

Authority: Item 13, Economic Development
and Planning Committee
Report: 07-014 (PED06405(b))
CM: August 8, 2007

Bill No. 229

CITY OF HAMILTON

BY-LAW NO. 07-229

**To Amend Zoning By-law No. 6593 (Hamilton), Respecting the lands located at
398 King Street West and 42 Pearl Street North**

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Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;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 13 of Report 07-014 of the Economic Development and Planning Committee at its meeting held on the 8th day of August, 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:

1. Sheet No. W-12 of the District Maps, appended to and forming part of By-law No. 6593, is amended, as follows:

- (a) That the lands comprised in Blocks “1”, “2”, “3” and “4”, be zoned “H” (Community Shopping and Commercial, etc.) District, Modified;
- (b) That the lands comprised in Blocks “5” and “6”, be zoned “DE” (Low Density Multiple Dwellings) District, Modified; and,
- (c) That the lands comprised in Block “7”, be zoned “D” (Urban Protected Residential – One and Two Family, etc.) District,

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

2. That the “H” (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks “1”, “2”, “3” and “4” are amended to the extent only of the following special requirements:

- (a) That subsections 14.(1)(iib) and (14.1)(iic) shall not apply to the subject lands;
- (b) That notwithstanding Subsection 14.(3)(ii)(a), where a building or structure is comprised of residential uses and commercial uses, then a minimum side yard of 9m shall be provided and maintained for the residential use;
- (c) That in addition to the requirements of Section 14 of Zoning By-law No. 6593, no residential use or accessory use shall be located,
 - (i) except functionally completely separate from any commercial use;
 - (ii) in such a manner as will interrupt or project into or through, any area otherwise,
 - (1) accessory, incidental, allocated to or continuous with, or,
 - (2) within any larger area devoted to a commercial use;
 - (iii) except in such a manner as will completely segregate from any commercial use pedestrian movement to and from any residential use.

- (d) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, the minimum number of required parking spaces for a building or structure comprised of residential uses and commercial uses shall be:
 - (i) 1.4 spaces per 100 square metres of floor area for a medical clinic;
 - (ii) 1 space for every 31.0 square metres of floor area for that portion of floor area in excess of 450.0 square metres for general office uses; and,
 - (iii) 1 space per 6 persons who may be lawfully accommodated for a place of assembly.

- 3. That the "H" (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks "1" and "3" are amended to the extent only of the following special requirements:
 - (a) That notwithstanding Subsection 14. (1)(iiia) of Zoning By-law No. 6593, a maximum of seventy-two (72) dwelling units shall be permitted; and,
 - (b) That notwithstanding Subsection 18A (1)(a) and (b) of Zoning By-law No. 6593, 0.17 spaces per Class A dwelling unit shall be provided and maintained.

- 4. That the "H" (Community Shopping and Commercial, etc.) District provisions, as contained in Section 14 of Zoning By-law No. 6593 (City of Hamilton), applicable to Blocks "2" and "4" are amended to the extent only of the following special requirements:
 - (a) That notwithstanding Subsection 14.(1)(iiia) of Zoning By-law No. 6593, a maximum of sixty (60) dwellings units shall be permitted;
 - (b) That notwithstanding Subsection 14.(2)(ii) of Zoning By-law No. 6593, the maximum height of any building, structure or portion therefore shall not exceed four (4) storeys within 84m of the northerly lot line; and,
 - (c) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, 0.26 spaces per Class A dwelling unit shall be provided and maintained.

5. That the “DE” (Low Density Multiple Dwellings) District provisions, as contained in Section 10A of Zoning By-law No. 6593 (City of Hamilton), applicable to Block “5” are amended to the extent only of the following special requirements:
- (a) That Section 4(3)(a) shall not apply to an emergency shelter;
 - (b) That notwithstanding Subsection 10A.(1)(viii) of Zoning By-law No. 6593, two emergency shelters for the combined accommodation of not more than sixty (60) residents within one building shall be permitted;
 - (c) That notwithstanding Subsection 10A.(3)(ii)(c) of Zoning By-law No. 6593 for a multiple dwelling, a side yard along each side lot line of a width of at least 2.7 metres shall be provided and maintained;
 - (d) That notwithstanding Subsection 10A.(6) of Zoning By-law No. 6593 for an emergency shelter permitted under Subsection (b)(iv)(ii), every emergency shelter shall be situated on a lot having a minimum radial separation distance of not less than 120.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, retirement home, emergency shelter, corrections residence or correctional facility; and,
 - (e) notwithstanding Subsection 2.A.(ixa) of Zoning By-law No. 6593. for the purposes of this by-law, an “Emergency Shelter” shall mean a fully detached building or portion thereof offering programmes in a crisis situation to:
 - (i) homeless women; and,
 - (ii) women and families who are victims of violence;who require shelter, protection, assistance and counselling or support which is intended to be short term accommodation of a transient nature. An emergency shelter does not include a residential care facility; a lodging home; a corrections residence; a correctional facility; or any other facility which is licensed, approved or regulated under any general or special Act.
6. That the “DE” (Low Density Multiple Dwellings) District provisions, as contained in Section 10A of Zoning By-law No. 6593 (City of Hamilton), applicable to Block “6” are amended to the extent only of the following special requirements:

- (a) That notwithstanding Subsection 10A.(3)(ii)(c) of Zoning By-law No. 6593, for a multiple dwelling a minimum side yard of at least 6.0m shall be provided and maintained;
 - (b) That notwithstanding Subsection 10A.(3)(iii) of Zoning By-law No. 6593, for a multiple dwelling a minimum rear yard of at least 2.7m shall be provided and maintained; and,
 - (c) That notwithstanding Subsection 18A(1)(a) and (b) of Zoning By-law No. 6593, 0.26 spaces per Class A dwelling unit shall be provided and maintained.
7. That in addition to the requirements of Subsection 10A.(1) and notwithstanding the requirements of Subsection 18A.(40) of Zoning By-law No. 6593, Table 1 of Section 18A of Zoning By-law No. 6593 and Subsections 2.(d), 3.(b), 4.(c) and 6.(c) of this By-law, a maximum of 8 of the required parking spaces may be used for public parking.
8. That Subsection 4.(3)(a) of Zoning By-law No. 6593 shall not apply to the subject lands.
9. That the amending By-law apply the holding provisions of Section 36(1) of the Planning Act, R.S.O. 1990, to Blocks "1", "2", "3", and "4" by introducing the holding symbol 'H' as a suffix to the proposed zoning district as follows:
- (a) The holding provision will prohibit the development of Blocks "1", "2", "3", and "4" until:
 - (i) That the owner/applicant shall conduct an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements;
 - (ii) That the owner/applicant shall investigate the noise levels on the site and determine the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended sound level limits.

An acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted, to the satisfaction of the City of Hamilton, Director of Planning;

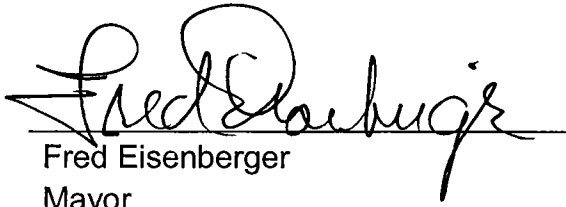
- (iii) That the applicant/owner prepare and submit a tree preservation plan for the existing trees located within the King Street West, Ray Street North and Pearl Street North road allowances and the subject lands, to the satisfaction of the Manager of Forestry, Parks Division, Community Services Department and the Director of Planning;
- (iv) That the owner has submitted a signed Record of Site Condition (RSC) to the Ministry of Environment. This RSC must be to the satisfaction of the City of Hamilton, including acknowledgement of receipt of the RSC from the Ministry of Environment; and,

City Council may remove the 'H' symbol and, thereby, give effect to the "H" (Restricted Community Shopping and Commercial) District and "DE" (Multiple Dwellings) District, as amended by the special requirements of Sections 2, 3, 4, 5, 6, 7 and 8 as stipulated in this By-law, by enactment of an amending By-law once the above conditions have been fulfilled;

10. That upon the satisfying the conditions of the 'H' symbols and submitting the required fees, that the General Manager, Planning and Economic Development Department, be authorized and directed to give the prescribed notice(s) in accordance with the provisions of the Planning Act and to prepare a By-law(s) in a form satisfactory to the Corporate Counsel to remove the 'H' symbol(s) for presentation to City Council.
11. 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, except in accordance with the "H" District and "DE" District provisions, subject to the special requirements referred to in Sections 2, 3, 4, 5, 6, 7 and 8.
12. By-law No. 6593 (Hamilton) is amended by adding this by-law to Section 19B as Schedule S-1486.
13. Sheet No. W-12 of the District Maps is amended by marking the lands referred in Section 1 of the by-law as S-1486.

14. 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 8th day of August, 2007.



Fred Eisenberger
Mayor



Kevin C. Christenson
City Clerk





CI-07-1




This is Schedule "A" to By-Law No. 07- 229
Passed the 8..... day ofAugust....., 2007

[Signature]
Clerk
Mayor

Schedule "A"
Map Forming Part of
By-Law No. 07-229
to Amend By-law No.6593

- Subject Property**
398 King Street West and 42 Pearl Street North
-  - Blocks 1 and 2 - Lands to be zoned to "H" (Community Shopping and Commercial, etc.) District Modified
 -  - Blocks 3 and 4 - Lands to be zoned to "H" (Community Shopping and Commercial, etc.) District.
 -  - Blocks 5 and 6 - Lands to be zoned to "DE" (Low Density Multiple Dwellings) District Modified
 -  - Block 7 - Lands to be zoned to "D" (Urban Protected Residential - One and Two Family, etc.) District.

Scale: N.T.S.	File Name/Number: CI-07-1	 Hamilton
Date: July 11, 2007	Planner/Technician: AF/LC	