

ISSUE DATE:

Feb. 16, 2004

DECISION/ORDER NO:

0333



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

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LAW DEPARTMENT

*Ben  
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04-399

Queenston Road Investment Inc. has appealed to the Ontario Municipal Board under section 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 6593 of the City of Hamilton to rezone lands respecting 75 Centennial Parkway North to "modernize the by-law in respect of existing approvals and future development"  
O.M.B. File No. Z030136

**APPEARANCES:**

Parties

Counsel

City of Hamilton

N. Smith

Queenston Road Investments Inc.

L. Zucker

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. M. KATARY ON  
FEBRUARY 10, 2004 AND ORDER OF THE BOARD**

At the commencement of the hearing, the parties stated that they had come to a mutually satisfactory agreement on the dispute.

Mr. Gordon Gred, a resident of the relevant neighbourhood, stated that the schedules attached to the proposed Zoning By-law Amendment do not adequately communicate the impacts experienced by the neighbours. He was forthright, however, during cross-examination and stated, "I was present during the mediation meeting on December 2, 2003 and basically support the agreement reached."

Using a set of documents in the joint document book (Exhibit 2) and the proposed Amendment (Exhibit 3), the land use planner called by the City, outlined the elements of the proposed amendment to the Zoning By-law.

He concluded his testimony by stating that the proposed Amendment conformed to the Official Plan and represented planning that was good.

The Board takes notice of the report by the planning staff of the City (Exhibit 2, Tab 8).

At the request of and with the consent of the parties, the Board notes that the existing six (6) minor variances continue to be in effect.

Based upon an examination of all of the evidence, the Board finds that the proposed Zoning By-law Amendment (Exhibit 3) conforms to the Official Plan.

Accordingly, the Board, allows the appeal in part and amends the Zoning By-law as shown in Exhibit 3 (not attached).

The Board so Orders.

"N. M. Katary"

N. M. KATARY  
MEMBER

**AUTHORITY: Ontario Municipal  
Board Order No. \_\_\_\_\_**

**CITY OF HAMILTON**

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

**To Amend Zoning By-law No. 6593  
Respecting Lands Located at 75 Centennial Parkway North**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999, Ch. 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 Corporation of the City of Hamilton" and is the successor of the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

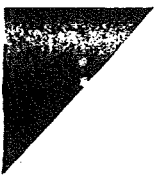
**AND WHEREAS** the City of Hamilton Act, 1999 provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of the Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25<sup>th</sup> day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7<sup>th</sup> day of December 1951, (File No. P.F.C. 3821);

**AND WHEREAS** the Council of the Corporation of the City of Hamilton passed Zoning By-law 71-97 (March 30, 1971) and 89-87 (February 18, 1989) to amend By-law No. 6593;

**AND WHEREAS THIS BY-LAW IS IN CONFORMITY WITH THE** Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982;

**NOW THEREFORE** the Ontario Municipal Board approves the following:


- 
1. That Schedule "B" to By-law No. 71-97 be deleted in its entirety and replaced with Schedule "B" attached hereto.
  2. That clause (i) of subsection 2. (a) of Zoning By-law No. 71-97 be deleted in its entirety and replaced with the following:

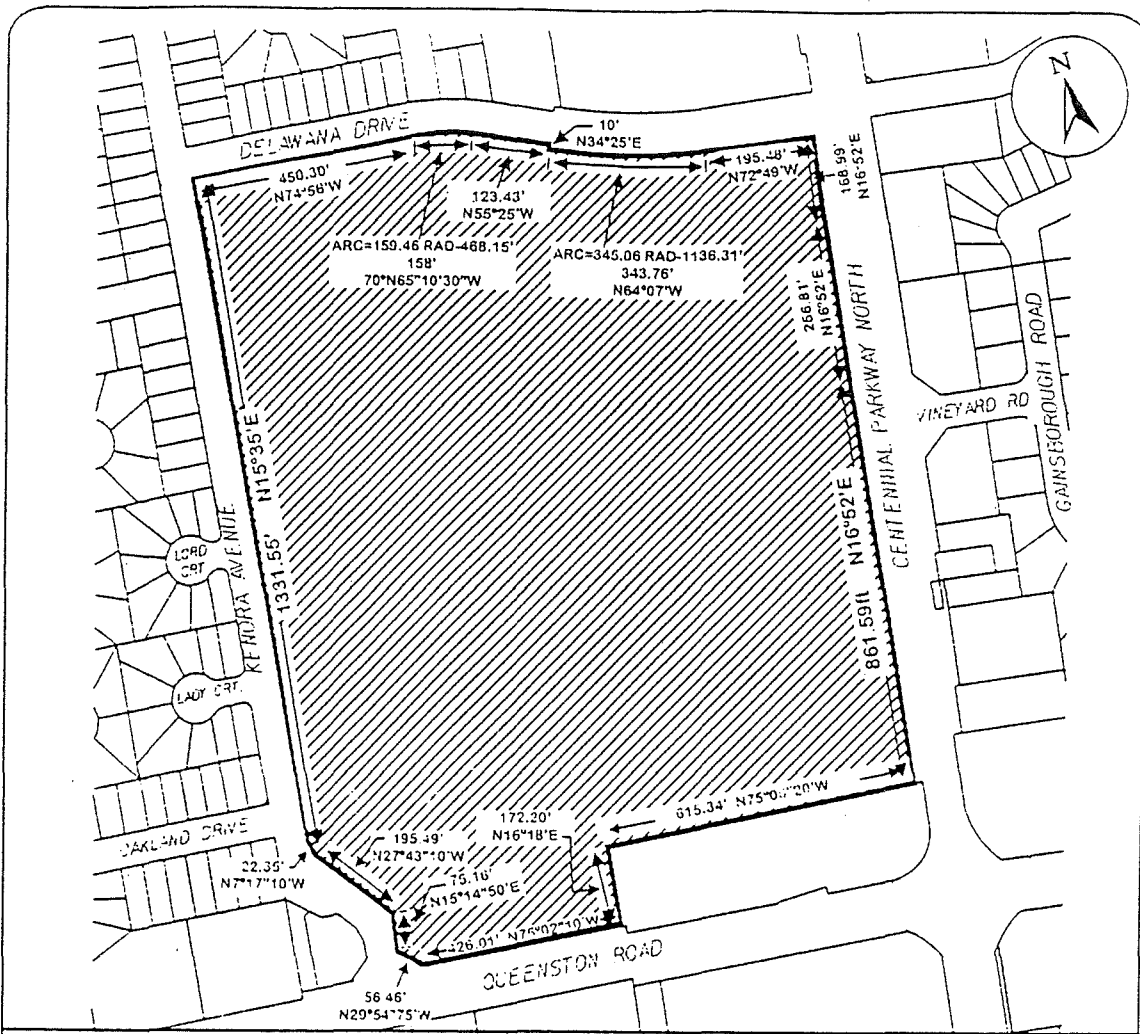
“(i) the special requirements, A to D, as follows:”

3. That clause B. of subsection 2. (a) (i) be deleted in its entirety, and clauses C, D, and E shall be B, C and D respectively.
4. That the "G-1" (Designed Shopping Centres) District, as contained in Section 13A of Zoning By-law No. 6593 (Hamilton) applicable to the subject lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A", be modified to include the following additional special requirements:

- (vi) That the minimum building setbacks from the west lot line and the north lot line west of the site entrance shall be the building envelope line as shown on Schedule "B".
- (vii) That all parking spaces located within the lands shown on Schedule "B" as the "subject lands" shall be included when calculating the number of parking spaces provided as required by subsection 2.(a)(ii).
- (viii) That a landscaped planting strip of a minimum of 3 metres in width shall be provided and maintained adjacent to the north and west lot lines, except in the area used for driveway and walkway access and necessary driveway sight triangles.
- (ix) That within the required landscaped planting strip adjacent to the north and west lot lines, a landscaped berm, trees, shrubs or fence with a combined total height of a minimum of 1.2 metres shall be provided and maintained.

5. By-law 6593 is amended by adding this by-law to Section 19B as Schedule S-199b.

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6. Sheet E-104 of the District Maps are amended by marking the subject lands referred to in sections 1 and 3 of this by-law, S-199b.



This is Schedule "A" to By-Law No. 04 —

Passed the \_\_\_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_ Clerk

\_\_\_\_\_ Mayor


## Schedule "A"

Map Forming Part of  
By-Law No. 04-\_\_\_\_  
to Amend By-Law No 3692-92



Planning and Development Department

### Legend

 Subject Lands

North

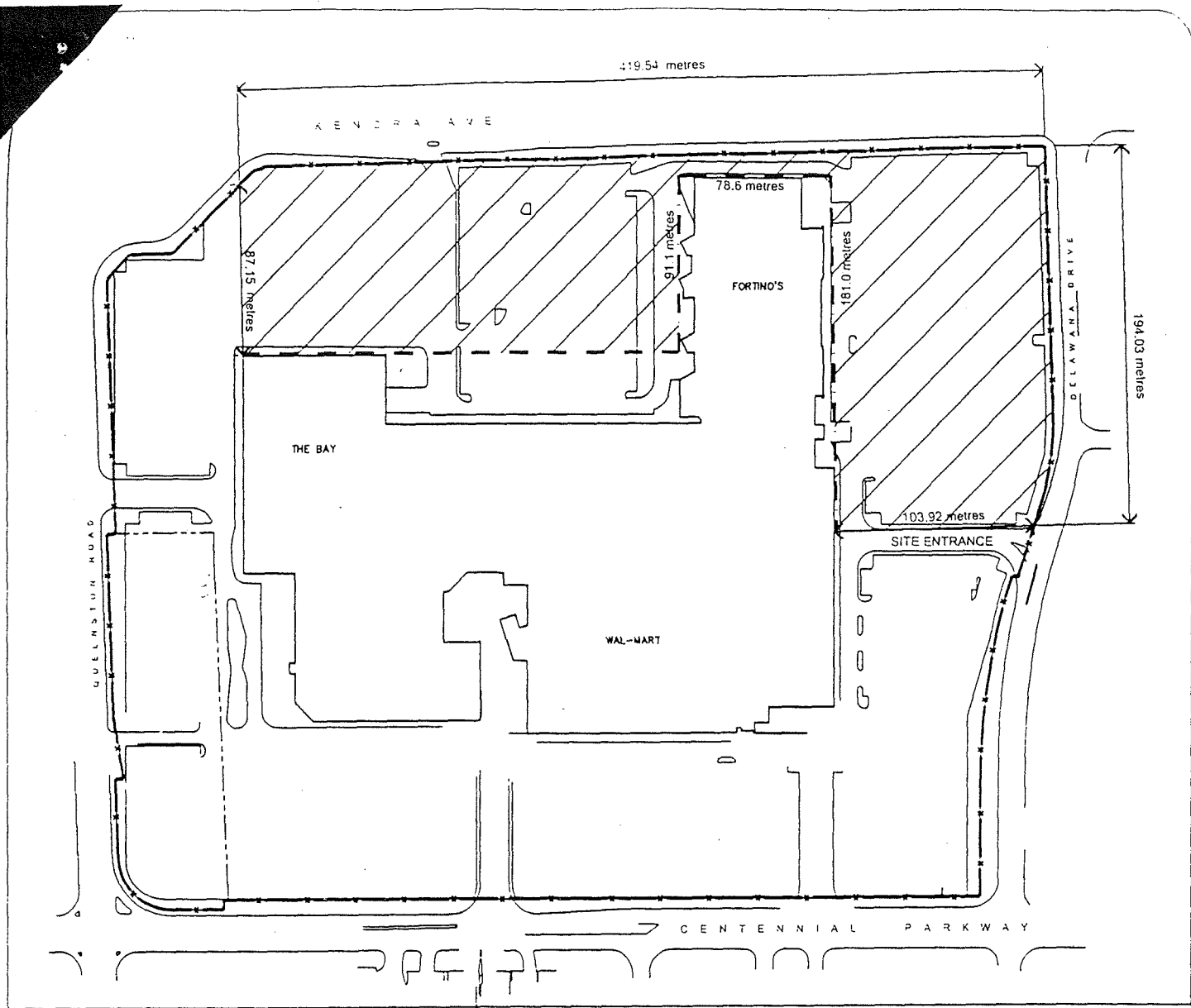


Scale  
NOT TO SCALE

Date  
January 29, 2004

Reference File No.  
ZAC-02-21

Drawn By  
L.M.M



This is Schedule "B" to By-law No. 04 -  
 Passed the .....day of ....., 2004

\_\_\_\_\_  
 Clerk  
 \_\_\_\_\_  
 Mayor

# Schedule "B"

Map Forming Part of  
 By-law No. 04-\_\_\_\_\_  
 to Amend By-law No. 3692-92

# Legend

- subject lands - - - - -
- building envelope line - - - - -
- Section 4.(vi)

North



Scale  
 NOT TO SCALE

Reference File No.  
 ZAC-02-21

Date  
 February 10, 2004

Drawn By