

Authority: Item 18, Economic Development and
Planning Committee
Report 07-001(PED07002)
CM: January 24,2007

Bill No. 026

CITY OF HAMILTON

BY-LAW NO. 07-026

**To Amend Zoning By-law No. 6593
Respecting a Portion of the Property Located at 166 and186 Ferguson Avenue
North and 201 Robert Street**

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Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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 Council of the City of Hamilton, in adopting Item 18 of Report 07-001 of the Economic Development and Planning Committee at its meeting held on the 24th day of January, 2007, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

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 Council of the City of Hamilton enacts as follows:

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1. That Sheet No. E-3 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended:
 - (a) by changing the zoning from the "CR-2" (Commercial – Residential) District, Modified, to the "H" – 'H' (Community Shopping and Commercial, etc. - Holding) District, Modified, for the lands comprised of Blocks "1" and "2";
 - (b) by changing the zoning from the "DE-2" (Multiple Dwellings) District, Modified, to the "H" – 'H' (Community Shopping and Commercial, etc. - Holding) District, Modified, for the lands comprised of Block "3";
 - (c) by changing the zoning from the "JJ" (Restricted Light Industrial) District, Modified, to the "H" – 'H' (Community Shopping and Commercial, etc. - Holding) District, Modified, for the lands comprised of Block "4";
 - (d) by changing the zoning from the "JJ" (Restricted Light Industrial) District, Modified to the "DE-2" – 'H' (Multiple Dwellings - Holding) District, Modified, for the lands comprised of Block "5";
 - (e) by changing the zoning from the "DE-2" (Multiple Dwellings) District, Modified to the "DE-2" – 'H' (Multiple Dwellings - Holding) District, Modified, for the lands comprised of Block "6"; and,
 - (f) by changing the zoning from the "JJ" (Restricted Light Industrial) District, Modified, to the "DE-2" – 'H' (Multiple Dwellings - Holding) District, Modified, for the lands comprised of Block "7";

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the 'H' symbol, applicable to the lands referred to as Blocks "1" to "7", inclusive, in Section 1 of this By-law will prohibit all residential, institutional, and day nursery uses until such time that:
 - i) The applicant submits a signed Record of Site Condition (RSC) to the City of Hamilton, Director of Development and Real Estate, and the Ministry of the Environment (MOE), verifying that the lands have been cleaned-up to a standard for residential or institutional land use, as defined by the MOE. This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE.

City Council may remove the 'H' symbol and, thereby give effect to the "H" (Community Shopping and Commercial etc.) District, Modified for Blocks "1" to

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"4", inclusive, and the "DE-2" (Multiple Dwellings) District, Modified for Blocks "5" to "7", inclusive, as amended by the special requirements of Sections 4 to 8, inclusive, as stipulated in this By-law, by enactment of an amending By-law once the above condition has been fulfilled.

3. That in addition to Section 2 of this By-law, the 'H' symbol, applicable to the lands referred to as Blocks "2" to "4", inclusive, as referred in Section 1 of this By-law will prohibit all uses until such time that:
 - (i) That construction has commenced on the lands within Block "1", as referred to in Section 1 of this By-law, for at least two (2) buildings each having a minimum width of 15 metres, or for one (1) building having a minimum width of 30 metres, to the satisfaction of the City of Hamilton, Director of Development and Real Estate.

City Council may remove the 'H' symbol and, thereby give effect to the "H" (Community Shopping and Commercial etc.) District, Modified for Blocks "2" to "4", inclusive, as amended by the special requirements of Sections 4 to 6, inclusive, by enactment of an amending By-law once the above condition has been fulfilled.

4. That notwithstanding Subsection 2. (2) J. (xxivc) of Zoning By-law No. 6593, the following definition shall apply to the lands referred to as Blocks 1 to 7, inclusive, in Section 1 of this By-law:
 - a) Visual Barrier – Shall mean a barrier which shall act as a screen between uses and be constructed to a minimum height of 1.8 metres and shall consist of the following:
 - i) a wall, fence; or,
 - ii) a continuous planting of suitable trees or shrubs, together with a reserved width of planting area appropriate for healthy plant growth; or,
 - iii) earth berms; or,
 - iv) any combination of the above.

5. That in addition to the requirements of Section 2 of Zoning By-law No. 6593, the following definitions shall apply to the lands referred to as Blocks 1 to 7, inclusive, in Section 1 of this By-law:

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- a) Amusement Arcade - Shall mean an establishment containing more than three pinball machines, or other mechanical game machines, or electronic game machines provided for public amusement.
- b) Beverage Making Establishment - Shall mean a commercial establishment where individuals produce beverages for personal use and consumption off the premises.
- c) Body Rub Parlour - Shall mean a use which includes kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a person's body or part thereof, performed, offered or solicited in pursuance of a trade, calling, business, but shall not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered.
- d) Catering Service - Shall mean a use where food and beverages are prepared for consumption off-site, but are not served on the premises or for immediate take-out consumption.
- e) Commercial Entertainment - Shall mean a use of an establishment for the general purpose of providing entertainment or amusement for a fee and shall include, for example, but not be limited to cinemas, performing arts theatres, bingo halls, cultural events but shall not include an amusement arcade or adult entertainment parlour.
- f) Commercial Recreation – Shall mean the use of an establishment, for a fee, for the provision of athletic and amusement facilities involving the active participation of the user-public in a sports-related activity and shall include but not be limited to such facilities as racquet courts, fitness clubs, billiard parlour, bowling alley, golf course, driving range, skating or curling surfaces, riding stables, water sports, go-kart track or amusement parks, but shall not include an amusement arcade.
- g) Conference or Convention Centre - Shall mean an establishment, which is not a hotel, where facilities are provided for meetings, seminars, workshops and other similar activities including an exhibition facility, all which may include dining facilities for the exclusive use of conference or convention participants.
- h) Craftsperson Shop - Shall mean an establishment used for the creation, finishing, refinishing or similar production of custom or hand-made commodities, together with the retailing of such commodities.
- i) Drive-Through Facility - Shall mean a facility that is designed to allow drivers to remain in their vehicles before and during an activity on the site,

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and may include drive-in or drive-through restaurants, retail and service uses, but shall not include a carwash.

- j) Dry Cleaning Plant - Shall mean a building where dry cleaning, dry dyeing, washing or pressing of articles of clothing is conducted.
- k) Financial Establishment - Shall mean a use where money is deposited, kept, lent and exchanged, and shall include but not be limited to banks, credit unions, trust companies or other similar banking services.
- l) Flankage Yard – Shall mean a yard extending from the front yard to the rear yard of a lot along a lot line which abuts a street measured to the nearest part of a building on the lot.
- m) Landscape Architectural Feature – Shall mean a decorative wall feature with a minimum height of 0.6 metres and a maximum height of 1.2 metres which shall be provided for screening purposes, and which may be permitted within a required planting strip, and which shall not be considered a structure.
- n) Major Recreational Equipment - Shall mean either a portable structure designed and built to be carried by a motor vehicle, or a unit designed and built to be transported on its own wheels, for purposes of providing temporary living accommodation or recreational enjoyment for travel, and shall include, for example, motor homes, travel trailers, tent trailers, boats, boat trailers, motorized snow vehicles or other like or similar equipment, excluding bicycles.
- o) Medical Clinic - Shall mean a building or part thereof which is used jointly by three or more health professionals for the purpose of consultation, diagnosis and/or treatment of persons. It may include ancillary administrative offices, waiting rooms, treatment rooms, laboratories, dispensaries or other similar facilities but shall not include accommodation for in-patient care or facilities for major surgical practice.
- p) Medical Office - Shall mean a building or part thereof in which a maximum of two health professionals provide consultative, diagnostic and treatment services.
- q) Office - Shall mean a building or part of a building in which management, clerical, administrative, consulting, advisory or training services are offered or performed but shall not include a medical clinic or medical office.

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- r) Personal Services - Shall mean the provision of services involving the health, beauty or grooming of a person or the maintenance or cleaning of apparel, but shall not include a Dry Cleaning Plant or a Body Rub Parlour.
- s) Private Club or Lodge - Shall mean a building or part of a building used for social, literary, cultural, political, educational or recreational purposes which are operated for the exclusive use of members and their guests and not open to the general public on an equal basis.
- t) Repair Service - Shall mean the provision of maintenance or repair services for goods or equipment, excluding motor vehicles and major recreational equipment.
- u) Restaurant - Shall mean a building where food and/or drink is prepared and sold for immediate consumption, either on or off site, and which may offer commercial entertainment only if the premises are licensed under the Liquor Licence Act.
- v) Retail - Shall mean the sale or rental of goods or materials to the ultimate consumer including "convenience retail" goods, but shall not include a restaurant or the sale or rental of motor vehicles, motor vehicle fuel or major recreational equipment.
- w) Social Services Establishment - Shall mean a building in which non-profit services intended to promote and improve the independence, economic self-sufficiency, social and health development of citizens are provided and shall include but not be limited to clerical, administrative, consulting, counselling, office and recreational functions for a non-profit agency but shall not include facilities in which overnight accommodation is provided.
- x) Studio - Shall mean an establishment used for the study or instruction of a performing or visual art, such as but not limited to, dancing, singing, acting or modelling, or the workplace with accessory retail, of a painter, sculptor or photographer, or an establishment used for the making or transmission of motion pictures, radio or television programs.
- y) Tradespersons Shop - Shall mean a building in which is provided to the public a non-personal service or trade, and shall include but not be limited to, a carpenter's shop, contractor's shop, electrician shop, painter's shop, plumber's shop and other shops that provide an installation service.
- z) Veterinary Service - Shall mean a use within a wholly enclosed building or part thereof, where domestic animals or household pets are provided treatment by a veterinarian and may include temporary indoor

accommodation related to treatment and/or recovery and pet grooming but shall not include a kennel.

6. That the “H” (Community Shopping and Commercial etc.) District regulations as contained in Section 14 of Zoning By-law No. 6593, applicable to Blocks “1”, “2”, “3”, and “4”, as referred to in Section 1, be modified to the extent that only the following shall apply:

- 6.1 Subject to the provisions of Sections 2, 3, 18, and 18A, in an “H” District, no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, for other than one or more of the following uses, and uses accessory thereto:

6.2 PERMITTED USES

Beverage Making Establishment
Catering Service
Commercial Entertainment
Commercial Recreation
Commercial School
Conference or Convention Centre
Craftsperson Shop
Day Nursery
Dwelling Unit(s)
Emergency Shelter
Financial Establishment
Funeral Home
Hotel
Laboratory
Lodging House
Long Term Care Facility
Medical Clinic
Medical Office
Multiple Dwelling
Office
Personal Services
Place of Worship
Printing Establishment
Private Club or Lodge
Repair Service
Residential Care Facility
Restaurant
Retail

Retirement Home
Social Services Establishment
Studio
Tradesperson Shop
Veterinary Service

6.3 PROHIBITED USES

Drive Through Facility
Dry Cleaning Plant

6.4 REGULATIONS

- | | |
|---|---|
| a) Maximum Yard Abutting Barton Street | i) 2.0 metres, except this maximum may be exceeded to accommodate a visibility triangle required to be provided for a driveway access.

ii) Notwithstanding Subsection i) above, for any buildings with residential uses within the first storey, 3.0 metres. |
| b) Minimum Setback for any storey facing Barton Street above the third storey | 3.0 metres from the vertical projection of the face of the third storey. |
| c) Maximum Yard Abutting Ferguson Street | i) 2.0 metres, except this maximum may be exceeded to accommodate a visibility triangle required to be provided for a driveway access.

ii) Notwithstanding Subsection i) above, for any buildings with residential uses within the first storey, 3.0 metres. |
| d) Minimum Yards | i) 6.0 metres from a lot line abutting a Residential Zone.

ii) 0 metres for all other yards. |
| e) Maximum Building Height | 22 metres |
| f) Built Form Regulations Facing | All buildings shall have windows with a |

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- Barton Street and Ferguson Avenue
- g) Visual Barrier
- h) Location of Parking Area
- i) Location of Loading Spaces
- j) Outdoor Storage
- k) Location of Emergency Shelter and Residential Care Facility
- maximum sill height of 1.0 metre and a minimum head height of 2.4 metres for a minimum of 25% of the length of the facade facing the street.
- A visual barrier shall be required along any lot line abutting a Residential Zone.
- i) Parking spaces and/or aisles shall not be located within 3.0 metres of a street line.
- ii) A permanently maintained planting strip of a minimum width of 3.0 metres shall be provided and maintained between a parking area and a street line, except where a driveway access is located.
- iii) A Landscaped Architectural Feature shall be provided and maintained within the planting strip referred to in Subsection ii) above along the entire street line, except for any area occupied by buildings or where a driveway is located.
- Shall not be located between any building and a street line.
- No outdoor storage of goods, materials or equipment shall be permitted. This shall not, however, prevent the outdoor display of goods or materials for retail purposes accessory to a principal use.
- i) Except as provided for in Subsection ii), herein, every Emergency Shelter and Residential Care Facility shall be situated on a lot having a minimum radial separation distance of 300 metres from any lot line of such lot measured to the lot line of any other

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lot occupied by a Residential Care Facility, Emergency Shelter, Corrections Residence or Correctional Facility.

- ii) Where the radial separation distance from the lot line of an Emergency Shelter or Residential Care Facility existing as of the effective date of this By-law, is less than 300 metres to the lot line of any other lot occupied by an existing Residential Care Facility, Emergency Shelter, Corrections Residence or Correctional Facility, either of the existing Residential Care Facility or Emergency Shelter may be expanded or redeveloped to accommodate not more than the permitted number of residents permitted by the Zone in which it is located.

- l) Emergency Shelter and Residential Care Facility Capacity

Shall not exceed 20 residents.

- 7. That the “DE-2” (Multiple Dwellings) District regulations as contained in Section 10B of Zoning By-law No. 6593, applicable to Block “5”, be modified to the extent that only the following shall apply:

- 7.1 Subject to the provisions of Sections 2, 3, 18, and 18A, in an “DE-2” District, no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used for other than one or more of the following uses, and uses accessory thereto:

- 7.2 PERMITTED USES

Multiple Dwelling
Street Townhouse Dwelling

- 7.3 REGULATIONS

- 7.3.1 REGULATIONS FOR MULTIPLE DWELLING

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- | | |
|-------------------------------|---|
| a) Maximum Front Yard | 3.0 metres |
| b) Minimum Interior Side Yard | 1.2 metres |
| c) Maximum Flankage Yard | 3.0 metres |
| d) Minimum Rear Yard | 6.0 metres |
| e) Building Height | i) Minimum 11 metres;
ii) Maximum 18 metres |
| f) Minimum Landscaped Area | Not less than 10% of the lot area shall be landscaped. |
| g) Location of Parking Area | Parking within any portion of a front yard shall not be permitted. |
| h) Access to Units | Vehicular access to individual dwelling units directly from a public street shall not be permitted. |

7.3.2 REGULATIONS FOR STREET TOWNHOUSES

- | | |
|-------------------------------|--|
| a) Minimum Lot Area | 150 m ² for each dwelling unit. |
| b) Minimum Unit Width | 5.5 metres |
| c) Maximum Front Yard | 3.0 metres |
| d) Minimum Interior Side Yard | 1.2 metres, except for the side yard related to the common wall of the street townhouse dwelling unit, in which case a minimum 0 metre side yard shall be permitted. |
| e) Maximum Flankage Yard | 3.0 metres |
| f) Minimum Rear Yard | 7.0 metres |
| g) Minimum Building Height | 11 metres |

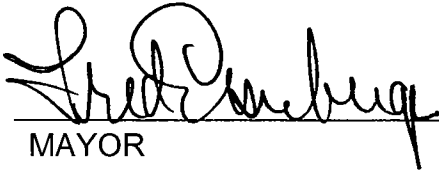
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in accordance with the "DE-2" (Multiple Dwellings) District and "H" (Community Shopping and Commercial etc.) District provisions, subject to the special requirements referred to in Sections 4 to 8, inclusive, of this By-law.

10. That By-law No. 6593 (City of Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1569
11. 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.

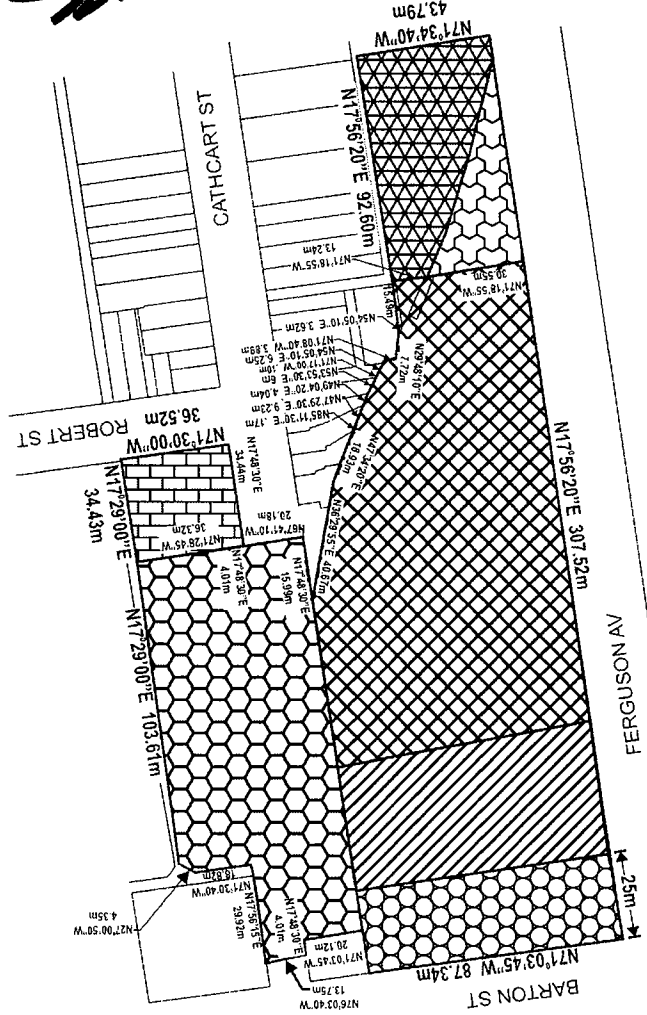
PASSED and ENACTED this 24th day of January, 2007.


MAYOR


CLERK

ZAC-05-90

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This is Schedule "A" to By-Law No. 07-026

Passed the 24th day of January, 2007

[Handwritten Signature]
 Clerk
 Mayor

Schedule "A"
Map Forming Part of
By-law No. 07-026
 to Amend By-law No. 6593

Scale:	Not to Scale
Date:	September 27, 2006
Planner/Technician:	HT/LC
File Name/Number:	ZAC-05-90



Hamilton

- Subject Property**
 166 and 186 Ferguson Avenue North and 201 Robert Street
- BLOCK 1- Change in Zoning from "CR-2" (Commercial - Residential) District, Modified, to the "H"-H (Community Shopping and Commercial, etc. - Holding) District, Modified.
 - BLOCK 2- Change in Zoning from "CR-2" (Commercial - Residential) District, Modified, to the "H"-H (Community Shopping and Commercial, etc. - Holding) District, Modified.
 - BLOCK 3- Change in Zoning from the "DE-2" (Multiple Dwellings) District, Modified, to the "H"-H (Community Shopping and Commercial, etc. - Holding) District, Modified.
 - BLOCK 4- Change in Zoning from the "IJ" (Restricted Light Industrial) District, Modified, to the "H"-H (Community Shopping and Commercial, etc. - Holding) District, Modified.
 - BLOCK 5- Change in Zoning from the "IJ" (Restricted Light Industrial) District, Modified, to the "DE-2"-H (Multiple Dwellings - Holding) District, Modified.
 - BLOCK 6- Change in Zoning from the "DE-2" (Multiple Dwellings) District, Modified, to the "DE-2"-H (Multiple Dwellings - Holding) District, Modified.
 - BLOCK 7- Change in Zoning from the "IJ" (Restricted Light Industrial) District, Modified, to the "DE-2"-H (Multiple Dwellings - Holding) District, Modified.