



**City of Hamilton**  
**PLANNING COMMITTEE REVISED**

**Meeting #:** 18-003  
**Date:** February 20, 2018  
**Time:** 9:30 a.m.  
**Location:** Council Chambers, Hamilton City Hall  
71 Main Street West

Ida Bedioui, Legislative Coordinator (905) 546-2424 ext. 4605

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	<b>Pages</b>
<b>1. APPROVAL OF AGENDA</b> (Added Items, if applicable, will be noted with *)	
<b>2. DECLARATIONS OF INTEREST</b>	
<b>3. APPROVAL OF MINUTES OF PREVIOUS MEETING</b>	
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<b>5. CONSENT ITEMS</b>	
5.1 Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application UHOPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037)	41
5.2 Active Official Plan Amendment Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18039)	74

5.3 One Year Pilot Program for Yard Maintenance Related By-laws in the McMaster Neighbourhoods (PED16260(a)) (Ward 1) (Outstanding Business List Item) 90

5.4 Expanding Administrative Penalty System (APS) to Include Business Licensing By-law 07-170 and Noise Control By-law 11-285 (PED18047) (City Wide) 95

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6.2 Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018) 146

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## 7. PUBLIC NOTICES

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Registered Speaker

1. Paula Kilburn and the Advisory Committee for Persons with Disabilities Transportation Working Group

7.2 Business Licensing By-law 07-170 - Replacement of Taxicab Tariff / Fares (Appendix 1 of Schedule 25) (PED18045) (City Wide) 204

7.3	Businesss Licensing By-law 07-170, Payday Loans Businesses (Schedule 11) (PED16039(a)) (City Wide) (Outstanding Business List Item) Registered Speakers	209
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1. Tom Cooper and Jodi Dean from the Hamilton Roundtable for Poverty Reduction
2. Doug Hoyes, Hoyes, Michalos & Associates Inc.
3. Tony Irwin, President & CEO, Canadian Consumer Finance Association
4. \*Michael Wood, ACORN
5. \*Patrick Mahon, Independent Payday Loan Association of Canada

## 8. DISCUSSION ITEMS

8.1	Comprehensive Review of Discharge of Firearms By-law 05-114 (PED16107(a)) (City Wide) (Outstanding Business List Item) Delegation	220
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1. Edmond Rose (\*Withdrawn)

8.2	Animal Adoptions for the City of Hamilton (PED18004) (City Wide) (Outstanding Business List Item) Delegation	278
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1. Margie Goold (Approved March 31, 2015)

*8.3	Response to the Ministry of Municipal Affairs and the Ministry of Housing Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning) (PED18063) (City Wide)	298
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## 9. MOTIONS

9.1	Parking Regulations on a 'Through Street'	327
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## 10. NOTICES OF MOTION

## 11. GENERAL INFORMATION / OTHER BUSINESS

### 11.1 Outstanding Business List

#### 11.1.a Items requiring new due dates:

Item "E" – Request to Designate 437 Wilson Street East (Ancaster) Under Part IV of the Ontario Heritage Act (PED12166)

Due date: February 20, 2018

New due date: July 10, 2018

Item "F" – Staff to consult with property owners & Councillors re: HMHC Report 14-009 recommendations to include 206, 208 and 210 King Street East in the Register of Property of Cultural Heritage Value or Interest and staff's designation work program and report back.

Due date: February 20, 2018

New due date: July 10, 2018

Item "I" – Report back with Terms of Reference for Community Energy Plan (i.e. renewable such as solar energy)

Due date: February 20, 2018

New due date: April 17, 2018

- 11.1.b Items identified as complete to be removed:  
Item “G” – The Feasibility of Establishing a City Animal Adoption Service in Partnership with the HBSPCA.

(Item 8.2 on this agenda)

Item “J” - Staff to report back with recommendations to update Discharge of Firearms By-law

(Item 8.1 on this agenda)

Item “Q” – That Licensing Division staff review Schedule 11 of Business Licensing By-law 07-170 – Payday Loans, and develop a model By-law addressing minimum distances, concentration and hours of operation with respect to Payday Loans businesses, and report back.

(Item 7.3 on this agenda)

Item “R” - That staff report back before the end of the 12 month pilot program for enforcement of yard maintenance related by-laws in the McMaster neighbourhoods with the results and recommendations for permanent by-law enforcement resource requirements for the McMaster neighbourhoods

(Item 5.3 on this agenda)

## 12. PRIVATE AND CONFIDENTIAL

- 12.1 Private and Confidential Minutes of the February 6, 2018 Meeting (Distributed under separate cover.)  
***Pursuant to Section 8.1, Sub-sections (e) and (f) of the City’s Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.***

- 12.2 Ontario Municipal Board Appeals of the Commercial Mixed Use Zones (UHOPA 69 and Zoning By-law 17-240) (LS18008/PED18050) (City Wide) (Distributed under separate cover.)  
***Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.***
- 12.3 Ontario Municipal Board Appeals of the Commercial Mixed Use Zones (UHOPA 69 and Zoning By-law 17-240) (LS18008(a)) (City Wide) (Distributed under separate cover.)  
***Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.***
- 12.4 Appeal to the Ontario Municipal Board (OMB) - Appeal of Non-Decision of Proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision, 609 and 615 Hamilton Street North, 3 Nisbet Boulevard and 129-137 Truedell Circle, Waterdown, City of Hamilton - UHOPA-17-03, ZAC-17-013 and 25T201702 (Waterdown) (LS18007.PED18051) (Ward 15) (\*Report pulled from agenda.)  
***Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.***

### 13. ADJOURNMENT



## **PLANNING COMMITTEE**

### **MINUTES 18-002**

**9:30 a.m.**

**Tuesday, February 6, 2018**

**Council Chambers**

**Hamilton City Hall**

**71 Main Street West**

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**Present:** Councillors A. Johnson (Chair), J. Farr (1<sup>st</sup> Vice-Chair), D. Conley (2<sup>nd</sup> Vice Chair), M. Green, C. Collins, M. Pearson, B. Johnson, D. Skelly, R. Pasuta and J. Partridge

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#### **THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:**

- 1. Licensing and By-law Services Division Resources as it Relates to the Licensing of Rental Properties (PED10049(w)) (City Wide) (Outstanding Business List Item) (Item 5.1)**

**(Partridge/Skelly)**

That Report PED10049(w) respecting Licensing and By-law Services Division Resources as it Relates to the Licensing of Rental Properties, be received.

**CARRIED**

- 2. Periodic Update Respecting Illegal Businesses in Rural Areas of Ward 11 (PED16207(b))(Ward 11) (Outstanding Business List Item) (Item 5.2)**

**(Partridge/Skelly)**

That Report PED16027(b) respecting Periodic Update Respecting Illegal Businesses in Rural Areas of Ward 11, be received.

**CARRIED**

- 3. Amendments to Sign By-law 10-197 (Construction Hoarding) (PED17217(a)) (City Wide) (Item 5.3)**

**(Partridge/Skelly)**

That the Sign By-law 10-197 be amended to include regulations for Construction Hoarding Signs, and that the amending by-law, attached as Appendix "A" to Report PED17217(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

**CARRIED**

4. **Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the City of Hamilton Zoning By-law No. 6593 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 952 – 954 Concession Street, (Hamilton) (PED18028) (Ward 6) (Item 5.4)**

**(Partridge/Skelly)**

That Report PED18028 respecting Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the City of Hamilton Zoning By-law No. 6593 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 952 – 954 Concession Street, (Hamilton) (PED18028) (Ward 6), be received.

**CARRIED**

5. **Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-17-03), Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application (ZAC-17-013) and Draft Plan of Subdivision Application (25T-201702) for Lands Located at 609 and 615 Hamilton Street North, 3 Nisbet Boulevard and 129, 131, 135 and 137 Trudell Circle (Flamborough) (PED18031) (Ward 15) (Item 5.5)**

**(Partridge/Skelly)**

That Report PED18031 respecting Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application (UHOPA-17-03), Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application (ZAC-17-013) and Draft Plan of Subdivision Application (25T-201702) for Lands Located at 609 and 615 Hamilton Street North, 3 Nisbet Boulevard and 129, 131, 135 and 137 Trudell Circle (Flamborough), be received.

**CARRIED**

6. **Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the Urban Hamilton Official Plan and the City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 261 King Street (Stoney Creek) (Ward 10) (PED18033) (Item 5.6)**

**(Partridge/Skelly)**

That Report PED18033 respecting Appeal to the Ontario Municipal Board (OMB) on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the Urban Hamilton Official Plan and the City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 261 King Street (Stoney Creek), be received.

**CARRIED**



**7. Hamilton Municipal Heritage Committee Report 18-001 (Item 5.7)****(Partridge/Skelly)****(a) Inventory & Research Working Group Meeting Notes – October 30, 2017**

- (i) Addition of St. Luke’s Anglican Church, 454 John Street North to the City of Hamilton Register of Property of Cultural Heritage Value or Interest.**

The Inventory/Research Working Group recommends that St. Luke’s Anglican Church, 454 John Street North, be added to the City of Hamilton Register of Property of Cultural Heritage Value or Interest.

- (ii) Addition of Hughson Street Baptist Church, 383 Hughson Street, North to the City of Hamilton Register of Property of Cultural Heritage Value or Interest.**

The Inventory/Research Working Group recommends that Hughson Street Baptist Church, 383 Hughson Street, North be added to the City of Hamilton Register of Property of Cultural Heritage Value or Interest.

**(b) Correspondence from Wayne Morgan, President, Community Heritage Ontario, respecting Report 10 of the House of Commons Standing Committee on Environment and Sustainable Development entitled Preserving Canada’s Heritage: The Foundation for Tomorrow.**

- (i) That the Hamilton Municipal Heritage Committee supports the recommendations in the Standing Committee on Environment and Sustainable Development Report entitled “Preserving Canada’s Heritage: The Foundation of Tomorrow”; attached as Appendix “A” to Report 18-001;
- (ii) That approval be given to the Hamilton Municipal Heritage Committee to write to the federal Minister of Environment and Sustainable Development, with copies to the Minister of Finance and local Members of Parliament, in support of the recommendations in Preserving Canada’s Heritage: The Foundation of Tomorrow”, as outlined in the draft letter attached as Appendix “B” to Report 18-001;
- (iii) That the Mayor be requested to co-sign the letter in support the recommendations in Preserving Canada’s Heritage: The Foundation of Tomorrow.

**CARRIED**

8. **Delegated Authority for Special Occasions Permits (SOPs) (PED17220(a)) (City Wide) (Item 5.8)**

**(Partridge/Skelly)**

That the Director of Licensing and By-law Services or designate be delegated the authority to designate events under Special Occasion Permits as “municipally significant”, *in consultation with the Ward Councillor*, if all required plans and documents are received, and to address any other related matters that apply to Special Occasion Permits, which have been previously designated by Council.

**Main Motion, as Amended, CARRIED**

9. **Review of Committee of Adjustment Refund Program for Residential Properties Within the Airport Employment Growth District Area and Feasibility of Including Provisions within the Zoning By-laws to Provide for Relief (PED18005) (City Wide) (Outstanding Business List Item) (Item 5.9)**

**(Partridge/Skelly)**

That the refund program for Committee of Adjustment applications regarding legally established non-conforming single family dwellings located within the Airport Employment Growth District (AEGD) Lands and in the Beach Road, McNeilly Road and Margaret Avenue neighbourhoods be discontinued upon Ontario Municipal Board approval of By-law 17-240.

**CARRIED**

10. **Application to Amend the City of Hamilton Zoning By-law No. 6593 for Lands Located at 347 Charlton Avenue West, Hamilton (PED18035) (Ward 1) (Item 6.1)**

**(A. Johnson/Farr)**

(a) That Amended Zoning By-law Amendment Application ZAC-17-018, by 1719755 Ontario Ltd. (c/o Will Edwards), Owner, for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District to the “DE/S-1753” (Low Density Multiple Dwelling) District, Modified, to permit a six (6) unit multiple dwelling for lands located at 347 Charlton Avenue West, as shown on Appendix “A” to Report PED18035, be APPROVED on the following basis:

(i) That the draft By-law, attached as Appendix “B” to Report PED18035, which has been prepared in a form satisfactory to the City Solicitor, **be amended by:**

- ***That no residential units be permitted in the basement or cellar;***
- ***That the roof height allowance regulation be increased by .5 metres.***

And be enacted by City Council;

- (ii) That the amending By-law attached as Appendix “B” to Report PED18035, **as amended**, be added to District Map No. W14 of Zoning By-law No. 6593; and,
  - (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan.
- (b) That upon finalization of the amending By-law, the subject lands be re-designated from “Single & Double” to “Low Density Apartment” in the Kirkendall North Neighbourhood Plan.
  - (c) ***That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**11. Applications for an Amendment to the Urban Hamilton Official Plan and to the Town of Glanbrook Zoning By-law No. 464 for Lands Located at 235 Tanglewood Drive, Glanbrook (PED18034) (Ward 11) (Item 6.2)**

**(B. Johnson/Pearson)**

- (a) That Amended Urban Hamilton Official Plan Amendment Application UHOPA-17-019 by Rob-Geof Properties Limited, Owner, for a site specific amendment to permit fourteen (14) Street Townhouse Dwellings with a maximum density of 45 units per net residential hectare within the Binbrook Village Secondary Plan, for lands located at 235 Tanglewood Drive, Glanbrook, as shown on Appendix “A” to Report PED18034, be APPROVED, on the following basis:
  - (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18034, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017).
- (b) That Amended Zoning By-law Amendment Application ZAC-17-025, by Rob-Geof Properties Limited, Owner, for a change in zoning from the Deferred Development “DD” Zone to the Residential Multiple “RM2-310” Zone, Modified, for the lands located at 235 Tanglewood Drive, Glanbrook, as shown on Appendix “A” to Report PED18034, be APPROVED, on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED18034, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017); and,
  - (iii) That this By-law will comply with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. \_\_\_;
- (c) ***That there were no public submissions received regarding this matter.***

**Main Motion, as Amended, CARRIED**

**12. Applications for an Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for Lands Located at 2782 Barton Street East, Hamilton (PED18022) (Ward 5) (Item 6.3)**

**(Collins/Pearson)**

- (a) That Urban Hamilton Official Plan Amendment Application UHOPA-17-021, by LJM Developments (Grimsby) Inc., Owner, to establish a site specific policy for a proposed thirteen (13) storey, 211 unit multiple dwelling with a maximum net residential density of 379 units per hectare, for lands located at 2782 Barton Street East, Hamilton as shown on Appendix “A” to Report PED18022, be APPROVED on the following basis:
  - (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18022, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed Urban Hamilton Official Plan Amendment is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017).
- (b) That Amended Zoning By-law Amendment Application ZAC-17-050, by LJM Developments (Grimsby) Inc., Owner, for a change in zoning from the “E-2/S-306” and “E-2/S-306a” (Multiple Dwellings) District, Modified to the “E-3/S-306b” (High Density Multiple Dwellings) District, Modified to permit a 211 unit multiple dwelling with a maximum building height of thirteen (13) storeys (41 metres) on lands located at 2782 Barton Street East, Hamilton as shown on Appendix “A” to Report PED18022 be APPROVED on the following basis:
  - (i) That the draft By-law, attached as Appendix “C” to Report PED18022 which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

- (ii) That the amending By-law, attached as Appendix “C” to Report PED18022 be added to District Map No. E123 of Zoning By-law No. 6593 as “E-3/S-306b”; and,
- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and will comply with the Urban Hamilton Official Plan upon finalization of Urban Hamilton Official Plan Amendment No. XX.

**(c) *That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**13. Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 503 and 515 Garner Road West (Ancaster) (PED18032) (Ward 12) (Item 6.4)**

**(Pearson/Conley)**

- (a) That Amended Urban Hamilton Official Plan Amendment Application UHOPA-16-007, by 1186559 Ontario Inc., (Owner) to refine the Natural Heritage mapping within Volume 1 of the Urban Hamilton Official Plan, and to re-designate a portion of the subject lands from “Low Density Residential 1” to “Low Density Residential 3a” within the Shaver Neighbourhood Secondary Plan to permit a forty-seven (47) unit townhouse development on a private (condominium) road, as well as re-designate a portion of the lands from “Low Density Residential 1” to “Natural Open Space” for lands located at 503 and 515 Garner Road West, as shown on Appendix “A” to Report PED18032 be APPROVED, on the following basis:
  - (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed Amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017) (Places to Grow).
- (b) That Zoning By-law Amendment Application ZAC-16-017 by 1186559 Ontario Inc., (Owner) for a change in zoning from the Agricultural “A-216” Zone to the Residential Multiple “RM2-690” Zone, Modified, to permit a forty-seven (47) unit townhouse development on a private (condominium) road for lands located at 503 and 515 Garner Road West, as shown on Appendix “A” to Report PED18032, be APPROVED on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED18032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) (Places to Grow), and will comply with the Urban Hamilton Official Plan, upon finalization of UHOPA No. XX.
- (c) That Zoning By-law Amendment Application ZAC-16-017 by 1186559 Ontario Inc., (Owner) for a change in zoning from the Agricultural “A-216” Zone to the Conservation / Hazard Land (P5) Zone to permit a stormwater management pond, natural open space and vegetation protection zone for lands located at 503 and 515 Garner Road West, as shown on Appendix “A” to Report PED18032, be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “D” to Report PED18032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) (Places to Grow), and will comply with the Urban Hamilton Official Plan, upon finalization of UHOPA No. XX.
- (d) Should the abutting properties wish to derive benefit, cost recovery would be based on the flat rate identified under the funding methodology of Infrastructure Policy plus actual drain cost.
- (e) ***That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**14. Application for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1051 Green Mountain Road East, Stoney Creek (PED18029) (Ward 11) (Item 6.5)**

**(B. Johnson/Partridge)**

- (a) That Amended Rural Hamilton Official Plan Amendment Application RHOPA-15-22, by Waterford Sand & Gravel Limited (Owner), to establish a Site Specific Policy Area to permit the extraction of mineral aggregate resources, for lands located at 1051 Green Mountain Road, East (Stoney Creek), as shown on Appendix “A” to Report PED18029, be APPROVED on the following basis:

- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18029, be adopted by City Council;
  - (ii) That the proposed amendment is consistent with the Provincial Policy Statement (2014), and conforms to the Greenbelt Plan.
- (b) That Amended Zoning By-law Amendment Application ZAC-15-052 by Waterford Sand & Gravel Limited, (Owner), for a change in zoning from the Agricultural (A1) Zone in the City of Hamilton Zoning By-law No. 05-200 to the Extractive Industrial (M12) Zone in the City of Hamilton Zoning By-law No. 05-200, for lands located at 1051 Green Mountain Road East, (Stoney Creek), as shown on Appendix “A” to Report PED18029, be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED18029, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Greenbelt Plan and will comply with the Rural Hamilton Official Plan upon finalization of Rural Hamilton Official Plan Amendment No. \_\_\_\_.
- (c) That staff be directed to notify the Ministry of Natural Resources that the City of Hamilton’s objections to the *Aggregate Resources Act* License Application, by Waterford Sand and Gravel Limited, for the subject lands, have been resolved; and that the City of Hamilton no longer has an objection to the issuance of a licence under the ARA for the subject lands, in accordance with the revised ARA Site Plans, dated August 29, 2017, once the subject Official Plan Amendment and Zoning By-law Amendment are in full force and effect.
- (d) ***That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**15. Hamilton Rental Housing Roundtable discussion paper entitled “Promoting Code Compliant Rental Housing with Safe, Clean and Healthy Dwelling Units” presented by Brad Clark of Maple Leaf Strategies (Item 6.6)**

**(Partridge/Farr)**

That the Hamilton Rental Housing Roundtable discussion paper entitled “Promoting Code Compliant Rental Housing with Safe, Clean and Healthy Dwelling Units” be referred to staff to review and incorporate into their report to the Rental Housing Sub-Committee regarding the update on Report PED10049(h).

**CARRIED**

**16. Centennial Neighbourhoods Secondary Plan and Centennial Neighbourhoods Transportation Management Plan (PED18007) (Wards 5 and 9) (TABLED January 16, 2018) (Item 8.1)**

**(Collins/Farr)**

- (a) That the Centennial Neighbourhoods Secondary Plan, for the area shown on Appendix "A" of PED18007, attached as Official Plan Amendment (OPA) No.XX to the Urban Hamilton Official Plan (UHOP) be **APPROVED**, and that:
- (i) The By-law of adoption for the Official Plan Amendment, attached as Appendix "B" to Report PED18007, **as amended**, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
  - (ii) The Kentley Neighbourhood Plan and the Riverdale West Neighbourhood Plan be repealed in their entirety; and,
  - (iii) The portions of the Riverdale East and Greenford Neighbourhood Plans which are located within the boundary of the Centennial Neighbourhoods Secondary Plan be repealed.
- (b) ***That Planning and Economic Development Department and Public Works Department staff be directed to create submissions for the 2019 capital budget for the following studies required as part of the implementation of the Centennial Neighbourhoods Secondary Plan (Policies B.6.7.17 a) and d), Appendix B, as amended, to report PED18007):***
- (i) ***Streetscape and Public Realm Design Study; and,***
  - (ii) ***Municipal Servicing Study.***
- (c) ***That Public Works Department staff be directed to:***
- (i) ***Investigate the feasibility of relocating the existing waste management facility at 460 Kenora Avenue to an alternate location, as proposed in the Centennial Neighbourhoods Secondary Plan (Policy 6.7.18.3 b), Appendix B, as amended, to report PED18007); and,***
  - (ii) ***create a submission for the 2019 capital budget if necessary for costs related to studying the relocation.***
- (d) That the Centennial Neighbourhoods Transportation Management Plan, attached as Appendix "C" to Report PED18007, be endorsed, and that:
- (i) The General Manager of the Public Works Department be authorized and directed to file the Centennial Neighbourhoods



Transportation Management Plan, attached as Appendix “C” to Report PED18007, with the Municipal Clerk for a minimum thirty day public review period.

- (ii) Upon the completion of the thirty day public review, the General Manager of the Public Works Department be authorized and directed to program and include the recommended Schedule A, A+ and B projects in the future Capital Budget submissions, provided no comments or “Part II Order” requests (applicable to Schedule B projects only) are received that cannot be resolved.
- (iii) That the recommended projects, attached as Appendix “D” to Report PED18007, be received and approved;

**(e) *That the public submissions received regarding this matter supported the approval of the proposal with amendments.***

**Main Motion, as Amended CARRIED**

**17. Proposed Transit Oriented Corridor Zones in Zoning By-law No. 05-200 - LRT Extension and Housekeeping Amendments (PED18012) (Wards 1, 3, 4, 5 and 9) (TABLED January 16, 2018) (Item 8.2)**

**(Collins/Farr)**

- (a) That approval be given to Official Plan Amendment (OPA) No. \_\_\_\_ to the Urban Hamilton Official Plan (UHOP) to amend policies, schedules and maps, to implement up-to-date mapping and policies for the extension of the Transit Oriented Corridor located along Queenston Road from east of Jefferson Avenue to Reid Avenue, on the following basis:
  - (i) That the Proposed Official Plan Amendment, attached as Appendix “A” to Report PED18012, be adopted by Council; and,
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (PPS) 2014, and conforms to Growth Plan for the Greater Golden Horseshoe, 2017 (P2G).
- (b) That approval be given to City Initiative CI-17-B to add the Transit Oriented Corridor Mixed Use High Density (TOC4) Zone to Zoning By-law No. 05-200, to zone certain lands located on Queenston Road between Jefferson Avenue and Irene Avenue as Transit Oriented Corridor Mixed Use Medium Density (TOC1) Zone, Transit Oriented Corridor Local Commercial (TOC2) Zone, Transit Oriented Corridor Multiple Residential (TOC3) Zone and Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, to amend the existing TOC1, TOC2, and TOC3 Zone to incorporate housekeeping amendments, to add special exceptions to Schedule “C”, to add two new special figures to Schedule “F”, and to amend general provisions and other administrative sections of the By-law, on the following basis:

- (i) That the Proposed By-law, attached as Appendix “B” to Report PED18012 which has been prepared in a form satisfactory to the City Solicitor, **be amended by:**
1. **Adding the following new uses to Section 11.4.1:**
    - i) **Long Term Care Facility; and,**
    - ii) **Retirement Home.**
  2. **Deleting Special Exception No. 633 (75 Centennial Parkway North-Eastgate Square) and replacing it with the text attached as Appendix “A”.**
  3. **Adding the following new clause to Special Exception No. 634 (165 Queenston Road):**
    - b) **In addition to Subsection 4.12 e), Section 5, and Subsection 11.1.3, any parking spaces and drive aisles existing on the date of passing of this By-law (Insert Date – TBD) shall be deemed to comply with the regulations for any required setbacks, location on the lot, and number of parking spaces.**
  4. **Deleting Special Exception No. 637 (as 670, 674, 686, 692, 700 and 706 Queenston Road) and replacing it with the text and Figure 12 attached as Appendix “B”.**
  5. **Adding the following additional special exceptions applicable to the property located at 697 & 701 Queenston Road:**

**Within the lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, described as 697 – 701 Queenston Road, the following special provisions shall also apply:**

    - (a) **Notwithstanding Subsection 4.20 (c), an outdoor commercial patio shall be permitted to be located within the front yard.**
  6. **Within the lands described as 670, 674, 692, 700 and 706 Queenston Road, as shown as Figure 12 of Schedule “F” – Special Figures, the following special provisions shall also apply:**
    - (a) **For the purpose of Special Exception No. 637, the following special Regulations shall apply to Areas A and B, as shown on Figure 12 of Schedule “F” – Special Figures:**

- i. Subsection 637 (a)(C)(i) shall be deleted and replaced with the following:*

*“Drive-thru facilities shall only be permitted in Areas A1, A2, A3 and A5”*

- ii. Subsection 637 (a)(E) shall be deleted and replaced with the following*

*“The drive through facilities located within areas A1, A2, A3 and A5 may be permitted to relocate on the same lot outside of areas A1, A2, A3, and A5 subject to the following requirements:”*

- iii. Subsection 637 (a)(E)(i) shall be deleted and replaced with the following*

*“A maximum of four drive through facilities shall be permitted on the lot;”*

- iv Subsection 637 (a) shall be modified by including a new subsection (F) as follows:*

*“The drive through facilities located within areas A1, A2, A3 and A5 may be permitted to relocate on the same lot within areas A1, A2, A3, and A5 subject to the following requirements:”*

*The built form for new Development Regulations shall not apply (subsection 11.4.3.g) and a minimum building height of 4.5 metres shall apply.*

- (b) For the purpose of Special Exception No. 637, Figure 12 of Schedule “F” – Special Figures shall be revised as follows:*

- i. That Figure 12 shall be revised to include an Area A5 generally situated immediately east of Area A3, extending to the East lot line and a depth no greater than the existing building.*

And be enacted by Council; and,

- (ii) That the proposed changes in zoning will be in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment Nos. \_\_\_\_ and. \_\_\_\_.

- (c) *That the public submissions received regarding this matter supported the approval of the proposal with amendments.*

**Main Motion, as Amended CARRIED**

18. **Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017* - Ontario Proposed Changes to the Land Use Planning and Appeals System (LS16027(b)) (City Wide) (Item 8.3)**

**(B. Johnson/Conley)**

That the City Solicitor and the General Manager of Planning and Economic Development, be authorized to make submissions to the Province, Ontario Municipal Board and/or the Local Planning Appeal Tribunal with respect to any rules or regulations that may be proposed relating to Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, provided the submissions are consistent with previous submissions by the City on Bill 139.

**CARRIED**

19. **Applicant's Appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East (Added Item 10.1)**

**(Partridge/Pasuta)**

WHEREAS, on January 25, 2018 the Committee of Adjustment denied Minor Variance Application FL/A-17:442 to permit the construction of a permanent farm labour residence consisting of three dwelling units contained within one building, a proposed front addition, a barn and two proposed rear greenhouse additions to the existing nursery operation;

WHEREAS, the applicant has appealed the decision of the Committee of Adjustment to the Ontario Municipal Board; and

WHEREAS, Planning staff were in support of Minor Variance Application FL/A-17:442;

THEREFORE BE IT RESOLVED:

That Legal staff be directed to take no action with respect to the appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East, either in support of the Committee of Adjustment's decision or against the decision, but instead be directed to enter into settlement discussions with the applicant.

**CARRIED**

20. **Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017* - Ontario Proposed Changes to the Land Use Planning and Appeals System (LS16027(c)/PED16237(b)) (City Wide) (Item 12.1)**

**(Conley/Pearson)**

That the direction to staff outlined in the recommendations of Report LS16027(c)/PED16237(b) be approved and the report and appendices remain private and confidential and restricted from public disclosure.

**CARRIED**

- 21 **Application for Official Plan Amendment and Zoning By-law Amendments for Lands Located at 860 Queenston Road (OMB Case No. PL170282) (LS18010) (Ward 9) (Added Item 12.2)**

**(Conley/Pearson)**

That the direction to staff outlined in the recommendations of Report LS18010 be approved and the report and appendices remain private and confidential and restricted from public disclosure.

**CARRIED**

**FOR INFORMATION:**

**(a) CHANGES TO THE AGENDA (Item 1)**

The Committee Clerk advised of the following changes to the agenda:

**1. ADDED DELEGATION REQUEST**

4.3 Doug Hoyes, Hoyes, Michalos & Associates Inc., to provide recent statistics and recommendations to the proposed payday loan by-law. (For future meeting.)

4.4 Catherine Spears, Spears + Associates Inc., respecting Eastgate Square Centennial Secondary Plan and the Transit Oriented Corridor Zoning. (For today's meeting regarding Items 8.1 and 8.2.)

**2. ADDED WRITTEN COMMENTS**

We received written comments from the following residents respecting Item 6.1, Application to Amend the City of Hamilton Zoning By-law No. 6593 for Lands Located at 347 Charlton Avenue West, Hamilton (PED18035) (Ward 1):

6.1(a) Kate Connolly, 12-285 Bold Street, Hamilton

6.1(b) Amanda McInnis and Alex Christie, 355 Charlton Avenue West,  
Hamilton

6.1(c) Wendy Johncox, 320 Herkimer Street, Hamilton

6.1(d) Mark Stewart, President, Kirkendal Neighbourhood Association

**3. ADDED NOTICE OF MOTION**

10.1 Applicant's Appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East

**4. ADDED PRIVATE AND CONFIDENTIAL REPORT**

12.2 Application for Official Plan Amendment and Zoning By-law Amendments for Lands Located at 860 Queenston Road (OMB Case No. PL170282) (LS18010) (Ward 9) (Distributed under separate cover)

*Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.*

**(Farr/Partridge)**

That the agenda for the February 6, 2018 meeting be approved, as amended.

**CARRIED**

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

Councillor Pearson declared an interest with respect to Item 6.6 as she is the owner of rental properties.

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

**(i) January 16, 2018 (Item 3.1)**

**(Conley/Pearson)**

That the Minutes of the January 16, 2018 meeting be approved.

**CARRIED**

**(d) DELEGATION REQUESTS (Item 4)**

**(Partridge/B. Johnson)**

(a) That the following delegation requests be approved to attend at a future meeting:

- (i) Tom Cooper and Jodi Dean from the Hamilton Roundtable for Poverty Reduction to support staff's report regarding the restriction of the number and locations of payday loan outlets in Hamilton (Item 4.1)
  - (ii) Paula Kilburn and the Advisory Committee for Persons with Disabilities Transportation Working Group to speak to the staff report regarding the number of accessible taxis. (Item 4.2)
  - (iii) Doug Hoyes, Hoyes, Michalos & Associates Inc., to provide recent statistics and recommendations to the proposed payday loan by-law. (Added Item 4.3)
- (b) That the following delegation request be approved to address Committee at today's meeting:
- (i) Catherine Spears, Spears + Associates Inc., respecting Eastgate Square Centennial Secondary Plan and the Transit Oriented Corridor Zoning. (Added Item 4.4)

**CARRIED**

**(e) CONSENT**

- (i) Delegated Authority for Special Occasions Permits (SOPs) (PED17220(a)) (City Wide) (Item 5.8)**

**(Partridge/Skelly)**

That the recommendation be amended by inserting the words "in consultation with the Ward Councillor" after the words "municipally significant" to read as follows:

That the Director of Licensing and By-law Services or designate be delegated the authority to designate events under Special Occasion Permits as "municipally significant", ***in consultation with the Ward Councillor***, if all required plans and documents are received, and to address any other related matters that apply to Special Occasion Permits, which have been previously designated by Council.

**Amendment CARRIED**

For disposition of this matter refer to Item 8.

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

- (i) Application to Amend the City of Hamilton Zoning By-law No. 6593 for Lands Located at 347 Charlton Avenue West, Hamilton (PED18035) (Ward 1) (Item 6.1)**

In accordance with the provisions of the *Planning Act*, Chair A. Johnson 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, 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.

### **Written Comments**

- 6.1(a) Kate Connolly, 12-285 Bold Street, Hamilton
- 6.1(b) Amanda McInnis and Alex Christie, 355 Charlton Avenue West
- 6.1(c) Wendy Johncox, 320 Herkimer Street, Hamilton
- 6.1(d) Mark Stewart, President, Kirkendal Neighbourhood Association

#### **(Pearson/B. Johnson)**

That the added written comments, Items 6.1(a) to 6.1(d), be received.

**CARRIED**

Chair A. Johnson relinquished the Chair to Vice Chair Farr during consideration of this matter.

Daniel Barnett, Planner, addressed Committee with the aid of a PowerPoint presentation and provided an overview of the report. He indicated that Appendix "B" requires an amendment. A copy is available for viewing on the City's website.

#### **(A. Johnson/Conley)**

That the staff presentation be received.

**CARRIED**

Sarah Knoll of GSP Group, representing the applicant, was in attendance and addressed Committee with the aid of a PowerPoint presentation. A copy is available for viewing on the City's website.

#### **(Pearson/Conley)**

That the agent's presentation be received.

**CARRIED**

### **Registered Speakers**

#### **1. Wendy Johncox, 320 Herkimer Street, Hamilton**

Wendy Johncox addressed Committee and indicated that she is opposed to the proposal.



**Skelly/Conley)**

That the delegation be received.

**CARRIED**

**2. Andrew Kelly, 316 Herkimer Street, Hamilton**

Andrew Kelly addressed Committee and indicated that he is opposed to the proposed redevelopment.

**(Conley/Partridge)**

That the delegation be received.

**CARRIED**

**3. Kate Connolly, 12 – 285 Bold Street, Hamilton**

Kate Connolly addressed Committee and spoke in support of the developer and the proposal.

**(Skelly/A. Johnson)**

That the delegation be received.

**CARRIED**

**4. Joe Gallagher, 332 Herkimer Street, Hamilton**

Joe Gallagher addressed Committee and spoke in opposition to his proposal.

**(Skelly/A. Johnson)**

That the delegation be received.

**CARRIED**

**5. Lynn Gates, 339 Charlton Avenue**

Lynne Gates addressed Committee and indicated that she is not in support of the proposal.

**(Pearson/Partridge)**

That the delegation be received.

**CARRIED**

**6. Veronica Dyer, 2 Undermount Avenue**

Veronica Dyer addressed Committee and indicated that she is in support of the development.

**(Pearson/Partridge)**

That the delegation be received.

**CARRIED**

**7. Mark Dyer, 2 Undermount Avenue**

Mark Dyer addressed Committee and spoke in support of the proposal.

**(Pearson/Partridge)**

That the delegation be received.

**CARRIED**

**8. Nikki Loney, 343 Charlton Avenue**

Nikki Loney spoke in support of the developer but indicated that she still has some concerns with the proposal. She asked that the developer continue to work with the residents to address their concerns.

**(Conley/Pasuta)**

That the delegation be received.

**CARRIED**

**(Skelly/Pasuta)**

That the public meeting be closed.

**CARRIED**

**(A. Johnson/Pearson)**

**(a) That Appendix "B" be amended to include the size of the lot area in 2(e) and change the reference in 2(d) from 10A(3)(c) to 10A(3)(iii)(c);**

**(b) That the recommendations be amended by adding the following:**

- **That no residential units be permitted in the basement or cellar;**
- **That the roof height allowance regulation be increased by .5 metres.**

**Amendment CARRIED**

Councillors Skelly and Partridge indicated that they wished to be recorded as OPPOSED to this matter.

**(A. Johnson/Pearson)**

**(a) That appendix "B" to Report PED18035 include the following housekeeping amendments:**

**(b) That the recommendations be amended by adding the following subsection (c):**

- (c) *That the public submissions received regarding this matter did not affect the decision.*

**Amendment CARRIED**

Councillors Pasuta, Partridge and Skelly indicated that they wished to be recorded as OPPOSED to the approval of this Item.

For disposition of this matter refer to Item 10.

- (ii) **Applications for an Amendment to the Urban Hamilton Official Plan and to the Town of Glanbrook Zoning By-law No. 464 for Lands Located at 235 Tanglewood Drive, Glanbrook (PED18034) (Ward 11) (Item 6.2)**

In accordance with the provisions of the *Planning Act*, Vice Chair Farr 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 Official Plan and Zoning By-law Amendments, 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.

No member of the public came forward.

**(B. Johnson/Green)**

That the public meeting be closed.

**CARRIED**

**(B. Johnson/Pearson)**

That the staff presentation be waived.

**CARRIED**

Steve Fraser of A.J. Clarke and Associates Ltd. was in attendance representing the applicant. Committee had no questions.

**(B. Johnson/Pearson)**

**That the recommendations be amended by adding the following subsection (c):**

- (c) *That there were no public submissions received regarding this matter.*

**Amendment CARRIED**

For disposition of this matter refer to Item 11.

(iii) **Applications for an Urban Hamilton Official Plan Amendment and Zoning By-law Amendment for Lands Located at 2782 Barton Street East, Hamilton (PED18022) (Ward 5) (Item 6.3)**

In accordance with the provisions of the *Planning Act*, Vice Chair Farr 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 Official Plan and Zoning By-law Amendments, 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.

No member of the public came forward.

**(Pearson/Collins)**

That the public meeting be closed.

**CARRIED**

**(Pearson/Collins)**

That the staff presentation be waived.

**CARRIED**

Chair A. Johnson assumed the Chair.

The applicant Liaquat Mian, of LJM Developments, and his agent Franz Kloibhofer of A.J. Clarke and Associates Ltd. were in attendance. Committee had no questions.

**(Collins/Pearson)**

**That the recommendations be amended by adding the following subsection (c):**

- (c) ***That the public submissions received regarding this matter did not affect the decision.***

**Amendment CARRIED**

For disposition of this matter refer to Item 12.

(iv) **Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 503 and 515 Garner Road West (Ancaster) (PED18032) (Ward 12) (Item 6.4)**

In accordance with the provisions of the *Planning Act*, Chair A. Johnson 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 Official Plan and Zoning By-law Amendments, 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.

George Zajac, Planner, addressed Committee with the aid of a PowerPoint presentation and provided an overview of the report. A copy is available for viewing on the City's website.

**(Pearson/Skelly)**

That the staff presentation be received.

**CARRIED**

**Speakers**

**1. Rob Schumacher, 71 Tollgate Drive, Ancaster**

Rob Schumacher indicated that he did not oppose the development but requested the installation of sidewalks.

**(Pearson/B. Johnson)**

That the delegation be received.

**CARRIED**

**2. Jean-Pierre Verbaat, 407 Garner Road,**

Jean-Pierre Verbaat indicated that sidewalks are needed.

**(Pearson/Conley)**

That the delegation be received.

**CARRIED**

**(Farr/Skelly)**

That Rob Schumacher be allowed to address Committee a second time.

**CARRIED**

1. **Rob Schumacher, 71 Tollgate Drive, Ancaster**

Rob Schumacher explained his previous comments.

**(Pearson/Skelly)**

That the public meeting be closed.

**CARRIED**

**(Pearson/Conley)**

That the recommendations be amended by adding the following subsection (e):

(e) *That the public submissions received regarding this matter did not affect the decision.*

**Amendment CARRIED**

For disposition of this matter refer to Item 13.

(v) **Application for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1051 Green Mountain Road East, Stoney Creek (PED18029) (Ward 11) (Item 6.5)**

In accordance with the provisions of the *Planning Act*, Chair A. Johnson 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 Official Plan and Zoning By-law Amendments, 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.

**Written Comments**

6.5(a) Jen Baker, Hamilton Naturalists' Club

**(B. Johnson/Partridge)**

That the written comments, Item 6.5(a) be received.

**CARRIED**

No member of the public came forward.

**(Partridge/B. Johnson)**

That the public meeting be closed.

**CARRIED**

**(B. Johnson/Farr)**

That the staff presentation be waived.

**CARRIED**

Bill Kester representing the applicant, Waterford Sand and Gravel Limited, addressed Committee and provided responses to questions which the Ward Councillor posed on behalf of a resident.

**(B. Johnson/Partridge)**

That the recommendations be amended by adding the following subsection (d):

**(d) *That the public submissions received regarding this matter did not affect the decision.***

**Amendment CARRIED**

For disposition of this matter refer to Item 14.

- (vi) Brad Clark, Maple Leaf Strategies, to present a summary of the Hamilton Rental Housing Roundtable discussion paper entitled “Promoting Code Compliant Rental Housing with Safe, Clean and Healthy Dwelling Units” (Approved January 16, 2018) (Item 6.6)**

Brad Clark of Maple Leaf Strategies addressed Committee with the aid of a PowerPoint presentation and provided an overview of the discussion paper entitled “Promoting Code Compliant Rental Housing with Safe, Clean and Healthy Dwelling Units” which he prepared in collaboration with the Hamilton Rental Housing Roundtable. Copies of the discussion paper were distributed and a copy is available for viewing on the City’s website.

**(Partridge/Farr)**

That the five minute rule be extended.

**CARRIED**

Brad Clark requested that the recommendations be referred to staff for a report back to Committee.

Arun Pathak, of the Hamilton and District Apartment Association, was also in attendance and he joined Brad Clark in responding to questions from Committee.

**(Skelly/Conley)**

That the delegation be received.

**CARRIED**

For disposition of this matter refer to Item 15.

**(g) DISCUSSION ITEMS (Item 8)**

- (i) Centennial Neighbourhoods Secondary Plan and Centennial Neighbourhoods Transportation Management Plan (PED18007) (Wards 5 and 9) (Item 8.1) (TABLED January 16, 2018)**

**(Collins/Farr)**

That Report PED18007 respecting Centennial Neighbourhoods Secondary Plan and Centennial Neighbourhoods Transportation Management Plan be LIFTED from the table.

**CARRIED**

**Delegation**

- (i) Catherine Spears, Spears + Associates Inc**

Catherine Spears addressed Committee and indicated that she was representing Bentall Kennedy LP (Canada) Eastgate Square. She thanked staff as they have been able to reach an agreement regarding her client's concerns.

**(Collins/Farr)**

That the delegation be received.

**CARRIED**

**(Collins/Farr)**

- (a) *That, based on further public input received, Report PED18007 respecting Centennial Neighbourhoods Secondary Plan and Centennial Neighbourhoods Transportation Management Plan be amended by:***

**(i) *Deleting Appendix B and replacing it with the amended Appendix B (text and maps have been changed);***

- (b) *That the following be added as subsections (b) and (c) and the balance be re-lettered accordingly:***

**(b) *Planning and Economic Development Department and Public Works Department staff be directed to create submissions for the 2019 capital budget for the following studies required as part of the implementation of the Centennial Neighbourhoods Secondary Plan (Policies B.6.7.17 a) and d), Appendix B, as amended, to report PED18007):***

**(i) *Streetscape and Public Realm Design Study; and,***

**(ii) *Municipal Servicing Study.***

- (c) *That Public Works Department staff be directed to:***



- (i) ***Investigate the feasibility of relocating the existing waste management facility at 460 Kenora Avenue to an alternate location, as proposed in the Centennial Neighbourhoods Secondary Plan (Policy 6.7.18.3 b), Appendix B, as amended, to report PED18007); and,***
- (ii) ***create a submission for the 2019 capital budget if necessary for costs related to studying the relocation.***  
Amendment CARRIED

**(Collins Farr)**

***That the recommendations be amended by adding the following subsection (e):***

- (e) ***That the public submissions received regarding this matter supported the approval of the proposal with amendments.***  
Amendment CARRIED

For disposition of this matter refer to Item 16.

- (ii) **Proposed Transit Oriented Corridor Zones in Zoning By-law No. 05-200 - LRT Extension and Housekeeping Amendments (PED18012) (Wards 1,3, 4, 5 and 9) (Item 8.2) (TABLED January 16, 2018)**

**(Collins/Farr)**

That Report PED18012 respecting Proposed Transit Oriented Corridor Zones in Zoning By-law No. 05-200 - LRT Extension and Housekeeping Amendments be lifted from the table.

**CARRIED**

**(Collins/Farr)**

That the Proposed Transit Oriented Corridor Zones in Zoning By-law No. 05-200 - LRT Extension and Housekeeping Amendments (PED18012) (Wards 1, 3, 4, 5 and 9) be ***amended*** by:

1. ***Adding the following new uses to Section 11.4.1:***
  - i) ***Long Term Care Facility; and,***
  - ii) ***Retirement Home.***
2. ***Deleting Special Exception No. 633 (75 Centennial Parkway North-Eastgate Square) and replacing it with the text attached as Appendix "A".***
3. ***Adding the following new clause to Special Exception No. 634 (165 Queenston Road):***

*b) In addition to Subsection 4.12 e), Section 5, and Subsection 11.1.3, any parking spaces and drive aisles existing on the date of passing of this By-law (Insert Date – TBD) shall be deemed to comply with the regulations for any required setbacks, location on the lot, and number of parking spaces.*

*4. Deleting Special Exception No. 637 (as 670, 674, 686, 692, 700 and 706 Queenston Road) and replacing it with the text and Figure 12 attached as Appendix “B”.*

**Amendment CARRIED**

**(Collins/Farr)**

*That the following additional special exceptions be included in the Zoning By-law 05-200 respecting the proposed TOC4 Zone applicable to the property located at 697 & 701 Queenston Road:*

*Within the lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, described as 697 – 701 Queenston Road, the following special provisions shall also apply:*

*(a) Notwithstanding Subsection 4.20 (c), an outdoor commercial patio shall be permitted to be located within the front yard.*

**Amendment CARRIED**

**(Collins/Farr)**

*That the following additional special exceptions be included in the Zoning By-law 05-200 respecting the proposed TOC4 Zone, Special Exception 637:*

*Within the lands zoned Transit Oriented Corridor Mixed Use High Density (TOC4) Zone, identified on Maps 1142 & 1193 of Schedule “A” – Zoning Maps, and described as 670, 674, 692, 700 and 706 Queenston Road, as shown as Figure 12 of Schedule “F” – Special Figures, the following special provisions shall also apply:*

*(a) For the purpose of Special Exception No. 637, the following special Regulations shall apply to Areas A and B, as shown on Figure 12 of Schedule “F” – Special Figures:*

*i. Subsection 637 (a)(C)(i) shall be deleted and replaced with the following:*

*“Drive-thru facilities shall only be permitted in Areas A1, A2, A3 and A5”*

*ii. Subsection 637 (a)(E) shall be deleted and replaced with the following*

***“The drive through facilities located within areas A1, A2, A3 and A5 may be permitted to relocate on the same lot outside of areas A1, A2, A3, and A5 subject to the following requirements:”***

- iii. Subsection 637 (a)(E)(i) shall be deleted and replaced with the following***

***“A maximum of four drive through facilities shall be permitted on the lot;”***

- iv Subsection 637 (a) shall be modified by including a new subsection (F) as follows:***

***“The drive through facilities located within areas A1, A2, A3 and A5 may be permitted to relocate on the same lot within areas A1, A2, A3, and A5 subject to the following requirements:”***

***The built form for new Development Regulations shall not apply (subsection 11.4.3.g) and a minimum building height of 4.5 metres shall apply.***

- (b) For the purpose of Special Exception No. 637, Figure 12 of Schedule “F” – Special Figures shall be revised as follows:***

- i. That Figure 12 shall be revised to include an Area A5 generally situated immediately east of Area A3, extending to the East lot line and a depth no greater than the existing building.***

**Amendment CARRIED**

**(Collins Farr)**

***That the recommendations be amended by adding the following subsection (c):***

- (c) That the public submissions received regarding this matter supported the approval of the proposal with amendments.***

**Amendment CARRIED**

For disposition of this matter refer to Item 17.

**(h) NOTICES OF MOTION (Item 10)****(i) Applicant's Appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East (Added 10.1)**

Councillor Partridge introduced a notice of motion respecting Applicant's Appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East.

**(Partridge/Pasuta)**

That the rules of order be waived in order to allow the introduction of a motion respecting Applicant's Appeal to the Ontario Municipal Board respecting Minor Variance Application FL/A-17:442 for lands located at 374 5<sup>th</sup> Concession Road East.

**CARRIED**

For disposition of this matter refer to Item 19.

**(ii) Parking Regulations on a 'Through Street' (Added 10.2)**

Councillor Green presented the following notice of motion:

WHEREAS, most major Ontario municipalities restrict parking overnight on major roadways;

WHEREAS, staff are currently undertaking a review of Hamilton Parking By-law 01-218, and

WHEREAS, members of the public have, from time to time, expressed concern with the rationale for overnight parking restrictions on 'through streets' and the method of informing motorists where such regulations apply;

THEREFORE BE IT RESOLVED:

That staff be directed to review the rationale for overnight parking restrictions on 'through streets' and that this review include a review/summary of overnight parking regulations in other large Ontario municipalities and how they inform motorists of such regulations, and report back to the Planning Committee with recommendations to optimize the effectiveness of the through street system.

**(i) GENERAL INFORMATION/OTHER BUSINESS (Item 11)**

The General Manager of Planning and Economic Development asked for and was granted permission to release the staff report respecting the Downtown Secondary Plan in advance of the agenda.

**(i) Outstanding Business List (Item 11.1)****(Farr/Collins)**

That the following new due dates be approved:

Item "C" – C.I. to Amend Hamilton Zoning By-law No. 6593 for 118 to 338 Mountain Brow Boulevard (Hamilton) (PED13101)

Due date: February 20, 2018

New due date: June 5, 2018

Item "D" – (OMB) Decision re: 121 Augusta Street, Staff to review the RCF's in the context of the Prov. Policy, as it relates to special needs, and the Human Rights Code and report back.

Due date: February 20, 2018

New due date: March 20, 2018

Item "H" – Deferral of Item 5 of HMHC Report 15-005 proposing inclusion of 1021 Garner Rd E on register of properties of cultural heritage value or interest to allow consultation with property owner and to correct wording.

Due date: February 20, 2018

New due date: March 20, 2018

Item "N" – That staff be directed to present to the Planning Committee an updated digital sign by-law.

Due date: February 20, 2018

New due date: April 17, 2018

Item "P" - That staff be directed to report back on how to revise Council's current policy respecting OMB appeals for non-decision to ensure the public has the opportunity to provide input

Due date: February 20, 2018

New due date: April 17, 2018

Item "BB" - Staff to report back on Class 4 Noise receptor status for Downtown Secondary Plan and/or broader city-wide policy.

Due date: February 6, 2018

New due date: April 3, 2018

Item "DD" - That the appropriate City of Hamilton staff be requested to address the issue of declining establishments paying into the Paid Duty program in Hess Village and report back to the Planning

Committee 45 days before the start of the 2018 Paid Duty season with solutions.

Due date: February 20, 2018

New due date: March 20, 2018

- (b) That the following Items be identified as complete and be removed:

Item “L” – Staff to report back with periodic updates re: progress on capturing illegal businesses and increase in licensed businesses. (Item 5.2 on this agenda)

Item “Q” – That staff report back on the number of Minor Variance applications in the AEGD with an assessment as to whether or not the refund program should be continued in December, 2017. (Item 8.4 on this agenda)

Item “AA” – That staff be directed to report to the Planning Committee as to whether or not the Licensing Division is able to continue to licence rental properties without the resources requested (Item 5.1 on this agenda)

**CARRIED**

**(j) PRIVATE AND CONFIDENTIAL (Item 12)**

- (i) **Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017* - Ontario Proposed Changes to the Land Use Planning and Appeals System (LS16027(c)/PED16237(b)) (City Wide) (Item 12.1)**
- (ii) **Application for Official Plan Amendment and Zoning By-law Amendments for Lands Located at 860 Queenston Road (OMB Case No. PL170282) (LS18010) (Ward 9) (Added Item 12.2)**

**(Conley/Collins)**

That Committee move into Closed Session to discuss Items 12.1 and 12.2 pursuant to Section 8.1, Sub-sections (e) and (f) of the City’s Procedural By-law 14-300, and Section 239(2), Sub-sections (e) and (f) of the Municipal Act, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City and the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

**CARRIED**

Committee reconvened in Open Session at 3:33 p.m.

For disposition of these matters, refer to Items 20 and 21.

**(k) ADJOURNMENT (Item 13)**

**(Green/B. Johnson)**

That, there being no further business, the Planning Committee be adjourned at 3:35 p.m.

**CARRIED**

Respectfully submitted,

Councillor A. Johnson  
Chair, Planning Committee

Ida Bedioui  
Legislative Co-ordinator  
Office of the City Clerk

## 4.1

### **Form: Request to Speak to Committee of Council**

Submitted on Thursday, February 15, 2018 - 9:01 am

==Committee Requested==

**Committee:** Planning Committee

==Requestor Information==

**Name of Individual:** Marion Emo

**Name of Organization:** Hamilton/Burlington SPCA

**Contact Number:** 905-574-7722 ext 310

**Email Address:** [memo@hbspca.com](mailto:memo@hbspca.com)

**Mailing Address:**

245 Dartnall Road  
Hamilton, ON L8W 3V9

**Reason(s) for delegation request:** Respond to Report in front of Committee: Animal Adoptions for the City of Hamilton

**Will you be requesting funds from the City?** No

**Will you be submitting a formal presentation?** Yes





# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application UHOPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Brynn Nheiley 905-546-2424 Ext. 4283
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## Council Direction:

In accordance with the provisions of the *Planning Act* in effect at the time of the application, specifically subsections 17 (40), 17 (40.1), 22 (7), 34 (11) and 51 (34), an Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Application may be appealed to the Ontario Municipal Board (OMB) after 270 days (Official Plan Amendment Application), 120 days (Zoning By-law Amendment Application) and 180 days (Plan of Subdivision Application) if Council has not made a decision on the Application. These regulations and timelines are based on the *Planning Act* prior the Royal Assent of Bill 139 on December 12, 2017 which will amend the *Planning Act*.

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council, pursuant to the *Planning Act* was passed by City Council on May 18, 2010. This Information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB.

The following information is provided for Planning Committee's information with regards to Urban Hamilton Official Plan Amendment Application UHOPA-13-008, Zoning By-law

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**SUBJECT: Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application OPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037) - Page 2 of 7**

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Amendment Application ZAC-13-039 and Plan of Subdivision Application 25T-201306, which have been appealed to the OMB for lack of decision.

**Information:**

The subject lands municipally known as 111 Parkside Drive are located on the north side of Parkside Drive. The site is accessed via Sadielou Boulevard (see location map attached as Appendix "A" to Report PED18037). The Applicant is Metropolitan Consulting Incorporated.

The subject lands are surrounded to the north by agricultural lands, including an Environmentally Sensitive Area and Provincially Significant Wetland, to the east by agricultural lands which have received Draft Plan Approval, and to the west by agricultural lands and an easement for Imperial Oil Limited. To the south are lands developed by Silverwood Homes (Owner), in Phase 1 (25T-200621), including reserved neighbourhood park space, semi detached dwellings and townhouses. These Applications are considered to be Phase 2 / 3 of the development of lands owned by Silverwood Homes (Owner).

The subject lands make up an irregular shaped site with a frontage of 205 m, an area of 7.27 ha to the south of Borer's Creek and 14 ha located north of Borer's Creek (see Draft Plan of Subdivision attached as Appendix "B" to Report PED18037).

**Background:**

These Applications were predated by the Flamborough Official Plan Amendment Application (OPA-12-016), Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application (ZAC-12-041) and Draft Plan of Subdivision Application (25T-200621, which proposed to construct the following:

- Blocks 1-3: a mix of semi detached units, duplexes and / or street townhouses and back-to-back townhouses at a density of 70 to 100 residential units per net residential hectare;
- Block 4: a mix of multiple dwelling units, including townhouses, apartments and other forms of multiple dwellings to a maximum of 15 storeys, at a density of 100 to 125 residential units per net residential hectare, accessed via a public local road;

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**SUBJECT: Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application OPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037) - Page 3 of 7**

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- Lands to the north of the future public east-west arterial road including Borer's Creek and Environmentally Sensitive Areas with buffering setbacks to be preserved; and,
- Lands to the north of the Environmentally Sensitive Areas are located outside of the Urban Boundary, in the rural area, and were not included for development in these Applications. However, these Applications proposed to access these lands via a public local road, identified as Street "A", which crosses Borer's Creek and the Environmentally Sensitive Areas.

**Chronology:**

- February 22, 2011: Formal Consultation FC-10-131.
- February 28, 2011: Formal Consultation Document sent to Applicant.
- September 24, 2012: Application submitted for OPA-12-016, ZAC-12-041, 25T-200621.
- October 23, 2012: Notice of Incomplete Application sent to Applicant.
- July 29, 2013: Email to Applicant indicating expiry of FC-10-131.
- September 4, 2013: Memo from Applicant indicating Traffic Impact Study condition of FC-10-131 was complete, and requesting that further Formal Consultation be waived.
- September 6, 2013: Application submitted for 25T-200621. This application replaced the prior applications of September 24, 2012.
- September 12, 2013: Application submitted for OPA-13-008, ZAC-13-039. This application replaced the prior applications of September 24, 2012.
- October 4, 2013: Applications deemed complete.
- October 8, 2013: Notice of Complete Applications sent to Applicant.

These Applications were circulated to Agencies and Departments and a range of comments were received. The most significant issue was the proposed crossing of the

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Environmentally Sensitive Area by Street “A” and the proposed extension of that street past the Urban Boundary into the rural area.

January 29, 2014: Applicant submitted a revised Draft Plan of Subdivision, subject to this Appeal to the Ontario Municipal Board.

**Applications:**

Official Plan Amendment Application, as revised on January 29, 2014:

The purpose of this Application is to permit the redesignation of two (2) blocks comprising 0.95 hectares between McCurdy Avenue and the proposed future public east-west arterial road, from Low Density Residential 2 to the Medium Density Residential 4 designation. This change is proposed to allow the blocks to be developed with a mix of housing types to permit higher density forms of development in the range of 70-100 units per hectare.

In addition, the Official Plan Amendment Application is required to permit the building height in the High Density Residential 1 designation (Block 3) to be approximately 18 storeys (55m), whereas the maximum permitted building height in this designation is 15 storeys.

Zoning By-law Amendment Application, as revised on January 29, 2014:

The purpose of this Application is to amend the Flamborough Zoning By-law No. 90-145-Z for lands which are part of the proposed Draft Plan of Subdivision in order to permit the following:

- medium density residential blocks which may include street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings within a Site-specific Medium Density Residential “R6” Zone (Blocks 1 and 2). Specific provisions are proposed in the draft amending by-law for various housing forms to address minimum setbacks, densities, maximum building height, required planting strips, and maximum yard encroachments, among other things; and,
- a medium-high density residential block which may include townhouses, back-to-back townhouses and apartments (up to 18 storeys) within a Site-specific Medium-High Density Residential “R7” Zone (Block 3). Specific provisions are proposed in the draft amending by-law for various housing forms to address setbacks, densities,

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**SUBJECT: Appeal to the Ontario Municipal Board (OMB) for Lack of Decision on Urban Hamilton Official Plan Amendment Application OPA-13-008, Town of Flamborough Zoning By-law No. 90-145-Z Amendment Application ZAC-13-039 and Draft Plan of Subdivision Application 25T-201306 for Lands Located at 111 Parkside Drive (Flamborough) (Ward 15) (PED18037) - Page 5 of 7**

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maximum building height, required planting strips, and maximum yard encroachments, among other things.

Draft Plan of Subdivision (25T-201306), as revised on January 29, 2014:

The purpose of the Draft Plan of Subdivision Application is to establish Phase 2 / 3 of the development for lands owned by Silverwood Homes which are situated adjacent to, and north of the future east-west arterial.

The proposed Draft Plan of Subdivision consists of the following:

- Blocks 1 and 2: comprising 0.95 hectares (instead of 0.84 hectares of the previous Application) for street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings, permitting up to 125 units per hectare, located south of the future public east-west arterial road;
- Block 3: 2.86 hectares (instead of 1.99 hectares of the previous Application) for street townhouses, townhouses, back-to-back townhouses, stacked townhouses and apartment buildings, permitting up to 175 units per hectare, located north of the future public east-west arterial road; and,
- Extend Sadielou Boulevard from McCurdy Road to provide direct access to the east-west arterial.
- This revision addressed concerns of Street “A” by eliminating the proposed street.

This revision was recirculated with comments forwarded to the Applicant beginning May 13, 2014. Comments from the Hamilton Conservation Authority were delayed by flood control work on Borer’s Creek which would impact the Application. These comments were provided by the Applicant on July 28, 2015. Comments included, but were not limited to:

- Stormwater management measures require more information for assessment;
- A hydrogeological report is required to demonstrate no negative impacts to public stormwater systems or to the Environmentally Sensitive Area;
- Updated delineations of the flood and erosion hazard limits and wetland boundaries on the plans and drawings are required; and,

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- The revised Environmental Impact Assessment was unchanged from previous applications and was therefore unable to be assessed.

Staff followed up with the Applicant on three (3) occasions to seek responses or revisions based on the comments that were provided:

- January 20, 2015;
- February 19, 2015; and,
- September 9, 2015.

No response or revisions were received by Staff until September 19, 2017, when City Staff became aware that representation of Silverwood Homes (Owner) had changed from Metropolitan Consulting Inc. (Applicant), to WEBB Planning Consultants Inc.

On October 19, 2017 WEBB Planning Consultants Inc. submitted a new concept plan for consideration, and met with City Staff on October 20, 2017. The purpose of the meeting was to determine how to resume the planning process, given the duration of inactivity of the Applications.

The October 19, 2017 concept plan proposes to construct the following:

- Blocks 1-3: not included in concept sketch plan, therefore assumed to be unchanged from previous submission;
- Lands north of the future public east-west arterial road: three (3) buildings of 10 to 12 storeys each, containing 120 dwelling units each, and includes 465 surface parking spots. The proposed density is 126 units per hectare, accessed via two (2) private driveways off of the future public east-west arterial road; and,
- Lands to the north of the future public east-west arterial road, include Borer's Creek and Environmentally Sensitive Areas with buffering setbacks to be preserved.

Development of land to the north of the Environmentally Sensitive Areas has not been included in this concept. There was a general discussion between Staff and WEBB Planning Consultants Inc. of the necessity to revise any reports or studies that will be impacted by changing the development proposal. To date the Applicant has not submitted any revised documentation, as discussed at the October 20, 2017 meeting.

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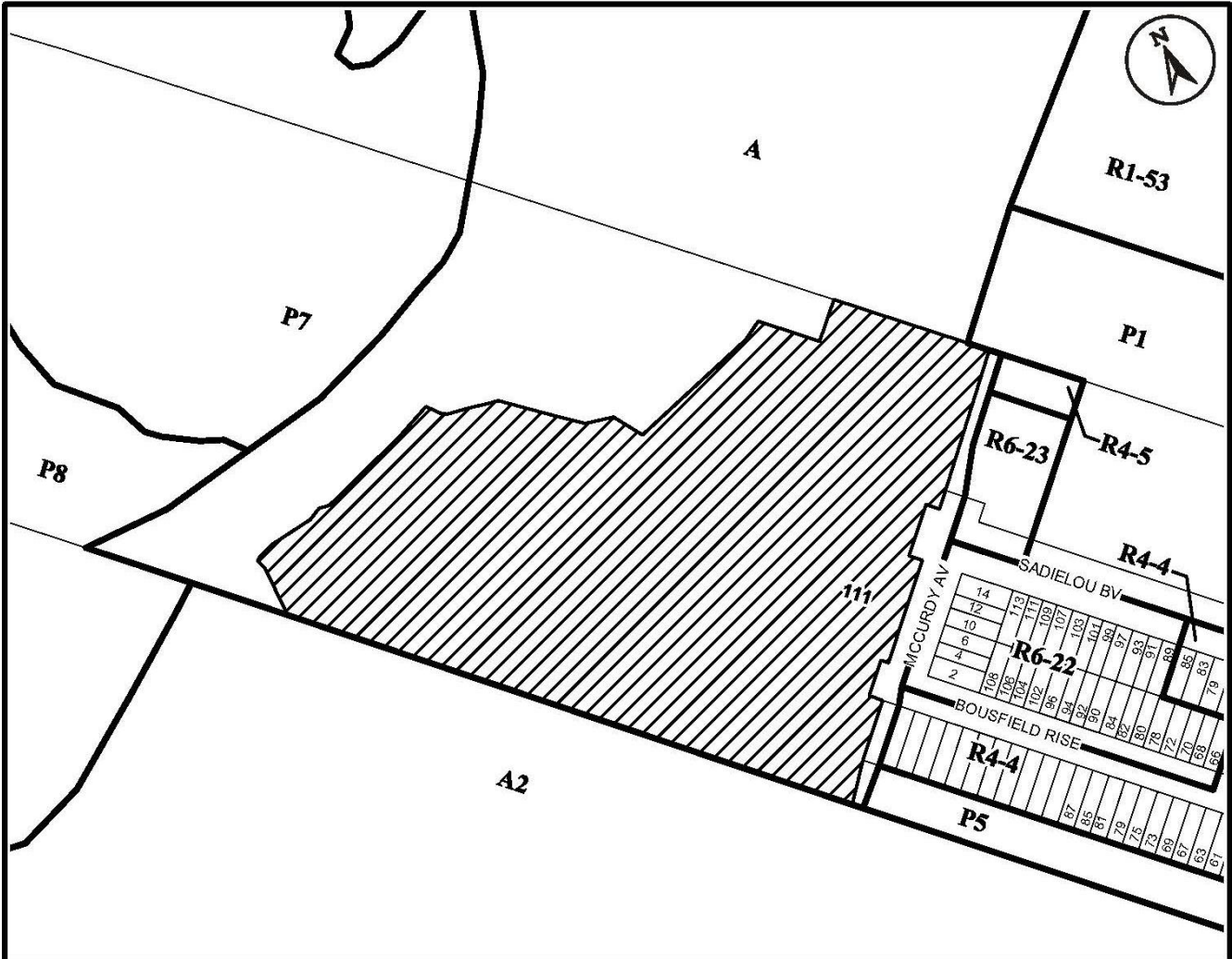
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The appeal to the OMB was received by the City Clerks' office on October 30, 2017, 1511 days after the receipt of the initial Application.

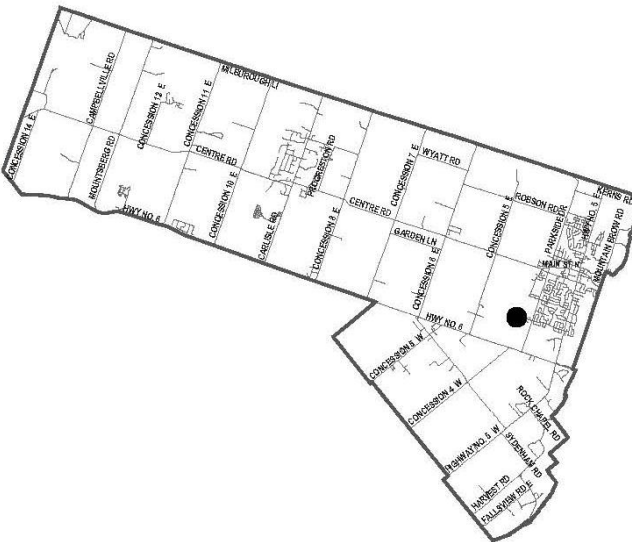
**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Location Map  
Appendix "B": Draft Plan of Subdivision  
Appendix "C": Appeal Letter

BN:jp



● Site of the Application



# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-13-039\_OPA-13-08\_25T-201306

Date:  
December 19, 2017

Appendix "A"


Scale:  
N.T.S.

Planner/Technician:  
BN/AL

### Subject Property

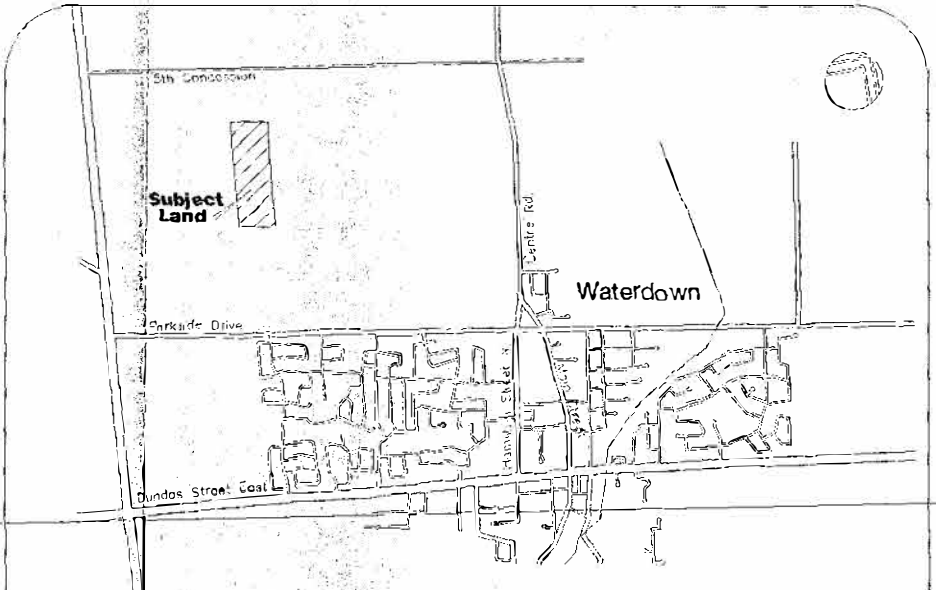
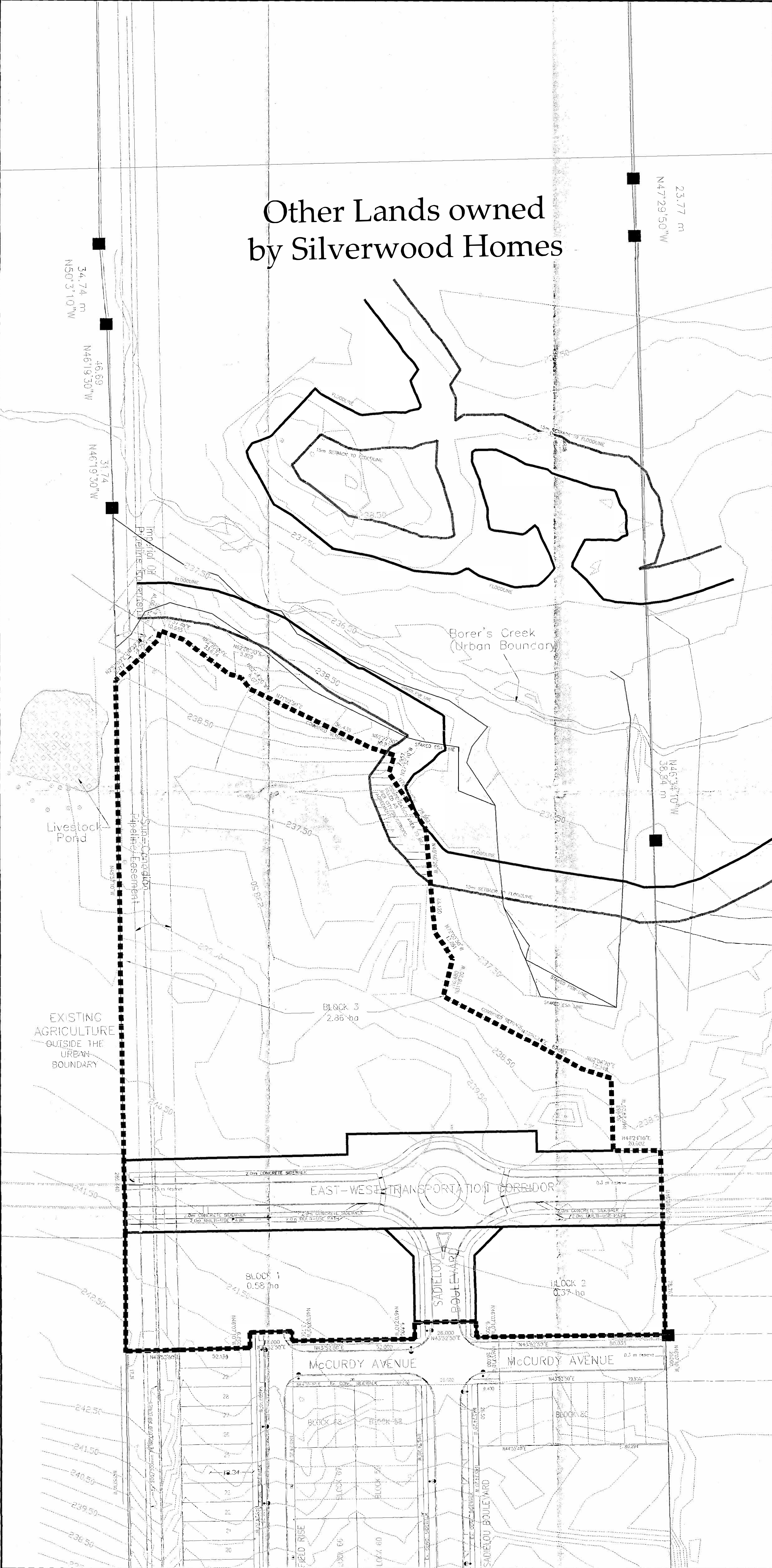
 111 Parkside Drive

Ward 15 Key Map

N.T.S. 



# Other Lands owned by Silverwood Homes



KEY PLAN (N.T.S.) SITE LOCATION

**REQUIREMENTS OF THE PLANNING ACT, R.S.O. 1990, c. P.13 SECTION 51(17)**

(a) See Plan	(b) See Plan	(c) See Plan
(d) Residential	(e) See Plan	(f) See Plan
(g) See Plan	(h) Municipal Water	(i) City Loans
(l) See Plan	(k) Full Services	(j) See Plan

**OWNER'S CERTIFICATE**

I (undersigned) being the registered owner of the subject lands described in this application, have examined the contents of this application and hereby certify that the information submitted with the application is correct insofar as I have knowledge of these facts and I hereby authorize Metropolitan Consulting Inc. to act in my stead in this matter.

*[Signature]* 25 3 14  
Silverwood Homes Inc. Day Month Year

**SURVEYOR'S CERTIFICATE**

I hereby certify that the boundary of the lands to be subdivided and their relationship to the adjacent lands are accurately and correctly shown on this plan.

DATE: Mar 25, 2014 *[Signature]*  
T. SALB B.Sc., O.L.S.  
J.D. ENGINEER LIMITED  
PHONE No. (905) 875-9956

**LEGEND**

—— Block Boundary  
- - - - - Phase Line

**LAND USE SCHEDULE**

USE	BLOCK #	HECTARE	ACRE
MEDIUM DENSITY RESIDENTIAL II	1-2	0.95	2.35
MEDIUM-HIGH DENSITY RESIDENTIAL	3	2.86	7.07
0.3 METRE RESERVES	N/A	0.002	0.00
<b>ROADS</b>			
EAST-WEST COLLECTOR	N/A	0.80	1.97
SADIELOU BOULEVARD-26m	N/A	0.11	0.27
<b>TOTAL SITE AREA</b>		<b>4.72</b>	<b>11.66</b>
<b>OTHER URBAN AREA</b>		<b>9.64</b>	<b>23.82</b>
<b>OTHER NON-URBAN AREA</b>		<b>17.79</b>	<b>43.96</b>
<b>TOTAL PROPERTY AREA</b>		<b>32.15</b>	<b>79.44</b>
<b>PROPOSED ROADS</b>			
		<b>METRES</b>	<b>FEET</b>
EAST/WEST COLLECTOR 32 m		227.57	746.62
SADIELOU BOULEVARD 26 m		46.58	152.82
<b>TOTAL ROAD LENGTH</b>		<b>274.15</b>	<b>899.44</b>

**REVISIONS**

NO.	DATE	BY	REVISIONS
3	13/12/13	DV	DELETION OF STREET & PREVIOUSLY PROPOSED
2	20/11/13	DV	DEVELOPMENT LIMITS, REVISION PER SAVANTA
1	18/07/13	DV	DELETION OF BRUSHFIELD FIVE CONNECTION TO EAST-WEST CORRIDOR-PER RECOMMENDATIONS IN TRAFFIC STUDY

**Scale 1:750**

**APPLICANT**  
Silverwood Homes Inc.  
410 Industrial Drive  
Milton, ON, L9T 5A6, Canada  
Phone: (905) 693-8525  
Fax: (905) 693-1103

**AGENT**  
 4450 PALETTA COURT  
BURLINGTON, ON L7L 5R2  
TEL. 905.637.2926  
FAX. 905.637.3268  
EMAIL: ENGINEERING@METROCON.CA

**TITLE**  
**Silverwood Homes  
Draft Plan of Subdivision  
PHASE 2**

**LEGAL DESCRIPTION**  
PART OF LOT 11, CONCESSION 4  
FORMERLY IN THE TOWNSHIP  
OF EAST FLAMBOROUGH, NOW  
IN THE CITY OF HAMILTON.

**MUNICIPALITY**  
 **Corporation of the  
The City of Hamilton,  
Ontario, Canada**

MCI Project #: N10007 DATE: JANUARY 29, 2014

October 30, 2017

Michael J. McQuaid, Q.C.  
T: 416-947-5020  
mcquaid@weirfoulds.com

File 11832.00001

**VIA COURIER**

City of Hamilton  
Office of the City Clerk  
71 Main St. W., 1st Floor  
Hamilton, Ontario  
L8P 4Y5

Dear Sir/Madam:

**Re: Notice of Appeal of Proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision, Pursuant to Sections 22(7), 34(11) and 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, respectively  
111 Silverwood Drive, City of Hamilton**

We are counsel for Silverwood Homes Inc. ("**Silverwood**") owner of lands municipally known as 111 Silverwood Drive (the "**Site**"), legally described as Lot 11, Concession 4, in the Town of Flamborough, now the City of Hamilton (the "**City**"). The Site is located in the Village of Waterdown and physically on the western edge of the Waterdown North Secondary Plan Area.

The Site is rectangular in shape and is approximately 7.27 hectares in size. The total area owned by Silverwood in this location is approximately 32 acres. The larger land holdings have been development in various stages through a draft plan of subdivision process, including required Zoning and Official Plan Amendments. The Site represents Phase 2/3.

On November 8, 2013, the City issued a "Notice of Complete Applications and Preliminary Circulation" (the "**Notice**"). Three concurrent applications were filed to advance the approvals required for the Phase 2/3 lands consisting of an Official Plan Amendment, a Zoning By-law Amendment and a Subdivision (collectively the "**Applications**"). The draft plan was revised by submission to the City of a draft plan dated January 29, 2014 and Silverwood seeks the necessary amendments to the applications which will implement that revised draft plan. To date, City Council has failed to adopt the requested Official Plan amendment within 180 days, or to make a decision on the proposed Zoning By-law amendment within 120 days. Similarly, more than 180 days have passed and the City, as the approval authority, has failed to make a decision on the Draft Plan of Subdivision.

Accordingly, on behalf of Silverwood, we hereby appeal the proposed Official Plan amendment and Zoning By-law amendment to the Ontario Municipal Board (the "**Board**") pursuant to the *Planning Act*, R.S.O. 1990, c. P.13, as amended (the "**Act**"): in the case of the proposed Official Plan amendment, pursuant to section 22(7) of the Act; in the case of the proposed Zoning By-law pursuant to section 34(11) of the Act . We hereby also appeal the Draft Plan of Subdivision to the Board pursuant to Section 51(34) of the Act.

## THE APPLICATIONS

The Site is currently vacant and is used as farmland. The purpose and effect of the Applications are described by the Notice as follows:

The purpose and effect of these Applications are described by the Notice, as follows:

### **Purpose and Effect of Applications**

#### Official Plan Amendment Application (File No. OPA-13-008)

The purpose and effect of the proposed Official Plan Amendment is to permit Blocks 1 , 2 and 3 to be used for the development of medium and higher density housing forms in the range of 70-100 units per hectare, instead of lower density uses as shown on the attached revised draft plan.

#### Zoning By-law Amendment Application (File No. ZAC-13-039)

The purpose and effect of the proposed Zoning By-law Amendment is to amend the Flamborough Zoning By-law for lands which are part of the proposed draft plan of subdivision in order to permit zoning for the following:

- medium density residential blocks (Blocks 1 and 2) which may include street townhouses, townhouses, back-to-back townhouses and semi-detached dwellings;
- a medium-high density residential block (Block 3) which may include townhouses, back-to-back townhouses and apartments (up to 15 storeys);

#### Subdivision Application (File No. 25T-201306)

The purpose and effect of the revised proposed draft plan of subdivision is to establish a new phase of development for lands owned by Silverwoods Homes which are situated on both the south side (Phase 2) and the north side (Phase 3) of the future East-West Arterial.

The proposed Draft Plan of Subdivision consists of the following:

- 2 Blocks for Medium Density Residential development (Blocks 1 and 2);
- 1 Block for Medium-High Density Residential for development of up to 125 units per ha. (Block 3);

The concurrent applications for an Official Plan Amendment and Rezoning were to advance a site-specific policy and implementing zoning to permit the intended subdivision layout, including a higher form of development density. The Applications are intended to facilitate a compact form of development and to assist the City in meeting the density requirement as contained in the City's Official Plan.

While Silverwood remains eager and willing to work with the City and interested stakeholders, no decision or direction has been received to conclude on the most reasonable option. Moreover, with the upcoming changes contemplated to the Act, Silverwood has decided to file a "friendly" appeal of the Applications to the Board in order to advance the development.

Despite these three appeals, Silverwood remains prepared to consider appropriate revisions to the proposed redevelopment, once further direction is provided by City Staff and Council. It remains our hope that this matter can be resolved on a consensual basis rather than through a contested Board hearing. However, we are filing the appeals at this stage in the expectation that the Applications for the proposed redevelopment will inevitably end up before the Board in any event, and in order to preserve our clients' place in the hearing queue. Through this hopefully continued consultation process with the City, we expect that refinements to the Draft Plan of Subdivision may be necessary, together with complementary amendments to the other concurrent planning applications.

Finally, while reasons for an appeal from a non-decision are not required under sections 22(7), 34(11) and 51(34) of the Act, we note the following in support of our clients' appeals of the Applications:

1. The proposed redevelopment of the Site is consistent with and conforms to the applicable planning policy framework as noted below:
  - (a) The Provincial Policy Statement (2014) ("**PPS**"), by providing a sustainable land use pattern for the financial well-being of the Province and the Municipality;
  - (b) The Provincial Growth Plan for the Greater Golden Horseshoe (2006) ("**Growth Plan**"), by providing a transit-supportive form of intensification within a built-up

area utilizing existing services and infrastructure. Moreover, it is a pedestrian-friendly site within a transit-oriented corridor, with major roadways and bus routes abutting the subject properties; and

- (c) The City's Official Plan, insofar as the proposed higher density mixed-use development will facilitate intensification within the built-up area;
2. From both a land use and urban design standpoint, the proposed redevelopment is compatible with and sensitive to the pattern of existing development within the surrounding area, in terms of the proposed heights, densities, built form, transitional elements and other urban design features. At the same time, it affords an opportunity to significantly improve the built-form and implement the approved policy framework with a high-quality and contemporary urban design.
3. The proposed redevelopment facilitates an appropriate form of land development and represents good land use planning.
4. The proposed Zoning By-law amendments for the Site include appropriate zoning regulations, which collectively eliminate or mitigate any undue impacts on adjoining properties or the surrounding community. Those zoning regulations will form the basis for a detailed site plan review.
5. The proposed redevelopment represents an appropriate level of redevelopment and intensification of the Site. The proposed redevelopment is in keeping with the planning and urban design framework established in the PPS, the Growth Plan, the City's Official Plan and the applicable urban design guidelines.
6. From a land use planning perspective, the proposed redevelopment of the Site promotes the achievement of numerous policy directives supporting intensification within built-up urban area.
7. Such further and other reasons as counsel may advise and the Board may permit.

In satisfaction of the Board's filing requirements, attached please find the following:

1. Three (3) Board appeal forms entitled "Appellant Form (A1)" duly completed and signed in respect of the Official Plan, Zoning, and Draft Plan of Subdivision appeals herein; and
2. One (1) cheque, in the amount of \$900.00, payable to the Minister of Finance representing the Board's filing fees for the three appeals herein.

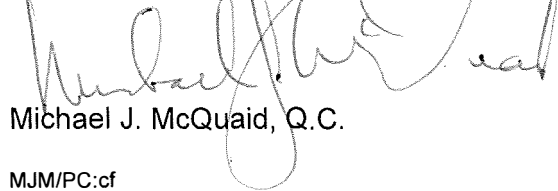
In the interim, kindly acknowledge the receipt and sufficiency of this letter and advise that the appeals have been forwarded to the Board in accordance with the provisions of sections 22(9) and 34(23) of the *Planning Act*.

By copy of this letter to the Board, we are requesting that the files on these three related appeals be processed concurrently pending a formal consolidation with one another.

Thank you for your attention to this matter. Should you have any questions or require further information, please do not hesitate to contact me or Paul Chronis, Senior Planner in our office, at (416) 947-5069 or [pchronis@weirfoulds.com](mailto:pchronis@weirfoulds.com).

Yours truly,

**WeirFoulds LLP**



Michael J. McQuaid, Q.C.

MJM/PC:cf  
Enclosures

c: Paul Chronis, WeirFoulds LLP  
Clients

11028532.1



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: 416-212-6349  
Toll Free: 1-866-448-2248  
Fax: 416-326-5370  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Instructions for preparing and submitting the Appellant Form (A1)

- **Important: Do not send your appeal directly to the Ontario Municipal Board (OMB).**  
Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the municipality/approval authority will tell you where to send the form and appeal fee.
- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the OMB.
- We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at:  
Toll free: 1-866-448-2248; or  
TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the OMB. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee of \$300 is required for each type of appeal you are filing.  
Example: An appeal of an official plan and a zoning by-law would be \$300 + \$300 for a total fee of \$600.
- To view the Fee Schedule, visit the OMB's website [<http://elto.gov.on.ca/omb/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the OMB if you retain a representative after the submission of this form.
- The *Planning Act*, *Development Charges Act*, *Education Act* and *Ontario Municipal Board Act* are available on the OMB's website [<http://elto.gov.on.ca/omb/legislation-and-regulations/>].
- Fields marked with an asterisk (\*) are mandatory.



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
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 Toronto ON M5G 1E5  
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 Toll Free: 1-866-448-2248  
 Fax: 416-326-5370  
 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality  
**OFFICE OF THE CITY CLERK**  
**OCT 31 2017**

**1. Appeal Type (Please check all applicable boxes) \***

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input checked="" type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that <b>approved</b> a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	51(43)
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	
	<input type="checkbox"/> Appeal changed conditions	51(48)



Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Development Charges Act Matters</b>		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

**Other Matters**

Subject of Appeal	Act/Legislation Name	Section Number
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**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*  
 111 Silverwood Drive, Hamilton

Municipality \*  
 City of Hamilton

Upper Tier (Example: county, district, region)

**3. Appellant/Objector Information**

**Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name Nesbitt	First Name John G.
----------------------	-----------------------

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
 Silverwood Homes Inc.

Professional Title  
 President

Email Address  
 jeff.colyer@countrygreenhomes.com

Daytime Telephone Number * 905-693-8525 ext.	Alternate Telephone Number	Fax Number 905-693-1103
---	----------------------------	----------------------------

**Mailing Address**

Unit Number C	Street Number * 410	Street Name * Industrial Drive	PO Box
City/Town * Milton	Province * Ontario	Country * Canada	Postal Code * L9T 5A6

**4. Representative Information**

I hereby authorize the named company and/or individual(s) to represent me

Last Name McQuaid	First Name Mike
----------------------	--------------------

Company Name  
 WeirFoulds LLP

Professional Title  
 Lawyer

Email Address  
 mcquaid@weirfoulds.com

Daytime Telephone Number 416-365-1110 ext.5020	Alternate Telephone Number	Fax Number 416-365-1876
---	----------------------------	----------------------------

**Mailing Address**

Unit Number 4100	Street Number 66	Street Name Wellington Street West	PO Box
City/Town Toronto	Province Ontario	Country Canada	Postal Code M5K 1B7

**Note:** If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

- I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

## 5. Appeal Specific Information

Municipal Reference Number(s)  
OPA-13-008

Outline the nature of your appeal and the reasons for your appeal \*  
Refer to the attached Notice of Appeal

### Oral/written submissions to council

Did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting     Written submissions to council

### Planning Act matters only

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

- Yes     No

## 6. Related Matters

Are there other appeals not yet filed with the Municipality?

- Yes     No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

- Yes     No    ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)  
Zoning and Official Plan concurrently appealed

## 7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

- 1 day     2 days     3 days     4 days     1 week  
 More than 1 week ► Please specify number of days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)  
Planning, Engineering and Traffic

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes  No

### 8. Required Fee

Total Fee Submitted \* \$ 300

Payment Method \*  Certified cheque  Money Order  Solicitor's general or trust account cheque

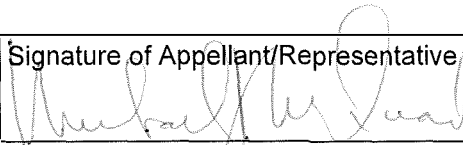
### 9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative

Michael McQuaid

Signature of Appellant/Representative



Date (yyyy/mm/dd)

2017/10/30

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: 416-212-6349  
Toll Free: 1-866-448-2248  
Fax: 416-326-5370  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

### Instructions for preparing and submitting the Appellant Form (A1)

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 Fax: 416-326-5370  
 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

**Appellant Form (A1)**

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality  
**OFFICE OF THE CITY CLERK**  
 OCT 31 2017

**1. Appeal Type (Please check all applicable boxes) \***

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
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	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	22(7)
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
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<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	53(19)
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	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Development Charges Act Matters</b>		
Development Charge	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
Education Development	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
Aggregate Removal	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
Heritage	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
<b>Other Matters</b>		
Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*  
 111 Silverwood Drive, Hamilton

Municipality \*  
 City of Hamilton

Upper Tier (Example: county, district, region)

**3. Appellant/Objector Information**

**Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name Nesbitt	First Name John G.
----------------------	-----------------------

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
 Silverwood Homes Inc.

Professional Title  
 President

Email Address  
 jeff.colyer@countrygreenhomes.com

Daytime Telephone Number * 905-693-8525	ext.	Alternate Telephone Number	Fax Number 905-693-1103
--	------	----------------------------	----------------------------

**Mailing Address**

Unit Number C	Street Number * 410	Street Name * Industrial Drive	PO Box
City/Town * Milton	Province * Ontario	Country * Canada	Postal Code * L9T 5A6

**4. Representative Information**

I hereby authorize the named company and/or individual(s) to represent me

Last Name McQuaid	First Name Mike
----------------------	--------------------

Company Name  
 WeirFoulds LLP

Professional Title  
 Lawyer

Email Address  
 mcquaid@weirfoulds.com

Daytime Telephone Number 416-365-1110	ext. 5020	Alternate Telephone Number	Fax Number 416-365-1876
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**Mailing Address**

Unit Number 4100	Street Number 66	Street Name Wellington Street West	PO Box
City/Town Toronto	Province Ontario	Country Canada	Postal Code M5K 1B7

**Note:** If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.



**5. Appeal Specific Information**

Municipal Reference Number(s)  
25T-201306

Outline the nature of your appeal and the reasons for your appeal \*  
Refer to the attached Notice of Appeal

**Oral/written submissions to council**

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting     Written submissions to council

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

Yes     No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes     No    ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)  
Official Plan and Zoning concurrently appealed

**7. Scheduling Information**

How many days do you estimate are needed for hearing this appeal?

1 day     2 days     3 days     4 days     1 week

More than 1 week ► Please specify number of days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)  
Planning, Engineering and Traffic

Do you believe this matter would benefit from mediation?  
(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes     No

**8. Required Fee**

Total Fee Submitted \* \$ 300

Payment Method \*  Certified cheque  Money Order  Solicitor's general or trust account cheque

**9. Declaration**

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Michael McQuaid		2017/10/30

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
655 Bay Street, Suite 1500  
Toronto ON M5G 1E5  
Telephone: 416-212-6349  
Toll Free: 1-866-448-2248  
Fax: 416-326-5370  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

## Appellant Form (A1)

### Instructions for preparing and submitting the Appellant Form (A1)

- **Important: Do not send your appeal directly to the Ontario Municipal Board (OMB).**

Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority/School Board, as applicable. The notice of decision provided by the municipality/approval authority will tell you where to send the form and appeal fee.

- The Municipality/Approval Authority/School Board will forward your appeal(s) and fee(s) to the OMB.
- We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible at:  
Toll free: 1-866-448-2248; or  
TTY: 1-800-855-1155 via Bell relay
- E-mail is the primary form of communication used by the OMB. Providing an e-mail address ensures prompt delivery/receipt of documents and information. Please ensure to include your e-mail address in the space provided on the appeal form.
- A filing fee of \$300 is required for each type of appeal you are filing.  
Example: An appeal of an official plan and a zoning by-law would be \$300 + \$300 for a total fee of \$600.
- To view the Fee Schedule, visit the OMB's website [<http://elto.gov.on.ca/omb/fee-chart/>].
- The filing fee **must** be paid by certified cheque or money order, in Canadian funds, payable to the **Minister of Finance**. Do not send cash.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Professional representation is not required but please advise the OMB if you retain a representative after the submission of this form.
- The *Planning Act, Development Charges Act, Education Act* and *Ontario Municipal Board Act* are available on the OMB's website [<http://elto.gov.on.ca/omb/legislation-and-regulations/>].
- Fields marked with an asterisk (\*) are mandatory.



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 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

**Appellant Form (A1)**

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality  
**OFFICE OF THE CITY CLERK**  
**OCT 31 2017**

**1. Appeal Type (Please check all applicable boxes) \***

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority) <input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment <input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days <input type="checkbox"/> Council failed to adopt the requested amendment within 180 days <input type="checkbox"/> Council refused the requested amendment	17(24) 17(36) 17(40) 22(7) 2
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law <input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days <input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	34(19) 34(11) 3
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application <input type="checkbox"/> Appeal conditions imposed <input type="checkbox"/> Appeal changed conditions <input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(19) 53(27) 53(14)
Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days <input type="checkbox"/> Appeal a decision of an Approval Authority that <b>approved</b> a plan of subdivision <input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> a plan of subdivision <input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority <input type="checkbox"/> Appeal conditions imposed by an Approval Authority <input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal) <input type="checkbox"/> Appeal changed conditions	51(34) 51(39) 51(43) 51(48)

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Development Charges Act Matters</b>		
Development Charge	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
Education Development	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
Aggregate Removal	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
	<input type="checkbox"/> Revocation of licence	20(4)
<b>Municipal Act Matters</b>		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
Heritage	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
<b>Other Matters</b>		
Subject of Appeal	Act/Legislation Name	Section Number

**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*  
 111 Silverwood Drive, Hamilton

Municipality \*  
 City of Hamilton

Upper Tier (Example: county, district, region)

**3. Appellant/Objector Information**

**Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name Nesbitt	First Name John G.
----------------------	-----------------------

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
 Silverwood Homes Inc.

Professional Title  
 President

Email Address  
 jeff.colyer@countrygreenhomes.com

Daytime Telephone Number * 905-693-8525	ext. 	Alternate Telephone Number	Fax Number 905-693-1103
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**Mailing Address**

Unit Number C	Street Number * 410	Street Name * Industrial Drive	PO Box
City/Town * Milton	Province * Ontario	Country * Canada	Postal Code * L9T 5A6

**4. Representative Information**

I hereby authorize the named company and/or individual(s) to represent me

Last Name McQuaid	First Name Mike
----------------------	--------------------

Company Name  
 WeirFoulds LLP

Professional Title  
 Lawyer

Email Address  
 mcquaid@weirfoulds.com

Daytime Telephone Number 416-365-1110	ext.5020	Alternate Telephone Number	Fax Number 416-365-1876
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**Mailing Address**

Unit Number 4100	Street Number 66	Street Name Wellington Street West	PO Box
City/Town Toronto	Province Ontario	Country Canada	Postal Code M5K 1B7

**Note:** If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

**5. Appeal Specific Information**

Municipal Reference Number(s)  
OPA-13-008

Outline the nature of your appeal and the reasons for your appeal \*  
Refer to the attached Notice of Appeal

**Oral/written submissions to council**

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting     Written submissions to council

**Planning Act matters only**

*Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)*

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes     No

**6. Related Matters**

Are there other appeals not yet filed with the Municipality?

Yes     No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes     No    ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)  
Zoning and Official Plan concurrently appealed

**7. Scheduling Information**

How many days do you estimate are needed for hearing this appeal?

1 day     2 days     3 days     4 days     1 week

More than 1 week ► Please specify number of days

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
Three

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)  
Planning, Engineering and Traffic

Do you believe this matter would benefit from mediation?

(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes     No


### 8. Required Fee

Total Fee Submitted \*    \$ 300

Payment Method \*     Certified cheque     Money Order     Solicitor's general or trust account cheque

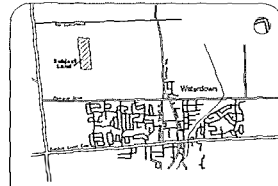
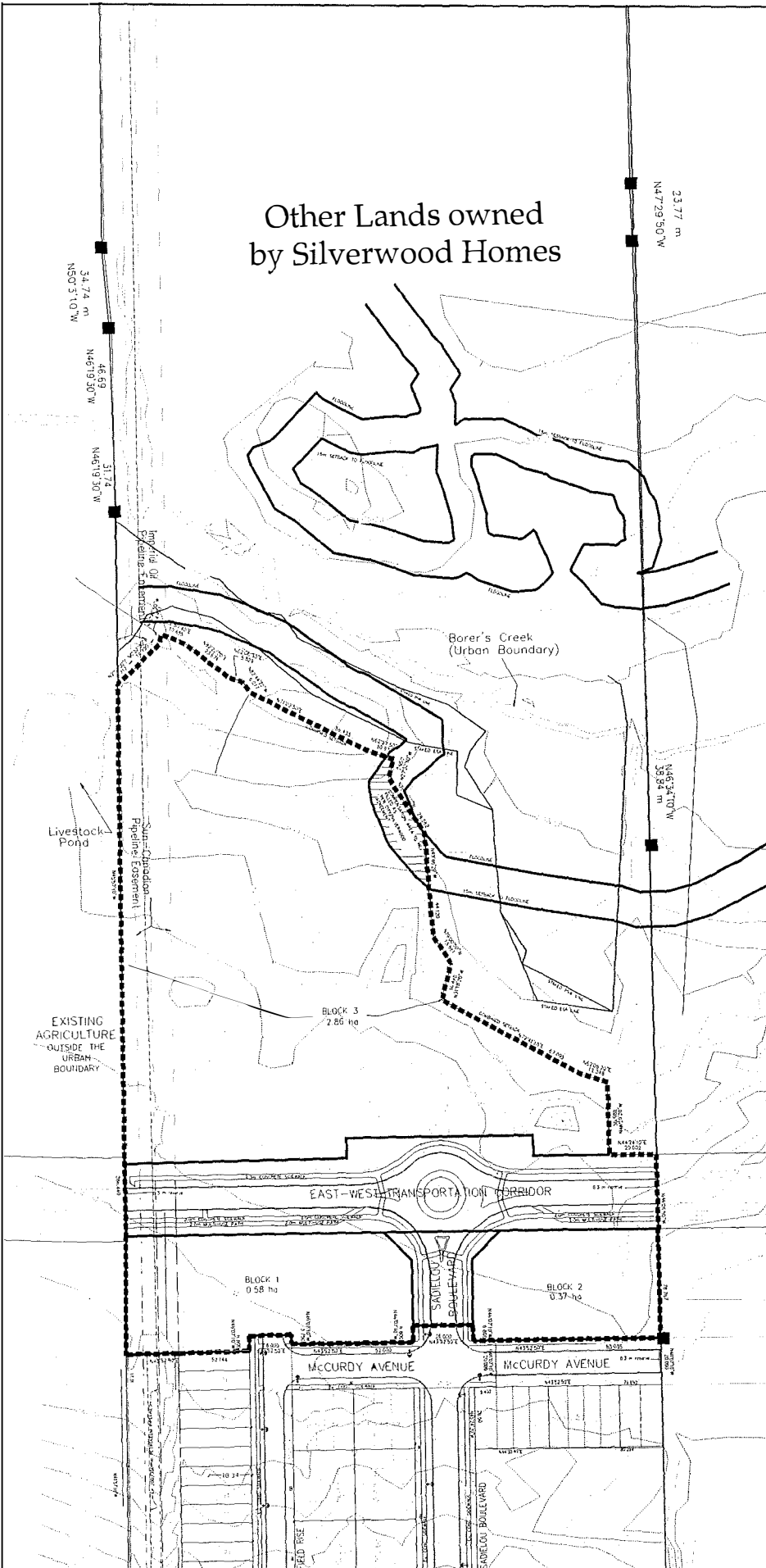
### 9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Michael McQuaid		2017/10/30

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.





KEY PLAN (N.T.S.)

REQUIREMENTS OF THE PLANNING ACT,  
R.S.O. 1990, c. P.13 SECTION 51(17)

(a) Site Plan	(b) Site Plan	(c) Site Plan
(d) Preliminary	(e) Site Plan	(f) Site Plan
(g) Site Plan	(h) Municipal Water	(i) City Loan
(j) Site Plan	(k) All Services	(l) Site Plan

OWNER'S CERTIFICATE

I hereby certify that the registered owner of the subject lands in this subdivision has assumed the burden of the application and hereby certifies that the information contained in the application is correct to the best of his knowledge and belief and I hereby authorize Metropolitan Consulting Inc. to act in my name in this matter.

Silverwood Homes Inc. City: Milton, Ont.

SURVEYOR'S CERTIFICATE

I hereby certify that the boundary of the lots in the subdivision as shown on this plan is in accordance with the applicable provisions of the Planning Act and the Survey Act.

DATE: \_\_\_\_\_

TSUB B.S.C. G.L.S.  
200 SANDER LAKED  
PHONE No. (416) 875-6555

LEGEND

———— Block Boundary

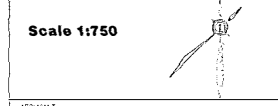
\*\*\*\*\* Phase Line

LAND USE SCHEDULE

USE	BLOCK #	HECTARE	ACRE
MEDIUM DENSITY RESIDENTIAL U	1-5	0.81	2.01
MEDIUM-HIGH DENSITY RESIDENTIAL	3	2.84	7.07
0.5 METRE RESERVES	N/A	0.002	0.00
ROADS			
EAST-WEST COLLECTOR	N/A	0.80	1.97
SADIELOU BOULEVARD-30m	N/A	0.11	0.27
TOTAL SITE AREA		4.72	11.66
OTHER URBAN AREA		9.84	24.32
OTHER NON-URBAN AREA		12.78	31.50
TOTAL PROPERTY AREA		37.15	92.44
PROPOSED ROADS			
EAST-WEST COLLECTOR 22m		597.87	748.83
SADIELOU BOULEVARD 30m		48.19	119.53
TOTAL ROAD LENGTH		274.15	689.44

REVISIONS

NO.	DATE	BY	REVISIONS
3	12/17/13	By	REVISION OF STREET A PROPOSAL PROVIDED.
2	10/21/13	By	REVISION OF ROADWAY PROPOSAL PROVIDED.
1	10/27/13	By	REVISION OF ROADWAY PROPOSAL PROVIDED TO EAST-WEST COLLECTOR-22M PROPOSAL-AREA A, TRACT 10/21



APPLICANT  
Silverwood Homes Inc.  
410 Industrial Drive  
Milton, ON, L9T 5A6, Canada  
Phone: (905) 693-8525  
Fax: (905) 693-1103

AGENT  
4450 PALETTA COURT  
BURLINGTON, ON L7L 5R2  
TEL. 905.637.2926  
FAX. 905.637.3268  
METROPOLITAN  
C O N S U L T I N G  
E-mail: info@metropolitancanada.com

TITLE  
**Silverwood Homes  
Draft Plan of Subdivision  
PHASE 2**

LEGAL DESCRIPTION  
PART OF LOT 11, CONCESSION 4  
FORMERLY IN THE TOWNSHIP  
OF EAST FLAMBOROUGH, NOW  
IN THE CITY OF HAMILTON.

MUNICIPALITY  
**Hamilton**  
Corporation of the  
City of Hamilton,  
Ontario, Canada

MOI PLAN # N1007 DATE JANUARY 28, 2014



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18039)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Joe Gravina (905) 546-2424 Ext. 1284
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## **Council Direction:**

At the June 16, 2015 Planning Committee, staff were “directed to report back to the Planning Committee with a reporting tool that seeks to monitor applications where the 120 or the 180 day statutory timeframe applies”.

This report provides a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications relative to the 120 or the 180 day statutory timeframe provisions of the *Planning Act* for non-decision appeals.

## **Policy Implications and Legislative Requirements**

Land use planning is guided by the *Planning Act*, which sets out how land use decisions are made and how and when they can be appealed to the Ontario Municipal Board (OMB). The *Planning Act* prescribes the situations in which an applicant may file an appeal for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision for lack of a decision by Council.

For Zoning By-law Amendments, Section 34 (11) of the *Planning Act* in force at the time of preparation of this report states that:

“Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision on it within 120 days after the receipt by the clerk of the application, any of the following may appeal to the Municipal Board by filing

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*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18039) - Page 2 of 3**

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with the clerk of the municipality a notice of appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*.

1. The applicant.”

For Official Plan Amendments, Section 17(40) of the *Planning Act* in force at the time of preparation of this report states that:

“If the approval authority fails to give notice of a decision in respect of all or part of a plan within 180 days after the day the plan is received by the approval authority, or within the longer period determined under subsection (40.1), any person or public body may appeal to the Municipal Board with respect to all or any part of the plan in respect of which no notice of a decision was given by filing a notice of appeal with the approval authority, subject to subsection (41.1).”

In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment applications from 180 days to 270 days.

For Plans of Subdivision, Section 51(34) of the *Planning Act* in force at the time of preparation of this report states that:

“If an application is made for approval of a plan of subdivision and the approval authority fails to make a decision under subsection (31) on it within 180 days after the day the application is received by the approval authority, the applicant may appeal to the Municipal Board with respect to the proposed subdivision by filing a notice with the approval authority, accompanied by the fee prescribed under the *Ontario Municipal Board Act*.”

It is noted that Bill 139 (“OMB Reform”) proposes to reverse the non-decision appeal provisions of the *Planning Act* to provide municipalities with additional review time before an appeal can be made. At the time of preparation of this report, Bill 139 has received Royal Assent but had not come into force and effect as proclamation by the Lieutenant Governor had not yet occurred.

**Information:**

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor applications where the applicable 120 day and 180 day statutory timeframe applies. This reporting tool would be used to track the status of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications. Staff are currently working with the AMANDA Implementation Team to add enhancements that will allow for the creation of more detailed reporting. As a result, future tables will

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**SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18039) - Page 3 of 3**

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include the extended statutory 270 day timeframe for Official Plan Amendments and a qualitative analysis of the status of active applications. It is anticipated that these enhancements will be available in Q2 of 2018.

Attached as Appendix "A" to Report PED18039 is a table outlining the active applications, sorted by Ward, from oldest application to newest. As of January 17, 2018 there were:

- 41 active Official Plan Amendment Applications (including 32 applications submitted after July 1, 2016);
- 75 active Zoning By-law Amendment Applications; and,
- 13 active Plan of Subdivision Applications.

Combined to reflect property addresses, this results in 75 active development proposals. Fifty-two proposals are 2017 files, while 13 proposals are 2016 files and 10 proposals are pre-2016 files.

The average number of days that the applications had been under review was 448 days, with 50 percent of applications being less than 326 days (i.e. the median).

Within 60 to 90 days of February 20, 2018, 20 applications will be approaching the 120 or the 180 day statutory timeframe and will be eligible for appeal. Fifty-five applications have passed the 120 or 180 day statutory timeframe. However, for those thirty-two (32) Official Plan Amendment Applications received after July 1, 2016, a non-decision appeal cannot be made until 270 days have lapsed (these applications are marked with an asterisk on Appendix "A" to Report PED18039).

**Appendices and Schedules Attached:**

Appendix "A": List of Active Development Applications

JG:jp

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-16-11 ZAC-16-029	925 Main St. W. & 150 Longwood Rd. S., Hamilton	1	19-Apr-16	n/a	28-Apr-16	17-Aug-16	16-Oct-16	Urban Solutions Planning & Land Development	672
UHOPA-17-07* ZAC-17-018	347 Charlton Ave. W., Hamilton	1	16-Jan-17	n/a	31-Jan-17	16-May-17	15-Jul-17*	GSP Group	400
UHOPA-17-18* ZAC-17-036	644 Main St. W., Hamilton	1	31-Mar-17	n/a	28-Apr-17	29-Jul-17	27-Sep-17*	Urban Solutions Planning & Land Development	326
ZAR-17-040	412 Aberdeen Ave., Hamilton	1	27-Apr-17	n/a	26-May-17	25-Aug-17	n/a	Susana Da Silva & Mario Neves	299
UHOPA-17-28* ZAC-17-065	1190 Main St. W. + 103 & 111 Traymore Ave., Hamilton	1	15-Aug-17	21-Aug-17	10-Oct-17	13-Dec-17	11-Feb-18*	Bousfields Inc.	133

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-17-008	117 Forest Ave. & 175 Catharine St. S., Hamilton	2	23-Dec-16	n/a	05-Jan-17	22-Apr-17	n/a	Urban Solutions Planning & Land Development	424
UHOPA-17-08* ZAC-17-019	41 Stuart St., Hamilton	2	20-Jan-17	n/a	06-Feb-17	20-May-17	19-Jul-17*	King Stuart Developments Inc.	396
ZAC-17-046	206-208 King St. W., Hamilton	2	15-May-17	n/a	19-May-17	12-Sep-17	n/a	A.J. Clarke & Associates Ltd.	281
UHOPA-17-23* ZAC-17-053	71 Rebecca St, Hamilton	2	15-Jun-17	n/a	14-Jul-17	13-Oct-17	12-Dec-17*	Wellings Planning Consultants Inc.	250
UHOPA-17-27* ZAC-17-063	163 Jackson St. W.	2	08-Aug-17	21-Aug-17	12-Sep-17	06-Dec-17	11-Mar-18*	Bousfields Inc.	161
UHOPA-17-33* ZAC-17-073	125 -129 Robert St., Hamilton	2	06-Oct-17	30-Oct-17	14-Nov-17	03-Feb-18	04-Apr-18*	IBI Group	98

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-17-074	154 Main St. E., Hamilton	2	11-Oct-17	n/a	06-Nov-17	08-Feb-18	n/a	Urban Solutions Planning & Land Development	106
UHOPA-17-041* ZAC-17-090	80 and 92 Barton St. E and 215 and 245 Catharine St. N., Hamilton	2	29-Nov-17	n/a	14-Dec-17	29-Mar-18	28-May-18*	IBI Group	68
OPA-13-01 ZAC-13-007	100 Cumberland Ave., Hamilton	3	12-Apr-13	n/a	03-May-13	10-Aug-13	09-Oct-13	MHBC Planning Limited	1775
ZAC-17-024	119-123 Princess St., Hamilton	3	08-Feb-17	n/a	27-Mar-17	08-Jun-17	n/a	Armstrong Planning & Project Management	377
UHOPA-17-17* ZAR-17-034	157 Gibson Ave., Hamilton	3	23-Mar-17	n/a	05-May-17	21-Jul-17	19-Sep-17*	A.J. Clarke & Associates Ltd.	334
ZAR-16-046	121 Vansitmart Ave., Hamilton	4	19-Jul-16	n/a	29-Jul-16	16-Nov-16	n/a	Liam Doherty	581

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-16-035	865-867 Beach Blvd., Hamilton	5	28-Jun-16	n/a	04-Aug-16	02-Dec-16	n/a	MHBC Planning Limited	602
ZAC-17-050	2782 Barton St. E., Hamilton	5	02-Jun-17	n/a	30-Jun-17	28-Oct-17	n/a	A.J. Clarke & Associates Ltd.	263
ZAR-16-063	1011 Fennell Ave. E., Hamilton	6	07-Oct-16	17-Nov-16	14-Aug-17	04-Feb-17	n/a	btM Drafting & Design	190
ZAC-17-057	1221 Limeridge Rd. E., Hamilton	6	07-Jul-17	17-Jul-17	24-Oct-17	04-Nov-17	n/a	IBI Group	119
UHOPA-15-16 ZAC-11-070	1375 Upper James St., Hamilton	7	16-Mar-15	n/a	26-May-15	14-Jul-15	12-Sep-15	WEBB Planning Consultants Inc.	1072
UHOPA-17-31* ZAC-17-071	1625 -1655 Upper James St., Hamilton	7	27-Sep-17	n/a	02-Oct-17	25-Jan-18	26-Mar-18*	MB1 Development Consulting Inc.	146



**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-17-35* ZAC-17-078	1518 Upper Sherman Ave., Hamilton	7	23-Oct-17	n/a	03-Nov-17	20-Feb-18	21-Apr-18*	Wellings Planning Consultants Inc.	120
ZAC-17-089	1351 Upper James St., Hamilton	7	28-Nov-17	n/a	05-Dec-17	28-Mar-18	n/a	Patrick Slattery	84
ZAC-16-075	393 Rymal Rd. W., Hamilton	8	15-Nov-16	n/a	01-Dec-16	15-Mar-17	n/a	GSP Group	462
ZAC-17-030	567 Scenic Dr., Hamilton	8	10-Mar-17	n/a	28-Mar-17	08-Jul-17	n/a	A.J. Clarke & Associates Ltd.	347
ZAC-17-061	500 Upper Wellington Street	8	19-Jul-17	n/a	25-Jul-17	16-Nov-17	n/a	A.J. Clarke & Associates Ltd.	216
ZAR-17-075	517 Stone Church Rd. W., Hamilton	8	19-Oct-17	n/a	10-Nov-17	16-Feb-18	n/a	WEBB Planning Consultants Inc.	124

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-16-13 ZAC-16-033	15 Picardy Dr., Stoney Creek	9	13-May-16	n/a	27-May-16	10-Sep-16	09-Nov-16	IBI Group	648
UHOPA-16-25* ZAC-16-064 25T-201609	1809, 1817, & 1821 Rymal Rd. E., Stoney Creek	9	07-Oct-16	n/a	23-Nov-16	04-Feb-17	05-Apr-17*	WEBB Planning Consultants Inc.	501
UHOPA-16-26* ZAC-16-065 25T-201611	478 & 490 First Rd. W., Stoney Creek	9	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17*	T. Johns Consultants Inc.	496
UHOPA-16-27* ZAC-16-066 25T-201612	464 First Rd. W., Stoney Creek,	9	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17*	T. Johns Consultants Inc.	496
UHOPA-17-01* ZAC-17-001 25T-201701	15 Ridgeview Dr., Stoney Creek	9	02-Dec-16	n/a	16-Dec-16	01-Apr-17	31-May-17*	A.J. Clarke & Associates Ltd.	445
ZAC-17-044	16 King St. W., Stoney Creek	9	12-May-17	n/a	07-Jun-17	09-Sep-17	n/a	A.J. Clarke & Associates Ltd.	284

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-17-20* ZAC-17-049	928 Queenston Rd., Stoney Creek	9	01-Jun-17	30-Jun-17	28-Jul-17	29-Sep-17	28-Nov-17*	Fothergill Planning and Development Inc.	207
RHOPA-17-24* ZAC-17-055	138 Upper Centennial Pkwy, Stoney Creek	9	27-Jun-17	n/a	15-Aug-17	25-Oct-17	24-Dec-17*	Brouwer Architecture	238
ZAC-17-077	50 Green Mountain Rd., Stoney Creek	9	30-Oct-17	21-Nov-17	22-Nov-17	27-Feb-18	n/a	GSP Group	90
ZAC-17-085	121 Highway 8, Stoney Creek	9	13-Nov-17	n/a	04-Dec-17	13-Mar-18	n/a	A.J. Clarke & Associates Ltd.	78
ZAC-15-040	9 Glencrest Ave., Stoney Creek	10	02-Jul-15	n/a	10-Aug-15	30-Oct-15	n/a	WEBB Planning Consultants Inc.	964
UHOPA-17-09* ZAC-17-020	84 - 96 Lakeview Dr., Stoney Creek	10	19-Jan-17	n/a	08-Feb-17	19-May-17	18-Jul-17*	IBI Group	397

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-17-15* ZAC-17-028	417 - 423 Highway No. 8, 175 Margaret Ave., & 176 Millen Rd., Stoney Creek	10	07-Mar-17	n/a	23-Mar-17	05-Jul-17	03-Sep-17*	IBI Group	350
UHOPA-17-36* ZAC-17-079	514 Barton St. E, Stoney Creek	10	27-Oct-17	n/a	23-Nov-17	24-Feb-18	25-Apr-18*	GSP Group	116
UHOPA-14-16* ZAR-12-058	9388 Twenty Rd. W., Glanbrook	11	20-Dec-12	n/a	18-Jan-13	19-Apr-13	18-Jun-13*	A.J. Clarke & Associates Ltd.	1888
UHOPA-15-12 ZAC-15-023 25T-201505	9684-9738 Twenty Rd. W., Glanbrook	11	19-Dec-14	17-Jan-15	27-Apr-15	25-Aug-15	24-Oct-15	Liam Doherty	1030
UHOPA-15-22 ZAC-15-052	Vinemount Quarry, Green Mountain Rd. E., Stoney Creek	11	16-Sep-15	n/a	30-Oct-15	14-Jan-16	14-Mar-16	IBI Group	888
ZAC-16-016	1313 Baseline Rd., Stoney Creek	11	15-Jan-16	n/a	15-Feb-16	14-May-16	n/a	A.J. Clarke & Associates Ltd.	767

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-17-009	1215 Barton St., Stoney Creek	11	23-Dec-16	n/a	06-Jan-17	22-Apr-17	n/a	WEBB Planning Consultants Inc.	424
UHOPA-17-05* ZAC-17-015 25T-201703	1, 19, 20, 21, 23, 27 & 30 Lakeside Dr. & 81 Waterford Cres., Stoney Creek	11	23-Dec-16	n/a	17-Jan-17	22-Apr-17	21-Jun-17*	IBI Group	424
ZAC-17-025	235 Tanglewood Dr., Glanbrook	11	16-Feb-17	n/a	24-Feb-17	16-Jun-17	n/a	A.J. Clarke & Associates Ltd.	369
UHOPA-17-12* ZAC-17-027 25T210706	2341 & 2365 to 2431 Regional Rd. 56 & Tangelwood Dr., Glanbrook	11	23-Feb-17	n/a	06-Mar-17	23-Jun-17	02-Sep-17*	A.J. Clarke & Associates Ltd.	362
ZAR-17-033	90 Creanona Blvd., Stoney Creek	11	27-Mar-17	n/a	28-Apr-17	25-Jul-17	n/a	A.J. Clarke & Associates Ltd.	330
UHOPA-17-29* ZAC-17-067	1288 Baseline Rd., Stoney Creek	11	21-Aug-17	n/a	14-Sep-17	19-Dec-17	13-Mar-18*	IBI Group	183

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-17-076 25T-201711	1216, 1218 and 1226 Barton St. E. and 1219 Hwy. 8, Stoney Creek	11	30-Oct- 17	n/a	24-Nov-17	27-Feb-18	28-Apr-18	Glen Schnarr & Associates Inc.	113
RHOPA-17-039* ZAC-17-082	8475 English Church Rd., Glanbrook	11	10-Nov- 17	n/a	17-Nov-17	10-Mar-18	09-May-18*	Fothergill Planning and Development Inc.	102
OPA-12-23 ZAC-12-065 25T-201206	491 Springbrook Ave, 851 & 875 Garner Rd. E., Ancaster	12	21-Dec- 12	n/a	18-Jan-13	20-Apr-13	19-Jun-13	Wellings Planning Consultants Inc.	1887
ZAC-16-006 25T-201602	285, 293 Fiddlers Green Rd., Ancaster	12	23-Dec- 15	n/a	06-Jan-16	21-Apr-16	20-Jun-16	Liam Doherty	790
UHOPA-16-07 ZAC-16-017	503-518 Garner Rd. W., Ancaster	12	10-Feb- 16	n/a	26-Feb-16	09-Jun-16	08-Aug-16	Fothergill Planning and Development Inc.	741
ZAC-16-048 25T-201606	20 Miller Dr., Ancaster	12	22-Jul-16	n/a	05-Aug-16	19-Nov-16	18-Jan-17	GSP Group	578

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
UHOPA-17-22* ZAC-17-051	280 Wilson St. E., Ancaster	12	05-Jun-17	22-Jun-17	23-Aug-17	03-Oct-17	19-Feb-17*	Brenda Khes	181
UHOPA-17-25* ZAC-17-058	305 Garner Rd. W., Ancaster	12	11-Jul-17	17-Jul-17	08-Aug-17	08-Nov-17	07-Jan-18*	MHBC Planning Limited	196
ZAC-17-062	45 Secinaro Ave., Ancaster	12	28-Jul-17	n/a	01-Aug-17	25-Nov-17	n/a	T. Johns Consultants Inc.	207
ZAC-17-066	1274 Mohawk Rd., Ancaster	12	17-Aug-17	n/a	06-Sep-17	15-Dec-17	n/a	T. Johns Consultants Inc.	187
UHOPA-17-30* ZAC-17-68	70 Garner Rd. E., Ancaster	12	08-Sep-17	n/a	19-Sep-17	06-Jan-18	07-Mar-18*	Fothergill Planning and Development Inc.	165
UHOPA-17-32* ZAC-17-072	35 Londonderry Dr., Ancaster	12	06-Oct-17	n/a	01-Nov-17	03-Feb-18	04-Apr-18*	A.J. Clarke & Associates Ltd.	137

**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
ZAC-17-086	449 Springbrook Ave., Stoney Crekk	12	22-Nov-17	n/a	29-Nov-17	22-Mar-18	21-May-18	WEBB Planning Consultants Inc.	90
UHOPA-17-40* ZAC-17-088	264 Governors Rd. Dundas	13	28-Nov-17	n/a	13-Dec-17	28-Mar-18	27-May-18*	Urban Solutions Planning & Land Development	84
ZAR-15-004	64 Hatt St., Dundas	13	02-Dec-14	n/a	02-Jan-15	01-Apr-15	n/a	336477 Ontario Ltd.	1176
ZAC-17-060	211 York Road, Dundas	14	14-Jul-17	n/a	02-Aug-17	11-Nov-17	n/a	Wellings Planning Consultants Inc.	221
ZAC-17-064 25T-201710	655 Cramer Rd., Flamborough	14	09-Aug-17	n/a	17-Aug-17	07-Dec-17	n/a	A.J. Clarke & Associates Ltd.	195
RHOPA-17-37* ZAC-17-080	1915 Jerseyville Rd. W., Ancaster	14	06-Nov-17	n/a	20-Nov-17	06-Mar-18	05-May-18*	IBI Group	106



**Active Development Applications  
(Effective January 17, 2018)**

File	Address	Ward	Date Received	Date <sup>1</sup> Deemed Incomplete	Date <sup>1</sup> Deemed Complete	120 day cut off (Zoning Application)	180 day cut off (OPA and/or Subdivision Application)	Applicant/ Agent	Days since Received and/or Deemed Complete as of Feb. 20, 2018
RHOPA-17-038* ZAC-17-081	1633 Highway 6, Flamborough	14	08-Nov-17	n/a	21-Nov-17	08-Mar-18	07-May-18*	1685486 ONTARIO INC.	104
ZAR-11-018	136 & 156 Concession 5 Rd. E., Flamborough	15	15-Mar-11	n/a	08-Apr-11	13-Jul-11	n/a	Fothergill Planning and Development Inc.	2534
ZAC-15-039 25T-201507	Flamborough Power Centre, Flamborough	15	13-Jul-15	n/a	23-Jul-15	10-Nov-15	09-Jan-16	Fothergill Planning and Development Inc.	953
UHOPA-17-06* ZAC-17-016	157 Parkside Dr., Flamborough	15	23-Dec-16	n/a	17-Jan-17	22-Apr-17	21-Jun-17*	MHBC Planning Limited	424

Active Development Applications

- When an application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 120, 180 & 270 day timeframe commences on the date the new materials were submitted. In all other situations, the 120, 180 & 270 day timeframe commences the day the application was received.
- \* In accordance with Section 17 (40.1) of the Planning Act, the City of Hamilton has extended the approval period of Official Plan Amendment applications from 180 days to 270 days (applicable to applications received on or after July 1, 2016).



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	One Year Pilot Program for Yard Maintenance Related By-laws in the McMaster Neighbourhoods (PED16260(a)) (Ward 1) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>PREPARED BY:</b>	Kelly Barnett (905) 546-2424 Ext. 1344
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

## Council Direction:

City Council, at its meeting held on December 14, 2016 approved the following Motion:

- “(a) That staff be directed to expand the current Mohawk College Co-op Student program by hiring two additional students for enforcement of the one year pilot program for yard maintenance related by-laws in the McMaster neighbourhoods, based on full cost recovery through Fee for Inspection charges for non-compliant properties;
- (b) That two required vehicles, for use by the Mohawk College Co-op Students to enforce yard maintenance related by-laws in the McMaster neighbourhoods, to be funded from Capital Reinvestment Reserves (Area Rating) at an estimated one-time cost of \$50,000 (\$25,000 each), be approved;
- (c) That, as part of the one year pilot program for enforcement of yard maintenance related bylaws in the McMaster neighbourhoods, the Mohawk College Co-op Students be directed to collect baseline data in order to assist in determining adequate, permanent yard maintenance by-law enforcement resource requirements for the McMaster neighbourhoods;

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**SUBJECT: One Year Pilot Program for Yard Maintenance Related By-laws in the McMaster Neighbourhoods (PED16260(a)) (Ward 1) - Page 2 of 3**

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- (d) That one Parking Control Officer be redeployed to proactively address parking issues in the McMaster neighbourhoods; and, (e) That staff be directed to report back to the Planning Committee before the end of the 12 month pilot program for enforcement of yard maintenance related by-laws in the McMaster neighbourhoods, with the results of the pilot and recommendations for permanent by-law enforcement resource requirements for the McMaster neighbourhoods;
- (e) That staff be directed to report back to the Planning Committee before the end of the 12 month pilot program for enforcement of yard maintenance related by-laws in the McMaster neighbourhoods, with the results of the pilot and recommendations for permanent by-law enforcement resource requirements for the McMaster neighbourhoods.”

This Report provides the results of the 12 month pilot program.

**Information:**

**Pilot Program Efforts and Results**

Two Mohawk College Co-op Students were hired and started on January 9, 2017. After extensive training with Municipal Law Enforcement Officers they began working as Student Officers in various neighbourhoods that surround McMaster University. Initially they concentrated on being visible in the community, building relationships with property owners and occupants and providing education on by-laws and violations which continued for the duration of the program. The Student Officers worked with McMaster University’s Student Community Support Network on by-law educational initiatives by participating in student information sessions and appearing in an educational video.

Student Officers reactively and proactively investigated properties and enforced yard maintenance related by-law violations. The following is a summary of the types of by-law violations and the enforcement results.

Violation	Orders Issued Term 1	Orders Issued Term 2	Orders Issued Term 3	Total
Long Grass / Weeds	NA	211	15	226
Garbage / Debris	129	82	109	320
Long Grass / Weeds & Garbage / Debris	NA	90	19	109
Snow and Ice	88	NA	67	155
Improper Storage of Waste Collection Containers	91	2	31	124
Bulk Items at Curb	18	25	39	82

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**SUBJECT: One Year Pilot Program for Yard Maintenance Related By-laws in the McMaster Neighbourhoods (PED16260(a)) (Ward 1) - Page 3 of 3**

<b>Violation</b>	<b>Orders Issued Term 1</b>	<b>Orders Issued Term 2</b>	<b>Orders Issued Term 3</b>	<b>Total</b>
<b>Total Orders Issued</b>	<b>219</b>	<b>435</b>	<b>280</b>	<b>934</b>
Voluntary Compliance Obtained	186 (84%)	332 (76%)	176 (63%)	694 (74%)
<b>Fee For Inspection Charges for Non-Compliant Properties</b>	<b>\$15,230</b>	<b>\$34,664</b>	<b>\$13,049</b>	<b>\$62,943</b>

Student Officers' combined salaries totalled \$48,608 and Fee for Inspection charges for non-compliant properties totalled \$62,943 for the 12 month pilot program making it a full cost recovery program. However, staff will have to continually monitor as it may not continue to be full cost recovery should our main goal of compliance continue to improve and / or violations decrease in the areas around McMaster University. The actions of Student Officers issuing Orders provided an average voluntary compliance rate of 74%. Many of the violations would never have been reported and / or resolved without the proactive enforcement done by Student Officers.

To address parking concerns, Parking Control Officers utilized proactive enforcement as well as responded to specific complaints. From January 1, 2017 until December 31, 2017 a total of 9,260 Parking Penalty Notices were issued (proactive and reactive enforcement) with a value of \$293,932 as well as 717 complaints were addressed. Parking Control Officers are continuing with this enforcement strategy in 2018.

An Information Update, attached as Appendix "A" to this Report, was sent to Mayor and Members of City Council on September 26, 2017 which provided an early update on the effectiveness of the pilot project from January 9, 2017 to August 31, 2017.

Subsequently City Council, at its meeting held on October 11, 2017 approved Item 9.2 of Planning Committee Report 17-016 which directed staff to expand the program based on early results by hiring two additional Mohawk College Co-op Students and to make the program permanent. Four Mohawk College Co-op Students started on January 15, 2018.

The item respecting the 12 month pilot program for enforcement of yard maintenance related by-laws in the McMaster neighbourhoods be identified as complete and removed from the Planning Committee Outstanding Business List.

### **Appendices and Schedules**

Appendix "A": Information Update - September 26, 2017

KL/KB/st

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# INFORMATION UPDATE

<b>TO:</b>	Mayor and Members City Council
<b>DATE:</b>	September 26, 2017
<b>SUBJECT/REPORT NO:</b>	One Year Pilot Program for Yard Maintenance Related By-laws in the McMaster Neighbourhoods (Ward 1)
<b>WARD(S) AFFECTED:</b>	Ward 1
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development
<b>SIGNATURE:</b>	

City Council, at its meeting held on December 14, 2016, directed staff to expand the current Mohawk College Co-op Student program by hiring two additional students for a one year pilot program for enforcement of yard maintenance related by-laws in the McMaster neighbourhoods, based on full cost recovery, through Fee for Inspections charges for non-compliant properties.

This report is to provide an update on the effectiveness of the pilot project from January 9, 2017 - August 31, 2017.

The Student Officers started by going door to door handling out pamphlets and educating property owners and occupants on the purpose of the pilot program, various yard maintenance related by-laws and violations. In the first two months they patrolled 34 streets in the McMaster neighbourhood attended approximately 1,100 houses and became very visible in the community.

In addition to providing on-going education, Student Officers have been proactively and reactively inspecting properties and taking the appropriate enforcement actions when violations have been determined. The following is a summary of the Orders issued;

Violation	Orders Issued
Long Grass and Weeds	211
Garbage and Debris	211
Long Grass and Weeds / Garbage and Debris	90

**SUBJECT: One Year Pilot Program for Yard Maintenance Related By-laws in the  
 McMaster Neighbourhoods (Ward 1) Page 2 of 2**

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Snow and Ice	88 *not many snow events
Improper Storage of Waste Collection Containers	93
Bulk Items at Curb	43
<b>Total Orders Issued</b>	<b>736</b>

The voluntary compliance rate on Orders issued was approximately 75% and the total amount of Fee for Inspection charges for non-compliant properties was \$49,895.00. Student Officer salaries for this time period was \$26,936.

Student Officers have noticed an overall improvement in property yard maintenance conditions since starting this program and have received very positive comments from property owners and occupants.

Although early results prove this pilot program to be a success staff will report back to the Planning Committee in January 2018 once the final evaluation has been completed.

Should you have any questions respecting this communication, please contact Kelly Barnett, Manager, Service Delivery by email or at Ext. 1344.

KB/KL/st



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-Law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Expanding Administrative Penalty System (APS) to Include Business Licensing By-law 07-170 and Noise Control By-law 11-285 (PED18047) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Luis Ferreira (905) 546-2424 Ext. 3087
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the Administrative Penalty By-law 17-225 (APS) be amended to include the General Provisions of the Business Licensing By-law 07-170 (Licensing By-law) by adding Table 10 to Schedule A, in accordance with the amending by-law attached as Appendix "A", which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (b) That the Administrative Penalty By-law 17-225 (APS) be amended to include the Noise Control By-law 11-285 (Noise By-law) by adding Table 11 to Schedule A, in accordance with the amending by-law attached as Appendix "B", which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

### EXECUTIVE SUMMARY

At its meeting of September 27, 2017 Council approved Item 3 of Planning Committee Report 17-015 directing staff to implement APS to Municipal By-laws. Staff is ready to introduce the Licensing By-law and Noise By-law. This will transfer Part I Tickets issued annually under the *Provincial Offences Act* to the municipality as an Administrative Penalty Notice. This approach aids in reducing congestion in the Courts, as well as providing a more local, accessible and less adversarial dispute resolution process.

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**SUBJECT: Expanding Administrative Penalty System (APS) to Include Business Licensing By-law 07-170 and Noise Control By-law 11-285 (PED18047) (City Wide) - Page 2 of 3**

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This system has been adopted by numerous municipalities that have experienced several benefits, including: improving service excellence, enhancing staff efficiencies and effectiveness, supporting operational cost recovery and autonomy over infraction penalty amounts as contained in s. 434.1(3) of the *Municipal Act, 2001*.

APS also provides greater control over the dispute resolution process of Administrative Penalty Notices (APN) through a quasi-judicial process with the Hearing Officers having final and binding authority over the matter.

***Alternatives for Consideration – Not Applicable***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / Staffing / Legal: N/A

**HISTORICAL BACKGROUND**

In 2007, amendments to the *Municipal Act, 2001* provided statutory authority for municipalities to implement Administrative Penalties for the enforcement of Parking and Licensing By-laws.

On May 30, 2017, Bill 68 was passed cementing the application of APS to all by-laws enacted under the *Municipal Act, 2001*.

At its meeting of September 27, 2017, Council approved Planning Committee Report 17-015 directing staff to implement APS to Municipal By-laws.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The APS By-law 17-225 will be amended to include the General Provisions of the Licensing By-law 07-170 and Noise By-law 11-285 as Tables 10 and 11 in Schedule A.

**RELEVANT CONSULTATION**

Legal Services was consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. The City of Hamilton's APS By-law has been written as such to allow for inclusion of other Municipal By-laws. Staff is seeking approval to include the General Provisions of the Licensing By-law and the Noise By-law to the APS By-law.

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**SUBJECT: Expanding Administrative Penalty System (APS) to Include Business Licensing By-law 07-170 and Noise Control By-law 11-285 (PED18047) (City Wide) - Page 3 of 3**

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This complies with Council's direction to expand the APS process to by-laws enacted under the *Municipal Act, 2001*.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton* has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Healthy and Safe Communities**

*Hamilton* is a safe and supportive city where people are active, healthy, and have a high quality of life.

**Our People and Performance**

*Hamiltonians* have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": By-law Adding Table 10 – Business Licensing By-law

Appendix "B": By-law Adding Table 11 – Noise Control By-law

KL/LF/st

**Appendix "A" to Report PED18047  
Page 1 of 3**

Authority:  
City Wide  
Bill No.

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

**To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties**

**WHEREAS** Council enacted a By-law to Establish a System of Administrative Penalties, being By-law No. 17-225; and

**WHEREAS** this By-law amends By-law No. 17-225;

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

1. The amendments in this By-law include any necessary grammatical, numbering and lettering changes.
2. Schedule A of By-law No. 17-225 is amended by adding a new Table 10 entitled BY-LAW NO. 07-170 TO LICENSE AND REGULATE VARIOUS BUSINESSES.

<b>TABLE 10: BY-LAW NO. 07-170 TO LICENSE AND REGULATE VARIOUS BUSINESSES</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING GENERAL PROVISIONS</b>	<b>COLUMN 3 SET PENALTY</b>
1	07-170	Sec.1(2)	Engage / carry on any business regulated by this By-law	\$300.00
2	07-170	Sec. 6(6)(a)	Licence holder fail to renew licence before expiry	\$100.00
3	07-170	Sec. 20	fail to deliver licence certificate upon request	\$75.00
4	07-170	Sec. 20	fail to deliver licence plate upon request	\$75.00
5	07-170	Sec. 20	fail to deliver identification card upon request	\$75.00
6	07-170	Sec. 20	fail to deliver form upon request	\$75.00
7	07-170	Sec. 20	fail to deliver document upon request	\$75.00
8	07-170	Sec. 21(1)	transfer licence without written consent of Director or Council	\$100.00
9	07-170	Sec. 21(3)	use premises / part thereof except as identified on licence certificate or record of application	\$200.00
10	07-170	Sec. 21(3)	use vehicle / cycle / cart except as identified on licence certificate or record of application	\$200.00
11	07-170	Sec. 21(3)	use cycle / cart for business not authorized by licence	\$200.00

## To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties

(Page 2 of 3)

<b>TABLE 10: BY-LAW NO. 07-170 TO LICENSE AND REGULATE VARIOUS BUSINESSES</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING GENERAL PROVISIONS</b>	<b>COLUMN 3 SET PENALTY</b>
12	07-170	Sec. 22(1)(a)	Licensee fail to post licence certificate on premises	\$75.00
13	07-170	Sec. 22(1)(b)	Licensee fail to keep licence certificate posted in position readily seen and read by persons entering	\$75.00
14	07-170	Sec. 22(1)(c)	Licensee fail to remove licence certificate not current	\$75.00
15	07-170	Sec. 23	Licensee fail to keep business premises clean and orderly	\$75.00
16	07-170	Sec. 23	Licensee fail to keep vehicle / cycle / cart authorized for use in business clean	\$75.00
17	07-170	Sec. 23	Licensee fail to keep vehicle / cycle / cart authorized for use in business in safe condition	\$300.00
18	07-170	Sec. 23	fail to keep licensed cycle clean	\$75.00
19	07-170	Sec. 23	fail to keep licensed cycle safe	\$100.00
20	07-170	Sec. 23	fail to keep licensed cart clean	\$75.00
21	07-170	Sec. 23	fail to keep licensed cart safe	\$100.00
22	07-170	Sec. 24	fail to permit inspection of places or premises used for business	\$300.00
23	07-170	Sec. 24	fail to permit inspection of equipment / vehicle / other personal property used for business	\$300.00
24	07-170	Sec. 25	Licensee fail to provide criminal record when required	\$75.00
25	07-170	Sec. 25	Licensee fail to provide further criminal/driving record when required	\$75.00
26	07-170	Sec. 25a	Licence holder fail to immediately advise the Director in writing of change of information	\$75.00
27	07-170	Sec. 26(1)	fail to comply with the Licensing By-law, Schedules and provisions regulating such business	\$300.00
28	07-170	Sec. 26(2)	Licensee fail to comply with conditions of licence	\$200.00
29	07-170	Sec. 26(2)	Licensee cause / permit employee / agent / other persons to fail to comply with conditions of licence	\$100.00

PASSED this      day of      , 2018.

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 Fred Eisenberger  
 Mayor

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 Rose Caterini  
 City Clerk

To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties

(Page 3 of 3)

*For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law*

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning

Report No.: PED18047

Date: 02/20/2018

Ward(s) or City Wide: City Wide

(MM/DD/YYYY)

Prepared by: Luis Ferreira

Phone No: Ext. 3087

*For Office Use Only, this doesn't appear in the by-law*

**Appendix “B” to Report PED18047**  
**Page 1 of 3**

Authority:  
City Wide  
Bill No.

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

**To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties**

**WHEREAS** Council enacted a By-law to Establish a System of Administrative Penalties, being By-law No. 17-225; and

**WHEREAS** this By-law amends By-law No. 17-225;

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

1. The amendments in this By-law include any necessary grammatical, numbering and lettering changes.
2. Schedule A of By-law No. 17-225 is amended by adding a new Table 11 entitled BY-LAW NO. 11-285 NOISE CONTROL BY-LAW.

<b>TABLE 11: BY-LAW NO. 11-285 NOISE CONTROL BY-LAW</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>COLUMN 3 SET PENALTY</b>
1	11-285	Sec. 3(1)(a)	make unreasonable noise	\$100.00
2	11-285	Sec. 3(1)(a)	permit unreasonable noise to be made	\$100.00
3	11-285	Sec. 3(1)(b)	make noise likely to disturb inhabitants	\$100.00
4	11-285	Sec. 3(1)(b)	permit noise likely to disturb inhabitants	\$100.00
5	11-285	Sec. 3(2)(a)	noise from bell	\$100.00
6	11-285	Sec. 3(2)(a)	noise from horn	\$100.00
7	11-285	Sec. 3(2)(a)	noise from siren	\$100.00
8	11-285	Sec. 3(2)(a)	noise from warning device	\$100.00
9	11-285	Sec. 3(2)(b)	noise from condition of disrepair	\$100.00
10	11-285	Sec. 3(2)(b)	noise from condition of maladjustment	\$100.00
11	11-285	Sec. 3(2)(c)	noise from radio clearly audible 8 meters from vehicle	\$100.00
12	11-285	Sec. 3(2)(c)	noise from amplifier clearly audible 8 meters from vehicle	\$100.00
13	11-285	Sec. 3(2)(c)	noise from speaker clearly audible 8 meters from vehicle	\$100.00
14	11-285	Sec. 3(2)(c)	noise from similar device clearly audible 8 meters from vehicle	\$100.00

## To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties

(Page 2 of 3)

<b>TABLE 11: BY-LAW NO. 11-285 NOISE CONTROL BY-LAW</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>COLUMN 3 SET PENALTY</b>
15	11-285	Sec. 3(2)(d)(i)	noise from radio projected into public place for advertising purpose	\$100.00
16	11-285	Sec. 3(2)(d)(i)	noise from amplifier projected into public place for advertising purpose	\$100.00
17	11-285	Sec. 3(2)(d)(i)	noise from speaker projected into public place for advertising purpose	\$100.00
18	11-285	Sec. 3(2)(d)(i)	noise from similar device projected into public place for advertising purpose	\$100.00
19	11-285	Sec. 3(2)(d)(ii)	noise from radio clearly audible at point of reception	\$100.00
20	11-285	Sec. 3(2)(d)(ii)	noise from amplifier clearly audible at point of reception	\$100.00
21	11-285	Sec. 3(2)(d)(ii)	noise from speaker clearly audible at point of reception	\$100.00
22	11-285	Sec. 3(2)(d)(ii)	noise from similar device clearly audible at point of reception	\$100.00
23	11-285	Sec. 3(2)(e)	noise from the exhaust of steam engine	\$100.00
24	11-285	Sec. 3(2)(e)	noise from the exhaust of internal combustion engine	\$100.00
25	11-285	Sec. 3(2)(e)	noise from a pneumatic device	\$100.00
26	11-285	Sec. 3(2)(f)	noise from a combustion engine used for recreational purposes for more than 1 hour between 10 pm and 7 am clearly audible	\$100.00
27	11-285	Sec. 3(2)(f)	noise from an electric engine used for recreational purposes for more than 1 hour between 10 pm and 7 am clearly audible	\$100.00
28	11-285	Sec. 3(2)(g)(i)	noise from animal that is persistent and clearly audible at point of reception	\$100.00
29	11-285	Sec. 3(2)(h)	noise from construction clearly audible at point of reception between 10 pm and 7 am	\$100.00
30	11-285	Sec. 3(2)(h)	noise from loading clearly audible at point of reception between 10 pm and 7 am	\$100.00
31	11-285	Sec. 4(a)	Make / permit noise that contravenes Noise Pollution Control Publication	\$350.00
32	11-285	Sec. 4(b)	make / permit noise that contravenes a permission under federal / provincial legislation	\$350.00

PASSED this      day of      , 2018.

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 Fred Eisenberger  
 Mayor

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 Rose Caterini  
 City Clerk

To Amend By-law 17-225, a By-law to Establish a System of Administrative Penalties

(Page 3 of 3)

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Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning

Report No.: PED18047

Date: 02/20/2018

Ward(s) or City Wide: City Wide

(MM/DD/YYYY)

Prepared by: Luis Ferreira

Phone No: Ext. 3087

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**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Application for Approval of a Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (Ward 13) (PED18043)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Daniel Barnett (905) 546-2424 Ext. 4445
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

That **Draft Plan of Condominium Application 25CDM-201615, by Recchia Developments, Owner,** to establish a Draft Plan of Condominium (Vacant Land) to create a vacant land condominium for six (6) single detached dwellings and a common element road with five (5) visitor parking spaces, sidewalks and landscaping, on lands located at 231 York Road (Dundas), as shown on Appendix "A" to Report PED18043, **be APPROVED**, subject to the following conditions:

- a) That the approval for Draft Plan of Condominium (Vacant Land) application, 25CDM-201615, prepared by Mathews, Cameron, Heywood – Kerry T. Howe Surveying Limited, certified by Dasha Page O.L.S, dated December 4, 2017, and consisting of six (6) single detached dwellings, a common element condominium road and five (5) visitor parking spaces, sidewalks and landscaping, attached as Appendix "B" to Report PED18043; and,
- b) That the conditions of Draft Plan of Condominium Approval attached as Appendix "C" to Report PED 18043 be received and endorsed by City Council.

### EXECUTIVE SUMMARY

The purpose of the Draft Plan of Condominium application is to establish a vacant land condominium for six (6) single detached dwellings and a common element road with five (5) visitor parking spaces, as shown on Appendix "B" to Report PED18043, as per

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 2 of 16**

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conditionally approved Site Plan Control Application DA-17-136. This Condominium application will provide the requested form of tenure for the single detached dwellings. The proposed Draft Plan of Condominium has merit, and can be supported as it is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan (UHOP).

***Alternatives for Consideration – See Page 15***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** None

**Staffing:** None

**Legal:** As required by the *Planning Act*, Council shall hold at least one (1) Public Meeting to consider an application for a Draft Plan of Condominium (Vacant Land).

**HISTORICAL BACKGROUND**

**Proposal**

The subject property is 0.42 hectares in area, and is located on the north side of York Road between Fieldgate Street and Watsons Lane, in the former Town of Dundas (see Appendix “A” to Report PED18043). The subject property is irregular in shape and has frontage on York Road. The proposal is to establish a private condominium road accessed from York Road on the westerly side of the property. The condominium road will provide access for the six (6) proposed single detached dwellings as well as for five (5) visitor parking spaces, one of which is a barrier free parking space. The proposal includes sidewalks and common landscaped areas.

**Background**

Previous applications were applied for in order to develop the subject property for 18 townhouse dwelling units which was appealed to the Ontario Municipal Board (OMB) for non-decision and was denied by the OMB, and then subsequently for 12 semi detached dwellings which was denied by City Council and the OMB upheld Council’s decision.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 3 of 16**

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**Current Proposal**

A third proposal for the development of the subject lands for a total of six (6) single detached dwellings was submitted by the owner in 2016. The owner submitted a Minor Variance application to permit a private condominium road to be defined as a public thoroughfare and to permit a parking space to be located within the driveway. The Minor Variance application was heard by the Committee of Adjustment on September 1, 2016. The Committee of Adjustment denied the Minor Variance application and the decision was appealed to the OMB. A settlement was reached in respect to the Minor Variance appeal between the owner and the City of Hamilton to allow the proposed variances, along with an additional variance for a reduction in the northerly side yard setback for Unit 3, subject to the following conditions:

- a) The Owner provide a visual barrier (as defined by the Town of Dundas Zoning By-law) at locations where none currently exists along the perimeter of the site, to provide for privacy for abutting property owners and to mitigate any adverse impact of vehicle headlights from the site. The location, design and material of any visual barrier to be provided, will be determined through the Site Plan Control process. The height of any visual barrier to be provided shall be:
  - i) At least 1.2 metres, measured from the finished grade of the site, for a visual barrier provided for the purpose of mitigating vehicle headlights from any road or vehicle manoeuvring area on the site; and,
  - ii) For all other areas, the maximum height permitted under the City's Fence By-law No. 10-142, or such lower height as determined by City staff through the Site Plan Control process as necessary to provide for privacy for abutting properties.
- b) Where a visual barrier already exists along the perimeter of the site that provides adequate privacy and mitigation of vehicular headlights from the site, no additional visual barrier shall be required at that specific location.
- c) Notwithstanding the above, for greater certainty, where any parking area containing five (5) or more parking spaces is provided on the site, the provisions of Section 7.4 of the Dundas Zoning By-law shall prevail over the above.
- d) The applicant receives approval of the required associated Site Plan Control and Draft Plan of Condominium applications.
- e) The applicant shall submit a revised Functional Servicing Report to the satisfaction of the Manager of Development Approvals.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 4 of 16**

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- f) In the event that the Dundas Zoning By-law is repealed or replaced, the above variances and conditions herein shall survive.
- g) That the proposed development be constructed substantially in accordance with the site plan found at Attachment 1 to this Order.

A written decision respecting the settlement was issued by the OMB on September 26, 2017, as shown on Appendix “D” to Report PED18043. The requirements of the settlement have been implemented through the Site Plan Control application and the proposed Plan of Condominium.

The owner applied for Draft Plan of Condominium application 25CDM-201615 on October 11, 2016 and applied for the Site Plan Control application on June 30, 2017. The Site Plan was granted conditional approval on November 16, 2017.

A Building Permit for one (1) of the six (6) proposed single detached dwellings was issued on November 3, 2017. The Building Permit was issued prior to the completion of Site Plan Control on the basis that one single detached dwelling is currently permitted on-site without Site Plan Control or a Plan of Condominium Approval. In addition it should be noted that the applicant was required to complete the review of the grading and drainage control plans and post securities prior to the issuance of the Building Permit.

**Chronology:**

<u>October 11, 2016:</u>	Draft Plan of Condominium Application 25CDM-201615 received.
<u>November 7, 2016:</u>	Draft Plan of Condominium Application 25CDM-201615 deemed complete.
<u>November 14, 2016:</u>	Notice of Complete Application and Preliminary Circulation of Draft Plan of Condominium Application 25CDM-201615 sent to 53 property owners within 120 metres of the westerly half of the subject lands.
<u>December 2, 2016:</u>	Revised Notice of Complete Application and Preliminary Circulation of Draft Plan of Condominium Application 25CDM-201615 sent to 64 property owners within 120 metres of the entire subject lands.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 5 of 16**

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December 8, 2016: The Public Notice Sign was posted on the subject property.

June 30, 2017: Site Plan Control Application received.

September 26, 2017: Minor Variance application DN/A-16:266 approved by the OMB.

November 16, 2017: Site Plan Control application DA-17-136 was granted Conditional Approval.

January 24, 2018: The Public Notice Sign was updated to reflect the date and time of the Public Meeting.

February 2, 2018: Notice of Public Meeting was mailed to 64 property owners within 120 m of the subject property.

**Details of Submitted Application:**

**Location:** 231 York Road, Dundas

**Owner / Applicant:** Recchia Developments Inc. c/o Fernando Recchia

**Agent:** Wellings Planning Consultants Inc. c/o Glenn Wellings

**Property Description:**

<u>Lot Area:</u>	4,112.3 sq. m.
<u>Lot Frontage:</u>	57 m
<u>Lot Depth:</u>	102 m (Irregular)
<u>Servicing:</u>	Full Municipal Services Available

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Land:</u></b>	Single Detached Dwelling	"R2" Single Detached Residential Zone

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 6 of 16**

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**Surrounding Land:**

<b>North</b>	Single Detached Dwellings	“R2” Single Detached Residential Zone
<b>East</b>	Single Detached Dwellings	“R2” Single Detached Residential Zone
<b>South</b>	Hydro Substation and Open Space Area	“U-FP” Public Utilities Zone
<b>West</b>	Single Detached Dwellings	“R2” Single Detached Residential Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (2014):**

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plan, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

As the application for a Draft Plan of Condominium (Vacant Lands) complies with the Official Plan, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*; and,
- Consistent with the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshoe (2017):**

As of July 1, 2017, the policies of the Growth Plan for the Greater Golden Horseshoe (2017) apply to any Planning decision. The following policies, amongst others, apply to the proposal:

**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 7 of 16**

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“2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to settlement areas that:
  - i. have a delineated built boundary;
  - ii. have existing or planned municipal water and wastewater systems; and,
  - iii. can support the achievement of complete communities.
- c) within settlement areas, growth will be focused in:
  - iii. locations with existing or planned transit, with a priority on higher order transit where it exists or is planned; and,
  - iv. areas with existing or planned public service facilities.

2.2.1.4 Applying the policies of this Plan will support the achievement of *complete communities* that:

- a) feature a diverse mix of land uses, including residential and employment uses, convenient access to local stores, services, and *public service facilities*;
- c) provide a diverse range and mix of housing options, including second units and *affordable* housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes; and,
- d) expand convenient access to:
  - i. a range of transportation options, including options for the safe, comfortable and convenient use of *active transportation*;

2.2.2 Delineated Built-up Areas

1. By the year 2031, and for each year thereafter, a minimum of 60 percent of all residential development occurring annually within upper- or single-tier municipalities will be within the delineated built-up area.”

The application conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (2017) by focusing growth within the built-up area, contributing to achieving

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 8 of 16**

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a complete community, utilizing existing and planned municipal infrastructure, and providing for development with access to a range of transportation options.

Accordingly, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

**Urban Hamilton Official Plan**

The subject property is identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the UHOP. The following policies, amongst others, apply with respect to the subject application.

“E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

- a) residential dwellings, including second dwelling units and *housing with supports*.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

Low Density Development

E.3.4.3 Uses permitted in low density residential areas include single-detached, semi-detached, duplex, triplex, and street townhouse dwellings.

E.3.4.4 For low density residential areas the maximum *net residential density* shall be 60 units per hectare.

E.3.4.5 For low density residential areas, the maximum height shall be three storeys.”

The proposal is to establish a vacant land condominium for six (6) single detached dwellings that will be less than three (3) storeys in height and have a residential density of approximately fifteen (15) units per net hectare. The existing development in the area is comprised of single detached dwellings on large lots. As such, the proposed development will maintain the existing character of the established neighbourhood.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 9 of 16**

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Therefore the proposed use, form, and scale of development comply with the policies of the UHOP.

Natural Heritage

The subject property is located adjacent to a Core Area (Environmentally Significant Area, Provincially Significant Wetland).

“C.2.5.5 *New development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in Section C.2.5.2 to C.2.5.4 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there shall be no negative impacts on the natural features or on their ecological functions.*”

The proposed development is to be located within the footprint of the existing developed area and is also separated from the Core Area by York Road and, except for increased storm water runoff, the development is not expected to have an impact on the Core Area. Also there are trees growing on-site and on the abutting properties and therefore a Tree Protection Plan (TPP) is required. Both Storm Water Management and TPP will be reviewed as part of the Site Plan Control application, which will need to be satisfied prior to the registration of the Draft Plan of Condominium as per Condition No. 2 of Appendix “C” to Report PED18043.

**Town of Dundas Zoning By-law No. 3581-86**

The subject property is zoned “R2” Single Detached Residential Zone. The “R2” Zone permits single detached residential uses and therefore the use conforms to the Town of Dundas Zoning By-law No. 3581-86.

Minor Variance approval (application No. DN/A-16:266) to permit a private common element condominium road to be defined as a public thoroughfare, to permit a parking space to be located within the driveway, and to permit a reduction in the northerly side yard setback for Unit No. 3 were approved by the OMB on September 26, 2017. These variances to the Town of Dundas Zoning By-law No. 3581-86 are required in order to address By-law conformity issues with respect to the proposed development.

The proposed Draft Plan of Condominium will be required to demonstrate conformity to the Zoning By-law prior to the registration of the Draft Plan of Condominium. This is addressed as Condition No. 1 of Appendix “C” of Report PED18043.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 231 York Road, Dundas (PED18043) (Ward 13) - Page 10 of 16**

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## **RELEVANT CONSULTATION**

The following internal Departments and external Agencies had no concerns or objections with respect to the proposed applications:

- Recreation Planning, Community and Emergency Services Department;
- Niagara Escarpment Commission;
- Hydro One; and,
- Alectra Utilities (formerly Horizon Utilities).

**Health Protection Division, Public Health Services Department**, identified that a pest control plan focusing on rats and mice be developed and implemented for the construction / development phase. This requirement is being addressed as a condition of Site Plan Control, which will need to be satisfied prior to the registration of the Draft Plan of Condominium as per Condition No. 2 of Appendix “C” to Report PED18043.

**Canada Post** advised mail delivery service to the development will be provided through a centralized Community Mail Box. Additionally prospective purchasers and tenants need to be advised that mail services will be provided by way of a centralized Community Mail Box and the location of this mail box. These requirements have been included as Condition Nos. 3 b), c) and d) of Appendix “C” to Report PED18043.

**Urban Forestry and Horticulture, Public Works Department**, identified that there are municipal tree assets on or adjacent to the property that will be directly affected by the proposal and therefore a tree management plan will be required. A landscape plan will be required for the placement of trees both on the subject property and on the City Boulevard. Urban Forestry and Horticulture staff noted that new development is required to provide payment for road allowance street trees. The tree management plan, landscape plan and the payment for street trees will be submitted and collected as part of the Site Plan Control application. These requirements have been included as conditions of Site Plan Control, which will need to be satisfied prior to the registration of the Draft Plan of Condominium, included as Condition No. 2 of Appendix “C” to Report PED18043.

**Transportation Management, Public Works Department**, identified that the intended road width of York Road is 20.117 metres and the applicant will be required to provide a Transportation Demand Management Options Memo.

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As part of the Site Plan Control application, a 3.66 metre road widening was provided from the previously un-widened portion of the lands. The Site Plan Control application was reviewed by Transportation Management staff which provided no additional comments respecting the Transportation Demand Management Options Memo.

**Operations Division, Public Works Department,** advised that the development is eligible for weekly waste collection, however the development is not designed for waste collection on private property for each individual dwelling unit as it does not allow for the continuous forward movement of the waste collection vehicles. If forward movement of waste collection vehicles or a turnaround area allowing for a three-point turn cannot be accommodated, waste collection will be offered curb side on York Road at a common area.

There is insufficient space on-site in which to accommodate forward movement only for waste collection vehicles or to accommodate a turnaround area on-site therefore, waste collection is to be from York Road from a common area. To ensure prospective owners and tenants are made aware that waste collection will be from a common area on York Road, a warning clause will need to be included in the Condominium Agreement. This has been included as a Condition No. 3 e) to Appendix "C" of Report PED18043.

**Public Consultation:**

In accordance with Council's Public Participation Policy, the proposal was circulated as part of the Notice of Complete Application to 64 property owners within 120 m of the subject lands on December 2, 2016. A public notice sign was also established on-site on December 8, 2016 and updated on January 24, 2018. At the time of the writing of this report, a total of 10 letters of correspondence were received and are attached as Appendix "E" to Report PED18043.

The issues raised in the letters of correspondence identified a number of concerns with respect to the proposed development including:

- i) Inaccuracy with lands identified on the location map;
- ii) Disregard for the previous OMB decisions;
- iii) Compatibility and consistency with the existing neighbourhood;
- iv) No attempt by the applicant to discuss the proposal with surrounding residents;
- v) Over-intensification;

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- vi) Impacts respecting traffic, noise, parking, and snow storage; and,
- vii) Impact on property values.

The issues identified in the correspondence are discussed in the Analysis and Rationale for Recommendations section of this Report.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - i) It is consistent with the PPS (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017);
  - ii) It complies with the policies of the UHOP; and,
  - iii) The proposal establishes condominium tenure for a form of development permitted under the Town of Dundas Zoning By-law No. 3581-86, as amended by Minor Variance application DN/A-16:266.
2. The purpose of the Vacant Land Condominium is to facilitate the form of tenure for the proposed single detached dwellings and common elements. The Condominium will establish the lots for the six (6) single detached dwellings and the common element which will include the condominium road, sidewalk, visitor parking, and landscaped areas.
3. It is noted that snow removal on the private condominium road will not be undertaken by the City of Hamilton and it will be the responsibility of the Condominium Corporation to ensure that snow removal is undertaken for the common element condominium road and sidewalks. In order to ensure that purchasers and tenants are made aware of the fact that the City of Hamilton will not be undertaking snow removal for the private condominium road, a warning clause will be required to be included as part of any purchase and sale or lease or rental agreement. This has been included as Condition No. 3 a) of Appendix "C" to Report PED18043.
4. Growth Planning staff have reviewed the proposed Draft Plan of Condominium and have requested standard notes be included in the list of Draft Plan of Condominium Conditions which provides for a three (3) year approval limit. The note has been included in Appendix "C" to Report PED18043.
5. There is a 300mm municipal sanitary sewer and a 300mm public watermain within this section of the York Road road allowance that are available to service

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the subject property. There is no storm sewer along this section of York Road. As part of the Site Plan Control application, the applicant is required to extend storm sewers in order to service the subject lands. The grading and storm water management of the subject lands will also be reviewed and addressed as part of the Site Plan Control application.

A 3.66 metre road widening from the previously un-widened portion of the lands is required. The road widening dedication will be provided as part of the Site Plan Control application.

These requirements have been included as conditions of Site Plan Control, which will need to be satisfied prior to the registration of the Draft Plan of Condominium, as per Condition No. 2 of Appendix "C" to Report PED18043.

6. Following the Notice of Complete Application, staff received ten (10) letters of correspondence (see Appendix "E" of Report PED18043).

The letters of correspondence identified a number of concerns with respect to the proposed development:

Inaccuracy with lands identified on the location map

It was noted in the letters of correspondence that the location map included in the Notice of Complete Application dated November 14, 2016 showed only the westerly half of the subject property. Staff reviewed the error and further identified that the circulation for all properties within 120 metres was based on the extent of the lands identified in the inaccurate location map. The location map and circulation list were corrected and a revised circulation to all property owners within 120 metres was circulated on December 2, 2016.

Disregard for Previous OMB Decisions

The two (2) previous OMB decisions from 2013 and 2015 were noted by several interested parties who expressed concern that the proposal disregards the previous OMB Decisions respecting not only the type of development (townhouses and semi detached dwellings) but that the dwellings should front onto York Road. The revised proposal establishes single detached dwellings which constitutes the type of dwelling unit that the previous OMB Decisions recommended. A Minor Variance application was brought before the OMB and the OMB authorized a settlement for the six (6) single detached dwellings which are accessed from a private condominium road.

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Compatibility and Consistency with the Existing Neighbourhood

A concern was raised that the proposed development is not compatible or consistent with the existing neighbourhood. The policies of the UHOP do not narrowly interpret compatibility to be the same as or even being similar to the surrounding neighbourhood but that the development must be mutually tolerant and capable of existing together in harmony. The proposed development is for the establishment of single detached dwellings which is a form of development that is predominant in the surrounding area. The size of the proposed lots is similar to other lots that exist in the area. The primary difference between the proposed lots and the lots in the surrounding area is that the proposed lots do not directly front onto a public road but onto a private common element condominium road. Through both the OMB settlement and Site Plan Control application process, potential impacts including lighting impacts, sightline impacts, parking, and storm water management will be addressed.

Discussion Between Neighbours and the Applicant

A concern was raised that the applicant made no attempt to discuss the proposed development with neighbouring property owners. While the neighbouring property owners were advised of the proposed development through the applications for both Minor Variance and Draft Plan of Condominium, there is no requirement for the applicant to undertake a Public Consultation Strategy to engage with the public unless an application for an Official Plan Amendment, Zoning By-law Amendment or Draft Plan of Subdivision has been applied for.

Over-Intensification

A concern was raised that the proposed development represents an over intensification of the subject lands. As noted in respect to compatibility, the proposed use of the lands and the size of the proposed lots is similar to other lots that exist in the surrounding area and complies with the UHOP with respect to use and density. Adequate parking can be provided on-site along with landscaping and amenity space.

Impacts respecting Traffic, Noise, Parking, and Snow Storage

Concerns were raised that the proposed development will create negative impact on the surrounding area with respect to traffic, noise, overflow parking, and snow storage. Given the small scale of development, the six (6) single detached dwellings would not be expected to generate significant amounts of traffic and

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noise, and through the Site Plan Control application, the sightlines of the proposed private condominium road have been reviewed and obstructions to the sightline have been restricted as part of the Site Plan Control application.

A concern was raised in respect to overflow parking spilling into the surrounding neighbourhood. In addition to the five (5) visitor parking spaces provided off the condominium road, each dwelling unit will maintain an attached garage that can support two (2) parking spaces along with additional space within the driveway that can support two (2) additional parking spaces. Therefore sufficient parking will be provided and therefore the proposed development will not create impacts with respect to overflow parking into the surrounding neighbourhood.

In respect to snow storage, ensuring the maintenance of the condo road, which includes snow removal, forms the basis for establishing a Condominium Corporation. There are landscaped areas within the common element that can accommodate snow storage and through the Site Plan Control application the potential impacts of snow storage on the proposed storm water management system was reviewed and it was determined that adverse impacts will not be created.

Impact on Property Values:

A number of interested parties were concerned that the proposed development would negatively impact the property values of existing properties in the area. Staff are not aware of any supporting real estate information or any empirical data with respect to property devaluation that would substantiate this concern.

## **ALTERNATIVES FOR CONSIDERATION**

If the Draft Plan of Condominium application is denied, the applicant may apply for approval of a standard condominium or establish rental tenure for the proposed single detached dwellings.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

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**Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

**Clean and Green**

*Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.*

**Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

**Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.*

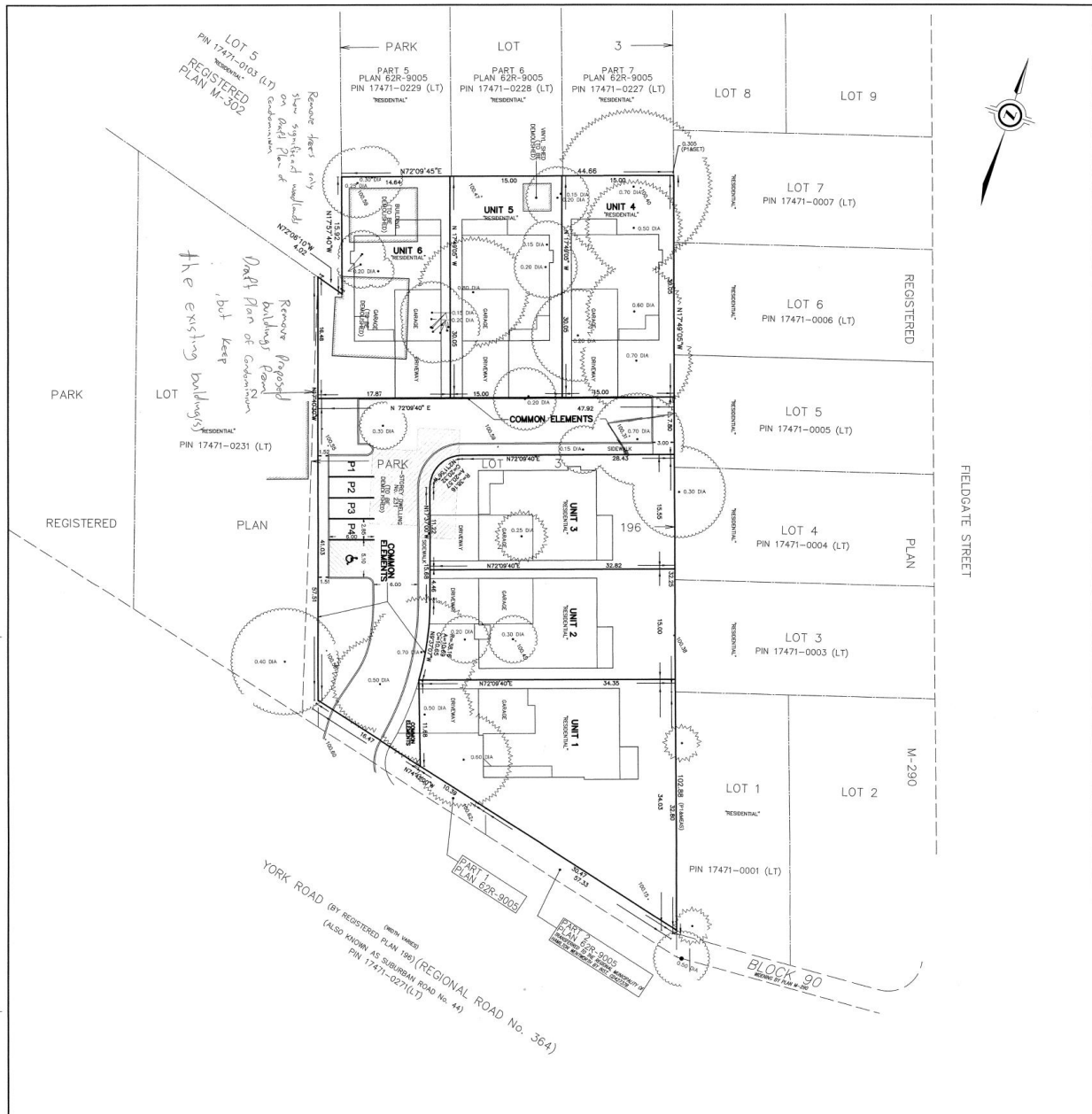
**Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: Location Map
- Appendix “B”: Draft Plan of Condominium
- Appendix “C”: Conditions of Draft Plan of Condominium
- Appendix “D”: Ontario Municipal Board Decision – September 26, 2017
- Appendix “E”: Public Comments

DB:jp



**KEY MAP**  
Map showing the location of the subject lot within the registered plan and surrounding streets (York Road, Fieldgate Street, M-290).

**SCALE:** 1:250

**METRIC DIMENSIONS:** THIS PLAN IS COMPILED BY THE PLAN SET BY L. D. BARNES LIMITED

**ADDITIONAL INFORMATION REQUIRED UNDER SECTION 51 (7) OF THE PLANNING ACT:**

- A - SEE PLAN
- B - SEE PLAN
- C - SEE PLAN
- D - SEE PLAN
- E - SEE PLAN
- F - SEE PLAN
- G - SEE PLAN
- H - SEE PLAN
- I - SEE PLAN
- J - SEE PLAN
- K - SEE PLAN
- L - SEE PLAN

**PREPARED BY:** L. D. BARNES LIMITED  
**REGISTERED PROFESSIONAL ENGINEER**  
**CITY OF HAMILTON**

**DATE:** Dec 4, 2017

**PROJECT:** PART OF PARK LOT 3 REGISTERED PLAN 196

**CLIENT:** MATTHEW CAMERON, GEORGINA HEWWOOD - KERBY T. HOWE, SEASERVING LIMITED

**ADDRESS:** 144-B-203-20-B (CONDO) YORK ROAD, HAMILTON, ONTARIO, CANADA L8N 2R7

**PHONE:** (905) 571-1111

**FAX:** (905) 571-1112

**EMAIL:** info@seaserv.com

**WEBSITE:** www.seaserv.com

LAND USE ANALYSIS	ELEVATIONS	OWNER'S CERTIFICATE	SURVEYOR'S CERTIFICATE
<p>TOTAL NUMBER OF UNITS: 6</p> <p>TOTAL AREA OF SITE: 4192.84 m<sup>2</sup></p> <p>DENSITY: 1.43 UNITS / HA</p> <p>PARKING: 18 (8 VISITORS AND 2 PER UNIT)</p> <p>BALANCE COVERAGE: 884.5 m<sup>2</sup> m (22.4%)</p> <p>PARKING/LANDSCAPE COVERAGE: 944.7 m<sup>2</sup> m (22.4%)</p> <p>LANDSCAPE COVERAGE: 2262.4 m<sup>2</sup> m (54.2%)</p>	<p>ELEVATIONS ARE OF GENERAL DESIGN (CONTOUR INTERVAL 30). ELEVATION FROM GROUND OBSERVATIONS AND NATIONAL RESOURCES CANADA'S TERRAIN MODEL (TM25).</p>	<p><b>OWNER'S CERTIFICATE</b></p> <p>I, <b>MATTHEW CAMERON</b>, GEORGINA HEWWOOD - KERBY T. HOWE, SEASERVING LIMITED, 144-B-203-20-B (CONDO) YORK ROAD, HAMILTON, ONTARIO, CANADA L8N 2R7, HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS PLAN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.</p> <p><b>DATE:</b> Dec 4, 2017</p> <p><b>SIGNATURE:</b> [Signature]</p> <p><b>PROFESSIONAL ENGINEER</b></p>	<p><b>SURVEYOR'S CERTIFICATE</b></p> <p>I, <b>L. D. BARNES</b>, REGISTERED PROFESSIONAL ENGINEER, HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS PLAN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.</p> <p><b>DATE:</b> Dec 4, 2017</p> <p><b>SIGNATURE:</b> [Signature]</p> <p><b>REGISTERED PROFESSIONAL ENGINEER</b></p>



**Recommended Conditions of Draft Plan of Condominium Approval**

That this approval for the **Draft Plan of Condominium Application (Vacant Land) 25CDM-201615, by Recchia Developments Inc. c/o Fernando Recchia** to establish a Draft Plan of Condominium (Vacant Land) to create six (6) single detached dwelling lots, a private common element road, visitor parking, sidewalk and landscaped area, on lands located at 231 York Road (Dundas), be received and endorsed by City Council with the following special conditions:

1. That the final Plan of Condominium shall comply with all of the applicable provisions of the Town of Dundas By-law No. 3581-86, as amended, or in the event the City of Hamilton has repealed and replaced the Town of Dundas Zoning By-law No. 3581-86 with By-law No. 05-200, the final Plan of Condominium shall comply with all the applicable provisions of the Zoning By-law in force and effect at the time of the registration of the Draft Plan of Condominium.
2. That the final Plan of Condominium shall comply, in all respects, with Site Plan Control Application No. DA-17-136, to the satisfaction of the Manager of Development Planning, Heritage and Design.
3. That the Owner shall include the following warning clauses in the Condominium Approval Agreement and Condominium Agreement and all Purchase and Sale Agreements and any rental or lease agreements required for occupancy:

To the satisfaction of the Director of Planning and Chief Planner:

- (a) Purchasers / Tenants are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road.

To the satisfaction of Canada Post:

- (b) That the home / business mail delivery will be from a designated Centralized Mail Box.
- (c) That the developer / owner be responsible for officially notifying the purchasers of the exact Centralized Main Box locations prior to the closing of any home sale.
- (d) The owner further agrees to:
  - i) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the condominium.

- ii) Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
- iii) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and indicate the location of the centralized mail facilities on appropriate maps, information board and plans.

To the satisfaction of the Director of Operations Division, Public Works:

- (e) That all waste streams (garbage, recycling, organics & leaf and yard waste) will not be picked up from individual properties. Residents are responsible for ensuring that all waste streams (garbage, recycling, organic & leaf and yard waste) are set curb side in front of the entrance to the development on York Road.
4. That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

That the owner be advised of the following:

#### NOTES TO DRAFT PLAN APPROVAL

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

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



**ISSUE DATE:** September 26, 2017

**CASE NO(S):** PL161098

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*,  
R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Recchia Developments Inc.
Subject:	Minor Variance
Variance from By-law No.:	3581-86
Property Address/Description:	231 York Road
Municipality:	City of Hamilton
Municipal File No.:	A-266/16
OMB Case No.:	PL161098
OMB File No.:	PL161098
OMB Case Name:	Recchia Developments Inc. v. Hamilton (City)

**Heard:** June 22, 2017 in Hamilton, Ontario

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

Recchia Developments Inc.

D. Baker\*

City of Hamilton

P. MacDonald\*

**Participants**

J. Lawrence

Self-represented

**MEMORANDUM OF ORAL DECISION DELIVERED BY STEFAN KRZECZUNOWICZ  
ON JUNE 22, 2017, AND ORDER OF THE BOARD**

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## **INTRODUCTION**

[1] This was a hearing into an appeal by Recchia Developments Inc. (the "Applicant") of the refusal by the Committee of Adjustment (the "Committee") of the City of Hamilton (the "City") to grant variances from Zoning By-law No. 3681-86 for property at 231 York Road, in the former Town of Dundas (the "site"). The variances would permit a redevelopment of six single detached dwellings fronting on a private condominium road. The site currently contains two lots fronting on York Road.

[2] Three variances are requested: one to allow the private road to be considered a street under the by-law; one to permit a parking space to be located in a driveway; and one to permit a 2 metre ("m") setback for Unit 3, where the side yard abuts a flanking street (see Attachment 1). The latter has been added to the original application since the Committee issued its decision.

### **Minutes of Settlement**

[3] The City supports granting the variances and signed Minutes of Settlement with the Applicant to that effect on June 12, 2017 (Exhibit 1, Tab 2).

[4] The parties agree that granting the variances should be conditional on approval of site plan and plan of condominium applications for the site, submission of a Functional Servicing Report by the Applicant to the satisfaction of City staff, and construction of a visual barrier around the site according to prescribed specifications. The proposed conditions are set out in Attachment 1.

### **Previous Decisions**

[5] The Board has in recent years dismissed appeals to amend the Urban Hamilton Official Plan ("UHOP") and zoning by-laws to permit 15 townhouses (in 2013) and 12 semi-detached houses (in 2015) on the site.

**Witnesses**

[6] Participant status was granted to Jennifer Lawrence, who lives near the site.

[7] The Board also heard evidence from Glen Wellings, a Professional Planner, whom the Board qualified to provide expert opinion evidence in matters of land use planning.

**ANALYSIS AND FINDINGS**

[8] The Board's authority to grant or deny variances is given under s. 45(1) of the *Planning Act* (the "Act"). This section has given rise to what are commonly referred to as the "four tests" for variance approval. The tests must be applied by the Committee when considering a variance application and by the Board when making its decision on a variance appeal. In order to meet the tests the variances must:

- a. maintain the general intent and purpose of the official plan;
- b. maintain the general intent and purpose of the zoning by-law;
- c. be desirable for the appropriate development or use of the land, building or structure; and
- d. be minor.

[9] The Board must also consider whether the variances have sufficient regard to the Provincial interests listed in s. 2 of the Act, whether they are consistent with the Provincial Policy Statement 2014 ("PPS"), and whether they conform to the Growth Plan for the Greater Golden Horseshoe 2017 (the "Growth Plan").

**Opposition to the Variances**

[10] Ms. Lawrence, a resident of the neighbourhood, noted that the previous Board decisions determined the most appropriate lot configuration on the site to be one where single detached homes front York Road. In her view, homes that front on a new private road would be incompatible with the neighbourhood development pattern. As such, the variance for the road is not minor.

[11] Ms. Lawrence was also concerned that the conditions of approval do not sufficiently limit development on the site, particularly with respect to rear and side yard setbacks, building height, and the number of permitted dwellings. She proposed that any approval of the variances be conditional on the site being developed substantially in accordance with the site plan entered into evidence as Exhibit 1, Tab 6.

[12] Ms. Lawrence also proposed that, should the variances be approved, the Board impose a more stringent condition for the visual barrier than that included in the Minutes of Settlement and a new condition that would increase the exterior side yard setback for Unit 4 beyond what is set out in the site plan.

**Assessment of Variances**

[13] The Board finds that approving the variances, as well as the proposed conditions of approval, satisfies the requisite tests for the reasons set out below.

[14] The Board finds that the variances, being as they facilitate modest intensification on the existing network of municipal services and infrastructure within a Settlement Area and the Built Boundary of the City, are consistent with the PPS and conform to the Growth Plan.<sup>1</sup>

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<sup>1</sup> The Growth Plan 2017 took effect after the Board issued its decision. The Board is satisfied that the variances also conform to the Growth Plan 2017.

[15] The Board is persuaded that, pursuant to a Sight Line Study of the proposal redevelopment undertaken in 2016 (Exhibit 1, Tab 18), having an internal road on the site rather than units fronting onto York Road is better for the protection of public safety per s. 2(h) of the Act.

[16] The Board accepts the opinion of Mr. Wellings that the variances maintain the general intent and purpose of UHOP policies that seek to preserve the stability of neighbourhoods through development that is compatible—not necessarily identical, or even similar to—the existing physical character of the neighbourhood. This proposal is for single detached units in a neighbourhood of single detached units that, though they are of a somewhat higher density than surrounding development, still conform to UHOP policies that regulate density and the number of storeys of dwellings.

[17] Mr. Wellings' visual evidence in Exhibit 1 shows that frontage onto a public roadway is a feature of this neighbourhood. However, the Board finds that key aspects of the proposed redevelopment, in particular the alignment of the proposed internal road over an existing driveway as it approaches York Road, as well as the design of Unit 1 to ensure that, from the streetscape perspective, a consistent look and feel of York Road frontage is maintained, means that the internal road and its relationship to the new units and the broader built environment respects the existing physical characteristics of the neighbourhood.

[18] The Board finds that the variances collectively meet the general intent and purpose of the zoning by-law by essentially updating a 30-year old by-law so that it properly implements more recent UHOP policies, particularly Policy 4.5.5 respecting the treatment of private condominium roads.

[19] The Board finds that the variances are desirable for the appropriate use of the land. They represent a balance between the new elements in the proposed redevelopment and the existing neighbourhood character. This is reflected in part by City Council and staff support for the proposal and the resulting Minutes of Settlement.

[20] The Board finds that previous Board decisions relating to this site do not limit the current redevelopment proposal for several reasons. First, the previous decisions engaged very different proposals, particularly with respect to built form. Second, these decisions applied different adjudicative tests than the minor variances tests set out in s.45(1) of the Act. Third, the built form issues that were central to the previous appeals have been largely resolved, to the point where the City, which opposed previous redevelopment proposals, is now *ad idem* with the Applicant. Finally, the Sight Line Study attesting to direct driveway access to York Road from the site being unsafe was not available to the Board in the previous hearings.

[21] Drawing on the above analysis, the Board finds the variances to be minor. They will facilitate homes that will be built under current zoning standards and any potential adverse impacts of a planning nature that may arise will be properly mitigated by the conditions that require, amongst other things, that the variances be contingent upon site plan approval, condominium application approval, and a substantive visual barrier around most of the site perimeter. The Board is satisfied that the proposed barrier addresses Ms. Lawrence's desire to see a consistent and aesthetically pleasing delineation of the site from neighbouring properties.

#### **ORDER**

[22] Pursuant to s. 45(18.1.) of the Act the Board finds the addition of the setback variance to be minor, for which no further notice is required.

[23] The Board will allow the appeal and will authorize the variances to By-law No. 3591-86 as follows:

- a. Notwithstanding the definition of "Public Thoroughfare" in Section 3 "Definitions" of the Dundas Zoning By-law, a private road/condominium road (which may include visitors parking, landscaping, etc.) shall be considered a "Public Thoroughfare" for the purpose of the regulations contained in the By-law;



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PL161098

- b. To permit a parking space to be located in the driveway, notwithstanding that the By-law states that no such parking shall be located in a required front yard; and
- c. To permit a minimum 2 m setback where the side yard abuts a flanking street shall be provided for Unit 3, instead of the minimum 3.5 m setback were the side yard abuts a flanking street.

[24] The variances are authorized according to the following conditions:

- a. That the Owner provide a visual barrier (as defined in the Dundas Zoning By-law) at locations where none currently exists along the perimeter of the site, to provide for privacy for abutting property owners and to mitigate any adverse impact of vehicular headlights from the site. The location, design and materials of any visual barrier to be provided, will be determined through the site plan process. The height of any visual barrier to be provided shall be:
  - i. at least 1.2 m, measured from the finished grade of the site, for a visual barrier provided for the purpose of mitigating vehicle headlights from any road or vehicular manoeuvring area on the site; and
  - ii. for all other areas, the maximum height permitted under the City's "Fence By-law" No. 10-142, or such lower height as determined by City staff through the site plan process as necessary to provide for privacy for abutting property owners.
- b. Where a visual barrier already exists along the perimeter of the site that provides adequate privacy and mitigation of vehicular headlights from the site, no additional visual barrier shall be required at that specific location.

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PL161098

- c. Notwithstanding the above, for greater certainty, where any parking area containing five or more parking spaces is provided on the site, the provisions of s. 7.4 of the Dundas Zoning By-law shall prevail over the above.
- d. That the Applicant receives approval of the required associated Site Plan and Plan of Condominium applications.
- e. The Applicant shall submit a revised Functional Servicing Report to the satisfaction of the Manager of Development Approvals.
- f. In the event that the Dundas Zoning By-law is repealed or replaced, the above variances and conditions herein shall survive.
- g. That the proposed development be constructed substantially in accordance with the site plan found at Attachment 1 to this Order.

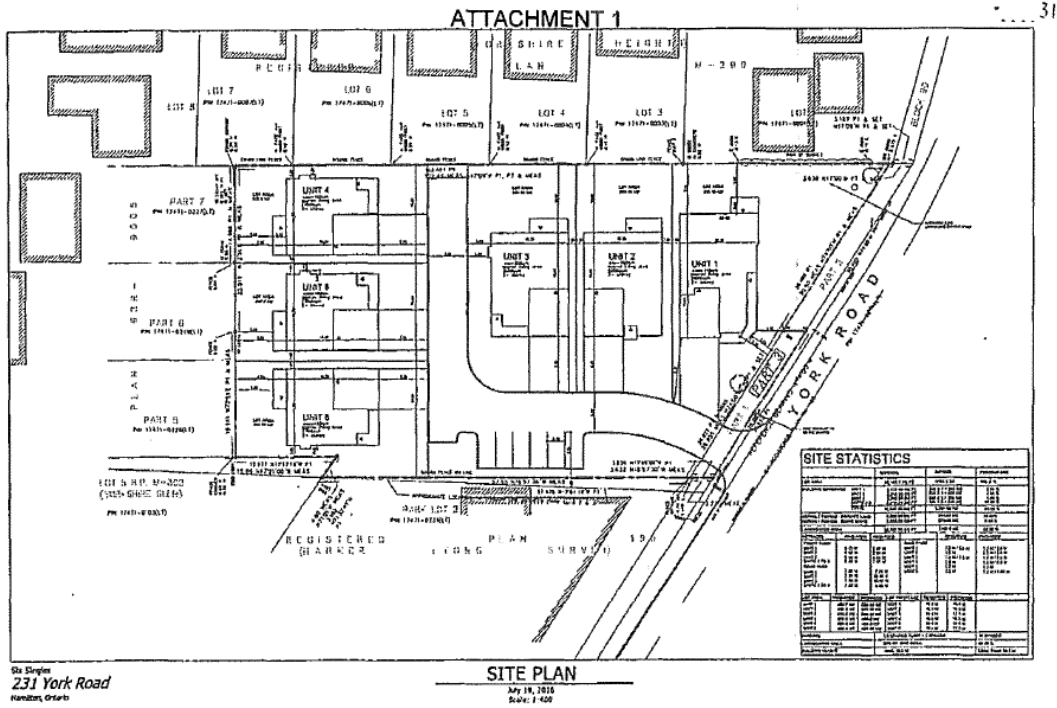
*"Stefan Krzeczunowicz"*

STEFAN KRZECZUNOWICZ  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario  
Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248



December 17, 2016

Mr. Daniel Barnett  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON  
L8P 4Y5

Dear Mr. Barnett:

**Re: Notice of Complete Application  
231 York Road  
Town of Dundas  
Condominium Application 25CDM-201615  
Recchia Developments Inc.**

We are in receipt of the above notice. Our property is located at 8 Fieldgate Street and our rear property line is adjacent to the side yard of 231 York Road. The subject property consists of two lots (one vacant and one containing a single-family home). The two lots are surrounded by one and two storey single family residential dwellings on relatively large lots. The purpose of the application is to permit a Draft Plan of Common-Element Condominium consisting of a private roadway to facilitate the creation of six single detached units. The lands are also currently the subject of a minor variance application (A-266/16) that is under appeal to the OMB. The variance was unanimously denied by the Committee of Adjustment.

As you know, the property has already been the subject of two OMB hearings (the minor variance hearing will be the third). We trust that you will read the two OMB decisions as a significant amount of time and effort has already gone into assessing the character of our neighbourhood and what type of development does and does not belong on this property. At the first hearing, Mr. Edward John, a Planner for the City of Hamilton, advised the hearing officer that the character of our neighbourhood is that of single-family homes fronting onto York Road and that the proposed development at that time, which included an internal road essentially identical to the one contained within the draft plan of condominium, was not in-keeping with the character of development along York Road. The hearing officer, on page 8 of the 2013 OMB decision, accepts Mr. John's evidence and finds that the planned function of the subject lands is for homes, most likely single-family detached homes, fronting on a public road, in this case York Road.

At the second hearing, the character of our neighbourhood was again examined and, as you will note on pages 9 and 10 of the decision, a different hearing officer (this time the Vice Chair of the OMB) again recognizes that the character of our neighbourhood is that of single-family dwellings fronting onto York Road. Specifically, the hearing officer states:

*As for lot pattern and configuration, all units in the proposed development front onto a proposed private road. This is **inconsistent** with the development pattern along York Road where lots, for the most part, front onto York Road and equally*

2

*inconsistent with the development pattern along other roads in the Immediate Neighbourhood where the clear visual impression is that the homes face the street.*

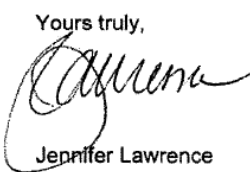
The first two OMB decisions must not be overlooked and must be given serious consideration by the City when reviewing the current application. The hearing officer goes on to state that, in his view, the proposal falls short of conforming to several subsections of the Urban Hamilton Official Plan, including those policies related to lot pattern and configuration. This included policies such as Policy B.2.4.1.4 which requires that, as part of any infill development, a proposed plan be evaluated based on several criteria including "the relationships of the proposal to existing neighbourhood character so that it **maintains**, and where possible, **enhances** and builds upon desirable **established** patterns and built form". The current draft plan of condominium contains the **exact same lot pattern and configuration** that was denied in the previous application. The only difference between the previous application and the current application is that the current application is for single family homes rather than semi-detached homes.

As we, and many of the other neighbours have stated on previous occasions, we recognize that the subject property is large and likely could accommodate some moderate additional single-family development fronting onto York Road, that would be in-keeping with the immediate surrounding neighbourhood. Such a proposal would be consistent with both of the previous OMB decisions.

**Proposing an internal road for the third time** shows a blatant disregard for the planning system and the previous two OMB decisions. It is a waste of taxpayer's resources and staff time. Given that absolutely nothing has changed to the character of our neighbourhood since the first two OMB hearings and that the exact same lot pattern and configuration is being proposed as was denied by the OMB in the last application, the only logical conclusion is that the proposed development is not in-keeping with the character of the neighbourhood and, as a result, the development does not meet the requirements of the Official Plan policies.

Based on the above, we ask that City staff recommend denial of the application.

Yours truly,



Jennifer Lawrence



Cameron McKelvey

**Barnett, Daniel**

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**From:** Jennifer Lawrence  
**Sent:** November-21-16 2:51 PM  
**To:** Barnett, Daniel  
**Cc:** Harrison-McMillan, Kimberley  
**Subject:** 231 York Road Dundas - File 25CDM-201615

Hi Daniel,

It was nice to speak with you last week. As mentioned, the Location Map that is attached to the Notice of Complete Application for the above noted file, incorrectly shows the full limit of the parcel that is affected by the application. The Location Map identifies only half of the parcel which will impact the landowners who receive circulation of the notice and may also cause confusion as people may assume that the plan of condo is only for half the parcel. As discussed, I would recommend that the notice be re-circulated with the proper Location Map and to the full extent of neighbours that should receive the notice. This should be accompanied by an extension to the provision of comments beyond the December 5 date.

After we spoke, I also realized that the circulation does not include a site plan of the proposed Draft Plan of Condominium. Although the previous minor variance application included a site plan, this application did not. Could you please forward the plan that accompanied the submission so that the neighbours can confirm whether it matches the plan circulated with the minor variance application?

Thank you,

Jennifer

**Jennifer Lawrence, MCIP, RPP**  
President  
**Jennifer Lawrence and Associates Inc.**  
8 Fieldgate Street  
Dundas, ON L9H 6M6

**NOTICE OF CONFIDENTIALITY**

This communication is intended only for the use of the addressee and may contain confidential and privileged information. If you are not the intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, or alternately, immediately destroy this communication.

**Barnett, Daniel**

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**From:** Penelope Hill  
**Sent:** November-27-16 9:46 PM  
**To:** Barnett, Daniel  
**Subject:** Re: 25CDM-201615 231 York Road, Dundas

To Daniel Barnett, City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5th floor  
Hamilton , Ontario  
L8P 4Y5

Re: 25CDM-201615

I am extremely frustrated to be writing to the City about this matter, yet again.

We have a balanced and harmonious working family neighbourhood.  
City of Hamilton Planning staff have already stated that intensification is not planned for, nor is it needed, in this part of Dundas.  
City Council has twice refused applications for intensification on this property on York Road.

The developer shows disrespect for the two very clear and thoughtful OMB decisions.  
The developer shows a blatant disregard for the valuable time of City Staff, City Council, and the OMB members.  
The developer has made no attempt to meet with the neighbours to discuss this most recent scheme.

I feel that the repeated attempts to wriggle around these decisions by the developer is becoming abusive, forcing us to take time out of our lives to prevent unreasonable and demonstrably inappropriate intensification, time and again.

Best regards,  
Penelope Hill  
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**Barnett, Daniel**

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**From:** Karen McFarlane <...>  
**Sent:** December-01-16 10:39 AM  
**To:** Barnett, Daniel  
**Subject:** Re:25CDM-201615

To Daniel Barnett, City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5th floor  
Hamilton , Ontario  
L8P 4Y5

Re: 25CDM-201615

It is very disturbing, that once again, the strength and harmony of our neighborhood is being threatened by the same developer. On two previous occasions, the home owners in this area have reviewed the application and expressed their concerns for the development of multiple dwellings on the property at 231 York Road.

On both occasions, the OMB refused the developer's application.

This is a very time consuming, annoying and surely costly process, why must we go through this again?

As a resident of this area of Dundas for the last 25 years I stand with my neighbors and say no, once again, to this application to approve the plan for Common-Element Condominium #25CDM-201615.

Sincerely,

Karen McFarlane  
9 Forestview Drive  
Dundas, Ontario



KAREN MCFARLANE



December 28, 2016

City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design-Urban Team  
71 Main Street West, 5th floor, Hamilton ON L8P 4Y5

Attention: Daniel Barnett

Re: 25CDM-201615  
Notice of Complete Application for Lands Located at 231 York Road, Dundas (Ward 13)

We are writing today you provide you with our input regarding the plan for development at 231 York Road We are the new owners of the 227 York Road which is located directly beside the on the west side of the proposed development.

We are not apposed to any construction that may take place next door to us but we strongly feel that whatever is built there should be consistent with what is currently in the neighbourhood, which is single-family homes facing the main road. We understand that the lot is large and could likely accommodate more than one single family dwelling. The lot is approximately 3 times larger than ours and feel that it would be reasonable that 2 or 3 single family homes would work there, certainly not 6! This plan would certainly increase the level of traffic and noise in the long term. We do not agree with the proposal and would recommend that it be denied.

Sincerely,



Jeff Rollings



Marina Rollings

December 22, 2016

Mr. Daniel Barnett  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, Ontario L8P 4Y5

JAN 03 2017

Dear Mr. Barnett

**Re: Notice of Application  
231 York Road  
Town of Dundas  
Condominium Application 25CDM-201615  
Recchia Developments Inc.**

We are in receipt of the above notice. We live at 4 Fieldgate Street and our property is immediately adjacent to 231 York Road. This property has been the subject of two previous planning applications, both of which were appealed to the Ontario Municipal Board (OMB) and a minor variance application (A-266/16) which was unanimously denied by the Committee of Adjustment. The minor variance application (A-266/16) has now been appealed to the OMB, making this the third OMB hearing.

The two previous OMB hearing officers findings were that any development on this property to be not only single family residential but also development that **fronts onto York Road**. The current plan is the same lot pattern and configuration that was denied in the previous application.

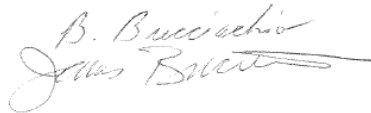
Proposing an internal road for the third time, in my opinion, shows a total disregard for the two previous OMB decisions and a total waste of taxpayer's money.

We agree with the OMB decision that any development on this property to be single family homes fronting onto York Road, and this would be in keeping with the surrounding neighbourhood.

We recommend denial of the application.

Yours truly

Barbara and Jim Bucciachio  
4 Fieldgate Street  
Dundas



December 28, 2016

Mr. Daniel Barnett  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton ON L8P 4Y5

Dear Mr. Barnett:

RE: Notice of Complete Application  
231 York Road  
Town of Dundas  
Condominium Application 25CDM-201615  
Recchia Developments Inc.

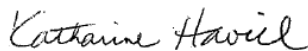
We are in receipt of the above notice. Our property is located at 10 Forestview Drive and a portion of our property line is adjacent to 231 York Road. The subject property consists of two lots (one vacant and one containing a single-family home). The two lots are surrounded by one and two storey single family residential dwellings on relatively large lots. The purpose of the application is to permit a Draft Plan of Common-Element Condominium consisting of a private roadway to facilitate the creation of six single detached units. The lands are also currently the subject of a minor variance application that is under appeal to the OMB. The variance was unanimously denied by the Committee of Adjustment.

As 20 year residents of this neighbourhood, we have repeatedly expressed concern regarding the various applications for proposed development at 231 York Road. The first development application proposed 18 multi-storey townhomes be built on the property. This application was rejected by the City and the OMB. The second development application proposed 12 multi-storey townhomes be built on the property. This application was also rejected by the City and the OMB. These rejections were based on the character of the neighbourhood (single-family homes fronting onto York Road). It was also noted that an internal road, which appears to be essentially the same as included in the current application, was not acceptable.

While we are pleased that the developer has acknowledged that single-family residential is the most appropriate type of development, we are still concerned that the developer has yet again included an internal road that was expressly rejected in the previous applications.

We are in total agreement with Jennifer Lawrence and Cameron McKelvey as outlined in their letter to you of December 17, 2016 that included details of the previous applications and OMB decisions. We respectfully request again that City staff recommend denial of the current application.

Yours truly,



Katharine Havill



David Havill

Mr. Daniel Barnett  
City Of Hamilton  
Planning and Economic Develop Department  
Development Planning, Heritage and Design – Urban Team  
71 Main St. West, 5<sup>th</sup> Floor  
Hamilton, Ontario L8P 4Y5

Dear Mr. Barnett:

Re: Notice of Complete Application  
231 York Road  
Town Of Dundas  
Condominium Application 25CDM-201615  
Recchia Developments Inc.

As home owners in the immediate vicinity of 231 York Road, Dundas, we are writing to object to the latest development proposal for this property. Our neighbourhood has been united from the beginning, in its opposition to attempts to develop this property in a manner that is not consistent with the character of our neighbourhood. Whatsmore, to date, there have been two OMB hearings which have recognized the importance of retaining our neighbourhood character in a manner that is consistent with its existing development pattern.

It is our belief, that such a development would not be consistent with the original intended use of the land, which according to the City Planner, stated that the "planned function of the subject lands is for homes, likely single family, detached homes **fronting** on York Road". All surrounding properties are consistent from a density and scale perspective with this original vision and all existing single family dwellings face the street – unlike the latest proposal which you are evaluating.

We continue to believe that proceeding with the latest development proposal would create, parking, noise and snow removal issues for the neighbourhood. In addition, we believe there would be a negative impact to the property values of those properties immediately surrounding such a development.

We are not opposed to the development of the 231 York Road property, but we ask that any such development be consistent with the original planning vision for single family detached housing **fronting** on York Road and thus in keeping with the current character of the neighbourhood.

It is our hope that City staff deny the latest application.

Sincerely

George and Nancy MacPherson

12 Cammay Avenue , Dundas , Ont

December 19, 2016

Mr. Daniel Barnett  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – Urban Team  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, ON  
L8P 4Y5

DEC 21 2016

Dear Mr. Barnett:

**Re: Notice of Complete Application  
231 York Road  
Town of Dundas  
Condominium Application 25CDM-201615  
Recchia Developments Inc.**

We are in receipt of the above notice. Our property is located at 10 Fieldgate Street and our rear property line is adjacent to the side yard of 231 York Road. The subject property consists of two lots (one vacant and one containing a single-family home). The two lots are surrounded by one and two storey single family residential dwellings on relatively large lots. The purpose of the application is to permit a Draft Plan of Common-Element Condominium consisting of a private roadway to facilitate the creation of six single detached units. The lands are also currently the subject of a minor variance application (A-266/16) that is under appeal to the OMB. The variance was unanimously denied by the Committee of Adjustment.

As you know, the property has already been the subject of two OMB hearings (the minor variance hearing will be the third). We trust that you will read the two OMB decisions as a significant amount of time and effort has already gone into assessing the character of our neighbourhood and what type of development does and does not belong on this property. At the first hearing, Mr. Edward John, a Planner for the City of Hamilton, advised the hearing officer that the character of our neighbourhood is that of single-family homes fronting onto York Road and that the proposed development at that time, which included an internal road essentially identical to the one contained within the draft plan of condominium, was not in-keeping with the character of development along York Road. The hearing officer, on page 8 of the 2013 OMB decision, accepts Mr. John's evidence and finds that the planned function of the subject lands is for homes, most likely single-family detached homes, fronting on a public road, in this case York Road.

At the second hearing, the character of our neighbourhood was again examined and, as you will note on pages 9 and 10 of the decision, a different hearing officer (this time the Vice Chair of the OMB) again recognizes that the character of our neighbourhood is that of single-family dwellings fronting onto York Road. Specifically, the hearing officer states:

*As for lot pattern and configuration, all units in the proposed development front onto a proposed private road. This is **inconsistent** with the development pattern along York Road where lots, for the most part, front onto York Road and equally*

2

*inconsistent with the development pattern along other roads in the Immediate Neighbourhood where the clear visual impression is that the homes face the street.*

The first two OMB decisions must not be overlooked and must be given serious consideration by the City when reviewing the current application. The hearing officer goes on to state that, in his view, the proposal falls short of conforming to several subsections of the Urban Hamilton Official Plan, including those policies related to lot pattern and configuration. This included policies such as Policy B.2.4.1.4 which requires that, as part of any infill development, a proposed plan be evaluated based on several criteria including *"the relationships of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form"*. The current draft plan of condominium contains the exact same lot pattern and configuration that was denied in the previous application. The only difference between the previous application and the current application is that the current application is for single family homes rather than semi-detached homes.

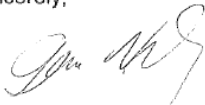
As we, and many of the other neighbours have stated on previous occasions, we recognize that the subject property is large and likely could accommodate some moderate additional single-family development fronting onto York Road, that would be in-keeping with the immediate surrounding neighbourhood. Such a proposal would be consistent with both of the previous OMB decisions.

Proposing an internal road for the third time shows a blatant disregard for the planning system and the previous two OMB decisions. It is a waste of taxpayer's resources and staff time. Given that absolutely nothing has changed to the character of our neighbourhood since the first two OMB hearings and that the exact same lot pattern and configuration is being proposed as was denied by the OMB in the last application, the only logical conclusion is that the proposed development is not in-keeping with the character of the neighbourhood and, as a result, the development does not meet the requirements of the Official Plan policies.

Based on the above, we ask that City staff recommend denial of the application.

After many discussions with our immediate neighbours we wholeheartedly agree with the wording as proposed by Jennifer Lawrence and feel strongly that this latest proposal is not in the best interests of this neighbourhood.

Sincerely,



George Vnoucek

**Barnett, Daniel**

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**From:** Bosco Burford  
**Sent:** November-30-16 4:11 PM  
**To:** Barnett, Daniel  
**Cc:** VanderBeek, Arlene  
**Subject:** Draft Plan of Common-Element Condominium (File No.25CDM-201615)

November 30, 2016

We oppose the development of a Common-Element Condominium at 231 York Road, Dundas (Ward 13).

We oppose the proposed development on the basis of, but not limited to, the following reasons.

1) increased noise in the area

2) increased traffic in the area and the likelihood of accidents at the blind bend on York Road where the proposed road

entrance would be

3) high density of the development

4) this condominium development is in the midst of single dwelling homes

5) this development would result in lowering the property values in the area

6) Fieldgate Street already has a severe parking problem that makes it difficult for snowplows and street sweepers to do

their job. Overflow parking from residents and visitors to this development will make the parking problem and traffic flow

even worse.

Despite overwhelming opposition and rejection of previous developments at this site by the same individuals, proposed

developments continue to be created.

Ray & Ellen Galowski

5 Fieldgate Street

Dundas, Ontario

L9H 6N8



December 27, 2016

Mr. Daniel Barnett  
 City of Hamilton  
 Planning and Economic Development Department  
 Development Planning, Heritage and Design- Urban Team  
 71 Main Street West, 5<sup>th</sup> Floor  
 Hamilton, ON L8P 4Y5

RECEIVED  
 JAN 05 2017

Dear Mr. Barnett:

Re: Notice of Complete Application  
 231 York Road  
 Town of Dundas  
 Condominium Application 25CDM-201615  
 Recchia Developments Inc..

Our home is located at 246 York Rd. across from the property at 231 York Rd. We have been part of the previous OMB hearings and present at the previous City of Hamilton meetings concerning the property at 231 York Rd., including the most recent request for a minor variance.

We do not understand why, when this request was denied, that it is going to the OMB again! We are not opposed to development on the property but it should be in-keeping with the character of the neighbourhood as was stated in the previous OMB decisions. There should not be a variance allowed for a separate road. It has been denied twice already.

We are opposed to this for the following reasons:

-It is a safety issues for the many cars entering and leaving that property on the proposed road because of the curve.

**-It is totally out of keeping with the character of the rest of the homes in the neighbourhood that front directly onto York Rd.**

Proposing an internal road for the third time shows a blatant disregard for the planning system and the two previous OMB decisions. It is a waste of staff time on taxpayer's resources. The proposed development is not in-keeping with the character of the neighbourhood and in our opinion does not meet the requirements of the Official Plan policies.

We are asking the City staff to recommend denial of this application.

Yours truly,  
 Cathy Haggarty      Gerry Haggarty

*C. Haggarty*      *G. Haggarty*

c.c. councillor Vandurbeek



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
*Planning Division*

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018)
<b>WARD(S) AFFECTED:</b>	Ward 9
<b>PREPARED BY:</b>	Jennifer Roth (905) 546-2424 Ext. 2058
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That **Zoning By-law Amendment Application ZAC-16-001 by Empire (Red Hill) Ltd., (Owner)**, for a change in zoning from the Neighbourhood Development “ND” Zone to the Single Residential “R4-34 (H1, H2, H3)” Zone, Modified (Blocks 1 – 4) in order to permit the creation of six (6) lots for single detached dwellings for lands located at 2 Glover Mountain Road (Stoney Creek), as shown on Appendix “A” to Report PED18018 be **APPROVED**, on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED18018, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow) and complies with the Urban Hamilton Official Plan.
- (b) That **Zoning By-law Amendment Application ZAC-16-001 by Empire (Red Hill) Ltd., (Owner)**, for a change in zoning from the Neighbourhood Development “ND” Zone to the Conservation / Hazard Land (P5-679) Zone, Modified (Blocks 5 – 8) in order to recognize the Natural Heritage System and provide land for a required

*OUR Vision: To be the best place to raise a child and age successfully.*

*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018) - Page 2 of 29**

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pond outfall / spillway for lands located at 2 Glover Mountain Road (Stoney Creek) and to create a specific exception to permit a reduced special setback from any building or structure to the Conservation / Hazard Land (P5-679) Zone, Modified, as shown on Appendix “A” to Report PED18018, be **APPROVED**, on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED18018, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow) and complies with the Urban Hamilton Official Plan.
- (c) That **Draft Plan of Subdivision Application 25T-201601 by Empire (Red Hill) Ltd., (Owner)**, to establish a Draft Plan of Subdivision on lands located at 2 Glover Mountain Road (Stoney Creek), as shown in Appendix “A” to Report PED18018 be **APPROVED**, subject to the following:
- (i) That this approval apply to the Draft Plan of Subdivision “2 Glover Mountain Road” 25T-201601, prepared by Armstrong Planning and Project Management, and certified by Douglas E. Hunt, O.L.S., dated November 6, 2015, showing one block for a maximum of four (4) single detached dwellings (Block 1), three (3) blocks for future residential purposes in conjunction with the abutting lands which will yield a maximum of two (2) single detached dwellings (Blocks 2 – 4), one (1) block for the required 30.0 m buffer from the top of the Niagara Escarpment (Block 5), two (2) blocks for open space purposes (Blocks 6 – 7), one (1) block for a pond outfall / spillway easement (Block 8), and one proposed street, shown as Street “A”, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions, attached as Appendix “D” to Report PED18018.
  - (ii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit. Parkland Credits may be applied on a land value basis to the abutting Draft Plan of Subdivision 25T-2013005R, known as “Red Hill –

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Phase 3 / 4” in the event of any over-dedication of parkland from the registration of the Draft Plan of Subdivision (25T-201601).

- (iii) There is no City Share for the costs of the servicing works within the draft plan lands.

## **EXECUTIVE SUMMARY**

The applicant has applied for approval of a Zoning By-law Amendment and a Draft Plan of Subdivision for lands located at 2 Glover Mountain Road in Stoney Creek. The proposed applications are to permit the development of up to six (6) lots for single detached dwellings, open space areas and a stormwater management pond outfall / spillway easement. Three blocks will be merged for future residential purposes with existing blocks located within the adjacent Draft Approved Plan of Subdivision 25T-2013005R, known as “Red Hill – Phase 3 / 4”. The proposal also includes the completion of the proposed Street “A”.

The applicant is proposing a Modified Single Residential “R4” Zone, in the City of Stoney Creek Zoning By-law No. 3692-92, for the lands intended for residential purposes, and a Conservation / Hazard Land (P5-679) Zone, Modified in the City of Hamilton Zoning By-law No. 05-200 for the lands proposed to be developed for open space and stormwater management purposes.

A Holding Provision (H1) has been included in the amending Zoning By-law which will prohibit residential development until such time as additional information is provided to demonstrate constructability of a suitable sanitary outlet for Blocks 1 and 2, to the City’s satisfaction. A second Holding Provision (H2) has been included in the amending Zoning By-law which will prohibit residential development until such time as a visual analysis of the Escarpment Brow is finalized to the satisfaction of the City and the Niagara Escarpment Commission for Blocks 1 - 4. A third Holding Provision (H3) has been included in the amending Zoning By-law which will prohibit residential development until such time as Development Permits have been issued by the Niagara Escarpment Commission for the creation of the lots, the road and the spillway / outlet for Blocks 1 – 4, as shown on Appendix “B” to Report PED18018.

The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement (PPS), conform to the Growth Plan for the Greater Golden Horseshoe, and comply with the Urban Hamilton Official Plan (UHOP). The proposed development is considered to be compatible with, and complementary to, the existing and planned development in the immediate area.

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***Alternatives for Consideration – See Page 29***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider applications for an Amendment to the Zoning By-law and for approval of a Draft Plan of Subdivision.

## **HISTORICAL BACKGROUND**

### **Proposal:**

The subject lands are located on the southwest portion of Glover Mountain Road, west of First Road West, and south of the Niagara Escarpment brow. The lands contain a single detached dwelling with accessory structures, are irregular in shape, comprising an area of approximately 1.04 ha, and are legally described as Part of Lot 28, Concession 5, Saltfleet, Part 2, 62R-1887. They are municipally known as 2 Glover Mountain Road (see location map attached as Appendix “A” to Report PED18018).

### **Zoning By-law Amendment:**

Application ZAC-16-001 to amend the City of Stoney Creek Zoning By-law No. 3692-92 is required to rezone the subject lands from the Neighbourhood Development “ND” Zone as follows:

- To establish a Site Specific Single Residential “R4” Zone in the City of Stoney Creek Zoning By-law No. 3692-92 for single detached dwellings, as shown as Blocks 1 – 4 on Schedule A of Appendix “B” to Report PED18018; and,
- To establish a Conservation / Hazard Land (P5-679) Zone, Modified in the City of Hamilton Zoning By-law No. 05-200 for the open space areas, the protective buffer from the brow of the Niagara Escarpment, and the stormwater management spillway / outlet and to create a site specific exception to permit a reduced special setback from any building or structure to the Conservation / Hazard Land (P5-679) Zone, Modified, as shown as Blocks 5 – 8 on Schedule A of Appendix “C” to Report PED18018, because the draft plan and zoning incorporate the required buffers from the natural features.

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The applicant has requested to apply the regulations of the Single Residential “R4-31” Zone to provide for a consistent overall development with the surrounding “Red Hill – Phase 3 / 4” Subdivision. However, a modification is required to the Single Residential “R4-31” Zone with respect to maximum height to implement the visual analysis required by the Secondary Plan.

**Draft Plan of Subdivision:**

The proposed Draft Plan of Subdivision (see Appendix “E” of Report PED18018) is intended to create:

- Four (4) lots for single detached dwellings (Block 1);
- Three (3) blocks for future residential purposes with an intended yield of two (2) lots for single detached dwellings (Blocks 2 – 4);
- One (1) block for the required 30.0 m buffer from the top of the Niagara Escarpment (Block 5);
- Two (2) blocks for open space purposes (Blocks 6 – 7);
- One (1) block for a pond outfall / spillway easement (Block 8); and,
- One (1) proposed internal public street (shown as Street “A”).

Access to the proposed development will be via Street “A” identified on the Draft Approved “Red Hill Phase 3 / 4” Plan of Subdivision. The total unit yield for this Draft Plan of Subdivision would be a maximum of six (6) single detached dwellings.

**Chronology**

November 24, 2015: Zoning By-law Amendment Application ZAC-16-001 and Plan of Subdivision Application 25T-201601 received.

December 9, 2015: Zoning By-law Amendment Application ZAC-16-001 and Plan of Subdivision Application 25T-201601 deemed complete.

December 16, 2015: Notice of Complete Application and Preliminary Circulation mailed to seven (7) property owners within 120 m of the subject lands.

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January 22, 2016: Public Notice Sign posted on site.

January 24, 2018: Public Notice Sign updated with date of Public Meeting.

February 2, 2018: Circulation of the Notice of Public Meeting to seven (7) property owners within 120 m of the subject lands.

**Details of submitted applications:**

**Location:** Part of Lot 28, Concession 5, Saltfleet, Part 2 62R-1887 T-W, AB349439, City of Hamilton (2 Glover Mountain Road)

**Owner:** Empire (Red Hill) Ltd.

**Agent:** Armstrong Planning and Project Management

**Property Description:** Lot Area: approx. 1.04 ha

Lot Frontage: 0 m

Lot Depth: approx. 97.1 m

**Servicing:** Full Municipal Services

**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Single Detached Dwelling with accessory structures	Neighbourhood Development "ND" Zone

**Surrounding Land Uses:**

<b>North:</b>	Niagara Escarpment Brow	Conservation / Hazard Land (P5) Zone and "AA" (Agricultural) District
<b>South:</b>	Vacant Land to be developed as part of the "Red Hill – Phase 3 / 4" Subdivision	Conservation / Hazard Land (P5) Zone and Single Residential "R4-32" Zone

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<b>East:</b>	Vacant Land to be developed as part of the “Red Hill – Phase 3 / 4” Subdivision	Conservation / Hazard Land (P5) Zone and Single Residential “R4-32 (H)” Zone, Modified with a Holding Provision
<b>West:</b>	Vacant Land to be developed as part of the “Red Hill – Phase 3 / 4” Subdivision	Conservation / Hazard Land (P5) and Single Residential “R4-32 (H)” Zone, Modified with a Holding Provision

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Planning Policy Framework**

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

Staff note that the current Cultural Heritage policies of the UHOP have not yet been updated in accordance with the PPS (2014). As such, the following policy of the PPS also (2014) applies:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

A Stage 1-2 archaeological assessment (P013-1118-2015) was submitted as part of the subject applications. The Ministry of Tourism, Culture, and Sport has entered the report into the Public Register of Archaeological Reports and municipal staff concur with the

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recommendations made in the report. Accordingly, the archaeological interest on the subject property has been satisfied.

As the application for changes in zoning and a plan of subdivision complies with the Official Plan and the relevant policies pertaining to Cultural Heritage in the PPS, 2014, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*, and,
- consistent with the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshow (2017)**

The new Growth Plan for the Greater Golden Horseshoe became effective on July 1, 2017 and as a result it impacts the planning decision of the development applications on the subject lands.

The development of the subject lands are within the delineated built boundary of the City of Hamilton and will contribute to the achievement of complete communities and supports local infrastructure while contributing to a range of housing forms and tenures.

The subject development provides for open space and has demonstrated that there are no negative impacts on key natural heritage features or key hydrologic features through the approved Environmental Impact Statement (EIS) prepared by Ecoplans Limited (February 2011, revised November 2011) and MMM Group (September 2016; revised March 2017) and also includes a Karst Mitigation / Contingency Plan addendum prepared by Terra Dynamics Consulting Inc. (February 25, 2016) or their functions which conforms to the Growth Plan (2017), including the following policies:

“4.2.2.3 Within the Natural Heritage System:

- a) new development or site alteration will demonstrate that:
  - i) there are no negative impacts on key natural heritage features or key hydrologic features or their functions.”

It is Staff's opinion that the application for changes in zoning and a plan of subdivision conforms with the applicable policies of the Growth Plan (2017).

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**Niagara Escarpment Plan (NEP)**

The subject lands are located along the Escarpment Brow and have been designated “Escarpment Urban Area” within the Niagara Escarpment Plan (NEP), with a small portion falling within the “Escarpment Natural Area” designation.

Development Objective 1 in Section 1.7 of the NEP states that “all development should be of an urban design compatible with the visual and natural environment of the Escarpment. Where appropriate, provision for adequate setbacks and screening should be required to minimize the visual impact of urban development on the Escarpment landscape.”

Development Objective 2 in Section 1.7 states that “new development shall not encroach into the Escarpment Natural or Escarpment Protection Areas.”

Staff note that at the time of preparation of this Report the applicant was in the process of finalizing the Visual Impact Analysis (VIA) to determine the final maximum height zoning provision for the single detached dwellings. At the time of preparation of this Report, the maximum height proposed in the VIA is 2 storeys (10.3 metres), which may be further reduced as a result of the finalized VIA. After consultation with the Niagara Escarpment Commission (NEC) staff are recommending that a Holding Provision be placed over Blocks 1 - 4 to prohibit residential development until the VIA has been approved by the City and NEC.

The applicant also included a 30.0 m buffer from the brow of the Escarpment, intended to be zoned as Conservation / Hazard Land (P5-679) Zone, Modified in order to preserve the natural environment abutting the Escarpment Brow. Accordingly, residential development will be contained within the Urban Area designation, and the proposal conforms to the NEP in this regard.

Section 2.4.1 of the NEP states that “lot creation ... within Urban Areas ... may be permitted subject to conformity with official plans and / or secondary plans and, where applicable, zoning by-laws that are not in conflict with the Niagara Escarpment Plan, and the criteria set out under Part 2, Development Criteria.”

Further, Section 2.4.5 states that “the size and configuration of new lots shall be subject to the requirements of official plans and / or secondary plans, and where applicable, zoning by-laws and the objectives of the designation.”

As discussed in further detail below, the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications comply with the policies of Volume 1 of the UHOP and

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the Nash Neighbourhood Secondary Plan in Volume 2 of the UHOP. Accordingly, after consultation with the NEC, staff are satisfied that the proposal conforms to the NEP, subject to the issuance of a Development Permit from the NEC and a finalized VIA. The NEC conditionally approved Development Permit (W/S/2016-107-483) on November 2, 2017. Upon clearance of the conditions of the Development Permit, the permit can be issued. Additional NEC Development Permits are required for the creation of the road and the creation of the single detached dwelling lots. Issuance of the additional Development Permits from NEC is required prior to development of the subject lands. At the time of preparation of this report, the additional NEC Development Permits have not been issued. A Holding Provision has been included in the amending Zoning By-law to ensure that all NEC Development Permits are issued and that all conditions have been cleared.

**Urban Hamilton Official Plan (UHOP)**

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure, designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations, and shown outside of the Built Boundary on Appendix “G” – Boundaries Map. The subject lands are further identified as “Low Density Residential 2” on Map B.7.5-1 in the Nash Neighbourhood Secondary Plan.

The following policies, amongst others, are applicable to the subject applications.

**Built Form and Compatibility:**

- “E3.2.1 Areas designated Neighbourhoods shall function as *complete communities*, including the full range of residential dwelling types and densities as well as supporting uses intended to serve the local residents.
- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and *housing with supports*; and,
  - b) open space and parks.”

As the proposal is for single detached dwellings, open space areas, and protection of hazard lands, the proposal complies with the intent and purpose of the Neighbourhood General policies.

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### Archaeology

With respect to archaeological concern, the UHOP identifies applicable policy under Section B.3.4.4.2:

“B.3.4.4.2 In areas of archaeological potential identified on Appendix F-4 – Archaeological Potential, an archaeological assessment shall be required and submitted prior to or at the time of application submission for the following planning matters under the *Planning Act*.

- b) zoning by-law amendments unless the development proposed in the application in question or other applications on the same property does not involve any site alteration or soil disturbance; and,
- c) plans of subdivision.

B.3.4.4.4 Archaeological assessments shall be prepared in accordance with any applicable guidelines and Policy F.3.2.4 - Archaeological Assessments.”

As noted previously, archaeology has been addressed.

### Urban Design

The UHOP has a detailed set of policies related to urban design. The following policies, amongst others, apply to this proposal.

“B.3.3.2.8 Urban design should promote environmental sustainability by:

- b) integrating, protecting, and enhancing environmental features and landscapes, including existing topography, forest and vegetative cover, green spaces and corridors through building and site design;
- c) encouraging on-site stormwater management and infiltration through the use of techniques and technologies, including stormwater management ponds, green roofs, and vegetated swales.”

The proposed development has been integrated with the natural environment and protected through the establishment of a Conservation / Hazard Land (P5-679) Zone, Modified. This approach will facilitate the mixture of public and private open space and

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the protection of natural features. Finally, a block within the proposed development has been set aside for a stormwater management spillway / outfall allowing for onsite management of stormwater.

**B.3.3.5 Views and Vistas**

Public views and vistas are significant visual compositions of important public and historic buildings, natural heritage and open space features, landmarks, and skylines which enhance the overall physical character of an area when viewed from the public realm. Vistas are generally panoramic in nature while views usually refer to a strong individual feature often framed by its surroundings.

Views and vistas created in newly developing areas play a large role in creating a sense of place and neighbourhood identity.

Examples of existing significant vistas include the panorama of the Niagara Escarpment, Hamilton Harbour and the Downtown skyline as viewed from various vantage points throughout the City. Examples of views include significant historic and public buildings, natural heritage features, and monuments.

**B.3.3.5.2 Views and vistas shall be achieved through alignment of rights-of-way, layout of pedestrian circulation and open space systems, and the siting of major features, public uses, and built form.”**

The proposed road pattern is oriented parallel to the Escarpment Brow with residential lots, an open space buffer area located directly adjacent to the brow and a restriction on building heights subject to approval of the VIA, thereby protecting views for future residents.

Based on the foregoing, the proposal complies with the applicable policies of Volume 1 of the UHOP.

**Nash Neighbourhood Secondary Plan – Volume 2**

The subject lands are designated “Low Density Residential 2,” “Natural Open Space” and abuts the “Escarpment” on Map B.7.5-1 – Nash Neighbourhood Secondary Plan Land Use Plan. The following policies, amongst others, apply.

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- “B.7.5.1 e) Integration of new parks and open spaces with existing natural open spaces to provide new passive recreation resources and designations and to establish linkages creating an interconnected system of parks and open space;
- B.7.5.1 f) Identification, protection, conservation and wise management of the tangible and intangible cultural heritage resources of the City of Hamilton for present and future generations. Where feasible, natural heritage elements that remain on site shall be considered for integration into the Nash Neighbourhood Community; and,
- B.7.5.1 g) Enhancement of the physical and visual connections to the Niagara Escarpment and Environmentally Significant Areas through the layout and design of the community including placement of parks / open space areas and the creation of streetscapes that create and protect views.”

The proposal complies with the above-noted policies because it integrates conservation / hazard lands with the Niagara Escarpment natural area along the Brow in order to provide appropriate protection, buffering and linkages.

- “B.7.5.2.d) i) Establish a network of connected open space accessible to all residents with natural and cultural features integrated into open space areas and providing a strong link to the open space associated with the Niagara Escarpment and Environmentally Significant Areas;
- B.7.5.2.d) iii) Ensure the preservation and enhancement of significant environmental features, including the Niagara Escarpment, Environmentally Significant Areas, and the valley lands associated with Felker’s Creek;
- B.7.5.2.d) v) Provide opportunities for recreation where they do not impact natural heritage features; and,
- B.7.5.2.d) vi) Conserve the natural beauty and distinctive character of the Niagara Escarpment landscape.”

The applicants have included open space blocks within the subject Draft Plan. Staff note that the blocks are intended as buffers between the Escarpment Brow and residential development and are not deemed to be viable for parkland development. The open space blocks are intended to remain in private ownership and Staff are assured that no uses beyond the permitted uses in the Conservation / Hazard Land (P5-679) Zone, Modified will occur. A site specific exception is required to permit a reduced

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special setback from any building or structure to the Conservation / Hazard Land (P5-679) Zone, Modified. Staff support the reduction in the special setback because the open space blocks incorporate the required buffers to the natural features. As well, the applicant will require an NEC Development Permit prior to construction and as a result, staff are satisfied that the open space lands will be adequately protected.

Accordingly, the proposal satisfies the above policies in that it creates a network of open space that is accessible to all residents and provides a link to the Niagara Escarpment. The buffer areas provide preservation of the Escarpment and Environmentally Significant Area by prohibiting encroachment toward the Brow.

Furthermore, the “Low Density Residential 2” policies of Section B.7.5.4 of Volume 2 apply.

“B.7.5.4.1 In addition to Section E.3.4 – Low Density Residential of Volume 1, the following policies shall apply to lands designated Low Density Residential 2 and 2h on Map B.7.5-1 – Nash Neighbourhood – Land Use Plan:

- a) Low Density Residential 2 Designation:
  - i) Single detached, semi-detached, duplex and street townhouses shall be permitted.
  - ii) Notwithstanding Policy E.3.4.4 of Volume 1, the density of development shall range from 20 to 35 units per net residential hectare.
  - iii) The maximum height of dwelling units shall be no more than three storeys.
  - v) The location of Low Density Residential 2 is in the interior of residential neighbourhoods adjacent to local and/or collector roads.”

The subject application consists exclusively of single detached dwellings with a maximum height that will be determined by the Visual Impact Assessment (VIA). At the time of preparation of this report and based on the VIA reviewed by City Staff, the proposed height is a maximum of 2 storeys (maximum of 10.3 metres), however there is a Holding Provision that can be removed subject to the VIA being completed and the final height provision being determined. The residential density contained solely within the subject Plan of Subdivision will be approximately 28.6 units per net residential hectare. Lastly, the proposed single detached dwellings are intended to be located

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within the interior of the residential neighbourhood. Accordingly, the proposal complies with the above policies.

The northernmost portions the subject lands fall within the “Natural Open Space” designation and about “The Niagara Escarpment” on Map B.7.5-1 – Nash Neighbourhood – Land Use Plan. Accordingly, the following policies apply:

- “B.7.5.6.7 Prior to any lands being considered for development within 100 metres of lands designated Natural Open Space on Map B.7.5-1 - Nash Neighbourhood – Land Use Plan, an Environmental Impact Statement shall be undertaken by the proponent and approved by the City and the Hamilton Conservation Authority to determine the appropriate setbacks from the Core Area.
- B.7.5.6.8 Any *development* must address the retention of Core Areas and other wooded areas included within the Natural Open Space designation identified on Map B.7.5-1 - Nash Neighbourhood - Land Use Plan as follows:
- (b) A minimum 10 metre wide planted buffer from identified Environmentally Significant Areas shall be included as part of these natural areas and included as part of the open space system.
- B.7.5.6.9 Development proposals for land within 150 metres of the Niagara Escarpment shall have a maximum height of no more than two storeys. Prior to the approval of a draft plan of subdivision and/or zoning by-law, a visual analysis shall be required to determine the maximum building height and minimum setbacks to ensure that no component of the building mass is visible above the skyline of the Niagara Escarpment from below the Escarpment brow (edge). The visual analysis must be to the satisfaction of the City and the Niagara Escarpment Commission. (Note: the skyline includes the escarpment brow – the uppermost point of the escarpment slope or face, and the tree line. Buildings should not be visible through trees above the brow, the most obvious break in slope associated with underlying bedrock).”

Staff note that an Environmental Impact Statement (EIS) was prepared by Ecoplans Limited (February 2011; revised November 2011) and MMM Group (September 2016; revised March 2017) for the lands subject to the “Red Hill – Phase 3 / 4” Subdivision, and identified that the subject lands at 2 Glover Mountain Road would contain a drainage ditch across the property and that the area consisted of low quality vegetation.

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Staff also note that an “EIS Response to Environmentally Significant Areas Impact Evaluation Group (ESAIEG) Recommendation 5: Escarpment Springs” was prepared, dated July 2013. Based on this addendum, a Karst Mitigation / Contingency Plan was required and prepared by Terra Dynamics Consulting Inc. (Feb. 25, 2016). The EIS was approved (June 1, 2017) with mitigation measures that have been identified on pages 56 to 58 of the EIS (Sept. 2016) which are to be included as Conditions of Approval (Condition Nos. 14 - 17 of Appendix “D” to Report PED18018). The additional mitigation measures include:

- Stewardship signage located adjacent to Block 5;
- Stewardship brochures to educate homeowners about the adjacent Natural Heritage System;
- Fencing along Block 5 with appropriate access for maintenance of the stormwater management outlet; and,
- Groundwater monitoring as outlined within the Karst Assessment.

To address the requirement of the required 10 m vegetation protection zone (VPZ) from the ESA and the 30 m wide open space adjacent to the Niagara Escarpment Brow, the applicant has provided the necessary buffers and these lands will be zoned Conservation / Hazard Land (P5-679) Zone, Modified.

Further, a Visual Impact Analysis (VIA) was being finalized at the time of preparation of this report and that an initial draft was submitted as part of the “Red Hill – Phase 3 / 4” Draft Plan of Subdivision. The VIA will determine the maximum height provision that will be in the Zoning By-law for any buildings within 150 m of the Escarpment Brow. At the time of preparation of this Report, the maximum height is proposed to be 2 storeys (10.3 metres), which may be further reduced as a result of the finalized VIA. At the time of preparation of this Report, City Staff have reviewed the VIA and are awaiting final approval by the NEC. Accordingly, the proposed residential zoning currently contains a Holding Provision until the VIA has been approved by NEC.

“B.7.5.2 g) ii) Design and implement a stormwater management system that is integrated with the open space system and which mitigates impacts on the natural environment; and,

B.7.5.6.5 No *development*, except infrastructure works, utilities and a low impact trail network (subject to confirmation that the works are suitable by an

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Environment Impact Statement), shall be permitted on lands designated Natural Open Space.”

Based on the objectives of the Nash Neighbourhood Secondary Plan, a stormwater management system is to be designed and implemented to integrate with the open space system and mitigate impacts on the natural environment.

In review, the development as a whole complies with the policies of the Nash Neighbourhood Secondary Plan.

City of Hamilton Staging of Development

Finally, Policy F.1.14.1.21 of Volume 1 identifies that: “Council shall approve only those plans of subdivision that meet the following criteria:

- “a) the plan of subdivision conforms to the policies and land use designations of this Plan;
- b) the plan of subdivision implements the City’s staging of development program;
- c) the plan of subdivision can be supplied with adequate services and community facilities;
- d) the plan of subdivision shall not adversely impact upon the transportation system and the natural environment;
- e) the plan of subdivision can be integrated with adjacent lands and roadways;
- f) the plan of subdivision shall not adversely impact municipal finances; and,
- g) the plan of subdivision meets all requirements of the *Planning Act*.”

The subject lands have been identified in the City of Hamilton’s Staging of Development Plan. The proposal is consistent with the Criteria for Staging of Development in that utilities and services are available. This proposal supports a healthy growing economy, provides for additional assessment and Development Charges revenue, provides housing opportunities, and complies with the UHOP. As a result, it will not adversely impact upon the transportation system, it respects the natural environment, and it is well integrated into the existing development in the area, being the “Red Hill – Phase 1 / 2” and “Red Hill – Phase 3 / 4” Plans of Subdivision. Therefore, the proposal complies with the City’s Staging of Development policies.

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**City of Stoney Creek Zoning By-law No. 3692-92**

The subject lands are currently zoned Neighbourhood Development “ND” Zone in the City of Stoney Creek Zoning By-law No. 3692-92.

The Neighbourhood Development “ND” Zone is a future development Zone and only permits agricultural uses (with exception to poultry farms, mushroom farms, fur farms, piggeries, hatcheries, kennels and also excluding any residential use not existing at the date of the passing of the By-law (December 8, 1992). It also permits one single detached dwelling, and buildings or structures accessory thereto existing at the date of passing of this By-law, in addition to urban farms, community gardens, and greenhouses subject to Site Plan Control under the City’s Site Plan Control By-law.

The effect of this Zoning By-law Amendment will be to allow for the development of a maximum of six (6) single detached dwellings consistent with the approved development on the adjacent lands. The proposed zoning for the subject lands will be discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report.

**City of Hamilton Zoning By-law No. 05-200**

The effect of the Zoning By-law Amendment is to incorporate lands into Zoning By-law No. 05-200 and zoned Conservation / Hazard Land (P5-679) Zone, Modified to allow for the development of natural buffers, open space, and a pond outfall / spillway easement and to create a site specific exception to permit a reduced special setback from any building or structure to the Conservation / Hazard Land (P5-679) Zone, Modified. The proposed zoning will be discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report.

**RELEVANT CONSULTATION**

The following Departments / Agencies had no comments or objections:

- Hydro One

The following Departments / Agencies have provided comments on the application:

**Operations Support, Strategic Planning Section, Corporate Assets and Strategic Planning Division (Public Works Department)** has noted that the subject lands are eligible for waste collection services. They have requested that the following note be added to the Draft Plan drawing: “This property is eligible for weekly collection of

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Garbage, Recycling, Organics, and Leaf and Yard Waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067, as amended".

Operations Support staff also stipulated the following requirements for waste collection:

- “1. Road layout must be designed to permit the continuous forward movement of collection vehicles, including the radius of a cul-de-sac turning circle. Continuous forward movement must be provided exclusive of any parking spaces and stored snow. A drive through access route, a 13 metre radius turning circle or a turnaround area allowing for a maximum three-point turn of not more than one truck length are all acceptable options for accommodating this requirement.
2. The City of Hamilton is committed to providing safe and effective waste collection service and will fully comply with Ontario Occupational Health and Safety Act (OHSA) regulations at all times. Section 104(1) of the 2012 OHSA, Ontario Regulation 213/91 states: “Every project shall be planned and organized so that vehicles, machines and equipment are not operated in reverse or are operated in reverse as little as possible.”
3. Waste collection service will commence when the development is substantially completed and there is free and clear access. The developer or owner is required to contact the Public Work Department to request the start of waste collection service. A site visit by Public Works staff is required prior to the start of waste collection service.
4. Prior to the commencement of City waste collection service, the developer is responsible for the collection of all waste (garbage, recycling, organics, etc.) from any and all occupied properties / units.
5. Construction material will not be collected: collection arrangements must be made with a private contractor.
6. For collection of waste on Private Roads (Condominium roads), an Agreement for On-Site Collection of Municipal Solid Waste must be executed and submitted to the City prior to the start of service.
7. On collection day, the collection area shall be in an accessible location, free and clear of any construction debris, vehicles and stored snow.

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8. Individual waste containers, blue boxes and green carts will be collected curbside in front of each property when possible.”

**Forestry and Horticulture Section (Public Works Department)** staff advised that there are no Municipal Tree Assets located on site, and therefore have no concerns. Staff further note that in accordance with the New Developments Tree Planting Policy, the City of Hamilton collects cash-in-lieu for residential subdivisions. The Forestry and Horticulture Section will provide clearance of a Street Tree Planting condition upon receipt of a plan depicting new trees and a cash payment as shown in item 2.8 of the completed Subdivision Agreement.

**Corridor Management (Public Works Department)** advised that staff review and developer construction of municipal roadways / pedestrian facilities / street lighting, etc. pertaining to the proposed six (6) residential lots will form part of a comprehensive review of the adjacent lands included in the Draft Plan of Subdivision “Red Hill Phase 3 / 4”.

**Hamilton Conservation Authority** staff reviewed the revised Terms of Reference by MMM Group, dated May 2016 and subsequently requested further assessment of karst features and the identification of drainage patterns. An updated Karst Assessment was completed by Terra – Dynamics Consulting Inc., dated February 25, 2016. A Terms of Reference, Spring Inventory and Monitoring Program dated May 6, 2016 was added to address concerns expressed by Hamilton Conservation Authority with the Karst Assessment (February 25, 2016). Thereafter, Staff from Hamilton Conservation Authority has reviewed Terra – Dynamics Consulting Inc.’s report and are generally satisfied. Hamilton Conservation Authority recommended that the final karst assessment include recommendations for maintaining a water balance within the Phase 3 & 4 lands and include an analysis of whether the construction of the stormwater management facility would negatively impact base flow to the Veever’s Spring. This has been addressed as Condition No. 18 of Appendix “D” to Report PED18018.

It was identified that an outlet for the stormwater management pond was required on the subject property. Hamilton Conservation Authority, Niagara Escarpment Commission and the City of Hamilton are reviewing the structural design of the outlet to ensure that the embankment separating the SWM pond from the Escarpment Brow is structurally sound and will withstand all anticipated loads in the event that the inlet structure becomes blocked.

**Niagara Escarpment Commission** staff advised that the majority of the subject property is located within the Niagara Escarpment Development Control Area. The proposed Zoning By-law Amendment will have no legal effect within the Development

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Control Area just as the current Zoning By-law, according to Regulation 826 / 90, as amended. However, should this regulation be amended in the future to exclude the remainder of this property, the zoning which is ultimately approved would take effect.

The implementation of development proposals under Development Control is pursuant to Regulation 828 / 90, as amended, which calls for the requirement to obtain a development permit from the Niagara Escarpment Commission (NEC) unless the class of development which is proposed is specifically exempt from this requirement by the regulation.

The City is not permitted by the provisions of the Niagara Escarpment Plan Development Area (NEPDA) to make a decision on the subject applications until Development Permits are issued by the NEC to allow the proposed development within the area of Development Control. Subsequently, the proponent submitted the required Development Permit applications for NEC review. The development permit (W / S / 2016-107 / 483) was conditionally approved on November 2, 2017 to permit the construction of the stormwater outlet. A second Development Permit application was submitted on December 13, 2017 for lot creation, road creation and tree removal on the subject lands. At the time of the preparation of this report, the second Development Permit was not issued.

The approval of the subject rezoning and draft plan of subdivision applications does not preclude the requirement to obtain the NEC Development Permits and clear all associated conditions.

NEC Staff subsequently commented that “the City can include a holding provision which would allow acceptable heights to be determined after the zoning by-law is passed. NEC staff would have no issue with the City proceeding in this manner, as long as the by-law was crafted to ensure NEC satisfaction with the proposed heights (by way of a VIA) prior to lifting the holding provision.” As a result a Holding Provision has been included, which can be removed when the NEC issues the final Development Permits with all conditions cleared. At the time of preparation of this report, the maximum height is proposed to be 2 storeys (10.3 metres), which may be further reduced as a result of the finalized VIA. As well, a Holding Provision has been included where the final NEC Development Permits must be issued and will accordingly be required prior to registration of the subject Plan of Subdivision.

**Union Gas** has requested that as a condition of final approval, the owner / developer is required to provide to Union Gas the necessary easements and / or agreements required by Union Gas for the provision of gas services for this project, in a form satisfactory to Union Gas. This requirement is a Standard Condition of Draft Approval.

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## **PUBLIC CONSULTATION**

In accordance with the provisions of the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation of the proposal was sent to seven (7) property owners within 120 m of the subject lands on December 16, 2015. A Public Notice sign was posted on the property on January 7, 2016, and updated with the Public Meeting date on January 24, 2018. One letter was received in support of this application and is attached as Appendix “F” to Report PED18018 and summarized in the Analysis and Rationale for Recommendation section of this report. The Notice of the Public Meeting was given in accordance with the provisions of the *Planning Act*. At the time of submission of the application, there were no requirements under the *Planning Act* to provide a Public Consultation Strategy.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the PPS and conforms to the Niagara Escarpment Plan and Growth Plan for the Greater Golden Horseshoe (Places to Grow);
  - (ii) It complies with the UHOP and the Nash Neighbourhood Secondary Plan; and,
  - (iii) The proposed development is compatible with existing residential land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, while making efficient use of a vacant parcel of land and existing infrastructure within the urban boundary.
  
2. The applicant has requested amendments to City of Stoney Creek Zoning By-law No. 3692-92 and the City of Hamilton Zoning By-law No. 05-200 for lands located at 2 Glover Mountain Road. By way of these applications, the applicant is seeking to permit the development of up to four single detached dwellings, three future residential blocks (to be merged with the surrounding “Red Hill – Phase 3 / 4” Subdivision, together yielding a total of two additional dwelling units), one buffer block for the Niagara Escarpment, two open space blocks, and one pond outfall / spillway easement block.

The requested amendment to Stoney Creek By-law No. 3692-92 includes site-specific regulations for the single detached dwellings.

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**Single Residential “R4” Zone (see Appendix “C” to Report PED18018):**

The applicant is seeking to implement the Single Residential “R4-31” Zone, Modified in the City of Stoney Creek Zoning By-law No. 3692-92 on the subject property. Staff note that the Single Residential “R4-31” Zone, Modified, was approved by By-law 14-180 for the “Red Hill – Phase 1 / 2” Subdivision, therefore Staff support the implementation of the Site Specific Provisions of the Single Residential “R4-31” Zone, Modified on the subject property.

The proposed Zoning By-law Amendment is required to permit the proposed Draft Plan of Subdivision which permits the completion of the encompassing Draft Approved Red Hill Phase 2 Subdivision. Staff are supportive of the change in zoning because it is consistent with Provincial Policy, conforms to the Urban Hamilton Official Plan and facilitates the development of the subdivision to be consistent with the Staging of Development Report 2017 Update and development in the immediate area.

Holding Provisions have been included in the proposed zone to prevent residential development until such a time as the constructability of a suitable sanitary outlet has been demonstrated (H1), the maximum height has been determined based on a finalized Visual Impact Assessment (H2) and all required NEC development permits have been issued (H3).

The applicant is seeking further modification related to maximum building height to meet requirements of the Niagara Escarpment Commission. The specific modifications to the By-law are as follows.

**Maximum Building Height:**

The Single Residential “R4-31” Zone, Modified does not contain site-specific building height requirements, and accordingly defers to the parent zone’s requirements. The Single Residential “R4” Zone requires a maximum building height of 11.0 metres.

A Visual Impact Assessment (VIA) of the escarpment brow was undertaken, to determine the extent of the modification to maximum building height and as of the time of preparation of this Report, has not been approved. The proposed maximum height is 2 storeys (10.3 metres), which may be further reduced as a result of the finalized VIA. A Holding Provision (H2) has been included in the proposed zoning and can be removed upon approval of the VIA by the City and the Niagara Escarpment Commission. Upon approval of the VIA, the maximum

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height will be finalized to the roof peak from the average grade at the front of the house, but will not exceed 10.3 metres.

As the proposed modification is to protect existing views and vistas of the escarpment, staff support the requested modification.

3. The proposed development of Blocks 1 - 4 of the Draft Plan of Subdivision requires that a Holding Provision (H1) be lifted prior to development proceeding. The Holding Provision (H1) has been included in order to ensure that an adequate sanitary outlet is provided for the lands adjacent to the north side of Street 'A' which are zoned Conservation / Hazard Land (P5-679) Zone, Modified and that Development Permits have been issued by the Niagara Escarpment Commission for the creation of the lots, the road and the spillway / outlet.

Removal of the Holding Provision (H1) is conditional upon the owner providing additional information to demonstrate constructability of a suitable sanitary outlet for these lands to the satisfaction of the Manager of Development Approvals, Growth Management and issuance of Development Permits by the Niagara Escarpment Commission.

4. The purpose of the Amendment to Zoning By-law No. 05-200 is to remove the subject lands which are zoned Neighbourhood Development "ND" Zone in the City of Stoney Creek By-law No. 3692-92 and add them to the Hamilton Zoning By-law No. 05-200. The intent is to rezone them as Conservation / Hazard Land (P5-679) Zone, Modified to permit the development of passive open space, stormwater management ponds, and natural buffers (refer to Appendix "C" to Report PED18018). The proposed development will conform to all of the requirements of the Conservation / Hazard Land (P5-679) Zone, Modified.

As well, Provision 4.23 d) in Zoning By-law No. 05-200 requires that a minimum setback of 7.5 metres from a Conservation / Hazard Land (P5-679) Zone, Modified to all buildings or structures. The applicant proposes a reduced side yard and rear yard that is consistent with Single Residential "R4-31" Zone, Modified as the open space blocks incorporate the required buffers. As well, NEC permits are required at the time of construction, which will further protect the lands located within the Conservation / Hazard Land (P5-679) Zone, Modified. As such, staff are satisfied that the proposal complies with the intent of the relevant policies set out in the UHOP and are supportive of the Zoning By-law Amendment.

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5. The proposed Plan of Subdivision will consist of a total of eight (8) blocks with one block for four single detached dwellings (Block 1), three blocks for up to two single detached dwellings (Blocks 2 – 4 to be merged with the adjacent “Red Hill – Phase 3 / 4” Subdivision), one block for a 30.0 m buffer to the Niagara Escarpment brow (Block 5), two blocks for open space (Blocks 6 - 7), and one block for a 10 m wide stormwater management outfall / spillway easement (Block 8), in addition to one proposed street (Street “A”).

In review of Sub-section 51(24) of the *Planning Act*, to assess the appropriateness of the proposed subdivision, staff advise that:

- (a) It is consistent with the PPS;
- (b) Through the phasing of development within the Nash Neighbourhood Secondary Plan, the proposal represents a logical and timely extension of existing development and services, and is in the public interest;
- (c) It complies with the applicable policies of the Official Plan;
- (d) The lands can be appropriately used for the use for which it is to be subdivided;
- (e) The proposed roads will adequately service the proposed subdivision and can connect with the current road system;
- (f) The dimensions and shape of the lots are appropriate;
- (g) Restrictions and regulations for the development of the subdivision are included in the implementing Zoning By-law Amendment, conditions of Draft Plan approval and Subdivision Agreement;
- (h) No substantial natural resources are evident on site, and flood control will be addressed through stormwater management plans that will be required as standard conditions of Draft Plan approval;
- (i) Adequate municipal services will be available, the particulars of which will be determined as part of the conditions of Draft Plan approval and Subdivision Agreement;
- (j) School Boards have advised that adequate school sites are available to accommodate the anticipated student yield of this subdivision;

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- (k) Public land will be conveyed to create road rights-of-way, the particulars of which will be determined as part of the Standard Subdivision Agreement and final registration of the Plan of Subdivision; and,
  - (m) The proposed development of the subject land is interrelated with the encompassing Draft Approved development located at 435 First Street which is known as Red Hill Phase 2 and consists of lots for single detached dwellings and blocks for street townhouses.
6. A general vegetation inventory was prepared by Ecoplans Limited (February 2013, revised April 16, 2013) and by MMM Group (November 1, 2013, November 6, 2013) and only focused on the vegetation that would be impacted by the watermain that was required to connect to the Victory Phase 1 subdivision. Since there may be trees impacted by this development, as a condition of Draft Plan approval, a comprehensive Tree Protection Plan (TPP) will be required. Condition 5.10 of the City's Standard Subdivision agreement requires such study, and so this issue will be addressed in this manner.
  7. Proposed architectural design for the residential lots and any private open space within the Draft Plan of Subdivision 25T-201601 should be subject to architectural control to ensure compatibility with existing development. Specifically, the subject property must meet the relevant urban design objectives and requirements pertaining to the 'Empire Lush – Architectural and Urban Design Guidelines – Red Hill (Areas 1 &2), and the Nash Lands (Condition No. 19 in Appendix "D" to Report PED18018).
  8. The groundwater levels within the drainage channel and the groundwater flow from Veever's spring should be monitored during the excavation of the drainage channel at the SWM outlet to the satisfaction of the Senior Director of Growth Management (Condition No. 18 in Appendix "D" to Report PED18018). If excavation takes place in summer when there is no spring flow, monitoring should take place after a significant storm event and in fall when the groundwater table beneath the site rises and flow from the spring begins its annual flow cycle to ensure that no negative impacts have occurred.
  9. The proximity of the residential blocks to the open space blocks will require the residential blocks be subject to site plan control as per the By-law No. 03-294 (Site Plan Control By-law). This will ensure that development and any subsequent changes do not adversely affect the abutting natural areas. In this regard a special condition of draft plan approval will require the Owner to acknowledge that the lands are subject to site plan control.

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*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018) - Page 27 of 29**

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10. **Engineering Details:**

The information provided on the Draft Plan indicates that the existing dwelling on the property is within the required setback from the top of the Escarpment. Staff note that the City requires that the existing buildings be demolished and the existing services decommissioned / abandoned prior to any grading works on the site (included as Condition No. 1 in Appendix "D" to Report PED18018).

It appears that the width of Block 8 intended to provide for installation of a storm outfall for the future SWM facility at the adjacent subdivision does not provide for installation of a proper turning circle or a hammerhead for access of a maintenance vehicle to the outfall structure. Accordingly, the requirement has been included as Condition No. 13 in Appendix "D" to Report PED18018.

Staff note that Blocks 6 and 7, identified on the Draft Plan as "Open Space" Blocks, are not suitable for parkland development. Therefore, there is no City share for sewers, watermain or road works associated with installation of Street 'A' on the Draft Plan.

Block 2 is to remain undeveloped until it is merged with the adjacent westerly lands (Condition No. 12 in Appendix "D" to Report PED18018).

The timing of servicing works for the Draft Plan lands is conditional upon completion of the servicing works on the adjacent development ("Red Hill – Phase 3 / 4" Subdivision (25T-201301)). However, the City does not have an issue if the engineering design and construction for both developments are carried out simultaneously.

Staff note that the previous servicing study for the adjacent development ("Red Hill – Phase 3 / 4" Subdivision (25T-201301)), did not demonstrate that an adequate sanitary outlet is provided for the lands adjacent to the north side of Street 'A' on the subject Draft Plan. Therefore, staff recommends that an 'H' Holding Provision be placed over Blocks 1 - 4 on the proposed Draft Plan. Removal of the Holding Provision (H1) is conditional upon the owner providing additional information to demonstrate constructability of a suitable sanitary outlet for these lands, to the satisfaction of the Manager of Engineering Approvals, Growth Management Division.

As a result, the owner must demonstrate that adequate municipal services are available at the east and west limit of Street 'A'; to the satisfaction of the Senior

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Director, Growth Management Division which is included as Condition No. 4 in Appendix "D" to Report PED18018.

Cost estimate schedules are to be included in the engineering design to construct municipal sidewalks as per the current City of Hamilton policy in force at the time of the engineering plan submission at the Owner's expense (Condition No. 5 in Appendix "D" to Report PED18018).

Furthermore, staff have included conditions relating to the requirement of a plan / procedure dealing with dust control and street cleaning issues throughout construction (Condition No. 2, in Appendix "D" to Report PED18018).

Staff also require 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 (Condition No. 3 in Appendix "D" to Report PED18018).

The applicant is required to provide engineering design and cost estimates for the construction of municipal sidewalks and for the installation of a 1.8 m high vinyl coated chain link fence between private and public properties, pursuant to Condition Nos. 6 and 17 of Appendix "D" to Report PED18018. The applicant is also required to submit a detailed sump pump design as per Condition No. 7 in Appendix "D" to Report PED18018.

Staff require an on-street parking plan to demonstrate that the proposed lot frontages will provide for appropriate on-street parking rates as per Condition No. 8 in Appendix "D" to Report PED18018.

The applicant is required to submit a rock removal protocol and vibration monitoring plan with associated cost estimates as well the protocol and plans being subject to a third party peer review as per Condition Nos. 9 and 10 in Appendix "D" to Report PED18018. As well, the applicant is required to conduct a pre-condition survey of residences within 100 metres of the subject property and notify residents of rock removal within 200 metres of the subject property during that phase of construction as per Condition No. 11 in Appendix "D" to Report PED18018.

11. As per the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to seven (7) property owners within 120 m of the subject lands on December 16, 2015, and a Public Notice sign was posted on the property on January 7, 2016. In total, one

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**SUBJECT: Applications to Amend the City of Stoney Creek Zoning By-law No. 3692-92, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 2 Glover Mountain Road, Stoney Creek (Ward 9) (PED18018) - Page 29 of 29**

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letter was received from an interested party in support of the proposal (see Appendix “F” to Report PED18018).

## **ALTERNATIVES FOR CONSIDERATION**

Should the applications be denied, the lands could not be developed for the proposed residential draft plan of subdivision. The lands could be developed in accordance with the Neighbourhood Development “ND” Zone which permits minor agricultural uses, one single detached dwelling, a greenhouse and / or accessory buildings and structures.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

### **Built Environment and Infrastructure**

*Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.*

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A”:	Location Map
Appendix “B”:	Zoning By-law No. 3692-92 Amendment
Appendix “C”:	Zoning By-law No. 05-200 Amendment
Appendix “D”:	Special Conditions for Draft Plan of Subdivision
Appendix “E”:	Draft Plan of Subdivision
Appendix “F”:	Public Submission

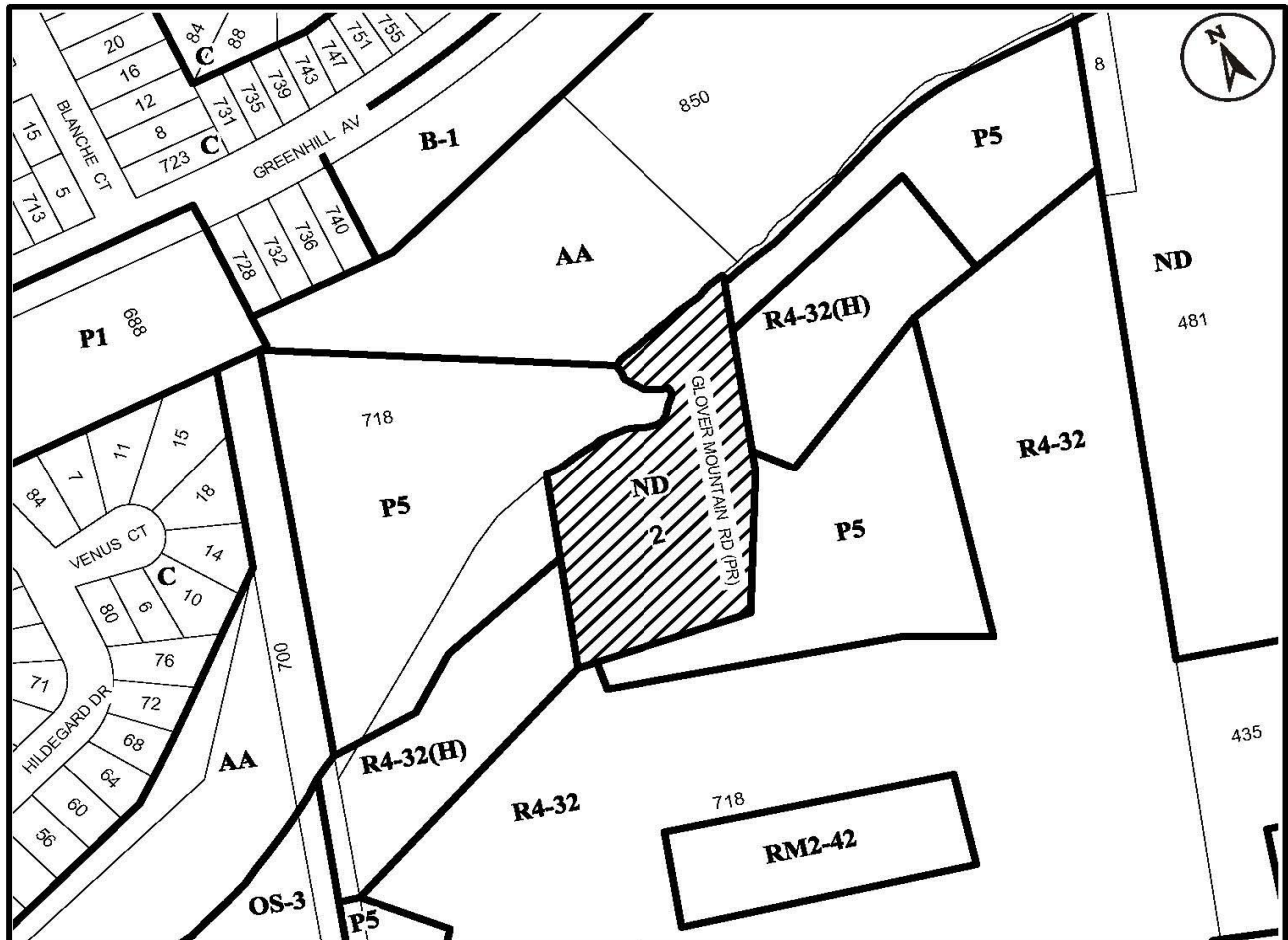
JR:jp

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● Site Location



Key Map - Ward 9

N.T.S.

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-16-001/25T-201601

Date:  
January 12, 2018

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
JR/VS

### Subject Property

2 Glover Mountain Road, Stoney Creek



Change in Zoning from Neighbourhood Development "ND" Zone to Conservation / Hazard Land (P5) Zone in the City of Hamilton Zoning By-law 05-200 and to Single Residential "R4-34 (H3, H4, H5)," Modified in the City of Stoney Creek Zoning By-law 3692-92

**Authority:** Item ,  
Report (PED18018)  
CM:  
Ward: 11

**Bill No.**

## **CITY OF HAMILTON**

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

### **To Amend Zoning By-law 3692-92 (Stoney Creek) Respecting lands located at 2 Glover Mountain Road (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";

**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;

**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;

**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;

**WHEREAS** the Council of the City of Hamilton, in adopting Item \_\_\_\_\_ of Report PED 18018 of the Planning Committee, at its meeting held on the 20th day of February, 2018, 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 from Neighbourhood Development "ND" Zone to Single Residential "R4-34(H1, H2, H3)" Zone, Modified (Blocks 1 – 4);



## Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**

Page 2 of 4

2. That Subsection 6.5.7, "Special Exemptions" of Section 6.5 Single Residential "R4" Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, "R4-34(H1, H2, H3)", as follows:

**"R4-34(H1, H2, H3)" 2 Glover Mountain Road, Schedule "A", Map No. 1352**

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e), (f), and (g) of Section 6.5.3 "Zone Regulations" of the Single Residential "R4" Zone and Section 4.19 "Yard Encroachments", the regulations of the Single Residential "R4-31" Zone, Modified, as established under By-law No. 14-180, shall apply on those lands zoned "R4-34" by this By-law, and the following shall also apply:

- |     |                         |   |
|-----|-------------------------|---|
| (a) | Maximum Building Height | 10.3 metres (2 storeys) and the elevation of the peak of the roof shall be a maximum of 196 masl. |
|-----|-------------------------|---|

Notwithstanding the provision of Section 3.8 "Holding Zones", on those lands zoned "R4-34 (H3, H4, H5)" by this By-law, the Holding symbol (H1) may be removed and thereby give effect to the "R4-34" Zone provisions in Section 2 above, upon completion of the following:

- (a) That the constructability of a suitable sanitary outlet for these lands has been demonstrated to the satisfaction of the Manager of Engineering Approvals, Growth Management Division.

Notwithstanding the provision of Section 3.8 "Holding Zones", on those lands zoned "R4-34 (H1, H2, H3)" by this By-law, the Holding symbol (H2) may be removed and thereby give effect to the "R4-34" Zone provisions in Section 2 above, upon completion of the following:

- (a) That a visual analysis is finalized including determination of the maximum building height as a Metre Above Sea Level (MASL) to the satisfaction of the Director of Planning and Chief Planner and the Niagara Escarpment Commission.

Notwithstanding the provision of Section 3.8 "Holding Zones", on those lands zoned "R4-34 (H1, H2, H3)" by this By-law, the Holding symbol (H3) may be removed and thereby give effect to the "R4-34" Zone provisions in Section 2 above, upon completion of the following:

Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**

- (a) That the Niagara Escarpment Commission (NEC) issue development permits for the creation of the lots, the road and the outlet / spillway and all conditions of the development permits are cleared to the satisfaction of Manager of Engineering Approvals, Growth Management Division.

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 \_\_\_\_\_, 2018

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F. Eisenberger  
Mayor

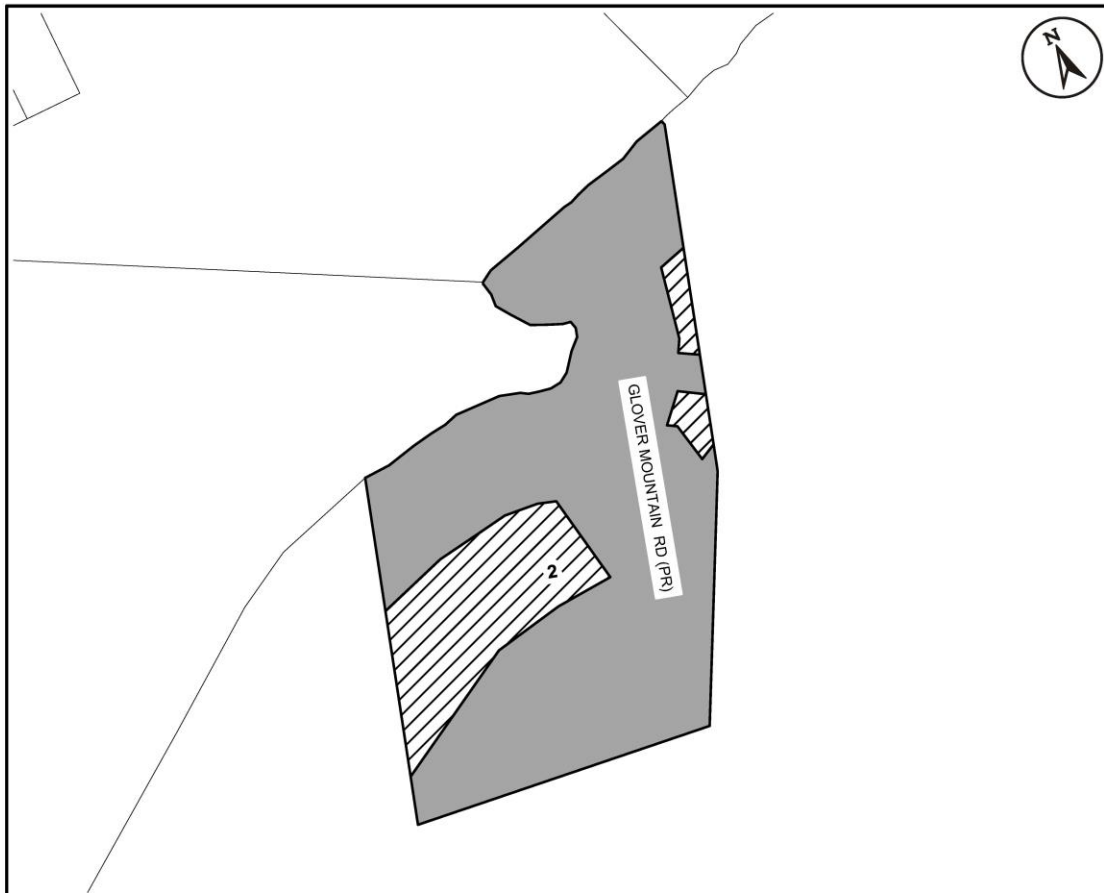
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R. Caterini  
City Clerk

ZAC-16-001  
25T-201601

Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**



This is Schedule "A" to By-law No. 18-  Passed the ..... day of ....., 2018	_____ Mayor  _____ Clerk
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<h2 style="margin: 0;">Schedule "A"</h2>  <h3 style="margin: 0;">Map Forming Part of By-law No. 18-_____</h3>  to Amend By-law No. 3692-92	<b>Subject Property</b> 2 Glover Mountain Road  <table style="width: 100%; border: none;"> <tr> <td style="width: 20px; text-align: center;"></td> <td>Change in Zoning from Neighbourhood Development "ND" Zone to the Single Residential "R4-34 (H1, H2, H3)" Zone, Modified</td> </tr> <tr> <td style="width: 20px; text-align: center;"></td> <td>Refer to By-law No. 05-200</td> </tr> </table>		Change in Zoning from Neighbourhood Development "ND" Zone to the Single Residential "R4-34 (H1, H2, H3)" Zone, Modified		Refer to By-law No. 05-200
	Change in Zoning from Neighbourhood Development "ND" Zone to the Single Residential "R4-34 (H1, H2, H3)" Zone, Modified				
	Refer to By-law No. 05-200				

<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> ZAC-16-001/25T-201601	
<b>Date:</b> Jan. 18, 2018	<b>Planner/Technician:</b> JR/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

**Authority:** Item ,  
Report (PED18018)  
CM:  
Ward: 11

**Bill No.**

## **CITY OF HAMILTON**

### **BY-LAW NO. \_\_\_\_\_**

#### **To Amend Zoning By-law No. 05-200 (Hamilton) Respecting lands located at 2 Glover Mountain Road (Stoney Creek)**

**WHEREAS** the City of Hamilton has in force several Zoning By-laws which apply to different areas incorporated into the City by virtue of the *City of Hamilton Act 1999*, Statutes of Ontario, 1999 Chap.14;

**WHEREAS** the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

**WHEREAS** the Council of the City of Hamilton, in adopting Item \_\_\_\_\_ of Report PED18018 of the Planning Committee, at its meeting held on the 20th day of February 2018, which recommended that Zoning By-law No. 05-200 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. 1352 of Schedule "A" – Zoning Maps of By-law No.05-200, be amended as follows:
  - a) by adding to the City of Hamilton Zoning By-law No. 05-200, the lands the extent and boundaries of which are shown as schedule "A" to this By-law;
  - b) by establishing a Conservation / Hazard Land (P5-679) Zone, Modified, to the lands, the extent and boundaries of which are shown as "Blocks 5-8" hereto annexed as Schedule "A";
2. That Schedule "C" – Special Exceptions of By-law No. 05-200, is amended, by adding the following special provision:
  - a) Notwithstanding Section 4.23 d), the minimum setback from any building or structure to Conservation / Hazard Land (P5) Zone will be 1.2 metres for any residential side yards and will be 7.0 metres for any rear yards.

Appendix "C" to Report PED18018

**To Amend Zoning By-law No. 3692-92 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**

Page 2 of 3

3. 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*.
4. That this By-law No. \_\_\_\_\_ shall come into force and be deemed to have come into force in accordance with Subsection 34(21) of the *Planning Act*, either upon the date of passage of this By-law or as provided by the said Subsection

**PASSED and ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018

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F. Eisenberger  
Mayor

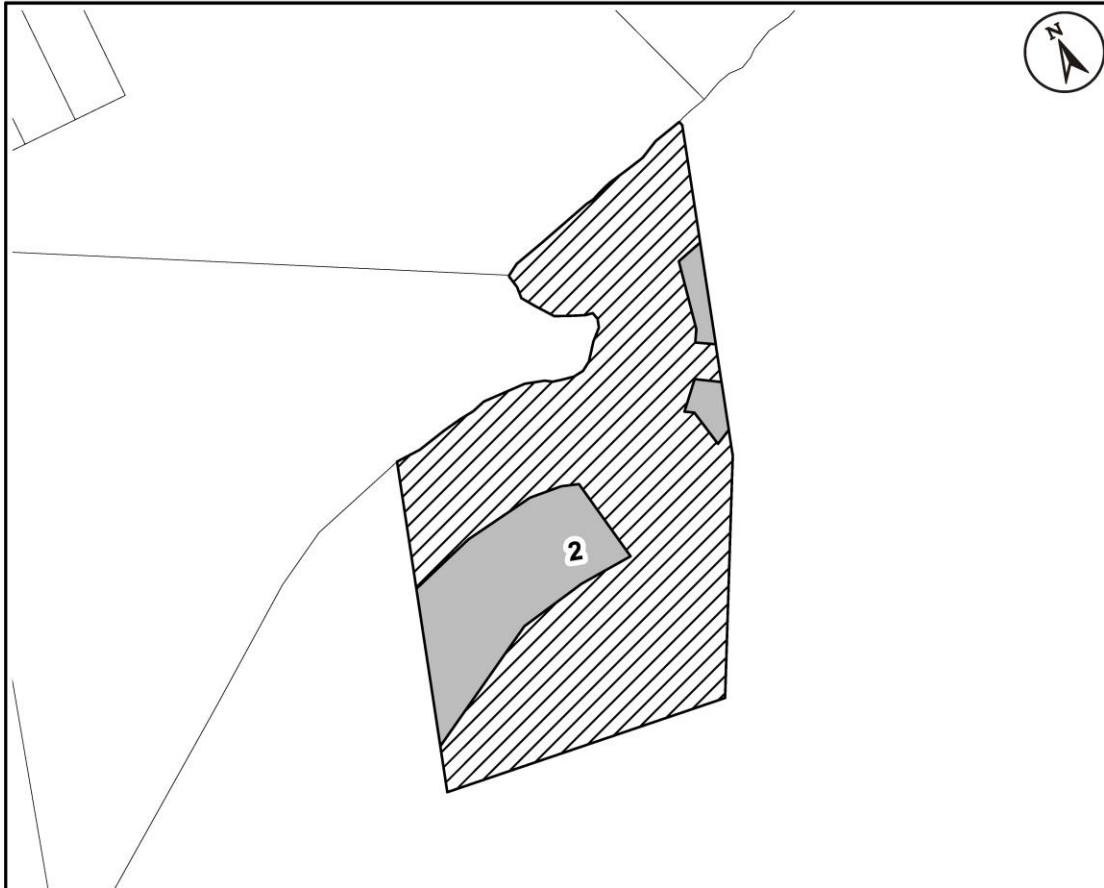
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R. Caterini  
City Clerk

ZAC-16-001  
25T-201601

Appendix "C" to Report PED18018

**To Amend Zoning By-law No. 3692-92 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**



<p>This is Schedule "A" to By-law No. 18- Passed the ..... day of ....., 2018</p>	<p>----- Mayor ----- Clerk</p>		
<p><b>Schedule "A"</b></p> <p>Map Forming Part of By-law No. 18-_____</p> <p>to Amend By-law No. 05-200 Map 1352</p>	<p><b>Subject Property</b> 2 Glover Mountain Road</p> <p> Lands to be zoned Conservation / Hazard (P5, 679) Zone, Modified</p> <p> Refer to By-law No. 3692-92</p>		
<p>Scale: N.T.S.</p>	<p>File Name/Number: ZAC-16-001/25T-201601</p>		
<p>Date: Jan. 24, 2018</p>	<p>Planner/Technician: JR/AL</p>		
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>			

## **Appendix "D"**

### **Special Conditions**

That this approval for the Revised Draft Plan of Subdivision, 25T-201601, prepared by Armstrong Planning & Project Management and certified by Douglas E. Hunt, O.L.S., dated November 6, 2015, consisting of four blocks (Blocks 1-4) to be used for four single detached dwellings, one block (Block 5) for the required 30.0 m buffer from the top of the Niagara Escarpment, two blocks (Blocks 6 and 7) for open space purposes, one block (Block 8) for a pond outfall/spillway easement and one proposed internal road known as Street "A" be received and endorsed by City Council with the following special conditions;

#### **Development Engineering Conditions**

1. That, ***prior to preliminary grading***, the Owner shall demonstrate that the existing building has been demolished and existing private services decommissioned / abandoned to the satisfaction of the Senior Director, Growth Management Division.
2. That, ***prior to preliminary grading***, the Owner provides, to the satisfaction of the Senior Director, Growth Management Division, 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.
3. 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, Growth Management Division.
4. That, ***prior to servicing***, the owner demonstrates that adequate municipal services are available at the east and west limit of Street 'A' to the satisfaction of the Senior Director, Growth Management Division.
5. 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 their expense, to the satisfaction of the Senior Director, Growth Management Division.

6. That, ***prior to servicing***, the Owner shall include in the engineering design and cost estimate schedules provision for installation of a 1.8m high vinyl coated chain link fence between the private and public properties, at their expense, and to the satisfaction of the Senior Director, Growth Management Division.
7. 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.
8. 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, Growth Management Division.
9. 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, Growth Management Division. 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'.
10. 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 the City in advance of the peer review, if required, to the satisfaction of the Senior Director, Growth Management Division.
11. 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 of rock removal within 200 metres of that phase of construction, to the satisfaction of the Senior Director, Growth Management Division.



12. The Owner agrees that Block 2 will remain undevelopable until such time as Block 2 is merged with the adjacent westerly lands, to the satisfaction of the Senior Director, Growth Management Division.
13. That, **prior to registration of the plan**, the owner demonstrates that the size of Block 8, the storm outfall block, is sufficient to provide for installation of a turning circle or hammerhead at the end of the maintenance road to the satisfaction of the Senior Director, Growth Management Division.

#### Natural Heritage Planning Conditions:

14. That **prior to any grading and servicing works**, the mitigation measures as outlined on pages 56 to 58 within the Environmental Impact Statement (EIS) prepared by MMM Group (Sept. 2016) be implemented to the satisfaction of the Director of Planning and Chief Planner.
15. That **prior to registration**, stewardship signage be placed by the Owner at the rear of the lots abutting the Core Areas to the satisfaction of the Director of Planning and Chief Planner **and that the Owner acknowledge in writing that Blocks 1-4, both inclusive are subject to site plan control.**
16. That **prior to registration**, a stewardship brochure be designed by the Owner to the satisfaction of the Director of Planning and Chief Planner.

The stewardship brochures will be distributed to all future homeowners and will describe the importance of the natural areas and how the homeowner can minimize their impact on these features.

17. That **prior to registration**, a 1.8 m high black vinyl coated heavy duty chain link fence is to be placed along the boundary of Block 5 with appropriate access for maintenance of the stormwater management outlet to the satisfaction of the Director of Growth Management.
18. That **prior to any grading and servicing**, groundwater levels within the drainage channel and the groundwater flow from Veever's spring should be monitored during the excavation of the drainage channel at the SWM outlet to the satisfaction of the Senior Director of Growth Management. If excavation takes place in summer when there is no spring flow, monitoring should take place after a significant storm event and in fall when the groundwater table beneath the site rises and flow from the spring begins its annual flow cycle.

## **Urban Design**

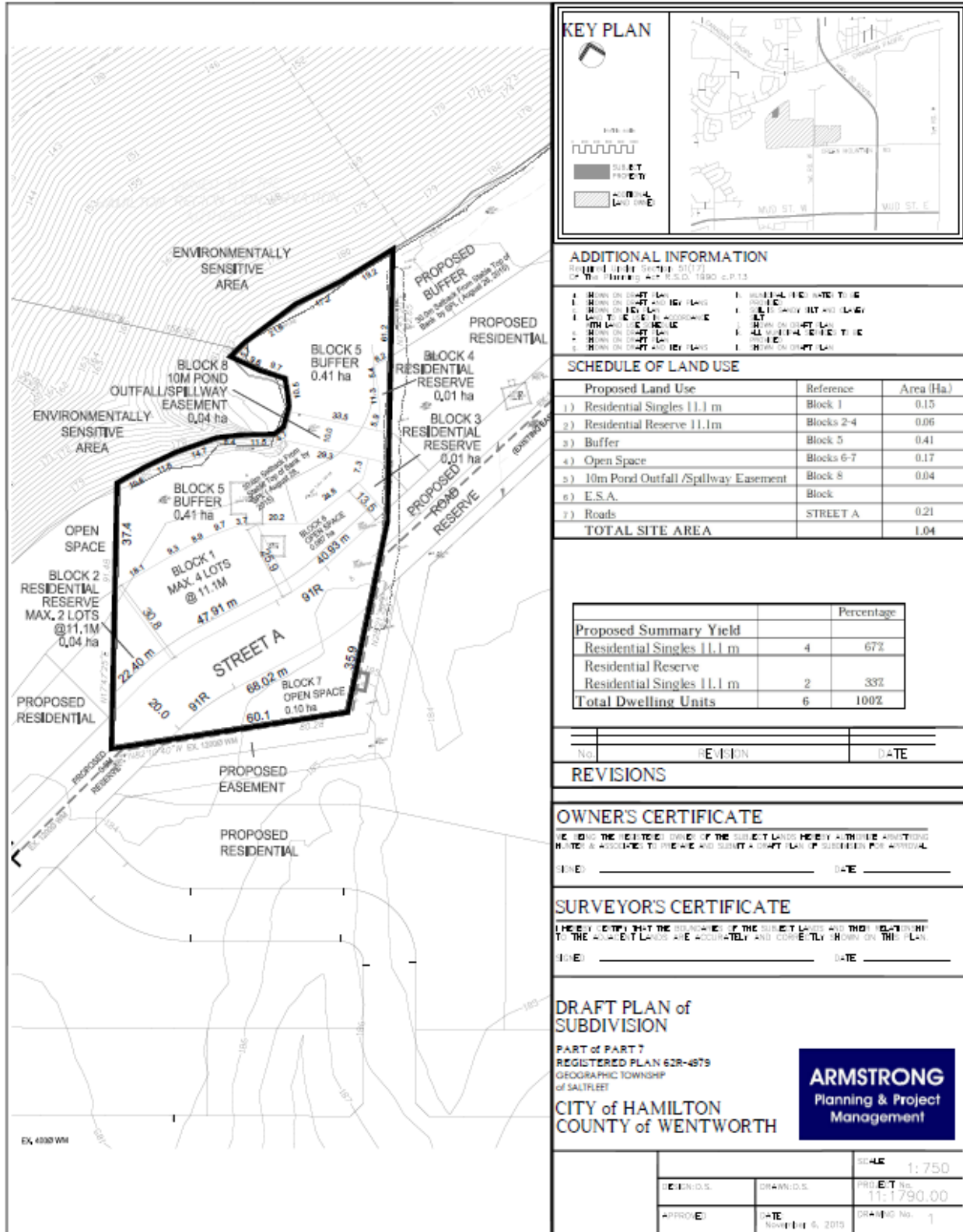
19. The Owner agrees to retain a qualified Urban Designer / Architect to administer architectural development standards for those lots subject to architectural control prior to acceptance of a building permit application, to the satisfaction of the Director of Planning. Furthermore, the Owner agrees to adhere to those lots identified in the Urban Design / Architectural Guidelines, and submit building plans for the lots to the City’s Urban Designer / Architect for review and approval prior to the acceptance of a building permit application.

## **City Cost Sharing**

There is no City Share for the costs of servicing workings with the draft plan lands.

## **NOTES TO DRAFT PLAN APPROVAL**

- 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.
- That payment of Cash-in-Lieu of Parkland will be required for the development prior to the issuance of each building permit for the lots within the plan. The calculation of the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of the building permit; all in accordance with the Financial Policies for Development, and the City’s Parkland Dedication By-law, as approved by Council.
- This property is eligible for weekly collection of Garbage, Recycling, Organics, and Leaf and Yard Waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City’s Solid Waste By-law 09-067, as amended.



**KEY PLAN**



**ADDITIONAL INFORMATION**

- REGULATED BY SECTION 51(1)  
OF THE Planning Act R.S.O. 1990 c.P.13
- 1. HUMAN ON DRAFT PLAN
  - 2. HUMAN ON DRAFT AND REV. PLANS
  - 3. HUMAN ON DRAFT PLAN
  - 4. HUMAN ON DRAFT PLAN
  - 5. HUMAN ON DRAFT AND REV. PLANS
  - 6. HUMAN ON DRAFT AND REV. PLANS
  - 7. HUMAN ON DRAFT AND REV. PLANS
  - 8. HUMAN ON DRAFT AND REV. PLANS
  - 9. HUMAN ON DRAFT AND REV. PLANS
  - 10. HUMAN ON DRAFT AND REV. PLANS

**SCHEDULE OF LAND USE**

Proposed Land Use	Reference	Area (Ha.)
1) Residential Singles 11.1 m	Block 1	0.15
2) Residential Reserve 11.1m	Blocks 2-4	0.06
3) Buffer	Block 5	0.41
4) Open Space	Blocks 6-7	0.17
5) 10m Pond Outfall/Spillway Easement	Block 8	0.04
6) E.S.A.	Block	
7) Roads	STREET A	0.21
<b>TOTAL SITE AREA</b>		<b>1.04</b>

Proposed Summary Yield		Percentage
Residential Singles 11.1 m	4	67%
Residential Reserve		
Residential Singles 11.1 m	2	33%
<b>Total Dwelling Units</b>	<b>6</b>	<b>100%</b>

NO.	REVISION	DATE

**REVISIONS**

**OWNER'S CERTIFICATE**

I, BEING THE REGISTERED OWNER OF THE SUBJECT LANDS HEREBY AUTHORISE ARMSTRONG HUNTER & ASSOCIATES TO PREPARE AND SUBMIT A DRAFT PLAN OF SUBDIVISION FOR APPROVAL

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE SUBJECT LANDS AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN ON THIS PLAN

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

**DRAFT PLAN of SUBDIVISION**

PART of PART 7  
REGISTERED PLAN 62R-487S  
GEOGRAPHIC TOWNSHIP  
of SALTREEB  
CITY of HAMILTON  
COUNTY of WENTWORTH



DESIGN D.S.	DRAWN D.S.	PROJECT No. 11:1790.00
APPROVED	DATE: November 6, 2010	DRAWING No. 1
		SCALE: 1:750

JAN 27 2016

3 FATHY CIRLES  
GRIMSBY, ONT  
L3M 1B7  
905 309-7774

ROBERT CRACKETT, CITY OF HAMMONT  
PLANNING & ECONOMIC DEVELOPMENT DEPT.  
DEVELOPMENT PLANNING, HERITAGE & DESIGN - SUBURBAN TEAM  
71 MAIN ST. WEST 5<sup>TH</sup> FLOOR,  
HAMMONT, ONT. L8P 4Y5

RE: ZAC-16-001/244-201601

Dear Sir:

I AM THE SON & EXECUTOR OF MY PARENTS ESTATE AT 525 1ST RD, WEST,  
SPRING CREEK, ALSO KNOWN AS 2 GLOVER MOUNTAIN ROAD.

I AM IN FAVOR OF THE ZONING BY-LAW AMENDMENT AND A PLAN OF SUBDIVISION  
FOR THE LANDS LOCATED AT 2 GLOVER MOUNTAIN ROAD, SPRING CREEK, IN WARD 9.

THIS WOULD CREATE 4 LOTS FOR RESIDENTIAL DISTRICTS BUNDLES AND THESE LOTS WOULD  
BE HELD SEPARATELY.

THANKING YOU FOR THE OPPORTUNITY TO OPIEN MY COMMENTS.

Rick Nash

RICK NASH

**Authority:** Item ,  
Report (PED18018)  
CM:  
Ward: 11

**Bill No.**

## **CITY OF HAMILTON**

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

### **To Amend Zoning By-law 3692-92 (Stoney Creek) Respecting lands located at 2 Glover Mountain Road (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";

**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;

**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;

**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;

**WHEREAS** the Council of the City of Hamilton, in adopting Item \_\_\_\_\_ of Report PED 18018 of the Planning Committee, at its meeting held on the 20th day of February, 2018, 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 from Neighbourhood Development "ND" Zone to Single Residential "R4-34(H1, H2)" Zone, Modified (Blocks 1 – 4);
2. That Subsection 6.5.7, "Special Exemptions" of Section 6.5 Single Residential "R4" Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, "R4-34(H1, H2)", as follows:

## Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**

Page 2 of 4

**"R4-34(H1, H2)" 2 Glover Mountain Road, Schedule "A", Map No. 1352**

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e), (f), and (g) of Section 6.5.3 "Zone Regulations" of the Single Residential "R4" Zone and Section 4.19 "Yard Encroachments", the regulations of the Single Residential "R4-31" Zone, Modified, as established under By-law No. 14-180, shall apply on those lands zoned "R4-34" by this By-law, and the following shall also apply:

- |                             |   |
|-----------------------------|---|
| (a) Maximum Building Height | 10.3 metres (2 storeys) and the elevation of the peak of the roof shall be a maximum of 196.5 masl. |
|-----------------------------|---|

Notwithstanding the provision of Section 3.8 "Holding Zones", on those lands zoned "R4-34 (H1, H2)" by this By-law, the Holding symbol (H1) may be removed and thereby give effect to the "R4-34" Zone provisions in Section 2 above, upon completion of the following:

- (a) That a visual analysis is finalized including determination of the maximum building height as a Metre Above Sea Level (MASL) to the satisfaction of the Director of Planning and Chief Planner and the Niagara Escarpment Commission.

Notwithstanding the provision of Section 3.8 "Holding Zones", on those lands zoned "R4-34 (H1, H2)" by this By-law, the Holding symbol (H2) may be removed and thereby give effect to the "R4-34" Zone provisions in Section 2 above, upon completion of the following:

- (a) That the Niagara Escarpment Commission (NEC) issue development permits for the creation of the lots, the road and the outlet / spillway and all conditions of the development permits are cleared to the satisfaction of Manager of Engineering Approvals, Growth Management Division.

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*.

Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**

**PASSED and ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018

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F. Eisenberger  
Mayor

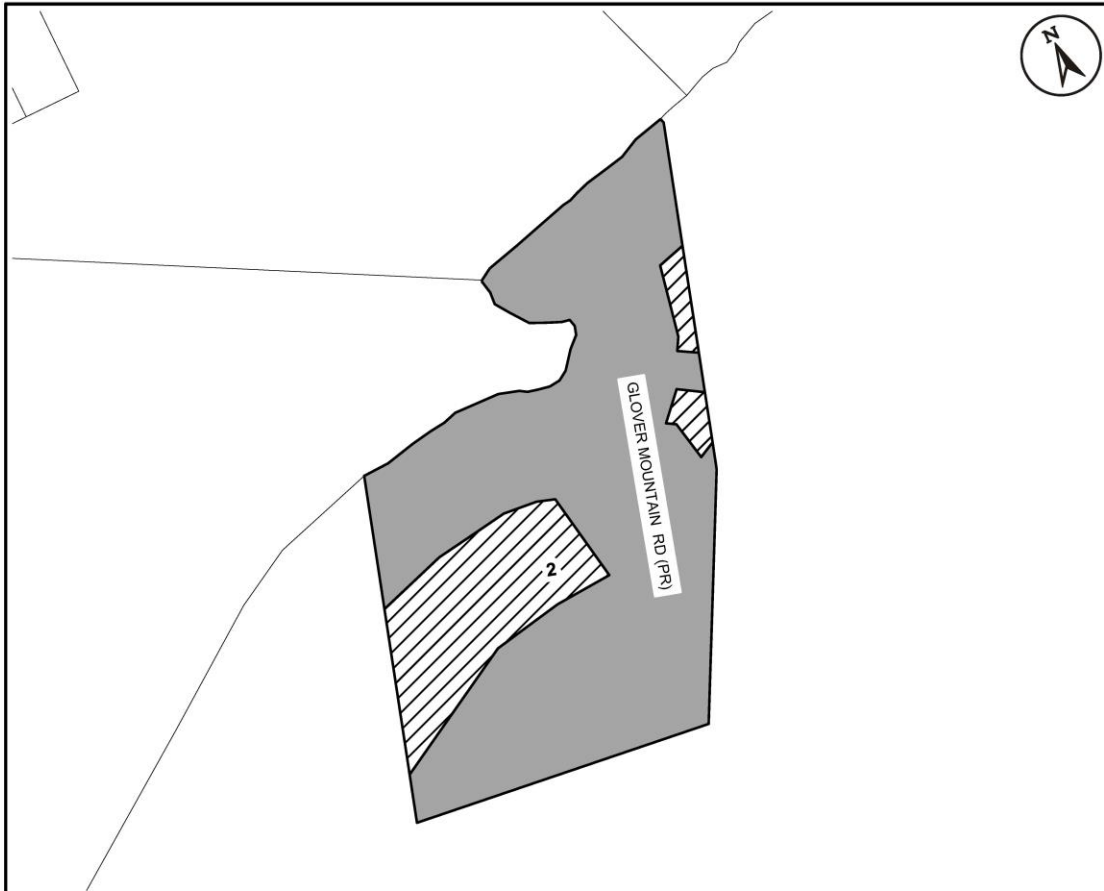
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R. Caterini  
City Clerk

ZAC-16-001  
25T-201601

Appendix "B" to Report PED18018

**To Amend Zoning By-law 3692 (Stoney Creek)  
Respecting lands located at 2 Glover Mountain Road  
(Stoney Creek)**



This is Schedule "A" to By-law No. 18-  Passed the ..... day of ....., 2018	----- Mayor  ----- Clerk
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<p style="text-align: center;"><b>Schedule "A"</b></p> <p style="text-align: center;">Map Forming Part of By-law No. 18-_____</p> <p style="text-align: center;">to Amend By-law No. 3692-92</p>	<p><b>Subject Property</b> 2 Glover Mountain Road</p> <p> Change in Zoning from Neighbourhood Development "ND" Zone to the Single Residential "R4-34 (H1, H2, H3)" Zone, Modified</p> <p> Refer to By-law No. 05-200</p>
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<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> ZAC-16-001/25T-201601	
<b>Date:</b> Jan. 18, 2018	<b>Planner/Technician:</b> JR/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		





**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Equitable Access to City's Taxi System for All Persons with Disabilities (PED16232(b)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Dawn Johnson (905) 546-2424 Ext. 5809 Luis Ferreira (905) 546-2424 Ext. 3087
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That 18 accessible taxi plates (ATP) be issued in 2018;
- (b) That, subject to the approval of Recommendation (a) of Report PED16232(b) respecting 18 accessible tax plates (ATP) being issued in 2018, the following be approved:
  - (i) That an accessible priority list (APL) be created;
  - (ii) That an annual fee of \$57 (including applicable HST) to be placed on the APL be approved and added to the User Fee and Charges By-law 17-137;
  - (iii) That amendments in the form attached as Appendix "A" to Report PED16232(b), respecting amendments to Schedule 25 (Taxicabs) of the By-law to License and Regulate Various Business, being By-law No. 07-170, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
  - (iv) That the implementation schedule as outlined in Report PED16232 which was approved by Council on December 14, 2016, Item 2(b) of the Planning Committee Report 16-021, be amended to permit the release of an additional 18 accessible tax plates (ATP) to qualified licensed drivers within the Hamilton Taxicab Industry, in accordance with the criteria outlined in Appendix "B" attached to Report PED16232(b);

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**SUBJECT: Equitable Access to City's Taxi System for Persons with Disabilities (PED16232(b)) (City Wide) - Page 2 of 5**

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- (v) That the current complaint process be enhanced to include a direct phone line option and solid web complaint portal;
  - (vi) That to achieve compliance with the *Accessibility for Ontarians with Disabilities Act, 2005, S.O, 2005, c.11 (AODA)* standards and to support the Advisory Committee for Persons with Disabilities (ACPD) with the on-demand accessible taxicab initiative, any future issuance of accessible taxi plates (ATP) be at the discretion of the Director of Licensing and By-law Services;
  - (vii) That Report PED16232(b) respecting Equitable Access to City's Taxi System for All Persons with Disabilities be brought to the next Advisory Committee for Persons with Disabilities (ACPD) Committee Meeting as information only;
  - (viii) That 0.25 full-time equivalent (FTE) be approved for program administration and increased enforcement of accessible complaints, to be fully funded from the revenues generated from annual renewals of the accessible plates and Personal Transportation Providers (PTP) revenue;
- (c) That the item respecting Equitable Access to City's Taxi System for All Persons with Disabilities be considered complete and removed from the Advisory Committee for Persons with Disabilities (ACPD) Outstanding Business List.

## **EXECUTIVE SUMMARY**

Staff was given approval to issue a total of 18 ATP over three years commencing in 2017. The first six ATP were offered to those listed on the Priority List (PL) where only three ATP were actually issued due to very little interest. The remaining three plates were offered to qualified taxicab drivers through a lottery process.

Due to the positive interest of taxicab drivers who are not on the PL and addressing the direction from Council regarding on-demand accessible taxicab service, we are now seeking approval to issue 18 ATP in addition to the six ATP already issued in 2017. This proposal increases the total number of ATP from the current 22 to 40. The remaining interested taxicab drivers who are unable to obtain an ATP will be placed on the newly created APL for any future issuance.

In addition to seeking approval for the issuance of an additional 18 ATP, Licensing and By-law Services has enhanced the current complaint process to include a direct phone option and web complaint form. This new process supports service enhancements and improvements for the disabled community.

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**SUBJECT: Equitable Access to City's Taxi System for Persons with Disabilities  
(PED16232(b)) (City Wide) - Page 3 of 5**

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**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The issuance of 18 additional accessible taxi plates will generate a one-time revenue increase of \$81,000 with additional annual revenue generation of \$11,000 from plate renewals.

The creation of an APL would generate annual revenues of approximately \$4,500 based on the current interest.

**Staffing:** The addition of (0.25) FTE, at an annual cost of \$25,000, to support program administration and increased enforcement of accessible complaints. FTE to be funded by increased license fees from annual plate renewals and PTP revenue, which will ensure full cost recovery.

**Legal:** Appropriate notice under the City's Public Notice By-law No. 07-351 has been adhered to.

**HISTORICAL BACKGROUND**

On October 24, 2012, Council approved the Planning Committee Report 12-016, Item 10, directing staff to issue 16 accessible taxicab plates in 2013 to deliver taxicab services in accordance with the *Accessibility for Ontarians with Disability Act, 2005* (AODA).

On December 14, 2016, Council approved the Planning Committee Report 16-021, Item 2, directing staff to issue a total of 18 accessible plates equally over three years commencing with the first six in 2017.

On May 10, 2017, Council approved GIC Report 17-010, Item 8, directing the City's Director of Licensing to review and address the lack of on-demand accessible taxicabs in full consultation with members of the ACPD; and, that staff be directed to report back to the ACPD on steps to be actively taken to ensure full and equitable access to the City's taxi system for all persons with disabilities.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

*Accessibility for Ontarians with Disabilities Act, 2005, S.O, 2005, c.11 O. Reg. 191/11  
INTERGRATED ACCESSIBILITY STANDARDS Part IV, s. 79(1)*

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**SUBJECT: Equitable Access to City's Taxi System for Persons with Disabilities  
(PED16232(b)) (City Wide) - Page 4 of 5**

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**RELEVANT CONSULTATION**

Legal Services, Finance and Administration, Hamilton Cab, Blue Line Cab and ACPD (Transportation Working Group) were consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

In September 2017, following consultation with the Taxicab Industry and the ACPD (Transportation Working Group), it was determined that there was a need for additional accessible taxicabs, more efficient management of complaints and amendments to the Business Licensing By-law 07-170 to strengthen accessible taxicab service delivery.

The issuance of additional accessible taxicab plates will support the need to meet the standards outlined in the AODA requiring on-demand accessible taxicab service.

**Accessible Taxicab Statistics**

- An average of 868 accessible taxicab rides per month;
- A monthly average of approximately 115 ride refusals or denials;
- Numerous complaints per month related to access to available accessible taxicabs (which will be monitored with the approval of this Report);
- Average of 45 driver no-shows per month;
- With the additional six ATP issued in 2017, the ratio is 1:25,381 (based on population of 558,397);
- Approval of the issuance of 18 ATP as proposed, the ratio will be 1:13,960 (based on population 558,397);
- The release of the six accessible plates in December 2017 brought the current total to 22 which equates to approximately 4.9% of the total taxicab fleet servicing our residents; and,
- Releasing an additional 18 plates this year as proposed would increase the total number of accessible vehicles to 40, improving the ratio to 8.9% of the taxicab fleet.

Although this is still a relatively small number of accessible taxicabs in relation to the 449 regular taxicabs servicing our community, it almost doubles the existing accessible taxicab fleet.

As part of an ongoing initiative to support the accessible taxicab service within the industry, we will continue to monitor and work with the Brokers and the ACPD (Transportation Working Group) to bring forward continuous improvements and working towards providing on-demand service.

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**SUBJECT: Equitable Access to City's Taxi System for Persons with Disabilities  
(PED16232(b)) (City Wide) - Page 5 of 5**

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The issuing of these additional plates will support the improvement of the transportation needs of our community, as well as working towards compliance with the regulations outlined in the Accessibility for Ontarians with Disabilities Act, 2005, S.O, 2005, c.11.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

**Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": By-law Amending Schedule 25 (Taxicabs)

Appendix "B": Criteria for the Issuance of Accessible Taxi Plates

KL/DJ/LF/st

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**Appendix “A” to Report PED16232(b)**  
**Page 1 of 5**

**Authority:**  
City Wide  
**Bill No.**

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

**To Amend By-law No. 07-170, being a By-law to License and Regulate Various Businesses**

**WHEREAS** Council enacted a by-law to licence and regulate various businesses being City of Hamilton By-law No. 07-170; and

**WHEREAS** this By-law amends Schedule 25 (Taxicabs);

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

1. Section 1(1) is amended by adding the following definitions in alphabetical order:

- a) **“accessible priority list”** means the list of applications for an accessible taxicab owner licence maintained by the Director of Licensing and made available to the public with names set out thereon in chronological order as to the date and time of receipt;
- b) **“new accessible taxicab owner’s licence”** means an accessible taxicab owner’s licence issued, transferred or purchased after September 2017, except renewals existing at the date of the enactment of this schedule;

2. Section 13 is amended by adding a new subsection (m) as follows:

- (m) to impose conditions on any accessible taxicab owner’s licence issued by the City, transferred or purchased after September 2017 requiring the accessible taxicab to be in service and available for dispatched calls on:
  - a) specified days of the week; and,
  - b) specified times of the 24-hour period of any day.

3. Section 16 is amended by deleting subsection (v).

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 2 of 5)

4. Section 17 is amended by deleting and replacing subsection (2) with a new subsection (2):
  - (2) New accessible taxicab owner licence plates shall be issued:
    - a) first to individuals on the priority list; and,
    - b) second to individuals on the accessible priority list.
5. Section 18 is amended by adding a new subsection (m) as follows:
  - (m) where the licensed broker fails to dispatch an accessible taxicab on a priority basis to a person with a disability who requests such service.
6. Section 20 is amended by adding a new subsection (5) as follows:
  - (5) Notwithstanding any other provision of this schedule, the Director of Licensing may authorize the issuance of additional accessible taxicab plates at his / her discretion.
7. Section 21 is amended by adding subsection (1) behind section 21 so that it reads 21(1) and adding a new subsection (2) as follows:
  - (2) Names of licensed taxicab drivers shall be placed on the accessible priority list in chronological order from date of application.
8. Section 22 is amended by adding a new subsection (3) as follows:
  - (3) Notwithstanding the closure of the priority list, the accessible priority list shall remain open allowing licensed drivers to be added to the list in order of application date.
9. Section 23 is amended by adding a new subsection (9) as follows:
  - (9) Persons whose names are on the accessible priority list must comply with all sub-sections of this Section 23.
10. Section 24 is amended by adding a new subsection (9) as follows:
  - (9) Persons whose names are on the accessible priority list must comply with all subsections of this Section 24.
11. Section 25 is amended by adding a new subsection (3) as follows:

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 3 of 5)

- (3) Persons whose names are on the accessible priority list must comply with all subsections of this Section 25.

12. Section 26 is amended by adding a new subsection (3) as follows:

- (3) Subsections (1) and (2) of this Section 26 also applies to individuals on the accessible priority list.

13. Section 38(1) is amended by deleting and replacing subsection (a) with:

- (a) submitted by such person to the Director of Licensing for testing and inspection at any time as directed;

14. Section 38(1) is amended by deleting subsection (e).

15. Section 41(4) is amended by adding a new subsection (c) as follows:

- (c) proof of insurance in the amount of \$2,000,000.

16. Section 42(2) is amended by deleting and replacing subsection (b) with the following:

- (b) a taxicab that is accessible, as determined by the Director of Licensing from time to time, and is no more than five (5) years old when first approved as a taxicab under section 56(5), shall be no more than ten (10) years old.

17. Section 47 is amended by deleting and replacing subsection (1)(Z) to (1)(z), lower case (z)

18. Section 50(1) is amended by adding a closed bracket after (o so that it reads (o).

19. Section 54(1) is deleted and replaced it with the following:

- (1) This schedule shall be administered by the Director of Licensing with delegation of the enforcement to any Municipal Officer.

20. Section 54(2) is amended by adding a new subsection (e) as follows:

- (e) issue an administrative penalty notice for any contraventions of this Schedule.



To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 4 of 5)

21. The amendments in this By-law include any necessary grammatical, numbering and lettering changes as necessary.

PASSED this        day of        , 2018.

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Fred Eisenberger  
Mayor

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Rose Caterini  
City Clerk

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 5 of 5)

*For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law*

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning

Report No.: PED16232(b) Date: 02/20/2018

Ward(s) or City Wide: City Wide

(MM/DD/YYYY)

Prepared by: Luis Ferreira

Phone No: Ext.3087

*For Office Use Only, this doesn't appear in the by-law*

**Appendix “B” to Report PED16232(b)**  
**Page 1 of 1**

**CRITERIA FOR THE ISSUANCE OF ACCESSIBLE TAXICAB PLATES**

- Offer individuals currently on the Priority List (PL) accessible taxicab plates. Individuals will be contacted in writing offering the opportunity to purchase an accessible taxicab plate.
- Each individual that is contacted will have thirty (30) days to confirm with the City of Hamilton, Licensing Section, in writing, if they would like to purchase an accessible taxicab plate.
- Individuals on the Priority List will be given the right of first refusal of accessible taxicab plates before opening the opportunity to all qualified licenced taxicab drivers on the Accessible Priority List (APL).
- A one year minimum as a licensed taxicab driver with the appropriate endorsement will be the requirement to qualify to be placed on the list.
- Only those meeting the above qualification will be considered.
- Those successful taxicab drivers will be contacted directly by the City.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Business Licensing By-law 07-170 – Replacement of Taxicab Tariff / Fares (Appendix 1 of Schedule 25) (PED18045) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Luis Ferreira (905) 546-2424 Ext. 3087
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

That the Business Licensing By-law 07-170 be amended by replacing Taxicab Tariff / Fares Meter and By Agreement Rates (Appendix 1 of Schedule 25), in accordance with the amending By-law, attached as Appendix “A” to Report PED18045, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council.

### EXECUTIVE SUMMARY

Taxicab stakeholders have for some time complained about the current Taxicab Tariff / Fares as set out in Appendix 1 of Schedule 25 of the Business Licensing By-law No. 07-170 (Licensing By-law). As a consequence of the penny being discontinued, these stakeholders feel that the current \$0.13 charge on distance and waiting time while under engagement is confusing to the general public as the meter calculates the cost of the trip by this denomination resulting in an odd fare at the end of each trip. It would be more efficient if the meter advanced by \$0.10 instead of \$0.13 as this would remove the requirement of having to round up or down the cost of the trip.

By reducing the Tariff / Fare amount as proposed, together with a corresponding reduction in the distance and time, we maintain the status quo of the cost of a taxicab trip while addressing concerns brought forward by the taxicab stakeholders.

Upon examination of Appendix 1 of Schedule 25 of the Licensing By-law, it was determined that implementing the proposed recommendations would simultaneously

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**SUBJECT: Business Licensing By-law 07-170 – Replacement of Taxicab Tariff / Fares (Appendix 1 of Schedule 25) (PED18045) (City Wide) - Page 2 of 3**

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update the Tariff / Fare amount to today's standards and address a concern raised by the taxicab industry, while having no negative impact on taxicab customers.

***Alternatives for Consideration – Not Applicable***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / Staffing / Legal: N/A

**HISTORICAL BACKGROUND**

*The Municipal Act, 2001* provides Council with the authority to regulate any business, wholly or in part, carried out within its jurisdiction, including the authority to license and restrict the amount taxicabs can charge customers. The current Licensing By-law is a compilation of amendments passed by Council over many years and currently contains requirements that no longer serve its original purpose.

Upon examination of Appendix 1 of Schedule 25 of the Licensing By-law 07-170, it was determined that implementing the proposed recommendations would simultaneously update the Tariff/Fare amount to today's standards, address a concern raised by our friends in the taxicab industry while having no negative impact on taxicab customers.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

In addition to the City's Legal Services, the Industry Stakeholders (Taxicab Brokers, Owners and Drivers) were consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Taxicab Tariff / Fares are currently regulated by Appendix 1 of Schedule 25 of the Business Licensing By-law No. 07-170. Taxicab Brokers, Owners and Drivers have voiced their concern with regard to the current \$0.13 charged for each additional 72.1 meters or part thereof as well as the \$0.13 charged for waiting time while under engagement for each fourteen (14) seconds, which results in a taxicab ride of \$5.72 for 1,009 meters travelled.

In consultation with the Taxicab stakeholders, it is recommended that the taxicab meter fares / tariffs be amended as follows:

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*OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.*

*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Business Licensing By-law 07-170 – Replacement of Taxicab Tariff / Fares (Appendix 1 of Schedule 25) (PED18045) (City Wide) - Page 3 of 3**

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- \$0.13 charged for each additional 72.1 meters or part thereof be amended to reflect \$0.10 charged for each additional 55.6 meters or part thereof; and,
- \$0.13 for waiting time while under engagement for each 14 seconds be amended to reflect \$0.10 for waiting time while under engagement for each 11 seconds.

These changes would equate to a taxicab ride of \$5.70 for 1,000.8 meters travelled which is a negligible difference and would have no impact on taxicab customers.

### **ALTERNATIVES FOR CONSIDERATION**

N/A

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

#### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

#### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A”: Draft By-law and Appendix 1 of Schedule 25 (Taxicab Tariff / Fares)

KL/LF/st

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**Appendix "A" to Report PED18045  
Page 1 of 2**

Authority:  
City Wide  
Bill No.

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

**To Amend By-law No. 07-170, a By-law to License and Regulate Various  
Businesses**

**WHEREAS** Council enacted a By-law to License and Regulate Various Businesses being City of Hamilton By-law No. 07-170; and

**WHEREAS** this By-law deletes and replaces Appendix 1 of Schedule 25 – Taxicabs;

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

1. Appendix 1 of Schedule 25 of By-law 07-170 is deleted and replaced with Appendix "A" attached hereto.
2. This By-law comes into force on the day it is passed.

PASSED this     day of     , 2018.

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Fred Eisenberger  
Mayor

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Rose Caterini  
City Clerk

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 2 of 2)

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Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning

Report No.: PED18

Date: 02/20/2018

Ward(s) or City Wide: City Wide

(MM/DD/YYYY)

Prepared by: Luis Ferreira

Phone No: Ext. 3087

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Appendix "A"

## SCHEDULE 25 TAXICABS

### Appendix 1 (Taxicab Tariff/Fares) Meter and By Agreement Rates

The Meter and By Agreement Rates as approved by Council are set as follows:

For the first 71.4 meters or part thereof	\$3.90
For each additional 55.6 meters or part thereof	\$0.10 (\$1.80)
For waiting time while under engagement for each eleven (11) seconds	\$0.10
Livery or meter cabs by agreement (per hour)	\$37.00

Senior Citizens receive a 10% reduction on the above Meter Rates calculated on the highest Full Dollar registered on the taxi meter.

The above rate includes the Harmonized Sales Tax.

In accordance with section 68 of this By-law, promotional discount fares are prohibited subject to the written consent of the Director of Licensing.





**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Business Licensing By-law 07-170, Payday Loans Businesses (Schedule 11) (PED16039(a)) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Robert Ustrzycki (905) 546-2424 Ext.4721
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That the Business Licensing By-law 07-170 (Licensing By-law) be amended by replacing Payday Loans (Schedule 11) with the draft By-law attached as Appendix "A" to Report PED16039(a) which has been prepared in a form satisfactory to the City Solicitor be enacted by Council;
- (b) That the item respecting Payday Loans be identified as complete and removed from the Planning Committee Outstanding Business List.

### EXECUTIVE SUMMARY

On November 3, 2016 the Minister of Government and Consumer Services introduced Bill 59, *Putting Consumers First Act* (Consumer Protection Statute Law Amendment), 2016. The Bill 59 amendments to the *Payday Loans Act, 2008* and *Municipal Act, 2001* expand the municipal authority to limit the number and location of payday loans establishments within the City.

On December 12, 2017 Bill 59 received Royal Assent. The amendment to allow local municipalities to regulate the location and number of payday loans establishments has been proclaimed by the Lieutenant Governor into force and effective January 1, 2018. This Report proposes changes to Licensing By-law, Schedule 11 – Payday Loans, to be in line with the newly enacted provincial legislation.

### ***Alternatives for Consideration – Not Applicable***

**SUBJECT: Business Licensing By-law 07-170, Payday Loans Businesses  
(Schedule 11) (PED16039(a)) (City Wide) - Page 2 of 3**

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**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / Staffing / Legal: N/A

**HISTORICAL BACKGROUND**

In July 2015, Councillor Matthew Green presented a Motion to Council calling on the Provincial Government to strengthen the protections afforded by the *Payday Loans Act, 2008* and to assist municipalities in limiting the numbers and locations of these cheque cashing outlets.

Council further requested that staff research the feasibility of licensing payday loans establishments within the City and the requirement for locations to post their rates and supply debt counselling information. On February 24, 2016, Council approved Item 6 of Planning Committee Report 16-003 to license payday loans businesses under the Licensing By-law.

The Bill 59 amendments to the *Payday Loans Act, 2008* and *Municipal Act, 2001* that expand the municipal authority to limit the number and location of payday loans establishments within the City is the catalyst for the proposed changes to Payday Loans (Schedule 11).

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

In addition to the City's Legal Services, Frank Denton and Shane Gallagher from the Ministry of Government and Consumer Services were also consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The relevant portions of the amendments in Bill 59, relative to the *Municipal Act, 2001* and the *Payday Loans Act, 2008*, expands the City's authority to limit the number and location of payday loans establishments within the City. Currently, the City licenses 30 payday loans establishments.

The proposed Payday Loans (Schedule 11) limits the number of payday loans establishments to a maximum of 15 and no more than one location per Ward. It also recognizes and permits the 30 locations, where establishments currently licensed with the City, may operate provided the premises continues to be used for such purposes,

**SUBJECT: Business Licensing By-law 07-170, Payday Loans Businesses (Schedule 11) (PED16039(a)) (City Wide) - Page 3 of 3**

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the business owner maintains their licence and the business carried on therein is in compliance with this By-law.

Approving the proposed Payday Loans (Schedule 11) ensures the City has used all authority granted to it by the Province to reduce the risk to consumers who use alternative financial services. It is recommended that the proposed Schedule 11 be adopted.

In addition to expanding the municipality's authority, Bill 59 also includes the following additional regulatory changes which remain under the Provincial regime that will come into force on July 1, 2018:

- Mandatory extended payment plan for borrowers with three or more loans with the same lender within a 63-day period;
- Loan limit of 50 per cent of a borrower's net pay per loan;
- The cost of borrowing a payday loan must be disclosed as an annual percentage rate in advertisements and agreements;
- Maximum fee for cashing government-issued cheques capped at \$2 plus one per cent of the face value of the cheque, or \$10, whichever is less; and,
- Mandatory provision for a receipt when cashing government-issued cheques.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN****Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy and have a high quality of life.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Amending By-law (Payday Loans - Schedule 11)

KL/RU/st

Authority:  
City Wide  
Bill No.

CITY OF HAMILTON  
BY-LAW NO.

**To Amend By-law 07-170, a By-law to License and Regulate Various Businesses**

**WHEREAS** Council enacted a By-law to License and Regulate Various Businesses being City of Hamilton By-law No. 07-170;

**WHEREAS** section 154.1 of the *Municipal Act, 2001* authorizes the City of Hamilton to define the location and limit the number of payday loans establishments; and

**WHEREAS** this By-law deletes and replaces Schedule 11 – Payday Loans Businesses;

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

1. Schedule 11 of By-law No. 07-170 is repealed and replaced with Appendix "A" attached hereto.
2. Despite the repeal of Schedule 2 under section 1:
  - a. the Schedule shall continue to apply to proceedings in respect of offences that occurred before its repeal; and,
  - b. all licences issued under the Schedule that are in effect at the time of the repeal shall be deemed to be licences as issued under this Schedule, with all necessary modifications, and all the rules, requirements and regulations of this Schedule shall apply.
3. This By-law comes into force on the day it is passed.

PASSED this      day of      , 2018.

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 2 of 8)

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Fred Eisenberger  
Mayor

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Rose Caterini  
City Clerk

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 3 of 8)

*For Office Use Only, this doesn't appear in the by-law - Clerk's will use this information in the Authority Section of the by-law*

Is this by-law derived from the approval of a Committee Report? Yes

Committee: Planning                      Report No.: PED16039(a)              Date: 02/20/2018  
Ward(s) or City Wide: City Wide    (MM/DD/YYYY)

Prepared by: Robert Ustrzycki    Phone No: 4721

*For Office Use Only, this doesn't appear in the by-law*

**APPENDIX "A"****SCHEDULE 11****PAYDAY LOANS BUSINESSES****DEFINITIONS**

1. In this Schedule:

“chartered bank annual consumer loan rate” means the most recent chartered bank – consumer loan rate set out in Table 176-0043 of the Bank of Canada Financial Market Statistics; and,

“payday loans business” means a person or entity licensed as a lender or a loan broker under the *Payday Loans Act, 2008*.

**LICENSING****General**

2. Every payday loans business shall hold the applicable current and valid licence under this Schedule.
3. Before a licence may be issued, every applicant for a licence, in addition to complying with the General Provisions of this By-law, shall submit, for approval of the Issuer of Licences:

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 4 of 8)

- (a) Proof of a current and valid licence as a lender or a loan broker under the *Payday Loans Act, 2008*;
  - (b) accurate, scale representations of the posters that will be displayed in accordance with sections 8 and 9; and,
  - (c) the credit counselling information that will be given in accordance with section 10.
4. No new payday loans business shall be issued a licence for a location listed in section 7.
5. No payday loans business shall be located and no payday loans business licence shall be issued except for in areas as permitted by sections 6 and 7.
  - (a) No more than 15 payday loans business licences shall be issued; and,
  - (b) No more than one payday loans business licence shall be issued per ward.
6. Council may consider a request to substitute a new location for an existing payday loans business location provided that any requested new location shall be restricted by ward and no more than one location per ward shall be permitted.
7. Despite section 6, the premises at the following municipal addresses licensed and in actual use as payday loans businesses in the City on November 1 2016, are deemed to be a location where a payday loans business is permitted to operate and eligible to be licensed only for so long as the premises continues to be used for such purposes, the business owner maintains their licence, and the business carried on therein is in compliance with this By-law:
  - (a) 736 Queenston Road;
  - (b) 970 Upper James Street;

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 5 of 8)

- (c) 152 Hwy 8, Unit 158;
- (d) 61 King Street East;
- (e) 1392 Main Street East;
- (f) 460 Main Street West;
- (g) 483 Hwy 8;
- (h) 1 Wilson Street;
- (i) 836 Upper James Street;
- (j) 1655 Main Street West;
- (k) 1056 Barton Street East;
- (l) 314 Queenston Road, Unit F;
- (m) 58 Centennial Parkway North;
- (n) 309 Grays Road;
- (o) 1120 Fennell Avenue East;
- (p) 529 Concession Street;
- (q) 732 Queenston Road;
- (r) 219 King Street East;
- (s) 1299 Barton Street East, Building K;
- (t) 147 Locke Street South;
- (u) 534 Concession Street;
- (v) 127 King Street East;
- (w) 13 King Street East, Suite 1;
- (x) 858 Upper James Street;
- (y) 478 King Street East, Unit 2;
- (z) 1116 Barton Street East, Unit 1;



## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 6 of 8)

- (aa) 77 James Street North, Unit 223;
- (bb) 695 Queenston Road;
- (cc) 833 Upper James Street; and,
- (dd) 1062 Barton Street East.

**Poster for Rates**

8. Every payday loans business shall display a poster at each of the offices authorized by its *Payday Loans Act, 2008* licence that:
- (a) has been approved in advance by the Issuer of Licences;
  - (b) is in English;
  - (c) is visible to any person immediately upon entering the office;
  - (d) is of a minimum size of 61 centimetres in width by 91 centimetres in length; and,
  - (e) consists of:
    - (i) in 144 point font, a heading setting out the words “Our Annual Interest Rate” and the amount of the payday loans business’s annual interest rate, which may be shown on a replaceable card attached to the face of the poster or by any other similar means, immediately below the heading;
    - (ii) in 144 point font, a heading setting out the words “Chartered Bank – Annual Consumer Loan Rate” and the chartered bank annual consumer loan rate, which may be shown on a replaceable card attached to the face of the poster, immediately below the heading; and,
    - (iii) in 34 point font and below 4(e)(i) and 4(e)(ii) the words “This poster is required under Schedule 11 of the City of Hamilton’s Business Licensing By-law No. 07-170.”

## To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 7 of 8)

**Poster for Credit Counselling**

9. Every payday loans business shall display a poster at each of the offices authorized by its *Payday Loans Act, 2008* licence that:
- (a) has been approved in advance by the Issuer of Licences;
  - (b) is in English;
  - (c) is visible to any person immediately upon entering the office;
  - (d) is of a minimum size of 61 centimetres in width by 91 centimetres in length; and,
  - (e) consists of:
    - (i) in 144 point font, a heading setting out the words “Credit Counselling”;
    - (ii) in 144 point font, a heading setting out the word “Contact” followed by one or more of the following credit counselling agencies:
      - (1) Credit Counselling Canada
      - (2) Canadian Association of Credit Counselling Services
      - (3) Ontario Association of Credit Counselling Service
      - (4) Canadian Association of Independent Credit Counselling Agenciestogether with their respective telephone number and email address; and
    - (iii) in 34 point font and below 5(e)(i) and 5(e)(ii) the words “This poster is required under Schedule 11 of the City of Hamilton’s Business Licensing By-law No. 07-170.”

To Amend By-law No. 07-170, a By-law to License and Regulate Various Businesses

(Page 8 of 8)

**Credit Counselling Information**

10. Every payday loans business shall ensure that each person who attends at its offices is given, immediately upon him or her expressing an interest in a loan, credit counselling information that has been approved in advance by the Issuer of Licences.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Comprehensive Review of Discharge of Firearms By-law 05-114 (PED16107(a)) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Robert Ustrzycki (905) 546-2424 Ext. 4721
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

That the Licensing and By-law Services staff be directed to consult with Legal Services and develop and bring forward to the Planning Committee an updated By-law to repeal and replace City of Hamilton Discharge of Firearms By-law 05-114 that incorporates the recent and future urban developments in the City and includes the key aspects generated by the public engagement process as contained in Report PED16107(a).

### EXECUTIVE SUMMARY

The City Solicitor, through Report LS15020 (Regulating Guns and / or Ammunition) dated August 10, 2015, informed the General Issues Committee that the Discharge of Firearms By-law is in need of updating. As a result, staff was directed to undertake a comprehensive review of the Discharge of Firearms By-law, including stakeholder consultation, for recommendations for an effective, updated By-law that incorporates the recent and future urban developments in the City.

This Report provides the results of the work done to date including public engagement, consultations, and the establishment / review of a Working Group as part of the comprehensive review of the Discharge of Firearms By-law.

### ***Alternatives for Consideration – Not Applicable***

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 2 of 10**

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**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial / Staffing / Legal: N/A

**HISTORICAL BACKGROUND**

The City of Hamilton Discharge of Firearms By-law, enacted on May 11, 2005 regulates where firearms may be discharged in the City for the safety of the inhabitants. The current By-law is a compilation of the former Municipalities of the City (Report PD05119, Harmonization of Discharge of Firearms By-law, dated April 15, 2005) with no revision since its day of passing.

On August 10, 2015 General Issues Committee received Report LS15020 (Regulating Guns and / or Ammunition) regarding options with respect to the City's authority over guns and / or ammunition. General Issues Committee was informed by the City Solicitor that the Discharge of Firearms By-law is in need of updating, that would require consultation with the stakeholders, and be modified to clearly reinforce the Federal and Provincial regulation of firearms.

At its meeting of September 23, 2015, Council approved information item h(ii) of Planning Committee Report 15-014 which reads as follows:

- (a) That Municipal Law Enforcement (MLE) staff, in consultation with Legal Services and Planning staff as well as the Hamilton Police Service, undertake a comprehensive review of the Discharge of Firearms By-law No. 05-114, including stakeholder consultation; and,
- (b) That staff be directed to report back with recommendations for the most effective Discharge of Firearms By-law including, but not limited to, consideration of where the discharge of firearms is permitted.

On May 25, 2016 City Council approved Item 8.1 of Planning Committee Report 16-010 to receive staff Discharge Firearms Report (PED16107) informing Members of Council that more analysis is needed to update the substantive provisions of the By-law, and outlining the process intended by staff to:

- Establish a working group to review public comments, the overlapping jurisdictions, respective roles, safety issues, criteria for high risk areas, strategies and tasks necessary for an enforcement/administration/ communication plan;
- Consult with City Councillors representing rural Wards;
- Consult with the numerous stakeholders and property owners having interest; and,
- Conduct a broader research of best practices in other jurisdictions.

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 3 of 10**

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**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The City of Hamilton Discharge of Firearms By-law 05-114.

Staff considered the following applicable Provincial and Federal legislation:

- *Fish & Wildlife Conservation Act, 1997, S.O. 1997, c. 41;*
- *Conservation Authorities Act, R.S.O. 1990, c. C.27;*
- *Protection of Livestock & Poultry from Dogs Act, R.S.O. 1990, c. L.24;*
- *Animal Health Act 2009, S.O. 2009, c. 31;*
- *Trespass to Property Act, R.S.O. 1990, c. T.21;*
- *Occupiers Liability Act, R.S.O. 1990, c. O.2;*
- *Municipal Act, 2001, S.O. 2001, c. 25;*
- *Heritage Hunting and Fishing Act, 2002, S.O. 2002, c. 10;*
- *Criminal Code, R.S.C., 1985, c. C-46;*
- *Firearms Act, S.C. 1995, c. 39; and,*
- *Migratory Birds Convention Act, 1994, S.C. 1994, c. 22.*

**RELEVANT CONSULTATION**

Public Engagement

City staff hosted public consultations with stakeholders and affected persons to gain community feedback (detailed in “Analysis and Rationale” section of this Report).

Councillors for Wards 11, 12, 14 and 15 were consulted in this review and facilitated arrangements for the Open Public Meetings in the rural community.

The following internal departments were consulted in preparation of this Report:

- Planning;
- Legal Services;
- Public Works (Parks);
- Community and Emergency Services (Recreation);
- Senior Project Manager for Indigenous Community Affairs; and,
- Agricultural / Rural Affairs Sub-committee.

A Working Group (advisory group) was established from key professionals with extensive experience and knowledge in the administration, enforcement, education and use of firearms and public safety from the following agencies:

- Hamilton Municipal Law Enforcement;
- Hamilton Police Services;

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 4 of 10**

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- Hamilton Conservation Authority;
- Ontario Federation of Anglers and Hunters; and,
- Ministry of Natural Resources (declined involvement).

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The goal and objective of the comprehensive review of the Discharge Firearms By-law is:

1. Update the Schedule map(s) where the discharge of firearms is prohibited, to incorporate recent and future urban development; and,
2. Determine if the current provisions provides clear understanding of its provisions, balances the varied needs of the community, maintains public safety, and reinforces Federal / Provincial firearm regulations.

Staff incorporated the recent and future development into the Discharge of Firearms By-law Schedule Map(s) for public consultation. The consultation map, attached as Appendix "A: to this Report, provides clear, well defined identification of the areas where the discharge of firearms is currently prohibited, and denoting the proposed expanded prohibited areas for public consultation.

Public Consultation

Staff research identified 43 stakeholders (Associations, Organizations, Clubs and Agencies) linked to the discharge of recreational firearms / bows within the City of Hamilton. Invitations to a meeting of stakeholders at City Hall on January 26, 2017 provided the opportunity for comment and questions to City staff (Stakeholders List and Summary of Meeting is attached as Appendix "B" to this Report).

Following the stakeholders meeting, arrangements for open public meetings were made for the general public to comment to City staff on boundary changes and any proposed By-law changes. Notice was provided through media releases, public notices, and personal invitation for persons on record with the City as having interest to attend. A total of three open public meetings were held from February 13, 2017 to March 1, 2017 in Glanbrook, Rockton and Ancaster (Summary of Meetings is attached as Appendix "C" to this Report).

In addition to providing a platform for public comment, the open public meetings and consultation allowed participants the opportunity to seek clarification and to ask questions relating to the administration and enforcement of the Discharge Firearms By-law. Appendix "C" to this Report provides summaries of the three open public meetings.

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 5 of 10**

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Approximately 85 citizens attended the meetings. The public consultations provided a broad and diverse outlook to examine the current By-law and formulate the following fundamental improvements to the By-law:

- Simplify the overall structure of the By-law and mapping;
- Provide better wording and understanding;
- Eliminate any ambiguity;
- Provide separate regulations for archery;
- Improve public education and communication; and,
- Improved and unified enforcement.

Key Aspects of the Comprehensive Review

The Working Group considered carefully all of the comments, recommendations and concerns received through the public consultation / engagement process. The minutes of these meetings are attached as Appendix “D” to this Report. The review analyzed the boundary expansion, the substantive issues and any changes to the Discharge Firearms By-law. To balance the overall needs of the community the Working Group also examined:

- Overlapping jurisdictions of MLE, Police, MNR their respective roles;
- Safety issues;
- Criteria for high risk areas;
- Best practices of 23 Ontario municipalities; and,
- Strategies for an enforcement and communication plan.

Boundary Changes

The use of maps is the best tool to direct / assist and meet the visual needs of the reader to identify the areas prohibited in the By-law. It was realized that without an intimate knowledge of the geography of the City of Hamilton the current By-law maps offered little assistance to the reader. Members of the Working Group agreed with public comments that the current maps are unclear and confusing, and that the boundaries are in need of updating to reflect the recent and future urban developments.

Members of the Working Group concluded that details denoting the prohibited areas need to be accurate, with identifiable physical boundaries. Any expansion or reduction of existing prohibition boundaries should be reasoned; reflect the principles of public safety, and evidence based upon:

- Urban development;
- Density threshold;
- Type / use of buildings and property (e.g. dwelling, commercial, institutional);

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 6 of 10**

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- Population density;
- Number of incidents / complaints;
- Public roads / trails; and,
- Volume of traffic.

The consultation maps in Appendix “A” to this Report represent those areas where the discharge of firearms is currently prohibited and includes the current and future development in the City. The current By-law recognizes most recent urban development and with the exception of the City rural settlements requires little modification to capture the recent and future urban expansion. The present By-law map identifies five of the 17 rural settlements in the City. The property density of the rural settlements merits the inclusion of all 17 rural settlements to the boundary maps as prohibited.

The majority of public opinion supports:

1. Extending the prohibited areas as denoted in the consultation maps, with minor adjustments for borderlines to follow identifiable physical boundaries (i.e. public roads, watercourses); and,
2. Including all seventeen rural settlement areas as prohibited.

### Scope and Exceptions

The primary issue for a Discharge of Firearms By-law is public safety in the discharge of recreational firearms / bows. To consider what is in the best interest of all the inhabitants, the By-law must be easily understood and enforceable, and fair to all persons by not being too restrictive or more lenient. Users of recreational firearms / bows undertake extensive training / education, and must adhere to stringent rules in order to maintain permits. The criminal, unsafe, careless, or illegal use / activities involving firearms is properly dealt with under the *Criminal Code*, *Firearms Act* and other applicable Federal / Provincial legislation. It was abundantly clear from the consultation meetings that the general intent and purpose of the By-law underscore the recreational use of firearms in the preamble and Short Title name of the By-law.

The present By-law exempts the following lawful and sanctioned uses:

- Farmers (protection of crops, livestock);
- Police agencies;
- Educational institutions (archery);
- National Defence; and,
- Shooting ranges, gun / skeet clubs, and similar organizations regulated by the *Firearms Act* and approved through the Chief Firearms Office where the regulations and level of inspection exceeds any municipal By-law.

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*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 7 of 10**

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Meetings with stakeholders and public consultation identified the following potential additions to the general exemptions provided in the current By-law:

- Licensed trappers;
- Starter pistols;
- Ceremonial (memorial services, funerals and military services);
- Theatrical props (blanks);
- Military re-enactments (blanks);
- Indoor use of archery, paintball and airguns;
- Dog trials; and,
- Sanctioned events.

Considering the demographics of the City, there was consensus that the exemption permit process currently in place is the best solution dealing with extraordinary circumstances where the general provisions may not be reasonable. Although no application has come forward since the passing of the By-law, continuing this practice allows for specific exceptions not envisaged by the general provisions of the By-law or the Schedule maps. MLE staff recognizes and acknowledges that the current permit application process requires improvement. Adopting the same criteria used by the Working Group for high risk areas improves the approval procedure, and delegating permit appeals to the appropriate Committee relieves Council of that function.

General Provisions (Buffer Zones)

The current By-law requires a distance of 100m for the discharge of firearms and bows from specified high risk or populated locations. Public opinion favoured a reduced limit of 50m for bows / archery while maintaining the current 100m distance for firearms. Adopting both limits is consistent with best practices in other jurisdictions as an appropriate distance from the following settings:

- Dwelling, building or structure (express permission of owner);
- Schools;
- Parks;
- Public trails;
- Churches;
- Community Centres;
- Cemetery;
- Hospitals;
- Urban properties / subdivisions / settlement areas;
- Private / public golf courses (except season closures);
- Private / public campgrounds / picnic areas (except season closures); and,
- Conservation lands and areas.

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 8 of 10**

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The current By-law is silent to airports and registered aerodromes in the City of Hamilton. Staff research to best practices in other municipalities suggests a distance of 300m. There was no challenge or concern to adding this requirement to the By-law.

Highways and railway lands are suitably dealt with under the applicable laws, and the current provision in the By-law regarding direction of discharge (ensure projectiles remain on site).

### Definitions

The various definitions of a firearm from other legislation / jurisdictions were examined. There was agreement that bow / archery remain outside the definition of firearm; and that any reference to a firearm as a weapon be removed.

There was no contrary argument that the expressed verbal or written permission of the property owner was required for each person discharging a firearm. There was consensus that the express permission of the owner of a dwelling / building / structure was required for the discharge of any firearm within 100m (50m for bows) thereof.

Conservation Authorities are considered a private landowner and the express permission of the Authority is required allowing these agencies the flexibility to regulate their respective lands accordingly.

There must be clarity in describing locations / settings to recognize the diverse uses therein. As example, camp sites or walking / public trails are better described as 'managed' areas; or buildings / structures that are 'occupied'.

### Enforcement

Four enforcement agencies (MNR, Police, City By-law, Conservation Authorities) have overlapping responsibilities and obligations to enforce 11 applicable (3 Federal, 8 Provincial) legislations relating to the activities surrounding the recreational use of firearms.

The general public has a misunderstanding of the By-law and are frustrated by the lack of response, public education, and disconnect of the enforcement agencies. There is need for the related enforcement agencies to meet and discuss solutions for calls to be directed to the correct service for action or information. Improved service levels are provided through partnerships, sharing of information and contacts. MLE staff are continuing to engage in discussions and consultation with other enforcement agencies and authorities to develop an effective Enforcement Strategy.

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 9 of 10**

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MLE staff concludes that enforcement of the Discharge of Firearms By-law may be improved with the issuance of Municipal Orders to the property owner / lessee to discontinue allowing or permitting the discharge of firearms from their property. The Municipal Order is an educational tool issued in the first instance before taking enforcement steps. Once issued, having presumed knowledge of the By-law, a charge would follow for disobeying the order.

Communication

An effective communication plan is the best tool available to inform the public of their legal obligations and prevent contraventions of the By-law. Members of the public are seeking accurate information in a user friendly format. Most prefer the creation of an information pamphlet containing maps, excerpts from the By-law and related legislation, and contact information for enforcement agencies. This information may be posted on the City's website, along with hard copies available at strategic locations for public viewing.

To summarize, Report PED16107(a) represents the key aspects of the comprehensive review with the reasonable due diligence of the Working Group to review the public comments and take into account conditions for public safety. MLE staff will continue consultation with the related enforcement agencies and authorities to:

- Establish an effective communication strategy;
- Develop pamphlets and handouts of the Discharge Firearms By-law and Schedule maps; and,
- Research the use of on-line interactive maps on the City's website.

**ALTERNATIVES FOR CONSIDERATION**

N/A

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

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**SUBJECT: Comprehensive Review of Discharge of Firearms By-law 05-114  
(PED16107(a)) (City Wide) - Page 10 of 10**

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**Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

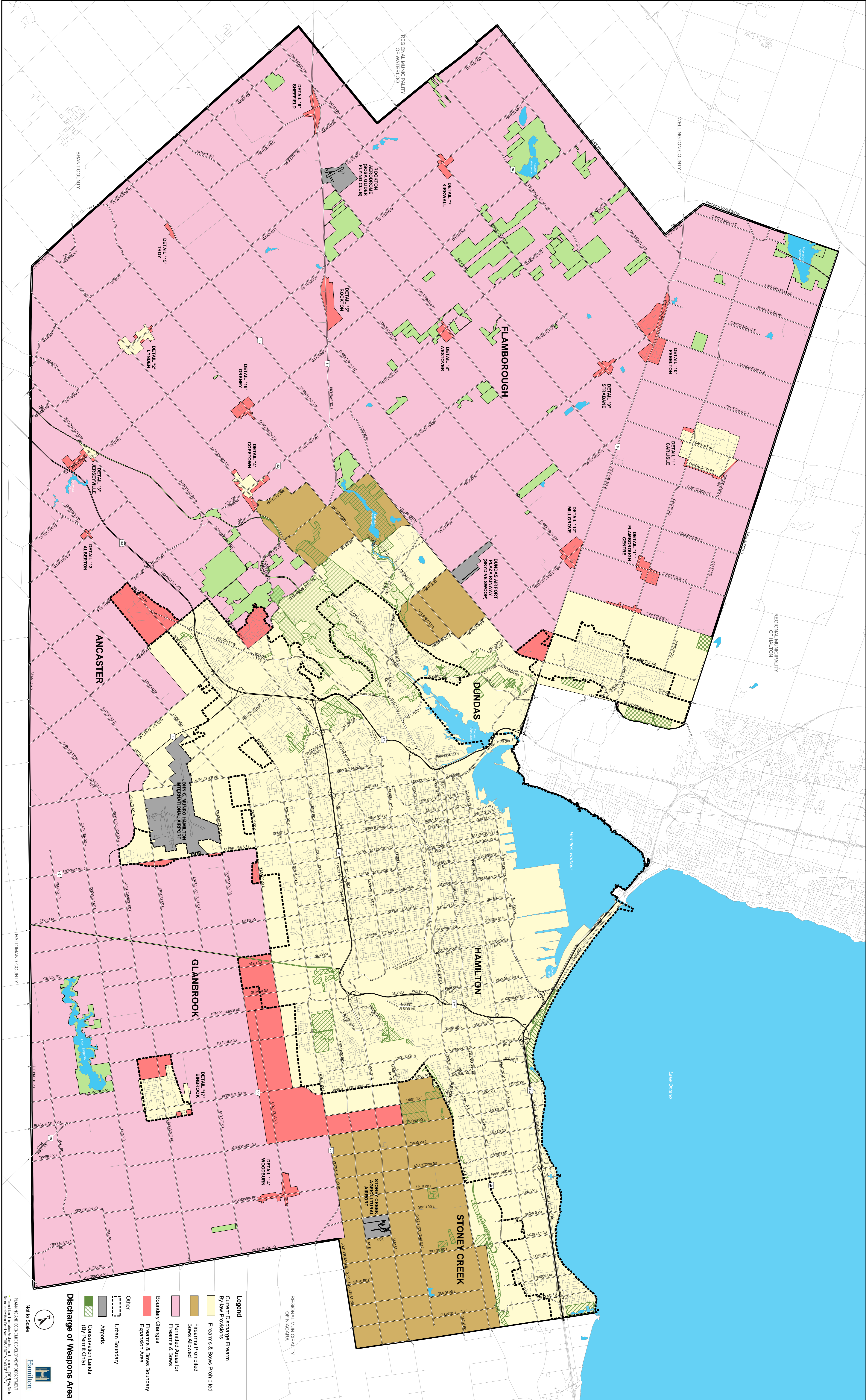
**Culture and Diversity**

*Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Consultation Maps
- Appendix "B": Stakeholders List and Summary of Meeting
- Appendix "C": Summaries of Open Public Meetings
- Appendix "D": Minutes of Working Group Meetings

KL/RU/st



**Discharge of Weapons Area**

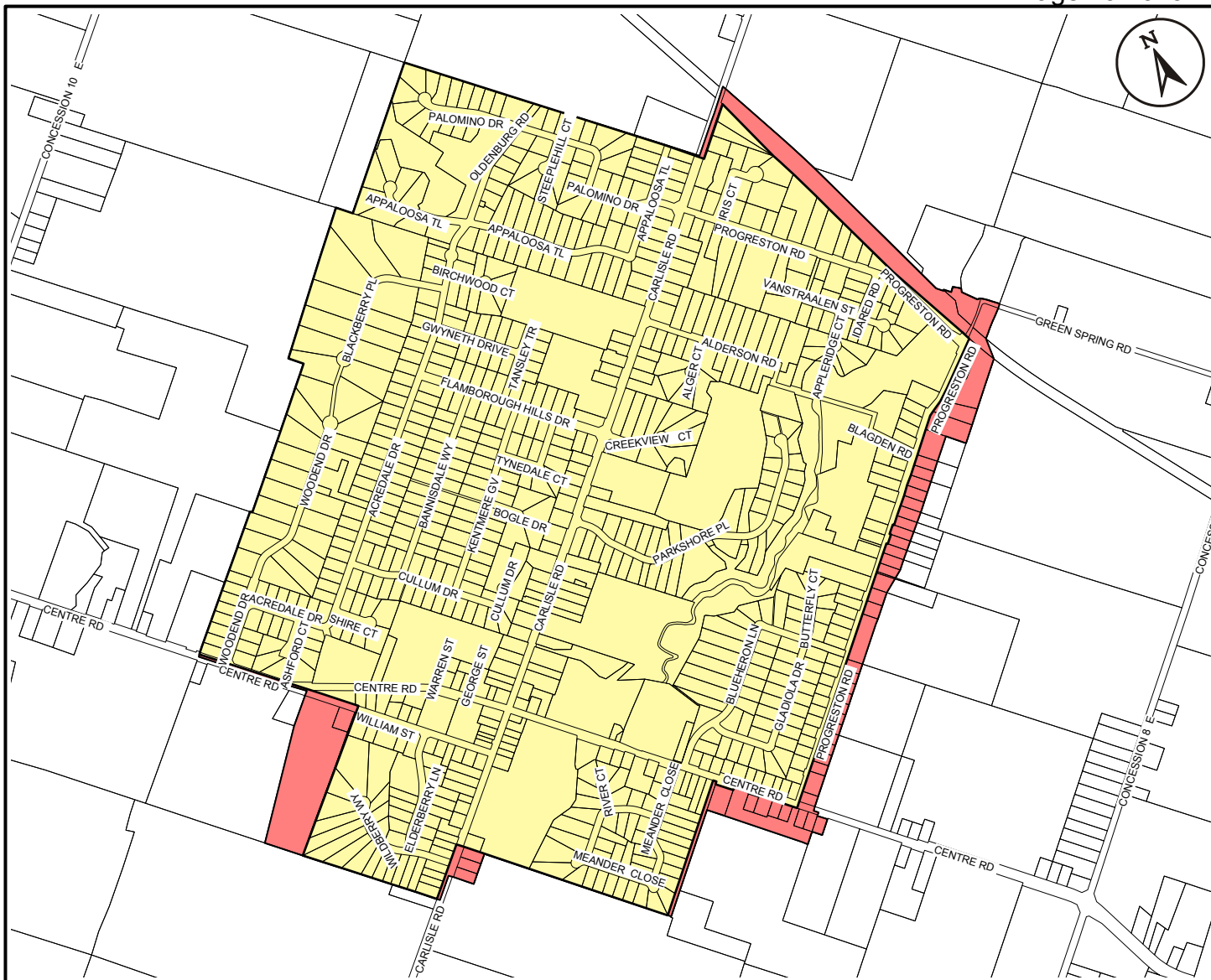
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Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT  
 100 King Street West, 10th Floor, Hamilton, Ontario L8Z 1R7  
 Revised: 2016-03-16

**Legend**

- Current Discharge Firearm By-law Provisions
- Firearms & Bows Prohibited
- Firearms Prohibited
- Firearms & Bows Allowed
- Permitted Areas for Firearms & Bows
- Firearms & Bows Boundary
- Expansion Area
- Other
- Urban Boundary
- Airports
- Conservation Lands (By Permit Only)



This is Schedule "A" to By-law No. 17-

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Mayor

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# Schedule "A"

Map Forming Part of  
By-law No. 17-\_\_\_\_\_

to Amend By-law No. 05-144

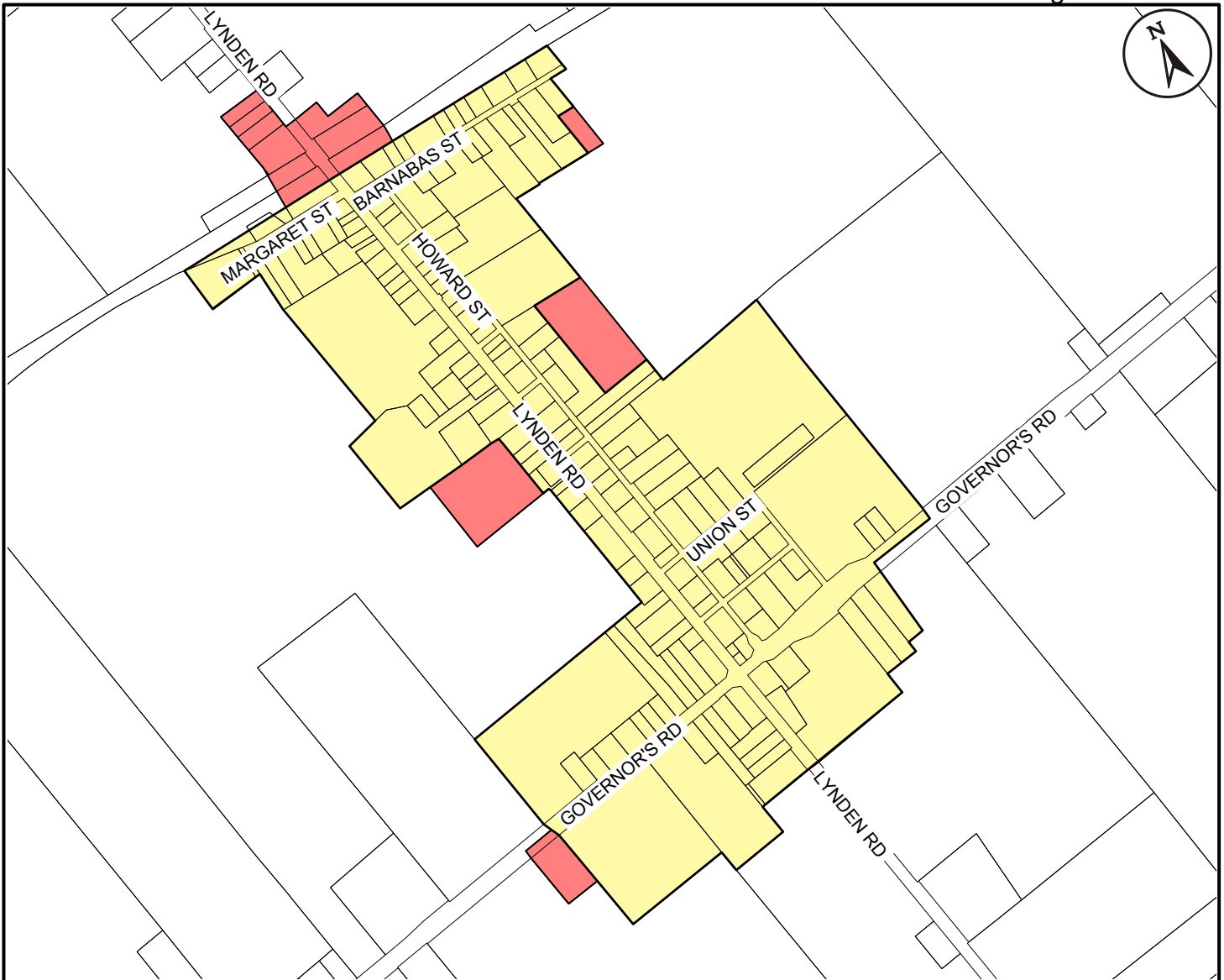
## Subject Property

Detail 1 - Carlisle

- Firearms & Bows Prohibited
- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> Detail 1 to Schedule A & B
<b>Date:</b> January 3, 2017	<b>Planner/Technician:</b> RU/VS
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By-law No. 17-\_\_\_\_\_

to Amend By-law No. 05-144

### Subject Property

Detail 2 - Lynden

- Firearms & Bows Prohibited
- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 2 to Schedule A & B

**Date:**  
January 3, 2017

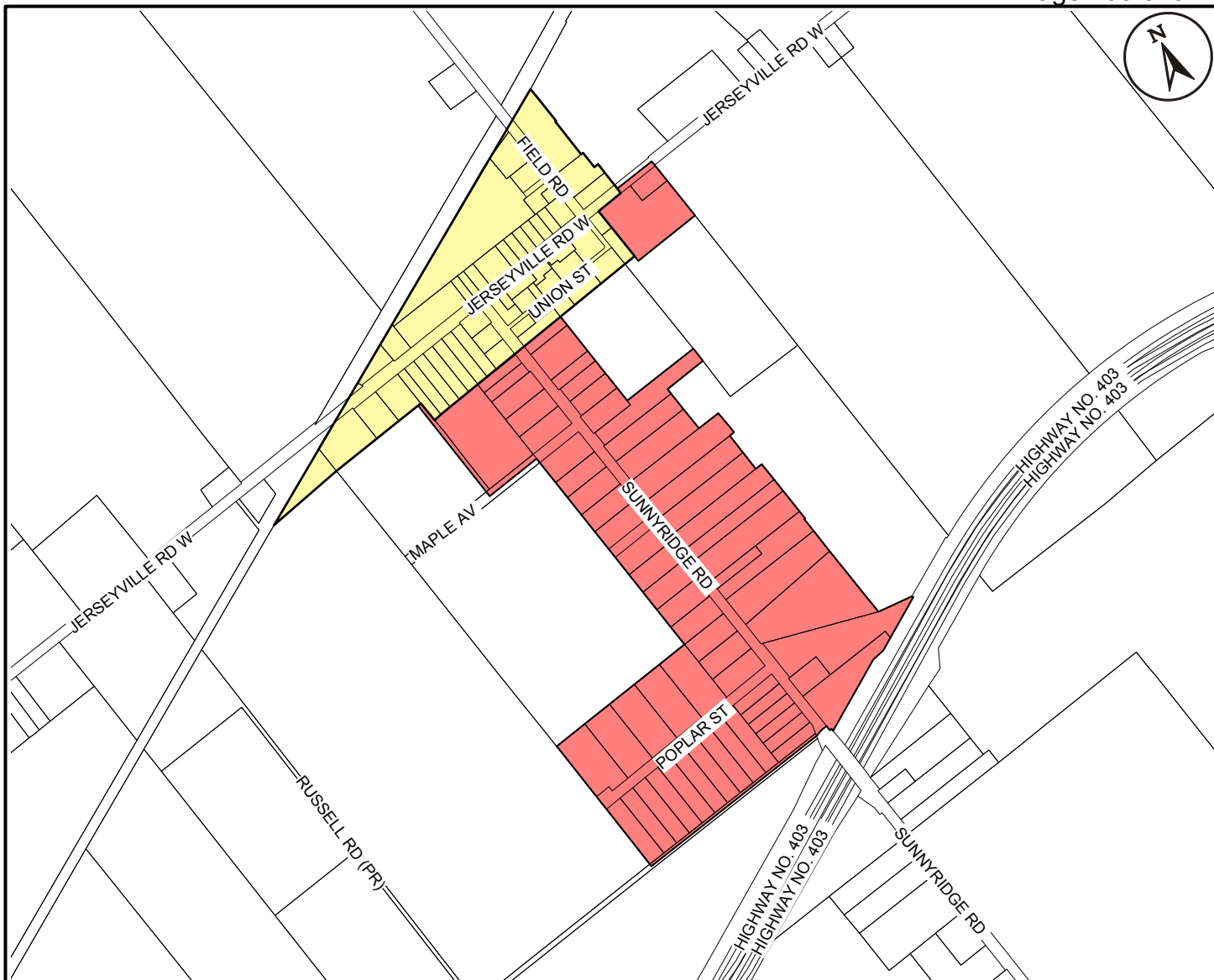
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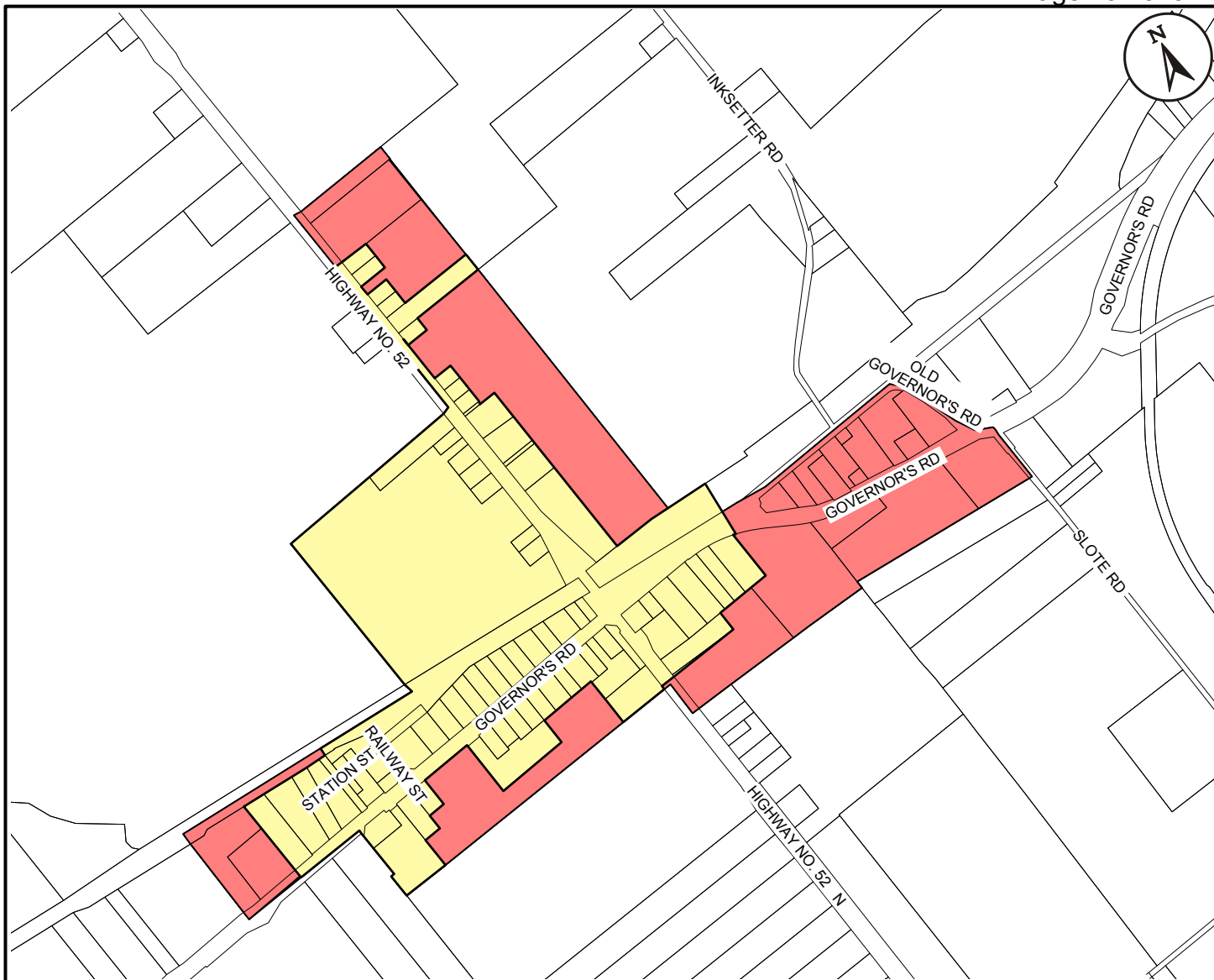
## Subject Property

Detail 3 - Jerseyville

- Firearms & Bows Prohibited
- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> Detail 3 to Schedule A & B
<b>Date:</b> January 3, 2017	<b>Planner/Technician:</b> RU/VS
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to Amend By-law No. 05-144

## Subject Property

Detail 4 - Copetown

- Firearms & Bows Prohibited
- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 4 to Schedule A & B

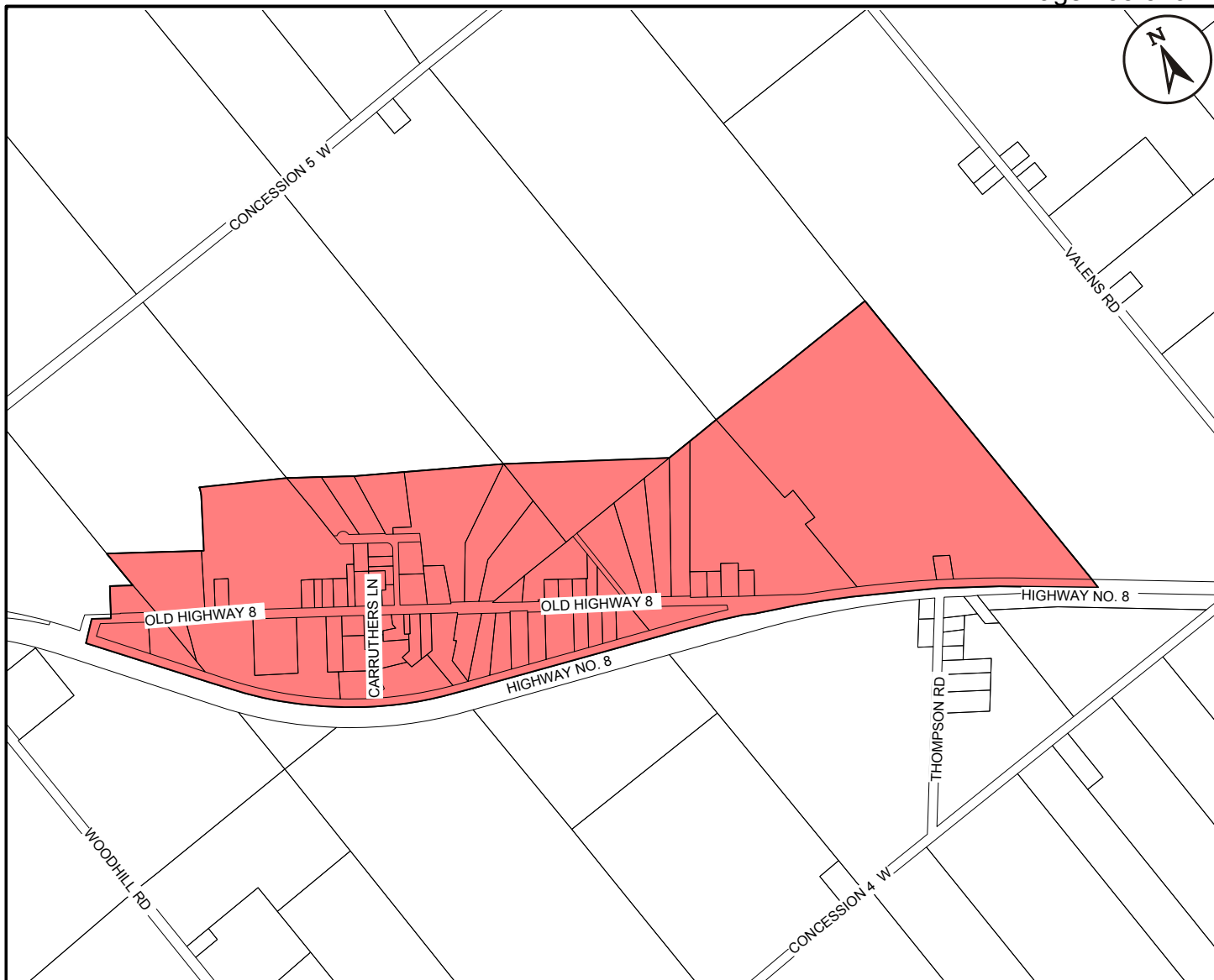
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January 3, 2017

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to Amend By-law No. 05-144

### Subject Property

Detail 5 - Rockton

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 5 to Schedule A & B

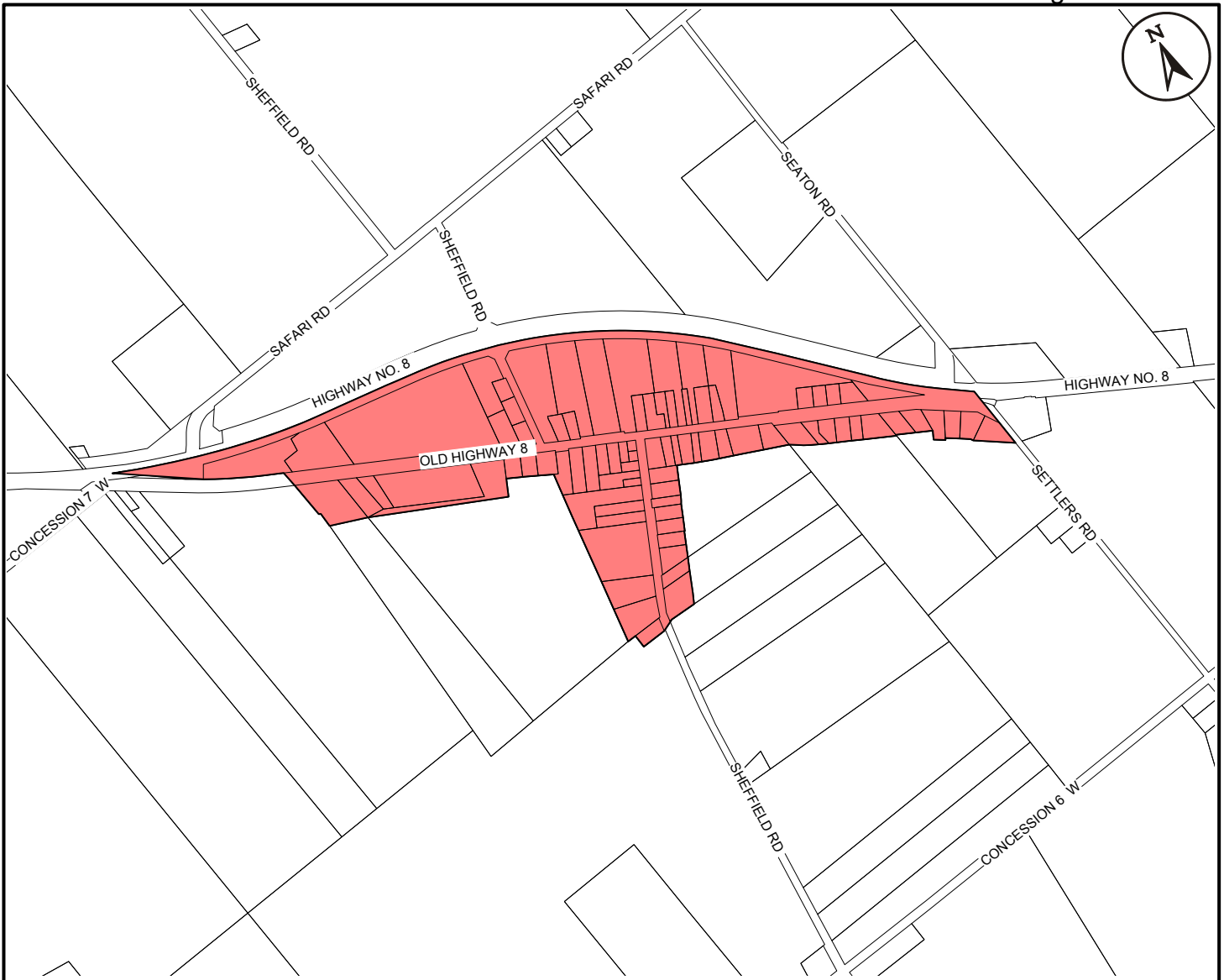
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to Amend By-law No. 05-144

### Subject Property

Detail 6 - Sheffield



Firearms & Bows Boundary Expansion Area



Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 6 to Schedule A & B

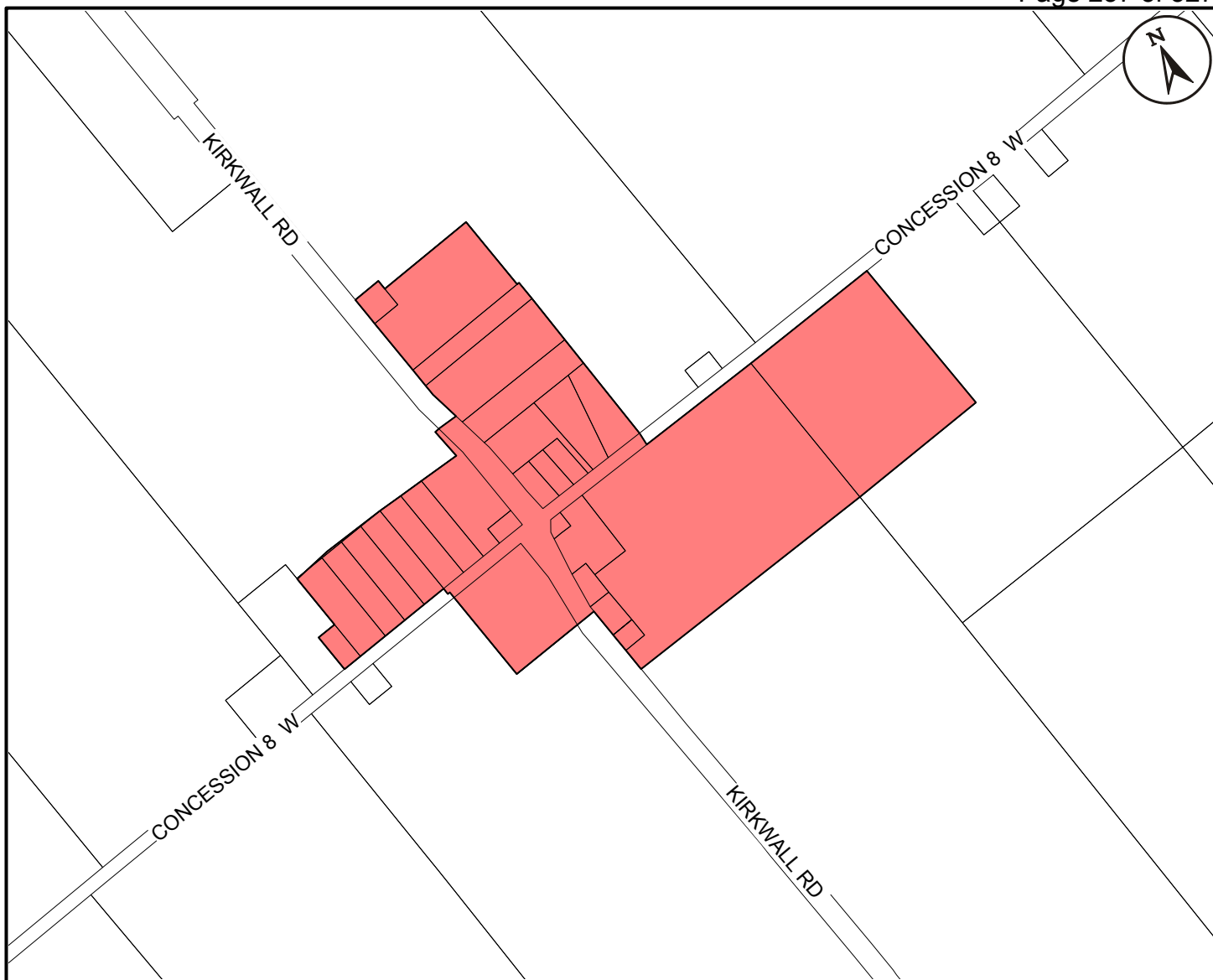
**Date:**  
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to Amend By-law No. 05-144

### Subject Property

Detail 7 - Kirkwall

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 7 to Schedule A & B

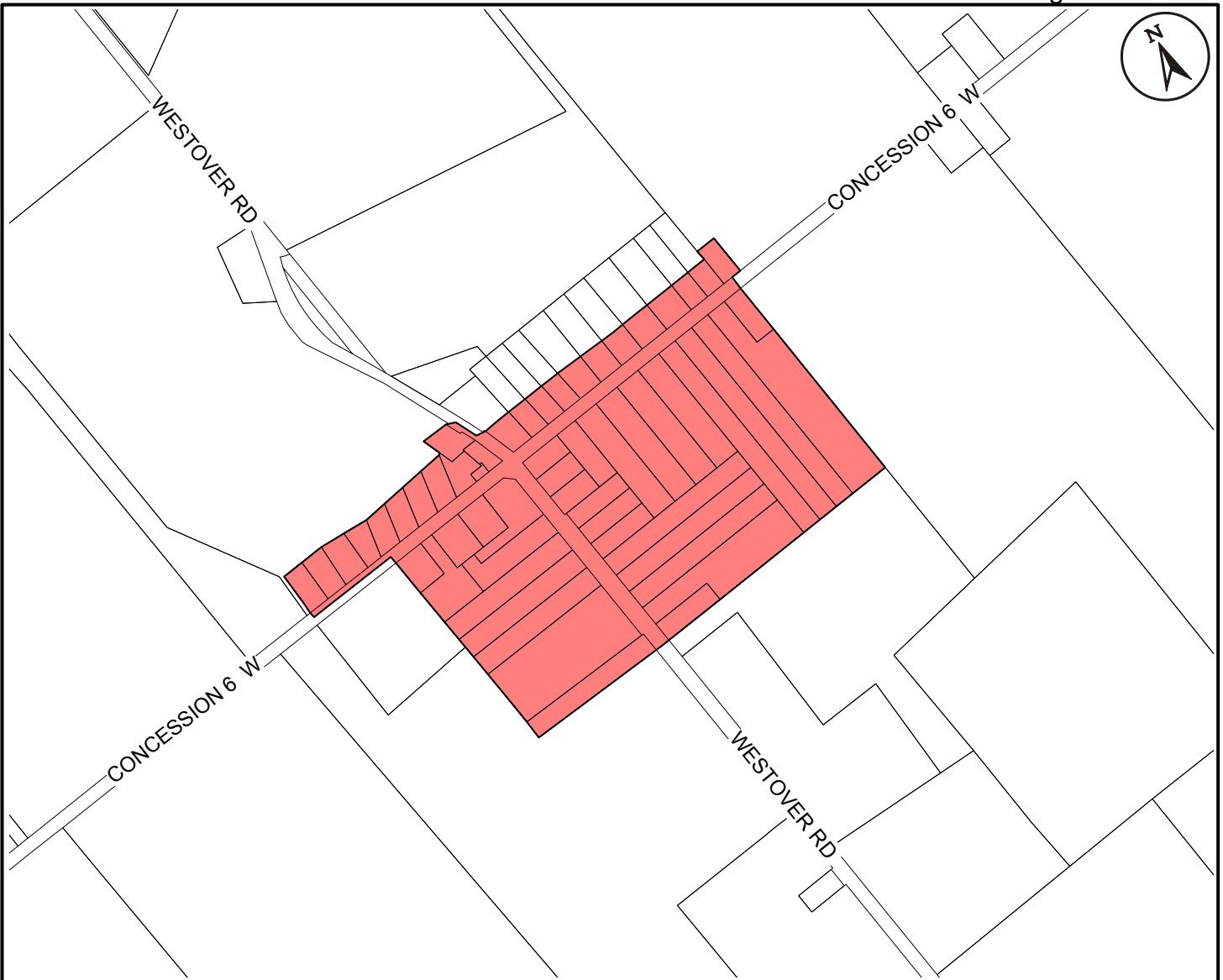
**Date:**  
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By-law No. 17-\_\_\_\_\_

to Amend By-law No. 05-144

### Subject Property

Detail 8 - Westover

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 8 to Schedule A & B

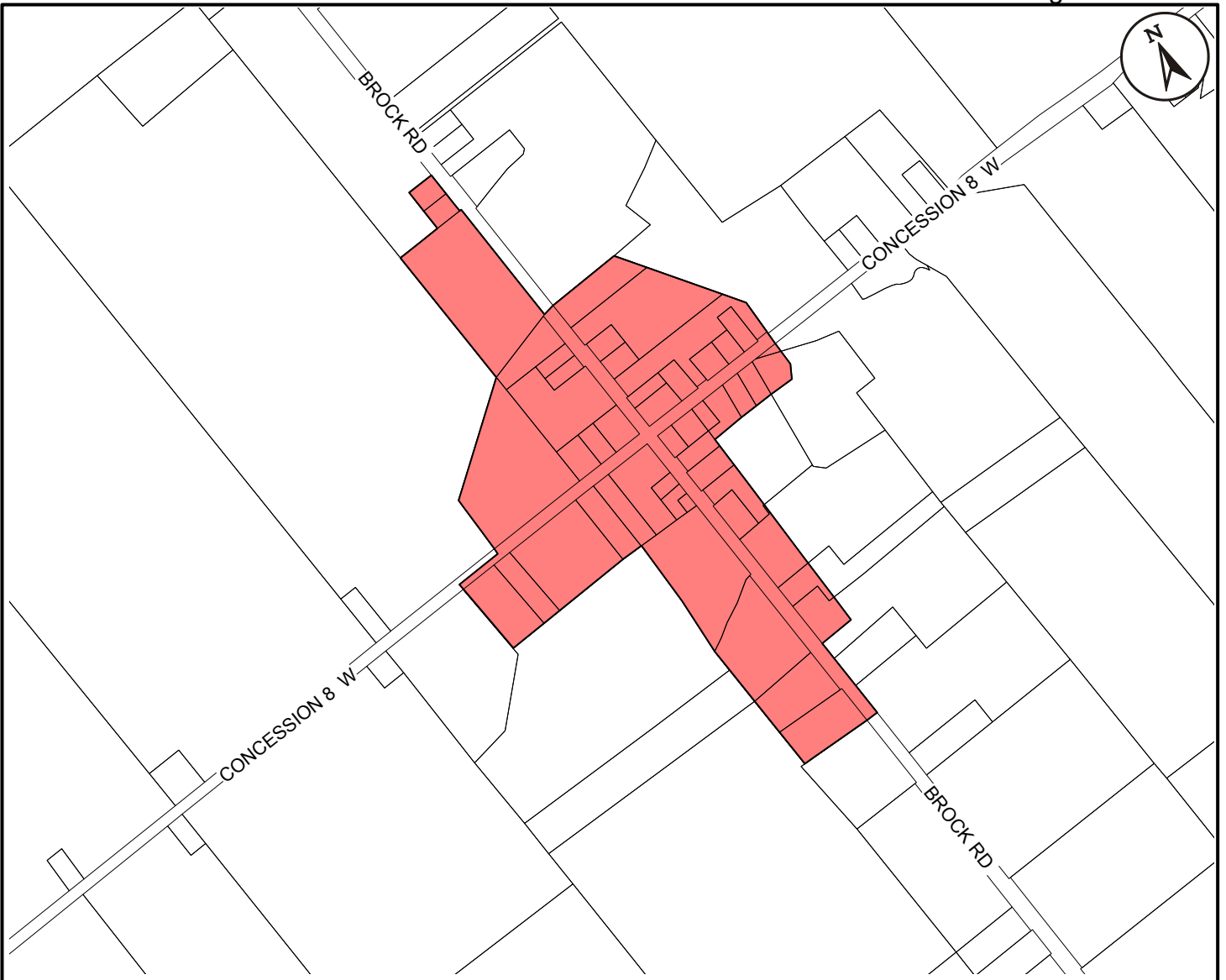
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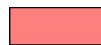
## Schedule "A"

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By-law No. 17-\_\_\_\_\_

to Amend By-law No. 05-144

### Subject Property

Detail 9- Strabane



Firearms & Bows Boundary Expansion Area



Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 9 to Schedule A & B

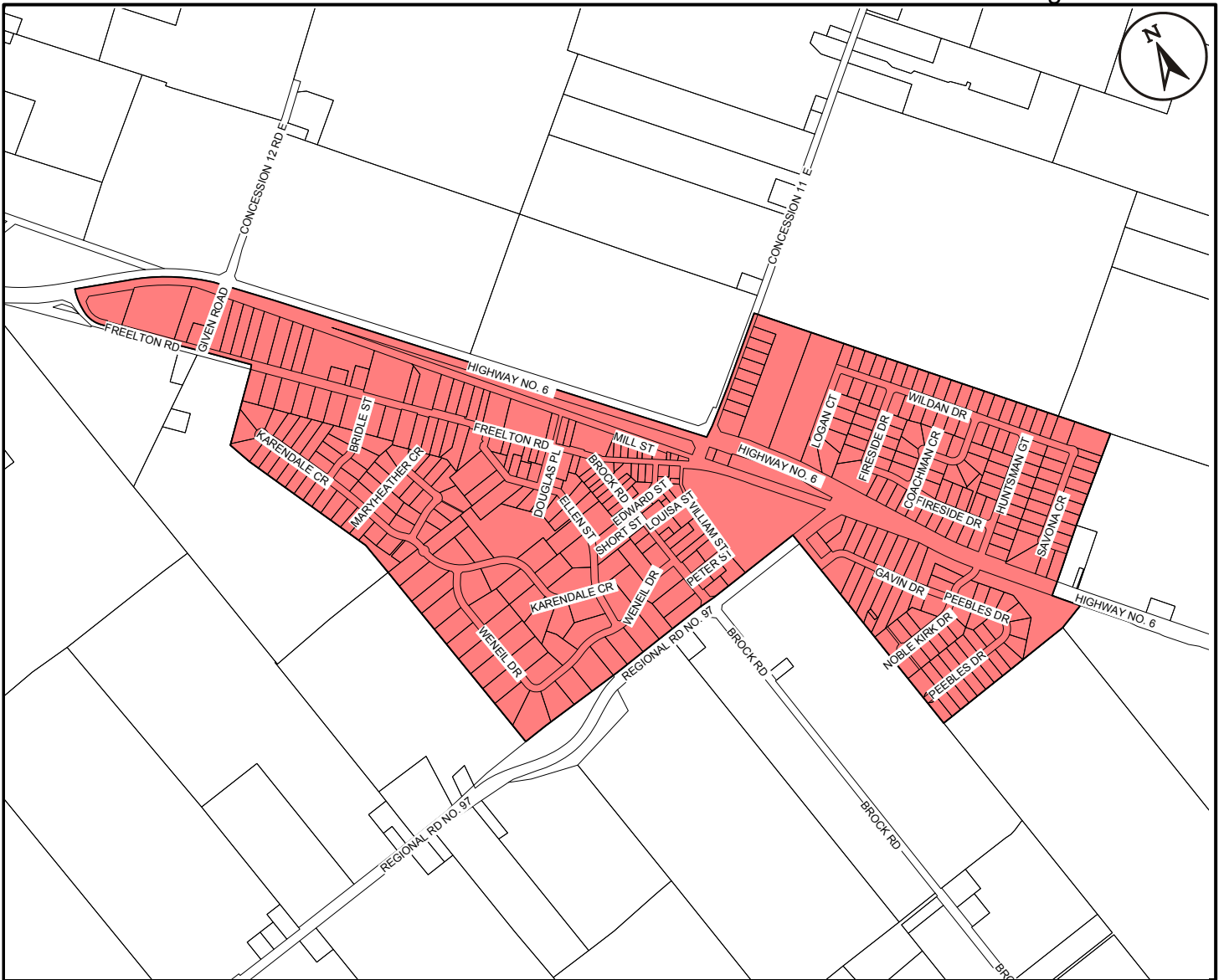
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to Amend By-law No. 05-144

## Subject Property

Detail 10 - Freelon

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 10 to Schedule A & B

**Date:**  
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**Subject Property**  
 Detail 11 - Flamborough Centre

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
 N.T.S.

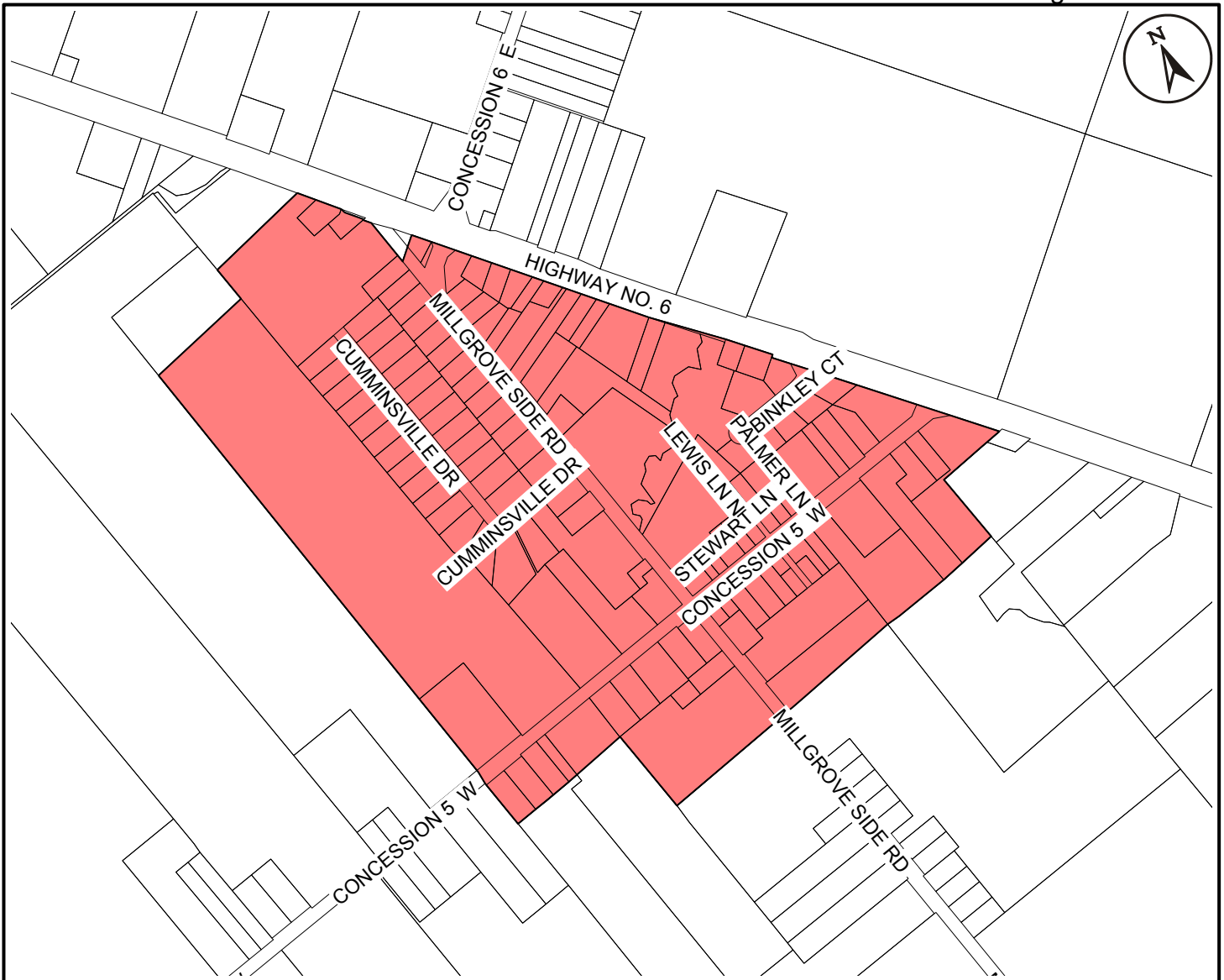
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 Detail 11 to Schedule A & B

**Date:**  
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**Planner/Technician:**  
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to Amend By-law No. 05-144

### Subject Property

Detail 12 - Millgrove

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 12 to Schedule A & B

**Date:**  
January 3, 2017

**Planner/Technician:**  
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 to Amend By-law No. 05-144

**Subject Property**  
 Detail 13 - Alberton

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
 N.T.S.

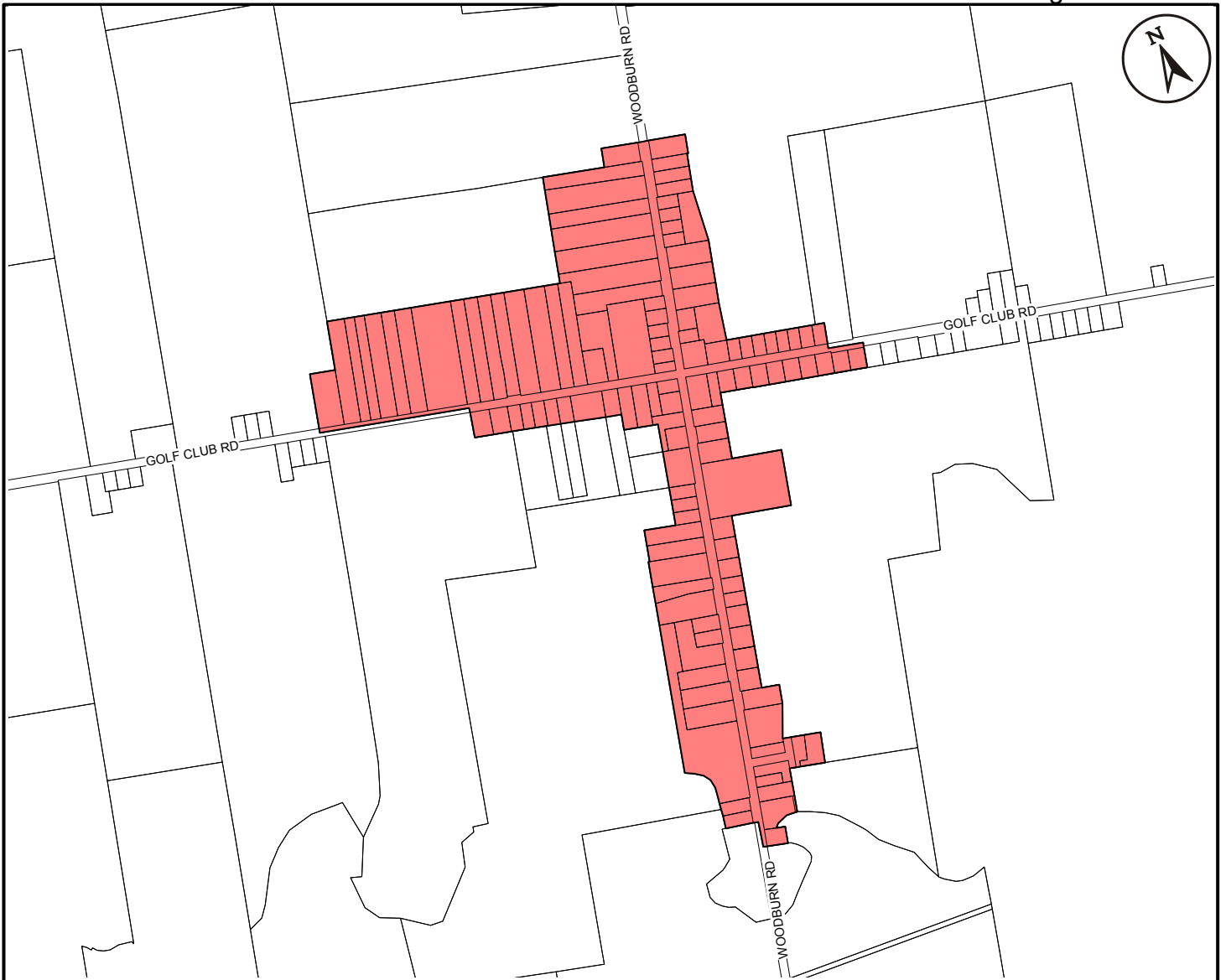
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 Detail 13 to Schedule A & B

**Date:**  
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### Subject Property

Detail 14 - Woodburn



Firearms & Bows Boundary Expansion Area



Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 14 to Schedule A & B

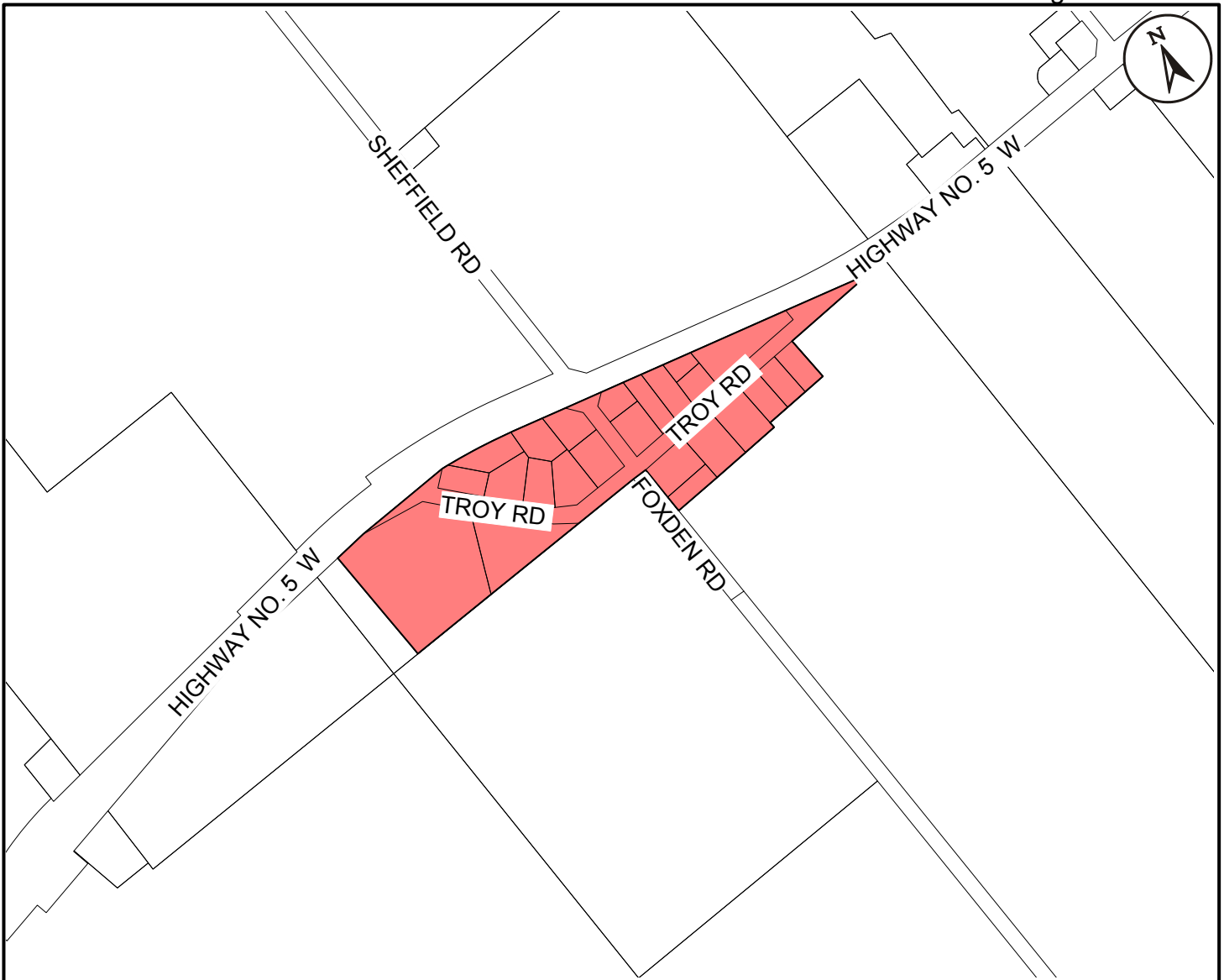
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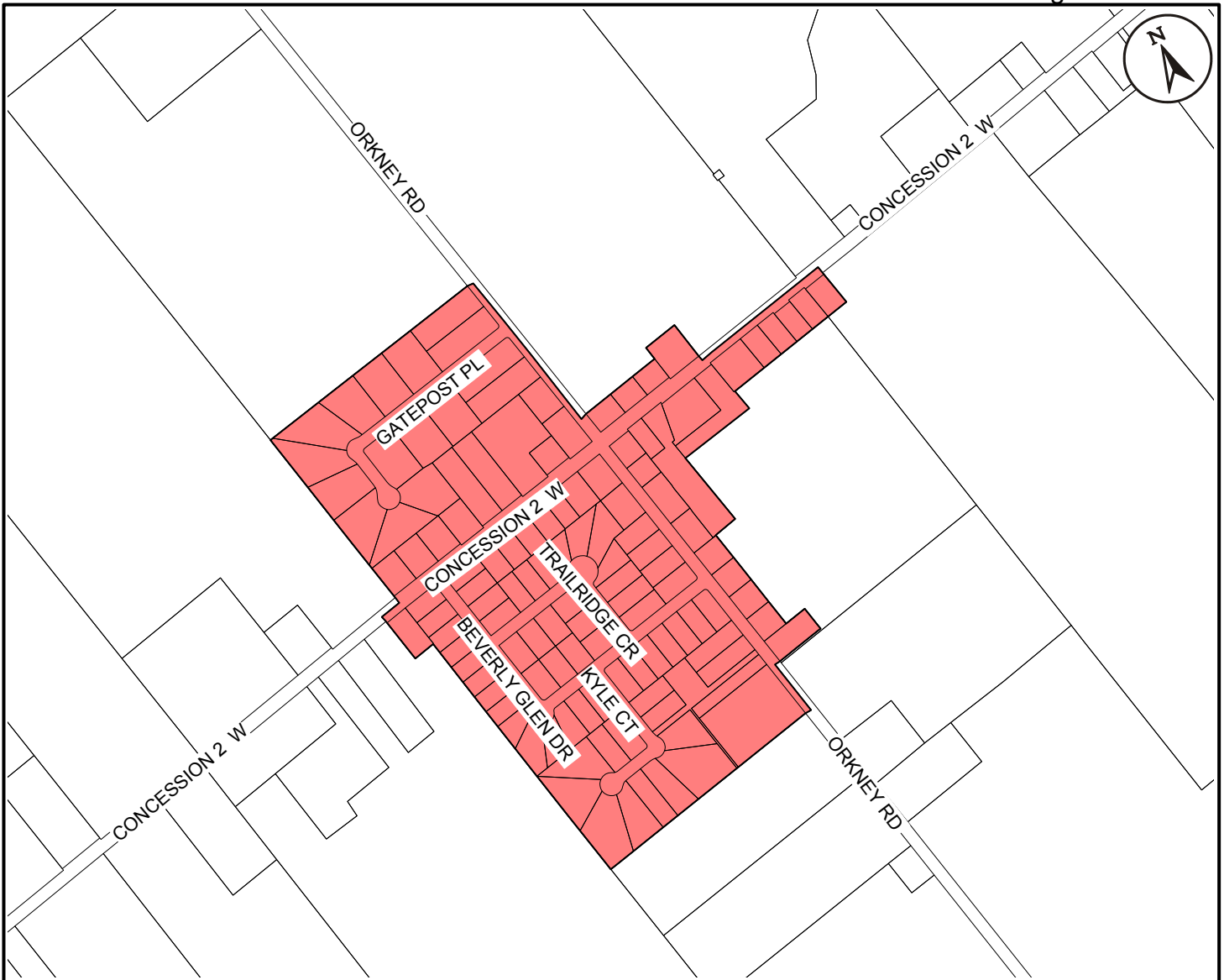
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 By-law No. 17-\_\_\_\_\_  
 to Amend By-law No. 05-144

**Subject Property**  
 Detail 15 - Troy

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

<b>Scale:</b> N.T.S.	<b>File Name/Number:</b> Detail 15 to Schedule A & B
<b>Date:</b> January 3, 2017	<b>Planner/Technician:</b> RU/VS





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Clerk

## Schedule "A"

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By-law No. 17-\_\_\_\_\_

to Amend By-law No. 05-144

### Subject Property

Detail 16 - Orkney

- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 16 to Schedule A & B

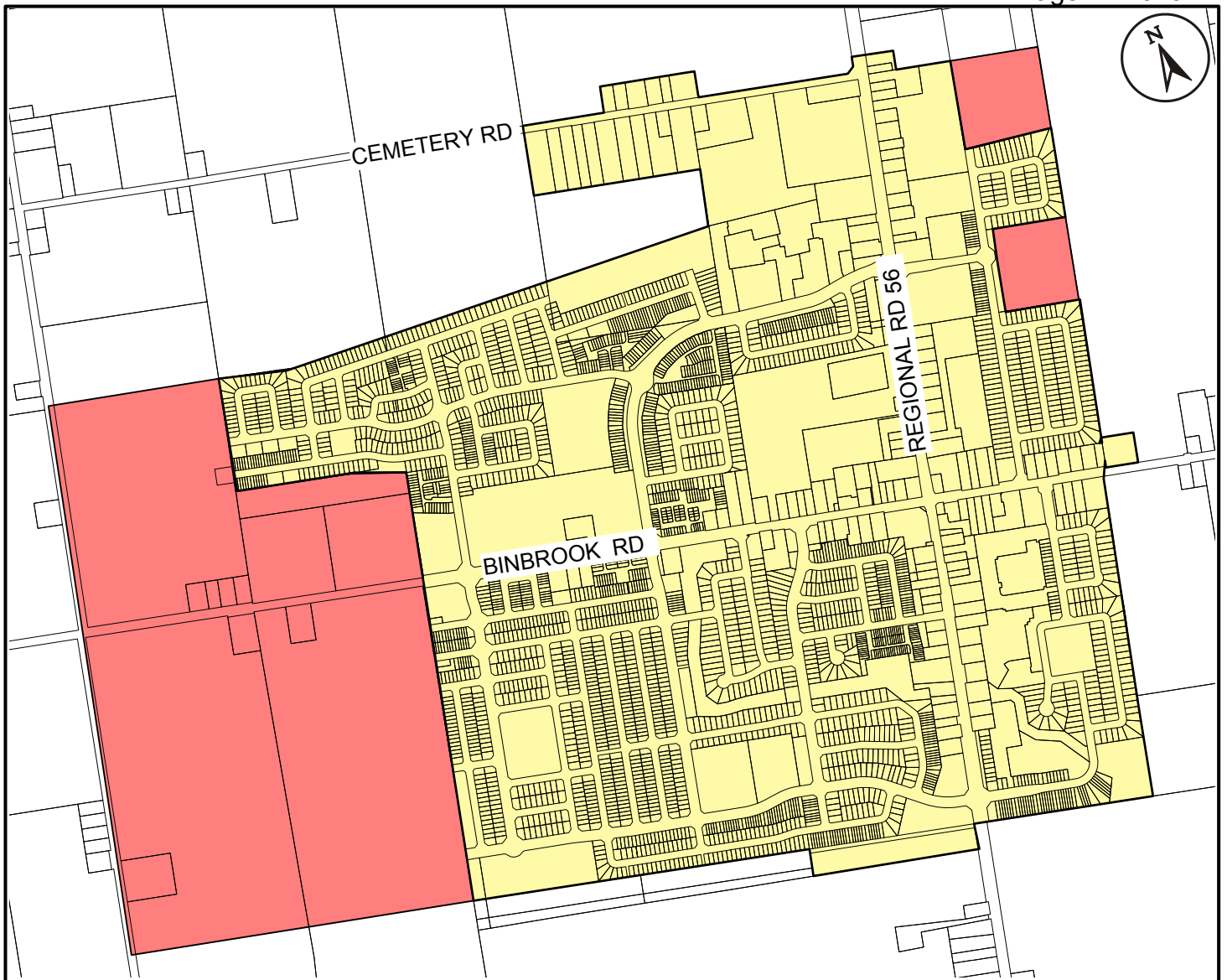
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January 4, 2017

**Planner/Technician:**  
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# Schedule "A"

Map Forming Part of  
By-law No. 17-\_\_\_\_\_

to Amend By-law No.

### Subject Property

Detail 17 - Binbrook

- Firearms & Bows Prohibited
- Firearms & Bows Boundary Expansion Area
- Firearms & Bows Permitted

**Scale:**  
N.T.S.

**File Name/Number:**  
Detail 17 to Schedule A & B

**Date:**  
January 4, 2017

**Planner/Technician:**  
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PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

**Stakeholders List**

Ministry of Natural Resources (MNR)  
Grand River Conservation Authority  
Niagara Peninsula Conservation Authority  
Agricultural & Rural Affairs Advisory Committee  
Binbrook Agricultural Society  
Rockton Agricultural Society  
Ancaster Agricultural Fair  
Ontario Federation of Anglers & Hunters (OFAH)  
The Association Sportsman Club  
Canadian Shooting Sports  
Canadian Outdoor Heritage Alliance  
Ontario Archers Association  
Canadian Coalition for Firearm Rights  
Haudenosaunee Wildlife & Habitat Authority  
Halton Conservation Authority  
Hamilton Angling and Hunting Association  
Hamilton Trap / Skeet Club  
Hamilton Rod & Gun Club  
Hamilton District Board of Education  
Hamilton International Airport  
Stoney Creek Agricultural Airport  
Dundas Plaza Airport Runway (Skydive Swoop)  
Rockton Aerodrome (Sosa Glider Flying Club)  
Silverdale Gun Club  
Hamilton Gun Club  
Ontario Provincial Trap Association  
Mount Hope Mossy Heads  
Brockley Archery Club  
Waterdown Rod & Gun Club  
Wentworth Shooting Sports Club  
Dundas Valley Longbeards  
Firearm Safety Education Services Ontario  
Bruce Trail Association  
Royal Canadian Legion (Dundas Branch 36)  
Royal Canadian Legion (Mount Hamilton Branch 163)  
Royal Canadian Legion (Hamilton Branch 315)  
Royal Canadian Legion (Waterdown Branch 551)  
Royal Canadian Legion (Stoney Creek Legion 662)  
Royal Canadian Legion (East Hamilton Branch 58)  
Royal Canadian Legion (Lyden)  
Niagara Escarpment Commission (NEC)  
CN Railway  
Fish and Wildlife Heritage Commission



**COMPREHENSIVE REVIEW OF DISCHARGE FIREARMS BY-LAW**  
**STAKEHOLDERS MEETING****January 26, 2017 Room 264, City Hall, 7pm**

Invitation was sent to 43 identified stakeholders (clubs, organizations, associations) on January 4 & 5. Three agencies sent regrets (had discussion with R. Ustrzycki) identifying an additional stakeholder for consideration (Chief Firearms Office, OPP Supt. Bryan Martin 905-329-5522). 9 organizations sent delegates to the meeting (sign-in sheet).

The meeting commenced with a Power point presentation by R Ustrzycki outlining the goal, objectives and direction of the comprehensive review, followed by a Q & A to respond to any questions to record the following concerns / suggestions for review by the Working Group.

**Buffer Zone for schools**

Representation from the HWSB questioned the reasoning behind the 100m buffer zone and concerns with nearby residents of gun shots during hunting seasons (unrecorded). The delegate was provided with the current provisions in the City by-law (100m buffer zone), research of best practices in other jurisdictions (100m firearm / 50m bow), hunting regulations for Hamilton wildlife units (information / facts from other participants), City by-law enforcement records for 5 years (2 complaints: 0 charges). Delegate satisfied that 100m buffer zone for firearms have not been problematic.

Consensus of all participants that the By-law should provide for a reduced buffer zone (50m) for archery

Representative from CN police in consultation with CN's firearms officer, are seeking a similar 100m / 50m buffer zone for railway lands (right of way). Railway Act prohibits anyone from trespassing (Contraventions Act) on CN lands, but is silent to hunting in close proximity to the tracks.

**Consultation Maps and Expansion Areas**

Representative from Royal Canadian Legion Br500 concerns regarding the expansion area was addressed by the detailed maps showing their property lying outside the prohibited area.

It was the consensus of the participants that denoting the various settlement areas in the City-Wide map is exhaustive and confusing. Relying on the general provisions (i.e. buffer zones), there seemed no need to include those areas in the map.

### **Exemption**

The Board of Education was seeking an exemption for schools providing archery instruction. The delegation was directed to the City by-law which currently provides such exemption for schools.

Members of shooting ranges / clubs were also directed to the current By-law exemptions for licensed gun clubs (shooting ranges regulated by the Firearms Act). The participants agreed that the By-law should continue to recognize these sanctioned uses, and there should be more effort to identify the various exemptions to the recreational use of firearms. There should be consideration for naming the gun ranges, sanctioned events and clubs in the By-law.

### **Public Engagement**

Participants questioned the number of stakeholders invited to the meeting, noting that the National Firearm Association, Edmonton was not included. City staff will contact the head office for consultation.

Participants were appreciative of the open consultation / dialogue of the stakeholders meetings and requested advance notice of all reports going to Committee / Council. R Ustrzycki undertook to provide advance notice of staff Committee / Council reports to the stakeholders.

### **Enforcement**

General public have a misunderstanding of the recreational use of firearms. Land owners are frustrated by the lack of response by police, and public education. Concern was raised to the overlapping jurisdictions of the various enforcement agencies (police, MNR, Conservation, MLE) responding to contraventions of the various applicable laws resulting from the public complaints. A more collaborated effort is needed by these agencies to respond to complaints and educate the public.

### **Definitions**

The inclusion of the word *weapon* in the definition of a firearm is darkening its recreational use, adding to the public's general misunderstanding of its lawful uses. It was the consensus of the participants that the definition should be changed to eliminate the By-law's association to the word / term *weapon* in its definition.

**Overview of By-law**

The mapping is outdated and confusing in its present form. It was the consensus of the participants that the overall structure of the By-law and its mapping must be simplified with more emphasis to public education and communication.

**Other**

Participants suggested the inclusion of City Planning staff to the Working Group. There has been preliminary consultation with the Planning staff. R. Ustrzycki will continue to meet separately with Planning staff at the conclusion of the public consultations as their contributions would fall out of the scope of the Working Group.

**COMPREHENSIVE REVIEW OF DISCHARGE FIREARMS BY-LAW****PUBLIC CONSULTATION MEETING****February 13, 2017 Glanbrook Municipal Service Centre,****4280 Binbrook Road, 7pm**

A meeting was arranged for members of the public to provide comments to City staff as part of the comprehensive review of the Discharge Firearm By-law. Public Notice of the meeting was posted on City Website on January 16, 2017, including links to the City's Discharge Firearm By-law and consultation maps. Personal invitation was sent to the identified stakeholders (clubs, organizations, associations), and those individuals recognized as having interest to this review.

The following was available, greeting those attending the meeting:

- Large consultation maps for viewing
- Information board for posting questions (for Q & A)
- City map to identify attendees place of residence
- City staff to field any questions prior to the presentation

The meeting commenced with a Power point presentation by R Ustrzycki outlining the goal, objectives and direction of the comprehensive review; followed by a Q & A to respond to any general questions, and compile any comments/concerns for review by the Working Group; closing with an open session for participants to dialogue with City staff.

**Buffer Zone**

The reasoning behind the 100m buffer zone questioned. The audience was provided with the current provisions in the City by-law (100m buffer zone), and research of best practices in other jurisdictions (100m firearm/ 50m bow). One attendee raised concern with the recent introduction of higher velocity, more powerful crossbows. Considering the City by-law enforcement records for 5 years (2 complaints: 0 charges), most acknowledged that the 100m buffer zone for firearms has not been problematic, and the overall conciliation was for a 50m buffer zone.

**Consultation Maps and Expansion Areas**

The comments to the consultation maps as forming part of any by-law were varied/mixed. Many of the participants agreed that the maps in the current By-law are

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confusing and need to be changed. It was the suggestion of one of the participants that there seemed no need to include a map in any by-law and there should only be reliance on the general provisions (i.e. buffer zones). However, everyone was in agreement that any maps consider the recent and future development.

City staff clarified that the denoted prohibited/regulated areas follow physical/natural boundaries (roads, property lines, etc.). It was pointed out by an individual that the tract of land south of Golf Club Road, between Trinity Church Road and Hendershot Road did not seem to follow any recognizable boundary (to be analyzed by City staff).

**Enforcement**

There was a general concern expressing their frustration with the lack of response and understanding of the various enforcement agencies responding to a contravention. A more collaborated/joint effort and cohesive understanding by these agencies is needed when responding to complaints. More direction and public education is needed how to, and who to report any concern.

**Overview of By-law**

The current By-law is not clear and hard to understand. A suggestion that crossbows be included in the definition of firearms was not well received by the majority. It was the consensus of the participants that the definitions in the By-law should be examined to eliminate any ambiguity.

Additional exemptions are needed to identify shooting/gun clubs and ranges. The audience was directed to the current By-law exemptions for licensed gun clubs (shooting ranges regulated by the Firearms Act) and the provisions for exemption permits.

The mapping is outdated and confusing in its present form. It was the consensus of the participants that the overall structure of the By-law and its mapping must be simplified with more emphasis to public education and communication. There was concern with the unavailability of information for the public (i.e. maps, by-law, regulations, contact information for various enforcement agencies)

**Exemption**

Members of shooting ranges/clubs suggested that the By-law should continue to recognize these sanctioned uses, and there should be more effort to identify the various exemptions to the recreational use of firearms.

**Public Engagement**

Participants were appreciative of the open consultation/dialogue with the City and were speculating when a new by-law was anticipated. Staff outlined the process going forward, and that the public would still have the opportunity to address Committee/Council as any reports/recommendation are submitted.

## COMPREHENSIVE REVIEW OF DISCHARGE FIREARMS BY-LAW

### PUBLIC CONSULTATION MEETING

**February 14, 2017 Rockton Fairgrounds (812 Old Hwy 8), 7 – 9:00pm**

A meeting was arranged for members of the public to provide comments to City staff as part of the comprehensive review of the Discharge Firearm By-law. Public Notice of the meeting was posted on the City Website on January 16, 2017, including links to the City's Discharge Firearm By-law and consultation maps. Personal invitation was sent to the identified stakeholders (clubs, organizations, associations), and those individuals recognized as having interest to this review.

The following was available, greeting those attending the meeting:

- Large consultation maps for viewing
- Information board for posting questions (for Q & A)
- City map to identify attendees place of residence
- City staff to field any questions prior to the presentation

The meeting commenced with a Power point presentation by R Ustrzycki outlining the goal, objectives and direction of the comprehensive review, followed by a Q & A to respond to the many general questions put forward. The session concluded with an open session for participants to dialogue with City staff to answer any specific questions and collect any additional comments/concerns for review by the Working Group.

### **Enforcement**

There was a general concern expressing the frustration with the various enforcement agencies responding to a contravention. The public's experience is that enforcement agencies are only focused and familiar with their respective legislation, and do not have a universal understanding of all the relevant legislation. There is no apparent sharing of information between these agencies, or when responding to complaints. It was suggested that a firearm hot-line be available to the public to report contraventions. It was also proposed that a process be considered where hunters are unreasonably harassed by unfounded complaints. The common thread to the varied concerns is that more public education and training of enforcement staff is needed.

### **Consultation Maps and Expansion Areas**

The comments to the consultation maps as forming part of any by-law were varied / mixed. Most of the participants found maps to be beneficial, but agreed that the current

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maps in the By-law are confusing and need to be changed. It would be very helpful if copies of the maps were provided to the hunter when renewing their tags/licenses. There was one suggestion that copies of the maps and by-law be mailed annually to residents in the rural area.

**Buffer Zone**

The participants were directed to the current provisions in the City by-law and the reasoning behind the 100m buffer zone; and staff findings to best practices in other jurisdictions (100m firearm/ 50m bow). There was concern that conservation lands are taking away hunting areas and that the 100m distance should be reduced for public trails or conservation lands. The conservation lands should be improved by posting those areas where the discharge of firearms is prohibited.

There was one suggestion that the City mail the various hunting regulations to all the affected residents annually; and that all prohibited areas/zones in the City be properly posted/signed.

**Concerns with current By-law**

The current By-law is not clear and hard to understand. It was the consensus of the participants that:

- definitions in the By-law should be examined to eliminate any ambiguity
- overall structure of the By-law and its mapping must be simplified with more emphasis to public education and communication.

There following a concerns expressed by individuals that did not necessarily represent the group as a whole:

- The discharge firearms should be allowed on all NEC where lands cannot be developed
- There should be separate definitions/restrictions for different firearms (high powered rifles, shotguns, air guns)
- Crossbows should be included as a firearm and not considered as a bow
- the meaning of a structure better defined (should not include a small garden shed in the backyard)

**Exemption**

The provisions exempting farmers protecting their livestock/crops in the current by-law is confusing and should be better defined to help identify their obligations (circumstances to allow hunting on their lands). There should be more effort to identify



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the various exemptions to the recreational use of firearms and that shooting ranges/clubs be better defined in the by-law

**Public Engagement**

Many of the participants were appreciative of the open consultation/dialogue with the City and were speculating when a new by-law was anticipated. Staff outlined the process going forward, and that the public would still have the opportunity to address Committee/Council as any reports/recommendation are submitted.

**COMPREHENSIVE REVIEW OF DISCHARGE FIREARMS BY-LAW****PUBLIC CONSULTATION MEETING****March 1, 2017 Ancaster Old Town Hall****310 Wilson St. E., Ancaster, 6:30 – 8:30 pm**

A meeting was arranged for members of the public to provide comments to City staff as part of the comprehensive review of the Discharge Firearm By-law. Public Notice of the meeting was posted on the City Website on January 16, 2017, including links to the City's Discharge Firearm By-law and consultation maps. Personal invitation was sent to the identified stakeholders (clubs, organizations, associations), and those individuals recognized as having interest to this review.

The following was available, greeting those attending the meeting:

- Large consultation maps for viewing
- Information board for posting questions (for Q & A)
- City map to identify attendees place of residence
- City staff to field any questions prior to the presentation

The meeting commenced with a Power point presentation by R Ustrzycki outlining the goal, objectives and direction of the comprehensive review, followed by a Q & A to respond to the many general questions put forward. The session concluded with an open session for participants to dialogue with City staff to answer any specific questions and collect any additional comments/concerns for review by the Working Group.

**Enforcement**

The public expressed their frustration reporting the discharge of a firearm. There is no apparent direction/instruction for the public to contact the appropriate enforcement agency. There was a sense of dissatisfaction to the apparent disconnect of the enforcement agencies experienced when reporting contraventions.

Better instruction/information is needed, which agency (police, MNR, By-law) to call, and under what circumstances. The information/communication should also include facts concerning the safe use of firearms.

### **Consultation Maps and Expansion Areas**

Most of the participants found the consultation maps to be beneficial, and agreed that the current (old) maps in the By-law are confusing and need to be changed.

Several persons were concerned with the activity at one particular property, and proposed that the boundary to prohibit firearms be extended to the tract of land north east of Copetown, west of Inksetter Road, within Concession 2 and Regional Road 52.

Another participant suggested that the rural area of the Stoney Creek mountain, currently prohibited for the discharge of firearms (bows allowed), be permitted to control the deer population.

### **Buffer Zone**

The participants were directed to the current provisions in the City by-law and the reasoning behind the 100m buffer zone; and staff findings to best practices in other jurisdictions (100m firearm/ 50m bow). There was conciliation that reduced distances be applied to bows, shotguns and muzzleloaders.

### **Concerns with current By-law**

The current By-law is not clear and hard to understand. It was the consensus of the participants that any changes to the by-law should:

- Provide better wording and understanding of the by-law
- Expand/ provide a full definition of a bow
- Eliminate any ambiguity in the definitions
- Simplify the overall structure of the By-law and its mapping
- Emphasis/have improved public education and communication.

There was a suggestion expressed by one individual that the by-law restricts the use of high power firearms for target practice.

### **Exemption**

The by-law should continue to exempt farmers protecting their livestock/crops, and that there should be more effort to identify and explain the various exemptions to the by-law.

## Discharge of Firearms By-law

### Working Group - Meeting Minutes

**Date:** January 5, 2017 9:30am

**Location:** MR – City Centre – 2<sup>nd</sup> Floor, 250A

**Attendees:** R. Ustrzycki, Senior Project Manager, MLE  
T. Rodzoniak, Area Firearms Officer, HPS  
B. McRea, Zone/Member & Club Services Liaison, OFAH  
P. Sertic, MLEO  
G. Costie, Director, Conservation Area Services, HCA  
R. Kirouac, MLEO

**Absent:** L. Shewfelt, Coordinator Contract Services, MLE

#### 1. Introductions

Members provided their professional and individual background/experience relating to firearms. Overall, members of the working group are familiar with the relevant legislation, current By-law & Hamilton area. Collectively, the members represent many years of enforcing (criminal & regulatory, legal) and administering (instruction, permit approval, hunter safety) aspects dealing with firearms. Most members are recreational users of firearms and are expected to bring to discussions a balanced safety conscious approach that will meet the various needs of the community.

#### 2. Overview - Scope of Project

R. Ustrzycki presented copies of Terms of Reference containing the following scope of this project:

- Update the Schedule map(s) regulating the discharge of firearms to incorporate recent and future urban development.
- Complete a review of the By-law and provide recommendations that:
  - refines and provides clear interpretation and understanding its provisions
  - acknowledges and recognizes the different aspects of bows vs common firearms
  - balances the varied needs of the community
  - maintains public safety
  - supports fed / prov firearm regulations

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A copy of the Contact List identifying the Working Group Members, Internal Consultation/Resources contacts, Stakeholders (over 40 associations, clubs, organizations), and individuals identified as having interest in this project was provided for reference – confidentiality of the contact information was stressed. **R. Ustrzycki to send a copy of the invitation to B. McRea.**

The critical path and timelines for this project was outlined to the members.

### **3. Role of the Working Group**

The working group is not a committee of council, but an advisory group that will primarily review/analyse public comments and provide recommended changes to the substantive issues or any changes to the Discharge Firearm By-law. As part of this initiative the working group will review the overlapping jurisdictions, respective roles, safety issues, criteria for high risk areas, best practices, and develop strategies and tasks for an enforcement/administration/ communication plan.

Confidentiality is needed to avoid any miscommunication until the final report is submitted to Committee.

### **4. Discussion**

A draft copy of comments and issues already put forth by the public was distributed to all members. There was extensive discussion and debate to the items with a view of public safety for a balanced approach to the varied needs of the community.

#### Sunday Hunting:

Sunday hunting was examined by the City several years will not be considered in this comprehensive review. The current by-law does not prohibit the discharge of firearms on Sunday, and is a separate approval process governed through the MNR regulations.

#### Overlapping Jurisdictions (respective roles):

Four enforcement agencies (MNR, Police, City By-law, Conservation Authorities) have overlapping responsibilities and obligations to enforce 9 additional (3 Federal, 8 Provincial) legislation relating the activities surrounding the recreational use of firearms. Improvements and service levels may be available through partnerships, sharing of information and contacts. **R. Ustrzycki will arrange for a separate meeting inviting MNR to a meeting with Police, By-law, and Conservation Authority) to discuss this issue.**

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Buffer Zones:

Safe distances from high risk areas (populated locations) were discussed for firearms and bows. It was the consensus of members that the current 100m distance for firearms in the current By-law is sufficient and consistent with current best practices in other jurisdiction for the following locations:

- Dwelling, building or structure
- Schools
- Parks
- Public trails
- Churches
- Community Centres
- Urban properties/subdivisions/settlement areas
- Private/public golf courses (except season closures)
- Private/public campgrounds/picnic areas (except season closures)
- Conservation lands and areas

All members agreed that a distance for the above locations of 50m for bows is consistent with other jurisdictions and appropriate.

For airports and registered aerodromes, adopted a distance of 300m (best practices) would be recommended.

Buffer zones relating to highways are suitably dealt with under the applicable laws, and the current provision in the By-law regarding direction of discharge (ensure projectiles remain on site).

Further information was required regarding setbacks for railways. **R Ustrzycki will examine/research the Railway Safety Act and report back to members.**

10ac Restriction:

Prohibiting properties less than 10ac in size seemed problematic considering the irregular shape of lands and placement of dwellings/buildings thereon. Members suggested reliance on the 100m setback with no reference to lot size. **B.McRea suggested consideration of having the express permission of the building owner, and will forward examples from other jurisdictions to other members.**

Express Permission:

It was the consensus of members that the express permission of the property owner was required for each person discharging a firearm. Although written

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authority was recommended, it is not a necessary change or requirement of the By-law for successful enforcement.

Conservation Authorities are considered a private landowner and their express permission would be required. This remaining status allows these agencies the flexibility to regulate their respective lands accordingly.

There was consensus that the express permission of the owner of a dwelling/building/structure was required for the discharge of any firearm within 100 m (50m for bows) thereof. [also see above comments in 10ac Restriction].

Definition of Firearm:

Members discussed the various definitions drawn from other legislation/jurisdictions for a firearm. All agreed that bow/archery remain outside the definition of firearm; and that any reference to a firearm as a weapon be removed.

Short Title:

Public comment emphasized that the by-law clearly reference firearms for recreational use. Member responses were divided to: include the term in the short title/name of the By-law; or, a statement to that effect in the scope of the by-law. Further consultation with the stakeholders and public to this issue may be required.

## **5. Other**

Brian Skye, representative to the Haudenosaunee Wildlife & Habitat Authority, attended before commencement of this meeting. He was explained the purpose of comprehensive review and that any proposed changes would not impact any agreements on Conservation lands, and reviewed the consultation map (areas of concern). Mr. Skye left the meeting with an invitation to the Stakeholders meeting on January 26, 2017 and that any further questions or concerns could be directed to R. Ustrzycki.

## **6. Next Meeting**

This meeting was concluded at 1:30pm. The next meeting was scheduled for March 23, 2017 to continue examination/review of issues/concerns following the public consultations.

**Discharge of Firearms By-law****Working Group - Meeting Minutes**

**Date:** March 23, 2017 9:30am

**Location:** MR – City Centre – 2<sup>nd</sup> Floor, 250A

**Attendees:** R. Ustrzycki, Senior Project Manager, MLE  
T. Rodzoniak, Area Firearms Officer, HPS  
B. McRea, Zone/Member & Club Services Liaison, OFAH  
P. Sertic, MLEO  
G. Costie, Director, Conservation Area Services, HCA  
R. Kirouac, MLEO

**Absent:** L. Shewfelt, Coordinator Contract Services, MLE

**1. Review of Previous Meeting Minutes**

Item 4 Discussion, Buffer Zones: was amended by adding Conservation lands and areas.

Item 5 Other: G. Costie confirmed the status of Brian Skye as a *representative* of the Haudenosaunee Wildlife & Habitat Authority. Project records were corrected accordingly

**R. Ustrzycki to send a revised version of Minutes to members.**

**R. Ustrzycki to still arrange a meeting with the enforcement agencies.**

**2. Update**

R. Ustrzycki provided the Working Group a verbal update to the following meetings:

- Stakeholders meeting, January 26, 2017
- Public Consultation, Glanbrook, February 13, 2017
- Public Consultation, Rockton, February 14, 2017
- Public Consultation, Ancaster, March 31, 2017



### **3. Review of Current By-law**

The Working Group reviewed the current provisions of the by-law to become familiar with its provisions to identify any deficiencies, and improvements through the Groups discussions. This initial review did identify areas in the current By-law that are outdated, confusing (i.e., reference to non-existent/wrong sections) and improperly structured or administered (permit system).

### **4. Discussion Issues**

#### Stakeholder Meeting, January 26, 2017

A summary of the meeting was distributed to all members for review. There was extensive discussion and debate to the following issues raised by the stakeholders:

#### Buffer Zone:

It was the consensus of members that the 100m buffer zone remains for firearms, but the distance for archery be reduced to 50m for schools and certain high risk areas. Although arguable from many positions, this distance is consistent with other jurisdictions and considers public perception when the recreational use is for hunting. The discussion evolved into other high risk areas (churches, cemeteries, golf clubs, community centres, private/public parks). There is the public perception that Conservation lands/areas are “safe”, and that there must be clarity in describing locations such as camp sites or walking/public trails as ‘*managed*’ areas to identify the diverse uses therein.

There was additional discussion in adopting this same standard (100m/50m) to the CN Police proposal for railway lands and public roads. Reliance on the 8m provision under the Fish & Wildlife Conservation Act and directional regulation for projectiles was examined in contrast to the public perception/culture of the inhabitants. At the initial meeting, the Group considered that buffer zones relating to highways are suitably dealt with under the applicable laws, and the current provision in the By-law regarding direction of discharge (ensure projectiles remain on site). Considering the divergent uses and broad demographics, discussions to an appropriate buffer zone was tabled until the end of this review (public consultation meetings).

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### Maps:

It was the consensus of members that the current mapping is outdated and needs to be improved. Public opinion throughout the consultation process was mixed; varying from detailed maps (similar to the consultation maps), no maps with full reliance on the general provisions, or a map with no mention of the settlement maps.

The Group discussed the various options from the common readers (general public), enforcement agencies and adjudicators perspective. Copies of the City of Ottawa Discharge Firearm By-law were distributed for members to review its mapping provisions.

Overall, the use of maps is the best tool to direct/assist and meet the visual needs of the reader to identify the prohibited areas. Details denoting the prohibited areas need to be accurate, with identifiable physical boundaries (i.e. road, watercourse). Members agree that the expansion areas (rural settlement areas) that recognize the urban growth that exceeds those areas currently prohibited in the By-law be included. Those areas that denote the future urban expansion should not be included unless development is expected to occur shortly. **R. Ustrzycki will consult with the Planning Department regarding the tract of land both side of Golf Club Rd, from Trinity Church Rd to Hendershot Rd portion identified in the City-wide.**

### Exceptions

The current by-law recognizes general and specific exemptions to the by-law. Members considered and agreed with the Stakeholder organizations that the by-law should continue to recognize these lawful and sanctioned uses; in particular, shooting ranges, gun/skeet clubs, and similar organizations regulated by the Firearms Act and approved through the Chief Firearms Office where the regulations and level of inspection exceeds any municipal by-law.

It was the consensus of members there should be more effort to identify the various exemptions for inclusion in the scope and exemption section of the by-law. However, the group agreed that naming the specific organization/club in the by-law would be problematic and that generic/type/class descriptions be used.

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Members identified that the indoor use of archery and airguns, or use of starter pistols and military re-enactments (blanks) as potential exemptions, although further discussion is required on this subject to reach a conclusion.

**Enforcement:**

The general public has a misunderstanding of the by-law and are frustrated by the lack of response, public education, and disconnect of the enforcement agencies (police, MNR, MLE, Conservation Auth.). Group members recognized this issue as a continual public concern during all public meetings, and acknowledged the need for the related enforcement agencies to meet separately to discuss solutions and enforcement strategy to improve service levels. Public education and a communication strategy for the public should form part of the discussion.

**R. Ustrzycki will make the arrangements for a separate meeting.**

**Definitions:**

The Group discussed the removal of the word *weapon* from the definition of firearm, and agreed that the term does not fall within the general intent and purpose of the by-law to regulate the lawful use of recreational firearms and bows. Members will be forwarding any example/recommendations to the definition of firearms for review.

**5. Next Meeting**

This meeting was concluded at 1:45pm. The next meeting was scheduled for April 20, 2017 to continue examination/review of issues/concerns following the public consultations.

**Discharge of Firearms By-law****Working Group - Meeting Minutes**

- Date:** April 20, 2017 10:30am
- Location:** MR – City Centre – 2<sup>nd</sup> Floor, 250A
- Attendees:** R. Ustrzycki, Senior Project Manager, MLE  
T. Rodzoniak, Area Firearms Officer, HPS  
B. McRea, Zone/Member & Club Services Liaison, OFAH  
P. Sertic, MLEO  
G. Costie, Director, Conservation Area Services, HCA  
R. Kirouac, MLEO
- Absent:** L. Shewfelt, Coordinator Contract Services, MLE

**1. New Business**

Lynne Shewfelt stepping down from the Working Group

**2. Review of Previous Meeting Minutes**

No changes. Minutes were accepted by the Working Group

**3. Discussion Issues**

Summaries of the Public Consultation Meetings were distributed to members of the Working Group prior to the meeting. Members reviewed and commented to the public concerns received at the information sessions.

**Glanbrook Municipal Service Centre, February 13, 2017****Buffer Zone**

The reasoning behind the 100m firearm and 50m archery distance was re-examined. It was the consensus of members this remains as a safe distance for the recreational use of firearms/bow as a general provision and for high risk areas. Further discussion to identify those areas that would benefit from either a greater or less distance was set aside to the end of the meeting.

**Consultation Maps and Expansion areas**

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Members were in agreement with public comments that the current maps are unclear and confusing. The boundaries are in need of updating to reflect the recent and future urban developments and presented in a different, user friendly, format. Consideration should be given to the use of on-line interactive maps on the City website to allow for viewing the prohibited/ permitted areas for specific properties.

**R. Ustrzycki will consult with the Planning Department regarding the tract of land both side of Golf Club Rd, from Trinity Church Rd to Hendershot Rd portion identified in the City-wide map to determine the time frame for development and construction.**

### **Enforcement**

Members acknowledge the disconnect between the enforcement agencies (police, MNR, MLE, Conservation Auth.). To reduce the public’s frustration and recurring issues, public education needs to be improved with better communication and support from the MNR.

**R. Ustrzycki will make the arrangements for a separate meeting with the enforcement agencies to discuss a public education in a communication strategy and enforcement strategy.**

### **Overview of By-law**

Members discussed the public comment that crossbows be included in the definition of firearm. This inclusion/comment is not found in other by-laws. Members concluded that the 500ft+/second velocity marker found in the Criminal Code to be problematic to enforce. It was the consensus of members that crossbows remain in the definition of bows, and that any change to the definition of a firearm should remove the term ‘weapon’.

The public concern with the lack of information was discussed. Members discussed the creation of an education pamphlet, but agreed that an information package be developed for inclusion to the City website with the inclusion of maps, excerpts from the by-law & other related legislation, and contact information for enforcement agencies. All members agreed an

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information package would be an excellent tool for the public and all enforcement agencies.

### **Exemption**

In addition to the exemptions for police, military, shooting/gun clubs and ranges, the following should be recognized as an exemption in the by-law:

- Indoor use for archery, air/pellet guns, paint ball guns
- Military re-enactments (using blanks)
- Starter pistols (blanks)
- Trappers
- Farmers

A further examination into best practices in other jurisdictions and the Federal Regulation to the Firearms Act is needed to determine other exemptions that may be included in the scope of the by-law, or as a specific exemption.

### **Rockton Fairgrounds, February 14, 2017**

#### **Enforcement**

The Working Group recognized and acknowledged the public’ frustration at this meeting with the various enforcement agencies. The agencies require a better understanding of everyone’s role so calls may directed to the correct service for information or action.

Members disagreed with the public comment that a hot-line be established for hunting contraventions. The Working Group favoured the use of the hot-line currently in place (911, police emergency calls, 1-800-MNR-TIPS) for any hunting or related incidents. Although public perception favours a single source for all matters relating to the discharge of firearms, referral to the appropriate agency eliminates the release of inaccurate information (Officially Induced Error).

#### **Consultation Maps and Expansion Areas**

A consensus was reached that the current maps need to be updated, and that information is readily available on the City website.

**Buffer Zone**

There was a public concern that Conservation owned lands were taking away hunting areas and that the current 100m distance be reduced for public trails on conservation lands. It was confirmed there are no changes made to those lands that Conservation permit hunting, but that newly acquired Conservation lands merely have a different use. This matter was discussed further at the conclusion of the meeting

Member discussion concluded that the public suggestion for the City to annually mail out the various hunting regulations to all residents in the rural area, and all prohibited area/zones and property posted/signed was unrealistic, and would be available on the City website.

**Concerns with Current By-law**

The Working Group received and acknowledged the public concern that the current by-law is hard to understand. There was public suggestion to include crossbows as a firearm, and that separate definitions/restrictions be in place for different firearms (high powered rifles, shotguns, air guns). Members determined that these suggestions would be difficult to administer and enforce. It was concluded that the definitions should remain with the two general categories of firearms and bows. All agreed that the public suggestion to allow the discharge of firearms on all NEC lands to be problematic.

The Working Group considered the definition of ‘structure’ and application of the 100m setback from a structure/dwelling. A previous meeting adopted the experience in the Township of Cavan Monaghan where the distance requirement may be reduced with the permission of the owner, thereby accommodating the varied demographics. It was the consensus of members that the definition of structure considers the actual uses within the building (e.g., whether occupied).

**R Ustrzycki to research and re-examine the definition for a dwelling and adopt the best interpretation for this by-law.**

Members agree with the public concerns that the mapping must be simplified with more emphasis toward public education and communication.

## **Exemption**

Members of the working group agreed with the public comments that there should be more effort to identify the various exemptions to the recreational use of firearms. Members discussed expanding the exemptions for farmers to any person protecting their property from animals. Considering the intent of the applicable Provincial/Federal legislation in this regard, the majority of members opted for this exemption to remain with farmers.

Further discussion to the possible exclusions was deferred following conclusion of the public comment reviews.

### **Ancaster Old Town Hall, March 3, 2017**

## **Enforcement**

The frustration with the various enforcement agencies is a recurring public concern. Members of the Working Group continue to advocate that the agencies require a better understanding of everyone's role so calls may be directed to the appropriate agency for service.

## **Consultation Maps and Expansion Areas**

Most of the participants found the consultation maps to be beneficial, and Members agree that the current maps need to be updated.

The expansion of the firearm prohibition boundary, extending the tract of land within Concession 2 and Regional Road 52, northeast of Copetown, west of Inksetter Road, was discussed. Members recognize this particular public concern targets a specific person within that area. Examining the demographics, members were not in agreement that the boundary should be expanded for a person that has merely become a nuisance to some of the neighbouring residents.

There was a public suggestion that firearms in the rural area of the Stoney Creek Mountain be allowed to control deer populations. It was the consensus of Members there was no scientific basis to support growing deer populations,



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and that wildlife management falls within the jurisdiction of the MNR. To do otherwise does not meet the general intent and purpose of the By-law that has for decades prohibited the discharge of firearms in the former municipality of Stoney Creek.

**Buffer Zone**

There was consensus that the 100m for all firearms (50m for bows) as the best practice overall and the creation of separate standards for shotguns and muzzleloaders would be problematic.

Discussion was held regarding written permission, and verbal permission of the landowner. Members unanimously agreed that the wording for the landowners permission allow for both alternatives as “*the expressed verbal – or – written permission*”.

**Concerns with Current By-law**

The concern that the current by-law is hard to understand is the primary issue presented at all public meetings, summarized as:

- Providing better wording and understanding
- Eliminating any ambiguity to the definitions
- Simplifying the overall structure of the By-law and its mapping
- More emphasis to public education and communication

There was a suggestion expressed from one individual regarding the unsafe use of high power firearms for target practicing. Members agreed that the suggestion was aiming toward a specific person, and that the careless/unsafe of firearms is criminal in nature which falls outside the scope of the By-law.

The related noise from gun ranges or target shooting was discussed. Additional public concern of this nature, received outside of the public meetings, was also considered. Members agreed that the City’s Noise Control By-law would be the appropriate means to address these concerns.

**Final Discussions**

All members were in agreement that the general intent and purpose of a Discharge Firearms By-law is for the lawful recreational use of firearms and

bows. The criminal, unsafe, careless, or illegal use/activities involving firearms is properly dealt with under the Criminal Code, Firearms Act and other applicable Federal/Provincial legislation. Generally speaking, recreational users are responsible individuals that follow strict Federal and Provincial regulations for the possession and safe use of the related activities.

### **Buffer Zones**

There was discussion how buffer zones would be applied in different locations (e.g., public trails on private lands). All were in agreement that the 100m distance for firearms and 50m for bows was a reasonable distance under most circumstances. Safety and public perception was tantamount to have this distance requirement for the following:

- Schools
- Recreational properties (community centres, sportsfields)
- Private and public golf courses
- Managed public trails
- Campgrounds
- Cemetery
- Hospitals

The possibility of hunting during off-season times was discussed. Although no consensus was reached, the requirement for the expressed verbal or written permission of the landowner would be sufficient to apply under these circumstances.

The Working Group, following best practices in other jurisdictions agreed that a 300m buffer zone around airports and registered aerodromes is preferred.

**R Ustrzycki will be speaking with the three airport/aerodromes in this regard.**

The Group concluded that the distance requirement relating to highways and railway tracks are best dealt with the current provision in the By-law regarding direction of discharge (ensure projectiles remain on site), and hunting regulations by the MNR.

Considering the demographics of the City, there was consensus that exemption permit process currently in place is the best solution dealing with

extraordinary circumstances where the general provisions may not be reasonable.

### **Exceptions**

The current by-law recognizes general and specific exemptions to the by-law. Members considered and agreed that the by-law should continue to recognize the following lawful and sanctioned uses:

- farmers
- police agencies
- educational institutions (archery)
- national defence
- shooting ranges, gun/skeet clubs, and similar organizations regulated by the Firearms Act and approved through the Chief Firearms Office where the regulations and level of inspection exceeds any municipal by-law

It was the consensus of Members there should be more effort to identify the other exemptions for inclusion in the scope and exemption section of the By-law, that may be found in other Federal/Provincial legislation. Members identified the following uses as potential additions to the By-law exemptions:

- Indoor use of archery and airguns
- Licensed trappers
- Starter pistols
- Theatrical props (blanks)
- Military re-enactments (blanks)
- Dog trials
- NASP (educational)
- Sanctioned events

**R. Ustrzycki to research the applicable laws and regulations to identify these exemptions**

### **Boundary Expansion**

Maps:

Members discussed the various public suggestions and options to improve the current outdated maps. Overall, the use of maps is the best tool to

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direct/assist and meet the visual needs of the reader to identify the prohibited areas. Members agree that the expansion areas (rural settlement areas) that recognize the urban growth that exceeds those areas currently prohibited in the By-law be included. Details denoting the prohibited areas need to be accurate, with identifiable physical boundaries (i.e. road, watercourse).

Those areas that denote the future urban expansion should not be included unless development is expected to occur shortly. **R. Ustrzycki will consult with the Planning Department regarding the tract of land both side of Golf Club Rd, from Trinity Church Rd to Hendershot Rd portion identified in the City-wide.**

The area west of Clearview/Oakhill Estates (Jerseyville Road W), identified by G. Costie, requires further examination to extend the prohibition boundary for those lands where the discharge of firearms/bows is not likely (i.e., Robert E. Wade Ancaster Community Park). **R. Ustrzycki will review the aerial maps and consult with the appropriate agencies and landowners.**

**R. Ustrzycki will review further the Inksetter area discussed at the Ancaster Public Meeting to determine if the boundary needs to be expanded.**

**Enforcement**

Members of the Working Group acknowledge and recognize as a recurring public concern with the lack of response, public education, and disconnect of the enforcement agencies (police, MNR, MLE, Conservation Auth.) answering complaints. Members stress the need for the related enforcement agencies to meet and discuss solutions for an enforcement strategy to improve service levels. This discussion should also consider public education and a communication strategy.

**R. Ustrzycki will make the arrangements for a separate meeting.**

## **High Risk Areas**

Members reflected upon the principles of public safety to establish those areas prohibiting the discharge of firearms/bows. Expansion of existing prohibition boundaries should not be arbitrary, but evidence based on:

- urban development
- density threshold
- type/use of buildings and property (e.g., dwelling, commercial, institutional)
- population density
- number of incidents/complaints
- public roads/trails
- volume of traffic

## **4. Next Meeting**

This meeting and work by the Working Group in this review was concluded. The City extended its appreciation for the tremendous effort, dedication, and invaluable contributions from members of the Working Group. R Ustrzycki will keep members apprised of the continued work to this comprehensive review, and forward any draft report to the members. Members agreed to return to the table if required.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Animal Adoptions for the City of Hamilton (PED18004) (City Wide) (Outstanding Business List Item)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Sue Russell (905) 546-2424 Ext. 7999
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That staff be directed to commence an Animal Adoption Pilot Program and report back to the Planning Committee at the end of an 18 month term regarding the impact on current operations and the City's animal rescue partners;
- (b) That the General Manager of Planning and Economic Development be authorized to execute all necessary documents to implement Recommendation (a) in a form satisfactory to the City Solicitor;
- (c) That the item respecting The Feasibility of Establishing a City Animal Adoption Service, in Partnership with the HBSPCA, be identified as complete and removed from the Planning Committee Outstanding Business List.

### EXECUTIVE SUMMARY

Council directed staff to assess the feasibility of establishing a City Animal Adoption Service, in partnership with the Hamilton - Burlington Society for the Prevention of Cruelty to Animals (HBSPCA). Animal Services works collaboratively with over 30 animal rescue partners to find homes for the City's adoptable animals in absence of a municipal adoption service. The HBSPCA is the main stakeholder and take approximately one third of the City's animals. Other rescue partners also take approximately one third of the City's animals. The HBSPCA and other rescue partners do not have the capacity to take all of the City's animals and therefore healthy adoptable animals remain waiting in the shelter.

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Animal adoption is the main avenue for finding homes for shelter animals and is the best practice utilized by area municipalities. A municipal adoption program is a natural extension of the services that Animal Services provides to the community. Animal Services is requesting to expand the City's role and commitment to saving the lives of adoptable animals by piloting a municipal adoption program. The pilot will be conducted and assessed over an 18 month period. Adoptions will be facilitated at the shelter, satellite locations and through electronic adoption methods.

Providing a municipally-operated animal adoption service, with the continued collaboration of all stakeholders, will increase the City's lifesaving potential for the animals brought into the City's care and create a full service shelter for the community.

Therefore, it is recommended that an Animal Adoption Pilot Program be established by Animal Services and that staff report back after an 18 month term with the impact the program has had on the shelter operations, rescue partners and the community.

***Alternatives for Consideration – See Appendix “E”***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** The Adoption Service is a revenue neutral program. It is estimated that some of the cost for sheltering and medical treatment may be recovered through the adoption fees charged for each animal.

**Staffing:** An 18 month pilot project will determine if the Adoption Service can be accommodated within the existing staff complement and with the enhancement of a volunteer program.

**Legal:** The City has the authority to adopt out the animals that it impounds. Under the Section 103(1)(b) of the *Municipal Act*, 2001, S.O. 2001, c. 25 power has been granted to the City to sell impounded animals (i) if they have not been claimed within a reasonable time, (ii) if the expenses of the municipality respecting the impounding of the animals are not paid, or (iii) at such time and in such manner as provided in the [municipalities] by-law. The City has established For Responsible Animal Ownership, By-Law No. 12-031 which allows, under section 11, for the City, after the expiration of the redemption period, to sell the dogs, cats, and other animals that the City has impounded.

Animal adoption fees for the Animal Adoption Pilot Program will have to be established. The City of Hamilton's Public Notice Policy By-Law, By-Law No. 07-351, requires that public notice be given of a minimum of one Committee meeting to consider the enactment of a fee, charge or rate by-law. A separate report regarding the proposed animal adoption fees will

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have to be brought to Council for consideration. The animal adoption fees will have to be added to the City's User Fees and Charges for Services, Activities or the Use of Property by-law.

Historically, the HBSPCA has operated under the notion that they have first right to any of the City's adoptable animals. The City disagrees with HBSPCA and does not have a record of any formal executed agreement between the City and the HBSPCA regarding this right.

**HISTORICAL BACKGROUND**

In 2002 the HBSPCA did not renew their contract with City of Hamilton to provide animal control but agreed to continue adopting the City's animals. Hamilton Animal Control was established in a building shared with the HBSPCA in January 2003.

In 2004 Hamilton Animal Control began to form additional partnerships with rescue organizations to take excess adoptable animals in an effort to avoid euthanizing healthy adoptable animals.

In 2012 Hamilton Animal Control utilized best practices in managing shelter intake by discontinuing the practice of picking up healthy stray cats for euthanasia.

On February 11, 2015, Council directed staff to assess the feasibility of establishing a City Animal Adoption Service, in partnership with the HBSPCA, and report back to the Planning Committee accordingly.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

- Legal Services
- HBSPCA and Rescue Partners
- Citizens of Hamilton were engaged through public survey
- PetSmart Charities and PetSmart Canada
- Cities of Burlington, Toronto, Markham, Mississauga, Guelph, Brampton, Ottawa and London

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Hamilton Animal Services (HAS) operates an open admission tax based animal shelter. HAS accepts all companion animals regardless of species, medical, temperament or



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behavioural condition. Animals that come into the shelter are lost, have strayed from their home, or have been surrendered by an owner that can no longer provide it with care.

Staff works to reunite lost pets with their owners and to find placement for animals that come into the City's shelter. HAS does not provide a public adoption service for domestic animals and therefore must rely on the animal rescue partners to rehome the City's adoptable animals as the alternative would be euthanasia. Animals that come into the municipal shelter that are not claimed by their owners are given to the HBSPCA or other rescue partners at no cost.

In 2016 HAS sheltered 3,248 dogs and cats. The HBSPCA took approximately 37% of the dogs and cats for their adoption program. An additional 33% of the City's dogs and cats were given to rescue partners for their adoption programs.

The HBSPCA has operated under the premise that they have first selection of the City's animals for their adoption program. This arrangement began in 2003 when the HBSPCA did not renew their contract to provide animal control services for Hamilton, Ancaster and Dundas but continued to rescue the City's animals for their adoption program. The animals from Stoney Creek, Flamborough and Glanbrook were not included in this arrangement as Stoney Creek operated a municipal adoption service at the Jones Road Shelter. Flamborough and Glanbrook animal adoption services were under private contracts.

The intention of the original arrangement was for HAS to receive revenue from the intake of animals through owner surrender fees and dog licensing fees and for HBSPCA to receive revenue from the adoption fees.

**Current State Analysis**

Although an agreement between the City of Hamilton and HBSPCA was never executed, historically the HBSPCA has operated under the premise of "first right of refusal" when selecting animals at HAS for adoption.

The HBSPCA does not have the capacity to rescue all of the adoptable animals that come into the municipal shelter. As a result, City staff spends a considerable amount of time contacting and developing relationships with other rescue organizations in an effort to provide positive outcomes for the surplus of animals in the HAS shelter. The City has over 30 rescue partners that help with the overflow of animals that are not rescued by the HBSPCA's adoption program.

One of the most challenging issues for rescue organizations is the capacity to humanely care for the volume of animals needing to be adopted. Even with the HBSPCA and rescue partners taking the City's animals, approximately one third of animals remain in the shelter. Shelter Statistics are attached to this Report as Appendix "A". There is a

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need for a municipal adoption service in the community to help find homes for the remaining animals left in the shelter.

HAS is mandated by Provincial law to hold stray domestic animals for a minimum period of three days for an owner to claim the animal. All animals that come into the shelter are given flea treatment and vaccinated upon intake to prevent the spread of illness in the shelter. These medical costs are approximately \$19.38 per cat. The basic cost for feeding and sheltering a cat is approximately \$10 per day. Holding a cat for the minimum three-day stray period plus basic medical treatment cost the City approximately \$49.38 per cat. Less than 8% of the cats are claimed by their owner.

During the stray period, the HBSPCA will mark the animals they would like considered for their adoption program if the animal is not claimed by the owner. After the stray period, adoptable animals are available to be rehomed by the HBSPCA. Any animal not selected by the HBSPCA can then be selected by one of the City's rescue partners.

From June through August, 2017, the length of stay (LOS) for shelter animals varied from three days to 78 days. The average LOS for an animal waiting to be taken by HBSPCA or rescue organization for their adoption programs was ten days, however, some of this time is a direct result of HAS policy of holding strays for three days.

The extended LOS periods also increases costs in animal care and medical expenses. Sheltering costs plus any additional medical expenses acquired during the extended LOS are not recovered as animals are transferred to outside agencies at no charge.

An adoption program would allow the City to recover some of these costs through adoption fees.

**Table 1: Cost to the City for the basic sheltering of cats in 2016 Animal Services**

Number of Cats	Triage Expense	Daily Food & Sheltering	Food & Shelter for 3 Day Hold	Total Cost
Cost per cat	\$19.38	\$10	\$30	\$49.38
Transferred to HBSPCA 680 cats	\$13,178	\$6,800	\$20,400	\$33,578
Transferred to Rescue 710 cats	\$13,760	\$7,100	\$21,300	\$35,060
Total transferred to outside adoption programs 1,390 cats	\$26,938	\$13,900	\$41,700	\$68,638

Although HAS no longer euthanize healthy animals to create intake space for more animals, the health and mental state of an animal can deteriorate while waiting in the shelter for a rescue to come forward. An animal that was once considered healthy can

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become stressed, sick or aggressive in the shelter environment. Unfortunately, the end result is euthanasia for poor health, behavioural or temperament reasons.

When the number of animals at the City's shelter reaches capacity, and partnering organizations are also at capacity, the unfortunate result is closing the shelter to the intake of animals, mainly cats. When the shelter closes to intake, the City is not providing services to the public or animals in need.

There is a loss of revenue associated with intake fees during the closure periods. In 2016 the shelter closed for the intake of cats on three occasions for a combined total of 26 days. The City has no control over when the rescue partners will take animals from the shelter and this has a direct impact on the function as an animal shelter open to the public.

### **Best Practices of Area Municipalities**

As part of the review, staff researched and discussed best practices with other municipal shelters. Most municipalities that operate an animal shelter also have an adoption program to rehome lost, unclaimed, and owner surrendered animals. Some municipalities contract the services out to a private contractor or organization. Information concerning other Municipal Animal Shelters is attached to this Report as Appendix "B".

Most municipalities only utilize rescue groups and humane societies to rehome the animals that are not suitable for the municipal adoption program such as animals that have medical issues or require rehabilitation.

The City, in the absence of an adoption service, has been supplying the adoptable animals to the HBSPCA first and then offering the remaining adoptable animals to rescue organizations. Therefore, the City has been generally left with those animals that are difficult to rehome.

Takeaways from the other municipal adoption programs are:

- Adoption is an important element in reducing euthanasia. For every adoptable pet that comes into the shelter there needs to be homes for them to go to;
- Adoption pricing needs to be flexible to allow special needs animals to be adopted, i.e. bonded pair, seniors, or medical cases;
- Adoptions will gain traction over time: Flood social media with ads, use City's website for pet of the week, low cost promotions, discount days, no cost days, etc.;
- Utilize satellite partners; veterinary clinics, flower shops, pet food stores, libraries, place animals in area businesses. It encourages adopters to be patrons of the business or organization;

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- “Finder Interested Form”: If a person brings an animal in and it is not claimed, they can have it back after it is spayed / neutered and vaccinated;
- Adopter agrees to take the pet to local veterinarian for free vet exam within three days. Engage veterinarian community in providing free vet exams. Creates a relationship with a veterinarian for future care; and,
- Use a tiered adoption price system to reduce length of stay for cats in the shelter. This will provide better health for cats, maintain capacity and reduce shelter care costs for older cats.

### **Public Engagement**

Staff actively engaged the community in the consideration for a municipal adoption service through an on-line survey. Over 560 people responded to a series of questions concerning animal adoption. Results of the survey are attached to this Report as Appendix “C”.

The public survey indicated 88% support for providing a municipal adoption service and 92% of respondents indicated that they would consider adopting from HAS in future.

The public was asked if a fee should be charged to the HBSPCA or rescue organizations for animals that are given away in effort to recover some of the costs associated with shelter care. The public was split on this response; 33% in favour, 47% opposed and 20% was uncertain.

Rescue partners were also surveyed regarding a municipal adoption service and their capacity to take animals. Seventeen of the 21 rescue organizations that responded were in favour of HAS providing an adoption service and would continue to collaborate and work with HAS to find homes for adoptable animals. Their capacity to care for animals ranged from two to 35 animals with an average capacity of eight animals.

Many rescue partners expressed concern over HAS working solely with HBSPCA in that it would leave rescues with sick animals or ones with behavioural issues.

### **Cat Adoption Pilot at Satellite Location**

As part of the feasibility study for a municipal Animal Adoption Service, staff piloted a cat adoption program through PetSmart Charities of Canada at the PetSmart Stoney Creek location. The framework for an adoption program was established using this satellite location to showcase the animals.

The adoption fee used for the pilot program was benchmarked at \$150 per cat as this is the average cat adoption fee charged by area municipalities. Senior or medical issue cats were adopted at a discounted fee. The cats selected for the test were adults, seniors, kittens and minor medical cases.

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The adoption pilot was very well received and supported by the public on social media. In two months of operation, over 30 cats and kittens were adopted through the pilot.

The adoption pilot operated as a revenue neutral program as outlined in the Pilot Cost Analysis attached to this Report as Appendix "D". It is estimated that a minimum of 200 cats could be adopted annually using satellite locations such as pet food stores, veterinary clinics and local businesses to showcase the adoptable animals.

The mission of the program was to rehome adoptable shelter animals. As such, any cat that did not present well in the store-type environment was offered to rescue partners. These adoptable cats were already vaccinated and altered which is a welcomed cost relief for the rescue partners. HAS understand that collaboration is important in finding homes for animals and supports and recommends the continuation of working with HBSPCA and rescue partners to place every adoptable animal in a permanent home.

Staff acknowledges the value and impact that providing an adoption program will have on the lives of the animals that they care for daily. Many staff donated personal time toward creating the framework for an adoption program and operating the pilot. Staff were fully engaged and empowered by the adoption program.

**Stoney Creek Shelter – 345 Jones Road**

A municipal adoption service was provided at the Jones Road Animal Shelter in Stoney Creek until 2006. The shelter was closed after considerable reduction to the shelter's operating budget and a cost benefit analysis indicated that not enough animals were being adopted to cover the cost of operating the shelter.

The Jones Road Shelter has recently been prepared as a rabies confinement area. Public Health has utilized this facility for a low-cost rabies vaccination clinic. This facility can be used as an education facility for responsible pet ownership, community outreach for citizens and their pets, dog bite prevention and City staff training.

It is estimated that to operate an adoption service from this facility would require a minimum annual budget of approximately \$220,000 to cover two FTE staffing and building operating costs. This estimate does not include start-up costs, food and medical and transportation expenses associated with caring for the animals. Operating animal adoption from the Stoney Creek facility is not feasible at this time as no budget enhancement has been requested with the adoption pilot recommendation. However, the Stoney Creek shelter could be utilized for temporary adoption events and microchip clinics.

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**Engaging the Community**

Medical care is a major expense in operating an adoption program. As a responsible animal shelter, it is necessary that all adoptable dogs and cats are sterilized and vaccinated against rabies prior to being placed for adoption. Local veterinarians are supportive of the adoption initiative and have provided the City with a reasonable rate to spay / neuter animals for the adoption program.

The City, as a part of its municipal adoption program, will require all pets to be taken to a qualified veterinarian within 72 hours of adoption. This will not only ensure that the pet is healthy coming from a shelter environment, but it also establishes a relationship with a local veterinarian for the pet's ongoing care.

In addition, HAS partnered with the University of Guelph Ontario Veterinary College for the spaying / neutering of suitable cats and dogs under the veterinary surgery program. This is an excellent program for the City of Hamilton to be engaged in. The surgery training program is offered to HAS several times a year. Animals are spayed / neutered at no cost to HAS and several animals can be altered in one surgery appointment resulting in minimal transportation costs. Any additional animals that are altered are given to rescue organizations for their adoption program.

Most municipalities utilize volunteers and foster families to assist with the adoption programs. A volunteer / foster program would engage citizens in the adoption plan. Volunteers and foster families would enhance existing operations and promote Animal Services in a positive manner.

The volunteer program has been developed in conjunction with the adoption pilot. A volunteer program will complement the existing services that HAS provides. The animals in the shelter will benefit from the added social attention and the interaction will enrich the lives which in turn will make the animals more adoptable.

Through the use of foster homes, animals that do not do well in a shelter environment can be fostered in a home until ready for adoption. Fostering animals in a home is a much healthier environment than a shelter. As a result, medical costs for these animals and the shelter may be reduced. Also, a foster program will assist with the intake constraint as healthy adoptable animals are transferred into homes and not staying in the shelter.

**Donations**

HAS receives charitable donations toward medical costs of animals suitable for adoption and to provide comfort and care of animals while staying in the shelter. For example:

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- A direct donation was received for a special needs cat that had been waiting in the shelter for a lengthy period of time. The donation covered the cost of medical testing and the long term resident cat was able to be adopted from HAS; and,
- A significant donation was given to HAS to create a healthier environment for the cats at the Dartnall Road Shelter and provide a “comfort and enrichment area”. The area has been designated as “First Responders Room”. This area of the shelter can also be utilized for potential adopters to interact with cats before adopting.

There is potential for the amount of donations to increase with the establishment of an adoption program. The public may be inclined to donate toward the medical costs of shelter animals if it will help the animal become a viable adoption candidate. Most municipalities accept donations to help better the lives of the shelter animals.

### **Measuring Program Outcome**

The animal shelter industry has changed considerably over the past 15 years. Most shelters have seen a decline in the number of animals entering the shelter. Past practice was to bring the cats into the shelter and euthanize. Staff discontinued the practice of picking up healthy stray cats in effort to manage the intake volume.

Present focus is on educating owners on the responsibility of having a pet; providing their pet with identification, spaying / neutering their pet and to acquire the pet from a reputable source or consider adoptions. All of these areas affect the operation of the animal shelter. An adoption program is another avenue for positive progressive change for the shelter.

The metrics used to measure the success of an adoption program will be;

- Number of animals adopted;
- Length of stay (LOS);
- Live release rate (live outcomes for domestic animals);
- Euthanasia rate;
- Impact on Animal Services staff and financial statistics; and,
- Impact on community partners / stakeholders.

There are many intangible benefits to the City providing an adoption service.

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<b>Benefits of an Adoption Program</b>	<b>Challenges of an Adoption Program</b>
<p><b>Societal Benefits</b></p> <ul style="list-style-type: none"> <li>✓ Pets can enrich the health and well-being of their owners</li> <li>✓ Rescuing an animal can be emotionally rewarding</li> <li>✓ Adopting a shelter animal saves lives</li> <li>✓ Improve image of City of Hamilton and HAS (no longer a “kill shelter”)</li> <li>✓ Positive humane outcomes for animals waiting in shelter</li> <li>✓ Engaging community in volunteering and fostering</li> <li>✓ Being part of the solution of rehoming adoptable pets</li> <li>✓ Stopping the cycle of unwanted litters by ensuring sterilization before leaving shelter</li> <li>✓ Educating public on responsible ownership thus reducing number of animals entering shelter</li> <li>✓ Increase in revenue through public donations to assist adoptable animals</li> <li>✓ Eligible to apply for grants to subsidize food costs, education and animals service related programs</li> <li>✓ Partnering with the community</li> </ul>	<ul style="list-style-type: none"> <li>✓ Additional workload for staff</li> <li>✓ Financial pressure of operating a full program</li> <li>✓ Full program would require a facility, staff and budget</li> <li>✓ Not a profit making initiative</li> <li>✓ Impact on HBSPCA’s selection of animals</li> <li>✓ Impact on Rescue Partners – concerns expressed that they would be left with medical and elderly animals</li> </ul>

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**SUBJECT: Animal Adoptions for the City of Hamilton (PED18004) (City Wide) -  
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<b>Benefits of an Adoption Program</b>	<b>Challenges of an Adoption Program</b>
<p><b>Work Place Investment</b></p> <ul style="list-style-type: none"> <li>✓ Staff morale – engaged and empowered, collective ownership for project, pride in work</li> <li>✓ Adoption is an investment in employees; staff are supportive and engaged in the workplace</li> <li>✓ Aid with employee wellness; shelter environment and euthanasia has high impact on stress and emotional welfare of employees</li> <li>✓ With an adoption program, HAS will be able to manage the flow of animals in the shelter</li> <li>✓ Enhance existing relationships with rescues and HBSPCA – encourage a team approach. The ultimate goal is to find placement for animals that come into the shelter</li> <li>✓ Providing rescue partners with readily adoptable pets through Rescue Roster process</li> <li>✓ Ability to apply for pet charity grant</li> </ul>	

### **Partnership with HBSPCA**

Animal Services has partnerships with many rescue organizations in the community including the HBSPCA. Establishing a joint animal adoption program between HAS and HBSPCA would be difficult due to the fundamental differences in both HAS and HBSPCA's structure and philosophy. Both parties agree that humane and ethical treatment is the best outcome for the animals. However, the mandates for each party differ. HBSPCA is an affiliate of the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) and is responsible for the protection of animals from people. Animal Services is responsible for the protection of people from animals. Furthermore, the HBSPCA is a private organization with private funding sources.

HAS is the pound and is the only party authorized to shelter stray and unowned animals. As such, HAS is under the lens of Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). HAS is legally required to maintain and make available to OMAFRA all records concerning the disposition of all animals that come into the shelter. As per OMAFRA, any animal leaving the shelter to a rescue is still under the responsibility of HAS. All partnering rescue groups are required to sign an agreement to provide, upon request, the adopter's information for each animal that was given to them by HAS.

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**SUBJECT: Animal Adoptions for the City of Hamilton (PED18004) (City Wide) -  
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### **Animal Adoption Pilot Program**

A municipal adoption service can be provided by HAS and still maintain a collaborative relationship with HBSPCA and rescue partners. All groups share a common purpose in saving animal lives and can work together to achieve the goal.

A municipal adoption program is a natural continuation of animal services for the community. Allowing staff to engage in an 18 month pilot will allow for the assessment of the impact on the HBSPCA and rescue partners operations as well as staff requirements of HAS.

If approved, the initial focus will be on cats as there is an overabundance at the shelter. Prior to adoption, all cats will be;

- Spayed / neutered to eliminate the chance of any additional litters;
- Microchipped and provided with a lifetime cat registration for identification if the cat becomes lost; and,
- Vaccinated against rabies in effort to combat the rabies concern facing the City.

Through adoptions, the City can ensure that all dogs and cats leaving the shelter are altered. This will prevent unwanted litters and could potentially, over time, reduce the number of unwanted animals coming into the shelter.

The adoption fees need to be set at a cost that encourages the public to adopt a shelter pet. The adoption fee would recover some of the sheltering cost as well as the cost of spaying / neutering, vaccinations, microchipping and licensing. The set adoption fees will be the subject of an upcoming report if a municipal adoption program is approved by Council.

Adoptions would be advertised through Facebook, E-Adoptions, featured on the City's website and through other popular social media avenues such as Petfinder. Potential adopters are utilizing social media and searching for pets electronically rather than touring a shelter since a visit to a local shelter can be too emotionally difficult for some individuals.

Pets will continue to be showcased through local pet food stores as well as other local businesses. Satellite locations allow the pets to be brought into the communities. The more avenues for adoption will result in more animals being saved.

Any readily adoptable pet that cannot be rehomed by HAS will be offered to rescue partners on a rotation basis in effort to be fair and equitable to all partners.

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Adoptions will allow the opportunity for a shelter animal to have a second chance at life. There are never enough adoption opportunities for the animals that come into our care. Limiting adoptions to the existing partners, (HBSPCA and rescue groups) is seriously limiting the lifesaving potential within our City.

### **ALTERNATIVES FOR CONSIDERATION**

See Appendix “E” to this Report for alternatives.

### **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

#### **Community Engagement & Participation**

*Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.*

#### **Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

#### **Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

#### **Our People and Performance**

*Hamiltonians have a high level of trust and confidence in their City government.*

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A”: Animal Services – 2016 Shelter Intake Statistics

Appendix “B”: Municipal Animal Shelters

Appendix “C”: Public Engagement Survey

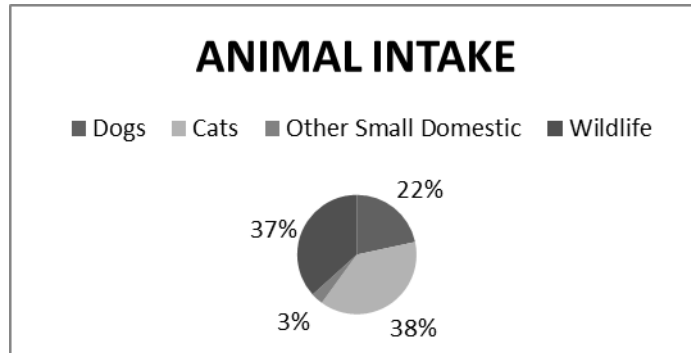
Appendix “D”: Adoption Pilot Cost Analysis

Appendix “E”: Alternatives for Consideration

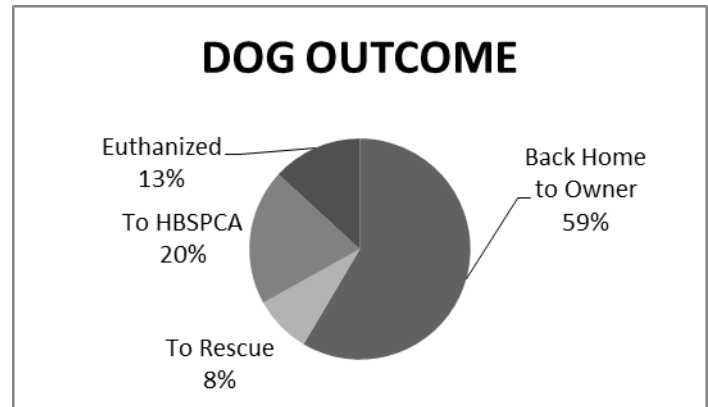
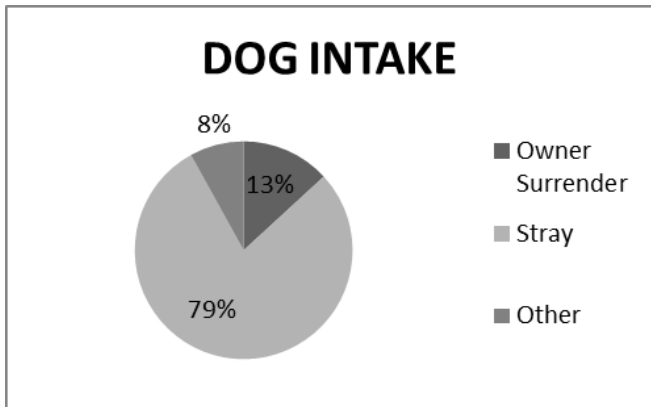
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## Appendix "A" to Report PED18004 - Page 1 of 1 Animal Services – 2016 Shelter Intake

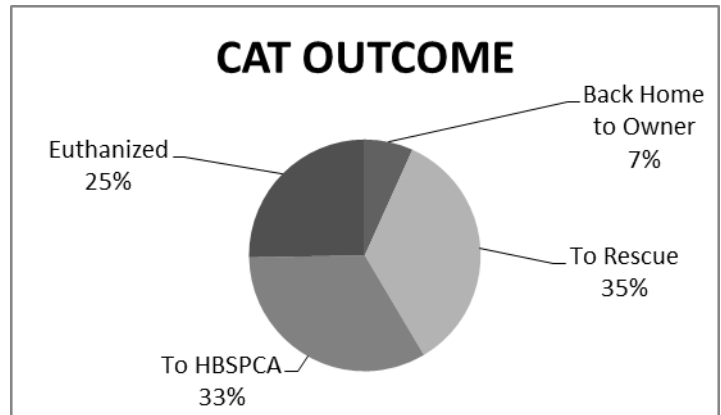
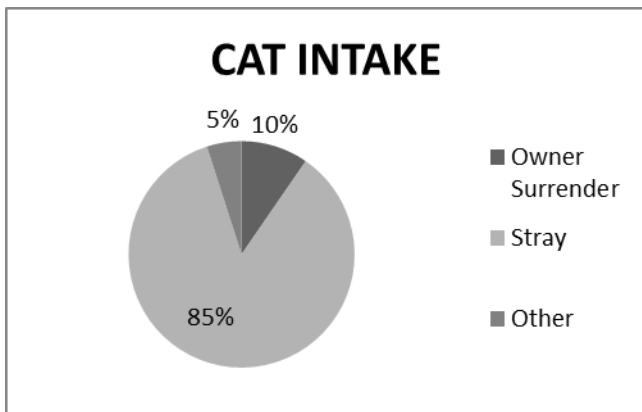
Animal Services took in and cared for 5411 animals



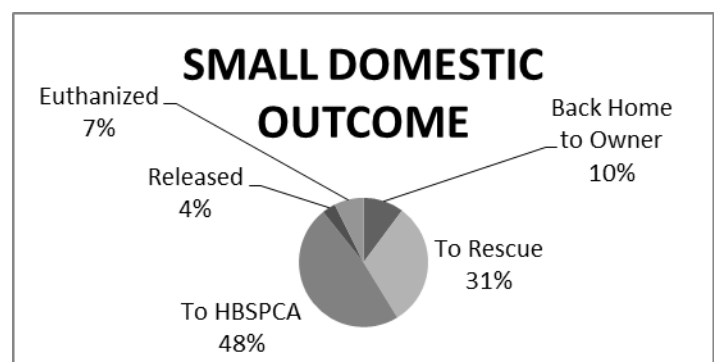
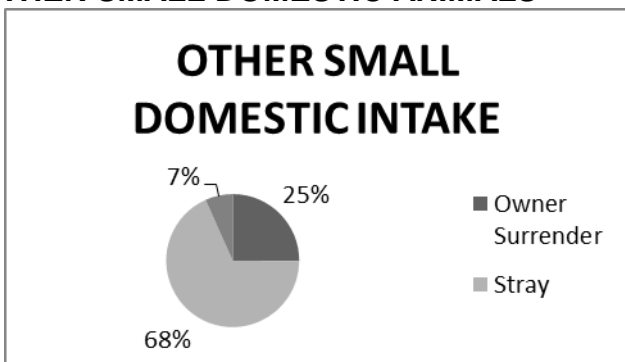
### DOGS



### CATS



### OTHER SMALL DOMESTIC ANIMALS



**Municipal Animal Shelters**

City	City Staff / Contracted	Cat	Dog	Includes Spay / Neuter	Includes Vaccines
Toronto	City staff	\$75	\$185 - \$215	Yes	Yes
Burlington	City staff	\$92	\$122	Yes	Yes
Mississauga	City staff	\$20 - \$193	\$121 - \$262	Yes	No Rabies
Brampton	City staff	\$111	\$172	Yes	Yes
*Markham OSPCA	Both	\$75	n/a	Yes	Yes
*London LACC	Both	\$135	\$205	Yes	Yes
*Guelph Humane	Contracted	\$230	\$275	Yes	Yes
*Ottawa Humane	Both	\$170 - 250	\$145 - \$375	Yes	Yes

\* City's Adoption Services contracted out

## Public Engagement Survey

Should the City of Hamilton Animal Services provide an adoption service in effort to increase the positive outcomes for the animals in our shelter?

Answer Options	Response Percent	Response Count
Yes	88.3%	496
No	3.9%	22
Uncertain	7.8%	44

If the City of Hamilton offered an adoption service, would you consider adopting from Animal Services if you wanted a pet in the future?

Answer Options	Response Percent	Response Count
Yes	92.4%	522
No	2.1%	12
Uncertain	5.5%	31

Should the City of Hamilton continue to rely on rescue organizations to find homes for animals instead of creating its own adoption service?

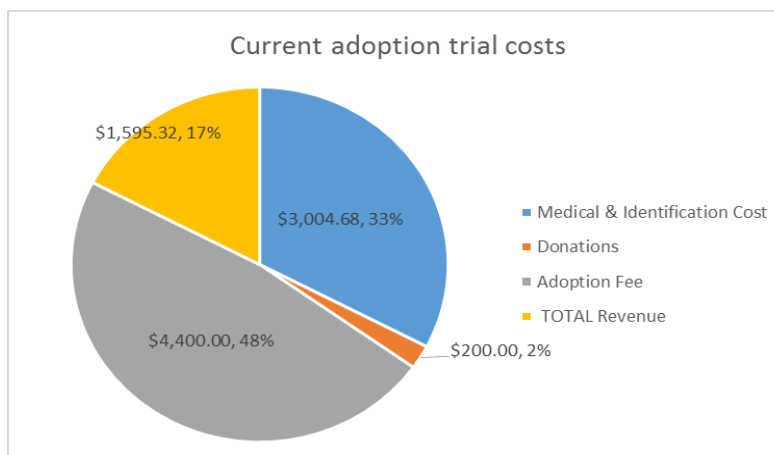
Answer Options	Response Percent	Response Count
Yes	15.3%	86
No	53.6%	302
Uncertain	31.1%	175

Presently, the HBSPCA is given the first opportunity to select any of our animals for their adoption program. Any adoptable animal not selected by the HBSPCA can be selected by one of our animal rescue partners. Animals are transferred from the City's animal shelter to the HBSPCA or rescue groups at no charge. Should the City of Hamilton charge a nominal fee for healthy adoptable animals that are given to the HBSPCA and rescue organizations for their adoption programs to help recover some of the medical and sheltering costs associated with these animals?

Answer Options	Response Percent	Response Count
Yes	33.0%	187
No	46.8%	265
Uncertain	20.1%	114

## Animal Services Adoption Pilot Analysis July to September 2017

Cat Name	Requires Spay or Neuter	Rabies vaccinations Completed	Microchipped	Location of Animal	Status of Cat	Medical & Identification Cost	Donations	Adoption Fee	TOTAL Revenue
Halo	Neuter	Yes	Yes	PetSmart	adopted	\$107.83		\$150.00	\$42.17
Snap	Neuter	Yes	Yes	PetSmart	adopted	\$119.68		\$150.00	\$30.32
Crackle	Neuter	Yes	Yes	PetSmart	adopted	\$119.68		\$75.00	-\$44.68
Pop	Neuter	Yes	Yes	PetSmart	adopted	\$119.68		\$150.00	\$30.32
Maple	No	Yes	Yes	PetSmart	adopted	\$54.30		\$150.00	\$95.70
Rosie	No	Yes	Yes	PetSmart	adopted	\$321.69	\$200.00	\$50.00	-\$71.69
Oz	No	Yes	Yes	PetSmart	adopted	\$44.35		\$150.00	\$105.65
Hymy	No	Yes	Yes	PetSmart	adopted	\$44.35		\$150.00	\$105.65
Leo	Neuter	Yes	Yes	PetSmart	adopted	\$99.68		\$150.00	\$50.32
Lilly	Spay	Yes	Yes	PetSmart	adopted	\$139.68		\$150.00	\$10.32
Lucas	Neuter	Yes	Yes	PetSmart	adopted	\$99.68		\$150.00	\$50.32
Zola	Spay	Yes	Yes	Foster	adopted	\$148.38		\$150.00	\$1.62
Oscar	Spay	Yes	Yes	PetSmart	adopted	\$149.07		\$150.00	\$0.93
Theodore	Spay	Yes	Yes	PetSmart	adopted	\$149.07		\$150.00	\$0.93
Marshmallow	No	Yes	Yes	Rescue	Rescue	\$44.35		\$0.00	-\$44.35
Batman	Neuter	Yes	Yes	PetSmart	adopted	\$97.83		\$150.00	\$52.17
Charm	Spay	Yes	Yes	PetSmart	adopted	\$121.83		\$150.00	\$28.17
Bea Bea	Spay	Yes	Yes	PetSmart	adopted	\$380.75		\$150.00	-\$230.75
Ottawa	No	Yes	Yes	PetSmart	adopted	\$24.88		\$150.00	\$125.12
Lady Black	No	Yes	Yes	PetSmart	adopted	\$24.88		\$150.00	\$125.12
Lady	No	Yes	Yes	PetSmart	adopted	\$71.83		\$150.00	\$78.17
Roger	No	Yes	Yes	PetSmart	adopted	\$54.30		\$75.00	\$20.70
Pounce	Neuter	Yes	Yes	PetSmart	adopted	\$31.35		\$150.00	\$118.65
Della	Spay	Yes	Yes	PetSmart	adopted	\$61.88		\$150.00	\$88.12
Mabel	No	Yes	Yes	PetSmart	adopted	\$47.83		\$150.00	\$102.17
Jade	Neuter	Yes	Yes	PetSmart	adopted	\$47.83		\$150.00	\$102.17
Mack	Neuter	Yes	Yes	Foster	adopted	\$54.30		\$150.00	\$95.70
Chai	Neuter	Yes	Yes	Foster	adopted	\$47.83		\$150.00	\$102.17
Wicca	Spay	Yes	Yes	PetSmart	adopted	\$24.88		\$150.00	\$125.12
Tux	No	Yes	Yes	PetSmart	adopted	\$24.88		\$150.00	\$125.12
Tippy	No	Yes	Yes	PetSmart	adopted	\$54.30		\$150.00	\$95.70
Chirp	Spay	Yes	Yes	PetSmart	adopted	\$71.83		\$150.00	\$78.17
<b>TOTAL</b>						<b>\$3,004.68</b>	<b>\$200.00</b>	<b>\$4,400.00</b>	<b>\$1,595.32</b>



## Appendix "D" to Report PED18004 - Page 2 of 2

<b>Cat Adoption Cost Benefit Analysis</b>								
<b>Expenses</b>	<b>Shelter Expenses</b>	<b>Avg 10 day stay</b>	<b>Male Cat Unaltered @ \$150</b>	<b>Female Cat Unaltered @ \$150</b>	<b>Male Cat Unaltered @ \$180</b>	<b>Female Cat Unaltered @ \$180</b>	<b>Male Cat @ \$150 With Volunteers</b>	<b>Female Cat @ \$150 With Volunteers</b>
<b>Employee Costs</b>								
Officer			\$53.00	\$53.00	\$53.00	\$53.00		
ACA			\$27.00	\$27.00	\$27.00	\$27.00		
Operations			\$7.75	\$7.75	\$7.75	\$7.75	\$7.75	\$7.75
Mileage			\$3.12	\$3.12	\$3.12	\$3.12	\$3.12	\$3.12
Sheltering for 5 Days	\$50.00	\$100.00						
<b>Subtotal</b>	<b>\$ 50.00</b>	<b>\$100.00</b>	<b>\$90.87</b>	<b>\$90.87</b>	<b>\$90.87</b>	<b>\$90.87</b>	<b>\$10.87</b>	<b>\$10.87</b>
<b>Medical</b>								
Triage	\$19.38	\$19.38						
Rabies	\$13.00	\$13.00						
Spay Neuter			\$40.00	\$80.00	\$40.00	\$80.00	\$40.00	\$40.00
<b>Subtotal</b>	<b>\$32.38</b>	<b>\$32.38</b>	<b>\$40.00</b>	<b>\$80.00</b>	<b>\$40.00</b>	<b>\$80.00</b>	<b>\$40.00</b>	<b>\$80.00</b>
<b>Identification</b>								
Microchip			\$9.95	\$9.95	\$9.95	\$9.95	\$9.95	\$9.95
Registration			\$13.00	\$13.00	\$13.00	\$13.00	\$13.00	\$13.00
<b>Subtotal</b>			<b>\$22.95</b>	<b>\$22.95</b>	<b>\$22.95</b>	<b>\$22.95</b>	<b>\$22.95</b>	<b>\$22.95</b>
<b>Adoption</b>								
Fee			(\$150.00)	(\$150.00)	(\$180.00)	(\$180.00)	(\$150.00)	(\$150.00)
PetSmart Rewards			(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)	(\$10.00)
<b>Subtotal</b>			<b>(\$160.00)</b>	<b>(\$160.00)</b>	<b>(\$190.00)</b>	<b>(\$190.00)</b>	<b>(\$160.00)</b>	<b>(\$160.00)</b>
<b>TOTALS</b>	<b>\$82.38</b>	<b>\$132.38</b>	<b>(\$6.18)</b>	<b>\$33.82</b>	<b>(\$36.18)</b>	<b>\$3.82</b>	<b>(\$86.18)</b>	<b>(\$46.18)</b>



## Appendix “E” to Report PED18004 - Page 1 of 1

## Alternatives for Consideration

Concept	Details	Pros	Cons
Contract Services Out	Contractor responsible for all outcomes after hold period (i.e adoption, rescue, euthanasia)	<ul style="list-style-type: none"> <li>• More available intake space</li> </ul>	<ul style="list-style-type: none"> <li>• No control over animal outcomes</li> <li>• Loss of community relations</li> <li>• Negative impact on HBSPCA and rescue partners</li> <li>• Loss of existing partnerships</li> <li>• Contract is costly</li> <li>• Difficult to monitor and administrate contract</li> <li>• Unlikely to find competent bidder</li> </ul>
HBSPCA Partnership	Sharing of all costs and benefits for adopted animals	<ul style="list-style-type: none"> <li>• Collaboration toward common goal</li> <li>• Recovery of sheltering and medical costs</li> </ul>	<ul style="list-style-type: none"> <li>• Limited capacity for animals</li> <li>• Negative impact on donations for HBSPCA</li> <li>• Confusion for public over responsibilities and mandates</li> <li>• Elimination of other rescue partners</li> </ul>
Charge Fee for Animals transferred to adoption programs	All animals transferred to outside agencies will have a nominal fee	<ul style="list-style-type: none"> <li>• Cost recovery of medical and sheltering costs</li> </ul>	<ul style="list-style-type: none"> <li>• Unaffordable for rescue organizations</li> <li>• Reduction of partners willing to take animals</li> <li>• Public not in favour</li> <li>• Negative appearance for City</li> </ul>
Adopt Animals from Stoney Creek, Flamborough and Glanbrook only. HBSPCA continues to have first right of refusal for Hamilton, Ancaster and Dundas animals.	These areas were not considered in original arrangement with HBSPCA	<ul style="list-style-type: none"> <li>• Generate some revenue for shelter animals</li> </ul>	<ul style="list-style-type: none"> <li>• Very confusing for public</li> <li>• Difficult to manage and operate</li> <li>• Promotes separation between communities</li> </ul>
Euthanize after Hold Period	Animals not returned to owner by end of stray hold period are euthanized in queue to create intake space	<ul style="list-style-type: none"> <li>• Reduce sheltering and food costs</li> </ul>	<ul style="list-style-type: none"> <li>• Public Backlash</li> <li>• Not an acceptable option for Animal Community</li> <li>• Staff morale</li> <li>• Increase in euthanasia costs</li> </ul>



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	February 20, 2018
<b>SUBJECT/REPORT NO:</b>	Response to the Ministry of Municipal Affairs and Ministry of Housing Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning) (City Wide) (PED18063)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Edward John (905) 546-2424 Ext. 5803
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning Division
<b>SIGNATURE:</b>	

### RECOMMENDATION

- (a) That Council endorse the comments and recommendations contained in Report PED18063 and that the City Clerk be directed to forward Report PED18063 and Appendix "A" to the Ministry of Municipal Affairs and the Ministry of Housing as formal comments in response to the proposed regulatory content concerning Inclusionary Zoning; and,
- (b) That following the proclamation of Bill 7, the *Promoting Affordable Housing Act*, staff be directed to consult with the community and report back to Planning Committee with a proposed framework for inclusionary zoning in Hamilton.

### EXECUTIVE SUMMARY

This Report responds to the request for comments regarding the proposed regulatory content related to inclusionary zoning placed upon the Environmental Registry (EBR) by the Ministry of Municipal Affairs and the Ministry of Housing. The regulation was posted on the EBR December 18, 2017 and a 45 day submission requirement was provided, with the deadline for comments being February 1, 2018. Draft comments which are detailed within Appendix "A" to Report PED18063 were submitted to the Province on January 22, 2018. Once endorsed by Council, this Report including Appendix "A" to Report PED18063 will be forwarded to the Province as the City's final comments.

This Report has been completed in collaboration with the Housing Services Division.

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**SUBJECT: Response to the Ministry of Municipal Affairs and Ministry of Housing  
Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning)  
(City Wide) (PED18063) - Page 2 of 11**

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***Alternatives for Consideration – See Page 10***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** There are no financial implications as a direct result of this Report, but if Council elects to pursue inclusionary zoning, then determining individual program elements of an inclusionary zoning framework at the local level and preparing an Inclusionary Zoning By-Law, will require resources and a number of studies. The source of the funding required to finalize these matters has not been determined, but capital funding for the necessary staff to conduct the research, implementation and monitoring may be required.

Depending on the specifics of the regulation ultimately established by the Province, implementation of an inclusionary zoning framework could require financial offsets, including exemptions of Development Charges and parkland dedication fees. Resources would also be required to establish agreements to enforce the inclusionary zoning, and to monitor, track and enforce the agreements to ensure affordability over the long term.

**Staffing:** There are no staffing implications as a direct result of this Report, but if Council elected to implement inclusionary zoning, staff resources would be required to undertake detailed evaluation of growth forecasts, detailed market studies, and modelling of various development scenarios, as well as to implement, and administer the program. Implementation would include drafting agreements, monitoring affordability and eligibility over the length of the affordability period, reporting, etc. The amount of staff resources required is unknown at this time.

**Legal:** There are no legal implications as a direct result of this Report, but if Council elected to implement inclusionary zoning there would be legal implications related to developing agreements, administration, registering instruments on title, and enforcing legal agreements.

**HISTORICAL BACKGROUND**

On March 14, 2016, the Ontario Government provided an update to the Long-Term Affordable Housing Strategy. Part of the update included proposed legislation for Inclusionary Zoning (IZ). This legislation was in response to numerous requests received during the consultation on the strategy update, including a request from the City for the Province to establish an Inclusionary Zoning framework through Report CES15032 and the responses to Bill 73 provided in Report PED15093.

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**SUBJECT: Response to the Ministry of Municipal Affairs and Ministry of Housing  
Consultation on the Regulatory Content of Bill 7 (Inclusionary Zoning)  
(City Wide) (PED18063) - Page 3 of 11**

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The proposed legislation and associated regulations would allow municipalities to mandate that affordable housing units be provided by development proponents as part of residential development projects.

On May 18, 2016, Ontario introduced Bill 204, which is now referred to as the *Promoting Affordable Housing Act, 2016 (Bill 7)*. The bill, proposed amendment to six provincial acts: the *Development Charges Act, 1997*; *Housing Services Act, 2011*; *Planning Act 1990*, *Residential Tenancies Act, 2006*; *Smart Growth For Our Communities Act, 2015* and *Elderly Persons Housing Aid Act, 1990*.

The *Promoting Affordable Housing Act, 2016 (Bill 7)* was introduced on September 14, 2016 and received Royal Assent on December 8, 2016.

The current matters under consideration concern the proposed regulatory content related to inclusionary zoning should the proposed legislation be proclaimed.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Bill 204 Changes**

Bill 204 proposed to amend six provincial acts. Those acts with an impact on land use planning were the *Development Charges Act, 1997*; *Planning Act, 1990*; and *Smart Growth For Our Communities Act, 2015*.

Key amendments proposed in Bill 204 include:

1. Under the proposed legislation certain municipalities prescribed by regulation will be **required** to implement inclusionary zoning through their Official Plan policies and by passing an inclusionary zoning by-law. Other municipalities, those not prescribed by regulation, **may** choose whether or not to implement inclusionary zoning. The Ministry has been clear through the consultation materials and discussions with staff, that there is no intention to require any municipalities to implement inclusionary zoning. Municipalities will only be enabled to do so. The “required” language is in the legislation only in case the Ministry finds that it is necessary to require inclusionary zoning at some undefined point in the future;
2. Official Plan policies and by-laws to authorize inclusionary zoning, including “any condition, requirement or standard relating” to inclusionary zoning are only appealable by the Minister;
3. A by-law passed by a municipality to give effect to implement inclusionary zoning policies:

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- a. **must** include requirements for the number of affordable housing units to be provided, the period of time affordability must be maintained, and the requirements and standards that affordable housing units must meet;
  - b. **must** require that the owners of the new development enter into an agreement with the municipality to implement the requirements set by the by-law. Such agreements may be registered on title and enforced on subsequent owners;
  - c. **may** include measures and incentives to support inclusionary zoning, unless they are otherwise required by regulation. Measures are planning permissions that can help off-set the cost of building the affordable units, such as increased height and density and reduced parking standards. Incentives are fee waivers, grants, loans, loan guarantees, etc. provided by the municipality;
  - d. **may** determine the price at which affordable housing units are sold or rented. Generally, successful inclusionary zoning programs are able to meet the need for slightly below market housing rather than more deeply affordable housing;
  - e. **may** set requirements and standards regarding exterior access, the shape and dimensions of each affordable housing unit, and the approximate location of the affordable units relative to the market rate units. It is uncertain if the affordable units are required to be exactly like the market units, or if some concessions can be made to increase the affordability of the units, such as reduced size, specific location within the development, lesser quality of finishings, etc.; and,
  - f. **may** require that in the case of condominium projects, any shared facilities agreements are acceptable to the municipality.
4. Other parameters and requirements for implementation of inclusionary zoning include:
- a. A requirement for municipalities to monitor and ensure that the affordability of the units is maintained for the required period of time;
  - b. Municipalities may not use density bonusing (Section 37) to obtain a community benefit from the developer in addition to the affordable units;
  - c. Municipalities may not accept cash-in-lieu of the affordable housing units, or permit affordable housing units be built on a different site. The intent of this requirement is to ensure that there would be affordable units in every development, ensuring a mix of incomes in every neighbourhood;

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- d. Minor variances may not be granted to the inclusionary zoning portion of a by-law; and,
- e. Long-term leases of new developments containing affordable housing units are exempt from subdivision and part-lot control.

An additional proposed change to the *Planning Act* that any policies, or parts of by-laws that give effect to policies permitting second dwelling units, including any requirement or standard relating to second dwelling units, are not appealable.

### **Proposed *Planning Act* Regulations**

Many of the details regarding implementation of inclusionary zoning will be addressed by provincial regulation the proposed content of which is the subject of this Report. Official Plan policies and zoning by-laws will be required to comply with the regulations.

### **Urban Hamilton Official Plan (UHOP)**

- 3.2.3.1 The City shall endeavour to provide a facilitative land use planning process for development applications for *affordable* housing and *housing with supports*.
- 3.2.3.2 Where appropriate, assistance shall be provided, either by the City and/or by senior governments, to encourage the *development* of *affordable* housing, with priority given to projects in areas of the City that are lacking in *affordable* housing. City assistance may include selling or leasing of surplus City land or financial assistance.
- 3.2.3.4 The City shall identify, promote and, where appropriate, participate in *affordable* housing opportunities funded by senior levels of government.
- 3.2.3.5 The City shall encourage senior levels of government to adopt a 'Housing First' policy whereby *affordable* housing uses are given priority in the disposition of surplus government owned land.
- 3.2.3.6 Investment in new *affordable* housing shall be encouraged by a coordinated effort from all levels of government through implementation of a range of strategies, including effective taxation, regulatory and administrative policies and incentives.

The above policies are also contained within the Rural Hamilton Official Plan.

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**Housing and Homelessness Action Plan (HHAP)**

The goal of the following strategies in the City's ten year Housing & Homelessness Action Plan is to increase the supply of affordable housing and promote a mix of incomes in neighbourhoods. Inclusionary zoning has the potential to further both of these objectives.

Outcome Area 1: There is more affordable rental and ownership housing in Hamilton to meet the need and demand.

Strategy 1.4: Explore the feasibility of **inclusionary zoning** and seek necessary provincial legislative changes that would facilitate the implementation of inclusionary zoning in Hamilton.

Outcome Area 2: There is an increase in people's housing affordability, stability and choice

Strategy 2.1(a): Encourage mixed housing and mixed income development in all urban neighbourhoods by: increasing opportunities for rental, social and affordable housing in areas that currently offer limited opportunities.

Strategy 2.2: Develop a policy and strategy to ensure the low and moderate income households in neighbourhoods experiencing economic growth and transformation are not displaced or negatively impacted by gentrification.

**RELEVANT CONSULTATION**

**Housing and Homelessness Planning Group**

The Housing and Homelessness Planning Group reviewed the regulatory content and were in support of the position of staff articulated within Appendix "A" to Report PED18063.

**Development Industry Liaison Group**

The Development Industry Liaison Group (DILG) was provided a brief overview of the proposed regulatory content. Given the significant and complex implications raised within the proposed regulations, separate and more detailed responses are expected to be provided by DILG directly to the Ministry. The high-level responses included the following comments:

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- Geographical areas within Hamilton offer varying levels of services. A city wide application would need to identify need and suitability of the location of IZ units.
- Incentives currently exist within certain areas of Hamilton, whether it is Development Charges, Parkland Dedication or parking requirements. Clarification would be required to determine if incentives are to be above and beyond that which currently exists.
- Incentives are needed otherwise costs associated with an IZ framework will be transferred to the market purchasers.
- Similarly ongoing tax and condominium fees require discussion concerning who pays and if this will again be a cost born by market owners only.
- The required assessment report should be completed in conjunction with Municipal Comprehensive Review process.

Staff will investigate the issues raised at DILG as part of the IZ study that is required to be prepared.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Ontario's Long-Term Affordable Housing Strategy Update (LTAHS-U), released in March 2016, is an ambitious plan to increase the supply of affordable housing, transform the housing system, better support people, work in partnership with municipalities, end chronic homelessness, and more. Report CES15032(a) provides an overview of the changes put forward in the LTAHS-U. As part of the commitment to increase the supply of affordable housing, the LTAHS Update committed to bring forward legislation to enable municipalities to implement inclusionary zoning.

The proposed inclusionary zoning authority is intended to help municipalities increase the supply of affordable housing to meet the objectives and targets set out in municipal housing and homelessness plans and official plans.

### Inclusionary Zoning

Inclusionary Zoning refers to policies, by-laws and programs that require residential development proposals to include affordable housing units and provide for those units to be maintained as affordable over a period of time. This approach uses the land-use planning approvals process to require private-market development to provide below market-rate rental and/or ownership housing. Programmatic aspects ensure that the units are affordable for a period of time. That length of time and what constitutes "affordable housing" are two of several elements of inclusionary zoning that must be determined for each specific inclusionary zoning program.

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While inclusionary zoning can be targeted to varying parts of the housing spectrum, most successful programs are able to create housing, both rental and ownership housing, that is just under market rent or market price. This type of housing is often referred to as “key” or “essential” worker housing; housing for those workers who can’t afford a home near their work, but have too high an income to qualify for social housing. In this way, inclusionary zoning has the ability to contribute significantly to reducing affordability programs for those who can afford to pay just under market rates, but will not solve Hamilton’s affordable housing program. Additional City incentives such as rent subsidies would be required to create more deeply affordable housing.

### Proposed Inclusionary Zoning Regulations

The inclusionary zoning regulations proposed by Ministry of Municipal Affairs and Ministry of Housing have been summarized below:

#### 1. Prescribed Official Plan Policies

- Inclusionary zoning requirements would only apply to ownership, not rental units.
- Would only apply to development or redevelopments that propose no less than 20 residential units.
- Municipalities would determine applicable locations, range of household incomes eligible and set the average market price for each proposed unit type.

#### 2. Municipal Assessment Report

- Prior to adopting an inclusionary zoning by-law, municipalities must submit a Municipal Assessment Report to the Ministry outlining population and demographic information, municipal housing market trends and projections.

#### 3. Provisions

- Municipalities could require a maximum of 5% of new units/GFA (gross floor area) to be affordable, 10% if located in a high density transit station area.
- Affordability period - minimum 20 years, maximum 30 years.
- For 10 years after the affordability period, the unit is subject to sale price and sale provisions as determined in the regulation.

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- Municipalities would be required to provide financial incentive commensurate to 40% of the difference between the market price and the affordable price.
- These incentives could be direct or indirect including aspects such as Development Charge reductions, Parkland dedication reductions, parking reductions and application fee waivers.
- Density bonusing is not permitted as a means to off-set financial impact.

#### 4. Inclusionary Zoning Agreements

- The municipality shares in the equity of the affordable unit with the owner.
- The balance or share of proceeds related to the equity upon sale of a unit shifts from the municipality to the homeowner over time; whereas, when the owner has owned the home for two years or less, 90% of the proceeds go to the municipality and 10% go to the owner. After 20 years, 10% of proceeds go to the municipality while 90% goes to the owner.
- Sharing of the proceeds of equity limited only to the first sale of the unit, however, provisions are in place to limit the use of this property speculation (i.e. flipping of the property).

#### 5. Reporting

- Municipalities are required to monitor and regularly report back on the number, location and types of affordable units established through the program as well as proceeds related to the sale of affordable units.

#### 6. Off-site provisions

- Affordable units provided off-site must be located within proximity to the proposed development and lands must be zoned (unless a non-profit housing provider). Affordable units must be ready for occupancy within 36 months and may comprise no more than 50% of the project.

#### 7. Restrictions on s.37 (Bonusing)

- Inclusionary zoning units or GFA cannot be used to determine community benefits and would not be applicable within a community planning permit system.

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## 8. Exemptions

- Inclusionary zoning requirements are not applicable to non-profit housing providers, rental developments, where an application for building permit or site plan approval was made before the day that an inclusionary zoning by-law was passed or where concurrent applications were submitted before the day an Official Plan policy was adopted.

## 9. Community Planning Permit System

- Inclusionary zoning will be permitted to be implemented within a community planning permit system. A community planning permit system allows for review of development applications in a comprehensive fashion, whereby zoning and site plan process are conducted at the same time.

Given the short response time given by the Ministry (responses had a deadline of February 1, 2018), staff prepared responses and submitted these to the Ministry on January 22, 2018. This response is contained in Appendix “A” to Report PED18063 and staff noted that the comments provided were staff comments only to meet the Provincial deadlines and that formal City of Hamilton comments would be forthcoming once Council considered the matter.

### **Responses to the Proposed Inclusionary Zoning Regulations:**

The recommended responses to the draft inclusionary zoning regulations posed by the Province are in Appendix “A” to Report PED18063. In summary, it is the position of staff that the proposed regulatory content successfully balances the individual program and implementation elements that should primarily be determined at the local level with those that should be determined at the Provincial level. However, some elements determined at the Provincial level require additional consideration, in particular the requirement for a financial contribution by the municipality.

### **Additional Considerations:**

In addition to the above responses, staff raised a number of additional considerations including: the absence of provincial incentives and funding, as well as the need for additional planning tools to determine affordable unit suitability. These outstanding matters should be addressed by the Province.

### **ALTERNATIVES FOR CONSIDERATION**

The City could forego the opportunity to provide comments to the Province at this time.

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**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

*Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.*

**Healthy and Safe Communities**

*Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A”: City of Hamilton Responses to the Ministry of Municipal Affairs and Ministry of Housing proposed inclusionary zoning regulation

EJ:mo

**Ministry of Hamilton Response to the  
Ministry of Municipal Affairs and Ministry of Housing  
Regarding the Proposed Regulatory Content for Inclusionary Zoning with  
respect to *The Promoting Affordable Housing Act, 2016, Bill 204***

Summary of Responses to the Proposed Regulatory Content

1. Prescribed Official Plan Policies

The Municipalities would be required to adopt Official Plan policies that include provisions for the following:

Threshold:

As detailed in the proposed regulatory content, zoning by-laws giving effect to the Official Plan policies could only apply to development or redevelopments that propose no less than 20 residential units.

Comments:

As previously commented, staff were of the opinion that thresholds should be determined at the local level, to ensure the threshold size is responsive to the form, scale and type of current development occurring across Hamilton.

It was considered that at the municipal level, introduction of a sliding scale would assist in creating a meaningful threshold across the various geographical areas of Hamilton, as well as avoiding the potential for developments to be sized immediately below the threshold to avoid triggering the requirement for affordable units. This is particularly concerning given the potential for IZ to be applied to subdivisions, whereby developers may choose to register their developments in phases such that they do not trigger the requirement for affordable units.

Locations and Areas:

Staff are supportive of the discretion to choose appropriate locations within the Municipality to apply IZ requirements.

Range of Household Incomes:

Staff are supportive of the discretion to identify a range of household incomes for which IZ by-laws could provide for affordable housing units.

Average Market Price:

Staff are supportive of the municipal ability to identify an approach within their Official Plan policies to set, as well as vary across different locations within the municipality, an average market price for each proposed unit that may be required as affordable housing units in an inclusionary zoning by-law. This is particularly useful in a municipality such as Hamilton with a wide diversity of housing markets.

(i.e. urban and rural). This would create a more meaningful and responsive IZ framework.

Other:

Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ units.

2. Municipal Assessment Report

A reasonable requirement, but would require administrative funding to complete. The Province should provide additional resources and detailed guidelines.

3. Provisions Required in IZ By-laws

Unit Set Aside:

Staff previously commented that a broad minimum and maximum range would be beneficial, with the authority given to the municipalities to determine exact set aside requirements following review of local housing markets and the key targets established within the municipalities presiding policy documents (Official Plan / Housing and homelessness Action plan).

On this matter, the 5% set aside value is considered conservative and staff has concerns over the ability for such a value to satisfy increasing housing affordability issues within Hamilton. Based on the current regulations and applying the framework to Hamilton's 2017 development activity, Hamilton would have been able to secure approximately 30 IZ units in 2017.

Staff would instead prefer a higher maximum set aside with flexibility for municipalities to determine set asides based on local market dynamics and other IZ requirements. For instance the required set aside could be different for off-site IZ provision, housing types, etc.

Staff also raise the question regarding the authority to 'round up' or 'round down' values, and would request that this be a factor determined at the municipal level.

Notwithstanding this concern with the 5% set aside value, it is noted that this value does increase to 10% in 'high-density transit-station areas' identified within a municipality's Official Plan. These areas represent important opportunities to take advantage of increased intensification in locations that offer services considered important for those residents who are in search of affordable units.

It is also noted that the flexibility in where the IZ by-laws can be applied and the determination of the threshold level by the regulation are inter-related matters and determination of these factors should be reviewed collectively. On this basis, while the applicability of the IZ framework may be tempered by the provisions determined

within this regulation, they do provide some much needed clarity on the extent and direction IZ by-laws should take.

Finally, the ability to consider either unit numbers or gross floor area with regards to the amount of the development to be used for affordable housing is a more responsive and fair approach.

Affordability Period:

Hamilton is supportive of the range of affordability period of 20 to 30 years and for the precise term to be determined by the Municipality.

Hamilton is generally supportive of a shared equity model and the lack of restriction on the use of municipal proceeds from the sale of an IZ unit. In 4. iv) "the price at which the owner sold the affordable housing unit" should reference "fair market value."

Measures and Incentives:

The requirement for municipalities to provide direct financial incentives would make an inclusionary zoning framework unworkable. Councils would find it challenging to support financial incentives for ownership housing that is moderately affordable at best. Based on the current proposed regulations, the City of Hamilton would likely have to forgo Development Charges on the 'affordable units' in order to achieve only shallow affordability (10% below market). Deeper affordability would result in potentially even further capital investment from the municipality.

The flexibility in the provision of measures (both direct and indirect) to account for the financial implications of an IZ By-law is noted, however, the City of Hamilton has already adopted a number of these measures to date, including reduced parking rates and fee waivers for affordable housing developments. As such, availability and appropriateness of additional incentives are limited within the Hamilton context.

Notwithstanding this, should indirect incentives be pursued, this raises questions over how, for instance, a value is determined for a parking space requirement which has been exempted. On this matter, direction on who and how measures / incentives are determined and applied is sought, given the concerns of potential arbitration with developers who may for example seek DC exemptions whereby municipal staff prefer to apply alternative measures to address the financial consideration.

With respect to density bonusing, it is appreciated that this is not considered a requirement, given that Hamilton has sought to ensure future zoning allowances represent significant consideration of how and where Hamilton grows, and bonusing above that may potentially undermine the vision of growth within Hamilton.

Staff consider that if incentives are to be mandated, it should be in instances where the municipality seeks to increase the set aside beyond 5% or alternatively where deeper affordability thresholds are sought. Under these circumstances, a 60/40

share in the financial impact beyond that contemplated in the regulations (based on the increase in units and / or affordability), would seem more appropriate. Further, it is noted that provincial opportunities such as Provincial Tax exemptions have not been considered and that these incentives could prove increasingly meaningful within the proposed framework.

Price:

Staff support the ability of municipalities to set prices (initial and resale prices) for inclusionary zoning units.

4. IZ Agreements

Staff are supportive of the municipal ability to place restrictions, in addition to an income threshold, on household eligibility to purchase IZ units.

Comments with respect to the proposed equity share model are addressed under "Affordability Period."

5. Reporting / Monitoring

Staff are generally supportive of reporting requirements.

6. Off-site Provisions

Staff are supportive of the flexibility to permit off-site provisions, albeit that consideration of cash-in-lieu would have been also complimentary to an IZ framework in Hamilton, given the variation in land values and varied Geography across Hamilton.

The clear requirements regarding how much, and timing for delivery of off-site provisions are appreciated. However, it is unclear what 'located in proximity' would mean, and what if any, the implications would be for units to be delivered in areas with different average market price.

Additionally, it is unclear as to what penalties the municipality could impose should adherence to the 36 month period not be satisfied. Clear guidance and potentially direction of which planning tools could be applied would be appreciated.

7. Restrictions on Use of s.37

Staff are satisfied with the flexibility and limitations placed within the use of s.37 options, and consider them a reasonable response to our previous comments.



## 8. Exemptions

Staff acknowledges that the decision to exempt rental housing units from IZ regulations is to encourage increased development of rental units, however; staff consider that the decision to exempt such units should be discretionary and made at the municipal level, based on the individual market impacts and variation across the municipality.

Staff support the decision to exempt non-profit housing providers from the regulations.

With respect to the proposed transitional exemptions, staff are supportive of the approach, which as previously commented, would provide sufficient time for developers to address their development pro-formas accordingly.

## 9. Community Planning Permit System

Although Hamilton currently does not have any plans to adopt CPPS, inclusion of IZ regulations within the amended O. Reg. is supportable.

## 10. General Matters

### Costs:

This IZ framework imposes an unfunded mandate on municipalities in the form of administrative program and monitoring costs. While there will be some influx funds as IZ units are sold, these should be reinvested into the program rather than used for reimbursement of administrative costs incurred many years previous.

### Suitability:

There was no mention in the regulations regarding powers to assess 'suitability' of the affordable units created. Clear criteria needs to be established in which to determine what makes a unit 'suitable'. If this is to be determined at the municipal level, guidance should be provided by the Ministry in order to ensure consistency in approach is secured across Municipalities.

On this matter, the 2017 Growth Plan requires municipalities to complete a Housing Strategy as part of the Municipal Comprehensive Review. The Growth Plan policies stress the importance of including affordable housing as part of the range and mix of housing options. Further, the Growth Plan, through policy 2.2.6.3, requires municipalities to "consider the use of available tools to require that multi-unit residential developments incorporate a mix of unit sizes to accommodate a diverse range of household sizes and incomes". Staff note that there is a lack of tools available through which a municipality can require the provision of a range of unit sizes within multi-residential buildings. Staff further note that the IZ regulations, as provided, do not provide any additional tools to aid municipalities in meeting this requirement. Staff require clarification from the Province regarding Growth Plan

policy 2.2.6.3 and the inability of municipalities to satisfy this policy in light of the lack of available tools.

Condominium Fees:

Given the inability of municipalities to use cash-in-lieu in the implementation of inclusionary zoning, buildings with comparatively high condominium fees may be required to provide affordable units. There is an outstanding question of how these fees would be applied to affordable units. Limited access or restrictions to shared facilities may be counter to the intent to create inclusive communities, whereas reduction or elimination of fees for occupants of the affordable units could lead to higher fees and tensions between those in the affordable units and owners of the market units.

Tenure:

The proposed regulations appear to be focused on an ownership model. However, rental remains a much required source of affordable housing within Hamilton. Would the IZ framework be able to be applied to secure rental units? If so, would this be permitted to be addressed within the Official Plan Policies?

For context Staff have also attached our previous comments sent to the Ministry with respect to the Promoting Affordable Housing Act 2016 (Bill 7).

## Previous Responses Sent to Ministry

### Planning Act Application Fees:

It is noted that the Minister will be prescribed powers to determine application fees. It is noted that the City of Hamilton has already provided fee waivers for certain development applications that are providing affordable housing. However, there would be concern over the decision to further modify the approach for application fees currently in operation within Hamilton. Application fees are based on cost recovery, understanding the staff time and subsequent costs to the municipality to review development applications. Additional fee reductions mandated from the province would have implications with respect to the review costs and budgetary operation of the City.

### Parking:

Bill 204 will provide the Minister the authority to determine parking and loading requirements for affordable units. A number of issues determine parking demand requirements. Affordability is one such issue, but access to transit, size of household and specific locational attributes also need consideration. Given Hamilton's varied communities, it is the position of the City of Hamilton that such provisions be determined at the municipal level.

### Cash-in-lieu:

In consultations staff heard repeatedly that while inclusion is an important component of inclusionary zoning, there are some limited circumstances in which providing units in a particular development is not practical. For example, an expensive condominium building for which the condominium fees would be high or a suburban or rural subdivision that is not readily accessible by transit or to services. Additionally, not allowing cash-in-lieu in some circumstances could create some unreasonable situations. Examples of these unreasonable situations could fuel the argument against a municipality adopting inclusionary zoning at all. While cash-in-lieu should not be permitted broadly, municipalities should have the ability to employ it in certain select situations.

### Conclusion:

The City of Hamilton would emphasize the need for a greater understanding of the local impacts of the proposed legislative changes and caution against any changes that may result in outcomes that may otherwise prejudice either the adoption or overall success of an Inclusionary Framework within Hamilton.

Inclusionary Zoning Consultation Discussion Guide**1. Should there be Provincial direction to further specify the target groups for inclusionary zoning, or should this be left to each municipality to determine?**

***If you think direction is needed, who should be addressed based on the PPS definition of "affordable"?***

**Comment:**

As each municipality has unique affordable housing needs that may differ significantly from the needs in other municipalities, municipalities should determine the income groups targeted by their inclusionary zoning by-laws. The City's 10 year Housing & Homelessness Action Plan provides a framework and direction to determine any targeting.

With respect to the definition of affordable, the intent of an inclusionary zoning framework is to increase the number of affordable units throughout Ontario. Many existing inclusionary zoning programs in other jurisdictions seek to target families and individuals that earn too little to afford market rate housing and too much to qualify for social assistance. In some programs, income is not the sole determinant as units can be targeted to specific groups such as those in need of supports.

Relating this framework to Hamilton's own goals and targets, the Urban Hamilton Official Plan (UHOP) provides a definition of affordable as detailed below:

**"Affordable** means:

a) in the case of ownership housing, the least expensive of:

- i) housing for which the purchase price results in annual accommodation costs which do not exceed 30 percent of gross annual household income for *low and moderate income households*; or
- ii) housing for which the purchase price is at least 10 percent below the average purchase price of a resale unit in the City of Hamilton; and,

b) in the case of rental housing, the least expensive of:

- i) a unit for which the rent does not exceed 30 percent of gross annual household income for *low and moderate income households*; or
- ii) a unit for which the rent is at or below the average market rent of a unit in the City of Hamilton (PPS, 2005 amended); and,

c) in the case of housing developments, at least 25 percent of either *affordable* ownership or *affordable* rental housing. For the purposes of the policies of this

Plan, *affordable* housing developments may include a mix of *affordable* and market rate units, both ownership and rental.”

The UHOP definition – which is based on that in the PPS, provides criteria that would enable housing for both shallow and deep affordability. However, when applying this to an inclusionary zoning framework, which will be applicable only to new units, the definition may be too broad and in some instances too restrictive. For instance, it is unlikely that newly constructed rental units can achieve rents below average market rents. The form inclusionary zoning may take in Hamilton must therefore be determined through a thorough analysis of local conditions including both housing need and market realities.

As such, should the City of Hamilton elect to adopt an inclusionary zoning framework, the determination of the target group should be predicated on a definition specific to inclusionary zoning requirements and which is formulated through additional review and assessment of policy goals and targets in combination with current market realities. It should be noted, however that most successful inclusionary zoning programs target affordability of just below market rates, which would meet the needs of households with moderate incomes. It is much more difficult to meet the deeper affordability needs of households with low incomes, and would require additional programs such as rent subsidies.

**Recommendation:**

Municipalities should be responsible for determining the target groups applicable within an inclusionary zoning framework. The definition of affordable should be specifically related to the determined target groups to ensure it is implementable and successful.

- 2. Should there be Provincial direction on how price and rent would be determined in an inclusionary zoning by-law when inclusionary zoning units are sold or leased?***

***If so, what approach would you recommend?***

**Comment:**

Municipalities are the most knowledgeable about their unique housing market and submarkets and are thus best equipped to determine how price and rent would be determined in their inclusionary zoning by-laws. Once the target groups have been determined, review of housing need and market conditions particular to the identified groups will be required at a localized geographical level to ensure the intent of the framework is being delivered.

The City’s 10 year Housing & Homelessness Action Plan provides a framework and direction to inform price and rent levels. However, a guideline, prepared by the Province that sets out various options for methods of determining price and rent would be helpful to municipalities.

**Recommendation:**

The Province should provide a general guideline with respect to the various options for determining price and rent; however, final determination should rest with the municipalities.

**3. *Should minimum and / or maximum unit set asides be specified Province-wide or should this be left to each municipality to determine?*****Comment:**

The Province could set very broad minimum and maximum set asides, but municipalities should determine the specifics within that range based on local conditions. Provincially set minimum and maximum set asides would give both the development industry and the housing sector assurances that municipally determined set asides will be reasonable. Preliminarily, we would suggest that a minimum and maximum that would give both the housing sector and development industry some level of comfort would be in the range of 5% to 25%. Based on existing targets in the Urban Hamilton Official Plan and Housing and Homelessness Action Plan and the most recent growth projections produced for the Growth Plan, 25% of all new residential would need to be affordable to meet growth projections; 10% of rental development and 15% of ownership development. The determination of actual set asides would require a much more in depth analysis, particularly market analysis and public consultation, but this provides a reasonable top limit.

Consideration of different forms of housing within the Hamilton market will be required, specifically as related to the need of the identified target group and observed growth and distribution of existing and future development.

Ultimately, given the unique and varied nature of the Hamilton housing market, the determination of the set aside should be a matter for the municipality, in consultation with the local community. Set asides need to carefully and sensitively respond to municipally specific housing markets and growth projections, and apply only once the municipality has assessed the locations for growth. The creation of a toolkit would assist staff in making these decisions at a local level, and would be a more beneficial response from the Province. The Province should not make specific decisions on program elements.

Further, it is difficult to consider specific set aside provisions without understanding the threshold of development in which the set aside provisions would be applied. The two are inextricably linked. Similarly, both of these program elements need to be considered in conjunction with the intended target groups as the level of affordability also affects the consideration of appropriate set aside and threshold values.

**Recommendation:**

The Province should provide a toolkit to assist municipalities to determine unit set aside amounts locally, but should not regulate a required set aside.

Alternatively, the Province could set broad maximum and minimum set aside parameters provincially to provide comfort to both the housing sector and development industry, but should not regulate specific set asides. The Province should also provide a toolkit to assist municipalities determine local set aside amounts.

***If you think that a specified number or percentage of units should be applied Province-wide, what would you recommend?***

**Comment:**

As stated above, it is suggested that a specified number or percentage should be established by the municipality based on a greater understanding of the need of the identified target group and the market and geographical condition. The Province could consider setting a minimum and maximum threshold in order to provide guidance and clarity to both the development industry and municipalities.

On this matter it is suggested that a range between a minimum of 5% and a maximum of 25% would be reasonable, with individual municipalities determining specific set asides following additional review, consultation and study.

It may also be beneficial to determine a standardized metric that is to be employed by each municipality. While Bill 204 proposes that the set aside be a percentage of unit numbers, basing the set aside on Gross Floor Area should be considered. Using gross floor area takes into account the relative size (and potentially the cost) of units, with larger units contributing more. It also better enables the provision of large affordable units which are much in need.

To assist in determining this program element, further analysis is required, including a needs assessment and full market and submarket analysis. While the ideal from the need perspective is to maximize affordable units, this must be balanced with market considerations to ensure inclusionary zoning doesn't deter development. This is of particular concern regarding rental housing as with current conditions rental housing is only financially viable with substantial incentives and high rents.

**Recommendation:**

The Province should provide direction on minimum and maximum set aside and consider standardizing the measurement to allow for meaningful benchmarking, but municipalities should ultimately determine set asides based on need and market conditions. Notwithstanding Bill 204, the Province should consider permitting set asides, not just on unit numbers, but on gross floor area.

- 4. Should there be Provincial direction for a minimum or maximum affordability period that would apply to inclusionary zoning programs Province-wide, or should this be left to each municipality to determine?***

**Comment:**

There would be benefit in the Province setting a minimum affordability period, but allowing municipalities to require longer affordability periods. It is important to consider affordability periods for rental and ownership independently, with rental being the most challenging for the development industry. With ownership units, the administration of the affordability maintenance could be onerous for municipalities unless there are legislative changes, but there is no impact of a long affordability period on the developer.

Longer affordability periods mean a greater administrative burden for municipalities. Additional resources will be required to do the ongoing administrative work necessary to ensure that affordability is maintained.

Furthermore, the lifespan of the unit and ongoing maintenance and operational costs need to be factored in, understanding that periods beyond 30 years would experience increasing costs as the units reach the end of their life cycle.

**Recommendation:**

The Province should provide a minimum affordability period, and provide financial and program assistance to support the administrative requirements.

***If you think a Province-wide affordability period should be specified, what would you recommend (e.g., 20 years, 30 years, no time limitation)?***

**Recommendation:**

It is important to set separate set asides for rental and ownership housing as the impacts of each set aside are very different. A minimum affordability period of 20 years for rental units, with municipalities able to set longer affordability periods is appropriate.

With respect to ownership, indefinite affordability should be considered as there is no negative impact on the developer. It should be up to municipalities to determine an appropriate level of equity for the owners of an inclusionary zoning unit.

- 5. Should there be Provincial direction for a minimum and / or maximum threshold size that would apply to inclusionary zoning programs Province-wide, or should this be left to each municipality to determine?***

***If you think the threshold size should be specified Province-wide, what would you recommend?***

**Comment:**

Similar to the answer to the set aside question, (Question 3), it would be necessary to ensure the threshold size is responsive to the scale, type and form of current development in Hamilton and is responsive to the identified target groups.



The threshold should be determined on the unit yield of developments. A sliding scale would allow the program to be responsive to smaller and mid-range developments and allow threshold limits that would not unreasonably distort the market. A sliding scale could also eliminate the potential for developments to be sized at immediately below the threshold to avoid triggering the requirement for affordable units.

It is noted that implementation and monitoring of inclusionary zoning would create administrative burdens, with significant impacts on staff time and resultant costs to municipalities. The Province should provide funding to offset these costs.

Finally it is noted that variations exist not only between municipalities, but also between different communities within municipalities. A Province-wide threshold that is not responsive to these differences could make the inclusionary zoning tool less effective.

**Recommendation:**

Threshold size should be determined at the municipal level.

**6. *Should measures and incentives be required on a Province-wide basis through regulation, or should this be left up to municipalities?***

***If you think the Province should provide direction, what would you recommend?***

**Comment:**

The need for meaningful and appropriate measures and incentives is crucial to the success of inclusionary zoning. This will need to be integrated and supported beyond the tools currently available to municipalities and could include matters such as Ontario Municipal Board reforms, Provincial tax exemptions as well as other provincial tools that should be discussed and developed collaboratively. There is also greater need for wider and potentially more costly incentives in order to address deep affordability.

However, it is requested that municipalities not be mandated to provide specific measures or incentives, but provided the flexibility to review and apply incentives where necessary. Hamilton currently offers numerous incentives, including partial waiver of Development Charges, Parkland dedication reductions and application fee waivers. The ability to determine locally how and where such incentives should be provided, would be necessary to ensure success of any potential inclusionary zoning framework.

**Recommendation:**

Measures and incentives should not be required through regulation, but be program elements determined and applied at the local level.

The Province should consider systemic and legislative changes to reduce the cost of development, thereby enabling increased housing affordability. Changes could include Ontario Municipal Board reforms and provincial tax exemptions and should be developed in consultation with municipalities and the development industry. The Province should also assist municipalities by providing access to current research, forums for the sharing of information among municipalities, and the development of guidelines that lay out options, the benefits and drawbacks of each, and considerations for implementation.

**7. *Should there be Provincial direction to specify minimum requirements and standards for inclusionary zoning units or should these be left up to each municipality to determine?***

**Comment:**

The Ontario Building Code determines minimum building standards that must be observed. These are sufficient building standards for affordable units, but guidance from the Province would be helpful in regards to other factors that come under 'suitability' in Bill 204.

**Recommendation:**

The Province should not specify minimum requirements and standards, but should allow municipalities to determine specifics and instead provide guidance in regards to factors that are considered to determine the threshold of 'suitability' as raised within Bill 204.

***If you think requirements or standards should be specified Province-wide, what would you recommend?***

**Recommendation:**

The Province should not specify minimum requirements and standards, including for parking and loading as proposed in Bill 204, but should provide guidance to municipalities in regards to factors that are considered to be 'suitability' in Bill 204. These include the relative location of affordable units; relative size of affordable units; treatment of the affordable units through site plan review including external access and, if relevant, exterior design; the relative quality of finishes; access to on-site amenities; reduced parking requirements for affordable units; and review of shared facilities agreements for condominiums. As noted above, this guidance should be in the form of access to current research, presentation of options including the benefits and drawbacks of each, and considerations for implementation.

If the Province does specify minimum requirements and standards, these should balance the principle that affordable units be indistinguishable from market units on the exterior, but allow certain differences to help offset costs, such as lesser quality finishes.

**8. *Should there be provincial direction on inclusionary zoning agreements?***

**Comment:**

General direction on the items to be included in inclusionary zoning agreements and a basic template would be helpful for municipalities.

The agreements should be in a form that ensures execution and registration of the legal documents does not create any impact on the development review timelines.

**Recommendation:**

The Province should provide templates to inform the creation of inclusionary zoning agreements and ensure execution and registration of the legal documents does not create any impact on the development review timelines.

**9. *Should there be Provincial direction on requirements for ongoing administration of units and ensuring affordability over the control period?***

***If so, what types of requirements would you recommend?***

**Comment:**

The requirements for ongoing administration of affordable units and to ensure affordability of units over time proposed in Bill 204 are appropriate. However, municipalities should determine the most appropriate mechanisms for administration and for ensuring long term affordability and eligibility, particularly if the Province does not provide funding for administration of inclusionary zoning. The provision of best practice information, including a suite of potential program models, by the Province would be helpful. Maintaining affordability and eligibility will be administratively burdensome for municipalities, requiring additional resources. Municipalities should be enabled to use third parties to undertake the administration, but not be required to do so.

Additionally, legislative changes should be adopted to better enable municipalities to secure long term affordability of ownership units.

**Recommendation:**

The Province should provide best practice information and potential program models regarding ongoing administration of units and monitoring of affordability over time, but should allow municipalities to determine how best to undertake the monitoring. Additionally the Province should make any legislative changes necessary to ensure long term affordability of ownership units.

**10. *Should there be Provincial direction on mandatory requirements for municipal monitoring procedures?***

**Comment:**

There should be basic requirements for ongoing administration of units, and to ensure affordability of units and eligibility of purchasers or new tenants over the control period. Income testing will be required for new purchasers or tenants of the affordable units at turnover, on an ongoing basis, to ensure affordable units are available for the intended target group. Municipalities will be required to take on significantly more administrative responsibilities and will need additional resources for this purpose.

***If so, what mandatory requirements would you recommend?***

**Recommendation:**

There should be basic requirements for ongoing administration of units and to ensure affordability of units and eligibility of purchasers or new tenants over the control period.

- 11. Should there be Provincial direction on municipal reporting of inclusionary zoning units (e.g., reports must be publicly available; reports must be provided annually to municipal council)?***

***If so, what would you recommend?***

**Comment:**

There should be requirements for municipalities to annually report the numbers and types of affordable units, and the level of affordability, produced by inclusionary zoning. These Reports should be available publicly and received by the Province. The Province should combine the individual reports and publish an annual Provincial report. With time the reports will help determine the relative success of different models and parameters of inclusionary zoning programs.

**Recommendation:**

The Province should provide direction on the annual reporting of inclusionary zoning units.

- 12. In what circumstances would it be appropriate to require inclusionary zoning units as well as community benefits in exchange for additional height and density?***

**Comment:**

Municipalities should be permitted to require Section 37 community benefits in addition to inclusionary zoning units in some circumstances. For instance, the City of Hamilton is reviewing its growth related development strategy, and it is likely that areas such as nodes and transit corridors will be planned to achieve significant density increases. It is in these circumstances, that the application of density bonusing in addition to inclusionary zoning, may be both reasonable and advantageous. It would be appropriate to require inclusionary zoning on the units permitted through City initiating rezoning, but also allow Section 37 community

benefits should any additional height and density be deemed appropriate on a site by site basis.

Similarly, Hamilton has considerable built heritage resources that are being considered for development and adaptive re-use. The ability to apply Section 37 to increase the height and density of these developments and use the 'bonus' to ensure the protection of the heritage resource achieves numerous policy objectives.

To limit the ability of municipalities to apply both legislative options on a single site that has benefitted considerably from either density or built form provisions would unnecessarily hinder the ability to leverage growth in a sustainable and appropriate manner.

A more reasonable approach would be to apply a hybrid approach that applies inclusionary zoning requirements only to the base zoning permissions, and permit Section 37 to apply to the increase in height or density. Allowing the municipalities to adopt this approach, would ensure all community benefits appropriate to a given development application are secured and policy goals are achieved.

**Recommendation:**

Municipalities should be permitted to require inclusionary zoning units as well as community benefits in exchange for additional height and density.

***13. Should conditions or restrictions apply to these circumstances, and if so, what would you recommend?***

**Comment:**

It is not considered necessary to apply restrictions at a provincial level, given the unique differences in development activity across the Province. Should the Province determine that restrictions are necessary – such as a hybrid approach, it should provide the flexibility for the municipalities to determine these circumstances, and include them as part of the Official Plan policy changes required to implement an inclusionary zoning framework.

**Recommendation:**

Municipalities should determine the circumstances in which it may be appropriate to apply Section 37 in addition to inclusionary zoning requirements, and to include conditions and circumstances for such as approach as part of the Official Plan policy changes.

***14. Do you think that planning applications commenced prior to enactment of the proposed legislative process should be grandfathered?***

**Comment:**

Any development application is the product of extensive planning and significant financial assumptions. The introduction of inclusionary zoning requirements partway

through the development approvals process is likely to have a significant impact upon any development projects in the planning stages, impacting the development process itself, development plans, the financial viability of the project, as well as whether the application is approved. For applications commenced prior to the enactment of the proposed legislation, an inclusionary zoning requirement would be unreasonable and punitively affect the development application.

**Recommendation:**

The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to enactment of the proposed inclusionary zoning legislation in Bill 204.

***15. Do you think that planning applications commenced prior to municipal adoption of inclusionary zoning official plan policies and / or zoning by-laws should be exempted?***

**Comment:**

Similar to the comments presented above, sufficient time should be available within the development process to allow for potential financial impacts to be appropriately accommodated, particularly as there will be a lag in time between provincial regulation and any adoption of Official Plan policy and Zoning By-law. As such, staff would be supportive of a means to exempt planning applications that have commenced prior to municipal adoption of inclusionary official plan policies and/or zoning by-laws.

Clear and well defined transition regulations are required with specific timeframes and parameters such that any ambiguity is avoided.

**Recommendation:**

The Province should provide clear and well defined transition regulations that include the grandfathering of planning applications commenced prior to municipal adoption of implementing inclusionary zoning Official Plan policies and / or Zoning By-laws.

# 9.1

## MOTION

Committee Date: February 20, 2018

**MOVED BY COUNCILLOR GREEN.....**

**SECONED BY COUNCILLOR .....**

### **Parking Regulations on a ‘Through Street’**

WHEREAS, most major Ontario municipalities restrict parking overnight on major roadways;

WHEREAS, staff are currently undertaking a review of Hamilton Parking By-law 01-218, and

WHEREAS, members of the public have, from time to time, expressed concern with the rationale for overnight parking restrictions on ‘through streets’ and the method of informing motorists where such regulations apply;

**THEREFORE BE IT RESOLVED:**

That staff be directed to review the rationale for overnight parking restrictions on ‘through streets’ and that this review include a review/summary of overnight parking regulations in other large Ontario municipalities and how they inform motorists of such regulations, and report back to the Planning Committee with recommendations to optimize the effectiveness of the through street system.