

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario

**16-139**  
**Attachment 1**

**16-140**  
**Attachment 2**



**ISSUE DATE:** May 9, 2016

**CASE NO(S):** PL150751

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*,  
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 1165435 Ontario Limited  
Subject: Request to amend the Official Plan - Refusal of  
request by the City of Hamilton  
Existing Designation: Residential – Schedule "A" & Low Density  
Residential on Schedule 1  
Proposed Designated: Site specific  
Purpose: To recognize an illegal triplex  
Property 102 Ainslie Avenue  
Address/Description:  
Municipality: City of Hamilton  
Approval Authority File No.: UHOPA-15-013  
OMB Case No.: PL150751  
OMB File No.: PL150751  
OMB Case Name: 1165435 Ontario Limited v. Hamilton (City)

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

Applicant and Appellant: 1165435 Ontario Limited  
Subject: Application amend Zoning By-law No. 6593 -  
Refusal of Application by the City of Hamilton  
Existing Zoning: C/S-1335a (Urban Protected Residential)  
Proposed Zoning: C/S- \_ (Urban Protected Residential) District,  
Modified  
Purpose: To recognize an illegal triplex  
Property 102 Ainslie Avenue  
Address/Description:  
Municipality: City of Hamilton  
Municipality File No.: ZAR-12-023  
OMB Case No.: PL150751  
OMB File No.: PL150752

BEFORE:

SUSAN de AVELLAR SCHILLER	)	Friday, the 6 <sup>th</sup>
VICE-CHAIR	)	
	)	day of May, 2016

**THESE MATTERS** having come on for public hearing, and the Board in its Decision issued January 26, 2016 having withheld its Order pending the receipt of a final form of the proposed site-specific Urban Hamilton Official Plan amendment and the proposed site-specific zoning amendment, and said documents and agreements having now been filed with the Board;

**THE BOARD ORDERS** that the appeal is allowed, and the Official Plan for the City of Hamilton is amended as set out in Attachment 1 to this Order, and as amended is approved;

**AND THE BOARD ORDERS** that the appeal is allowed, and By-law 6593 is hereby amended in the manner set in Attachment 2 to this Order. The Board authorizes the municipal clerk to assign a number to this by-law for record keeping purposes.



SECRETARY

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://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](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

## Attachment 1

Schedule "1"

### Urban Hamilton Official Plan Amendment No. 48

The following text and mapping constitutes Official Plan Amendment No. 48 to the Urban Hamilton Official Plan.

1. Purpose and Effect

The purpose and effect of this amendment is to permit a triplex on the subject lands on a site-specific basis, whereas the permitted uses for the "Low Density Residential 2" designation in Policy B.6.2.5.4 (a) - Ainslie Wood Westdale Secondary Plan contained in Volume 2 of the Plan currently does not permit a triplex.

2. Location:

The lands affected by this Amendment are known municipally as 102 Ainslie Ave.

3. Basis:

The basis for permitting the 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 as it will facilitate residential intensification, allow for development to make efficient use of existing services, and contribute to a range and mix of housing types and tenures that makes efficient use of land within an existing neighbourhood.
- The proposed Amendment is consistent with the objectives of the Ainslie Wood Westdale Secondary Plan, and conforms to the permitted density range specified for the "Low Density Residential 2" designation.
- The proposed Amendment introduces a permitted use only, that being a triplex, and does not alter any other policies of the Plan.
- The proposed Amendment does not introduce any compatibility issues as it will recognize an existing unit within the basement of a dwelling that is already recognized as containing two legal dwelling units on the first and second floor.

4.0 Actual Changes:

4.1 Text Changes:

**Volume 2 – Chapter B, Section 6.0 – Hamilton Secondary Plans**

Subsection 6.2 – Ainslie Wood Westdale Secondary Plan, policy 6.2.16 - Site Specific Policies is amended by adding a new site specific policy that reads as follows:

**Site Specific Policy – Area E**

- 6.2.16.6** For the lands designated as "Low Density Residential 2", located at 102 Ainslie Ave, and identified as a Site Specific Policy – Area E on Map B.6.2.1 – Ainslie Wood Westdale Secondary Plan – Land Use Plan, in

addition to single and semi-detached dwellings, a triplex shall also be a permitted use

#### **4.2 Mapping Changes**

Volume 2 — Ainslie Wood Westdale Secondary Plan – Land Use Plan is hereby amended by adding the subject lands, known municipally as 102 Ainslie Ave, as a site specific policy area as shown on the attached Schedule C of this Amendment

#### **5.0 Implementation**

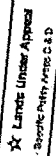
An implementing Zoning By-law Amendment will give effect to the intended uses on the subject lands

This is "Schedule 1" to By-law No. \_\_\_\_\_ passed on this day of \_\_\_\_\_, 2016.

**The Ontario Municipal Board**

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**Susan De Avellar Schiller**  
Vice-Chair



**Attachment 2**

Amending By-law for 102 Ainslie Avenue  
by Ontario Municipal Board  
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**CITY OF HAMILTON****BY- LAW NO.**

**To Amend Zoning By-law No. 6593  
Respecting Lands Located at 102 Ainslie Avenue (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 Ontario Municipal Board, issued a decision for Case Number PL 150751 on January 26, 2016, to approve an amendment to Zoning By-law No. 6593 (Hamilton) to permit a 3 family dwelling at 102 Ainslie Avenue.

**AND WHEREAS** this By-law will conform to the Urban Hamilton Official Plan upon approval of Urban Hamilton Official Plan Amendment No.48.

**NOW THEREFORE** the following is enacted:

1. That Sheet No. W41 of Schedule "A" of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is further amended as follows:
  - (a) By changing the zoning from the "C/S-720", "C/S-1335" and "C/S-1335a" (Urban Protected Residential, Etc.) District to the "C/S-1731" (Urban Protected Residential) Modified District on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule 'A'.

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2. That the "C/S-1731" (Urban Protected Residential) District provisions, as contained in Section 9 of Zoning By-law No. 6593, as amendment, be modified to include the following special provisions:
- (a) In addition to the uses permitted in Section 9(1), a three (3) family dwelling shall also be permitted.
  - (b) Notwithstanding Section 9(2), no building or structure shall exceed 2 storeys and 9.0 metres in height.
  - (c) Notwithstanding Section 9(4), the minimum lot width shall be 4.5 metres.
  - (d) No building or structure shall have a gross floor area of greater than the area within the district of the lot on which it is situate, multiplied by the floor area ratio of 0.45
  - (e) Notwithstanding Section 2(2)J(viii), gross floor area shall mean the aggregate of the areas of the building or structure, including the basement or cellar, but shall not include:
    - a. an attached garage
    - b. a detached garage
    - c. the floor area occupied by heating, air conditioning and laundry equipment.
  - (f) For the purposes of determining gross floor area for any portion of the dwelling where the ceiling height exceeds 4.6 meters, that portion of the dwelling shall be multiplied by 1.9.
  - (g) Notwithstanding Section 18A(1)(f) and Table 50, the minimum aisle width for a maneuvering space shall be 5.0 metres.
  - (h) Notwithstanding Section 18A(14a), a minimum of 40% landscaping shall be provided in the square-shaped side yard area between the front of the dwelling and the southerly side property line which is 25.78 metres in length to the point of intersection with the northeasterly side lot line which is 36.05 metres in length.
  - (i) Notwithstanding Section 18A(7), the minimum parking space size shall be 2.6 metres by 5.5 metres.
  - (j) Notwithstanding Section 18A(1)(f) and Table 50, the minimum aisle width shall be 2.8 metres.



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- (k) Notwithstanding Section 18(4), an existing accessory building shall be permitted to be 0 metres from a side lot line.
  - (l) Except as amended herein, all other provisions of By-law 6593, as amended, shall apply
- 3. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1731.
  - 4. That Sheet No. W-41 of "Schedule A" of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1731.
  - 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.

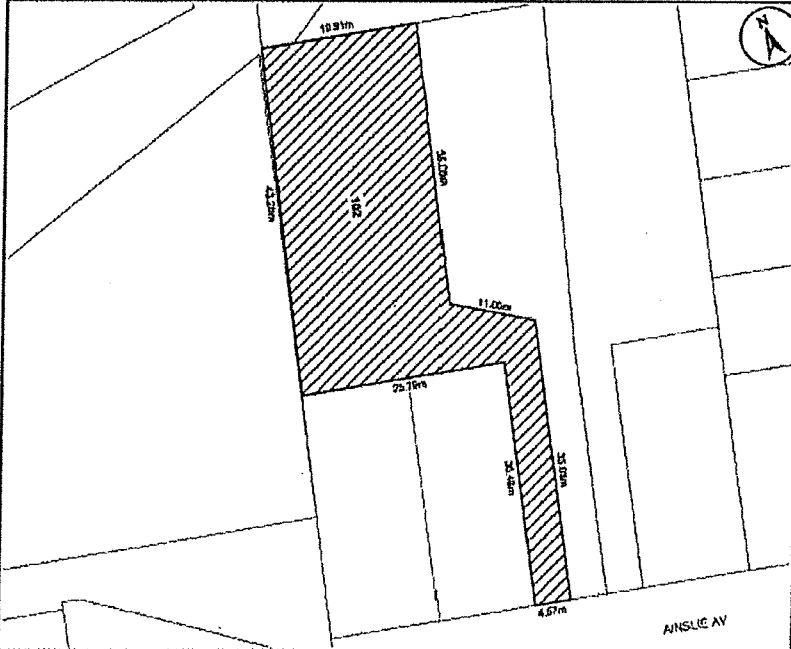


**PASSED and ENACTED** by the Ontario Municipal Board this [REDACTED] day of [REDACTED], 2016.

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Susan de Avellar Schiller  
Vice-Chair

ZAC-12-023  
UHOPA-15-027

Amending By-law for 102 Ainslie Avenue  
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<p>This is Schedule "A" to By-Law No. 16-</p> <p>Passed the ..... day of ....., 2016</p>	
<p>Mayor _____</p> <p>Clerk _____</p>	
<p><b>Schedule "A"</b></p> <p>Map Forming Part of By-Law No. 16-_____</p> <p>to Amend By-law No. 6593</p>	
<p><b>Subject Property</b> 102 Ainslie Avenue</p> <p> Change from "C/S-720", "C/S-1335" and "C/S-1335a" (Urban Protected Residential etc) Districts, Modified to "C/S-1731" (Urban Protected Residential, etc) District, Modified</p>	
<p>Scale: N.T.S.</p> <p>Date: April 18, 2016</p>	<p>File Name/Number: ZAR-12-023 / UHOPA-15-013</p> <p>Planner/Technician: C/TAC</p>
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> <p></p>	