

ISSUE DATE:  
**October 18, 2011**



**PL100327**

By-law No. 12-010

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

St. Joseph's Villa has appealed to the Ontario Municipal Board under subsection 22(7) 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 the Official Plan for the City of Hamilton to establish a new Exception to Schedule B-1 Exceptions of the Town of Dundas Official Plan for land at 56 Governor's Road to permit two 10 storey apartment buildings with some commercial use  
Approval Authority File No. OPA-08-015  
OMB File No. PL100327

St. Joseph's Villa has appealed to the Ontario Municipal Board under subsection 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 3581-86 (Dundas) of the City of Hamilton to rezone lands respecting 56 Governor's Road from PPS/S-90, RM4/S-62, PPS-FP, R1-FP and OS to H-RM4 and P5 Zone to permit the development of two 10 storey apartment buildings with some commercial use  
OMB File No. PL100328

**B E F O R E:**

J. de P. SEABORN  
VICE-CHAIR

) Friday, the 14<sup>th</sup>  
)  
) day of October, 201

**THESE MATTERS** having come on for public hearing, and the Board in its Decision issued June 28, 2011 having withheld its Order pending receipt of certain documents in a form agreed to by all parties, and said documents having now been filed with the Board;

**THE BOARD ORDERS** that the appeal in respect to the Official Plan Amendment is allowed in part as it relates to Building B and the Official Plan for the City of Hamilton is modified as set out in Attachment 1 to this Order, and as modified is approved;

**AND THE BOARD ORDERS** that the appeal in respect to the Official Plan Amendment is dismissed as it relates to Building A;

**AND THE BOARD ORDERS** that the appeal in respect to the proposed zoning by-law is allowed as it relates to the Building B, and By-law 3581-86 (Dundas) 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;

**AND THE BOARD ORDERS** that the appeal in respect to the proposed zoning by-law is dismissed as it relates to Building A.

A handwritten signature in black ink, appearing to read "Janne Hogg". The signature is written in a cursive style with a large initial "J".

SECRETARY

Attachment 2

Bill No. \_\_\_\_\_

**CITY OF HAMILTON  
BY-LAW NO.**

**To Amend Zoning By-law No. 3581-86 (Dundas),  
Respecting Lands Located at 56 Governor's Road, 150 and 160 Ogilvie 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 area municipality known as the "The Corporation of the Town of Dundas" 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** Zoning By-law No. 3581-86 (Dundas) was enacted on the 22nd day of May, 1986, and approved by the Ontario Municipal Board on the 10th day of May, 1988;

**AND WHEREAS** the lands located at 56 Governor's Road were the subject of appeals to the Ontario Municipal Board, and the Board has by its Decision of June 28, 2011 allowed the appeals, in part, this By-Law amends Zoning By-law No. 3581-86 (Dundas), to implement the Decision of the Ontario Municipal Board as hereinafter provided;

**AND WHEREAS** this By-law will be in conformity with the Official Plan of the City Hamilton (the Official Plan of the Town of Dundas), upon approval of Official Plan Amendment No. \_\_\_\_ similarly directed by the Ontario Municipal Board in its Decision of June 28, 2011:

**NOW THEREFORE** the Ontario Municipal Board amends Zoning By-law No. 3581-86 (Dundas) as follows:

1. That Schedule "G" of Zoning By-law No. 3581-86 (Dundas) is hereby amended,
  - (a) by changing the zoning from the from the Public and Private Service (PPS/S-90) to the High Density Multiple Dwelling (H-RM4/S-117) Holding Zone, Modified, the lands comprised of Block 1;

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

2. That Section 32 - "EXCEPTIONS" of Zoning By-law No. 3581-86 (Dundas), as amended, is hereby further amended by adding the following subsections:

H-RM4/S-117

That Notwithstanding the provisions of Section 15: High Density Multiple Dwelling Zone (RM4) the following Special Provisions shall apply to Block 1 on lands known Municipally as No. 56 Governor's Road, shown as "H-RM4/S-117" on Schedule "G".

- (a) Notwithstanding Sub-Section 15.1, Permitted Uses, the following use shall also be permitted:

**15.1 PERMITTED USES**

15.1.3 A mixed-use building consisting of office uses and those uses permitted in the Neighbourhood Commercial "C.N." Zone on the first and second floor only. The maximum size of any one Neighbourhood Commercial store shall not exceed 465 m<sup>2</sup>.

- (b) Notwithstanding Section 15.2.2, 15.2.3, 15.2.4, Regulations for Apartment Buildings, the following special regulations shall apply for all uses:

15.2.2 YARD REQUIREMENTS

15.2.2.1 FRONT YARD  
Minimum: 0.0 metres

15.2.2.2 SIDE YARD (Ogilvie Street)  
Minimum: 0.0 metres

SIDE YARD (Westerly)  
Minimum: 5.0 metres

15.2.3 HEIGHT  
Maximum 32m or 10 Storeys (whichever is the greater)

15.2.4 DENSITY  
Maximum 88 Dwelling Units and 3,500 m<sup>2</sup> of retail and office uses.

- (c) Section 6.16 shall not apply.
- (d) Notwithstanding Section 6.21, the following shall be permitted:

**6.21 VISIBILITY TRIANGLE**

A structure or building will be permitted to encroach into the 'Visibility Triangle'.

- (e) Notwithstanding Section 6.11.3, the following shall apply:

**6.11.3 LANDSCAPING IN RESIDENTIAL FRONT YARDS**

No minimum front yard landscaping shall be required.

- (f) Notwithstanding Section 7.3 Access, the following shall apply:

7.3.4 Where a non-residential use is adjacent a residential zone, every access driveway to or from the non-residential use shall be permitted to be located adjacent the common boundary with the residential zone.

- (g) A Holding Symbol (H) pursuant to Section 36 of The *Planning Act*, R.S.O. 1990, c.P. 13, and Subsection 4.9 of By-law No. 3581-86 is hereby applied to the RM4/S-117 Zone category as it applies to 56 Governors Road. Such Holding Symbol (H) shall continue to apply to the subject lands until removed by subsequent By-law amendment. Council shall remove the Holding Symbol (H) by By-law amendment upon all of the following requirements having been addressed, to its satisfaction:

- (i) That the Class C EA for the widening of Governors Road from Creighton to Osler, as identified in the Hamilton Transportation Master Plan, or other required works, as identified in the Dundas Transportation Master Plan, has been completed and implemented, to the satisfaction of the Manager of Traffic Engineering and Operations; or that

alternatively, submission of a Traffic Impact Study, demonstrating that sufficient road and intersection capacity is available to support additional development on the lands of the applicant.

- (ii) A Stage 3 and Stage 4 archaeological assessment be undertaken on the sites identified as H1 and H2 in the Stage 1 and 2 Archaeological Assessment report, dated September 2008, to the satisfaction of the Ontario Ministry of Culture and the Director of Planning.
  - (iii) That site plan approval be obtained wherein the detailed design of the Front Yard and Exterior Site Yard (Ogilvie Street) interface between the Street Line and the building are reviewed given the grades in the area and addressed to the satisfaction of the Director of Planning.
3. That By-law No. 3581-86 (Dundas) is amended by adding this By-law to Section 32 as Schedule S-117. The existing Schedule S-62 and S-90 that apply to the subject lands shall continue to regulate all buildings existing on 56 Governors Road and 150 & 160 Ogilvie Street at the date of passing of this By-law.
  4. That Schedule "G" of the Zoning Schedule Key Map is amended by marking the lands referred to in Section 1 of this By-law as S-117.
  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*.

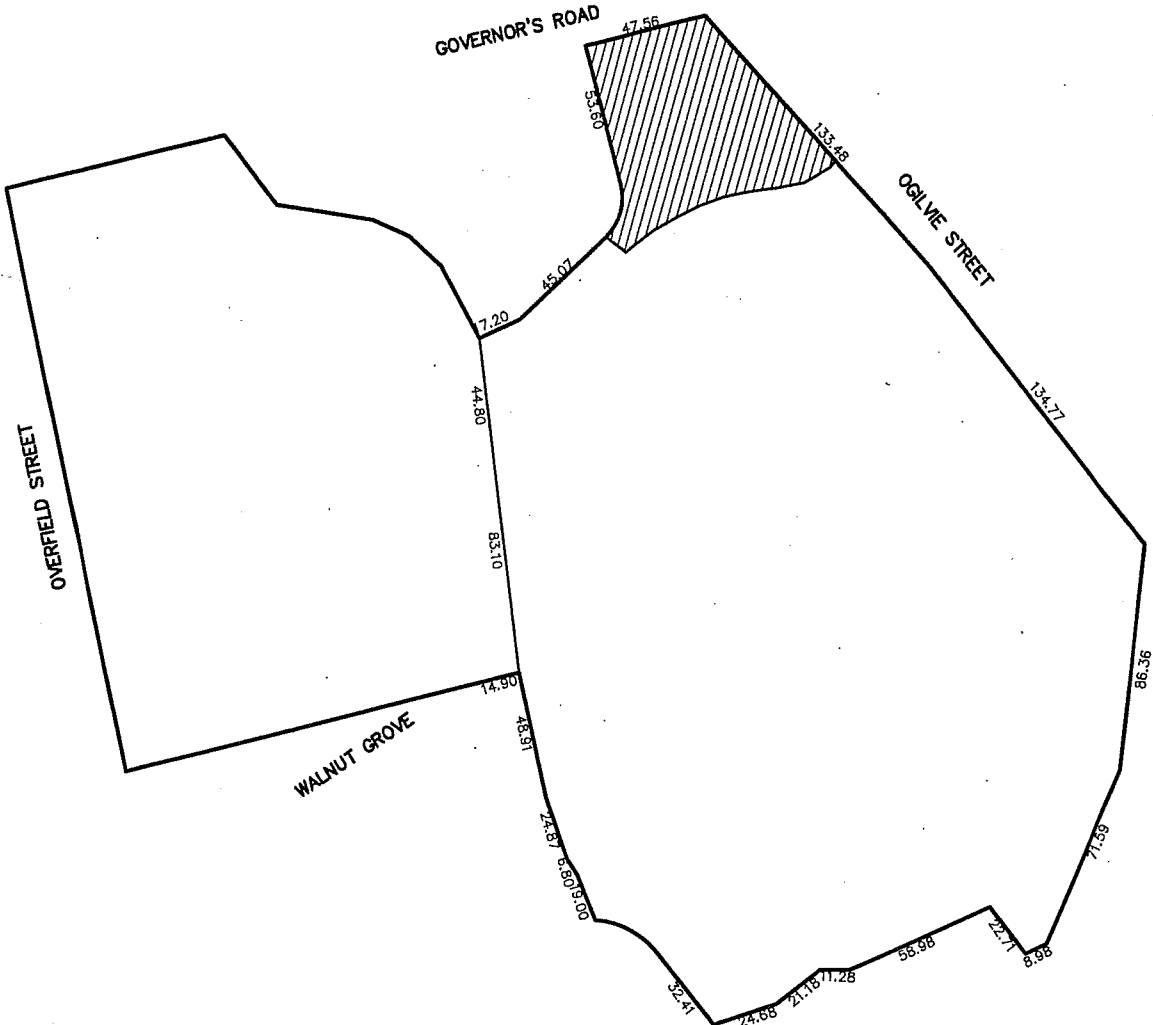
**PASSED and ENACTED** this                      day of                      , 2011.

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R. Bratina  
Mayor

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Rose Caterini  
Clerk



This Schedule "A" to By-law No. 11-  
Passed the .....day of ....., 2011

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Clerk  
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Mayor

**Schedule "A"**

Map Forming Part of  
By-Law No. 11-\_\_\_\_\_

to Amend By-law No.3581-86

**Subject Property**

56 Governor's Road, Dundas



BLOCK 1 - Change in Zoning from Public and Private Service (PPS/S-90) Zone to the High Density Multiple Dwelling (H-RM4) Holding Zone, Modified

Scale: N.T.S.	File Name/Number ZAC-08-069/OPA-08-015
Date:	Planner/Technician

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT