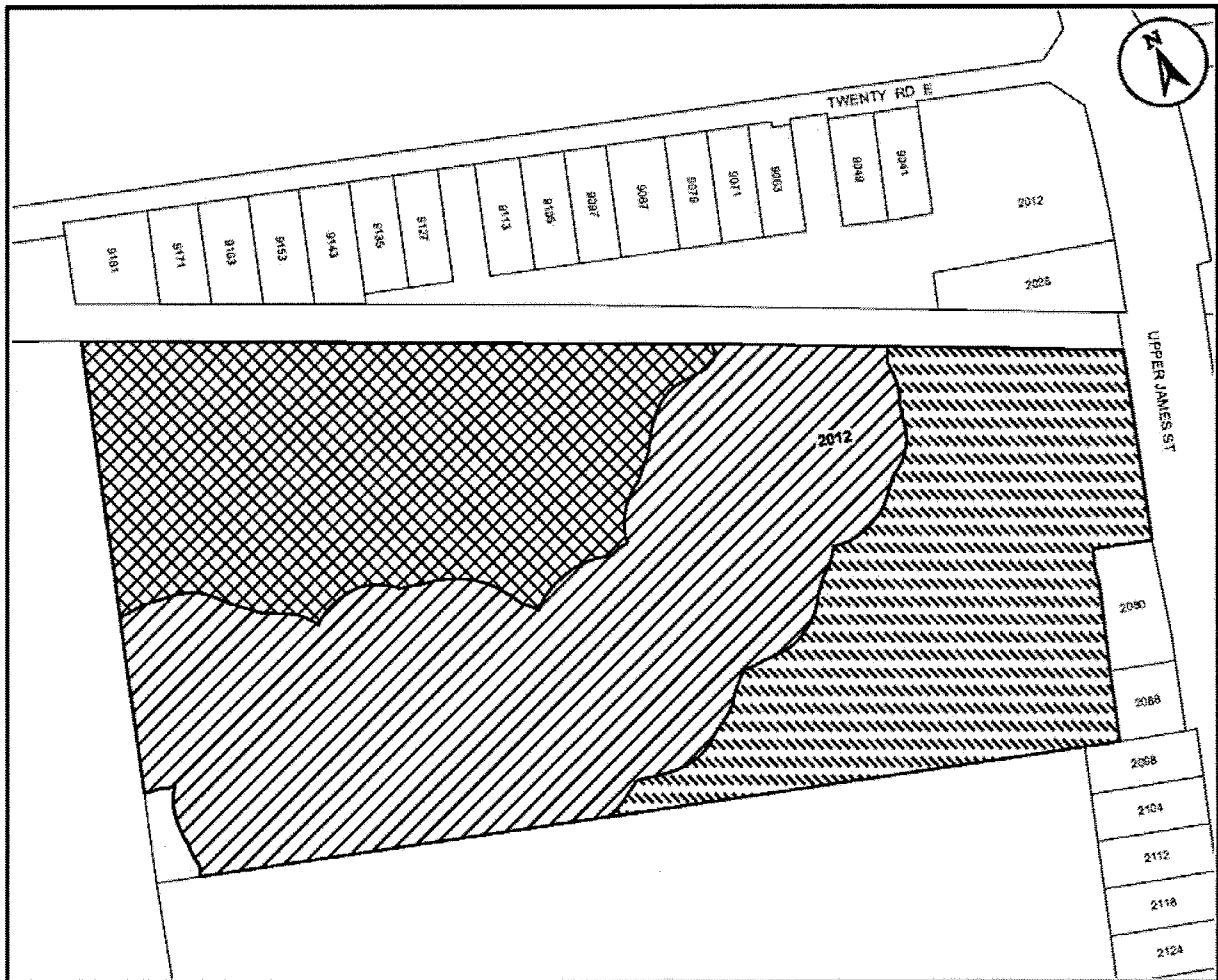
- a. That the applicant prepare, submit and implement an Environmental Impact Statement to the satisfaction of the Director of Planning and Chief Planner; and,
 - b. That the applicant has obtained frontage and a permanent right-of-way over for any development west of the Provincially Significant Wetland to provide for vehicular access to a public highway, in accordance with the applicable provisions of the City of Hamilton Official Plan and Zoning By-law, to the satisfaction of the Director of Planning and Chief Planner.
5. That Zoning By-law No. XXX shall come into force and be deemed to have come into force in accordance with Subsection 34(21) of the *Planning Act*, either upon the date of passage of the By-law or as provided by the said Subsection.

PASSED and ENACTED this day of , 2017.

Fred Eisenberger
Mayor

Rose Caterini
City Clerk

OMB Decision PL100630



This is Schedule "A" to By-law No. 17-

Passed the day of, 2017

Mayor




Clerk

Schedule "A"

Map Forming Part of
By-law No. 17-_____

to Amend By-law No. 05-200

Subject Property
2012 Upper James Street

-  **Block 1** - Lands to be zoned Conservation/Hazard Lands (P5) Zone
-  **Block 2** - Lands to be zoned Airport Prestige Business, Holding (M11, H37, H93) Zone
-  **Block 3** - Lands to be zoned Airport Prestige Business (M11, 480) Zone, Modified

Scale: N.T.S.	File Name/Number: DA-14-135/OMB Decision PL100830	
Date: April 18, 2017	Planner/Technician: MS/NB	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		