

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

17-150-OMB-01
Attachment 1



ISSUE DATE: March 27, 2018

CASE NO(S): PL170959

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

Appellant:	Renimmob Properties Limited
Subject:	By-law No. 17-150
Municipality:	City of Hamilton
OMB Case No.:	PL170959
OMB File No.:	PL170959
OMB Case Name:	Renimmob Properties Limited v. Hamilton (City)

Heard: March 8, 2018 by telephone conference call

APPEARANCES:

Parties

Counsel

Renimmob Properties Limited

S. Snider
A. Toumanians

City of Hamilton

J. Wice

MEMORANDUM OF ORAL DECISION DELIVERED BY S. JACOBS ON MARCH 8, 2018 AND ORDER OF THE BOARD

[1] The City of Hamilton (the "City") passed Zoning By-law Amendment No. 17-150 (the "ZBA") to modify the General Industrial (M5) and Light Industrial (M6) zoning for several properties on a site-specific basis. As a result of the ZBA, a special provision applies to property owned by Renimmob Properties Limited ("Renimmob") that adds as a permitted use the existing use of "Food Store". Renimmob found this permitted use to be too restrictive and inconsistent with terminology used in the City's Comprehensive

Zoning By-law, and so it appealed to the Ontario Municipal Board (the "Board") pursuant to s. 34(19) of the *Planning Act*, R.S.O. 1990 c. P. 13, as amended.

[2] The parties arrived at a settlement and this Telephone Conference Call ("TCC") was accordingly scheduled as a settlement hearing. As a result of the settlement, the parties proposed the modifications to the ZBA as detailed in the Draft Order included here as Attachment 1.

[3] The Board qualified James Webb to provide opinion evidence in the area of land use planning; Mr. Webb provided evidence in support of the proposed ZBA by affidavit, filed as Exhibit 2.

[4] Based on Mr. Webb's uncontested planning evidence, the Board is satisfied that the proposed ZBA is consistent with the *Provincial Policy Statement, 2014*, conforms with the Growth Plan for the Greater Golden Horseshoe, 2017 and with the Urban Hamilton Official Plan, and generally represents good land use planning.

ORDER

[5] The appeal is allowed in part, and City of Hamilton Zoning By-law No. 17-150 is modified in accordance with Attachment 1.

"S. Jacobs"

S. JACOBS
MEMBER

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

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

**ENVIRONMENT AND LAND TRIBUNALS ONTARIO
ONTARIO MUNICIPAL BOARD**

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

Appellants: Renimmob Properties Limited
Subject: By-law 17-150
Municipality: City of Hamilton
OMB Case No.: PL170959
OMB File No.: PL170959

B E F O R E:

)
)
) March 8, 2018

ORDER

THIS MATTER having come before the Board for a hearing by telephone conference on March 8, 2017, and having heard submissions of the parties,

THE BOARD ORDERS:

That the appeal by Renimmob Properties Limited is allowed in part and that Hamilton Zoning By-law 17-150 be modified as follows:

1. That clause 2 (c)(i) be modified by replacing "Food Store" with "Retail".
2. That new clause 2(c)(ii) be added: "An addition or alteration to the building existing on the date of the passing of this by-law, to a maximum of 15% of the gross floor area existing on the date of the passing of the By-law, shall be permitted".
3. That Schedule "A-1" be deleted and replaced with Appendix 1 of this Order.

APPENDIX 1



This is Schedule "A" to By-law No. 17- Passed the day of, 2017	_____ Mayor _____ Clerk
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<p>Schedule "A-1"</p> <p>Map Forming Part of By-law No. 17-150</p> <p>to Amend By-law No. 05-200 Map 1093 & 1094</p>	<p>Subject Property 2289, 2331, 2333, 2345 & 2371 Barton Street East and 306 - 310 Kenora Avenue</p> <p> Change in zoning from Light Industrial (M6) Zone to the Light Industrial (M6), 640) Zone with a Special Exception</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; padding: 2px;">Scale: N.T.S.</td> <td style="width: 75%; padding: 2px;">File Name/Number: CI-16-D</td> </tr> <tr> <td style="padding: 2px;">Date: June 5, 2017</td> <td style="padding: 2px;">Planner/Technician: TLJ/AL</td> </tr> </table>	Scale: N.T.S.	File Name/Number: CI-16-D	Date: June 5, 2017	Planner/Technician: TLJ/AL	<p>Hamilton</p>
Scale: N.T.S.	File Name/Number: CI-16-D				
Date: June 5, 2017	Planner/Technician: TLJ/AL				
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT					

Walker, Catherine

From: Gargano, Debbie
Sent: April-19-18 9:10 AM
To: Walker, Catherine
Subject: FW: OMB Decision - Renimmob Properties Limited - By-law 17-150
Attachments: OMB decision - Rennimob Properties Limited - By-law 17-150.pdf

From: Dawson, Barbara
Sent: April 4, 2018 9:41 AM
To: Gargano, Debbie <Debbie.Gargano@hamilton.ca>
Cc: Flemmings, Ana <Ana.Flemmings@hamilton.ca>
Subject: OMB Decision - Renimmob Properties Limited - By-law 17-150

Morning Debbie,

Attached hereto please find an Ontario Municipal Board Decision issued March 27, 2018. The particulars are as follows,

- Appellant – Renimmob Properties Limited
- Subject – By-law 17-150

The OMB ordered By-law 17-150 be modified per Attachment 1 to this Order. Kindly assign the appropriate tracking number to this Order and provide same to Ana Flemmings copied on this email.

Thanks, B

Barbara E. Dawson
Law Clerk
Commercial/Development/Policy Section
City of Hamilton – Legal Services
21 King Street West, 12th Floor, Hamilton, Ontario L8P 4W7
Tel: (905)546-2424 Ext 4449
Fax: (905)546-4370
Email: barbara.dawson@hamilton.ca

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From: Dawson, Barbara
Sent: April-04-18 9:35 AM
To: Dawson, Barbara
Subject:

