

ISSUE DATE:

Jul. 22, 2010



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL090520  
PL091188  
PL100232

By-law No. 10-323

Upper Centennial Developments Ltd. 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 redesignate lands known legally as Part of Lots 25 and 26, Concession 7 (formerly in the Township of Saltfleet) from Low Density Residential, Medium Density Residential and Institutional to General Commercial in order to permit various commercial/retail and residential uses

Municipal File No. OPA-06-26  
OMB Case No. PL090520  
OMB File No. PL090520

Upper Centennial Developments Ltd. 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 3692-92, as amended of the City of Hamilton to rezone lands known legally as Part of Lots 25 and 26, Concession 7 (formerly in the Township of Saltfleet) from "ND - Neighbourhood Development Zone" to "SC2 - Community Shopping Centre" in order to permit a variety of commercial uses on the proposed commercial block

OMB Case No. PL090520  
OMB File No. PL090511

Parkside Developments (Albion) Limited and Landmart Realty Corp. have 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 3692-92 of the City of Hamilton to rezone lands respecting Lots 25 and 26, Concession 7 from Neighbourhood Development "ND" zone to Single Residential "R4" modified, Multiple Residential "RM2" and RM3" modified, and Open Space "O2" zone, in order to implement the proposed draft plan of subdivision

OMB Case No. PL091188  
OMB File No. PL091188

Parkside Developments (Albion) Limited and Landmart Realty Corp. have appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Lots 25 and 26, Concession 7, in the City of Hamilton

Approval Authority File No. 25T-200808  
OMB Case No. PL091188  
OMB File No. PL091198

Paletta International (2000) Inc. 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 redesignate lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) from Low Density Residential; Medium Density Residential; Open Space - Community Park; Elementary School to permit the

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proposed development composed of low, medium and medium-high density residential uses, a park, school and stormwater detention pond  
Approval Authority File No. OPA 09-008  
OMB Case No. PL100232  
OMB File No. PL100232

Paletta International (2000) Inc. 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 90-145-Z of the City of Hamilton to rezone lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) from Neighbourhood Development "ND" Zone to R3, R4, R5X, RM2, RM4, OS, P, IS to permit the proposed development of low, medium and medium-high density residential uses, a park, school and stormwater detention pond  
Approval Authority File No. ZAC 09-031  
OMB Case No. PL100232  
OMB File No. PL100233

Paletta International (2000) Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lots 25 & 26, Concession 7 (Stoney Creek) in the City of Hamilton  
Approval Authority File No. 25T-200908  
OMB Case No. PL100232  
OMB File No. PL100504

**APPEARANCES:**

Parties

Counsel

City of Hamilton

M. Kovacevic

Upper Centennial Developments Ltd.

S. A. Zakem and  
P. J. Harrington

Paletta International (2000) Inc.

M. Noskiewicz and  
J. Drake

Parkside Developments (Albion) Limited and  
Landmart Realty Corp.

R. D. Cheeseman

<b>OFFICE OF THE CITY CLERK</b>	
JUL 26 2010	
REC'D BY <i>A. Lundy</i>	DATE _____
REF'D TO <i>T. W. C. G.</i>	DATE _____
REF'D TO <i>P. M. Hall</i>	DATE _____
REF'D TO <i>M. K. ...</i>	DATE _____
<i>L. ...</i> <i>M. ...</i>	
ACTION: _____	

**DECISION DELIVERED BY SUSAN de AVELLAR SCHILLER AND PARTIAL ORDER OF THE BOARD**

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Prior to the start of the hearing, 660439 Ontario Inc., doing business as M & M Tables and represented by Counsel W. Thatcher at pre-hearings in these matters, advised the Board that all issues of concern to 660439 Ontario Inc. had now been resolved and 660439 Ontario Inc. sought leave of the Board to withdraw as a Party to these proceedings. The Board was advised by Counsel Thatcher that the request to withdraw came to the Board on consent of all other Parties. The Board was satisfied that the written request to withdraw was appropriate and sufficient and did not require 660439 Ontario Inc. to attend further at these proceedings.

Three cases, representing three adjacent development proposals, form these proceedings. The proponents are Upper Centennial Developments Ltd. [UCD], Paletta International (2000) Inc. [Paletta], and Parkside Developments (Albion) Limited and Landmart Realty Corp. [Parkside/Landmart]. Although these three cases have been consolidated, discussions between the Parties and the City of Hamilton have moved at different paces for each case. All but one issue between UCD and the City of Hamilton have now been settled. This Decision deals with the UCD matters.

The Board heard from one expert witness: Mr. Peter De Iulio, a full member of the Canadian Institute of Planners and a Registered Professional Planner in Ontario. No other witnesses were called and no Participant addressed the Board in these UCD matters.

UCD wishes to develop commercial uses on a site within the East Felker Neighbourhood. The site is in the former Township of Saltfleet, in the former City of Stoney Creek, and now in the City of Hamilton. UCD has applied for amendments to the former City of Stoney Creek Official Plan and Zoning By-law. The lands are within the West Mountain Secondary Plan Area, known as Heritage Green. The East Felker Neighbourhood is a block generally bounded by Mud Street West on the north, Upper Centennial Parkway on the east, Highland Road West on the south and First Road West on the west.

The UCD lands are located in the centre of the east side of the block along Upper Centennial Parkway and roughly equidistant from Mud Street to the north and Highland Road to the south. Abutting the UCD lands to the west, and taking up most of the centre of the block, is the plan of subdivision proposed by Paletta. North of both UCD and Paletta are the lands in the plan of subdivision proposed by Parkside/Landmart. The Parkside/Landmart lands go along Mud Street with some internal gaps, roughly equidistant from Upper Centennial Parkway on the east and First Road West on the West.

North of Mud Street is a landfill. Existing commercial is located south of the UCD lands. An existing neighbourhood park and a secondary school are located within the block, surrounded on three sides by the proposed Paletta subdivision with Highland Road to the south. Existing residential uses are along both sides of Highland Road and both sides of First Street West.

The UCD lands are within a settlement area, as defined by the Provincial Policy Statement. The UCD commercial development implements policy 1.1.3 for settlement areas by providing a balance in land uses when considered in the context of the nearby existing and proposed residential uses. The UCD proposal also implements policy 1.3 by contributing to an appropriate mix of employment and a diversified economic base.

The former City of Stoney Creek Official Plan requires market demand and impact analysis for such commercial proposals. UCD filed this market impact analysis, which was peer reviewed by the City of Hamilton. Based on the results, the proposal was revised and that revision was again peer reviewed. In early 2010, UCD submitted an update of the market impact analysis study, which was peer reviewed by the City of Hamilton. The proposal was supported by the market impact analysis update and the peer review. UCD has agreed to the City of Hamilton's request for certain minor changes to the requested Zoning By-law and Official Plan amendments. The Board heard no evidence in opposition to these two planning instruments.

The UCD lands are within a Designated Greenfield Area of the Growth Plan for the Greater Golden Horseshoe. Section 2.2.7.1 of the Growth Plan sets out the requirements for new development within a Designated Greenfield Area. The UCD

proposal conforms to this section by contributing to a complete community and being planned in the context of the mix of land uses within the overall block.

This section of the Growth Plan also calls for street configurations that support walking, cycling and the integration of transit services. In order to achieve this, a Holding provision has been added to the proposed Zoning By-law amendment for UCD. Isaac Brock Drive is an east-west street that currently ends at the west side of First Street West. The City of Hamilton wishes to see an easterly extension of Isaac Brock Drive through the Paletta lands to connect with the UCD lands and continue east to Upper Centennial Parkway. The Paletta section of the proposed Isaac Brock extension will be secured in the planning instruments for the proposed Paletta plan of subdivision. The extension will be wide enough to accommodate generous walking sidewalks, bicycle lanes and transit, in keeping with the requirements of the Growth Plan.

The UCD lands are within the Urban Area designation of the Hamilton-Wentworth Official Plan. The proposal contributes to the provision of a wide range of urban uses and will be on full municipal services, as required by the Hamilton-Wentworth Official Plan.

One section of the Zoning By-law amendment before the Board deals with the landscaped strip to be provided and maintained along the westerly lot line of the UCD property. The proposed Zoning By-law amendment specifies a landscaped strip that is 15m wide. UCD takes the position that the strip should be narrower. UCD and the City of Hamilton are in ongoing discussions regarding details of the site plan for this proposed development which may result in a resolution of this remaining matter. The site plan is not before the Board. The City and UCD have both asked the Board to hold this one section of the Zoning By-law amendment in abeyance and still under appeal at this time, subject to a status report on discussions to be filed in about four months' time.

Having regard to section 2 of the *Planning Act*, the Board finds that the proposed Official Plan and Zoning By-law amendments for the UCD commercial development implement matters of provincial interest, particularly for the orderly development of communities, the adequate provision of employment opportunities, the appropriate

location of growth and development, and the promotion of development that supports public transit.

Having regard to section 3(5) of the *Planning Act*, the Board finds that the proposed Official Plan and Zoning By-law amendments are consistent with the Provincial Policy Statement and conform to the Growth Plan for the Greater Golden Horseshoe. The Board further finds that these two amendments conform to the Hamilton-Wentworth Official Plan and are consistent with the policy regime of the former City of Stoney Creek Official Plan. With the proposed amendment to the former City of Stoney Creek Official Plan, the Board finds that the proposed Zoning By-law amendment, with the exception of the reference to the 15m landscaped strip, conforms to the former City of Stoney Creek Official Plan. Finally, the Board finds that these proposed amendments are reasonable, appropriate and represent the principles of good community planning.

The appeal is allowed in part. The amendment to the former City of Stoney Creek Official Plan, found at Attachment 1 to this Decision, is approved. Zoning By-law No. 3692-92 (Stoney Creek) is amended in accordance with Attachment 2 to this Decision, with the exception of subparagraph (j)(2) which remains under appeal.

Counsel for UCD and Counsel for the City of Hamilton are to file with the Board a written status report on the progress of discussions relating to subparagraph (j)(2) of the Zoning By-law amendment, dealing with the width of the landscape strip along the western edge of the UCD lands. This status report is to be filed with the Board not later than 120 days from the date of this Decision.

If difficulties arise, the Board may be spoken.

This member remains seized of this matter.

So Orders the Board.

"Susan de Avellar Schiller"

SUSAN de AVELLAR SCHILLER  
MEMBER

## ATTACHMENT 2

Appendix "C" (Page 1 of 9)

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

### CITY OF HAMILTON

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

**To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting the Property Located at 165 Upper Centennial Parkway (Stoney Creek)**

**WHEREAS** the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1<sup>st</sup>, 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 Corporation of the City of Stoney Creek" 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 of the former area municipalities 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. 3692-92 (Stoney Creek) was enacted on the 8<sup>th</sup> day of December, 1992, and approved by the Ontario Municipal Board on the 31<sup>st</sup> day of May, 1994;

**AND WHEREAS** this by-law will be in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan) upon the approval of Official Plan Amendment No. \_\_\_\_\_ ;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Map No. 16 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing the zoning from the Neighbourhood Development "ND" Zone to the Community Shopping Centre (Holding) "SC2-5(H)" Zone (Block 1), and the Community Shopping Centre (Holding) "SC2-6(H)" Zone (Block 2), on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That Subsection 8.10.6, "Special Exemptions", of Section 8.10 Community Shopping Centre "SC2" Zone, of Zoning By-law No. 3692-92, be amended by adding new Special Exemptions, "SC2-5(H)" Zone and "SC2-6(H)" Zone, as follows:

**"SC2-5(H)" 165 Upper Centennial Parkway, Schedule "A", Map No. 16**

Notwithstanding the definition of a "Lot" within Part 2, Definitions and Section 4.4.2, Restriction on Change, those lands zoned Community Shopping Centre "SC2-5(H)" by this By-law shall be considered as one lot.

Notwithstanding the uses permitted in Subsection 8.10.2 of the Community Shopping Centre "SC2" Zone, only the following uses shall be permitted:

- (a) Banks or Financial Institutions
- (b) Commercial or Private Schools
- (c) Day Nurseries
- (d) Garden Nursery Centres
- (e) Medical Offices or Clinics
- (f) Professional or Business Offices
- (g) Restaurants – Convenience, Fast Food, Standard and Outdoor Patio
- (h) Retail Stores
- (i) Service Shops
- (j) Uses, buildings, or structures accessory to a permitted use
- (k) Veterinary Service

Notwithstanding the provisions of Paragraphs (d), (e), (f), (g), (j) (l), and (m) of Subsection 8.10.3 of the Community Shopping Centre "SC2" Zone, on those lands zoned "SC2-5(H)" by this By-law, the following shall apply:

- (d) Total Minimum Gross Leasable Floor Area: 10,000 square metres
- (e) Total Maximum Gross Leasable Floor Area: 15,615 square metres.  
Maximum Gross Leasable Floor Area  
for a Retail Store : 13,471 square metres.
- (f) Minimum Front Yard: 3.0 metres.
- (g) Minimum Rear Yard: 15 metres
- (j) Minimum Landscaped Area:



1. A landscaped strip, having a minimum width of 3 metres, shall be provided and maintained adjacent to any public street, except for points of ingress and egress.
2. A landscaped strip, having a minimum width of [\*] metres shall be provided and maintained along the westerly lot line. **[Note: Subparagraph (j)(2) remains under appeal in OMB File No. PL090511]**
3. A landscape strip, having a minimum width of 1.5 metres, shall be provided and maintained adjacent to the northerly lot line.

Notwithstanding Part 2, Definitions, the following definitions shall apply:

"Veterinary Service" shall mean a use within a wholly enclosed building or part thereof, where domestic animals or household animals pets are provided treatment by a veterinarian and may include temporary indoor accommodation related to treatment and/or recover and pet grooming but shall not include a kennel.

Notwithstanding the Parking Regulations in Section 4.10.3 (a), Dimensions of Parking Spaces, no parking space shall be less than 2.6 metres in width by 5.5 metres in length, unless otherwise provided for in this By-law.

Notwithstanding the Parking Regulations in Section 4.10.9, Schedule of Minimum Parking Requirements, the minimum parking spaces required shall be:

Retail Stores regardless of whether or not such retail stores are located within a shopping centre	1 Parking Space for each 30 square metres of Gross Floor Area or part thereof
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Notwithstanding the Loading Regulations in Section 4.9.2, Schedule of Required Loading Spaces, no loading space shall be required for commercial buildings having a gross floor area of less than 2,000 square metres.

In addition to the regulations of Subsection 8.10.3, the following shall also apply:

The minimum combined width of the ground floor façade of all buildings located within 20 metres of the Upper Centennial Drive lot line shall be equal or greater than 25% of the lot line which abuts Upper Centennial, and shall be subject to the following:

- A. A maximum building set back of 6.0 metres shall apply;
- B. All principal entrances shall be accessible from a building façade with direct access from the public sidewalk; and,

- C. No parking, driveways, drive through lanes, stacking lanes, or aisles shall be located between the building façade facing the public street and the public street.

The buildings located within 20 metres of the Upper Centennial Drive lot line may be built in phases provided the minimum 25% ground floor façade requirement can be accommodated at ultimate build out.

The (H) symbol may be removed by further amendment to this By-law at such time as the following conditions have been satisfied:

- (a) The Owner enter into appropriate Agreements with the City to service the subject lands for sanitary sewers (i.e. prior to provision of the ultimate outlets that have been identified at either First Road West or Upper Centennial Parkway), storm sewers, and water, either on an interim or permanent basis including; a suitable stormwater outlet for quantity and quality control, the transferring of all required easements and/or road allowances to the City, as required, and provisions have been made such that the City can secure costs for future infrastructure upgrades abutting the subject lands, to the satisfaction of the Director of Development Engineering.
- (b) The downstream centralized stormwater management facility has been designed and approved to provide quality and quantity control, and maintains base flows to the existing woodland/wetland feature, to the satisfaction of the Hamilton Conservation Authority.
- (c) The Owner dedicate sufficient lands to the City to establish the proposed Isaac Brock Drive road allowance to a 30 metre width from Upper Centennial Parkway to the westerly limit of the subject lands, including 15 m x 15 m daylight triangles at the intersection of Upper Centennial Parkway and the future extension of Isaac Brock Drive, and that the Owner construct the road and signalized intersection to full municipal standards at 100% the Owner's expense, to the satisfaction of the Director of Development Engineering.
- (d) That, prior to preliminary grading or servicing, the Owner carry out and complete an archaeological assessment over the entire lands, to the satisfaction of the Director of Planning and the Ministry of Citizenship, Culture and Recreation, and mitigate through preservation or resource removal and documentation adverse impacts to the significant archaeological resources found, all prior to demolition, grading, or soil disturbances on the land.
- (e) The Owner secure with the City 25% of the total cost of the work necessary to remediate the 450mm sanitary sewer on Branthaven Drive, including road restoration. If the remediation works have not been completed at the time of development proceeding on the commercial block then the proportionate share will be estimated and will include indexing.

**"SC2-6(H)" 165 Upper Centennial Parkway, Schedule "A", Map No. 16**

Notwithstanding the definition of a "Lot" within Part 2, Definitions and Section 4.4.2, Restriction on Change, those lands zoned Community Shopping Centre "SC2-6(H)" by this By-law shall be considered as one lot.

Notwithstanding the uses permitted in Subsection 8.10.2 of the Community Shopping Centre "SC2" Zone, only the following uses shall be permitted:

- (a) Banks or Financial Institutions
- (b) Commercial or Private Schools
- (c) Day Nurseries
- (d) Garden Nursery Centres
- (e) Medical Offices or Clinics
- (f) Professional or Business Offices
- (g) Restaurants – Convenience, Fast Food, Standard and Outdoor Patio
- (h) Retail Stores, including one Supermarket
- (i) Service Shops
- (j) Uses, buildings, or structures accessory to a permitted use
- (k) Veterinary Service

Notwithstanding the provisions of Paragraphs (d), (e), (f), (g), (j), (l), and (m) of Subsection 8.10.3. of the Community Shopping Centre "SC2" Zone, on those lands zoned "SC2-6(H)" by this By-law, the following shall apply:

- (b) Total Minimum Gross Leasable Floor Area: 2,000 square metres
- (e) Total Maximum Gross Leasable Floor Area: 12,285 square metres.  
Maximum Gross Leasable Floor Area for one Supermarket: 4,181 square metres.
- (f) Minimum Front Yard: 3.0 metres.
- (g) Minimum Rear Yard 15.0 metres
- (j) Minimum Landscaped Area:

1. A landscaped strip, having a minimum width of 3 metres, shall be provided and maintained adjacent to any public street, except for points of ingress and egress.
2. A landscaped strip, having a minimum width of 15 metres shall be provided and maintained along the westerly lot line.
3. A landscape strip, having a minimum width of 1.5 metres, shall be provided and maintained adjacent to the southerly lot line.

Notwithstanding Part 2, Definitions, the following definitions shall apply:

"Veterinary Service" shall mean a use within a wholly enclosed building or part thereof, where domestic animals or household animals pets are provided treatment by a veterinarian and may include temporary indoor accommodation related to treatment and/or recover and pet grooming but shall not include a kennel.

Notwithstanding the Parking Regulations in Section 4.10.3 (a), Dimensions of Parking Spaces, no parking space shall be less than 2.6 metres in width by 5.5 metres in length, unless otherwise provided for in this By-law.

Notwithstanding the Parking Regulations in Section 4.10.9, Schedule of Minimum Parking Requirements, the minimum parking spaces required shall be:

Retail Stores regardless of whether or not such retail stores are located within a shopping centre	1 space for each 30 square metres of Gross Floor Area or part thereof
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Notwithstanding the Loading Regulations in Section 4.9.2, Schedule of Required Loading Spaces, no loading space shall be required for commercial buildings having a gross floor area of less than 2,000 square metres.

In addition to the regulations of Subsection 8.10.3, the following shall also apply:

The minimum combined width of the ground floor façade of all buildings located within 20 metres of the Upper Centennial Drive lot line shall be equal to or greater than 40% of the Centennial Drive lot line, and shall be subject to the following:

- A. A maximum building set back of 6.0 metres shall apply,
- B. All principal entrances shall be accessible from a building façade with direct access from the public sidewalk; and,
- C. No parking, driveways, drive through lanes, stacking lanes, or aisles shall be located between the building façade facing the public street and the public street.

The buildings located within 20 metres of the Upper Centennial Drive lot line may be built in phases provided the minimum 40% ground floor façade requirement can be accommodated at ultimate build out.

The (H) symbol may be removed by further amendment to this By-law at such time as the following conditions have been satisfied:

- (a) The Owner enters into appropriate Agreements with the City to service the subject lands for sanitary sewers (i.e. prior to provision of the ultimate outlets that have been identified at either First Road West or Upper Centennial Parkway), storm sewers, and water, either on an interim or permanent basis including; a suitable stormwater outlet for quantity and quality control, the transferring of all required easements and/or road allowances to the City, as required, and provisions have been made such that the City can secure costs for future infrastructure upgrades abutting the subject lands, to the satisfaction of the Director of Development Engineering.
- (b) The downstream centralized stormwater management facility has been designed and approved to provide quality and quantity control, and maintains base flows to the existing woodland/wetland feature, to the satisfaction of the Hamilton Conservation Authority.
- (c) The Owner dedicate sufficient lands to the City to establish the proposed Isaac Brock Drive road allowance to a 30 metre width from Upper Centennial Parkway to the westerly limit of the subject lands, including 15 m x 15 m daylight triangles at the intersection of Upper Centennial Parkway and the future extension of Isaac Brock Drive, and that the Owner construct the road and signalized intersection to full municipal standards at 100% the Owner's expense, to the satisfaction of the Director of Development Engineering.
- (d) Provisions, satisfactory to the Director of Development Engineering, have been made to adequately grade and drain the lands to ensure that no negative impacts in respect of storm water drainage, beyond those currently existing, would occur to the lands municipally known as 151 Upper Centennial Parkway.
- (e) That, prior to preliminary grading or servicing, the Owner carry out and complete an archaeological assessment over the entire lands, to the satisfaction of the Director of Planning and the Ministry of Citizenship, Culture and Recreation, and mitigate through preservation or resource removal and documentation adverse impacts to the significant archaeological resources found, all prior to demolition, grading, or soil disturbances on the land.
- (f) The Owner pay any outstanding costs related to the Owner's 25% share of the actual cost of the work necessary to remediate the 450mm sanitary sewer on Branthaven Drive, including road restoration.

- (g) The Owner undertake or secure the following intersection improvement at the intersection of Mud Street and Upper Centennial Parkway at 100% the Owner's expense: an exclusive eastbound right turn lane, to the satisfaction of the Director of Development Engineering.
  - (h) The Owner undertake a traffic impact study satisfactory to the Manager of Traffic Engineering to determine if any additional road improvements are required to accommodate the proposed development. The Owner will pay the full cost of any peer review analysis undertaken by the City.
3. That 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 Community Shopping Centre "SC2" Zone provisions, subject to the special requirements referred to in Section 2.
  4. 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 5<sup>th</sup> day of June, 2010.

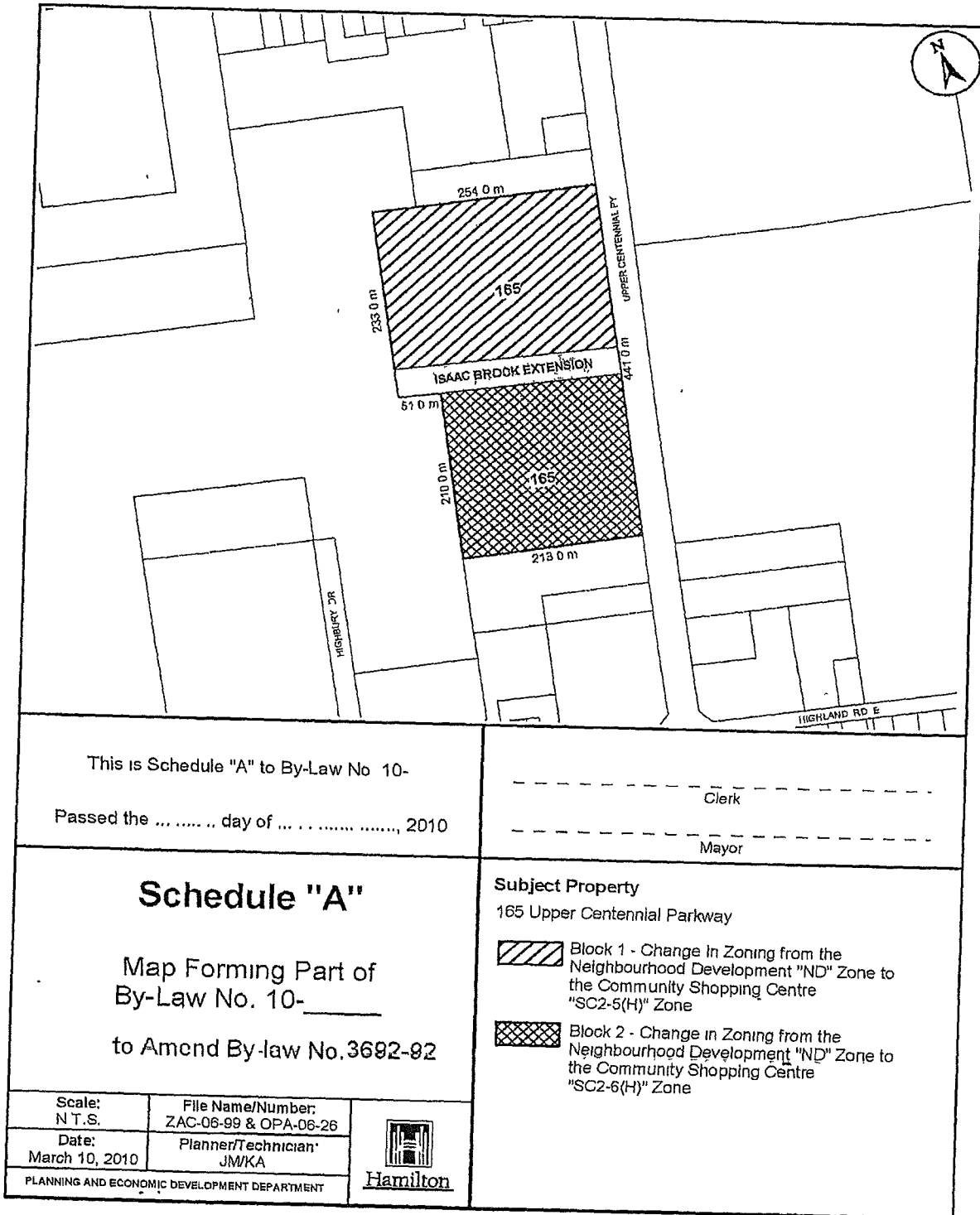
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FRED EISENBERGER  
MAYOR

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KEVIN C. CHRISTENSON  
CLERK

ZAC-06-099  
OPA-06-026



This is Schedule "A" to By-Law No 10-  
 Passed the ... .. day of ... .., 2010



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 Clerk  
 -----  
 Mayor


**Schedule "A"**

Map Forming Part of  
 By-Law No. 10-\_\_\_\_\_  
 to Amend By-law No. 3692-92

**Subject Property**

165 Upper Centennial Parkway

-  Block 1 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Community Shopping Centre "SC2-5(H)" Zone
-  Block 2 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Community Shopping Centre "SC2-6(H)" Zone

Scale: N.T.S.	File Name/Number: ZAC-06-99 & OPA-06-26	
Date: March 10, 2010	Planner/Technician: JM/KA	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		<b>Hamilton</b>