THE PLANNING COMMITTEE PRESENTS REPORT 15-017 AND RESPECTFULLY RECOMMENDS:

1. Revisions to the Pre-Christmas Free Parking Program for Business Improvement Areas (BIAs) (PED15177) (Wards 1, 2, 6 & 7) (Item 5.1)

That the annual Pre-Christmas Free Parking Program, approved by City Council on June 25, 2003, and amended from time to time, be further amended as follows:

(a) That on-street parking be free at all times from December 1 to December 31 annually and limited to two hours in duration for the Westdale Village Business Improvement Area;

(b) That on-street parking be free at all times from November 24 to December 24 annually and limited to two hours in duration for the King Street West Business Improvement Area;

(c) That on-street parking be free at all times from December 1 to December 31 annually and limited to two hours in duration for the Concession Street Business Improvement Area.
2. Clerk’s Report 15-009 – Hamilton Municipal Heritage Committee (Item 5.2)

That Clerk’s Report 15-009 regarding Hamilton Municipal Heritage Committee, be received.

3. Applications to Amend Stoney Creek Zoning By-law No. 3692-92, City of Hamilton Zoning By-law No(s). 6593 and 05-200, and for Approval of a Draft Plan of Subdivision known as “Redhill - Phase 3 / 4”, Nash Neighbourhood (Stoney Creek) (PED15164) (Ward 9) (Item 6.1)

(a) That approval be given to amended Zoning Application ZAC-13-005R by Empire (Red Hill) Ltd., Owners, for changes in zoning, as shown in Appendix “C”, as amended, from the Neighbourhood Development “ND” Zone to: Multiple Residential “RM2-54” Zone, Modified (Block 14); Single Residential “R4-32” Zone, Modified (Block 15); Multiple Residential “RM2-42” Zone, Modified (Block 16); Single Residential “R4-32 (H)” Holding Zone, Modified (Block 17) in the Stoney Creek Zoning By-law 3692-92; for changes in zoning, as shown in Appendix “B”, from the Neighbourhood Development “ND” Zone to the Neighbourhood Institutional “I1” Zone (Block 1); Neighbourhood Park “P1” Zone (Block 2); Open Space “P4” Zone (Blocks 3 and 4); Conservation / Hazard Lands “P5” Zone (Blocks 5, 6, 7, 8, 9, 10, 11, 12 and 13); and, from the “AA” Agricultural District in City of Hamilton Zoning By-law No. 6593 to the Conservation / Hazard “P5” Zone (Block 13) in the Hamilton Zoning By-law No. 05-200; for lands located at 435 First Road West (Stoney Creek), as shown on Appendix “A” to Report PED15164, on the following basis:

(i) That the draft By-laws, attached as Appendix “B” to Report PED15164 and Appendix “A”, as amended, to Report 15-017, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(b) That approval be given to Revised Draft Plan of Subdivision Application 25T-201301R by Empire (Red Hill) Ltd., Owners, to establish a Draft Plan of Subdivision known as “Redhill - Phase 3 / 4”, on lands known as 435 First Road West (Stoney Creek), as shown on Appendix “A” to Report PED15164, subject to the following conditions:

(i) That this approval apply to the Draft Plan of Subdivision “Redhill - Phase 3 / 4”, 25T-201301R, as revised, prepared by Armstrong Planning and Project Management, and certified by Douglas E. Hunt, O.L.S., dated December 16, 2014, showing a maximum of 333 units comprised of: 21 blocks for up to 233 single detached dwellings (Blocks 1 - 21); two blocks for up to 16 street townhouse units (Blocks 22 and 23); one block for up to 84 townhouse units comprised of 16 rear lane townhouse units and 68 block townhouse units.
units (Block 24); one block for an elementary school (Block 25); two blocks for stormwater management ponds (Blocks 26 and 27); one block for a neighbourhood park (Block 28); five blocks for an Environmentally Significant Area buffer (Blocks 29 - 33); four blocks for an Environmentally Significant Area (Blocks 34 - 37); four blocks for open space (Blocks 38 - 41); two blocks for service and access to the proposed stormwater management ponds (Blocks 42 and 43); one block for a 10 m stormwater management outfall / spillway easement (Block 44); one block for a road widening (Block 45); three blocks for a future residential development (Blocks 46 - 48); three blocks for a 0.3 m reserve (Block 49 - 51); one block for a road reserve (Block 52); and eight proposed streets, shown as Street “A”, Street “B”, Street “C”, Street “D”, Street “E”, Street “F”, Street “G”, and Street “H”, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions attached as Appendix “B” as amended, to Report 15-017, to include the following added condition:

**Neighbouring Properties**

5.6 That, prior to registration of the final plan of subdivision, the owner/applicant agrees to include the following warning clause in all purchase and sale and/or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

“The purchaser acknowledges that All Around Contacting Inc., a civil construction contractor specializing in site works and road building, has been located in close proximity to the subject lands, at 80 – 90 Green Mountain Road, for approximately the last 30 years and will continue to operate.”

(ii) Acknowledgement by the City of Hamilton of its responsibility for cost-sharing with respect to this development for the following items:

(1) the servicing costs for oversizing of the local servicing component and for the servicing costs adjacent to the City’s parklands in accordance with the current Financial Policy for the draft plan lands;

(2) land and construction costs for the proposed Stormwater Management (SWM) Facility as identified in the current Development Charges document;
(3) servicing costs adjacent to the SWM Facility(s) is to be limited to the upset limit based on the 80 m frontage as per the current Development Charges document; and,

(4) installation of the 1200 mm diameter trunk watermain through the draft plan lands.

(iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the Planning Act, prior to the building permit stage. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the approval of the draft plan of subdivision. Parkland Credits may be applied on a land value basis to the proposed Draft Plan of Subdivision in the event of any over-dedication of parkland from the registration of the “Red Hill - Phase 3 / 4” Draft Plan of Subdivision (25T-201301R);

4. Amendments to the Telecommunication Tower and Antenna Protocol (PED14094(a)) (City Wide) (Item 8.1)

(a) That the amended City of Hamilton Telecommunication Tower and Antenna Protocol, attached as Appendix “C” to Report 15-017, be adopted;

(b) That the City Clerk forward a copy of the amended protocol to Industry Canada and the Federation of Canadian Municipalities for information.

5. Preliminary Screening for the Request to Designate 39, 43 and 49 Charlton Avenue East, 40 and 50 Forest Avenue, and 183, 187 and 189 Hughson Street South in Hamilton Under Part IV of the Ontario Heritage Act (PED15169)(Ward 2) (Item 8.2)

(a) That Council direct staff to carry out a Cultural Heritage Assessment of the study area bounded by Hughson Street South, Forest Avenue, John Street South and Charlton Avenue East in Hamilton, as shown in Appendix “B” of Report PED15169, to determine whether the non-designated properties are of cultural heritage value worthy of designation under Part IV of the Ontario Heritage Act.

(b) That the Cultural Heritage Assessment work be assigned a medium priority, and be added to the staff work program for completion in 2022, as per the attached Appendix “G” of Report PED15169.

(c) That, if any of the non-designated properties located in the Cultural Heritage Assessment Study Area, as shown in Appendix “B” of Report...
PED15169, are determined to be of cultural heritage value or interest, a Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes be prepared by staff for Council’s consideration for designation under Part IV of the *Ontario Heritage Act*.

(d) Pursuant to Subsection 27(5) of the *Ontario Heritage Act*, that Council require that any notice of intention to demolish or remove any structure or building on one or more registered property in the Proposed Cultural Heritage Assessment Study Area shown in Appendix “B” of Report PED15169 include a Cultural Heritage Impact Assessment report, to the satisfaction and approval of the Director of Planning and Chief Planner.

(e) That Council direct staff to include 40 Forest Avenue, Hamilton, in the Register of Property of Cultural Heritage Value or Interest as a non-designated property.

(f) That a copy of Report PED15169 be forwarded to the Hamilton Municipal Heritage Committee for information.

(g) That a copy of Report PED15169 be forwarded to the property owners for information.


7. **Removal of the "H" Holding Provision on 22 Green Mountain Road (Stoney Creek) (PED15190) (Ward 9) (Item 8.4)**

(a) That Report PED15190 respecting Removal of the "H" Holding Provision on 22 Green Mountain Road (Stoney Creek) be received;

(b) That Bill No. 218 being a By-law to Amend Zoning By-law No. 3692-92 respecting lands located at 22 Green Mountain Road (Stoney Creek) ZAH-15-016, be presented to the November 11, 2105 Council meeting for enactment.

8. **Site Plan Control in Established Urban Neighbourhoods**

That the commercial development located at 107 James Street North and the residential development located at 127 Market Street be referred to the Open for
Business Continuous Improvement Team for review and Report to the Open for Business Sub-Committee.

The following Item was amended by deleting the recommendations and inserting the following therein:


That the recommendations respecting Fruitland Winona Secondary Plan (UHOPA No. 17) Appeal by Gino and Olindo DalBello - Proposed Settlement LS15031/PED15182 remain confidential until Council approval.

(a) That City of Hamilton staff be directed to settle the appeal of Urban Hamilton Official Plan Amendment (“UHOPA”) No. 17 of Gino and Olindo DalBello in accordance with the amendments and modifications to UHOPA No. 17 contained in Appendix “A” to Report LS15031/PED15182;

(b) That staff be directed to present and/or provide evidence in support of the settlement of the UHOPA No. 17 appeal of Gino and Olindo DalBello contained in Appendix “A” to Report LS15031/PED15182 to the Ontario Municipal Board (OMB), as may be necessary;

(c) That Report LS15031/PED15182 remains confidential, but that Appendix “A” to this Report be made public in the event recommendations (a) and (b) to this Report are adopted.

FOR THE INFORMATION OF COMMITTEE:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the following change:

AMENDED BY-LAW

Staff have made changes to Appendix “C” to Report PED15164 (Item 6.1) respecting Applications to Amend Stoney Creek Zoning By-law No. 3692-92, City of Hamilton Zoning By-law No(s). 6593 and 05-200, and for Approval of a Draft Plan of Subdivision known as “Redhill - Phase 3 / 4”, Nash Neighbourhood. Copies of the amended draft by-law were distributed.

The Agenda for the November 3, 2015 meeting of the Planning Committee was approved, as amended.

COUNCIL – November 11, 2015
The Committee Clerk also noted that copies of Item 8.4 respecting Removal of the "H" Holding Provision on 22 Green Mountain Road (Stoney Creek) (PED15190), which was not available at the time of printing of the agenda, were also distributed.

(b) **DECLARATIONS OF INTEREST (Item 2)**

None.

(c) **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING (Item 3)**

(i) **October 20, 2015 Meeting (Item 3.1)**

The Minutes of the October 20, 2015 meeting were approved.

(d) **CONSENT ITEMS (Item 5)**

(i) **Revisions to the Pre-Christmas Free Parking Program for Business Improvement Areas (BIAs) (PED15177) (Wards 1,2,6 & 7) (Item 5.1)**

Subsection (c) was amended by deleting the date December 1 and inserting the date November 13 therein.

For disposition of this matter refer to Item 1

(e) **DELEGATIONS/PUBLIC HEARING (Item 6)**

(i) **Applications to Amend Stoney Creek Zoning By-law No. 3692-92, City of Hamilton Zoning By-law No(s). 6593 and 05-200, and for Approval of a Draft Plan of Subdivision known as “Redhill - Phase 3 / 4”, Nash Neighbourhood (Stoney Creek) (PED15164) (Ward 9) (Item 6.1)**

In accordance with the provisions of the Planning Act, Chair Partridge advised those in attendance that if a person or public body does not make oral submissions at a public meeting or make written submissions to the Council of the City of Hamilton before Council makes a decision regarding the Zoning By-law amendments and the Draft Plan of Subdivision the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Ontario Municipal Board and the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

COUNCIL – November 11, 2015
No members of the public came forward.

Robert Clackett, Planner, explained the amendments made to Appendix “C” of the Report, which is the draft by-law to amend City of Stoney Creek By-law 3692-92. The changes were to correct typographical errors including but not limited to the Lot Frontage (5m), parking spaces, and the daylight triangles. He indicated that these changes are consistent with the Zoning by-law 14180.

Staff responded to questions from Committee.

Stephen Armstrong, of Armstrong Planning and Project Management, the agent for the applicant, indicated that he wished to forgo his presentation.

The public meeting was closed.

The conditions of the Draft Plan of Subdivision were amended by adding the following condition:

5.6 That, prior to registration of the final plan of subdivision, the owner/applicant agrees to include the following warning clause in all purchase and sale and/or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

“The purchaser acknowledges that All Around Contacting Inc., a civil construction contractor specializing in site works and road building, has been located in close proximity to the subject lands, at 80 – 90 Green Mountain Road, for approximately the last 30 years and will continue to operate.”

For disposition of this matter refer to Item 3.

(f) Discussion (Item 8)

(i) Preliminary Screening for the Request to Designate 39, 43 and 49 Charlton Avenue East, 40 and 50 Forest Avenue, and 183, 187 and 189 Hughson Street South in Hamilton Under Part IV of the Ontario Heritage Act (PED15169)(Ward 2) (Item 8.2)

The recommendation to designate 40 Forest Avenue was lifted from the TABLE.

For disposition of this matter refer to Item 5.
(ii) **Removal of the "H" Holding Provision on 22 Green Mountain Road (Stoney Creek) (PED15190) (Ward 9) (Item 8.4)**

Councillor Conley spoke to the issue and indicated that he is satisfied that his concerns have been addressed and he supports the removal of the Holding Provision.

(a) Report PED15190 respecting Removal of the "H" Holding Provision on 22 Green Mountain Road (Stoney Creek) was received;

(b) Bill 218, being a By-law to Amend Zoning By-law 3692-92 respecting lands located at 22 Green Mountain Road (Stoney Creek) is to be presented to the November 11, 2015 Council meeting for enactment.

For disposition of this matter refer to Item 7.

(g) **Motions**

Councillor Farr presented the following revised motion:

(i) **Site Plan Control in Established Urban Neighbourhoods (Item 9.1)**

Whereas, the Official Plan identifies all of the City of Hamilton as being subject to Site Plan Control; and

Whereas, Site Plan Control applies to all development, unless specifically exempted in the Site Plan Control By-law; and

Whereas, development is defined as substantially increasing the usability of a property; and

Whereas, rebuilding a building may require minor changes from the previous building to meet Building Code and Accessibility requirements; and

Whereas, replacing a building that is fire damaged or is no longer structurally sound or usable does not specifically increase the usability of a property; and

Whereas, in some cases, areas of attached mid-bloc low-density commercial space may have missing buildings, yet, all commercial development is subject to Site Plan Control; and

Whereas, there are no exemptions even when the replacement commercial development matches the original footprint;

COUNCIL – November 11, 2015
Therefore be it resolved:

As it relates specifically to commercial and residential mid-bloc mid towns, that in those circumstances of redevelopment within established urban neighbourhoods that build upon the existing building footprint, which may include minor deviations from the original building footprint, that the redevelopment be deemed not to be development and therefore not subject to Site Plan Control.

The motion was DEFEATED.

Councillor Farr presented the following motion:

That the commercial development located at 107 James Street North and the residential development located at 127 Market Street be referred to the Open for Business Continuous Improvement Team for review and Report to the Open for Business Sub-Committee.

For disposition of this matter refer to Item 8.

(ii) Definition of “Pest” in the Property Standards By-law (Added 10.1)

That staff be directed to investigate the feasibility of including ants to the definition of “pest” in the Property Standards By-law and report back to Committee.

(h) NOTICES OF MOTIONS (Item 10)

Collins introduced the following Notice of Motion:

(i) Definition of “Pest” in the Property Standards By-law (Added 10.1)

That staff be directed to investigate the feasibility of including ants to the definition of “pest” in the Property Standards By-law and report back to Committee.

The rules of order were waived to introduce a motion respecting the definition of “pest” in the Property Standards By-law.

For disposition of this matter refer to Information Item (g) (ii).
(i) GENERAL INFORMATION/OTHER BUSINESS (Item 11)

(i) Outstanding Business List (Item 11.1)

(a) The following new due date was approved:

Item “L” - Pool Enclosure By-law (PED13126(a)) (City Wide)
Due Date: November 3, 2015
Proposed New Due Date: November 17, 2015

(b) The following Items were removed:

Item “P” - Dundas Community Council Request for an Impact Study of the Proposed Closure of Parkside High School (Item 8.3 on this agenda)

Item “MM” - 40 Forest Avenue – Designation TABLED to allow for consultation with owner.

(j) PRIVATE AND CONFIDENTIAL

(i) Fruitland Winona Secondary Plan (UHOPA No. 17) Appeal by Gino and Olindo DalBello - Proposed Settlement LS15031/PED15182 (Ward 11) (Distributed under separate cover)

Committee did not move into Closed Session for consideration of this matter.

For disposition of this matter refer to Item 9.

(k) ADJOURNMENT (Item 13)

There being no further business, the Planning Committee adjourned at 11:27 a.m.

CARRIED

Respectfully submitted,

Councillor J. Partridge
Chair, Planning Committee

Ida Bedioui
Legislative Co-ordinator
Office of the City Clerk

COUNCIL – November 11, 2015
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 3692-92 (Stoney Creek)
Respecting Lands located at 435 First Road West (Stoney Creek)

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 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 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Section _______ of Report 15-______ of the Economic Development and Planning Committee at its meeting held on the 3rd day of November 2015, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan;

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

1. That Map No. 11 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek) is amended as follows:
(a) by changing the zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-54" exception" Zone, the lands comprised in "Block 14";

(b) by changing the zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-32" Zone, the lands comprised in "Block 15";

(c) by changing the zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-42" Zone, the lands comprised in "Block 16";

(d) by changing the zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-32 (H)" Zone, the lands comprised in "Block 17";

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

2. That Subsection 6.9.6, “Special Exemptions”, of Section 6.9 Multiple Residential “RM2” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “RM2-54”, as follows:

“RM2-54” 435 First Road West, Schedule “A”, Map No. 11

Notwithstanding the definitions of Part 2 for a “Street” and / or “Highway”, the following definition shall apply:

For the purposes of the “RM2-54” Zones, private driveway(s) or condominium road(s) are deemed to be a street(s), and parking and landscaping are permitted within the street(s).

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e), (f), (g), and (i) of Subsection 6.9.3 of the Multiple Residential "RM2" Zone, Section 4.13.1 “Special Setbacks – Daylight Triangles”, and Section 4.19 “Yard Encroachments”, the following regulations shall apply:

(a) Minimum Lot Area:

<table>
<thead>
<tr>
<th>Type</th>
<th>Minimum Lot Area</th>
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<tbody>
<tr>
<td>Interior Unit</td>
<td>89 m²</td>
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<tr>
<td>End Unit</td>
<td>95 m²</td>
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<tr>
<td>Corner Unit</td>
<td>100 m²</td>
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(b) Minimum Lot Frontage:

<table>
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<tr>
<th>Type</th>
<th>Minimum Lot Frontage</th>
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<tbody>
<tr>
<td>Interior Unit</td>
<td>5.0 metres</td>
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<tr>
<td>End Unit</td>
<td>6.7 metres</td>
</tr>
<tr>
<td>Corner Unit</td>
<td>7.6 metres</td>
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</table>
For those units fronting Street “A” in Draft Plan 25T-201301R, the required frontage shall be 4.7 metres, except 6.1 metres for an end unit and 7.3 metres for a corner unit (For these units, the front lot line shall be deemed to be Street “A”).

(c) Minimum Front Yard:

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<td>4.5 metres</td>
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<td>unit, except</td>
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<td>6.0 metres</td>
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<td>to the garage</td>
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<td>door face;</td>
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<td>3.0 metres</td>
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<td>lane dwelling</td>
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<td>unit, except</td>
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<td>Street “A”);</td>
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(d) Minimum Side Yard:

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<th>Unit Type</th>
<th>Minimum Side Yard</th>
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<tr>
<td>End Unit</td>
<td>1.2 metres</td>
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<td>Corner Unit</td>
<td>2.4 metres, except</td>
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<td>that an attached</td>
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<td>garage which</td>
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<td>fronts on the</td>
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<td>flankage street</td>
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<td>shall not be</td>
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<td>located within</td>
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<td>6.0 metres of the</td>
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<td>flankage street</td>
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<td>line.</td>
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(e) Minimum Rear Yard:

|                | 6.0 metres to   |
|                | dwelling unit,  |
|                | except 7.5      |
|                | metres abutting |
|                | a zone for      |
|                | single, semi-    |
|                | detached or      |
|                | duplex dwellings,|
|                | or a street.     |
|                | 3.5 metres to    |
|                | rear lane       |
|                | dwelling unit,   |
|                | except 6.0       |
|                | metres to        |
|                | garage door face|
|                | and 2.4 metres   |
|                | to corner radius |
|                | for corner unit. |

(f) Minimum Privacy Area:

|                | A privacy area   |
|                | with a minimum   |
|                | depth of 4.5 m,  |
|                | except for rear  |
lane towns which will have a minimum depth of 3.0 m.

(g) Minimum Landscaped Open Space: 30 percent, except 10 percent for the rear lane dwelling units.

(i) Maximum Lot Coverage: N/A

In addition to the provisions of Subsection 6.9.3 of the Multiple Residential "RM2" Zone, the following additional regulation shall apply:

(l) Maximum Density 50 units per hectare

Notwithstanding the provisions of Paragraphs (a) and (e) of Subsection 6.9.4 of the Multiple Residential "RM2" Zone, Regulations for Parking, on those lands zoned "RM2-54" by this Bylaw, the following shall apply:

(a) Minimum number of parking spaces shall be 2 parking spaces and 0.25 visitor parking spaces per dwelling unit.

(e) Where there is a grouping of three or more parking spaces, no parking space shall be provided closer than 2 metres to any dwelling unit located on the same lot.

In addition to the regulations of Subsection 4.19 "Yard Encroachments", the following encroachments shall be permitted for all uses permitted:

(j) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for the rear lane dwelling units. Covered porches may project into the flankage yard setback a distance of not more than 1.6 metres;

(k) Bay windows either with or without foundations may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres;

(l) Stairs may project into any required front yard a distance of not more than 3.0 metres and a flankage yard of not more than 2.4 metres; and,

(m) A cantilever and/or alcove, either with or without foundations, may project into any required front, rear, or garage side yard a distance of not more than 0.6 metres.

Notwithstanding Section 4.13.1 "Special Setbacks Daylight Triangles" the following shall apply:
Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 0.5 metres for a building or porch, including porch foundations walls; and, 0.0 metres for eaves or gutters.

3. That Subsection 6.5.7, "Special Exemptions", of Section 6.5 Single Residential "R4" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, "R4-32", as follows:

"R4-32" 435 First Road West, Schedule "A", Map No. 11

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e) (f) and (g) of Subsection 6.5.3 of the Single Residential "R4" Zone, Zone Regulations, and Section 4.19 “Yard Encroachments”, the regulations of the Residential “R4-31” Zone, Modified, as established under By-law No. 14-180, shall apply on those lands zoned "R4 - 32" by this By-law, save and except for regulations (b) and (f), the following shall apply:

(b) Minimum Lot Frontage: Interior Unit 9.0 metres  
Corner Unit 11.0 metres  

(f) Maximum Building Height: 2 storeys, or maximum 10.3 metres for “Block 17” on Schedule “A”; otherwise, 3 storeys or a maximum of 11.0 metres to the peak of the average grade of the front of the dwelling.  

All other regulations of the Residential “R4” Zone shall apply.

4. That Subsection 6.9.6, "Special Exemptions", of Section 6.9 Multiple Residential "RM2" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, "RM2-42", as follows:

"RM2-42" 435 First Road West Schedule "A", Map No. 11

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e), (f), (g), and (i) of Subsection 6.9.3 of the Multiple Residential "RM2" Zone, Zone Regulations, Section 4.13.1 “Special Setbacks – Daylight Triangles”, and Section 4.19 “Yard Encroachments”, the regulations of the Multiple Residential "RM2-40" Zone, as established under By-law No. 14-180, shall apply on those lands zoned "RM2 - 42" by this By-law, save and except for regulations (b), (c), (d), (f), (g) and (h); and, “Yard Encroachment” regulation (c), and “Special Setbacks – Daylight Triangles” the following shall apply:

(b) Minimum Lot Frontage: Interior Unit 6.0 metres  
End Unit 7.8 metres  

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Corner Unit 8.0 metres

(c) Minimum Front Yard: 3.5 metres to the dwelling
6.0 metres to the garage door face

(d) Minimum Side Yard: End Unit 1.5 metres
Interior Unit 0.0 metres
Corner Unit 2.4 metres
abutting flankage street

(f) Minimum Privacy Area: 25 square metres per unit

(g) Minimum Landscaped: 15 %

All other regulations of the Multiple Residential “RM2” Zone shall apply.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted:

(c) Stairs may project into any required front yard a distance of not more than 3.5 metres and a flankage yard of not more than 2.4 metres.

Notwithstanding Section 4.13.1 “Special Setbacks Daylight Triangles” the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 0.5 metres for a building or porch, including porch foundations walls; and, 0.0 metres for eaves or gutters.

5. That Subsection 6.5.7, “Special Exemptions”, of Section 6.5 Single Residential “R4” Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new special exemption, “R4-32 (H)”, as follows:

“R4-32 (H)” 435 First Road West, Schedule “A”, Map No. 11

Notwithstanding the provision of Section 3.8 “Holding Zones”, on those lands zoned “R4-32 (H)” by this By-law, the Holding (H) symbol may be removed and thereby give effect to the “R4-32” Zone provisions in Section 3 above, upon completion of the following:

a) That the owner / applicant shall provide and receive approval of a wastewater options report, to the satisfaction of the Senior Director of Growth Management; and,

b) That the owner / applicant shall provide and receive approval of a Visual Impact Assessment, to the satisfaction of the Director of
Planning and Chief Planner, and the Niagara Escarpment Commission.

6. 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 Single Residential “R4” Zone and the Multiple “RM2” Zone provisions, subject to the special requirements referred to in Sections 2, 3, 4, and 5 of this By-law.

7. 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 ____, 2015.

________________________________________  __________________________________________
F. Eisenberger                             R. Caterini
Mayor                                    City Clerk

ZAC-13-005R
Schedule "A"

Map Forming Part of
By-Law No. 15——
to Amend By-law No. 3692-92

Map 11

Subject Property
435 First Road West

- **Block 14** - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-54" Zone
- **Block 15** - Change in Zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-32" Zone
- **Block 16** - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-42" Zone
- **Block 17** - Change in Zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-32(H)" Holding Zone

Refer to By-law 05-200
That this approval apply to the Revised Draft Plan of Subdivision, 25T-201301R, prepared by Armstrong Planning and certified by Douglas E. Hunt, O.L.S., dated, August 27, 2015, consisting of 21 blocks for up to 233 single detached dwelling, 2 blocks for up to 16 street townhouse units (Blocks 22, 23), 1 block for up to 84 medium – high density units (Block 24), 1 block for an elementary school (Block 25), 2 blocks for stormwater management ponds (Blocks 26, 27), 1 block for a neighbourhood park (Block 28), 5 blocks for a buffer (Blocks 29 – 33), 4 blocks for an Environmentally Significant Area (Blocks 34 - 37), 4 blocks for open space (Blocks 38 – 41), 2 blocks for an easement (Blocks 42, 43), 1 block for a 10 m stormwater management outfall / spillway easement (Block 44), 1 block for a road widening (Block 45), 3 blocks for a residential reserve (consisting of 9 single detached units) (Blocks 46 – 48), 3 blocks for a 0.3 m reserve (Block 49 – 51), one block for a road reserve (Block 52), and 8 internal public roads (Streets A - H) subject to the owner entering into a standard Form Subdivision Agreement, received, and approved by City Council with the following special conditions.

Development Planning, Heritage and Design

1. That, prior to the issuance of any building permit, the Owner shall submit a signed Record of Site Condition (RSC) to the Director of Planning and Chief Planner, and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.

2. That, prior to any servicing and/or grading, the Owner shall submit a Karst Mitigation/Contingency Plan, prepared by a qualified hydrogeologist with expertise in karst. The plan would include design options to maintain groundwater conduit flow to springs and to enhance baseflows at springs through surface water infiltration (e.g. maintaining conduit flows across service trenches cut into bedrock by backfilling with gravel, and controlled release of water from stormwater management pond(s) to the existing surface watercourses to provide surface water where it is most likely to infiltrate and provide baseflow to the springs. The Karst Mitigation/Contingency Plan must be to the satisfaction of the City of Director of Planning and Chief Planner of the City of Hamilton.

3. That, prior to registration of the final plan of subdivision, the Owner agrees, at their expense, to design and construct an entrance feature as identified in the “Red Hill (Phase 2) Addendum to Victory’s Architectural and Urban Design Guidelines, dated
March 2013, prepared by Watchorn Architect Inc., to the satisfaction of the Director of Planning and Chief Planner and the Director, Operations and Maintenance.

4. That, prior to any servicing and/or grading, the Owner shall submit a scoped EIS to the satisfaction of the Director of Planning of City of Hamilton, Hamilton Conservation Authority (HCA) and the Niagara Escarpment Commission (NEC) to address any impact caused by the establishment and maintenance of the proposed stormwater outlet. The EIS must address the impacts and potential mitigation measures within the area associated with the outlet.

5. That, prior to registration of the final plan of subdivision, the owner/applicant agrees to include the following warning clause in all purchase and sale and/or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

   “Garages are intended for use as parking. It is the owner’s responsibility to ensure that their parking needs can be met on their own property. On-street parking in this area is limited and cannot be guaranteed in perpetuity.”

6. That, prior to any servicing or grading, the Owner shall construct a permanent, gate-free fence in public ownership at the back of rear lots that abut the ESA, to the satisfaction of the Director of Planning and Chief Planner.

**Development Engineering**

7. That, prior to registration of the plan of subdivision, the Owner shall establish to the satisfaction of the Senior Director of Growth Management;

   a) 15.0 m by 15.0 m daylight triangles on the plan of subdivision at the intersections of Street “A” and First Road West; and a sufficient daylight triangle to provide for installation of a roundabout at the intersection of First Road West and Green Mountain Road;

   b) 9.14 m x 9.14 m daylight triangles on the plan of subdivision at the intersection of Street “A” with Street “C”, Street “E” and Street “F”;

   c) a minimum 15.0 m x 15.0 m daylight triangles on the plan at the intersection of Street “A’ and Street “B’ to provide for installation of a roundabout (final size to be based on the approved design);
d) 4.5 m x 4.5 m daylight triangles on the plan of subdivision at the intersection of all local streets;

8. That, prior to registration of the final plan, Block 45 be dedicated to the City of Hamilton as a public highway by the Owner’s certificate on the plan of subdivision, for widening of First Road West, to the satisfaction of the Senior Director of Growth Management.

9. That, prior to registration of the plan of subdivision, the Owner demonstrates that a 13.0m pavement radius along the inside curb line at the 90 degree bends of Streets “B”, “C” and “E”, and minimum centerline radius for a local street are provided complying with the City’s Engineering Guidelines for Development, including alignment to proposed roadways outside of the Draft Plan area, to the satisfaction of the Senior Director of Growth Management.

10. That, the owner agrees to demonstrate that an adequate block to provide for installation of a storm outlet and emergency flow route for the SWM Facility through the Nash property, from Street ‘F’ to the brow of the Escarpment, has been transferred to the City of Hamilton at his expense and to the satisfaction of the Senior Director of Growth Management.

11. That, prior to registration of the final plan, the owner acknowledges and agrees that the City share of the costs for the servicing works adjacent to the SWM Block(s) will be limited to the upset limit based on a maximum of 80.0m frontage and the cost rate identified in the current Development Charges By-law document to the Senior Director of Growth Management.

12. That, prior to registration of the final plan, the owner agrees to submit a phasing and sequencing plan to tie-in the plan registration and completion of the works for the proposed development with the timing for installation of the 1200mm dia. trunk watermain through the subject lands to the satisfaction of the Senior Director of Growth Management.

13. That, the owner agrees in the subdivision agreement to declare Block 8, Block 20, Block 21, Block 27 and Block 28 on the draft plan, as undevelopable until the SWM design has been approved by the City, to the satisfaction of the Senior Director of Growth Management.
14. The Owner agrees to complete the detailed design (including hydraulic analysis, structural designs, transient analysis, etc), obtain approvals and construct approximately a 2.2km section of the proposed 1200mm diameter trunk watermain (City Capital Project W-13) from the proposed valve chamber, along Street F, along Street B, along Street A, and southerly along First Road West to Mud Street to the satisfaction of the Senior Director of Growth Management.

15. The Owner agrees that the detailed design of the proposed 1200mm watermain shall be completed by a pre-qualified Professional Engineer selected from the current City of Hamilton Roster for Professional Consulting Services. The Owner shall agree to retain the consultant through a competitive bid process. The City agrees to reimburse the Owner for the detailed design once all approvals are completed and financial schedules for construction are approved to the satisfaction of the Senior Director of Growth Management.

16. The Owner agrees that immediately following Council approval of the draft plan, the Owner shall transfer an easement in satisfactory form to the City to facilitate construction of the 1200mm diameter watermain. This would allow the City to proceed with implementation should unforeseen delays or circumstances arise which require this to the satisfaction of the Senior Director of Growth Management.

17. The Owner agrees in the subdivision agreement, that immediately following Council approval of the draft plan, the Owner shall commence with the procurement process for retaining a pre-qualified Professional Engineer selected from the current City of Hamilton Roster.

18. The Owner agrees, in the subdivision agreement, to include the 1200 mm diameter watermain in the first stage of construction for the subject lands and also agrees that no lands within the subject lands can be registered until construction of the 1200 mm diameter watermain is complete.

19. That, prior to preliminary grading, the Owner provides, to the satisfaction of the Senior Director of Growth Management, a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including home construction until final assumption. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works as well as the
contractor/agent contact information so that the City can direct works be completed as necessary.

20. That, prior to preliminary grading, the Owner shall complete an erosion flow exceedance analysis for the downstream system with consideration of future development of the lands within subcatchments 308, as per the Davis Creek Subwatershed Study, to the satisfaction of the Senior Director of Growth Management.

21. That, prior to preliminary grading, the Owner shall:

i) submit a detailed storm water management (SWM) report prepared by a qualified professional Engineer that demonstrates how quality and quantity control criteria, including the existing erosion control model, will be handled in accordance with Davis Creek Subwatershed Study recommendations, City of Hamilton Storm Drainage Policy, City of Hamilton Criteria and Guidelines for Stormwater Infrastructure Design.

ii) identify and establish a suitable storm outlet for the proposed SWM facility. In absence of an overland flow route on the downstream system, the SWM facility shall be designed to control future land use peak flows in accordance with the Davis Creek Subwatershed Study.

iii) verify that the proposed SWM Facility block has sufficient size and depth for installation of the SWM Facility designed to accommodate the contributing drainage area including the external lands:

a) The pond design geometry shall be as per City of Hamilton Criteria and Guidelines for Stormwater Infrastructure Design 2007 and pond landscaping as per City of Hamilton Landscape Design Guidelines for SWM facilities (May 2009);

b) provide a hydraulic grade line assessment in order to establish the potential impacts based on SWM facility operating conditions up to and including 100 year storm; and,

c) The proposed SWM and facility rating curve shall be evaluated using the original Davis Creek Subwatershed Study Model.

all at the owner’s expense and to the satisfaction of the Senior Director of Growth Management.

22. That, prior to assumption, the Owner agrees, in the subdivision agreement:
Appendix “B” to Item 3 (b) (i) of Report 15-017

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i) To submit an operation and maintenance manual, as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009), for approval by the Senior Director, Growth Management, and inspect and monitor the storm water management facility upon commencement of construction or pre-grading of the subject lands through to assumption of the facility;

ii) To keep detailed logs concerning stormwater management facility performance and maintenance, including costs for cleaning and removal of sediment, and submit such logs to the City during pre-grading and construction activities in accordance with the operation manual;

iii) To construct, operate and maintain at the Owner’s expense, the storm water management facility, in a manner acceptable to the City, including any changes to conditions of the MOECC’s approval, throughout servicing of all stages of draft plan registration and development of all registered lots and blocks, or until such time as determined by the Senior Director of Growth Management; and,

iv) To remove sediment from the storm water management facility attributed to development, carry out a bathymetric survey and verify volumetric capacity of the storm water management facility, prior to release of the Owner’s operation and maintenance responsibilities for the storm water management facility.

to the satisfaction of the Senior Director of Growth Management.

23. That, prior to servicing, the Owner includes in the engineering design and cost estimate schedules provision to urbanize First Road West adjacent to the draft plan lands, including installation of the 1200 mm watermain and roundabouts, to the satisfaction of the Senior Director of Growth Management.

24. That, prior to servicing, the Owner shall obtain approval from all relevant approval agencies including but not limited to the Niagara Escarpment Commission, Hamilton Conservation Authority, Ministry of Environment and Climate Change and City of Hamilton’s Director of Growth Management, for installation of the storm outfall at the brow of the Escarpment, to the satisfaction of the Senior Director of Growth Management.

25. That, prior to servicing, the Owner, shall complete the land transfer from the property commonly known as Nash to the City, by transfer deed, to facilitate installation of
Street ‘F’ as a minimum 20.0 m wide municipal street through the subject lands, at his expense, and to the satisfaction of the Senior Director of Growth Management.

26. That prior to servicing, the Owner agrees to acquire sufficient lands from the adjacent property, known as Special Policy Area ‘A’, to provide for installation of a temporary street on a 18.0 m wide right-of-way, from Street ‘H’ to First Road West and to transfer these lands to the City, by deed, at his expense and to satisfaction of the Senior Director of Growth Management.

27. That, prior to servicing, the Owner agrees to include in the engineering design and cost estimate schedules provision to install a temporary road to full municipal standards from Street ‘H’ to First Road West, including provision for removal at the later date, all at his expense and to the satisfaction of the Senior Director of Growth Management.

28. That, prior to servicing, the Owner shall include in the engineering design and cost estimate schedules provision to construct municipal sidewalks as per the current City of Hamilton policy in force at the time of the engineering plan submission at his expense, to the satisfaction of the Senior Director of Growth Management.

29. That, prior to servicing, the Owner shall include in the engineering design and cost estimate schedules provision for installation of a 1.5 m high vinyl coated chain link fence between the private and public properties, at his expense, and to the satisfaction of the Senior Director of Growth Management.

30. That, prior to servicing, the Owner shall submit a plan to demonstrate that there are no conflicts between the proposed driveway and the roundabout at the intersection of Street ‘A’ and Street ‘B’ to the satisfaction of the Senior Director of Growth Management.

31. That, prior to servicing, the Owner shall submit sufficient info to demonstrate feasibility for a sanitary outlet at the north end of Street ‘H’ for the adjacent lands identified as Special Policy Area ‘A’ to facilitate their future development to the satisfaction of the Senior Director of Growth Management.

32. That, prior to servicing, the Owner agrees to include in the engineering design and cost estimate schedule provision to relocate the existing services within the draft plan lands that are in conflict with the current practice, not limited to the modification of the existing
400mm dia. watermain, at his expense and to the satisfaction of the Senior Director of Growth Management.

33. That, prior to servicing, the owner shall demonstrate that gravity foundation drains are feasible and implement design for all dwellings within the draft plan lands to the satisfaction of the Senior Director of Growth Management.

34. That, prior to servicing, the Owner shall submit a detailed sump pump design to include a secondary relief/overflow on surface and back-up power unit, if required by the City. The pump design shall consider the weeping tile inflow based on the groundwater and severe wet weather conditions, to the satisfaction of the Senior Director, Growth Management Division.

35. That, prior to servicing, the Owner prepare an on-street parking plan to demonstrate the proposed lot frontage provide for a 40% on-street parking of the total number of dwelling units to the satisfaction of the Senior Director of Growth Management.

36. That, prior to servicing, the Owner shall submit a rock removal protocol and vibration monitoring plan and associated cost estimates, prepared by a licensed Professional Engineer. The cost to implement the Owner’s blasting protocol and vibration monitoring plan shall be included in the engineering cost schedules, to the satisfaction of the Senior Director of Growth Management. Furthermore, the Owner agrees to pay for a preconstruction survey and monitoring costs during blasting/rock removal activities for the telecommunicating tower located on the Special Policy Area ‘A’.

37. That, prior to servicing, the Owner agrees that a third party peer review of the proposed blasting protocol and vibration monitoring plan shall be completed. Furthermore, the owner agrees to pay for the peer review and to provide a cash payment to City in advance of the peer review, if required, to the satisfaction of the Senior Director of Growth Management.

38. That, prior to servicing, where services are to be constructed in rock, the Owner shall conduct a pre-condition survey of residences within 100 metres and notify residents, via letter, of rock removal within 200 metres of that phase of construction, to the satisfaction of the Senior Director of Growth Management.
39. That, prior to servicing, the owner agrees to obtain a grading and drainage easements in favour of the draft plan lands over the adjacent property, Special Policy Area ‘A’, if required, at his expense and to the satisfaction of the Senior Director of Growth Management.

40. That, prior to servicing, the owner agrees to establish storm drainage easements in the City favour to provide for a drainage outlet for the ESA lands to the satisfaction of the Senior Director of Growth Management.

41. That, prior to issuance of a building permit, the Owner agrees that a maximum of 100 residential units of the final plan shall be permitted to be constructed with only one (1) public road access to service each phase of the development. A second public road access to the subject lands is required, prior to development, beyond the initial 100 residential units, to the satisfaction of the Senior Director of Growth Management.

42. That, prior to servicing, the Owner agrees that for the roundabouts shown at the intersection of Green Mountain Road and First Road West, Street ‘A’ and First Road West, it will be the Owners responsibility to acquire the lands outside of the draft plan lands to complete the proposed roundabouts and road connections to the satisfaction of the Senior Director of Growth Management.

Corridor Management

43. That prior to registration, the Owner agrees to provide on-street bike lanes be provided on Street “A” between First Road West and the single lane roundabout at Streets “A/B”, to the satisfaction of the Director of Engineering Services, Public Works Department. Furthermore, the following warning clause will be required to be included in all purchase and sale and / or lease agreements and registered on title for any lot on Street “A” between First Road West and the single lane roundabout at Streets “A/B” which states that: On-street parking is note permitted when bike lanes are provided between First Road West and the single lane roundabout at Streets “A/B”.

44. That prior to registration, the Owner agrees to provide municipal sidewalks on both sides of Street “A”, Street “B”, and Street “C” on-street bike lanes be provided on Street “A” between First Road West and the single lane roundabout at Streets “A/B”, to the satisfaction of the Director of Engineering Services, Public Works Department.
45. That prior to registration, the Owner agrees to obtain the services of a traffic engineering design consultant to prepare pavement marking design drawings for the bike lane on Street “A”, and pedestrian crossing lines at the roundabout at Street “A”, and Street “B” to the satisfaction of the General Manager of the Public Works Department.

46. That prior to registration, the Owner agrees to provide traffic calming features on Street “A” at Street “H” to the satisfaction of the Director of Engineering Services, Public Works Department.

Hamilton Conservation Authority

47. That the applicant prepares and implements an erosion and sediment control plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:

a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;

b) All erosion and sediment control measures shall be inspected after each rainfall to the satisfaction of Authority staff;

c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,

d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.

48. That the applicant prepares and implements a stormwater management plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved plan shall ensure that post development flows will equal pre-development levels and that current Provincial drainage and stormwater quality guidelines are implemented.

49. That the applicant prepares and implements a lot grading plan to the satisfaction of the Hamilton Conservation Authority.

50. That, to the satisfaction of the City of Hamilton’s Environmentally Significant Areas Impact Evaluation Group (ESAIG) the applicant shall undertake a mitigation/contingency plan be prepared by a qualified hydrogeologist with expertise in karst prior to construction. The plan shall investigate the presence of karst features on or in close proximity to the site; and include design options to maintain
groundwater conduit flow to springs and to enhance baseflows at springs through surface water infiltration (e.g. maintaining conduit flows across service trenches cut into bedrock by backfilling with gravel, and controlled release of water from stormwater management pond(s) to the existing surface watercourses to provide surface water where it is most likely to infiltrate and provide baseflow to the springs.

51. That the applicant obtain a permit from the Hamilton Conservation Authority under its Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04 prior to any construction and/or grading activities associated with the construction of the stormwater management facility and any watercourse alteration.

Landfill Impact Assessment

52. That, prior to registration, the Owner shall implement the recommendations in the peer review by AMEC of the Landfill Impact Assessment Study submitted by the applicant, to the satisfaction of the Senior Director of Growth Management.

53. That, prior to registration, the Owner shall agree in the Subdivision Agreement to pay for the costs associated with a peer review by a qualified professional engineer, to verify the risk model data employed by GlobalTox contained within the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc., for the purpose of confirming the minimum depth of clayey silt soil required between the highest groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills, to the satisfaction of the Senior Director of Growth Management.

54. That, prior to the issuance of building permits, implementation of the approved Revised Landfill Assessment prepared by MTE Consultants and dated September 14, 2010 and peer reviews thereof, pertaining to the minimum depth of clayey silt soil required between the highest-groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills shall be certified by a qualified professional engineer, stating that the required clayey silt soil layer depth has been placed, corn acted and graded for all lots/blocks within 500 metres of the Operating and Closed Landfills, to the satisfaction of the Senior Director of Growth Management.
Public Health

55. That, prior to registration of the final plan of subdivision, a pest control plan be developed for the subdivision development. The plan must outline steps involved in the potential control of vermin during all phases of development as needed. The plan must be formulated by a professional exterminator licensed by the MOE. It is to be implemented 30 to 90 days before any work activity at the site begins including but not limited to bush clearing, grading etc. Any action items taken pre and post construction will be denoted in writing, to the satisfaction of the Senior Director of Growth Management.

Neighbouring Properties

56. That, prior to registration of the final plan of subdivision, the owner/applicant agrees to include the following warning clause in all purchase and sale and/or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

“The purchaser acknowledges that All Around Contacting Inc., a civil construction contractor specializing in site works and road building, has been located in close proximity to the subject lands, at 80 – 90 Green Mountain Road, for approximately the last 30 years and will continue to operate.”

CITY COST SHARING

Acknowledgement by the City of Hamilton that cost sharing within this development shall be in accordance with the City’s financial policy as approved by the Senior Director of Growth Planning, subject to the following:

City Share

1. There is the City share for the servicing costs for oversizing of the local servicing component and for the servicing costs adjacent to the City’s parklands in accordance with the current Financial Policy for the draft plan lands.

2. There is no the City share for the servicing cost adjacent to the Open Space Blocks within the draft plan lands.
3. There is the City share for land and construction costs for the proposed SWM Facility as identified in the current DC document.

4. The City share of the servicing costs adjacent to the SWM Facility(s) is to be limited to the upset limit based on the 80.0m frontage as per the current DC document.

5. There is 100% City share for installation of the 1200mm dia trunk watermain through the draft plan lands.

NOTES TO DRAFT PLAN APPROVAL

The following note should be included in the City’s draft plan approval letter:

- The Owner acknowledges and agrees that the servicing works within the draft plan lands cannot commence until the Ministry of Environment and Climate Change office issues Environment Compliance Approval letter for the proposed 1200 mm dia. trunk watermain.

- Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses.
City of Hamilton
Telecommunication Tower and Antenna Protocol

Section 1 - Goals and Guidelines

1.1 - Protocol Goals

1. To provide a consistent and timely process for the review of telecommunication facilities and installations within the City of Hamilton;

2. To encourage consultation by telecommunication providers with the municipality as early in the location process as practical and feasible;

3. To encourage the location and siting of telecommunication facilities in a manner which minimizes the effects on residents, lessens visual impact, and respects natural and human heritage features and sensitive land uses to the greatest extent possible;

4. To afford an appropriate and effective opportunity for public consultation with respect to mitigating concerns over the siting of wireless telecommunication facilities; and,

5. To recognize the jurisdiction of Industry Canada with respect to the implementation of appropriate health, safety, and environmental standards in exercising its authority to approve the location of telecommunications facilities.

1.2 - Guidelines

1.2.1 - Site Selection

In determining an appropriate site for a new tower or antenna, the Proponent shall adhere to the following principles:

1. Sites should be selected to minimize the total number of telecommunication tower sites required. Locations on existing structures or buildings are strongly encouraged. Co-locations on existing tower sites are encouraged provided that the existing tower is located a minimum of 120 metres, or three times the tower height (whichever is greater), from a Residential Zone, existing dwelling, or other sensitive land use. Opportunities to incorporate an antenna into the design of a new building or structure should be explored by the Proponent. The construction of a new telecommunication tower is discouraged, and will be accepted only when all other options to accommodate the telecommunication antenna are not viable.

2. New telecommunication towers are strongly discouraged within 120 metres, or three times the tower height (whichever is greater), of any Residential Zone, existing dwelling, or other sensitive land use, unless required for reasons of engineering or network objectives. If a new tower is proposed to be located within 120 metres, or three times the tower height (whichever is greater), of a Residential Zone, existing dwelling, or other sensitive land use,
a detailed rationale for the necessity of this location must be provided in the Site Selection/Justification Report (see Section 3.3.1).

3. The Proponent shall make every effort to locate new telecommunication towers within lands zoned for primarily Industrial, Commercial, or Utility uses, whenever possible, where technically feasible.

4. When selecting sites for telecommunication towers, the following shall be considered:
   a) Maximizing distance from residential uses, schools, and active park space;
   b) Maximizing distance from properties designated under Parts IV or V of the Ontario Heritage Act;
   c) Maximizing distance from natural features, Environmentally Sensitive Areas, Hazard Lands, and Key Natural Heritage Features and Key Hydrologic Features, as defined by the Urban and Rural Hamilton Official Plans (completion of an Environmental Impact Statement may be required should the telecommunication tower be located on lands adjacent to a Key Natural Heritage Feature);
   d) Avoiding sites that would obscure public views, vistas, and significant Cultural Heritage Landscapes; and,
   e) Compatibility with adjacent uses.

5. Proponents shall be encouraged to locate telecommunication towers with a minimum setback to all property lines and to all existing buildings of a distance equivalent to the height of the tower (measured from grade), whenever possible.

6. New telecommunication facilities should comply with all Zoning By-law regulations.

7. Any request to install a telecommunication facility on City-owned lands shall be reviewed in accordance with the Procedure for the Installation of Broadcasting Communication Facilities on City of Hamilton Properties (2001), attached as Appendix “A” to this Protocol.

8. Any proposed telecommunication facility located within the Development Control Area of the Niagara Escarpment Plan (NEP) shall be in accordance with the current Niagara Escarpment Commission (NEC) Radio and Telecommunications Protocol. Any proposed telecommunication facility that is located within the NEP, but outside of the Development Control Area, shall be in accordance with this Protocol. The City of Hamilton will circulate the NEC on any proposals for new telecommunication facilities that are within the NEP but outside of Development Control, in accordance with Section 3.2, Minor Site Plan Application Process.
1.2.2 - Design and Landscaping

The use of design features, colour, and landscaping can be used to screen telecommunication facilities from view and should be encouraged, whenever possible. The following design guidelines should be taken into consideration when designing a new tower or antenna:

1. **Lattice style towers shall be prohibited within the City of Hamilton, with the exception of new towers in areas identified in 1.2.2.2 below. Monopole towers are the preferred tower type for any new telecommunication tower in the City.**

2. **Lattice style towers shall only be permitted in the following Industrial Zones:**
   - General Business Park (M2) Zone
   - General Industrial (M5) Zone

3. A single-carrier Monopole design or other stealth design technique, as described in 1.2.2.5 below, is the preferred option for any new telecommunication tower which must be located within 120 metres, or three times the tower height (whichever is greater), of a Residential Zone, existing dwelling, or other sensitive land use. Any new telecommunication tower which is located within this buffer area should not be designed for future co-location capacity.

4. New telecommunication towers which are located greater than 120 metres, or three times the tower height (whichever is greater), from a Residential Zone, existing dwelling, or other sensitive land use may be designed with co-location capacity.

5. Where appropriate, stealth design techniques, including, but not limited to, camouflaging towers within church steeples, clock towers, or flagpoles, should be used in the design of a new telecommunication tower. If stealth design techniques are employed in the design of a new tower, co-location capacity will not be required in accordance with Section 1.2.2.3 above.

6. Efforts should be made to decrease the size and visibility of telecommunication towers so that they blend in with the surroundings to the greatest extent possible. To reduce the scale and visual impact of towers, mitigation measures should include consideration of design features, structure type, colour, materials, landscaping, screening, and decorative fencing. Neutral colours that blend the structure with its surroundings are encouraged (though it is recognized that new towers must comply with the requirements of Transport Canada and NAV Canada). Where equipment shelters are located on the ground, the visual impact of the built form shall be mitigated through the use of colour, decorative fencing, screening, and/or landscaping.

7. Where appropriate, the planting of trees and shrubs at the tower site is encouraged to enhance the character of the surroundings.
8. Telecommunication towers will only accommodate telecommunication antennas. Only signage directly related to the equipment or required by Industry Canada shall be permitted on the site. A small plaque must be placed at the base of the structure identifying the owner/operator and contact information. No third party advertising or promotion shall be permitted. All signage shall comply with the City of Hamilton Sign By-law 06-243.

9. Lighting of telecommunication antenna and towers is prohibited unless required by Transport Canada. Proof of this requirement should be provided by the Proponent to the City of Hamilton with the Minor Site Plan application.

Section 2 - Exemptions from Requirement for Municipal Review

Proposed telecommunication towers and antennas which are exempted from the requirement to consult with the City of Hamilton under the provision of Industry Canada’s CPC-2-0-03 (“Radiocommunication and Broadcasting Antenna Systems”, June 2007) will be exempt from the requirement to submit a Minor Site Plan application.

The exemptions are listed as follows:

1. Maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure.

2. Addition or modification of an antenna system (including improving the structural integrity of its integral mast to facilitate sharing), the transmission line, antenna-supporting structure or other radio apparatus to existing infrastructure, a building, etc., provided the addition or modification does not result in an overall height increase above the existing structure of 25% of the original structure’s height.

3. Maintenance of an antenna system’s painting or lighting in order to comply with Transport Canada’s requirements.

4. Installation, for a limited duration (typically not more than 3 months), of an antenna system that is used for a special event, or one that is used to support local, provincial, territorial, or national emergency operations during the emergency, and is removed within 3 months after the emergency or special event.

In addition to the above exemptions mandated by Industry Canada, the City of Hamilton will also exempt the following installations from the requirement to submit a Minor Site Plan application:

5. Any new telecommunication tower or antenna proposed within the General Business Park (M2) Zone or the General Industrial (M5) Zone, provided that the following criteria are met:

   (a) The proposed tower is located the greater of 120 metres or three times the tower height from a road that forms the boundary to an Industrial Area or an Industrial Business Park, as defined by the Urban and Rural Hamilton Official Plans, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater; and,
(b) The proposed tower is located the greater of 120 metres or three times the tower height from a Residential Zone, existing dwelling, or other sensitive landuse, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater.

If a new telecommunication tower is exempt from municipal review, the City of Hamilton requests that the Proponent still provide the City with information on their proposed installation for information purposes. This information will be provided to the local Ward Councillor so that they may respond to any questions from constituents, should they arise.

**Section 3 - Minor Site Plan Review**

All proposals for a new telecommunication tower which are not exempt from the requirement for municipal consultation, as specified in Section 2, are required to submit a Minor Site Plan application to the City of Hamilton for review. Applications are to be submitted to the attention of the Director of Planning. While the City of Hamilton recognizes that Industry Canada is the final approval authority for telecommunication facilities, it is also recognized that Industry Canada directs telecommunication providers to consult with the local municipality prior to erecting any non-exempt telecommunication towers. Although new telecommunication facilities are not required to obtain site plan approval under *The Planning Act*, the City’s Minor Site Plan application process is an existing process which affords the City an opportunity to review and comment on new telecommunication towers. There will be no requirement for the Proponent to enter into a Site Plan Agreement as part of this process.

**3.1 - Formal Consultation**

Prior to submitting a Minor Site Plan application, the Proponent is required to attend a Formal Consultation meeting with City staff for any proposed telecommunication towers which are not exempt from the requirement for municipal consultation, as specified in Section 2. Proponents may obtain a Formal Consultation Request Form from the Planning and Economic Development Department or at www.hamilton.ca/planning. The purpose of a Formal Consultation meeting is to:

- Determine if the proposal meets any of the criteria specified in Section 2 for exemption from local municipality consultation;

- Determine if the proposal will require public consultation, as per Section 4;

- Provide an opportunity for discussion of site selection and design guidelines to ensure that all siting options are considered prior to a Minor Site Plan application being submitted;

- Identify any preliminary concerns or constraints on potential telecommunication tower sites; and,

- Review submission requirements for the Minor Site Plan application and identify
any additional studies that may be required to be submitted with the application (including, for example, an archaeological assessment or an Environmental Impact Statement).

Following the Formal Consultation meeting, the applicant will be provided with a Formal Consultation Document which must be included when the Minor Site Plan application is submitted.

3.2 - Minor Site Plan Application Process

Following the Formal Consultation meeting, and upon submission of a completed Minor Site Plan application and fee, the following process shall be undertaken:

1. City of Hamilton Planning staff shall circulate the application to the Ward Councillor, the Hamilton Utility Co-ordinating Committee, and relevant departments/ agencies for information and comment.

2. All comments received as a result of the internal circulation of the Minor Site Plan application shall be provided to the Proponent.

3. If public consultation is required, as per Section 4.1, the City can forward to the Proponent a list of all property owners within a radius of the greater of 120 metres or three times the tower height. An additional fee is required for this service. The Proponent is responsible for providing the required public notice and following the public consultation process, as outlined in Section 4.2.

4. The Proponent shall respond to the comments received, make the required modifications to the plans, and submit revised plans and drawings, where required.

5. The City of Hamilton shall provide a formal letter to Industry Canada and the Proponent with comments on the proposed tower, indicating concurrence or non-concurrence with the proposal, as outlined in Section 5.

6. The entire process shall take no more than 120 days to complete, as outlined in Industry Canada's publication CPC-2-0-03 (“Radiocommunication and Broadcasting Antenna Systems”, June 2007). Proposals that do not require public consultation are expected to take less than 60 days to complete.

3.3 - Submission Requirements

The following information shall be submitted with the Minor Site Plan application:

1. Site Selection/Justification Report - this report shall outline the steps taken by the Proponent to investigate all non-tower and co-location options, and why a new tower/option is the preferred alternative. The report shall identify the location of all existing telecommunication towers within the proponent’s search area, and identify the reasons why these towers are not suitable for co-location. The location of these towers...
shall be illustrated on a map to be included in the Report. In addition, the report shall also identify any alternate sites for the location of the new tower that were investigated by the proponent, and the rationale for eliminating these sites as the preferred alternative. The report shall confirm the need for a new tower at the proposed location, and will also confirm the need for the proposed height of the tower. Future sharing possibilities with other providers shall also be reviewed. Finally, the report shall outline the design elements proposed in order to minimize the visual impact of the proposed structure, and address any lighting requirements that may be required by Transport Canada;

2. Site Plan with Key Map - the Site Plan shall be for the entire property and not only the leased portion, showing the relationship between the proposed telecommunication facility and existing features on the property such as buildings, parking, pedestrian and vehicular movement, natural features, site grading, property lines, fencing, and landscaping;

3. Elevation Drawings;

4. Minor Site Plan Application Form and Fee (available at www.hamilton.ca/planning);

5. A map indicating the horizontal distance between the proposed tower installation and the nearest residentially zoned property, dwelling, and/or sensitive land use;

6. A colour photograph of the subject property with a superimposed image of the proposed tower; and,

7. Any other information or studies identified in the Formal Consultation Meeting (see Section 3.1).

Section 4 - Public Consultation

4.1 - Exclusions from Requirement for Public Consultation

Where a proposed telecommunication tower is located a minimum distance of 120 metres, or three times the tower height (whichever is greater) from a Residential Zone, existing dwelling, or other sensitive land use, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater, no public consultation is required. In addition, all telecommunication towers that are exempt from the requirement for municipal review, as per Section 2, are also exempt from the requirement for public consultation.

4.2 - Notice Requirements

1. For all applications that are not exempt from the requirement for public consultation, the Proponent will be required to send notice of the proposal by regular mail to all property owners within a radius of the greater of 120 metres or three times the tower height, measured from the tower base or the outside perimeter of the supporting structure, whichever is greater. The City of Hamilton can provide the Proponent with the list of property owners, for an additional fee.
2. The notification shall include the following information in plain language:
   
   a) The address of the proposed tower site;
   
   b) A Location Map identifying the site of the proposed tower;
   
   c) A plan indicating the proposed location of the tower on the subject site;
   
   d) Physical details of the tower including height, colour, type, and design;
   
   e) Colour photograph of the property with a picture of the tower superimposed;
   
   f) The last day of the 30 day comment period; and,
   
   g) Contact information (name and telephone number) for both the Proponent and the City of Hamilton.

The City of Hamilton (Planning staff and the Ward Councillor) must be provided with a complete notification package.

3. The public shall have a minimum 30 day comment period to provide comments in writing to the Proponent.

4. The Proponent shall provide a copy of all written comments received from the public to the City of Hamilton.

5. Upon receiving comments from the public, the Proponent shall respond, in writing, to all reasonable and relevant concerns, or explain why the question, comment, or concern is not, in the view of the Proponent, reasonable or relevant. The Proponent shall copy the City of Hamilton (Planning staff and the Ward Councillor) on all responses provided.

6. If any modifications to the proposal are agreed upon as a result of the public comments, revised drawings and plans must be submitted to the City of Hamilton.

Section 5 - Concluding Consultation

1. The City of Hamilton’s response to the Proponent and Industry Canada will take into consideration all division and agency responses from the Minor Site Plan review and from the public consultation.

2. The Director of Planning, or his or her designate, on behalf of the City of Hamilton, will provide the Proponent and Industry Canada with a letter stating whether the local land-use consultation process has been completed in accordance with the City’s Protocol, and will include recommendations regarding the proposal as follows:

   a) Concurrence, if the proposal conforms with the City’s requirements, as set out within this
Protocol, and will include conditions of concurrence, if required; or,

b) Non-concurrence, if the proposal does not conform with the City’s requirements, as set out in this Protocol.

3. The City will provide a copy of this letter to all interested parties and the Ward Councillor.

Definitions

Adjacent Lands - those lands contiguous to a specific natural heritage feature or area where it is likely that development or site alteration would have a negative impact on the feature or area. The extent of the adjacent lands may be recommended by the Province or based on municipal approaches which achieve the same objectives. (PPS, 2005)

Antenna - an exterior transmitting device used in telecommunications designed for various uses such as telephonic, radio, or television communications by sending and/or receiving radio signals.

Areas of Archaeological Potential - a defined geographical area with the potential to contain archaeological resources. Criteria for determining archaeological potential are established by the Province and the City’s Archaeological Management Plan. Archaeological potential is confirmed through archaeological fieldwork undertaken in accordance with the Ontario Heritage Act. (PPS, 2005, amended)

Co-location - the installation of multiple telecommunication antenna systems on a building or tower structure by two or more Proponents.

Cultural Heritage Landscape - a defined geographical area of heritage significance, which has been modified by human activities and is valued by a community. It involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites, and natural elements, which together form a significant type of heritage form, distinctive from that of its constituent elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; and villages, parks, gardens, battlefields, main streets and neighbourhoods, cemeteries, railways, and industrial complexes of cultural heritage value. (PPS, 2005)

Industry Canada - the Federal Department which is responsible for radio frequency spectrum management. Information detailing federal procedures relating to the siting of radiocommunication and broadcasting antenna systems is available at: www.ic.gc.ca/antenna

Proponent - shall include the following: AM, FM, TV Broadcast Undertakings; Cable Television Distribution Undertakings; Radiocommunication Service Providers; and Radiocommunication Users (business or government use only).

Radiocommunication Carrier - a person who operates an interconnected radio-based transmission facility used by that person or another person to
provide radiocommunication services for compensation. (Radiocommunication Regulations, 1996)

**Radiocommunication Service Provider** - a person, including a Radiocommunication Carrier, who operates radio apparatus used by that person or another person to provide radiocommunication services for compensation. (Radiocommunication Regulations, 1996)

**Radiocommunication User** - a person who operates radio apparatus for government use or for a business other than the business of a Radio Communication Service Provider. (Radiocommunication Regulations, 1996)

**Sensitive Land Uses** - means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminate discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities. (PPS, 2005)

**Significant** - in regard to cultural heritage and archaeology, means cultural heritage resources that are valued for the important contribution they make to our understanding of the history of a place, an event, or a people. (PPS, 2005)

**Telecommunication Facility** - the components required for the operation of a wireless communication network, which includes cell sites, transmitters, receivers (antennae), and an unoccupied equipment shelter.

**Telecommunication Tower** - a structure used to support one or more antenna systems for the purpose of radio telecommunications, and which may include, but is not limited to, a guyed tower, a self-support tower or monopole tower, and which may be located at ground level or on the roof of a building.
Procedure for the installation of Broadcasting Communication Facilities on City of Hamilton Properties

1) That all requests for permission by a telecommunications company to locate its electronic wireless broadcast+ receiving equipment and accessory structure on City property, shall be submitted to the Corporate Buildings and Real Estate Division of the Community Services Department. A generalized description and site location of the proponent's plans will be submitted at this stage. Note: The City will not accept requests for the installation of telecommunication facilities on its Tunbridge Drive Pumping Station.

2) The Corporate Buildings and Real Estate Division will circulate the proposal to the City Councillor for the Ward in question for information, the department cinder who's jurisdiction the site fails under (the 'Host' department), along with the System Administrator of Trunking Radio, the Fire and Emergency Services Department, the Police Department and the Planning and Building Departments for comments.

3) If the proposed installation is acceptable in principle, to the 'Host' department and System Administration of Trunking Radio Corporate Buildings and Real Estate will contact the proponent to request detailed plans and specifications of the proposal for review. These detailed plans once received will be forwarded to the 'Host' department with copies also to be submitted to the System Administrator, Trunking Radio. The 'Host' department's staff or its consultants will subsequently undertake a technical review to determine the acceptability of the proposal, Additional information and more detailed documentation may be requested to complete the technical review. The 'Host' department would communicate to the proponent any required adjustments to its proposed installation to meet City requirements and conditions (Conditions would include reserving space that may be required in the future by the City on the given structure for its own communications equipment; annual inspections and the requirement for the proponent to provide a survey of the subject location, if it is to be a free standing tower).

4) Once the technical review is complete, the results including the plans and specifications, as amended, would be reported to Corporate Buildings and Real Estate by the 'Host' department. Upon receipt of the departmental acceptance Corporate Buildings and Real Estate will prepare a report to obtain approval of a Licence Agreement. Once approval is received Real Estate in conjunction with Legal Services will then prepare the Licence Agreement to be forwarded to the proponent for their review and execution. The Licence Agreement to include all specific conditions set out by the 'Host' department, an annual fee to be based on a value established by Real Estate and a one time administration fee of $750.00 (the annual fee and administrative fee to be credited to the 'Host' department).

5) Once the executed Licence Agreement is returned the 'Host' department will coordinate with the proponent the supervision of the equipment installation.