



**City of Hamilton  
PLANNING COMMITTEE**

**Meeting #:** 18-010  
**Date:** June 19, 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>1. APPROVAL OF AGENDA</b><br>(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>4. DELEGATION REQUESTS</b>   |              |
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| 6.1 Glenn Wise, Macassa Bay Year-Round Liveaboard Association, to<br>discuss year-round liveaboard boat residency. (No copy) (Approved<br>June 5, 2018) |              |

- |       |   |     |
|-------|---|-----|
| 6.2   | Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning By-law No. 05-200 and for Approval of a Draft Plan of Subdivision "Flamborough Power Centre North" for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive,<br>"Flamborough Power Centre North" for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) | 64  |
| 6.3   | Applications to Amend the Town of Ancaster Zoning By-law No. 87-57 and for a Draft Plan of Subdivision for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12)  | 118 |
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| 6.6   | Proposed Changes to the Official Plans and Zoning By-law No. 05-200 - Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D)<br>Registered Speakers:  | 263 |
| 6.6.a | Shelley Yeudall, 1951 Shaver Road, Ancaster   |     |
| 6.6.b | Bill Panagio of Beleave Inc., 1653 Highway No 6 North, Flamborough  |     |
| 6.6.c | John Ariens, IBI Group, Hamilton, representing The Green Organic Dutchman, 1915, 1995, and 1997 Jerseyville Road  |     |
| 6.6.d | Janice Currie, 251 Carluke Road West, Ancaster  |     |
| 6.6.e | Kimberlee VanSickle, 1140 Butter Road West, Ancaster  |     |
| 6.6.f | Roy Stevenson, 130 Butter Road West, Ancaster   |     |
| 6.6.g | Susan Creer, Hamilton   |     |

## 7. STAFF PRESENTATIONS

## 8. DISCUSSION ITEMS

- |     |  |     |
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| 8.1 | Animal Adoption Fees (PED18004(a)) (City Wide) | 358 |
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- 8.2 Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) (Outstanding Business List Item) 363

**9. MOTIONS**

- 9.1 To Wave Road Widening Requirement for 71 Rebecca Street 369

**10. NOTICES OF MOTION**

**11. GENERAL INFORMATION / OTHER BUSINESS**

11.1 Outstanding Business List

11.1.a Items requiring new due dates:

Item "K" - Staff to report back on the feasibility of amending the Licensing By-law including comparators across the country, to clearly define adult services in relation to the distinction between strip clubs and other performances, including but not limited to burlesques.

Due date: June 19, 2018

New due date: July 10, 2018

Item "M" - That staff monitor the operations of the Personal Transportation Providers (Schedule 24 of the Licensing By-law 17-170) licensing category over the next year to determine if any adjustments are required and report back to Committee.

Due date: June 19, 2018

New due date: July 10, 2018

Item "S" - Update re: Losani OMB appeal and sign variance application appeal.

Due date: June 19, 2018

New due date: August 14, 2018

- 11.1.b Items identified as completed to be removed:  
Item “G” – ACPD Report 16-002 – Re: financial incentives for taxi operators to make replacement vehicles accessible.

(Item 8.2 on this agenda.)

Item “I” - C 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: June 19, 2018

New due date: Report LS16027(c)/PED16237(b) approved by Committee on February 6, 2018

Item “J” - That Staff report back to Committee following consultation with the Alleyway Management Strategy Working Group on a process for including appropriate permissions for laneway housing as part of the review and update of the City’s Residential Zoning By-law planned for 2017-2018.

(Item 6.5 on this agenda.)

Item “T” - That staff consult with the Feds and the Prov and review and report back on the revisions to the Economic Development Strategy, Official Plan Policies and Zoning Regulations with respect to medical & recreational marijuana (cannabis) production, distribution and sales and staff review the appropriate standards for recreational marijuana, using the current standards for medical marijuana as a guideline, and report back to the Planning Committee

(Item 6.6 on this agenda)

**12. PRIVATE AND CONFIDENTIAL**

**13. ADJOURNMENT**



## **PLANNING COMMITTEE**

### **MINUTES 18-009**

**9:30 a.m.**

**Tuesday, June 5, 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), C. Collins, M. Pearson, M. Green, B. Johnson, and R. Pasuta.

**Also present:** Councillor S. Merulla

**Absent with**

**Regrets:** Councillors J. Partridge and D. Skelly, personal

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

#### **1. Kirkendall Neighbourhood Strategy (PED18099) (Ward 1) (Item 5.1)**

**(Farr/Pearson)**

- (a) That the Kirkendall Neighbourhood Strategy – Terms of Reference (attached as Appendix “A” to Report PED18099) be approved;
- (b) That staff from Healthy and Safe Communities, Healthy and Safe Communities Department, be directed to retain a consultant to assist the neighbourhood in the preparation of a Neighbourhood Strategy for the Kirkendall Neighbourhood;
- (c) That the procurement, budget and payment schedule be overseen and administered by the Children’s Services and Neighbourhood Development Division;
- (d) That the Children’s Services and Neighbourhood Development Division provide ongoing support through the Neighbourhood Strategy process to the Kirkendall Neighbourhood Strategy Steering Committee.

**CARRIED**

**2. Application to Amend the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 449 Springbrook Avenue, Ancaster (Ward 12) (PED18091) (Item 6.2)**

**(Pearson/B. Johnson)**

(a) That Amended Zoning By-law Amendment Application ZAC-17-086 by WEBB Planning Consultants Inc., on Behalf of Apollo Custom Builders Inc, (Owner), for a change in zoning from the Agricultural “A” Zone to the Residential “R4-692” Zone, Modified in order to permit the development of four lots for single detached dwellings for lands located at 449 Springbrook Avenue (Ancaster), as shown on Appendix “A” to Report PED18091 be APPROVED, on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED18091, 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 there were no public submissions received regarding this matter.***

**Main Motion, as Amended, CARRIED**

**3. Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 15 Picardy Drive (Stoney Creek) (PED18114) (Ward 9) (Item 6.4)**

**(Conley/Pearson)**

(a) That Amended Urban Hamilton Official Plan Amendment Application UHOPA-16-013, by Trillium Housing Highbury Non-Profit Corporation (owner), to re-designate the subject lands from “Low Density Residential 2b” to “Low Density Residential 3c” within the West Mountain Area (Heritage Green) Secondary Plan, to permit 28 maisonettes and 43 street townhouse dwelling units for a total of 71 units on a private (condominium) road for lands located at 15 Picardy Drive, as shown on Appendix “A” to Report PED18114 be APPROVED, on the following basis:

- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED18114, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (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).

- (b) That Amended Zoning By-law Amendment Application ZAC-16-033 by Trillium Housing Highbury Non-Profit Corporation (owner) for a change in zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential (Holding) “RM3-63(H)” Zone, Modified, to permit 28 maisonettes and 43 street townhouse dwelling units for a total of 71 units on a private (condominium) road for lands located at 15 Picardy Drive, as shown on Appendix “A” to Report PED18114, be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED18114, 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 (2017) and will comply with the Urban Hamilton Official Plan upon finalization of Official Plan Amendment No. XX;
  - (iii) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning.

The Holding Provision “RM3-63(H)” (Multiple Residential) Zone, Modified, be removed conditional upon:

- (a) The owner demonstrating that the existing sanitary sewer on Lormont Boulevard at Picardy Drive can be adequately upsized to provide sufficient capacity to meet City standards and to share in the upgrade costs for development greater than 40 units, to the satisfaction of the Senior Director, Growth Management.
  - (b) City Council may remove the ‘H’ symbol and thereby give effect to the “RM3-63” (Multiple Residential) Zone, as amended by the special requirements of this By-law, by enactment of an amending By-law once the above condition has been fulfilled.
- (c) ***That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**4. Applications for an Amendment to the Urban Hamilton Official Plan and Zoning By-law for Lands Located at 115 and 121 Vansitmart Avenue, Hamilton (PED18124) (Ward 4) (Item 6.5)**

**(Conley/Pearson)**

- (a) That Urban Hamilton Official Plan Amendment Application UHOPA-17-026, by 1349010 Ontario Inc., Owner, to establish a site specific policy area to permit 40 maisonette dwellings on a private condominium road having a minimum net residential density of 48 units per hectare, for lands located at 115 and 121 Vansitmart Avenue, as shown on Appendix "A" to Report PED18124, be APPROVED, on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix "B" to Report PED18124, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe.
- (b) That Amended Zoning By-law Amendment Application ZAC-16-046, by 1349010 Ontario Inc., Owner, for a change in zoning from the "C" (Urban Protected Residential, etc.) District to the "RT-20/S-1762-'H'" (Townhouse – Maisonette) District, Holding, Modified (Block 1), and "C/S-1762-'H'" (Urban Protected Residential, etc.) District, Holding, Modified (Blocks 2 and 3) in order to permit a maximum of 40 maisonette dwellings, and two single detached dwellings, for lands located at 115 and 121 Vansitmart Avenue, as shown on Appendix "A" to Report PED18124 be APPROVED, on the following basis:
- (i) That the draft By-law, attached as Appendix "C" to Report PED18124 which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law be added to Section 19B of Zoning By-law No. 6593 as "RT-20/S-1762-'H'" and "C/S-1762-'H'";
  - (iii) That this By-law is in conformity with the Urban Hamilton Official Plan, upon approval of Urban Hamilton Official Plan Amendment No. ; and,
  - (iv) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 applicable to the subject lands by introducing the Holding symbol 'H' as a suffix to the proposed zoning:

The Holding Provision "C/S-1762-'H'" (Urban Protected Residential, etc.) District, Holding, Modified, and "RT-20/S-1762-'H'"



(Townhouse – Maisonette) District, Holding, Modified, be removed conditional upon:

- (a) The Owner submitting a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment and Climate Change (MOECC). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECC, and submission of the City of Hamilton's current RSC administration fee.
- (c) That upon finalization of the amending By-law, that Block 1, as shown on Appendix "C" to Report PED18124, be re-designated from "Single and Double" to "Low Density Apartment" in the Homeside Neighbourhood Plan;
- (d) ***That the public submissions received regarding this matter did not affect the decision.***

**Main Motion, as Amended, CARRIED**

**5. Hamilton Municipal Heritage Committee Report 18-005 (Item 8.1)**

**(Farr/Pearson)**

- (a) **Policy and Design Working Group Meeting Notes - March 19, 2018 (Item 8.2)**

That the Policy and Design Working Group Meeting Notes of March 19, 2018, be received, and no action taken.

- (b) **Inventory & Research Working Group Meeting Notes - March 26, 2018 (Item 8.3)**

- (i) **170 Longwood Road North, Hamilton**

- (1) That property at 170 Longwood Road North, Hamilton, be designated under Part IV of the Ontario Heritage Act; and
- (2) That the designation include glass structures at the rear of the building and on the second floor as well as make specific reference to the interior features of the property outlined in the Cultural Heritage Assessment.

- (ii) **1401 King Street East, Hamilton (Grace Anglican Church)**

That the property known as Grace Anglican Church, located at 1401 King Street East, Hamilton, be designated under Part IV of the Ontario Heritage Act.

**(iii) 224 Robina Road, Ancaster**

That the property located at 224 Robina Road, Ancaster, be added to the City's Register of Properties of Cultural Heritage Value or Interest as it represents an excellent example of a mid-century modern residence designed and owned by Stanley Roscoe who was architect for the Hamilton City Hall.

**(iv) 2235 Upper James Street, Glanbrook**

That the property located at 2235 Upper James Street, Glanbrook, be added to the City's Register of Properties of Cultural Heritage Value or Interest as it represents a scarce example of a pre-Confederation masonry Regency cottage.

**(v) 3600 Guyatt Road, Glanbrook**

That the property located at 3600 Guyatt Road, Glanbrook be excluded from the City's Register of Properties of Cultural Heritage Value or Interest.

**(vi) 6 Webster Falls Road, Dundas**

That the property known as Springdale and located at 6 Webster Falls Road, Dundas be added to the City's Register of Properties of Cultural Heritage Value or Interest as well as the staff work plan for designation.

**(c) Policy & Design Working Group Meeting Notes - April 16, 2018 (Added Item 8.5)**

That the Policy & Design Working Group Meeting Notes of April 16, 2018, be received.

**(d) Hamilton Municipal Heritage Committee's involvement in a Places of Faith Resource Event (Item 9.1)**

WHEREAS, Hamilton has witnessed the closure and demolition of numerous places of faith (many historic structures) across the city in the past decade;

WHEREAS, places of faith are found to be vulnerable properties as the City of Hamilton witnesses record-setting levels of growth in recent years; and,

WHEREAS, the mandate of the Committee is to advise and assist Council on all matters related to programs and activities to increase public awareness and knowledge of heritage conservation issues and other cultural heritage conservation measures;

THEREFORE, BE IT RESOLVED:

That the Hamilton Municipal Heritage Committee's collaboration on Places of Faith Resource Events in Hamilton, in partnership with the National Trust for Canada, and Faith and the Common Good, be approved.

**CARRIED**

**FOR INFORMATION:**

**(a) APPROVAL OF THE AGENDA (Item 1)**

The Committee Clerk advised of the following changes:

**1. ADDED DELEGATION REQUEST**

4.2 Neil Smiley, Fasken Martineau Dumoulin LLP, on behalf of The Roman Catholic Diocese of Hamilton to speak to Item 8.1, Item 1, the recommendation of the Hamilton Municipal Heritage Committee to designate 378 Main Street East, Hamilton, the former Cathedral Boys' High School under Part IV of the *Ontario Heritage Act*. (For today's meeting.)

**2. REPLACEMENT OF APPENDIX "B" TO ITEM 6.3**

6.3 The attached Appendix "B" to Item 6.3 respecting Applications for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster (PED18118) (Ward 14) replaces the one printed in the agenda.

**3. ADDED WRITTEN COMMENTS**

6.4(a) Jose A. Medeiros, 80 Highland Road West, Stoney Creek respecting Item 6.4 Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 15 Picardy Drive (Stoney Creek) (PED18114) (Ward 9) (Copy attached.)

**4. ADDED NOTICE OF MOTION**

10.1 To Waive Road Widening Requirement for 71 Rebecca Street

**(Green/Farr)**

That the agenda for the June 5, 2018 meeting be approved, as amended.

**CARRIED**

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

There were none declared.

**(c) APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING (Item 3)****(i) May 15, 2018 (Item 3.1)**

**(Pearson/Conley)**

That the Minutes of the May 15, 2018 meeting be approved.

**CARRIED**

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

**(Pearson/Green)**

(a) That the following delegation request be approved to address Committee at a future meeting:

(i) Glenn Wise, Macassa Bay Year-Round Liveaboard Association, to discuss year-round liveaboard boat residency (Item 4.1)

(b) That the following delegation request be approved to address Committee at today's meeting:

(i) Neil Smiley, Fasken Martineau Dumoulin LLP, on behalf of The Roman Catholic Diocese of Hamilton to speak to Item 8.1, Item 1, the recommendation of the Hamilton Municipal Heritage Committee to designate 378 Main Street East, Hamilton, the former Cathedral Boys' High School under Part IV of the *Ontario Heritage Act*. (Added Item 4.2)

**CARRIED**

**(e) DELEGATIONS/PUBLIC HEARING (Item 6)****(i) Application for a Condominium Conversion for lands known as 115 Main Street East, Hamilton (PED18080) (Ward 2) (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 Condominium Conversion, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

Daniel Barnett, Planning Technician, addressed Committee with the aid of a PowerPoint presentation and provided an overview of the staff report. A copy of his presentation is available for viewing on the City's website.

**(Collins/Farr)**

That the staff presentation be received.

**CARRIED**

Matt Johnston of UrbanSolutions Planning and Land Development Consultants Inc., representing the owner, addressed Committee with the aid of a PowerPoint presentation. A copy is available for viewing on the City's website. He requested that the report be deferred to afford staff the opportunity to evaluate the additional information that they provided as they now have 75% of the current tenants in support of the condominium conversion. David Horwood of Effort Trust, the property manager, was also in attendance and responded to questions from Committee.

**(Farr/Collins)**

That the agents' presentation be received.

**CARRIED****Registered Speaker****1. Sam Mason, Hamilton Community Legal Clinic**

Sam Mason addressed Committee and indicated that he is a lawyer at the Hamilton Community Legal Clinic. All his clients are tenants and he is advocating on their behalf. There is a shortage of rental opportunities in the City. He submitted a copy of a report outlining the acute rental housing crisis in Hamilton which was distributed and a copy is available for viewing on the City's website. He indicated that he supports the staff recommendation to deny the application.

**(Green/Farr)**

That the delegation be received.

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

That the public meeting be closed.

**CARRIED****(Farr/Pearson)**

WHEREAS, Housing staff have advised that they have not had the opportunity to conduct a thorough evaluation;

WHEREAS, the proponent has expressed a willingness to contemplate building in conditions that may include, but not be limited, to assurances that financial incentives to encourage tenants to vacate will not be offered; WHEREAS, in consideration of the new information provided by the applicant (specific to meeting the 75% threshold post staff report submission), Planning staff have advised that the City would lose if an appeal is submitted to the Local Planning Appeal Tribunal (LPAT);

THEREFORE, BE IT RESOLVED:

That the staff Report PED18080, respecting Application for a Condominium Conversion for lands known as 115 Main Street East, Hamilton, be deferred in order to allow staff to review the new information.

The Motion to Defer CARRIED on the following standing recorded vote:

|         |  |
|---------|--|
| Yeas:   | Conley, Pearson, B. Johnson, Pasuta, A. Johnson, Collins, Farr |
| Total:  | 7  |
| Nays:   | Green  |
| Total:  | 1  |
| Absent: | Partridge, Skelly  |
| Total:  | 2  |

**(Green/Farr)**

That staff review the policies of the Official Plan that allow for condominium conversions in situations where the minimum number of existing residents are supportive of the conversion and report back with recommendations for amendments to strengthen the three general criteria in order to protect the existing rental housing stock.

**CARRIED**

**(ii) Application to Amend the Town of Ancaster Zoning By-law No. 87-57 for Lands Located at 449 Springbrook Avenue, Ancaster (Ward 12) (PED18091) (Item 6.2)**

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 Amendment, the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

No members of the public came forward.

**(Pearson/B. Johnson)**

That the public meeting be closed.

**CARRIED**

**(Pearson/B. Johnson)**

That the staff presentation be waived.

**CARRIED**

Ward Councillor Ferguson was in attendance and asked questions and staff responded.

James Webb of WEBB Planning Consultants Inc., representing the owner, was in attendance. James Webb advised that the owner is in agreement with the staff report.

**(Pearson/B. Johnson)**

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

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

***Amendment CARRIED***

For disposition of this matter refer to Item 2.

**(iii) Applications for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster (PED18118) (Ward 14) (Item 6.3)**

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 Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

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

**(Conley/B. Johnson)**

That the staff presentation be received.

**CARRIED**

John Ariens of IBI Group, representing the owner, addressed Committee with the aid of a PowerPoint presentation. A copy is available for viewing on the City's website.

**(Conley/Pasuta)**

That the agent's presentation be received.

**CARRIED**

**Speakers**

**1. Scott Herring, 1911 Jerseyville Road**

Scott Herring addressed Committee and indicated that as a neighbour of the operation he has concerns regarding the affect it will have on the value of his property and his family's quality of life. They were never consulted regarding the proposal.

**(Collins/Pearson)**

That the delegation be received.

**CARRIED**

**(Conley/Pasuta)**

That the public meeting be closed.

**CARRIED**

Ward Councillor Ferguson was in attendance and expressed concerns with the proposal and the timing of the staff report.

**(B. Johnson/Collins)**

(a) That Report PED18118, respecting Applications for an Amendment to the Rural Hamilton Official Plan and the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1915, 1995, and 1997 Jerseyville Road West, Ancaster, be DEFERRED until after the Statutory Public Meeting regarding the upcoming staff report on marihuana growing facilities is held;

(b) That the Statutory Public Meeting be re-opened when Report PED18118 is included on a future Planning Committee agenda.

**CARRIED**

Councillors Pasuta, Pearson and Conley indicated that they wished to be recorded as OPPOSED to the deferral of this matter.

- (iv) Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 15 Picardy Drive (Stoney Creek) (PED18114) (Ward 9) (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 Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

**Written Comments**

6.4(a) Jose A. Medeiros, 80 Highland Road West, Stoney Creek

**(Collins/Pearson)**

That the added written comments, Item 6.4(a) be received.

**CARRIED**

No members of the public came forward.

**(Pearson/Conley)**

That the public meeting be closed.

**CARRIED**

**(Collins/Farr)**

That the staff presentation be waived.

**CARRIED**

John Ariens of IBI Group, representing the owner, addressed Committee with the aid of a PowerPoint presentation. A copy is available for viewing on the City's website.

**(Conley/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 3.

- (v) Applications for an Amendment to the Urban Hamilton Official Plan and Zoning By-law for Lands Located at 115 and 121 Vansitmart Avenue, Hamilton (PED18124) (Ward 4) (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 Local Planning Appeal Tribunal and the person or public body may not be added as a party to the hearing of an appeal before the Local Planning Appeal Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.

No members of the public came forward.

**(Pearson/A. Johnson)**

That the public meeting be closed.

**CARRIED**

**(Johnson/Conley)**

That the staff presentation be waived.

**CARRIED**

Ward Councillor Merulla was in attendance and indicated that he is in support of the proposal.

Sergio Manchia of UrbanSolutions Planning and Land Development Consultants Inc., representing the owner, was in attendance. He indicated that the owner is in support of the staff report.

**(Conley/Pearson)**

***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 4.

**(f) DISCUSSION ITEMS (Item 8)**

**(i) Hamilton Municipal Heritage Committee Report 18-005 (Item 8.1)**

Chelsey Tyers addressed Committee with the aid of a PowerPoint presentation and provided an overview of the recommendation to designate the former Cathedral Boys High School under Part IV of the *Ontario Heritage Act*. A copy of the presentation is available for viewing on the City's website.

**(Green/Pearson)**

That the staff presentation be received.

**CARRIED**

**Delegation**

**1. Neil Smiley, Fasken Martineau Dumoulin LLP, on behalf of The Roman Catholic Diocese of Hamilton (Added 4.2)**

Neil Smiley addressed Committee and requested, on behalf of his client, that the proposal to designate the property be TABLED for one year. Jim Long, from the Roman Catholic Diocese of Hamilton was also in attendance.

**(Farr/Pearson)**

That the delegation be received.

**CARRIED**

**(Farr/Pearson)**

That Item 1 of the Hamilton Municipal Heritage Committee Report 18-005 respecting Recommendation to Designate 378 Main Street East, Hamilton under Part IV of the *Ontario Heritage Act* (Ward 3) (PED18089) be TABLED for one year to allow for consultation with the Ward Councillor and the Stinson Neighbourhood Association to consider viable adaptive reuses for the building.

**CARRIED**

For disposition of the balance of this matter refer to Item 5.

**(g) NOTICES OF MOTION (Item 10)**

Councillor Farr introduced the following Notice of Motion:

**(i) To Waive Road Widening Requirement for 71 Rebecca Street (Added Item 10.1)**

WHEREAS, the Planning Act and the Urban Hamilton Official Plan state that the City shall reserve or obtain road widenings for rights-of-way as described in Schedule C-2 – Future Road Widenings;

WHEREAS, Official Plan Amendment and Zoning By-law Amendment applications (UHOPA-17-023 and ZAC-17-053) have been submitted for 71 Rebecca Street, Hamilton, for the development of a 30 storey, mixed use building; and

WHEREAS, road widenings for Rebecca Street and John Street North have been identified;

THEREFORE, BE IT RESOLVED:

That staff be directed to waive the requirement for road widenings for 71 Rebecca Street, Hamilton (UHOPA-17-023 and ZAC-17-053).

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

**(i) Outstanding Business List (Item 11.1)**

**(Collins/Farr)**

**(a) That the following new due dates be approved:**

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

Due date: June 5, 2018

New due date: January, 2019

Item “P” - That staff report back with legislative options and alternatives to the regulation of driving schools in Hamilton that seeks to address the practice areas utilized by driving schools and individual driving instructors, and that the information contained in the report include, but not be limited to, legislation adopted by neighbouring municipalities who have adopted driving school rules and regulations.

Due date: June 5, 2018

New due date: August 14, 2018

Item “Q” - That Planning staff be directed to report to the Planning Committee about the City’s policies respecting Boulevard Standards and that the report outline the options & alternatives that are available for future designs.

Due date: June 5, 2018

New due date: September 18, 2018

Item “S” - Family Friendly Housing – staff to conduct feasibility study with appropriate public consultation and report back re: rental units, condos and affordable housing.

Due date: June 5, 2018

New due date: January, 2019

**(b) That the following Item be identified as completed and be removed:**

Item “J” – That staff report to the Planning Committee on a proposed scope and terms of reference for a consultant assignment to undertake the Kirkendall Neighbourhood Strategy in collaboration with the Kirkendall Neighbourhood Association. (Item 5.1 on this agenda.)

**CARRIED**

**(i) ADJOURNMENT (Item 12)**

**(Pearson/Conley)**

That, there being no further business, the Planning Committee be adjourned at 1:11 p.m.

**CARRIED**

Respectfully submitted,

Councillor A. Johnson  
Chair, Planning Committee

Ida Bedioui  
Legislative Co-ordinator  
Office of the City Clerk



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Transportation Planning and Parking Division

|                           |   |
|---------------------------|---|
| <b>TO:</b>                | Chair and Members<br>Planning Committee   |
| <b>COMMITTEE DATE:</b>    | June 19, 2018   |
| <b>SUBJECT/REPORT NO:</b> | Enforcement of Accessible Parking Spaces on Municipal and Private Property (PED12226(a)) (City Wide)                |
| <b>WARD(S) AFFECTED:</b>  | City Wide   |
| <b>PREPARED BY:</b>       | Chris King (905) 546-2424 Ext. 5110   |
| <b>SUBMITTED BY:</b>      | Brian Hollingworth<br>Director, Transportation Planning and Parking<br>Planning and Economic Development Department |
| <b>SIGNATURE:</b>         |   |

### RECOMMENDATION

- (a) That the By-law to “Regulate Parking of Motor Vehicles on Private and Municipal Property”, By-law No. 01-220, be amended as attached in Appendix “A” to PED12226(a), in a form satisfactory to the City Solicitor, to allow for enforcement of accessible parking spaces without prior permission of property owners;
- (b) That By-law No. 01-220 to “Regulate Parking of Motor Vehicles on Private and Municipal Property” be amended to remove and replace outdated terminology;
- (c) That By-law No. 01-220 to “Regulate Parking of Motor Vehicles on Private and Municipal Property” be amended to allow the placement of accessible parking permits on vehicle dashboards or sun visor.

### EXECUTIVE SUMMARY

Currently, staff is unable to enforce accessible parking violations on private property without prior permission from the property owner due to the wording in City of Hamilton By-law 01-220 (hereafter referred to as “By-law 01-220”). This limits the ability to enforce on a proactive basis and/or by complaint from the general public.

Staff recommends changing the wording to allow enforcement without owner permission as allowed under Section 102 of the *Ontario Municipal Act*, as well as changes to remove outdated terminology, and to revise wording that exclusively requires that Ministry of Ontario Accessible Parking Permits be displayed on the driver side ‘sun visor’ or displayed on the driver side dashboard is also acceptable.

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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: Enforcement of Accessible Parking Spaces on Municipal and Private Property (PED12226(a)) (City Wide) - Page 2 of 4**

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***Alternatives for Consideration – N/A***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

On May 9, 2012 the City Council Advisory Committee for Persons with Disabilities Report (12-003) recommended:

- “(i) That Planning, Zoning and By-law Enforcement staff be directed to work in co-ordination to design standardized accessible parking spots, for implementation into every parking lot within the City of Hamilton, whether private or public, to meet the Ontario Ministry of Transportation guidelines for accessible parking spaces and for enforcement.
- (ii) That staff be directed to review By-law 01-220 and update it to include the enforcement of violations of accessible parking spots by By-law Enforcement staff and the Hamilton Police Service, including accessible parking spots on private property, without the current requirements for permission from the owners.”

Subsequently, at the November 20, 2012 Planning and Economic Development Committee meeting (Report PED12226), staff recommended that no action be taken on the above mentioned recommendations until such time that the new Accessible Parking Standards were released under the *Accessibility for Ontarians with Disabilities Act* (AODA). As the standards are now in effect, this By-law is being updated as requested.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

Section 102 of the *Ontario Municipal Act*.

**RELEVANT CONSULTATION**

Legal Services was consulted in preparation of this Report and had no concerns.

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**SUBJECT: Enforcement of Accessible Parking Spaces on Municipal and Private Property (PED12226(a)) (City Wide) - Page 3 of 4**

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**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Section 102 of the *Ontario Municipal Act* gives municipalities the ability to enforce accessible parking violations on private property (defined as lands “to which the public has access”), without the prior authorization or permission of the property owner, if an appropriate Municipal By-law has been enacted by Council.

Currently, By-law 01-220, which regulates accessible parking on private property, requires permission from the property owner to enter the property which limits the ability to enforce accessible spaces on a proactive and/or complaint basis.

Conversely, Parking Enforcement staff is already able to respond to and proactively enforce accessible parking space violations within Municipally-owned parking lots without prior authorization.

Staff recommends changing the wording in By-law 01-220 to eliminate the need for owner permission to enforce accessible parking spaces on private property. This will assist in ensuring that accessible parking spaces around the City are only utilized by vehicles with a valid accessible permit on display, thus contributing to the overall accessibility of the City of Hamilton.

Staff will continue to implement *Accessibility for Ontarians with Disabilities Act* (AODA) parking standards in relation to the design of accessible parking spaces as major Capital works (e.g. repaving) of Municipal carparks occur.

Minor housekeeping changes to By-law 01-220 are also recommended as follows:

- Replace the words “handicapped” and “disabled” with “accessible” where feasible to align with Provincial wording;
- Replace “Superintendent of Parking Enforcement” to “Manager, Parking Enforcement and School Safety or their designate” to align with current job titles; and,
- Revise wording that exclusively requires that Ministry of Ontario Accessible Parking Permits be displayed on the driver side ‘sun visor’ or display on the driver side dashboard is also acceptable.

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

**Healthy and Safe Communities**

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

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**SUBJECT: Enforcement of Accessible Parking Spaces on Municipal and Private Property (PED12226(a)) (City Wide) - Page 4 of 4**

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**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": Amended By-law No. 01-220 to "Regulate the Parking of Motor Vehicles on Private and Municipal Property"

Appendix "B": Report PED12226 (as reference)

CK:jp

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**Appendix "A" to Report PED12226(a)  
Page 1 of 4**

**Authority:**

Item , Planning Committee  
Report  
CM:

**Bill No.**

**CITY OF HAMILTON  
BY-LAW NO. 18-XXX**

**To Amend By-law No. 01-220  
Being a By-law to Regulate the Parking of Motor Vehicles on Private and Municipal  
Property**

**WHEREAS** By-law No. 01-220 regulates parking on private property, including accessible parking;

**AND WHEREAS** staff recommend that wording be changed to align with Section 102 of the Ontario Municipal Act in order to allow enforcement of accessible spaces on private property without prior permission of the property owner;

**AND WHEREAS** staff recommend that wording be changed reflect position changes within the Hamilton Municipal Parking System.

**AND WHEREAS** staff recommend that wording be changed to allow accessible parking permits to be displayed on the dashboard as well as 'sun visor'.

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

1. Section 1 (h) of By-law No. 01-220 is deleted and replaced with the following:

(h) "Manager" means the Manager, Parking enforcement and School Safety for the City of Hamilton and includes his designate and successor;

2. Section 2 (2) of By-law No. 01-220 is deleted and replaced with the following:

(2) Except as provided in subsection 3, no person shall park a motor vehicle on class 1 or class 2 private property without the authority of the owner, and in any case not in a parking space set aside and signed for use by vehicles used for transporting persons with a disability, unless there is an Accessible Parking Permit issued by the Ministry of Transportation Ontario clearly displayed on the driver side dashboard or sun visor which is fully visible from external view.

3. Section 3 (2) of By-law No. 01-220 is deleted and replaced with the following:

**Appendix "A" to Report PED12226(a)**  
**Page 2 of 4**

(2) No person shall park a motor vehicle on class 3 private property without the authority of the City or Local Board thereof, and in any case, not in a parking space set aside and signed for use by vehicles used for transporting persons with a disability, unless there is an Accessible Parking Permit issued by the Ministry of Transportation Ontario clearly displayed on the driver side dashboard or sun visor which is fully visible from external view.

4. Sections 7 to 15 of By-law No. 01-220 are deleted and replaced with the following:
  7. Notwithstanding sections 5, 6 and 8, no written complaint from the owner or occupant of a class 2 property shall be required for each vehicle parking on class 2 property, applicable to parking in a parking space set aside and signed for use by vehicles used for transporting persons with a disability, not clearly displaying on the dashboard or sun visor on the driver side and fully visible from external view, an Accessible Parking Permit issued by the Ministry of Transportation Ontario to a person with a disability who is driving, or being transported in, the vehicle.
  8. Notwithstanding section 6, no written individual complaint shall be required for each vehicle parking on class 2 property where the owner or occupant provides the Manager with a general written complaint applicable to,
    - (a) vehicles parking on class 2 private property of the owner or occupant that is a vacant lot or a partially vacant lot; or,
    - (b) vehicles parking on class 2 private property of the owner or occupant that is a commercial parking lot which is not part of a residential building or which provides parking to a residential building, save and except that, for the purpose of this section, a women's or men's shelter shall not be deemed a residential building; and,
      - (i) where an approved permit, as issued by the property owner, is not displayed in the lower left hand corner of the front windshield of the subject vehicle, in such a manner as to be entirely in view from the exterior of the vehicle; or
      - (ii) where specific conditions, prohibitions or restrictions respecting parking or stopping are clearly set out on suitable signs posted on the property; or,
    - (c) Vehicles parking on class 2 private property which is an airport; and,
      - (i) where an approved permit, as issued by the airport authority, is not displayed in the lower left hand corner of the front windshield of the subject vehicle, in such a manner as to be entirely in view from the exterior of the vehicle; or

**Appendix “A” to Report PED12226(a)**  
**Page 3 of 4**

- (ii) where specific conditions, prohibitions or restrictions respecting parking or stopping are clearly set out on suitable signs posted on the property;
9. (1) Notwithstanding Sections 5(1)(b) and 12(b), No property owner shall be required to post signs in any area not set aside and improved for the parking of motor vehicles.
- (2) Any person parking a vehicle in an area not set aside and improved for the parking of motor vehicles shall, in the absence of evidence to the contrary, be deemed to have parked without authorization or consent.
10. Where a vehicle is removed and impounded under any provision of this by-law, the owner of the vehicle shall pay the expense of the removal and impounding of the vehicle and all costs and charges for removing, care and storage of the vehicle, if any, are a lien upon the vehicle which may be enforced in the manner provided by the Repair and Storage Liens Act, R.S.O. 1990, Chapter R.25, as amended.
11. (1) The owner of a vehicle that is parked, stopped or left standing in contravention of this by-law is guilty of an offence and is subject to such penalty as is provided for under Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33. (03-344)
- (2) Every person who contravenes any provision of this by-law is guilty of an offence and is subject to such penalty as is provided for under Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33. (03-344)
- (3) Notwithstanding the provisions of subsections (1) and (2) above, every person, either an owner or other person, who contravenes the provisions of Sections 2(2) and 3(2) of this by-law is guilty of an offence and, on conviction, is liable to a fine of not less than \$300. (03-344)
12. An Officer observing a vehicle alleged to be parked on,
- (a) Class 1 private property contrary to section 2; or
- (b) Class 2 private property contrary to section 2, provided that a suitable sign has been erected on said property; or
- (c) Class 3 private property contrary to section 3,
- may affix a parking infraction notice to the motor vehicle or otherwise issue said parking infraction notice to the person having care and control of said motor vehicle.

**Appendix "A" to Report PED12226(a)**  
**Page 4 of 4**

13. Any person, upon presentation of the parking infraction notice may, within 7 days pay a penalty out of court in the amount ordered by the Regional Senior Justice as the voluntary early payment respecting the offence alleged upon the face of the parking infraction notice.
14. With respect to suitable signs, every reference to By-law No. 86-88 (Ancaster), By-law No. 2864-76 (Dundas), Sections 10.1, 10.2 and 10.3 of By-law No. 90-31-T (Flamborough), By-law No. 516-95 (Glanbrook), By-law No. 89-75 (Hamilton), and Sections 21 and 22 of By-law No. 4875-99 (Stoney Creek), all as amended, shall be a reference to this By-law.
15. By-law No. 86-88 (Ancaster) passed on the 9th day of June, 1986, By-law No. 2864-76 (Dundas) passed on the 19th day of July, 1976, passed on the 18th day of April, 1990, By-law No. 516-95 (Glanbrook) passed on 16th day of January, 1995, and By-law No. 89-75 (Hamilton) passed on the 28 day of February, 1989, and all subsequent amendments thereto, are hereby repealed on the date whereupon this By-law comes into force and effect.
16. This By-law shall come into force and effect upon the date of issue of an order by the Regional Senior Justice establishing set fines for this by-law.

5. This By-law comes into force when passed.

**PASSED** this                      day of                      , 2018.

\_\_\_\_\_  
Fred Eisenberger  
MAYOR

\_\_\_\_\_  
Janet Pilon  
ACTING CITY CLERK



## Hamilton

### **Advisory Committee for Persons with Disabilities**

#### **REPORT 12-003**

**4:30 p.m.**

**Tuesday, April 10, 2012**

**Room 192/193 City Hall**

**71 Main Street West**

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**Present:** Councillor B. Morelli  
A. Mallett (Chair)  
P. Cameron, R. Semkow, M. Smithson, R. Thompson,  
T. Wallis, B. Lane, R. Hirji-Khalfan, T. Manuk

**Absent with  
Regrets:** D. Maraj – Illness  
T. Nolan – Illness  
K. Nolan – Illness  
P. Killburn – Illness  
T. Murphy, R. Cameron

**Also Present:** M. Carter, J. Hayat, Customer Service, Access and Equity  
Andy Grozelle, Legislative Co-ordinator, Clerks Office

#### **THE ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES PRESENTS REPORT12-003 AND RESPECTFULLY RECOMMENDS:**

- 1. Built Environment Sub-committee Report March 19, 2012 – Enforcement of Accessible Parking violations on Private Property (Added Item 6.3)**
  - (a) That Planning, Zoning and Bylaw Enforcement staff be direct to work in co-ordination to design standardized accessible parking spots, for implementation into every parking lot within the City of Hamilton, whether private or public, to meet the Ministry of Transportation guidelines for accessible parking spaces and for enforcement.
  - (b) That staff be directed to review by-law 01-220 and update it to include the enforcement of violations of accessible parking spots by Bylaw Enforcement staff and the Hamilton Police Service, including accessible parking spots on private property, without the current requirements for permission from the owners.

**2. Lynwood Charlton Centre - Radial Separation By-law (Added Item 7.1)**

That staff be directed to report to the Advisory Committee of Persons with Disabilities respecting the Lynwood Charlton Centre and the Human Rights implications of the radial separation by-law.

**FOR THE INFORMATION OF COMMITTEE:**

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

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

**CONSENT ITEMS**

5.4 Built Environment Sub-committee Report – February 20, 2012

**DISCUSSION ITEMS**

6.2 Hamilton Police Service – Mental Illness/Disability Update –  
WITHDRAWN

6.3 Built Environment Sub-committee Report March 19, 2012 (revised  
agenda number)

6.4 By-Law and Equity and Inclusion Policy Tools Development Process  
(verbal update M. Carter)

6.5 Accessibility Plan for AODA (verbal update M. Carter)

The agenda was approved as amended.

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

There were no declarations of interest.

**(c) MINUTES (Item 3)**

**(i) March 13, 2012**

The Minutes of March 13, 2012 were approved as presented.

**(d) DELEGATIONS (Item 4)**

**(i) R. Cameron, Committee Against Racism (no copy) (Item 4.1)**

R. Cameron was not in attendance so the item was referred to the next meeting.

**(e) CONSENT ITEMS (Item 5)**

**(i) Built Environment Sub-committee, January 16, 2012 (Item 5.1)**

Maxine Carter Co-ordinator of Access & Equity provided an update to the committee respecting the Built Environment Sub-committee. She discussed the list of capital projects that is being reviewed by the Sub-committee and indicated a complete list will soon be compiled.

Committee members discussed the need to tour buildings before they are completed in order to make comments that can be considered and acted upon before the project is completed. Committee discussed the possibility of allow some of the more mobile members of the Sub-committee to tour facilities prior to completion even if this requires a waiver be signed.

The Built Environment Sub-committee, January 16, 2012 Minutes, were received.

**(ii) Integrated Standards Sub-committee, March 26, 2012 (Item 5.2)**

The Integrated Standards Sub-committee Report March 26, 2012, were received.

**(iii) Transportation Sub-committee, March 27, 2012 (Item 5.3)**

T. Wallis provided an update to Committee members and discussed the baggage limit discussion on DARTS. She also discussed ongoing problems with bus drivers not calling out all stops, indicating that stops in between regular stop locations are not announced.

The Transportation Sub-committee Report of March 27, 2012, was received.



**(iv) Built Environment Sub-committee Report – February 20, 2012  
(Added Item 5.4)**

Maxine Carter Co-ordinator of Access & Equity discussed the By-law on meeting of the Sub-committee with the Hamilton Municipal Parking System, Zoning and By-law staff.

Committee members discussed the upcoming March of Dimes event in which ACPD members will participate.

The Built Environment Sub-committee Report of February 20, 2012, was received.

**(f) DISCUSSION ITEMS (Item 6)**

**(i) Excerpt from AODA Integrated Accessibility Standards (Item 6.1)**

This item was referred to the next meeting

**(ii) Term's of Reference Discussion (no copy) (Item 6.2)**

This item was referred to the next meeting

**(iii) Built Environment Sub-committee Report March 19, 2012 (revised agenda number) (Added Item 6.3)**

Committee members discussed the recommendations of the Built Environment Sub-committee. The Sub-committee members indicated that the recommendations were made after consideration of the Hamilton Municipal Parking Systems, Zoning and Bylaw presentation at their February meeting.

Committee members discussed the need to develop a standardized and uniform set of requirements for the design of accessible parking spots. This design should then be implemented and required in all private and public lots in the City of Hamilton. Committee members also discussed how the current bylaw falls short as enforcement of accessible parking spots on private property can only be done with the permission of the property owner. Committee members also discussed setting a more appropriate ratio of accessible parking spots based upon the number of accessible permits and not general estimates of the disabled population

For disposition on this matter refer to Item 1.

**(iv) By-Law and Equity and Inclusion Policy Tools Development Process (Added Item 6.4)**

Maxine Carter Co-ordinator of Access & Equity provided the Committee an update respecting the By-Law and Equity and Inclusion Policy Tools Development Process. She provided the Committee with a handout, a copy of which has been included in the official record.

M. Carter discussed the need to review policies and by-laws in order to build in aspects of the AODA. Discussed the consultants on this project, MCC Workplace Solutions, and indicated they will be attending an upcoming ACPD meeting. She outlined how the process will proceed and indicated that the consultant is looking for two members of ACPD to serve on a steering committee on this process.

The update respecting By-Law and Equity and Inclusion Policy Tools Development Process, was received.

**(v) Accessibility Plan for AODA (Added Item 6.5)**

This item was referred to the next meeting

**(g) OTHER BUSINESS (Item 7)**

**(i) Lynwood Charlton Centre - Radial Separation By-law (Added Item 7.1)**

B. Lane introduced the issue around the radial separation by-law that requires a 300 metre reserve to be placed between new residential care facilities. He discussed the comments made by the Human Rights Commission respecting this by-law.

There was a request to have this item come forward at a meeting when Councillor Morelli is available so he can assist the committee in their deliberations.

For disposition on this matter refer to Item 2.

**(h) ADJOURNMENT (Item 8)**

The Advisory Committee for Persons with Disabilities adjourned at 6:05 p.m.

Respectfully submitted,

Aznive Mallett, Chair  
Advisory Committee for Persons with Disabilities

Andy Grozelle  
Legislative Co-ordinator  
April 10, 2012



**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Parking and By-Law Services Division**

|   |  |
|---|--|
| <b>TO:</b> Chair and Members<br>Planning Committee  | <b>WARD(S) AFFECTED:</b> CITY WIDE   |
| <b>COMMITTEE DATE:</b> November 20, 2012  |  |
| <b>SUBJECT/REPORT NO:</b><br>Enforcement of Accessible Parking Spaces on Municipal and Private Property<br>(PED12226) (City Wide)<br>(Outstanding Business List Item) |  |
| <b>SUBMITTED BY:</b><br>Tim McCabe<br>General Manager<br>Planning and Economic Development<br>Department  | <b>PREPARED BY:</b><br>William Young (905) 546-2424 Ext. 2469<br>Pam Carver (905) 546-2424 Ext. 5110<br>Al Fletcher (905) 546-2424 Ext. 1358 |
| <b>SIGNATURE:</b>   |  |

**RECOMMENDATION**

That no action be taken on the Council direction of May 9, 2012 to update the design of accessible parking spaces for persons with disabilities for implementation into every parking lot within the City of Hamilton, and the corresponding By-law 01-220 (Private and Municipal Properties), until such time as the Province releases the new accessible parking space standards.

**EXECUTIVE SUMMARY**

On May 9, 2012 City Council, in adopting the Advisory Committee for Persons with Disabilities Report 12-003, directed staff to work towards standardizing accessible parking spaces in every parking lot in Hamilton, and to enforce proactively without requiring a property owner's permission to do so. This Report responds to that direction, and recommends no action until such time that the Province releases its new accessible parking space standards.

**SUBJECT: Enforcement of Accessible Parking Spaces on Municipal and Private Properties (PED12226) (City Wide) - Page 2 of 4**

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**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

Financial/Staffing/Legal: N/A

**HISTORICAL BACKGROUND** (Chronology of events)

On May 9, 2012 City Council, in adopting the Advisory Committee for Persons with Disabilities Report 12-003, directed as follows:

- “(i) That Planning, Zoning and Bylaw Enforcement staff be directed to work in co-ordination to design standardized accessible parking spots, for implementation into every parking lot within the City of Hamilton, whether private or public, to meet the Ministry of Transportation guidelines for accessible parking spaces and for enforcement.
  
- (ii) That staff be directed to review by-law 01-220 and update it to include the enforcement of violations of accessible parking spots by Bylaw Enforcement staff and the Hamilton Police Service, including accessible parking spots on private property, without the current requirements for permission from the owners.”

In July 2012 the Province of Ontario released, in draft form, accessible parking space standards for public review and comment under the Accessibility for Ontarians with Disabilities Act, 2005 (Ontario Regulation 191/11) (AODA). The 45-day public comment period on the draft standards closed on October 1, 2012.

**POLICY IMPLICATIONS**

N/A

**RELEVANT CONSULTATION**

Legal Services was consulted in the preparation of this Report.

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

The current barrier free parking standards vary within each of the Zoning By-laws still in effect within the City of Hamilton. A Comprehensive Zoning By-law is under development where Parking Design Standards for barrier free parking have been established. The Zoning By-law establishes the number of spaces required related to the total amount of parking required for any development, as well as minimum parking

**SUBJECT: Enforcement of Accessible Parking Spaces on Municipal and Private Properties (PED12226) (City Wide) - Page 3 of 4**

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stall size. During the review of site plan, the zoning requirements will be reviewed; and in conjunction with the design standards within the Site Plan Guidelines, location criteria will assist in determining the appropriate location for the barrier free spaces within any new development.

At this time the Province has released draft accessible parking space standards for public review and comment in accordance with the Accessibility for Ontarians with Disabilities Act, 2005, (Ontario Regulations 191/11) (AODA) which closed on October 1, 2012. Ministry staff are now in the process of reviewing any comments in preparation for the official version to be released at an unknown later date. The new standards are expected to include:

- types of accessible parking spaces;
- access aisles;
- minimum number and type of accessible parking spaces; and,
- on-street parking spaces (only for new construction and planned redevelopment).

Therefore, since the Province's accessible parking space standards are not finalized; amending By-law 01-220 prior to the implementation of the new AODA standards could have a negative financial impact on property owners as current zoning standards may change with the upcoming amendments to the Act, thereby, requiring property owners to possibly redesign and implement new spaces in addition to purchasing and installing new signage.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

- (1) Implement new design standards and update By-law 01-220 (Private and Municipal Property) prior to the AODA releasing their new accessible parking space standards being finalized.
- (2) Amend the existing Zoning By-laws across the City to incorporate consistent barrier free parking regulations across the City.

However, neither of the above alternatives are recommended because they could create a financial hardship to property owners, as it is unknown at this time what the final AODA standards may be.

**SUBJECT: Enforcement of Accessible Parking Spaces on Municipal and Private Properties (PED12226) (City Wide) - Page 4 of 4**

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**CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

- Healthy Community. efficient and effective by-laws and an enforcement program is critical to the health, safety and well being of the Community

**APPENDICES / SCHEDULES**

N/A

PC/dt



# INFORMATION REPORT

|                           |   |
|---------------------------|---|
| <b>TO:</b>                | Chair and Members<br>Planning Committee   |
| <b>COMMITTEE DATE:</b>    | June 19, 2018   |
| <b>SUBJECT/REPORT NO:</b> | Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED18125) (City Wide) |
| <b>WARD(S) AFFECTED:</b>  | City Wide   |
| <b>PREPARED BY:</b>       | Joe Gravina (905) 546-2424 Ext. 1284  |
| <b>SUBMITTED BY:</b>      | Steve Robichaud<br>Director of Planning and Chief Planner<br>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 statutory timeframe provisions of the *Planning Act* for non-decision appeals.

## **Background:**

On April 19, 2016, Information Report (PED16096) was forwarded to the Planning Committee, which provided a status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications relative to the 120 or the 180 statutory timeframe provisions of the *Planning Act* for non-decision appeals and outlined a process for future reporting to the Planning Committee. The Report included a table outlining the active applications, sorted by Ward, from oldest application to newest. In addition, the Report summarized OMB appeals over the previous five years.

Commencing February 28, 2017, similar Information Reports were forwarded to the Planning Committee on a monthly basis in accordance with the process outlined in Information Report (PED16096). An analysis of the information was also included in the year-end report of December 5, 2017 (PED17208), which included tables that

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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) (PED18125) - Page 2 of 3**

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summarized the number of active projects by application type and the number of public meetings by application type.

**Policy Implications and Legislative Requirements**

In accordance with the *Planning Act*, an applicant may appeal an Official Plan Amendment application after 210 days (17 (40)), Zoning By-law Amendment application after 150 days (34 (11)) and a Plan of Subdivision after 180 days (51 (34)).

In accordance with subsection 17(40.1) of the *Planning Act*, the City of Hamilton extends the approval period of Official Plan Amendment applications from 180 days to 270 days for applications received after July 1, 2016 as prescribed in Bill 73 and from 210 to 300 days for applications received after December 12, 2017 as prescribed in Bill 139. It should be noted that applicants can terminate the 90-day extension period if written notice to the municipality is received prior to the expiration of the 180 day or 210 day statutory timeframes.

In addition, Zoning By-law Amendment applications that are submitted together with a required Official Plan Amendment application are also subject to the statutory timeframe of 210 days.

**Information:**

Staff were directed to report back to Planning Committee with a reporting tool that seeks to monitor applications where the applicable statutory timeframes apply. 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.

For the purposes of this Report, the status of all active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications have been divided, relative to the statutory timeframe provisions of the *Planning Act*, prior to December 12, 2017 and after December 12, 2017.

**Applications Deemed Complete Prior to Royal Assent (December 12, 2017)**

Attached as Appendix "A" to Report PED18125 is a table outlining the active applications received prior to December 12, 2107 sorted by Ward, from oldest application to newest. As of April 30, 2018 there were:

- 30 active Official Plan Amendment Applications (including 24 applications submitted after July 1, 2016);
- 56 active Zoning By-law Amendment Applications; and,

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**SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (City Wide) (PED18125) - Page 3 of 3**

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- 13 active Plan of Subdivision Applications.

Within 60 to 90 days of June 19, 2018, all 56 development proposals have passed the 120 or 180 day statutory timeframe. However, of the 24 Official Plan Amendment Applications received after July 1, 2016 and subject to the 270 statutory timeframe, seven will be approaching the 270 statutory timeframe. Seventeen applications have passed the 270 statutory timeframe. These applications are marked with an asterisk on Appendix "A" to Report PED18125).

Applications Deemed Complete After Royal Assent (December 12, 2017)

Attached as Appendix "B" to Report PED18125 is a table outlining the active applications received after December 12, 2017 sorted by Ward, from oldest application to newest. As of April 30, 2018 there were:

- Eight active Official Plan Amendment Applications, all of which were submitted after December 12, 2017, and therefore subject to the 90 extension to the statutory timeframe from 210 days to 300 days;
- Eighteen active Zoning By-law Amendment Applications; and,
- Two active Plan of Subdivision Applications.

Within 60 to 90 days of June 19, 2018, 11 applications will be approaching the 150 or the 300 day statutory timeframe and will be eligible for appeal. Seven applications have passed the 150 or 300 day statutory timeframe.

Combined to reflect property addresses, this results in 74 active development proposals. Sixteen proposals are 2018 files, while 40 proposals are 2017 files and 18 proposals are pre-2017 files.

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 include a qualitative analysis of the status of active applications. It is anticipated that these enhancements will be available in Q2 of 2018.

**Appendices and Schedules Attached:**

Appendix "A" – List of Active Development Applications (Prior to December 12, 2017)

Appendix "B" – List of Active Development Applications (After December 12, 2017)

JG:mo

**Active Development Applications  
Deemed Complete Prior to December 12, 2017  
(Effective April 30, 2018)**

| File                       | Address  | 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 June 19, 2018 |
|----------------------------|--|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 1</b>              |  |               |                                     |                                   |                                      |  |   |  |
| UHOPA-16-11<br>ZAC-16-029  | 925 Main St. W. &<br>150 Longwood Rd.<br>S., Hamilton  | 19-Apr-<br>16 | n/a                                 | 28-Apr-16                         | 17-Aug-16                            | 16-Oct-16  | Urban<br>Solutions<br>Planning &<br>Land<br>Development | 791  |
| UHOPA-17-18*<br>ZAC-17-036 | 644 Main St. W.,<br>Hamilton                           | 31-Mar-<br>17 | n/a                                 | 28-Apr-17                         | 29-Jul-17                            | 27-Sep-17*   | Urban<br>Solutions<br>Planning &<br>Land<br>Development | 445  |
| <b>Ward 2</b>              |  |               |                                     |                                   |                                      |  |   |  |
| ZAC-17-008                 | 117 Forest Ave. &<br>175 Catharine St.<br>S., Hamilton | 23-Dec-<br>16 | n/a                                 | 05-Jan-17                         | 22-Apr-17                            | n/a  | Urban<br>Solutions<br>Planning &<br>Land<br>Development | 543  |
| UHOPA-17-23*<br>ZAC-17-053 | 71 Rebecca St.,<br>Hamilton                            | 15-Jun-<br>17 | n/a                                 | 14-Jul-17                         | 13-Oct-17                            | 12-Dec-17*   | Wellings<br>Planning<br>Consultants<br>Inc.             | 369  |

**Active Development Applications  
Deemed Complete Prior to December 12, 2017  
(Effective April 30, 2018)**

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|----------------------------|--------------------------------|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 2 cont'd</b>       |                                |               |                                     |                                   |                                      |  |   |  |
| ZAC-17-074                 | 154 Main St. E., Hamilton      | 11-Oct-17     | n/a                                 | 06-Nov-17                         | 08-Feb-18                            | n/a  | Urban Solutions Planning & Land Development | 251  |
| UHOPA-17-33*<br>ZAC-17-073 | 125 -129 Robert St., Hamilton  | 06-Oct-17     | 30-Oct-17                           | 14-Nov-17                         | 03-Feb-18                            | 04-Apr-18*   | IBI Group                                   | 217  |
| <b>Ward 3</b>              |                                |               |                                     |                                   |                                      |  |   |  |
| OPA-13-01<br>ZAC-13-007    | 100 Cumberland Ave., Hamilton  | 12-Apr-13     | n/a                                 | 03-May-13                         | 10-Aug-13                            | 09-Oct-13  | MHBC Planning Limited                       | 1894   |
| ZAC-17-024                 | 119-123 Princess St., Hamilton | 08-Feb-17     | n/a                                 | 27-Mar-17                         | 08-Jun-17                            | n/a  | Metropolitan Consulting Inc.                | 496  |
| UHOPA-17-17*<br>ZAR-17-034 | 157 Gibson Ave., Hamilton      | 23-Mar-17     | n/a                                 | 05-May-17                         | 21-Jul-17                            | 19-Sep-17*   | A.J. Clarke & Associates Ltd.               | 453  |

**Active Development Applications  
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|----------------------------|--------------------------------------|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 4</b>              |                                      |               |                                     |                                   |                                      |  |   |  |
| ZAR-16-046                 | 121 Vansitmart Ave., Hamilton        | 19-Jul-16     | n/a                                 | 29-Jul-16                         | 16-Nov-16                            | n/a  | Urban Solutions Planning & Land Development | 700  |
| <b>Ward 6</b>              |                                      |               |                                     |                                   |                                      |  |   |  |
| ZAC-17-057                 | 1221 Limeridge Rd. E., Hamilton      | 07-Jul-17     | 17-Jul-17                           | 24-Oct-17                         | 04-Nov-17                            | n/a  | IBI Group                                   | 238  |
| <b>Ward 7</b>              |                                      |               |                                     |                                   |                                      |  |   |  |
| UHOPA-15-16<br>ZAC-11-070  | 1375 Upper James St., Hamilton       | 16-Mar-15     | n/a                                 | 26-May-15                         | 14-Jul-15                            | 12-Sep-15  | WEBB Planning Consultants Inc.              | 1191   |
| UHOPA-17-31*<br>ZAC-17-071 | 1625 -1655 Upper James St., Hamilton | 27-Sep-17     | n/a                                 | 02-Oct-17                         | 25-Jan-18                            | 26-Mar-18*   | MB1 Development Consulting Inc.             | 265  |
| ZAC-17-089                 | 1351 Upper James St., Hamilton       | 28-Nov-17     | n/a                                 | 05-Dec-17                         | 28-Mar-18                            | n/a  | Patrick Slattery                            | 203  |

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|--|--------------------------------------|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|--------------------------------|--|
| <b>Ward 8</b>                            |                                      |               |                                     |                                   |                                      |  |                                |  |
| ZAC-16-075                               | 393 Rymal Rd. W., Hamilton           | 15-Nov-16     | n/a                                 | 01-Dec-16                         | 15-Mar-17                            | n/a  | GSP Group                      | 581  |
| ZAC-17-030                               | 567 Scenic Dr., Hamilton             | 10-Mar-17     | n/a                                 | 28-Mar-17                         | 08-Jul-17                            | n/a  | A.J. Clarke & Associates Ltd.  | 466  |
| ZAR-17-075                               | 517 Stone Church Rd. W., Hamilton    | 19-Oct-17     | n/a                                 | 10-Nov-17                         | 16-Feb-18                            | n/a  | WEBB Planning Consultants Inc. | 243  |
| <b>Ward 9</b>                            |                                      |               |                                     |                                   |                                      |  |                                |  |
| UHOPA-16-13<br>ZAC-16-033                | 15 Picardy Dr., Stoney Creek         | 13-May-16     | n/a                                 | 27-May-16                         | 10-Sep-16                            | 09-Nov-16  | IBI Group                      | 767  |
| UHOPA-16-26*<br>ZAC-16-065<br>25T-201611 | 478 & 490 First Rd. W., Stoney Creek | 12-Oct-16     | n/a                                 | 02-Nov-16                         | 09-Feb-17                            | 10-Apr-17*   | T. Johns Consultants Inc.      | 615  |
| UHOPA-16-27*<br>ZAC-16-066<br>25T-201612 | 464 First Rd. W., Stoney Creek,      | 12-Oct-16     | n/a                                 | 02-Nov-16                         | 09-Feb-17                            | 10-Apr-17*   | T. Johns Consultants Inc.      | 615  |

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|--|---|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 9 cont'd</b>                     |   |               |                                     |                                   |                                      |  |   |  |
| UHOPA-16-25*<br>ZAC-16-064<br>25T-201609 | 1809, 1817, &<br>1821 Rymal Rd. E.,<br>Stoney Creek | 07-Oct-16     | n/a                                 | 23-Nov-16                         | 04-Feb-17                            | 05-Apr-17*   | WEBB<br>Planning<br>Consultants<br>Inc.           | 620  |
| UHOPA-17-01*<br>ZAC-17-001<br>25T-201701 | 15 Ridgeview Dr.,<br>Stoney Creek                   | 02-Dec-16     | n/a                                 | 16-Dec-16                         | 01-Apr-17                            | 31-May-17*   | A.J. Clarke &<br>Associates<br>Ltd.               | 564  |
| UHOPA-16-21*<br>ZAC-16-057<br>25T-201608 | 56 Highland Rd.<br>W., Stoney Creek                 | 31-Aug-16     | 29-Sep-16                           | 27-Mar-17                         | 29-Dec-16                            | 27-Feb-17*   | Metropolitan<br>Consulting<br>Inc.                | 449  |
| ZAC-17-044                               | 16 and 18 King St.<br>W., Stoney Creek              | 12-May-17     | n/a                                 | 07-Jun-17                         | 09-Sep-17                            | n/a  | A.J. Clarke &<br>Associates<br>Ltd.               | 403  |
| UHOPA-17-20*<br>ZAC-17-049               | 928 Queenston<br>Rd., Stoney Creek                  | 01-Jun-17     | 30-Jun-17                           | 28-Jul-17                         | 29-Sep-17                            | 28-Nov-17*   | Fothergill<br>Planning and<br>Development<br>Inc. | 326  |
| RHOPA-17-24*<br>ZAC-17-055               | 138 Upper<br>Centennial Pkwy,<br>Stoney Creek       | 27-Jun-17     | n/a                                 | 15-Aug-17                         | 25-Oct-17                            | 24-Dec-17*   | Brouwer<br>Architecture                           | 357  |

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|----------------------------|-------------------------------------|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|--------------------------------|--|
| <b>Ward 9 cont'd</b>       |                                     |               |                                     |                                   |                                      |  |                                |  |
| ZAC-17-077                 | 50 Green Mountain Rd., Stoney Creek | 30-Oct-17     | 21-Nov-17                           | 22-Nov-17                         | 27-Feb-18                            | n/a  | GSP Group                      | 209  |
| ZAC-17-085                 | 121 Highway 8, Stoney Creek         | 13-Nov-17     | n/a                                 | 04-Dec-17                         | 13-Mar-18                            | n/a  | A.J. Clarke & Associates Ltd.  | 218  |
| <b>Ward 10</b>             |                                     |               |                                     |                                   |                                      |  |                                |  |
| ZAC-15-040                 | 9 Glencrest Ave., Stoney Creek      | 02-Jul-15     | n/a                                 | 10-Aug-15                         | 30-Oct-15                            | n/a  | WEBB Planning Consultants Inc. | 1083   |
| UHOPA-17-09*<br>ZAC-17-020 | 84 - 96 Lakeview Dr., Stoney Creek  | 19-Jan-17     | n/a                                 | 08-Feb-17                         | 19-May-17                            | 18-Jul-17*   | IBI Group                      | 516  |
| UHOPA-17-36*<br>ZAC-17-079 | 514 Barton St. E, Stoney Creek      | 27-Oct-17     | n/a                                 | 23-Nov-17                         | 24-Feb-18                            | 25-Apr-18*   | GSP Group                      | 235  |
| <b>Ward 11</b>             |                                     |               |                                     |                                   |                                      |  |                                |  |
| UHOPA-14-16<br>ZAR-12-058  | 9388 Twenty Rd. W., Glanbrook       | 20-Dec-12     | n/a                                 | 18-Jan-13                         | 19-Apr-13                            | 18-Jun-13  | A.J. Clarke & Associates Ltd.  | 2007   |
| ZAC-16-016                 | 1313 Baseline Rd., Stoney Creek     | 15-Jan-16     | n/a                                 | 15-Feb-16                         | 14-May-16                            | n/a  | A.J. Clarke & Associates Ltd.  | 886  |



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|--|--|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 11 cont'd</b>                    |  |               |                                     |                                   |                                      |  |   |  |
| ZAC-17-009                               | 1215 Barton St.,<br>Stoney Creek   | 23-Dec-16     | n/a                                 | 06-Jan-17                         | 22-Apr-17                            | n/a  | WEBB<br>Planning<br>Consultants<br>Inc.           | 543  |
| UHOPA-17-05*<br>ZAC-17-015<br>25T-201703 | 1, 19, 20, 21, 23,<br>27 & 30 Lakeside<br>Dr. & 81<br>Waterford Cres.,<br>Stoney Creek | 23-Dec-16     | n/a                                 | 17-Jan-17                         | 22-Apr-17                            | 21-Jun-17*   | IBI Group   | 543  |
| UHOPA-17-12*<br>ZAC-17-027<br>25T-210706 | 2341 & 2365 to<br>2431 Regional Rd.<br>56 & Tanglewood<br>Dr., Glanbrook               | 23-Feb-17     | n/a                                 | 06-Mar-17                         | 23-Jun-17                            | 02-Sep-17*   | A.J. Clarke &<br>Associates<br>Ltd.               | 481  |
| ZAR-17-033                               | 90 Creanona<br>Blvd., Stoney<br>Creek  | 27-Mar-17     | n/a                                 | 28-Apr-17                         | 25-Jul-17                            | n/a  | A.J. Clarke &<br>Associates<br>Ltd.               | 449  |
| RHOPA-17-39*<br>ZAC-17-082               | 8475 English<br>Church Rd.,<br>Glanbrook   | 10-Nov-17     | n/a                                 | 17-Nov-17                         | 10-Mar-18                            | 09-May-18*   | Fothergill<br>Planning and<br>Development<br>Inc. | 221  |
| ZAC-17-076<br>25T-201711                 | 1216, 1218 and<br>1226 Barton St. E.<br>and 1219 Hwy. 8,<br>Stoney Creek               | 30-Oct-17     | n/a                                 | 24-Nov-17                         | 27-Feb-18                            | 28-Apr-18  | Glen Schnarr<br>& Associates<br>Inc.              | 232  |

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|---------------------------------------|--|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|------------------------------------|--|
| <b>Ward 12</b>                        |  |               |                                     |                                   |                                      |  |                                    |  |
| OPA-12-23<br>ZAC-12-065<br>25T-201206 | 491 Springbrook Ave, 851 & 875 Garner Rd. E., Ancaster | 21-Dec-12     | n/a                                 | 18-Jan-13                         | 20-Apr-13                            | 19-Jun-13  | Wellings Planning Consultants Inc. | 2006   |
| ZAC-16-006<br>25T-201602              | 285, 293 Fiddlers Green Rd., Ancaster                  | 23-Dec-15     | n/a                                 | 06-Jan-16                         | 21-Apr-16                            | 20-Jun-16  | Liam Doherty                       | 909  |
| ZAC-16-048<br>25T-201606              | 20 Miller Dr., Ancaster                                | 22-Jul-16     | n/a                                 | 05-Aug-16                         | 19-Nov-16                            | 18-Jan-17  | GSP Group                          | 697  |
| ZAC-17-062                            | 45 Secinaro Ave., Ancaster                             | 28-Jul-17     | n/a                                 | 01-Aug-17                         | 25-Nov-17                            | n/a  | T. Johns Consultants Inc.          | 326  |
| UHOPA-17-25*<br>ZAC-17-058            | 305 Garner Rd. W., Ancaster                            | 11-Jul-17     | 17-Jul-17                           | 08-Aug-17                         | 08-Nov-17                            | 07-Jan-18*   | MHBC Planning Limited              | 343  |
| UHOPA-17-22*<br>ZAC-17-051            | 280 Wilson St. E., Ancaster                            | 05-Jun-17     | 22-Jun-17                           | 23-Aug-17                         | 03-Oct-17                            | 19-Feb-18*   | GSP Group                          | 300  |

**Active Development Applications  
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|----------------------------|--------------------------------|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|--|--|
| <b>Ward 12 cont'd</b>      |                                |               |                                     |                                   |                                      |  |  |  |
| ZAC-17-066                 | 1274 Mohawk Rd., Ancaster      | 17-Aug-17     | n/a                                 | 06-Sep-17                         | 15-Dec-17                            | n/a  | T. Johns Consultants Inc.                | 306  |
| UHOPA-17-30*<br>ZAC-17-68  | 70 Garner Rd. E., Ancaster     | 08-Sep-17     | n/a                                 | 19-Sep-17                         | 06-Jan-18                            | 07-Mar-18*   | Fothergill Planning and Development Inc. | 284  |
| UHOPA-17-32*<br>ZAC-17-072 | 35 Londonderry Dr., Ancaster   | 06-Oct-17     | n/a                                 | 01-Nov-17                         | 03-Feb-18                            | 04-Apr-18*   | A.J. Clarke & Associates Ltd.            | 256  |
| ZAC-17-086                 | 449 Springbrook Ave., Ancaster | 22-Nov-17     | n/a                                 | 29-Nov-17                         | 22-Mar-18                            | n/a  | WEBB Planning Consultants Inc.           | 209  |
| <b>Ward 13</b>             |                                |               |                                     |                                   |                                      |  |  |  |
| ZAR-15-004                 | 64 Hatt St., Dundas            | 02-Dec-14     | n/a                                 | 02-Jan-15                         | 01-Apr-15                            | n/a  | 336477 Ontario Ltd.                      | 1295   |
| ZAC-17-060                 | 211 York Rd., Dundas           | 14-Jul-17     | n/a                                 | 02-Aug-17                         | 11-Nov-17                            | n/a  | Wellings Planning Consultants Inc.       | 340  |

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| File                       | Address                                     | 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 June 19, 2018 |
|----------------------------|---|---------------|-------------------------------------|-----------------------------------|--------------------------------------|--|---|--|
| <b>Ward 14</b>             |   |               |                                     |                                   |                                      |  |   |  |
| ZAC-17-064<br>25T-201710   | 655 Cramer Rd.,<br>Flamborough              | 09-Aug-17     | n/a                                 | 17-Aug-17                         | 07-Dec-17                            | n/a  | A.J. Clarke &<br>Associates<br>Ltd.               | 314  |
| RHOPA-17-37*<br>ZAC-17-080 | 1915 Jerseyville<br>Rd. W., Ancaster        | 06-Nov-17     | n/a                                 | 20-Nov-17                         | 06-Mar-18                            | 05-May-18*   | IBI Group   | 225  |
| RHOPA-17-38*<br>ZAC-17-081 | 1633 Highway 6,<br>Flamborough              | 08-Nov-17     | n/a                                 | 21-Nov-17                         | 08-Mar-18                            | 07-May-18*   | 1685486<br>ONTARIO<br>INC.                        | 223  |
| <b>Ward 15</b>             |   |               |                                     |                                   |                                      |  |   |  |
| ZAC-15-039<br>25T-201507   | Flamborough<br>Power Centre,<br>Flamborough | 13-Jul-15     | n/a                                 | 23-Jul-15                         | 10-Nov-15                            | 09-Jan-16  | Fothergill<br>Planning and<br>Development<br>Inc. | 1072   |
| UHOPA-17-06*<br>ZAC-17-016 | 157 Parkside Dr.,<br>Flamborough            | 23-Dec-16     | n/a                                 | 17-Jan-17                         | 22-Apr-17                            | 21-Jun-17*   | MHBC<br>Planning<br>Limited                       | 543  |

**Active Development Applications  
Deemed Complete Prior to December 12, 2017  
(Effective April 30, 2018)**

Active Development Applications

1. 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 by 90 days from 180 days to 270 days. However, applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 180 statutory timeframe.

**Active Development Applications  
Deemed Complete After December 12, 2017  
(Effective April 30, 2018)**

| File                       | Address   | Date Received | Date <sup>1</sup> Deemed Incomplete | Date <sup>1</sup> Deemed Complete | 150 day cut off (Rezoning) | 180 day cut off (Plan of Sub.) | 300 day cut off (OPA) | Applicant/ Agent                            | Days since Received and/or Deemed Complete as of June 19, 2018 |
|----------------------------|---|---------------|-------------------------------------|-----------------------------------|----------------------------|--------------------------------|-----------------------|---|--|
| <b>Ward 1</b>              |   |               |                                     |                                   |                            |                                |                       |   |  |
| UHOPA-18-05*<br>ZAC-18-012 | 235 Main St. W.,<br>Hamilton                                      | 22-Dec-17     | n/a                                 | 19-Jan-18                         | n/a                        | n/a                            | 20-Jul-18*            | Urban Solutions Planning & Land Development | 179  |
| <b>Ward 2</b>              |   |               |                                     |                                   |                            |                                |                       |   |  |
| UHOPA-17-41*<br>ZAC-17-090 | 80 and 92 Barton St. E and 215 and 245 Catharine St. N., Hamilton | 29-Nov-17     | n/a                                 | 14-Dec-17                         | n/a                        | n/a                            | 27-Jun-18*            | IBI Group                                   | 202  |
| UHOPA-18-04*<br>ZAC-18-009 | 299-307 John St. S., Hamilton                                     | 22-Dec-17     | n/a                                 | 19-Jan-18                         | n/a                        | n/a                            | 20-Jul-18*            | Urban Solutions Planning & Land Development | 179  |
| ZAC-18-013                 | 122 & 126 Augusta St. & 125 & 127 Young St., Hamilton             | 21-Dec-17     | n/a                                 | 25-Jan-18                         | 20-May-18                  | n/a                            | n/a                   | Urban Solutions Planning & Land Development | 180  |
| UHOPA-18-07*<br>ZAC-18-020 | 468, 470, 474 and 476 James St. N., Hamilton                      | 09-Mar-18     | n/a                                 | 27-Mar-18                         | n/a                        | n/a                            | 05-Oct-18*            | SvN Architects + Planners                   | 102  |

**Active Development Applications  
Deemed Complete After December 12, 2017  
(Effective April 30, 2018)**

| File                                     | Address   | Date Received | Date <sup>1</sup> Deemed Incomplete | Date <sup>1</sup> Deemed Complete | 150 day cut off (Rezoning) | 180 day cut off (Plan of Sub.) | 300 day cut off (OPA) | Applicant/ Agent  | Days since Received and/or Deemed Complete as of June 19, 2018 |
|--|---|---------------|-------------------------------------|-----------------------------------|----------------------------|--------------------------------|-----------------------|---|--|
| <b>Ward 4</b>                            |   |               |                                     |                                   |                            |                                |                       |   |  |
| UHOPA-18-06<br>ZAC-18-010<br>25T-201802  | 20 Reid Ave. N.,<br>Hamilton  | 22-Dec-17     | n/a                                 | 16-Jan-18                         | n/a                        | 20-Jun-18                      | 18-Oct-18             | MHBC<br>Planning<br>Limited                             | 179  |
| <b>Ward 7</b>                            |   |               |                                     |                                   |                            |                                |                       |   |  |
| ZAC-18-008                               | 370 Concession<br>St., Hamilton   | 21-Dec-17     | n/a                                 | 22-Jan-18                         | 20-May-<br>18              | n/a                            | n/a                   | Urban<br>Solutions<br>Planning &<br>Land<br>Development | 180  |
| <b>Ward 10</b>                           |   |               |                                     |                                   |                            |                                |                       |   |  |
| ZAC-18-017                               | 560 Grays Rd.,<br>Stoney Creek  | 18-Jan-18     | n/a                                 | 26-Jan-18                         | 17-Jun-18                  | n/a                            | n/a                   | IBI Group   | 152  |
| <b>Ward 11</b>                           |   |               |                                     |                                   |                            |                                |                       |   |  |
| UHOPA-18-01*<br>ZAC-18-003<br>25T-201801 | 78 and 80<br>Marion St. and<br>3302 and 3306<br>Homestead Dr.,<br>Glanbrook | 01-Dec-17     | n/a                                 | 18-Dec-17                         | n/a                        | 30-May-<br>18                  | 29-Jun-18*            | Urban<br>Solutions<br>Planning &<br>Land<br>Development | 200  |

**Active Development Applications  
Deemed Complete After December 12, 2017  
(Effective April 30, 2018)**

| File                       | Address   | Date Received | Date <sup>1</sup> Deemed Incomplete | Date <sup>1</sup> Deemed Complete | 150 day cut off (Rezoning) | 180 day cut off (Plan of Sub.) | 300 day cut off (OPA) | Applicant/ Agent                            | Days since Received and/or Deemed Complete as of June 19, 2018 |
|----------------------------|---|---------------|-------------------------------------|-----------------------------------|----------------------------|--------------------------------|-----------------------|---|--|
| <b>Ward 11 cont'd</b>      |   |               |                                     |                                   |                            |                                |                       |   |  |
| ZAC-18-005                 | 42, 44, 48, 52 and 54 Lakeshore Dr., Stoney Creek | 15-Dec-17     | n/a                                 | 16-Jan-18                         | 14-May-18                  | n/a                            | n/a                   | A.J. Clarke & Associates Ltd.               | 186  |
| UHOPA-18-03*<br>ZAC-18-007 | 3331 Homestead Dr., Glanbrook                     | 19-Dec-17     | n/a                                 | 16-Jan-18                         | n/a                        | n/a                            | 17-Jul-18*            | IBI Group                                   | 182  |
| ZAA-18-006                 | 3600 Guyatt Rd., Glanbrook                        | 20-Dec-17     | 18-Jan-18                           | 24-Jan-18                         | 19-May-18                  | n/a                            | n/a                   | Larry Freeman                               | 146  |
| ZAR-18-023                 | 5050 Harrison Rd., Glanbrook                      | 23-Mar-18     | n/a                                 | 04-Apr-18                         | 20-Aug-18                  | n/a                            | n/a                   | GSP Group                                   | 76   |
| <b>Ward 12</b>             |   |               |                                     |                                   |                            |                                |                       |   |  |
| ZAA-18-004                 | 240 Butter Rd. W., Ancaster                       | 13-Dec-17     | n/a                                 | 03-Jan-18                         | 12-May-18                  | n/a                            | n/a                   | Urban Solutions Planning & Land Development | 188  |



**Active Development Applications  
Deemed Complete After December 12, 2017  
(Effective April 30, 2018)**

| File                       | Address                         | Date Received | Date <sup>1</sup> Deemed Incomplete | Date <sup>1</sup> Deemed Complete | 150 day cut off (Rezoning) | 180 day cut off (Plan of Sub.) | 300 day cut off (OPA) | Applicant/ Agent                            | Days since Received and/or Deemed Complete as of June 19, 2018 |
|----------------------------|---------------------------------|---------------|-------------------------------------|-----------------------------------|----------------------------|--------------------------------|-----------------------|---|--|
| <b>Ward 13</b>             |                                 |               |                                     |                                   |                            |                                |                       |   |  |
| UHOPA-17-40*<br>ZAC-17-088 | 264 Governors Rd. Dundas        | 28-Nov-17     | n/a                                 | 13-Dec-17                         | n/a                        | n/a                            | 26-Jun-18*            | Urban Solutions Planning & Land Development | 203  |
| <b>Ward 15</b>             |                                 |               |                                     |                                   |                            |                                |                       |   |  |
| ZAC-18-011                 | 21 Mill St. N., Hamilton        | 22-Dec-17     | n/a                                 | 18-Jan-18                         | 21-May-18                  | n/a                            | n/a                   | A.J. Clarke & Associates Ltd.               | 179  |
| ZAR-18-015                 | 5 Hamilton St. N., Flamborough  | 16-Jan-18     | n/a                                 | 24-Jan-18                         | 15-Jun-18                  | n/a                            | n/a                   | A.J. Clarke & Associates Ltd.               | 154  |
| ZAR-18-019                 | 167 Highway 5 West, Flamborough | 23-Feb-18     | n/a                                 | 22-Mar-18                         | 23-Jul-18                  | n/a                            | n/a                   | IBI Group                                   | 116  |

**Active Development Applications  
Deemed Complete After December 12, 2017  
(Effective April 30, 2018)**

Active Development Applications

1. When an application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 150, 180, 210 & 300 day timeframe commences on the date the new materials were submitted. In all other situations, the 150, 180, 210 & 300 day timeframe commences the day the application was received.
2. In accordance with Section 34 (11.0.0.0.1), of the *Planning Act*, the approval period for Zoning By-law Amendment applications submitted concurrently with an Official Plan Amendments, will be extended to 210 days.
3. 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 by 90 days from 210 days to 300 days. However, applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 210 statutory timeframe.



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Transportation Planning and Parking Division

|                           |   |
|---------------------------|---|
| <b>TO:</b>                | Chair and Members<br>Planning Committee   |
| <b>COMMITTEE DATE:</b>    | June 19, 2018   |
| <b>SUBJECT/REPORT NO:</b> | Amendment to On-Street Parking Permit Qualification Criteria (PED18139) (City Wide)                                 |
| <b>WARD(S) AFFECTED:</b>  | City Wide   |
| <b>PREPARED BY:</b>       | Chris King (905) 546-2424 Ext. 5110<br>Kerry Davren (905) 546-2424 Ext. 6009  |
| <b>SUBMITTED BY:</b>      | Brian Hollingworth<br>Director, Transportation Planning and Parking<br>Planning and Economic Development Department |
| <b>SIGNATURE:</b>         |   |

### RECOMMENDATION

That the By-law to Regulate On-Street Parking, By-law No. 01-218, be amended as attached in Appendix "A" to Report PED18139, in a form satisfactory to the City Solicitor, to remove the requirement that only residents with Ontario License Plates be granted On-street Parking Permits.

### EXECUTIVE SUMMARY

Based on current wording in Parking By-law 01-218 (being "a By-law to Regulate On-street Parking", hereafter referred to as "By-law 01-218"), drivers wishing to purchase On-street Parking Permits are required to have a valid Ontario license plate affixed to their vehicle in addition to proving residency in the City of Hamilton. This prevents temporary residents and those in the process of moving/updating their license plates from obtaining permits even though they reside in the neighbourhood. One particular incident prompted a complaint to the Ontario Ombudsman's Office.

Staff is recommending the removal of the 'Ontario License Plate' requirement from By-law 01-218 which regulates on-street parking to aid residents who are residing in the City temporarily and/or are in the process of relocating and updating license plates.

### **Alternatives for Consideration – N/A**

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**SUBJECT: Amendment to On-Street Permit Parking Criteria (PED18139) (City Wide) - Page 2 of 3**

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**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: N/A

**HISTORICAL BACKGROUND**

In 2016, the Ontario Ombudsman's Office investigated a complaint from a temporary resident, working in Hamilton on a one-year contract, who was denied an On-street Parking Permit for a street with a 'By Permit Only' By-law restriction, as their vehicle did not bear Ontario license plates.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

Legal Services was consulted in the preparation of this Report, and they had no concerns.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

There are two main types of on-street parking permits available to Hamilton residents – one which allows residents to park in a block or space reserved for permit holders only (i.e. 'By Permit Only' signage) and one which allows residents to park in excess of a posted time limit within a designated area.

Under City of Hamilton By-law 01-218, vehicles must bear valid Ontario License Plates in order to be eligible for an on-street permit. It is believed this provision was included in the By-law as it aligned to the Ministry of Transportation's (MTO) requirement that 'out-of-Province' vehicle owners residing in Ontario for more than six months change their plates. The MTO no longer has this requirement for temporary residents.

Currently those who live and contribute to the City, but have out-of-Province license plates, are not applicable to purchase a permit. This causes them to have to park in a non-permit parking area, which may not be in close proximity to their residences thus causing an undue inconvenience. This displacement can also lead to complaints being received from within the non-permit area, requesting staff to turn additional roads into permit parking only roadways, requiring additional signage and administration.

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**SUBJECT: Amendment to On-Street Permit Parking Criteria (PED18139) (City Wide) - Page 3 of 3**

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Staff conducted an environmental scan of 11 area municipalities (Burlington, Brampton, Toronto, Niagara Falls, Mississauga, Ottawa, London, Thunder Bay, Windsor, and Kingston) to determine the if the municipality has a Permit Parking Program, and if so the details and requirements of the Program. The scan identified that of the 11 municipalities:

- five municipalities do not have any, or do not have a similar on-street permit parking program as compared to Hamilton;
- six municipalities have similar permit parking programs to Hamilton:
  - one municipality specifically requires the vehicle to be registered to the address; and,
  - five municipalities allowed other forms of proof of residence (which would be more applicable to temporary residents i.e. students/temporary workers) such as lease agreement/receipts, utility bills, proof of enrollment, landlord letter etc.

Based on the above, the Hamilton Municipal Parking System (HMPS) has no specific reason to restrict the sales of permits to only permanent Ontario residents. HMPS has other processes in place to verify proof of residency and validate permit requests in accordance with the On-Street Parking By-Law; therefore, it is recommended that By-law 01-218 (to regulate on-street parking) be amended to eliminate the Ontario license plate requirement, as shown in Appendix “A” to this Report.

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

### **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”: Amended By-law 01-218 to “Regulate On-Street Parking”

CK:jp

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**Authority:**  
Item , Planning Committee  
Report  
CM:

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO. 18-XXX**

**To Amend By-law No. 01-218  
Being a By-law to Regulate On Street Parking**

**WHEREAS** By-law No. 01-218 Regulates On Street Parking;

**AND WHEREAS** staff recommend that wording be changed to remove the requirement that only residents with Ontario License Plates be granted on-street parking permits;

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

1. Section 10. (1) (a) is deleted and replaced with the following:

10. (1) In this section:

(a) "approved motor vehicle" means:

- (i) a passenger vehicle bearing valid license plates;
- (ii) a motorcycle bearing a valid license plate, and,
- (iii) a van or truck which is defined as a commercial motor vehicle under the Highway Traffic act, but is registered as a vehicle designated primarily for personal use;

but does not include:

- (i) a commercial motor vehicle for which the permit fee under The Highway Traffic Act is based on the weight of the vehicle and load in excess of 4,500 kilograms; or,
- (ii) a vehicle which exceeds six and four tenths metres (6.4 m) [21 feet] in length; or,
- (iii) a vehicle which is equipped with dual rear wheels; or,
- (iv) a vehicle which is a tow truck; or,

**Appendix "A" to Report PED18139  
Page 2 of 2**

- (v) a vehicle which is a bus, or a bus converted into a mobile home or bus otherwise used for commercial or non-commercial purposes.

2. Section 11. (1) (a) is deleted and replaced with the following:

11. (1) In this section:

- (a) "approved motor vehicle" means:
  - (i) a passenger vehicle bearing valid license plates;
  - (ii) a motorcycle bearing a valid license plate; and,
  - (iii) a van or truck which is defined as a commercial motor vehicle under the Highway Traffic act, but is registered as a vehicle designated primarily for personal use;

but does not include:

- (i) a commercial motor vehicle for which the permit fee under The Highway Traffic Act is based on the weight of the vehicle and load in excess of 4,500 kilograms; or,
- (ii) a vehicle which exceeds six and four tenths metres (6.4m) [21 ft.] in length; or,
- (iii) a vehicle which is equipped with dual rear wheels; or,
- (iii) a vehicle which is a tow truck; or,
- (v) a vehicle which is a bus, or a bus converted into a mobile home or bus otherwise used for commercial or non-commercial purposes;

3. This By-law comes into force when passed.

**PASSED** this                    day of                    , 2018.

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F. Eisenberger  
Mayor

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R. Caterini  
City Clerk



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

|                           |  |
|---------------------------|--|
| <b>TO:</b>                | Chair and Members<br>Planning Committee  |
| <b>COMMITTEE DATE:</b>    | June 19, 2018  |
| <b>SUBJECT/REPORT NO:</b> | Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning By-law No. 05-200 and for Approval of a Draft Plan of Subdivision "Flamborough Power Centre North" for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) |
| <b>WARD(S) AFFECTED:</b>  | Ward 15  |
| <b>PREPARED BY:</b>       | Alaina Baldassarra (905) 546-2424 Ext. 7421  |
| <b>SUBMITTED BY:</b>      | Steve Robichaud<br>Director, Planning and Chief Planner<br>Planning and Economic Development Department  |
| <b>SIGNATURE:</b>         |  |

### RECOMMENDATION

- (a) That **Urban Hamilton Official Plan Amendment Application UHOPA-18-012 by Flamborough Power Centre Inc., Flamborough Capital Corp. Inc., and Ankara Realty Ltd. (Owners)**, to remove existing Core Areas (Significant Woodlands and Streams) and Linkages and add new Core Areas (Significant Woodlands) and Linkages on Schedules B, B-2 and B-8; designate Clappison Avenue as a Minor Arterial on Schedule C and establish a Site Specific Policy Area to protect the existing Natural Heritage features, as shown on Appendix "B" to Report PED18133, be **APPROVED** on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix "B" to Report PED18133 be enacted by City Council;
  - (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-15-039 by Flamborough Power Centre Inc., Flamborough Capital Corp. Inc., and Ankara Realty Ltd. (Owners)**, for changes in zoning from the Prestige Business Park (M3, 437) Zone, General Business Park (M2) Zone, and Prestige Business

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**SUBJECT: Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning Bylaw No. 05-200 and for Approval of a Draft Plan of Subdivision “Flamborough Power Centre North” for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) - Page 2 of 30**

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Park (M3, 388) Zone to Conservation / Hazard Land (P5) Zone (Blocks 1, 2, and 3) to protect natural features and from Prestige Business Park (M3) Zone to Prestige Business Park (M3, 437) Zone (Block 5) to permit a Fitness Club and Medical Clinic for lands located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive Flamborough, as shown on Appendix “A” to Report PED18133, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED18133, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law be added to Schedule C – Special Exceptions of Zoning By-law No. 05-200;
  - (iii) That this By-law will comply with the Urban Hamilton Official Plan upon approval of Urban Hamilton Official Plan Amendment No. XX.
- (c) That **Draft Plan of Subdivision Application 25T-201507 by Flamborough Power Centre Inc., Flamborough Capital Corporation Inc. and Ankard Realty Ltd., (Owners)**, to establish a Draft Plan of Subdivision known as “Flamborough Power Centre North”, Flamborough, on lands located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, as shown on Appendix “D” to Report PED18133 be **APPROVED**, subject to the following:
- (i) That this approval apply to the Draft Plan of Subdivision “Flamborough Power Centre North”, 25T-201507, prepared by J.D. Barnes and certified by R.S. Querubin, dated January 30, 2018, consisting of six blocks for employment uses (Blocks 1, 3, 4, 7, 8, and 9), three blocks for Conservation / Hazard Lands (Blocks 5, 6 and 10), one block for a future road widening (Block 12), one block for a Stormwater Management Facility (Block 2), one Block for a 0.3 m reserve (Block 11), and three proposed streets subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the special conditions attached as Appendix “E” to Report PED18133.
- (d) That Payment of Cash-in-Lieu or dedication 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 day of issuance of each building permit.

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**SUBJECT: Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning Bylaw No. 05-200 and for Approval of a Draft Plan of Subdivision “Flamborough Power Centre North” for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) - Page 3 of 30**

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## **EXECUTIVE SUMMARY**

The purpose of the subject applications are to amend the Urban Hamilton Official Plan, and Zoning By-law No. 05-200, and for approval of a Draft Plan of Subdivision known as “Flamborough Power Centre North”. The purpose of the subdivision is to create six industrial blocks, three conservation blocks, one stormwater management block and three municipal roads.

The purpose of the Urban Hamilton Official Plan Amendment will remove existing Core Areas, Hydrogeologic Feature and Linkages (identified as Significant Woodlands and Streams), new Core Areas and Linkages (identified as Significant Woodlands) and Site Specific Policy to protect the natural features. In addition Clappison Avenue will be designated as a Minor Arterial.

The purpose of the Zoning By-law Amendment is to change from the current industrial zone to a conservation zone to protect the existing natural heritage features. As well, the amendment proposes to add a site specific to a portion of the subject lands to permit an ancillary Medical Clinic and Fitness Club.

The effect of the applications are to permit the development of:

- six blocks for employment and limited ancillary uses;
- three blocks for Conservation / Hazard Lands;
- one block for a Stormwater Management Facility;
- three proposed streets (extension of Clappison Avenue, proposed Street “A” and Street “B”);
- one block for a Road Widening; and,
- two blocks for 0.3 m reserves.

The applications have merit and can be supported as they are consistent with the Provincial Policy Statement (PPS) (2014), conform to the Growth Plan for the Greater Golden Horseshoe (2017) and comply with the policies of the Urban Hamilton Official Plan (UHOP).

***Alternatives for Consideration – See Page 30***

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** N/A

**Staffing:** N/A

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**SUBJECT: Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning Bylaw No. 05-200 and for Approval of a Draft Plan of Subdivision “Flamborough Power Centre North” for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) - Page 4 of 30**

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**Legal:** As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider applications for an Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision.

## **HISTORICAL BACKGROUND**

### **Proposal**

The subject lands are located east of Parkside Drive, west of Borers Creek, north of Highway 6 and south of Chatsworth Court (see location map attached as Appendix “A” to Report PED18133). The subject lands are a consolidation of seven properties municipally known as 56, 74, 78, 90, 96, 100 and 566 Parkside Drive. The subject site is currently vacant and includes a woodlot with a stream abutting the subject site to the east.

The proposal is for:

- six blocks for employment and limited ancillary uses;
- three blocks for Conservation / Hazard Lands;
- one block for a Stormwater Management Facility;
- three proposed streets (extension of Clappison Avenue, proposed Street “A” and Street “B”);
- one block for a road widening; and,
- two blocks for a 0.3 m reserve.

### **Urban Hamilton Official Plan Amendment**

Through the review of the Environmental Impact Study, staff identified the requirement for an Official Plan Amendment to support the submitted rezoning. Staff amended the submitted application to include an Urban Hamilton Official Plan Amendment to remove existing Core Areas, Hydrogeologic Feature and Linkages (identified as Significant Woodlands and Streams), add new Core Areas and Linkages (identified as Significant Woodlands), and designate Clappison Avenue as a Minor Arterial. The proposed changes will effect Schedule B – Natural Heritage System, Schedule B-2 – Detailed Natural Heritage Features – Key Natural Heritage Feature – Significant Woodlands, Schedule B-8 – Detailed Natural Heritage Features – Key Hydrologic Feature – Streams, Schedule C – Functional Road Classification) and establish a Site Specific Policy Area to protect the existing Natural Heritage features.

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**Zoning By-law No. 05-200 Amendment**

The applicant submitted a zoning by-law amendment as follows:

- to rezone a portion of the lands from a Prestige Business Park Zone to a Conservation Zone for the preservation of the natural heritage features;
- to rezone a portion of the General Industrial Zone to a site specific General Industrial Zone permit mini storage; and,
- to rezone from a Prestige Business Park Zone to a site specific Prestige Business Park Zone to permit fitness club, mini storage and medical clinic.

Staff amended the application to permit a change in zoning from the Prestige Business Park (M3, 437) Zone, General Business Park (M2) Zone, and Prestige Business Park (M3, 388) Zone to the Conservation / Hazard Land (P5) Zone and a change in zoning from the Prestige Business Park (M3) Zone to Prestige Business Park (M3, 437) Zone to apply an existing site specific to permit a Fitness Club and Medical Clinic on a portion of the subject lands. The applicants request to rezone a portion of the lands is not required because mini storage is considered a warehouse use which is permitted as part of the existing zoning.

**Plan of Subdivision**

The proposed Draft Plan of Subdivision is intended to create the following:

- six blocks for employment uses;
- three blocks for Conservation / Hazard Lands;
- one block for a Stormwater Management Facility;
- three proposed streets (extension of Clappison Avenue, proposed Street “A” and Street “B”);
- one block for a road widening; and,
- two blocks for a 0.3 m reserve.

A future Site Plan Control Application will be required to facilitate the development of the employment lots. Staff note that the requisite studies have been submitted with the subject applications and will be addressed through the respective Standard Form Subdivision Agreement and through special conditions attached as Appendix “E” to Report PED18133.

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### **Site Plan**

During the Draft Plan of Subdivision application process, a lot was created for the development of an 11,148 sq m building for warehousing purposes within the subject lands. The proposed lot will front onto the Clappison Avenue extension and the proposed Street A. The business known as Stryker received final approval of their Site Plan Control Application (DA-16-165) on March 8, 2018. The applicants are in the process of obtaining a building permit to construct the proposed building.

### **Chronology:**

- July 13, 2015: Zoning By-law Amendment Application ZAC-15-039 and Draft Plan of Subdivision Application 25T-201507 received.
- July 24, 2015: Zoning By-law Amendment Application ZAC-15-039 and Draft Plan of Subdivision Application 25T-201507 deemed complete.
- August 7, 2015: Notice of Complete Application and Preliminary Circulation was sent to 180 property owners within 120 m of the subject lands.
- August 17 and 25, 2015: Public Notice sign was posted on the subject lands.
- May 09, 2018: Urban Hamilton Official Plan Amendment Application UHOPA-18-012 was received.
- May 10, 2018: Urban Hamilton Official Plan Amendment Application UHOPA-18-012 deemed complete.
- May 23, 2018: Notice of Complete Application and Preliminary Circulation for Official Plan Amendment Application UHOPA-18-012 sent to 180 property owners within 120 m of the subject lands.
- May 23, 2018: Public Notice Sign updated with Public Meeting Date.
- June 01, 2018: Circulation of the Notice of Public Meeting was mailed to 180 property owners within 120 m of the subject property.

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### **DETAILS OF SUBMITTED APPLICATIONS**

**Location:** 56, 74, 78, 90, 96, 100, 566 Parkside Drive

**Owner:** Flamborough Power Centre Inc., Flamborough Capital Corp Inc., and Ankara Realty Ltd. c/o Steve Malovic

**Agent:** Fothergill Development Inc. c/o Ed Fothergill

**Property Size (Consolidated):**

|                   |                                   |
|-------------------|-----------------------------------|
| <u>Lot Area:</u>  | 383, 858.6 sq m                   |
| <u>Frontage:</u>  | 551.9 m (along Parkside Drive)    |
| <u>Depth:</u>     | 564.6 m (from Parkside Drive)     |
| <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>Subject Lands:</b>     | Vacant Land,<br>(Stryker building<br>under construction) | Prestige Business Park (M3,<br>437) Zone, General Business<br>Park (M2) Zone, Prestige<br>Business Park (M3) Zone,<br>Modified and Prestige<br>Business Park (M3, 388) Zone   |
| <b>Surrounding Lands:</b> |  |   |
| <b>North:</b>             | Residential Uses   | Neighbourhood Park (P1)<br>Zone, Urban Residential<br>(Semi-Detached and Link)<br>“R4” Zone, Urban Residential<br>(Single Detached) “R1-8”<br>Zone, Modified, Urban<br>Residential (Single Detached)<br>“R1-1” Zone, Modified |

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|               |   |  |
|---------------|---|--|
| <b>East:</b>  | Borers Creek,<br>Commercial Uses,<br>Vacant Land                        | Conservation/Hazard Land<br>(P5) Zone, Prestige Industrial<br>“M1-14(H)” Zone, Modified,<br>Prestige Industrial “M1-12”<br>Zone, Modified, Prestige<br>Industrial “M1-1” Zone,<br>Modified, District Commercial<br>(C6, 326, H91) Zone |
| <b>South:</b> | Vacant Employment land,<br>Residential Uses                             | Prestige Business Park (M3)<br>Zone and General Business<br>Park (M2) Zone   |
| <b>West:</b>  | Agricultural Uses,<br>Residential Uses,<br>Landscaping<br>Establishment | Rural (A2) 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.

“2.1.2 The diversity and connectivity of natural features in an area, and the long-term *ecological function* and biodiversity of *natural heritage systems*, should be maintained, restored or, where possible, improved, recognizing linkages between and among *natural heritage features and areas, surface water features and ground water features.*”

The applicant submitted an Environmental Impact Study (EIS) which identified a Core Environmental Protection Feature on the subject lands and recommended removal of existing linkages on the subject lands. The proposed Official Plan and Zoning By-law Amendment will be amended to recognize the changes as per the Environmental

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Impact Statement. The amendments to the natural heritage feature map will be discussed in greater detail on Page 14 of this Report.

With respect to Cultural Heritage, the PPS states:

“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.*”

The subject lands meet four of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) Within 250 m of known archaeological sites;
- 2) Within 300 m of a primary watercourse or permanent waterbody, 200 m of a secondary watercourse or seasonal waterbody, or 300 m of a prehistoric watercourse or permanent waterbody;
- 3) In areas of pioneer EuroCanadian settlement; and,
- 4) Along historic transportation routes.

The above criteria identify that the subject lands have archaeological potential. Accordingly, staff received a Stage 1 (P018-0711-2014) archaeological report which recommended that further archaeological work be conducted to address the archaeological potential of the subject lands. A Stage 2 (P018-0723-2015) assessment was completed by New Directions Archaeology Ltd as part of Site Plan Application DA-16-165. Staff concurred with the recommendations made within the Report which included that the Rill (AhGx-740), Hythe (AhGx-750), and Long sites (AhGx-753) will require a Stage 3 archaeological assessment and may require a Stage 4 assessment.

A Stage 3 (P018-0875-2017) Archaeological Assessment was completed for the Rill and Long sites, dated January 19<sup>th</sup> and February 1, 2018 which determined that no further archaeological assessment is required for the Rill Site. A Letter of Concurrence, dated February 27, 2018 was received from the Ministry of Tourism, Culture and Sport for the Rill Site. However, a Stage 4 excavation is required for the Long site, and a Stage 3 Assessment is still required for the Hythe Site. Accordingly, a condition has been added (Condition No. 31 of Appendix “E” to Report PED18133) requiring completion of all archaeological requirements. Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

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

The policies of the Growth Plan for the Greater Golden Horseshoe apply to any planning decision. The following policies, amongst others, apply to the proposal:

- “2.2.5 1. Economic development and competitiveness in the GGH will be promoted by:
- a) making more efficient use of existing employment areas and vacant and underutilized employment lands and increasing employment densities;
  - b) ensuring the availability of sufficient land, in appropriate locations, for a variety of employment to accommodate forecasted employment growth to the horizon of this Plan;
7. Municipalities may identify employment areas located adjacent to or near major goods movement facilities and corridors, including major highway interchanges, as prime employment areas and plan for their protection for appropriate employment uses over the long-term by:
- a) prohibiting residential, institutional, and other sensitive land uses;
  - b) prohibiting retail and office uses that are not associated with or ancillary to the primary employment use.”

The subject lands are currently designated Business Park within the Urban Hamilton Official Plan (UHOP). The proposed zoning amendment is required to permit limited ancillary uses (medical clinic and fitness club) to support the employment uses along a Minor Arterial road on the subject site. In addition, the proposed Zoning By-law Amendment will not permit any sensitive land uses (e.g., residential), retail and office uses not associated with or ancillary to employment uses. In addition, the applicant proposes to develop the required infrastructure to appropriately develop the site for employment uses. The proposed applications encourage efficient use of the existing goods movement corridors abutting the subject lands and protect the permitted employment uses on the site.

- “4.2.2 3. Within the Natural Heritage System:

- (a) new development or site alteration will demonstrate that:

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- (i) there are no negative impacts on key natural heritage features or key hydrologic features or their functions;
- (ii) connectivity along the system and between key natural heritage features and key hydrologic features located within 240 m of each other will be maintained or, where possible, enhanced for the movement of native plants and animals across the landscape;

The applicant has submitted an Environmental Impact Statement stating the proposed changes to the Official Plan Amendment will not have negative impact on the Natural Heritage Feature. This matter will be discussed in greater detail on page 14 of this Report.

Based on the foregoing, it is staff’s opinion that the proposal conforms with the applicable policies of the Growth Plan for the Greater Golden Horseshoe (2017).

### **Urban Hamilton Official Plan (UHOP)**

The subject lands are identified as “Employment Areas” on Schedule “E”- Urban Structure and as “Business Parks” on Schedule “E-1” – Land Use Designations.

The following policies, amongst others, apply to the subject lands:

“C.3.2.1 The following uses shall be permitted in all land use designations:

- b) utilities, municipal infrastructure and transportation facilities, corridors and easements, electrical facilities used directly for the generation and distribution of electric power, natural gas and oil pipeline lines, telecommunication and new facilities approved under all relevant statutes, where the land(s) are less than 4 hectares in size, provided that the facility is not used for the purposes of maintenance or storage or railway yard;”

The proposal is to include a stormwater management facility as identified through the development engineering comments. As identified on the Draft Plan of Subdivision, the proposed Stormwater Management Pond is approximately 2.42 ha and meets the identified policy and will be located in Block 2 of the Draft Plan of Subdivision. Therefore, the proposed Stormwater Management Facility meets the Official Plan policy. The required conditions have been included in Appendix “E” of Report PED18133 to deal with the design and engineering requirements for the stormwater management facility.

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“C.4.5.4 d) Minor arterial roads, subject to the following policies:

- i) The primary function of a minor arterial road shall be to carry moderate volumes of intra-municipal and inter-regional traffic through the City in association with other types of roads.
- ii) Land accesses shall be permitted with some controls.
- iii) The basic maximum right-of-way widths for minor arterial roads shall be 36.576 metres unless otherwise specifically described in Schedule C-2 – Future Road Widening.
- iv) Minor arterial roads shall generally be organized in a grid pattern with collectors, major and minor arterials, parkways and provincial highways.”

Clappison Avenue is currently identified as a local road in the UHOP. The applicant submitted a Transportation Study in support of the Draft Plan of Subdivision application. The proposed Study included the estimated traffic count on the proposed Clappison Avenue extension. Based on the submitted study, staff are of the opinion that the proposed change in traffic along Clappison Avenue will meet the criteria of a minor arterial because it will carry a moderate amount of intra-municipal and inter-regional traffic on associated roads. In addition, the location of the proposed road network supports a grid pattern on the subject lands and surrounding properties. Therefore, staff are supportive of the proposed amendment to designate Clappison Avenue as a minor arterial road and the applicant has provided a 36.5 m wide road as part of the Draft Plan of Subdivision.

#### Employment Areas – Business Parks

"E.2.7.2 Employment Areas shall provide employment through a broad range of uses, including traditional industrial uses, research and *development* uses, and other uses. Uses which support the businesses and employees of the employment area shall be permitted. Major retail uses or residential uses shall not be permitted. The permitted uses shall be described in more detail in Section E.5.0 - Employment Area Designations.

E.2.7.3 Employment Areas shall provide for a diverse range of employment opportunities in proximity to the City’s major infrastructure including the Port, the Airport, and the highway and transit network. It is important to provide a range of opportunities in order to meet the varying locational and

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market requirements for businesses including regionally significant industries.

E.5.4.1 The range of employment uses allows for a wide variety of industrial activity and accommodates employment support uses, such as offices, that will foster the development of a prestige employment area. The Employment Area - Business Park designation applies to the City's business parks, excluding the Airport Business Park, identified on Schedule E-1 - Urban Land Use Designations.

E.5.4.3 The following uses shall be permitted on lands designated Employment Area - Business Park on Schedule E-1 - Urban Land Use Designations:

- a) manufacturing, warehousing, repair service, *building or contracting supply establishments*, building and lumber supply establishments, transportation terminals, research and development, office, communication establishment, and private power generation. Salvage yards and other uses which are unsightly or otherwise incompatible with the design policies and image for business parks shall be prohibited;
- b) uses which primarily support industry, including labour association halls, conference and convention centres, trade schools, commercial motor vehicle and equipment sales, and commercial rental establishments;
- c) *ancillary* uses which primarily support businesses and employees within business parks, including hotels, health and recreational facilities, financial establishments, restaurants, personal services, motor vehicle service stations and washing, retail establishments, and commercial parking facilities;
- f) *accessory* uses, such as limited retail and office.

E.5.4.4 *Ancillary* uses which serve the businesses and employees of the business park as described in Policy E.5.4.3 c), shall only be permitted at locations fronting arterial roads or collector roads into the business parks.”

The applicant has applied to add a medical clinic and fitness club as a permitted use on a portion of the subject land. The proposed medical Clinic and Fitness Club can be

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considered health and recreational facilities supporting the permitted employment lands As identified above, as part of the Official Plan Amendment, Clappison Avenue will be designated from a Local Road to a Minor Arterial. As a result, both Parkside Drive and Clappison Avenue are identified as Minor Arterial Roads in the Official Plan. Therefore, staff are of opinion the rezoning complies with the intent of the Official Plan since it will only permit ancillary uses where the subject lands front onto an arterial road subject to the approval of the Official Plan Amendment.

### Natural Heritage

Based on mapping within Volume 1 of the UHOP (Schedule B Natural Heritage System), natural heritage features (Core Area and Linkages) were identified on the subject lands. There is a woodland at the northwest portion of the subject lands, near Parkside Drive, which was identified on Schedule B as a Linkage. There were two Significant Woodlands identified on Schedules B and B-2 near Borer’s Creek. Schedule B also shows two Linkages on the subject lands. The first linkage is located along the eastern boundary, which includes a cultural meadow habitat along a pipeline easement. The second Linkage runs from the woodland at Parkside Drive to Borer’s Creek.

“C.2.3 It is the intent of this policy to preserve and enhance Core Areas and to ensure that any development or site alteration within or adjacent to them shall not negatively impact their natural heritage features or their ecological functions.

C.2.5.3 *New development and site alteration shall not be permitted within fish habitat, except in accordance with provincial and federal requirements.*

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.*

C.2.5.8 New development or site alteration subject to Policies C.2.5.3 to .2.5.7 requires, prior to approval, the submission and approval of an Environmental Impact Statement which demonstrates to the satisfaction of the City and the relevant Conservation Authority that:

(a) There shall be no negative impacts on the *Core Area’s* natural features or their ecological functions.

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- (b) Connectivity between *Core Areas* shall be maintained, or where possible, enhanced for the movement of surface and ground water, plants and wildlife across the landscape.
- (c) The removal of other natural heritage features shall be avoided or minimized by the planning and design of the proposed use or site alteration wherever possible.”

As a result of the above policies, an Environmental Impact Statement (EIS) was required to be prepared to the satisfaction of the City. The EIS, prepared by Stantec Consulting, dated May 14, 2015 was submitted and revised on April 18, 2016 and was reviewed by City staff and the City’s Environmentally Significant Areas Impact Evaluation Group (ESAIEG) on June 9, 2016. Based on their comments, the EIS was revised again on November 11, 2016.

The EIS identified the following:

- Woodland on the northwest portion of the subject lands:

The EIS found that the woodland met the criteria for a Significant Woodland in the UHOP. Therefore, this woodland is proposed to be changed from a Linkage to a Core Area on Schedule B and to a Significant Woodland on Schedule B-2.

- Two significant woodlands at the southerly portion of the subject lands:

The EIS found that the trees within both woodlands were dead as a result of Emerald Ash Borer, and since a dense understorey of European Buckthorn, an invasive non-native shrub, was growing underneath the dead ash trees, no new young trees were growing. The EIS Report determined that the woodlands no longer met the criteria for Significant Woodlands and City staff and ESAIEG agreed with this assessment. Therefore, the two Significant Woodlands shown on Schedules B and B-2 will be removed from the mapping.

- Two Linkages (one on the eastern boundary and running south from the Woodland at Parkside Drive):

Based on the EIS, the boundaries of both of these Linkages have been refined. These changes to the Linkages will be shown on Schedule B.

The changes to the Core Areas and Linkages require an amendment to the UHOP (UHOP Volume 1, Schedule B, Schedule B-2, and Schedule B-8). The submitted EIS

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states that there will be no negative impacts on the identified Natural Heritage Features and supports the removal of a portion of the natural heritage features. Therefore, staff are supportive of the Official Plan Amendment and included a Site Specific Amendment to permit the conservation use. In addition to the Official Plan Amendment, the Natural Heritage Features will be rezoned from Prestige Business Park (M3, 437) Zone, General Business Park (M2) Zone and Prestige Business Park (M3, 388) Zone to Conservation/Hazard Land (P5) Zone to protect the natural features.

### Archaeology

“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*, R.S.O., 1990 c. P.13:

- a) official plan amendment or secondary plan amendment 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;
- 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.

The subject lands are identified as areas of archaeological potential in the UHOP. As discussed previously under the Provincial Policy Statement of this Report, the applicant is currently completing a Stage 3 assessment for the Hythe site and a Stage 4 assessment for the Long site. Accordingly, a condition has been added to require these assessments be completed prior to any grading being undertaken on-site. The condition has been addressed as No. 31 in Appendix “E” of Report PED18133.

### Plan of Subdivision

“F.1.14.1.2 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;

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- 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 proposed Plan of Subdivision has 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. With regards to (b), staff note that in the 2017 Staging of Development Report, the subject lands were identified as an area of priority for receiving Draft Plan Approval in 2017.

In regards to F.1.14.1.2 (c), (d), (e) and (f) above, as has been previously discussed and subject to appropriate conditions, staff note that the proposed Draft Plan can be adequately serviced using existing infrastructure, subject to the proposed Draft Plan conditions and will not adversely impact the natural environment or transportation system, will be integrated with existing lands and roads, and will not adversely impact municipal finances.

### **Zoning By-law No. 05-200**

The subject lands are currently zoned General Business Park (M2) Zone, Prestige Business Park (M3) Zone, Prestige Business Park (M3, 437) Zone, and Prestige Business Park (M3, 388) Zone. These zones permit employment uses including, but not limited to, Building and Lumber Supply Establishment, Commercial Motor Vehicle Sales, Rental and Service Establishment, Contracting Establishment, Manufacturing, Repair Service and Research and Development Establishment.

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The applicants are requesting modifications to the Zoning By-law for a portion of the subject lands:

- The first modification is to change the zoning from Prestige Business Park (M3, 437) Zone, General Business Park (M2) Zone, and from Prestige Industrial Park (M3, 388) Zone, to Conservation / Hazard Land (P5) Zone. The purpose of the proposed Zoning By-law Amendment is to permit the conservation of the existing woodlot on the northwest portion of the subject lands. In addition, the Conservation / Hazard Land (P5) Zone will also permit a stormwater management facility within the proposed Draft Plan of subdivision.
- The second modification is to amend the zoning from Prestige Business Park (M3) Zone to the existing Prestige Business Park (M3, 437) Zone. The effect of the rezoning will be to permit a Medical Clinic and Fitness Club on a portion of the subject lands.

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 with respect to the proposed development:

- Hydro One; and,
- Recreation Planning, Community & Emergency Services Department.

The following Departments/Agencies provided the following comments:

**Union Gas** requested that as a condition of final approval, the owner / developer provide to Union Gas the necessary easements and / or agreements in favour of Union Gas for the provision of gas services for this development, in a form satisfactory to Union Gas. This requirement has been addressed as a condition of Draft Plan of Subdivision Approval (Condition No. 40 of Appendix “E” to Report PED18133).

**Hamilton Conservation Authority** identified in initial correspondence of June 30, 2016 the stormwater management requirements and the need to identify the extent of the flood and erosion hazard lands associated with Borer’s Creek on the subject lands.

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Based on the above, the following conditions are required to be satisfied prior to the registration of the Draft Plan of Subdivision:

1. That the applicant prepares and implements an erosion and sediment control plan, Stormwater Management Plan and Lot Grading Plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved erosion and sediment control plan should include the following notes:
  - a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;
  - b) All erosion and sediment control measures shall be inspected after each rainfall to the satisfaction of Authority staff;
  - c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within seven days of the completion of that particular phase of construction; and,
  - d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.

(Condition No. 36, 37 and 38 of Appendix “E” to Report PED18133).
2. That the applicant obtains a permit from the Hamilton Conservation Authority prior to any construction and/or grading activities associated with the installation of the Con Span culvert and any watercourse alteration (Condition No. 39 of Appendix “E” to Report PED18133).

**Ministry of Transportation (MTO)** advised that all blocks in the proposed subdivision are within the Ministry’s Permit Control Area and will require permits prior to the commencement of any construction. The Ministry is planning a future widening of the Hwy 6 Right-of-Way Limits from the north of Borer’s Creek to north of Parkside Drive. The MTO will require the following to be included as a condition of draft approval for the Draft Plan of Subdivision:

- A detailed Storm Water Management report (Condition No. 32 of Appendix “E” to Report PED18133);

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- A traffic impact study to assess site impacts on Hwy 6 and Hwy 5, and ensure that appropriate mitigation, if required, is provided for by the owner (Condition No. 33 of Appendix “E” to Report PED18133);
- Block 12 will be dedicated as a public highway on the owner’s certificated final plan (Condition No. 34 of Appendix “E” to Report PED18133); and,
- The owner shall enter into a legal agreement with the Ministry of Transportation whereby the owner agrees to assume financial responsibility for the construction of all necessary associated highway improvements (Condition No. 35 of Appendix “E” to Report PED18133).

MTO also requested the following Notes to Draft Approval:

- Direct access to the development from Hwy 6 will not be granted at any time. Any currently existing access to Hwy 6 shall be closed permanently and the Right-of-Way restored (Note 2 of Appendix “E” to Report PED18133).
- The City of Hamilton should make considerations for access connections to the proposed “Street A” and Clappison Avenue in the future planning of lands, not included in this application, which are bordered by Hwy 6, Parkside Dr, Clappison Avenue and “Street A” (Note 3 of Appendix “E” to Report PED18133).
- All future access connections to Parkside Drive shall follow the recommended spacing and standards set out by the Access Management Guidelines (Note 4 of Appendix “E” to Report PED18133).
- The proposed subdivision is considered a major traffic generator. As such, all buildings/sites on all development blocks of the subdivision require MTO Building and Land Use permits prior to the start of any construction on the blocks. Additionally, permits are required prior to Site Grading/Servicing/internal road construction, and for site signs; and an MTO Encroachment permit is required for any works proposed within the Hwy 6 limits (Note 5 of Appendix “E” to Report PED18133).
- All structures (above and below ground), including land uses considered essential to the site’s viability, must be setback a minimum of 14 m from the future designated Hwy 6 limits (Note 6 of Appendix “E” to Report PED18133).

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**Source Protection Planning (Hamilton Water)** advised that although the development will be municipally serviced, there are a significant number of drinking water wells in the area. A scoped hydrogeological report with a groundwater monitoring component pre and during construction is necessary. In addition, the applicant will be required to decommission any septic beds and wells currently existing onsite (Condition Nos. 13 and 16 on Appendix “E” to Report PED18133).

**Transportation Planning (Planning and Economic Development Department)** advised the following:

- As per the Urban Hamilton Official Plan, Transportation Planning requires the applicant convey the lands to meet the requirements of the Urban Official Plan, Chapter C - City Wide Systems and Designations 4.5 Roads Network. Parkside Drive, from 100m east of Hwy 6 to Hamilton Street is to have an ultimate ROW width of 30.480 m (revision to previous Transportation Management comments). Clappison Avenue is to be classified as a minor arterial in a Designated Employment Area and have a 36.576 m ROW. Street “A” and Street “B” are both to be classified as local roads within Designated Employment Area and have 26.213 m ROW. Parkside Drive at Clappison Avenue is to have 12.19 m by 12.19 m daylight triangles. Clappison Avenue at Street “A” is to have 12.19 m by 12.19 m daylight triangles. Clappison Avenue at both the north and south intersections with Street “B” are to have 12.19 m by 12.19 m daylight triangles.
- The City is currently constructing road improvements on Parkside Drive, east of the subject lands. Improvements include a signalized intersection at Parkside Drive and Sadielou Blvd/Hollybush Drive and Parkside Drive, easterly from Sadielou Blvd/Hollybush Drive will be one travel lane each direction; bicycle lanes each direction, centre two-way turn lane and 2.0 m wide sidewalks on both sides of the road (construction scheduled to be completed by the City in 2018). Any new road works to be completed because of the subject development will be required to match this cross-section design.

**Conditions of Subdivision Approval**

- That the applicant submits a revised Transportation Impact Study to the satisfaction of Transportation Planning. The proponent shall work with Transportation Planning regarding the scope and methodology of a revised TIS to facilitate and expedite the update. The MTO has jurisdiction over Hwy 5 and Hwy 6 which is included in the 2015 TIS analysis. The MTO is to be consulted regarding their requirements for an

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updated Traffic Impact Study (Condition No. 41 of Appendix “E” to Report PED18133).

- That the owner shall include in the engineering design and cost estimate schedules, provisions to construct the signalized intersection of Parkside Drive and Clappison Avenue and further that:
  - it will be designed as a temporary installation with the existing Parkside Drive cross-section;
  - it will also be designed with the future/ultimate cross-sections of Parkside Drive and Clappison Avenue; and,
  - all costs associated with these works, including but not limited to design and construction, will be at the expense of the applicant (Condition No. 42 of Appendix “E” to Report PED18133).
- That the Applicant shall provide a design that adequately incorporates the Hamilton Pedestrian Mobility Plan with regards to the needs of pedestrians with disabilities (i.e. AODA regulations and barrier free designs) (Condition No. 43 of Appendix “E” to Report PED18133).

### **Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the Urban Hamilton Official Plan Amendment and Zoning By-law Amendment Applications and the approval of the Draft Plan of Subdivision was sent to 180 property owners within 120 m of the subject lands on August 17 and 25, 2015, for the proposed Zoning By-law Amendment Application and for approval of a Draft Plan of Subdivision.

A Notice of Complete Application and Preliminary Circulation and Notice of Public Meeting was circulated on May 23, 2018. A Public Notice sign was also posted on the property on August 17, 2015 and August 25, 2015, and updated on May 23, 2018, with the Public Meeting date. Finally, Notice of the Public Meeting was given to 180 owners in accordance with the requirements of the *Planning Act* on June 01, 2018.

To date, no letters of concern have been received.

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Public Consultation Strategy

As the Zoning By-law Amendment and Draft Plan of Subdivision Applications were submitted before July 1, 2016, a public consultation strategy is not required. The Official Plan Amendment was submitted after the Zoning By-law Amendment and Draft Plan of Subdivision. Therefore, although it was submitted after July 1, 2016 a public consultation strategy was not required since the Official Plan is required as part of the proposed rezoning.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposed Urban Hamilton Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications have merit and can be supported for the following reasons:
  - i) They are consistent with the Provincial Policy Statement and conform to the Growth Plan for the Greater Golden Horseshoe;
  - ii) They comply with the general intent of the Urban Hamilton Official Plan Amendment, subject to the approval of the Amendment, as the proposal will protect the Natural Heritage Features on-site and permit additional ancillary uses; and,
  - iii) The proposed development is compatible with the existing and planned development in the area.
  
2. The proposed Urban Hamilton Official Plan (UHOP) Amendment is required to refine the Natural Heritage boundaries to implement the recommendations of the Environmental Impact Statement. In addition, a site specific policy area will be established to protect the existing natural heritage features. The natural heritage features include a Core Area (woodlot) on the north-western portion of the subject lands and a linkage connecting the woodlot to Borers Creek (as shown on Appendix “B” of Report PED18133). As per the Official Plan policies identified above the Official Plan Amendment to Schedule B, Schedule B-2, Schedule B-8 and Volume 3: Site Specific Policy Area can be supported because the submitted EIS has demonstrated that current features are protected and other features warrant removal.

In addition, the UHOP Amendment is required to update the road classification map to change Clappison Road from a Local Road to a Minor Arterial Road. As stated in the policy review, the amount of traffic generated on the proposed

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Clappison Road Extension supported the change in designation. The change in road classification is required to support the requested Zoning By-Law Amendment.

3. The applicant has applied for a Zoning By-law Amendment for the subject lands for the following:
  - Change a portion of the lands from Prestige Business Park (M3, 437) Zone, General Business Park (M2) Zone; and Prestige Industrial Park (M3, 388) Zone, to the Conservation/Hazard Land (P5) Zone. The purpose of the proposed amendment is to permit the conservation of the existing woodlot on the northwest portion of the subject lands. In addition, Block 2 will need to be rezoned to the Conservation/Hazard Land (P5) Zone to permit a Stormwater Management Pond.
  - Change a portion of the lands from Prestige Business Park (M3) Zone to Prestige Business Park (M3, 437) Zone. The purpose of the rezoning will be to apply an existing site specific to a portion of the lands to permit a Fitness Club and Medical Clinic.

The effect of the rezoning is to protect the existing woodlot and associated linkages as per the submitted Environmental Impact Statement, permit a Stormwater Management Pond within the subdivision and permit a medical clinic and fitness club as ancillary uses on the periphery of the proposed subdivision. The proposed Zoning By-law implements the recommendations of the Environmental Impact Statement, permits any required infrastructure within the subdivision and allows for ancillary uses on an arterial road in support of the permitted employment uses. Therefore, staff are satisfied that the Zoning By-law Amendment complies with the intent of the policies as set out in the Urban Hamilton Official Plan, subject to the approval of the Official Plan Amendment.

4. The application for Draft Plan of Subdivision seeks approval to create six blocks for employment uses, three blocks for Conservation/Hazard lands, one block for a road widening, one block for a Stormwater Management Facility, one block for a 0.3 m reserve and three proposed streets (extension of Clappison Avenue, Street “A” and Street “B”).

In review of Sub-section 51(24) of the *Planning Act*, to assess the appropriateness of the proposed subdivision, staff advise that:

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- (a) It is consistent with the Provincial Policy Statement, the Growth Plan and the Urban Hamilton Official Plan;
- (b) Through the subdivision staging plan the draft plan was identified as an area of priority and represents a logical and timely expansion of existing development;
- (c) The proposed roads will adequately service the proposed subdivision and can connect to the current road system;
- (d) The proposed Draft Plan of Subdivision can be appropriately subdivided and is determined to not negatively impact the existing road network and will not have a negative impact on the natural heritage features subject to the approval of the Official Plan Amendment and Zoning By-law Amendment;
- (e) The proposed subdivision will be compatible with the existing road network and block pattern of the surrounding neighbourhood; and,
- (f) The applications do not have any negative impact on the city’s finances.

Therefore, staff are supportive of the Draft Plan of Subdivision and recommend its approval.

5. Engineering has provided the following comments and conditions. These comments are based on the most recent submission for the Flamborough Power Centre North (25T-201507). It is understood that some of these concerns may have been addressed though the related Site Plan Application for Stryker (DA-16-165). In such cases, resubmission of materials from that application may be suitable to address these comments and conditions.

### **General**

- The Owner shall show on the final plan a 0.3 m reserve:
  - a) Along the north side of Street A from the west limit of Block 6 to the west limit of Street A; and,
  - b) Along the west limit of the lands owned by others south of Block 9 from the south limit of Block 9 to the north limit of the Borer’s Creek lands.

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(Condition No. 1 on Appendix “E” to Report PED18133)

- A right-of-way widening dedication is required on Parkside Drive of 5.182 m. It is understood that this widening has been provided through the Stryker Site Plan Application (DA-16-165). Additionally, based on the City’s Comprehensive Development Guidelines, collector-to-arterial road intersections require a 12 m by 12 m triangle or radius at all new intersections. In addition, 9 m by 9 m daylight triangles are also required (Condition Nos. 11 and 12 on Appendix “E” to Report PED18133).
- That the owner shall provide a detailed design and cost estimates to construct a bridge where Clappison Avenue will cross Borer’s Creek entirely at the owner’s expense in accordance with the approved Class Environmental Assessment Study for Flamborough Power Centre Inc. prepared by Fothergill Planning & Development Inc., June 1, 2005. In addition, the applicant will agree to pay the entire costs of the peer review for the bridge design, in accordance with the City’s policies, and determine the type of structure to be employed at the Clappison Avenue crossing of Borer’s Creek; all requirements are to the satisfaction of the Senior Director of Growth Management. The owner shall construct the bridge to cross Borer’s Creek on Clappison Avenue entirely at the owner’s expense to the satisfaction of the Senior Director of Growth Management. Once the extension of Clappison Avenue is constructed, the owner shall demonstrate that the temporary turning circle has been properly removed on the south side of the site (Condition Nos. 2, 3 and 30 on Appendix “E” to Report PED18133).
- The owner shall include in the engineering design and cost estimate schedules provisions to construct sidewalks on both sides of all proposed streets including those noted as future works and a temporary sidewalk on the south side of Parkside Drive where the subject lands front onto Parkside Drive from the east limit of the subject lands to Clappison Avenue entirely at the owner’s expense. In addition, the applicant agrees to pay for their proportionate share of the total cost of the urbanization and provide design and cost estimate schedules provision for the temporary traffic controls (Condition Nos. 6, 7, 8 and 9 on Appendix “E” to Report PED18133).
- The Owner will be required to relocate, if necessary, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Parkside Drive entirely at the owner’s expense (Condition No. 14 on Appendix “E” to Report PED18133).

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- The Owner shall include in the engineering design and cost estimates provision for construction of a 1.5 m high black vinyl coated heavy duty chain link fence entirely at the owner’s expense in the following locations:
  - a) Along the east boundary of Block 10 and Block 11 from Parkside Drive to the limit of Borer’s Creek;
  - b) Adjacent to the limits of Borer’s Creek, along the south limit of Block 9 and Block 11 from the east limit of the subject lands to the east limit of the external lands south of Block 9 (approximately 85m west of the east limit of Block 11);
  - c) Along the entire south limit of Block 1;
  - d) Along the entire south limit of Block 2;
  - e) Along the entire south limit of Block 3;
  - f) Along the east and west limits of Block 5 from Street A to the south limit at Borer’s Creek;
  - g) Along the east and west boundaries of Block 6 from Street A to Parkside Drive including the north-south portion of the boundary between Block 4 and Block 6; and,
  - h) Along the west limit of Block 2, adjacent to Block 1.

(Condition No. 10 on Appendix “E” to Report PED18133).
- The Owner agrees to provide in writing a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision (Condition No. 15 on Appendix “E” to Report PED18133).
- The owner shall prepare and provide a Construction Management Plan that provides details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc. The plan must identify any required sidewalk and / or lane closures and the estimated length of time for such closures) (Condition No. 18 on Appendix “E” to Report PED18133).

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- Written permission is required for any works that will require access to or changes on any neighbouring properties (Condition No. 5 of Appendix “E” to Report PED18133).

### **Water and Sewer Servicing**

- The water and sewer services shall be extended from the intersection of Parkside Drive and Clappison Avenue along Parkside Drive to the western limit of the frontage of the subject lands on Parkside Drive. Adequate servicing connections to adjacent lands shall be provided based on the ultimate (fully-developed) conditions on those adjacent lands. The owner shall agree to provide sanitary servicing along Parkside Drive from Clappison Avenue west along the frontage of the development lands to the west limit at the property line adjacent to 40 Parkside Drive (Condition No. 28 of Appendix “E” to Report PED18133).
- Given the property is close to the edge of the urban/rural boundary, if dewatering of the site is required for construction activities a local water well survey within 500 m of the property including location, construction details, and copies of the well records should be included. Although the development will be municipally serviced, there are a significant number of drinking water wells in the area. A scoped hydrogeological report with a groundwater monitoring component pre and during construction is necessary. In addition to monitoring the surrounding area, the owner agrees to remove all septic bed, wells and buildings onsite (Condition Nos. 16 and 17 on Appendix “E” to Report PED18133).

### **Functional Servicing Report**

- The Functional Servicing Report shall reference the latest versions of any appropriate documentation. Particularly of note, the latest Comprehensive Development Guidelines and Financial Policies Manual (2017). An overall servicing plan that covers the entire site, including the 1350 mm-diameter storm sewer along the east boundary is required.
- Cost Sharing: Section 5.0 of the report noted that cost sharing opportunities may be available with the City for construction costs. Please note that City will not share the land and construction costs for the development of the SWM pond, in accordance with the DC By-law. In addition, the applicant will be required to submit a revised Functional Servicing Report (Condition No. 19 on Appendix “E” to Report PED18133).

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### **Grading**

- The applicant is advised that a future sidewalk on Street A cannot be constructed as proposed without grading onto the adjacent lands to the north. A security shall be taken for these future works. In addition, the Owner shall provide a drainage area plan including associated drainage calculations for both sanitary and storm systems, overall subdivision grading plan and lot and drainage plans (Condition Nos. 4, 20 and 21 of Appendix “E” to Report PED18133).

### **Stormwater Management**

- Block 1: Please note that as per Ontario Water Resources Act 525 / 98, onsite Stormwater management design for the industrial Block 1, will require MOE-ECA approval.
- The Owner agrees to submit a detailed Stormwater management (SWM) report prepared by a qualified professional engineer that demonstrates how quality, quantity, and erosion control will be handled in accordance with City of Hamilton Development Guidelines (2017) and MOECC Stormwater Management Design Guideline (2003). The Owner shall include in the engineering design and cost estimate schedule provision for the construction of storm sewers within the Parkside Drive right-of-way. In addition, the owner shall design and construct an appropriate storm conveyance to convey the greater of 100-year pre-development or regional storm flows from the external drainage area north of Parkside Drive entirely at the owner’s expense (Condition No. 22, 23 and 24 on Appendix “E” to Report PED18133).
- As part of the Stormwater Management onsite, the owner agrees that they will be responsible for the design and construction of the stormwater management (SWM) facility and will maintain the facility entirely at the owner’s expense until it is assumed by the City. In addition, the Owner shall submit the necessary transfer deeds to the City's Legal Services to convey an adequate Stormwater Management Facility block (Block 2 and potential additional lands being Block 1, subject to an approved Stormwater management design) and an easement of Block 1 of the Draft Plan for the facility, storm and sewer outlet (Condition Nos. 25, 26 and 27 on Appendix “E” to Report PED18133).
- In addition to the required conditions, the applicant will be required to revise the engineering drawings for stormwater management, in regards to the comments provided to the applicant.

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**SUBJECT: Applications to Amend the City of Hamilton Urban Hamilton Official Plan, Zoning Bylaw No. 05-200 and for Approval of a Draft Plan of Subdivision “Flamborough Power Centre North” for Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive, Flamborough (PED18133) (Ward 15) - Page 30 of 30**

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## **ALTERNATIVES FOR CONSIDERATION**

Should the applications be denied, the lands could not be developed for the proposed industrial Draft Plan of Subdivision. The lands could be developed in accordance with the General Business Park (M2) Zone, Prestige Business Park (M3) Zone, Prestige Business Park (M3, 388) Zone and Prestige Business Park (M3, 437) Zone which permits uses, including but not limited to, Building or Contracting Establishment, Commercial Motor Vehicle Sales, Rental and Service Establishment, Manufacturing, Repair Service, Trade School, Warehouse and laboratory.

## **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.*

### **Built Environment and Infrastructure**

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

### **Clean and Green**

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

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Urban Hamilton Official Plan Amendment

Appendix “C” – Zoning By-law No. 05-200 Amendment

Appendix “D” – Draft Plan of Subdivision

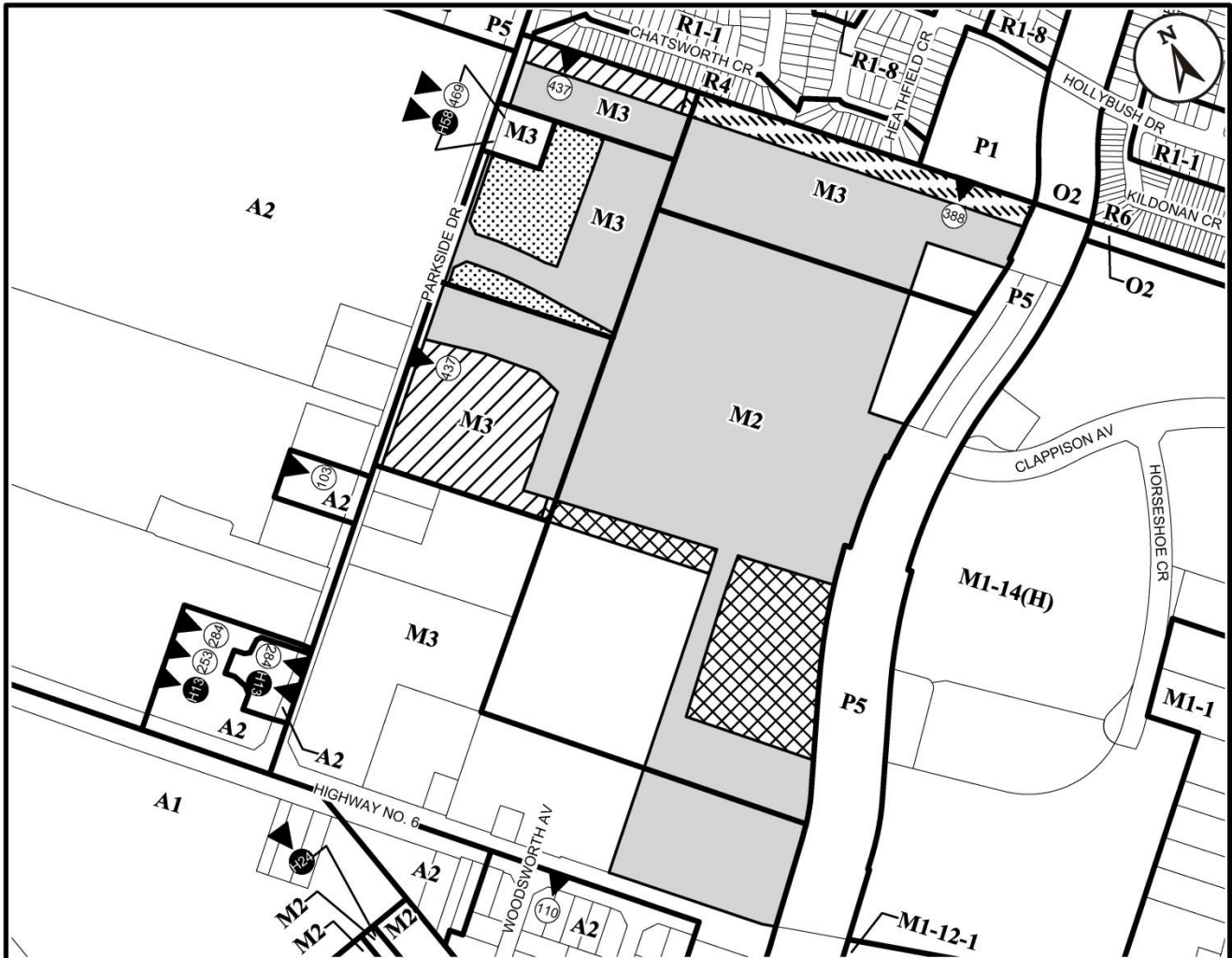
Appendix “E” – Special Conditions for Draft Plan of Subdivision

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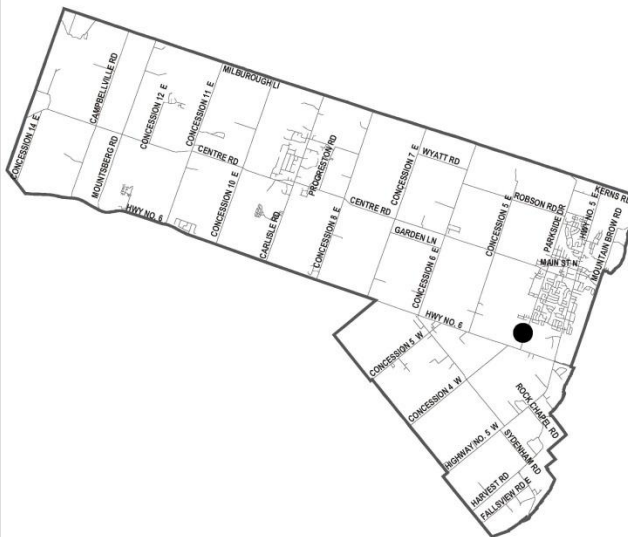
*OUR Vision: To be the best place to raise a child and age successfully.*

*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.*



● Site Location



Key Map - Ward 15

N.T.S.

# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-15-039 / 25T-201507

Date:  
May 11, 2018

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
GM/AL

### Subject Property

56, 74, 78, 90, 96, 100 & 566 Parkside Drive

- Block 1** - Change in zoning from Prestige Business Park (M3, 437) Zone to Conservation / Hazard Land (P5) Zone
- Block 2** - Change in zoning from General Business Park (M2) Zone to Conservation / Hazard Land (P5) Zone
- Block 3** - Change in zoning from Prestige Business Park (M3, 388) Zone to Conservation/Hazard Land (P5) Zone
- Block 4** - Change in zoning from Prestige Business Park (M3) Zone to Prestige Business Park (M3, 437) Zone
- Additional Subject Lands

**Schedule 1****DRAFT Urban Hamilton Official Plan  
Amendment No. X**

The following text, together with:

- Appendix "A" – Urban Hamilton Official Plan Volume 1: Schedule B - Natural Heritage System
- Appendix "B" – Urban Hamilton Official Plan Volume 1: Schedule B-2 - Detailed Natural Heritage Features – Key Natural Heritage Feature – Significant Woodlands
- Appendix "C" – Urban Hamilton Official Plan Volume 1: Schedule B-8 - Detailed Natural Heritage Features – Key Hydrologic Feature – Streams
- Appendix "D" – Urban Hamilton Official Plan Volume 1: Schedule C – Functional Road Classification
- Appendix "E" – Urban Hamilton Official Plan Volume 3: Map 2 – Urban Site Specific Key Map

attached hereto, constitutes Official Plan Amendment No. \_X\_ to the Urban Hamilton Official Plan.

**1.0 Purpose and Effect:**

The purpose of this Amendment is to refine the boundaries of the Natural Heritage System features on the subject lands, and to add a Site Specific Policy that restricts the permitted uses on a portion of the subject lands to Natural Open Space. The effect of this Amendment is to ensure the protection of the Core and Linkage features on the subject lands.

**2.0 Location:**

The lands affected by this Amendment are generally located northeast of Highway 6 and Parkside Drive and known municipally as 56, 74, 78, 90, 96, 100, and 566 Parkside Drive, in the former Town of Flamborough.

**3.0 Basis:**

The basis for permitting this Amendment is:

- The existing Core and Linkage features of the Natural Heritage System will

be appropriately identified and protected in terms of composition and ecological function in accordance with the Environmental Impact Statement, and in compliance with the Natural Heritage System policies of the Urban Hamilton Official Plan.

- The Amendment is consistent with the Provincial Policy Statement, 2014, and conforms to the Growth Plan for the Greater Golden Horseshoe, 2017.

#### **4.0 Actual Changes:**

##### **4.1 Volume 1 – Parent Plan:**

###### ***Schedule Changes***

###### Volume 1 – Schedule B – Natural Heritage System

4.1.1 Urban Hamilton Official Plan Volume 1 – Schedule B – Natural Heritage System be amended by:

- a) Removing the “Core Area” and “Linkage” identifications from the northeasterly portion of the subject lands; and
- b) Adding the “Core Area” and “Linkage” identifications to the southerly portion of the subject lands,

as shown on Appendix “A” attached to this amendment.

###### Volume 1 – Schedule B-2 – Detailed Natural Heritage Features – Key Natural Heritage Feature – Significant Woodlands

4.1.2 Urban Hamilton Official Plan Volume 1 – Schedule B-2 – Detailed Natural Heritage Features – Key Natural Heritage Feature – Significant Woodlands be amended by:

- a) Removing the “Key Natural Heritage Feature - Significant Woodlands” identification from the northeasterly portion of the subject lands; and
- b) Adding the “Key Natural Heritage Feature - Significant Woodlands” identification on the southwesterly portion of the subject lands,

as shown on Appendix “B” attached to this amendment.



Volume 1 – Schedule B-8 – Detailed Natural Heritage Features – Key Hydrologic Feature – Streams

4.1.3 Urban Hamilton Official Plan Volume 1 – Schedule B-8 – Detailed Natural Heritage Features – Key Hydrologic Feature – Streams be amended by removing the “Key Hydrologic Feature – Streams” identification from the subject lands, as shown on Appendix “C”, attached to this Amendment.

Volume 1 – Schedule C – Functional Road Classification

4.1.4 Urban Hamilton Official Plan Volume 1 – Schedule C – Functional Road Classification be amended by classifying Clappison Avenue as a “Minor Arterial” road, as shown on Appendix “D”, attached to this Amendment.

**4.2 Volume 3 – Special Policy Areas, Area Specific and Site Specific Policies:*****Text Changes***Volume 3 – Chapter C – Urban Site Specific Policies

4.2.1 Urban Hamilton Official Plan Volume 3 – Chapter C – Urban Site Specific Policies - Flamborough be amended by adding a new Site Specific Policy, as follows:

**“UFE-X      A portion of the lands located at 56 Parkside Drive, 90 Parkside Drive and 96 Parkside Drive former Town of Flamborough**

Notwithstanding Section E.5.4 – Employment Area – Business Park Designation of Volume 1, lands designated “Employment Area – Business Park”, located on a portion of 56 Parkside Drive, 90 Parkside Drive and 96 Parkside Drive and identified as Site Specific Policy Area “UFE-X”, shall only be used for



**1.0** Natural Open Space.”

***Schedule and Map Changes***

Volume 3 – Chapter C – Urban Site Specific Key Map

4.2.2 Urban Hamilton Official Plan Volume 3 – Chapter C – Urban Site Specific Policies Key Map be amended by adding “UFE-X” to a portion of the subject lands, as shown on Appendix “C”, attached to this Amendment.

**5.0 Implementation:**

An implementing Zoning By-Law Amendment, Draft Plan of Subdivision and Site Plan will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule “1” to By-law No. \_\_\_\_\_ passed on the day of month, 2018.

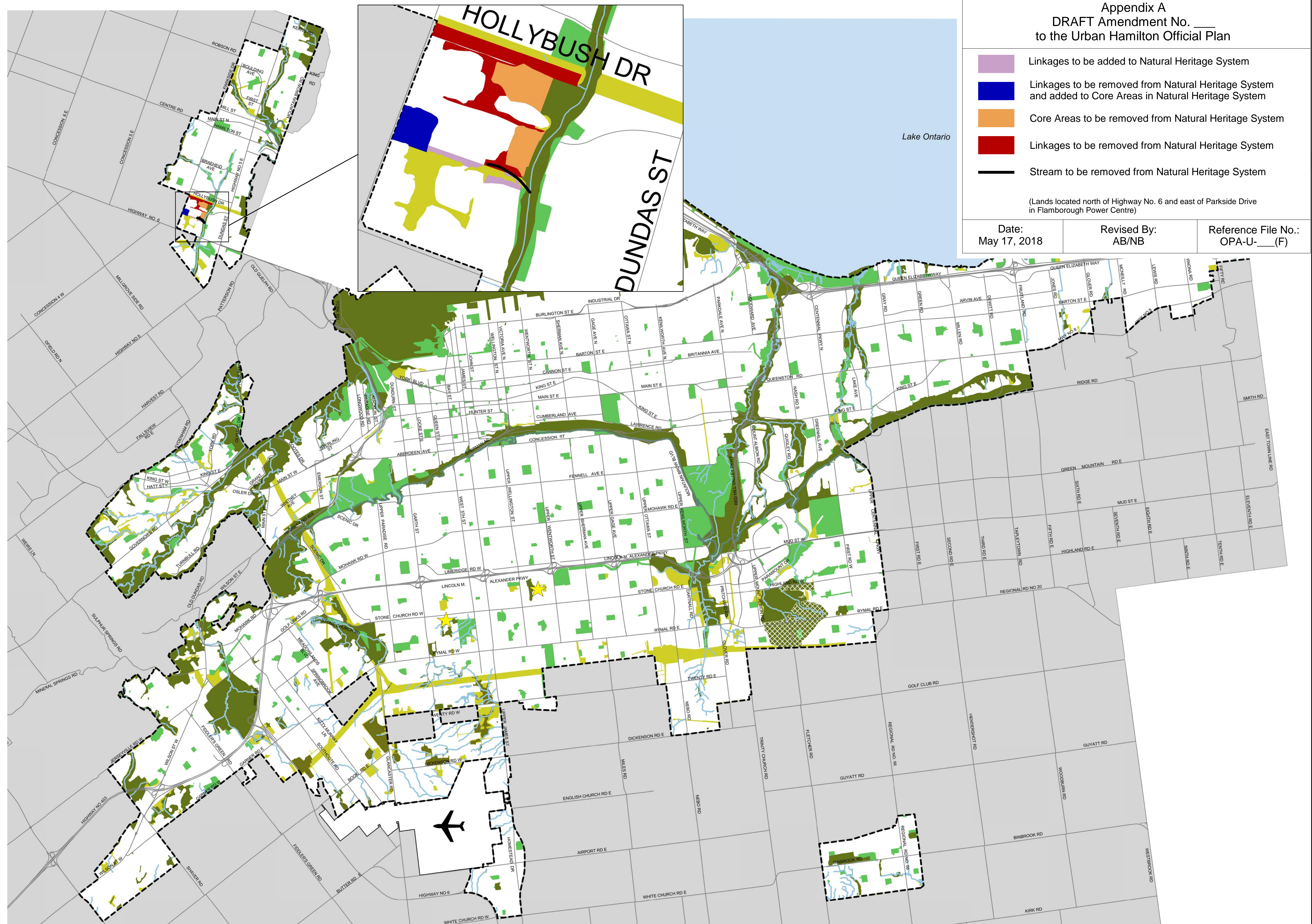
**The  
City of Hamilton**

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Fred Eisenberger  
MAYOR

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CITY CLERK

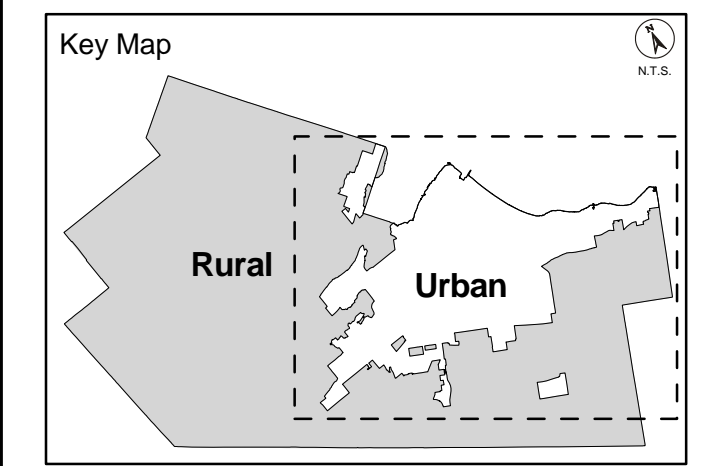


Appendix A  
DRAFT Amendment No. \_\_\_\_  
to the Urban Hamilton Official Plan

- Linkages to be added to Natural Heritage System
- Linkages to be removed from Natural Heritage System and added to Core Areas in Natural Heritage System
- Core Areas to be removed from Natural Heritage System
- Linkages to be removed from Natural Heritage System
- Stream to be removed from Natural Heritage System

(Lands located north of Highway No. 6 and east of Parkside Drive in Flamborough Power Centre)

|                       |                      |                                      |
|-----------------------|----------------------|--------------------------------------|
| Date:<br>May 17, 2018 | Revised By:<br>AB/NB | Reference File No.:<br>OPA-U-____(F) |
|-----------------------|----------------------|--------------------------------------|



Note: For Rural Natural Heritage Features refer to Schedule B of the Rural Hamilton Official Plan.

**APPEAL**

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal - see illustration on Schedules E and E-1, Volume 1.

**★ Lands Under Appeal**

- 305 Stone Church Road West
- 313 Stone Church Road East & lands bounded by Stone Church Road East, Upper Wellington Street, Lincoln M Alexander Parkway and Upper Wentworth Street

**Legend**

- Core Areas
- Area Specific Policy - USC-1 and USC-2 in Volume 3
- Linkages
- Parks & General Open Space (Excluding Parkettes)
- Streams
- Other Features**
- Rural Area
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary

Council Adoption: July 9, 2009  
Ministerial Approval: March 16, 2011  
Effective Date: August 16, 2013

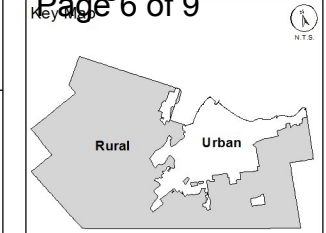
**Urban Hamilton Official Plan  
Schedule B  
Natural Heritage System**



Appendix B  
DRAFT Amendment No. \_\_\_  
to the Urban Hamilton Official Plan

- Key Natural Heritage Feature Significant Woodlands to be removed from Detailed Natural Heritage Features Significant Woodlands
  - Key Natural Heritage Feature Significant Woodlands to be added to the Detailed Natural Heritage Features Significant Woodlands
- (Lands located north of Highway No. 6 and east of Parkside Drive in Flamborough Power Centre)

|                         |                      |                                     |
|-------------------------|----------------------|-------------------------------------|
| Date:<br>April 12, 2018 | Revised By:<br>AB/NB | Reference File No.:<br>OPA-U-___(F) |
|-------------------------|----------------------|-------------------------------------|



Note: For Rural Detailed Natural Heritage Features refer to Schedule B-2 of the Rural Hamilton Official Plan.

**APPEAL**

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal - see illustration on Schedules E and E-1, Volume 1.

**★ Lands Under Appeal**

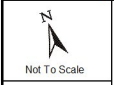
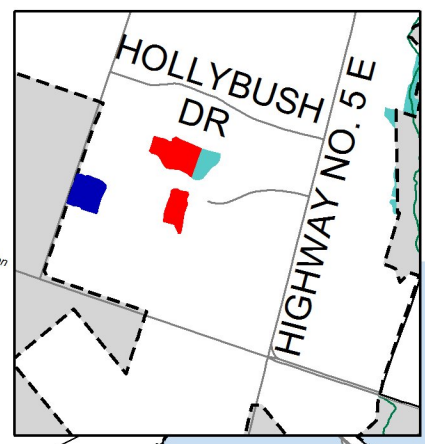
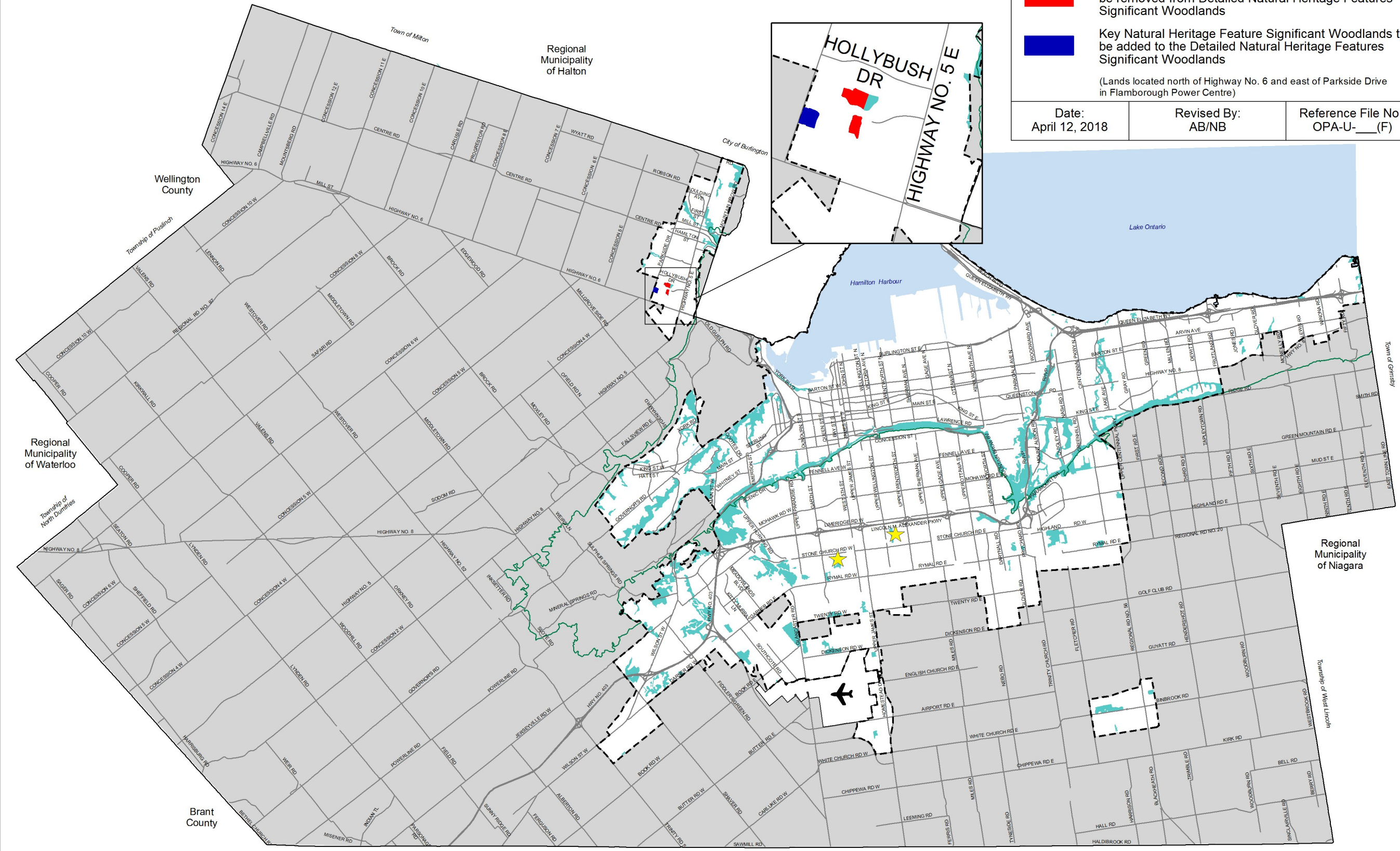
- 305 Stone Church Road W
- 313 Stone Church Road E & lands bounded by Stone Church Road East, Upper Wellington Street, Lincoln M Alexander Parkway and Upper Wentworth Street

**Legend**

- Key Natural Heritage Feature Significant Woodlands
- Rural Area
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary

Council Adopted: July 9, 2009  
Ministerial Approval: March 16, 2011  
Effective Date: August 16, 2013

**Urban Hamilton Official Plan  
Schedule B-2  
Detailed Natural Heritage Features  
Key Natural Heritage Feature  
Significant Woodlands**



Not To Scale

Date: Dec. 1, 2015

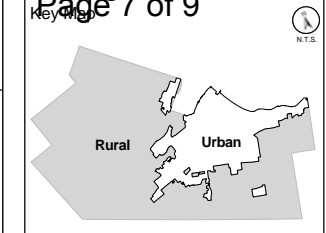


Appendix C  
DRAFT Amendment No. \_\_\_\_  
to the Urban Hamilton Official Plan

**Key Hydrologic Feature Streams to be removed from Detailed Natural Heritage Features Key Hydrologic Feature Streams**

(Lands located north of Highway No. 6 and east of Parkside Drive in Flamborough Power Centre)

|                         |                      |                                      |
|-------------------------|----------------------|--------------------------------------|
| Date:<br>April 12, 2018 | Revised By:<br>AB/NB | Reference File No.:<br>OPA-U-____(F) |
|-------------------------|----------------------|--------------------------------------|



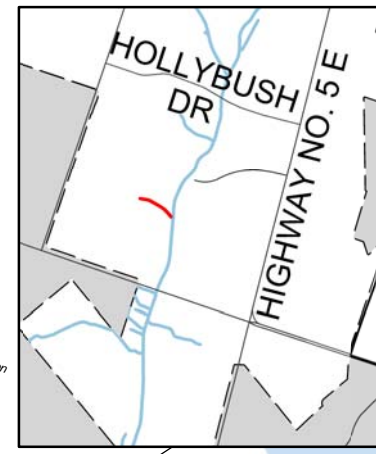
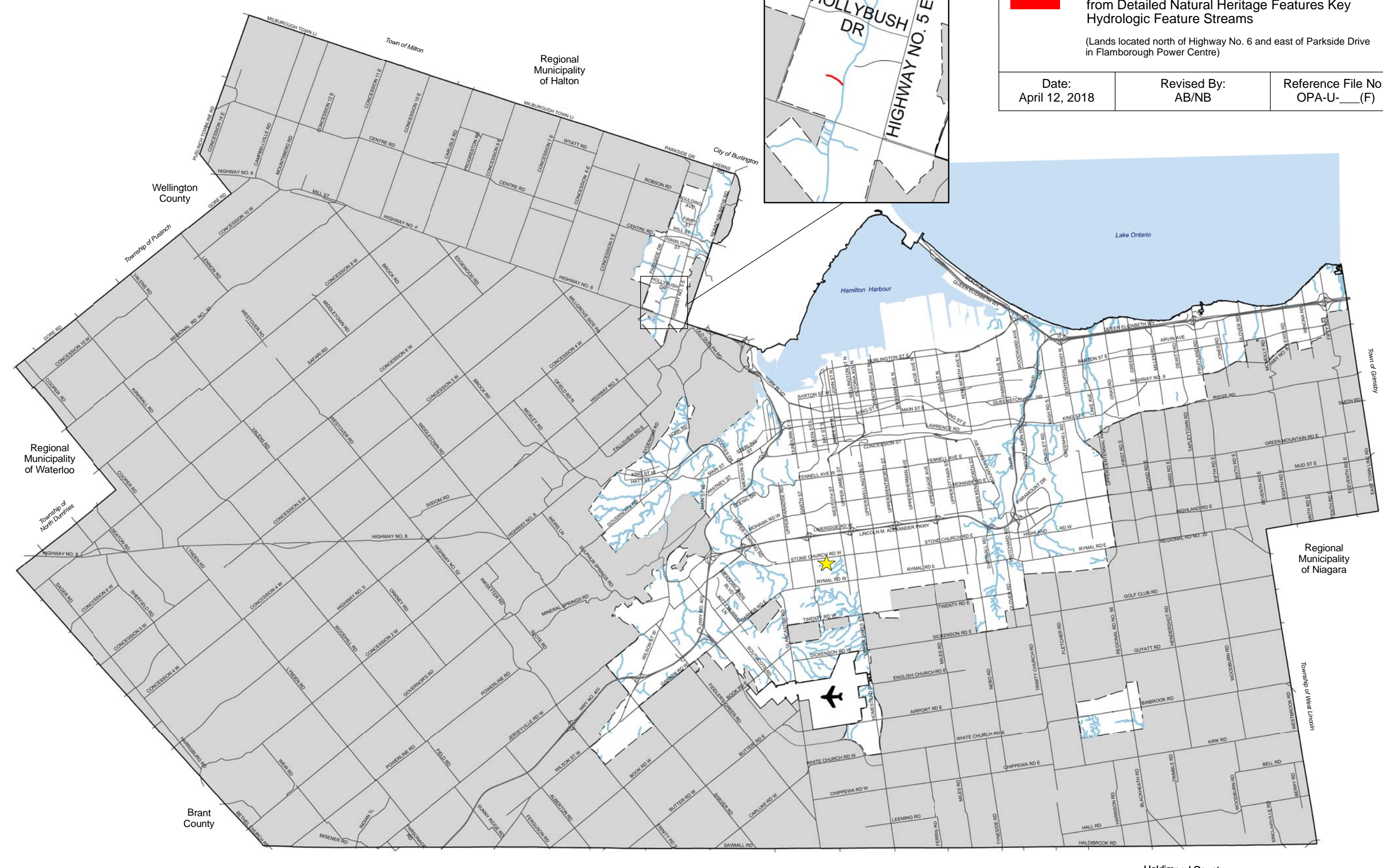
**Note:** For Rural Detailed Natural Heritage Features refer Schedule B-8 of the Rural Hamilton Official Plan.

**APPEAL**

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal - see illustration on Schedules E and E-1, Volume 1.

**★ Lands Under Appeal**

- 305 Stone Church Road W



- Legend**
- Key Hydrologic Feature Streams
  - Other Features
    - Rural Area
    - John C. Munro Hamilton International Airport
    - Niagara Escarpment
    - Urban Boundary
    - Municipal Boundary

Council Adopted: July 9, 2009  
Ministerial Approval: March 16, 2011  
Effective Date: August 16, 2013

**Urban Hamilton Official Plan  
Schedule B-8  
Detailed Natural Heritage Features  
Key Hydrologic Feature  
Streams**

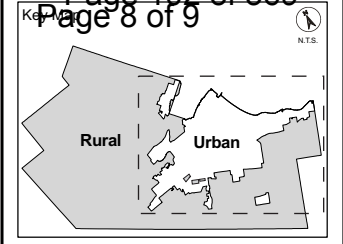


Appendix D  
 DRAFT Amendment No. \_\_\_\_\_  
 to the Urban Hamilton Official Plan

**Classify the street identified as Clappison Road as a "Minor Arterial" on the Functional Road Classification**

(Lands located north of Highway No. 6 and east of Parkside Drive Flamborough Power Centre)

|                         |                      |                                      |
|-------------------------|----------------------|--------------------------------------|
| Date:<br>April 12, 2018 | Revised By:<br>AB/NB | Reference File No.:<br>OPA-U-____(F) |
|-------------------------|----------------------|--------------------------------------|



**Note:** For Rural Functional Road Classification, refer to Schedule C-1 (future amendment).

**APPEAL**

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal – see illustration on Schedules E and E-1, Volume 1

**Legend**

- Major Arterial
- Minor Arterial
- Collector
- Provincial Highway (Controlled Access)
- Provincial Highway
- Parkway

**Proposed Roads**

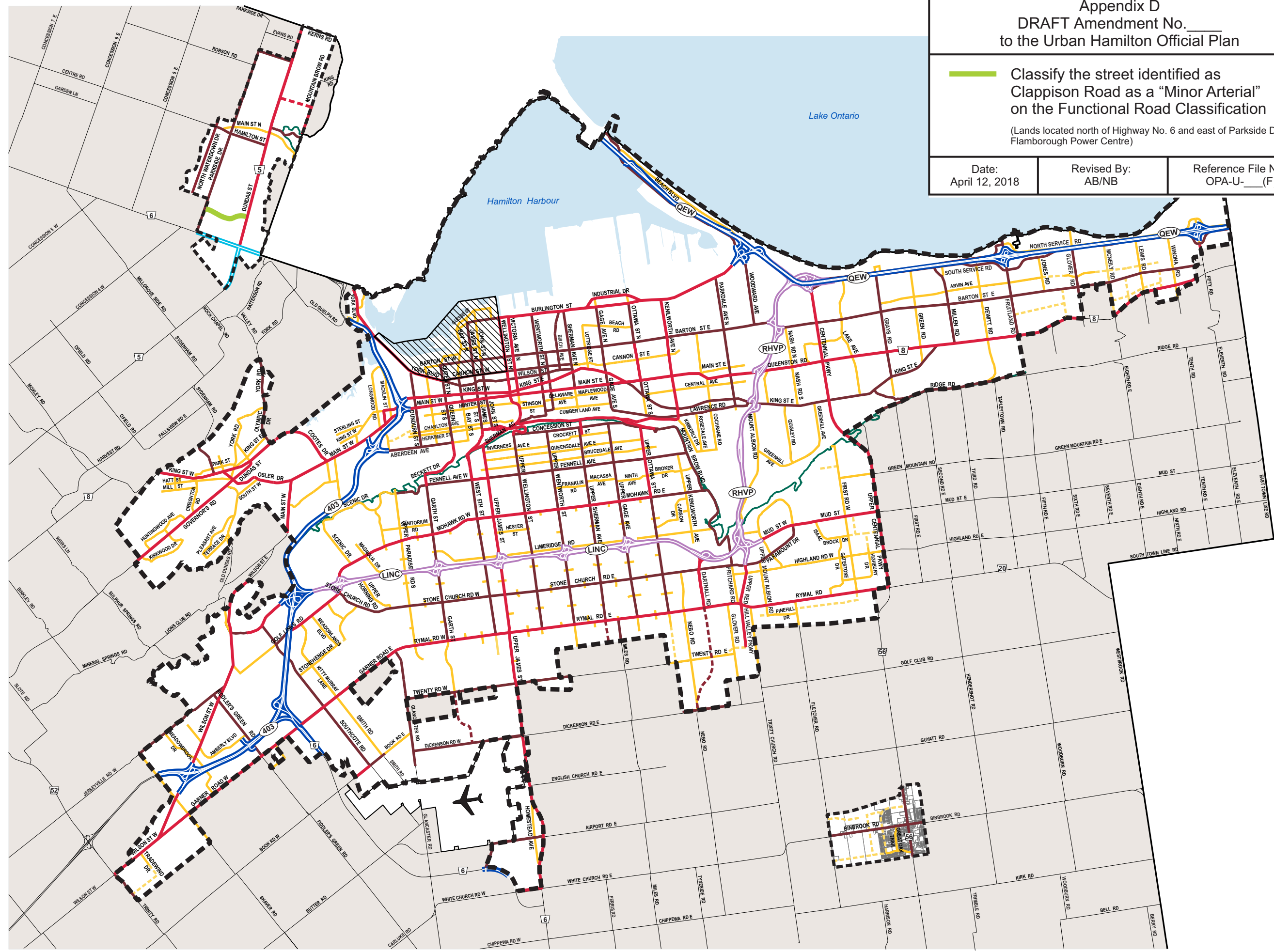
- - - Major Arterial
- - - Minor Arterial
- - - Collector

**Other Features**


- Rural Area
- John C. Munro Hamilton International Airport
- Niagara Escarpment
- Urban Boundary
- Municipal Boundary
- Lands subject to Non Decision 113 West Harbour Setting Sail

Council Adoption: July 9, 2009  
 Ministerial Approval: March 16, 2011  
 Effective Date: August 16, 2013

**Urban Hamilton Official Plan  
 Schedule C  
 Functional Road Classification**

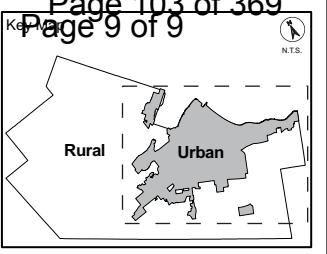


Appendix E  
DRAFT Amendment No. \_\_\_\_\_  
to the Urban Hamilton Official Plan

 Lands to be identified as  
Site Specific Policy Area UFE-X

(Lands located north of Highway No. 6 and east of Parkside Drive  
Flamborough Power Centre)

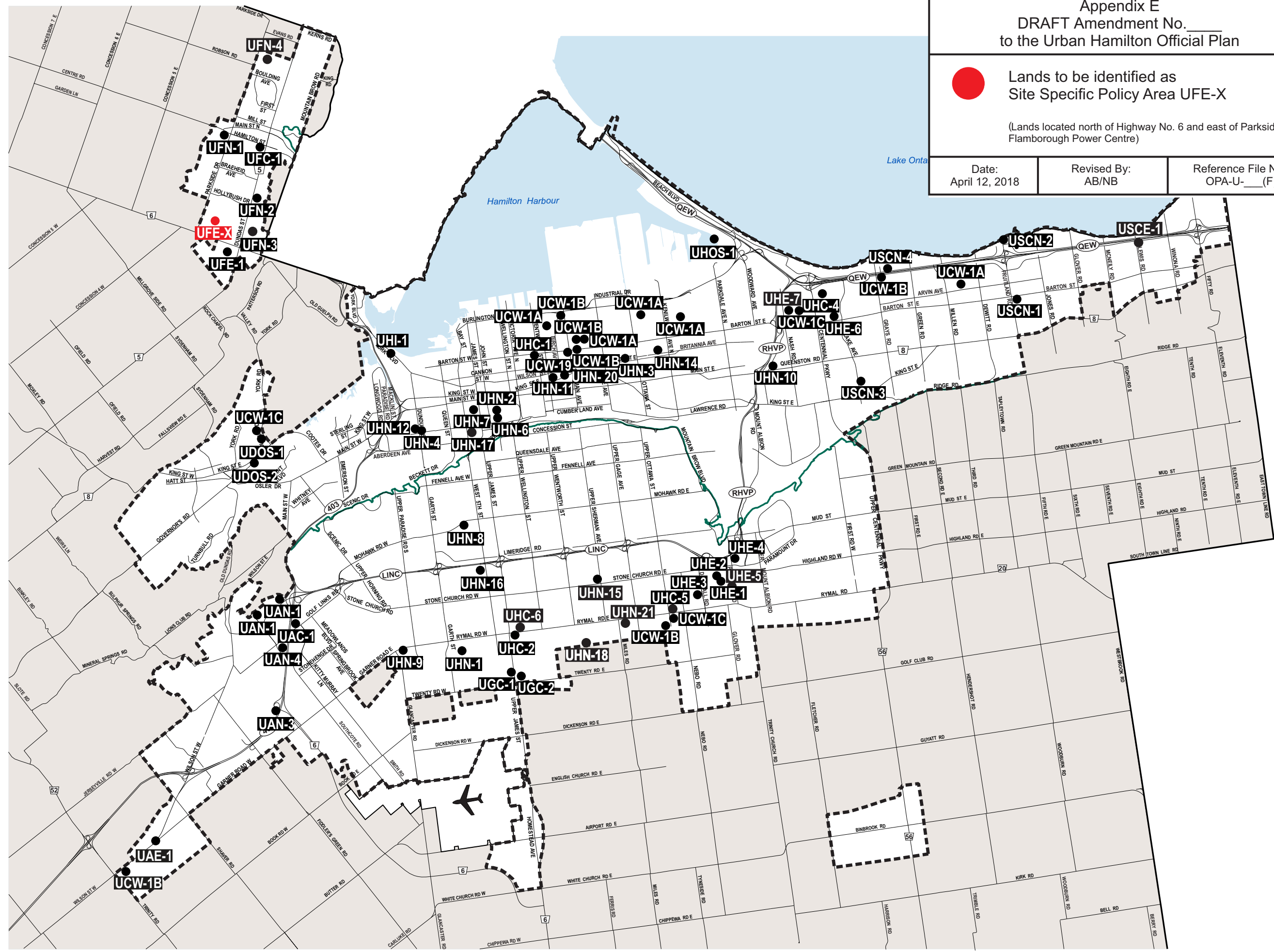
|                         |                      |                                      |
|-------------------------|----------------------|--------------------------------------|
| Date:<br>April 12, 2018 | Revised By:<br>AB/NB | Reference File No.:<br>OPA-U-____(F) |
|-------------------------|----------------------|--------------------------------------|



**Note:** For Rural Site Specific Areas, refer to Volume 3: Appendix A of the Rural Hamilton Official Plan.

**APPEAL**

The southern urban boundary that generally extends from Upper Centennial Parkway and Mud Street East in the east, following the hydro corridor and encompassing the Red Hill Business Park to Upper James Street remains under appeal – see illustration on Schedules E and E-1, Volume 1



- Legend**
- Site Specific Areas (SSA)
  - U- Refers to Urban Site Specific Area #, Volume 3, Chapter B

- Other Features**
- Rural Area
  - John C. Munro Hamilton International Airport
  - Niagara Escarpment
  - Urban Boundary
  - Municipal Boundary

Council Adoption: July 9, 2009  
Ministerial Approval: March 16, 2011  
Effective Date: August 16, 2013

**Urban Hamilton Official Plan  
Volume 3: Map 2  
Urban Site Specific Key Map**



Authority:

Ward: 15

Bill No.

**CITY OF HAMILTON**

**BY-LAW NO.**

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 56, 74, 78, 90, 96, 100 and 566 Parkside Drive  
(Flamborough)**

**WHEREAS** Council approved Item \_\_\_ of Report \_\_\_\_\_ of the Planning Committee, at the meeting held on June 19, 2018;

**AND WHEREAS** this By-law is in conformity with the Urban Hamilton Official Plan, upon finalization of Official Plan Amendment No. \_\_\_.

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

1. That Map Nos. 514, 515, 548, 549, 580 and 581 of Schedule "A" to Zoning By-law No. 05-200 are amended by:
  - (a) For a change in zoning from the General Business Park (M2), and Prestige Business Park (M3,437) Zone and Prestige Business Park (M3, 388) Zone to Conservation / Hazard Land (P5) Zone on lands described as Blocks 1, 2 and 3;
  - (b) For a change in zoning from Prestige Business Park (M3) Zones to Prestige Business Park (M3, 437) Zones on lands described as Block 4;

PASSED this \_\_\_ day of \_\_\_\_\_, 2018.

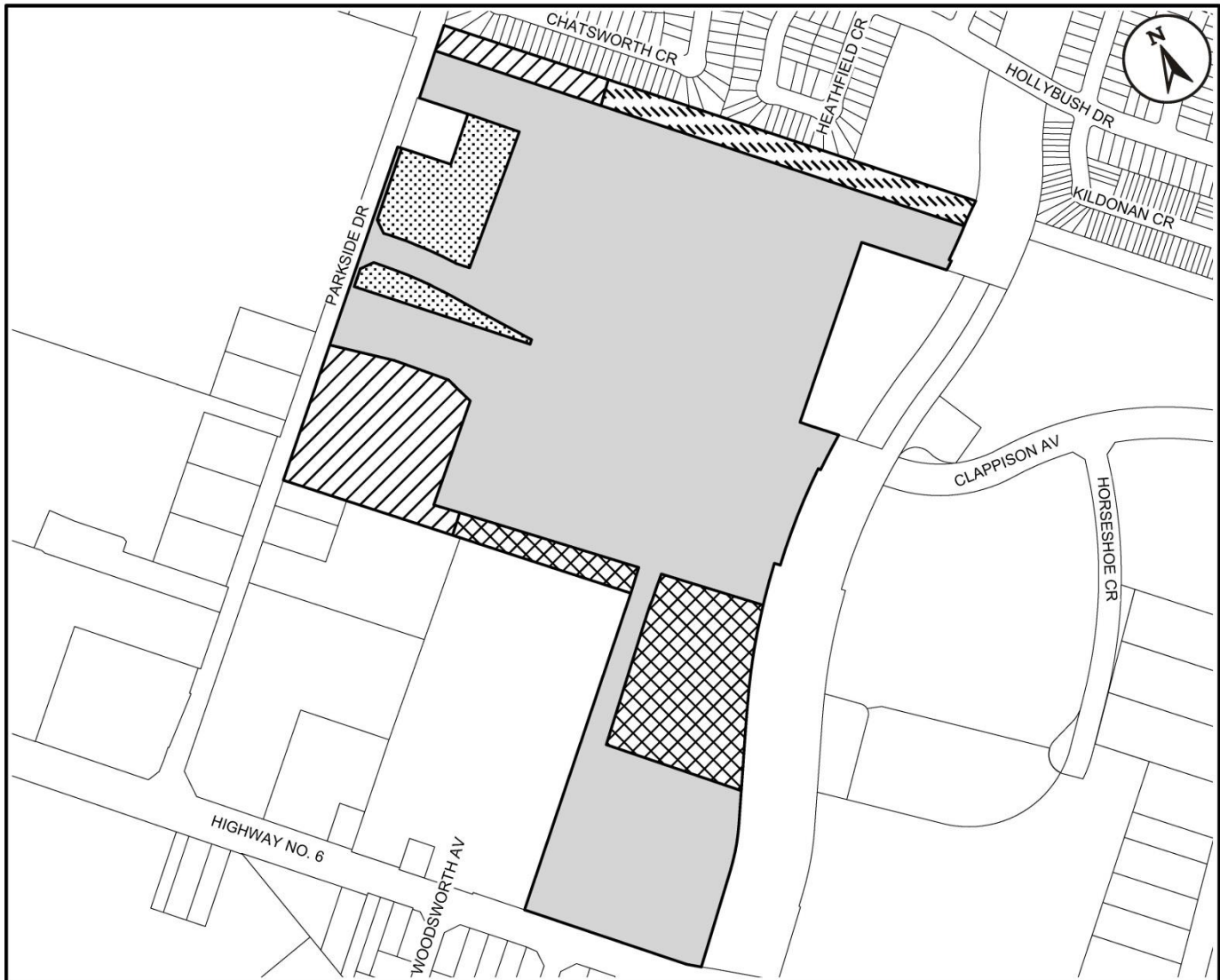
---

Fred Eisenberger  
Mayor

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City Clerk





This is Schedule "A" to By-law No. 18-

Passed the ..... day of ....., 2018

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Mayor

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Clerk

## Schedule "A"

Map Forming Part of  
By-law No. 18-\_\_\_\_\_

to Amend By-law No. 05-200  
Maps 514, 515, 548, 549, 580 & 581

### Subject Property

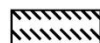
56, 74, 78, 90, 96, 100 & 566 Parkside Drive



**Block 1** - Change in zoning from  
Prestige Business Park (M3, 437) Zone to  
Conservation / Hazard Land (P5) Zone



**Block 2** - Change in zoning from  
General Business Park (M2) Zone to  
Conservation / Hazard Land (P5) Zone



**Block 3** - Change in zoning from  
Prestige Business Park (M3, 388) Zone to  
Conservation/Hazard Land (P5) Zone



**Block 4** - Change in zoning from  
Prestige Business Park (M3) Zone to  
Prestige Business Park (M3, 437) Zone



Additional Subject Lands

Scale:  
N.T.S.

File Name/Number:  
ZAC-15-039 / 25T-201507

Date:  
May 11, 2018

Planner/Technician:  
AB/AL



Hamilton

*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: Chair and Members      Report No.: PED18133      Date: 09/25/2017

Ward: Ward: 15      (MM/DD/YYYY)

Prepared by: Alaina Baldassarra

Phone No: 905-546-2424 ext. 7421

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



**Special Conditions for Draft Plan of Subdivision Approval for 25T-201507  
"Flamborough Power Centre North"**

That this approval for the Revised Draft Plan of Subdivision, 25T-201507, prepared by J.D. Barnes and certified by R.S. Querubin, O.L.S., dated January 30, 2018, consisting of 7 blocks for employment uses (Blocks 1, 3, 4, 7, 8, and 9), 3 blocks for Conservation/Hazard Land uses (Blocks 5, 6 and 10), 1 block for a road widening (Block 12), 1 Block for a Stormwater Management Facility (Block 2), 1 Block for a 0.3 m reserve (Block 11) and three municipal roads (Extension of Clappison Avenue, Street A and Street B) be received and endorsed by City Council with the following special conditions;

**Development Engineering**

1. That, **prior to registration of the plan of subdivision**, the Owner shall show on the final plan a 0.3 m reserve:
  - a. Along the north side of Street A from the west limit of Block 6 to the west limit of Street A;
  - b. Along the west limit of the lands owned by others south of Block 9 from the south limit of Block 9 to the north limit of the Borer's Creek lands;all to the satisfaction of the Senior Director of Growth Management.
2. That, **prior to servicing**, the owner shall:
  - a. Provide detailed design and cost estimates to construct a bridge where Clappison Avenue will cross Borer's Creek entirely at the owner's expense in accordance with the approved Class Environmental Assessment Study for Flamborough Power Centre Inc. prepared by Fothergill Planning & Development Inc., June 1, 2005;
  - b. Agree to pay the entirety of costs of peer review of the bridge design in accordance with the City's policies;
  - c. determine the type of structure to be employed at the Clappison Avenue crossing of Borer's Creek by considering natural, social and economic factors including the potential impact to valley features such as bank stability / erosion potential and riparian vegetation, stream morphology, fish habitat, other aquatic habitat features, the interaction of groundwater and surface water, and considering that creek crossing structure must be designed and constructed to convey greater of 100 year or Hurricane Hazel storm in accordance with City of Hamilton Development Guidelines, 2017;

all to the satisfaction of the Senior Director of Growth Management.

3. That, **prior to registration**, the owner shall construct the bridge to cross Borer's Creek on Clappison Avenue entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
4. That, **prior to preliminary grading**, the Owner shall provide drainage area plans and associated drainage calculations for both sanitary and storm systems to the satisfaction of the Senior Director of Growth Management.
5. That, **prior to preliminary grading**, the applicant agrees to obtain written permission from the owners of any adjacent lands for any works that will require access to or changes on lands outside the boundary of the subject lands to the satisfaction of the Senior Director of Growth Management.
6. That, **prior to registration**, the Owner agrees to pay their proportionate share of the total cost of urbanization of Parkside Drive to the satisfaction of the Senior Director of Growth Management.
7. That, **prior to preliminary grading**, the owner shall include in the engineering design and cost estimate schedules provisions to construct sidewalks on both sides of all proposed streets including those noted as future works entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
8. That, **prior to preliminary grading**, the owner shall include in the engineering design and cost estimate schedules provisions to construct temporary traffic controls as required at the intersection of Clappison Avenue and Parkside Drive entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
9. That, **prior to preliminary grading**, the owner shall include in the engineering design and cost estimate schedules provisions to construct a temporary concrete sidewalk on the south side of Parkside Drive where the subject lands front directly onto Parkside Drive from the east limit of the subject lands to Clappison Avenue entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
10. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for construction of a 1.5 m high black vinyl coated heavy duty chain link fence entirely at the owner's expense in the following locations:
  - a. Along the east boundary of Block 10 and Block 11 from Parkside Drive to the limit of Borer's Creek;
  - b. Adjacent to the limits of Borer's Creek, along south limit of Block 9 and Block 11 from the east limit of the subject lands to the east limit of the external lands south of Block 9 (approximately 85 m west of the east limit of Block 11);
  - c. Along the entire south limit of Block 1;

- d. Along the entire south limit of Block 2;
- e. Along the entire south limit of Block 3;
- f. Along the east and west limits of Block 5 from Street A to the south limit at Borer's Creek;
- g. Along the east and west boundaries of Block 6 from Street A to Parkside Drive including the north-south portion of the boundary between Block 4 and Block 6;
- h. Along the west limit of Block 2, adjacent to Block 1;

all to the satisfaction of the Senior Director of Growth Management.

11. That, **prior to registration of the plan of subdivision**, 9.0 m by 9.0 m daylight triangles be established on the final plan of subdivision at the following intersections:
- a. Street B and Clappison Avenue (north intersection);
  - b. Street B and Clappison Avenue (south intersection);
  - c. Street A and Clappison Avenue;
  - d. Where Street B transitions from an east-west configuration to a north-south configuration;

all to the satisfaction of the Senior Director of Growth Management.

12. That, **prior to registration**, 12 m by 12 m daylight triangles be established on the final plan of subdivision at the intersection of Clappison Avenue and Parkside Drive based on the widened limits of Parkside Drive to the satisfaction of the Senior Director of Growth Management.
13. That, **prior to preliminary grading**, the Owner agrees in writing that the removal of all existing septic beds, buildings, wells, and/or any structures will be at the sole cost to the owner to the satisfaction of the Senior Director of Growth Management.
14. That, **prior to servicing**, the Owner be required to relocate, if necessary, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Parkside Drive entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
15. That, **prior to preliminary grading**, the Owner agrees to provide in writing a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision. 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

contractor/agent contact information so that the City can direct the work to be completed as necessary all to the satisfaction of the Senior Director of Growth Management.

16. That, **prior to servicing**, the owner shall submit a Hydrogeological report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zones, and provide recommendations to mitigate the groundwater impacts during any construction within the subdivision, including but not limited to building construction, and to undertake the works as recommended including monitoring. The report shall also provide a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:
- a. an aquifer is breached during excavation;
  - b. groundwater is encountered during any construction within the subdivision, including but not limited to house construction;
  - c. sump pumps are found to be continuously running; and,
  - d. water supply and sewage disposal systems and any surface and groundwater related infrastructure are negatively impacted;

all to the satisfaction of the Senior Director of Growth Management.

17. That, **prior to servicing**, the Owner, through a soil consultant or other qualified consultant:
- a. shall check existing wells that provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells prior to commencement of construction; monitor these wells during construction, and continue monitoring and checking the wells after completion of construction until full buildout of the subdivision;
  - b. if, in the opinion of the City, any problems arise, they must be appropriately addressed by the Owner;

all to the satisfaction of the Senior Director of Growth Management.

18. That, **prior to preliminary grading**, the owner shall prepare and provide a Construction Management Plan that provides details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc. The plan must identify any required sidewalk and/or lane closures and the estimated length of time for such closures). Details on heavy truck routing must also be included, all to the satisfaction of the Senior Director of Growth Management.
19. That, **prior to preliminary grading**, the Owner shall revise the Functional Servicing Report, signed and sealed by a qualified, licensed professional

engineer (P.Eng.) to the satisfaction of the Senior Director of Growth Management.

20. That, **prior to preliminary grading**, copies of lot and drainage plans showing existing and final grades and demonstrating that drainage is controlled and directed away from the pipe line easement must be submitted to Imperial Oil Ltd. and Sun-Canadian Pipeline Authority for their review and approval to the satisfaction of the Senior Director of Growth Management.
21. That, **prior to preliminary grading**, the Owner shall submit an overall subdivision grading plan including:
  - a. Demonstration of how the individual Blocks will be graded and drained in the interim development condition (post servicing but prior to Site Plan) such that they drain independently and not adversely affect adjacent Blocks, private lands, pipeline easement etc.;
  - b. each block shall have at least one (1) dedicated storm outlet including an overland flow route to the municipal system;

all to the satisfaction of the Senior Director of Growth Management.

22. That, **prior to Servicing**, the owner shall design and construct an appropriate storm conveyance to convey the greater of 100-year pre-development or regional storm flows from the external drainage area north of Parkside Drive entirely at the owner's expense, to the satisfaction of the Senior Director of Growth Management.
23. That, **prior to Servicing**, the Owner shall include in the engineering design and cost estimate schedule provision for the construction of storm sewers within the Parkside Drive right-of-way including all restoration works to convey local and external drainage entirely at the owner's expense, to the satisfaction of the Senior Director of Growth Management.
24. That, **prior to preliminary grading**, the Owner agrees to:
  - a. submit a detailed Stormwater management (SWM) report prepared by a qualified professional engineer that demonstrates how quality, quantity, and erosion control will be handled in accordance with City of Hamilton Development Guidelines (2017) and MOECC Stormwater Management Design Guideline (2003);
  - b. identify and establish a suitable storm outlet for the proposed SWM facility to convey controlled and uncontrolled flows to Borer's Creek;
  - c. demonstrate that the hydraulic grade line (HGL) for the post-development 100-year storm event is located at or below the top of grate elevation at all inlet locations, and that the 5 year HGL shall not exceed the obvert of the sewers;



- d. Verify that the proposed SWM Facility, Block 2, shall be of sufficient size, shape, and depth to adequately accommodate the ultimate SWM facility, including an adequate decanting area as per City standards. Until such time as the size and shape are confirmed, the adjacent Block 1 shall be considered, as undevelopable. The SWM facility design geometry shall be as per City of Hamilton Development Guidelines (2017) and facility landscaping as per City of Hamilton Landscape Design Guidelines for SWM facilities (2009);
- e. maintain drainage routing through the subject lands for any external storm flows that drain to or through the lands;
- f. demonstrate that runoff from the 100-year storm can be conveyed to the appropriate downstream outlet(s) without impacting adjacent properties;

all to the satisfaction of the Senior Director of Growth Management.

25. That, **prior to servicing**, the owner agrees that they will be responsible for the design and construction of the stormwater management (SWM) facility and will maintain the facility entirely at the owner's expense until it is assumed by the City including the following commitments:

- a. to submit an operation and maintenance manual as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009);
- b. to inspect and monitor the Stormwater management facility upon commencement of construction or pre-grading of the subject lands through to assumption of the facility by the City in accordance with the conditions of ECA issued by MOECC;
- c. To keep detailed logs concerning Stormwater management facility performance and maintenance, including costs of cleaning and removal of sediment and to submit such logs to the City during pre-grading and construction activities in accordance with the operation manual;
- d. To construct, operate, and maintain at the Owner's expense, the Stormwater management facility, in a manner acceptable to the City, including any changes to conditions of the MOE&CC's approval, throughout servicing of all stages of draft plan registration and development of all registered lots and blocks, or until such time as determined by the Senior Director of Growth Management Division; and,
- e. To remove sediment from the Stormwater management facility attributed to development, carry out a bathymetric survey, and verify volumetric capacity of the Stormwater management facility prior to release of the Owner's operation and maintenance responsibilities for the Stormwater management facility;

all to the satisfaction of the Senior Director of Growth Management.

26. That, **prior to registration of the final plan of subdivision**, the Owner shall submit the necessary transfer deeds to the City's Legal Services to convey an adequate Stormwater Management Facility block (Block 2, and potential additional lands being Block 1, subject to an approved Stormwater management design), of the draft plan to the City with no City Share for land or construction costs in accordance with the current Development Charges Bylaw, to the satisfaction of the Senior Director of Growth Management.
27. That, **prior to registration of the draft plan of subdivision**, the Owner shall submit the necessary transfer deeds to the City's Legal Department to convey an easement on Block 1 of the draft plan for the SWM facility outlet and the sanitary sewer & storm outlet for external lands, to the satisfaction of the Senior Director of Growth Management.
28. That, **prior to servicing**, the owner shall agree to provide sanitary servicing along Parkside Drive from Clappison Avenue west along the frontage of the development lands to the west limit at the property line adjacent to 40 Parkside Drive to the satisfaction of the Senior Director of Growth Management.
29. That, **prior to registration**, the owner will dedicate lands between the Clappison Avenue right-of-way and the lands owned by others south of Block 9 to the city and add a 0.3m block on the City's property along the west boundary of the lands owned by others, to the satisfaction of the Senior Director of Growth Management.
30. That, **prior to registration**, the owner shall demonstrate that the temporary turning circle at the existing north limit of Clappison Avenue immediately south of Borer's Creek has been properly removed to the satisfaction of the Senior Director of Growth Management.

#### **Development Planning:**

31. That, **prior to preliminary grading**, the proponent shall carry out an archaeological assessment of the entire property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and Chief Planner and the Ministry of Tourism, Culture and Sport confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Tourism, Culture and Sport.

#### **Ministry of Transportation:**

32. That prior to final approval, the owner shall submit to the Ministry of Transportation for review and approval a detailed Storm Water Management

report, in accordance with the MTO Storm Water Management Requirements for Land Development Proposals.

33. That prior to final approval, the owner shall submit to the Ministry of Transportation for review and approval a traffic impact study to assess site impacts on Hwy 6 and Hwy 5, and ensure that appropriate mitigation, if required, is provided for by the owner. Please see the link below for additional information on the Ministry's Traffic Impact Study Guidelines.
34. That prior to final approval, Block 12 (new Right-of-Way) will be dedicated as public highway on the owner's certificated on the final plan.
35. That prior to final approval, the owner shall enter into a legal agreement with the Ministry of Transportation whereby the owner agrees to assume financial responsibility for the construction of all necessary associated highway improvements.

**Hamilton Conservation Authority:**

36. That the applicant prepares and implements an erosion and sediment control plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:
  - a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;
  - b) All erosion and sediment control measures shall be inspected after each rainfall to the satisfaction of Authority staff;
  - c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,
  - d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.
37. That the applicant prepares and implements a Stormwater Management Plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved plan shall ensure that post development flows will equal pre-development levels and that current provincial drainage and stormwater quality guidelines are implemented.
38. That the applicant prepares and implements a lot grading plan to the satisfaction of the Hamilton Conservation Authority.
39. That the applicant obtain a permit from the Hamilton Conservation Authority under its *Development, Interference with wetlands, and alterations to shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04* prior to any

construction and/or grading activities associated with the installation of the Con Span culvert installation and any watercourse alteration.

#### **Union Gas:**

40. The owner/developer provide to Union the necessary easements and/or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Union.

#### **Transportation:**

41. That, **prior to servicing**, an updated TIS shall be provided to the satisfaction of the Manager, Transportation Planning, Planning and Economic Development Department.
42. That, **prior to servicing**, the owner shall include in the engineering design and cost estimate schedules provisions to construct the signalized intersection of Parkside Drive and Clappison Avenue and further that:
  - a. it will be designed as a temporary installation with the existing Parkside Drive cross-section;
  - b. it will also be designed with the future / ultimate cross-sections of Parkside Drive and Clappison Avenue;
  - c. all costs associated with these works, including but not limited to design and construction, will be at the expense of the applicant;

all to the satisfaction of the Manager of Traffic Operations and Engineering.

43. That, **prior to servicing**, the Applicant shall provide a design that adequately incorporates Hamilton Pedestrian Mobility Plan with regards to the needs of pedestrians with disabilities (i.e. AODA regulations and barrier free designs) where the Built environmental standard - buffered sidewalks must have a minimum clear width of 1.5 m along right-of-way to the satisfaction of the Manager, Transportation Planning, Planning and Economic Development Department.

#### **Notes to Draft Plan Approval**

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

**Ministry of Transportation**

2. Direct access to the development from Hwy 6 will not be granted at any time. Any currently existing access to Hwy 6 shall be closed permanently and the Right-of-Way restored.
3. The City of Hamilton should make considerations for access connections to the proposed "Street A" and Clappison Avenue in the future planning of lands, not included in this application, which are bordered by Hwy 6, Parkside Dr, Clappison Avenue and "Street A".
4. All future access connections to Parkside Drive shall follow the recommended spacing and standards set out by the Access Management Guidelines.
5. The proposed subdivision is considered a major traffic generator. As such, all buildings/sites on all development blocks of the subdivision require MTO Building and Land Use permits prior to the start of any construction on the blocks. Additionally, permits are required prior to Site Grading/Servicing/internal road construction, and for site signs; and MTO Encroachment permit is required for any works proposed within Hwy 6 limits.
6. All structures (above and below ground), including land uses considered essential to the site's viability must be setback a minimum of 14m from the future designated Hwy 6 limits.



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

|                           |  |
|---------------------------|--|
| <b>TO:</b>                | Chair and Members<br>Planning Committee  |
| <b>COMMITTEE DATE:</b>    | June 19, 2018  |
| <b>SUBJECT/REPORT NO:</b> | Applications to Amend the Town of Ancaster Zoning By-law No. 87-57 and for a Draft Plan of Subdivision for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12) |
| <b>WARD(S) AFFECTED:</b>  | Ward 12  |
| <b>PREPARED BY:</b>       | Melanie Schneider (905) 546-2424 Ext. 1224   |
| <b>SUBMITTED BY:</b>      | Steve Robichaud<br>Director, Planning & Chief Planner<br>Planning and Economic Development Department  |
| <b>SIGNATURE:</b>         |  |

### RECOMMENDATION

- (a) That **Amended Zoning By-law Amendment Application ZAC-16-048 by 1921753 Ontario Ltd., (Faizal Javer, Owner)**, for a change in zoning from the Institutional "I" Zone to the Residential "R4-697" Zone, Modified (Block 1), Residential "R4-693" Zone, Modified (Block 2) and Residential "R4-694" Zone, Modified (Block 3) for lands located at 20 Miller Drive (Ancaster), as shown on Appendix "A" to Report PED18123, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix "B" to Report PED18123, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the amending By-law be added to Schedule "B", Map No. 1 of By-law No. 87-57;
  - (iii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (2014), conform to the Growth Plan for the Greater Golden Horseshoe (2017), and comply with the Urban Hamilton Official Plan.

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**SUBJECT: Applications to Amend Zoning By-law and Draft Plan of Subdivision for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12) - Page 2 of 26**

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- (b) That **Draft Plan of Subdivision Application 25T-201606 by 19217853 Ontario Ltd., (Faizal Javer, Owner)**, to establish a Draft Plan of Subdivision known as “20 Miller Drive” on lands known as 20 Miller Drive (Ancaster), as shown on Appendix “A” to Report PED18123, be **APPROVED** subject to the following conditions:
- (i) That this approval apply to the Draft Plan of Subdivision “20 Miller Drive” 25T-201606, prepared by A.T. McLaren Ltd, and certified by S. D. McLaren, O.L.S., dated July 15, 2016, consisting of twenty-two lots for single detached dwellings (Lots 1-22) and the extension of Roselawn Avenue, 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 PED18123.
  - (ii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 42 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 day of issuance of each building permit, in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.
  - (iii) Acknowledgement by the City of Hamilton of its responsibility for cost-sharing with respect to this development shall be in accordance with the City’s Financial Policies and will be determined at the time of the development. The City of Hamilton will share costs with the owner for urbanization of roads as follows:
    - (1) Concrete curb on the side of Miller Drive opposite the proposed development;
    - (2) Catch basins on Miller Drive opposite the proposed development as required to provide adequate storm drainage of the street; and,
    - (3) Minimal restoration to back-of-curb of existing lots fronting on Miller Drive opposite the proposed development.

## **EXECUTIVE SUMMARY**

The purpose of these applications is to amend the Ancaster Zoning By-law No. 87-57 and for approval of a Draft Plan of Subdivision known as “20 Miller Drive”. By way of these applications, the applicant is seeking to extend Roselawn Avenue westerly to intersect with Miller Drive and for the construction of 22 single detached dwellings, fronting onto Miller Drive and Roselawn Avenue. Modifications to the maximum lot

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**SUBJECT: Applications to Amend Zoning By-law and Draft Plan of Subdivision for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12) - Page 3 of 26**

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coverage, side yard setbacks, maximum height, minimum rear yard setbacks, and restriction of balcony locations are also required to implement the proposal.

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.

***Alternatives for Consideration – See Page 25***

**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 south of Highway No. 403, east of Fiddlers Green Road and north of Garner Road West (see Appendix “A” to Report PED18123).

The applicant proposes to extend Roselawn Avenue to the north-south leg of Miller Drive and construct 22 single detached dwellings fronting onto Miller Drive and the extended portion of Roselawn Avenue.

**Zoning By-law Amendment**

The original proposal for this application was for a change in zoning from the Institutional “I” Zone to a modified Existing Residential “ER” Zone for lots 1, 16, and 22 and a change in zoning from the Institutional “I” Zone to a modified Residential “R4” Zone for all remaining lots. The proposed modified “ER” Zone included reductions to minimum lot area, minimum frontage, maximum lot coverage, and minimum side yard setbacks. The applicant further requested a maximum lot coverage of 45% to the modified “R4” Zone instead of the maximum lot coverage of 35%.

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Based on review of the application by staff and feedback from the public, the proposed Zoning By-law Amendment has been amended for a change in zoning from the Institutional “I” Zone to the Single Residential “R4-697” Zone, Modified (Block 1), Single Residential “R4-693” Zone, Modified (Block 2), and Single Residential “R4-694” Zone, Modified (Block 3), in the Ancaster Zoning By-law No. 87-57 (see Appendix “B” to Report PED18123). Modifications to the “R4” Zone have been requested for maximum lot coverage, minimum side and rear yard setbacks, maximum building height, restriction of balcony locations, and definition of lot frontage.

### **Draft Plan of Subdivision**

The previous use, being the Maple Lane Elementary School, was deemed surplus by the Hamilton-Wentworth District School Board. As a result, the current owner proposes a Draft Plan of Subdivision to extend Roselawn Avenue to Miller Drive and to create 22 lots for single detached dwellings fronting onto Miller Drive and Roselawn Avenue (lots 1-22, see Appendix “C” to Report PED18123). The roads currently do not have sidewalks or storm sewers within the public right of way and will be extended as part of the proposal.

### **City Initiated Modifications to the Existing Residential “ER” Zone**

On March 20, 2018, Planning staff presented Report PED18036 which outlined recommended changes to the Existing Residential “ER” Zone in the Town of Ancaster Zoning By-law in order to address compatible redevelopment activity in mature neighbourhoods. City Council approved the implementing By-law 18-105 on April 25, 2018, which is not in force and effect at the time of writing this Report. The proposed changes to the “ER” Zone include specific design standards for one storey single detached dwellings and two storey dwellings, ensuring that the established character of these neighbourhoods are maintained.

### **Chronology**

|                         |   |
|-------------------------|---|
| <u>July 22, 2016:</u>   | Applications ZAC-16-048 and 25T-201606 received.  |
| <u>August 5, 2016:</u>  | Applications ZAC-16-048 and 25T-201606 deemed complete.   |
| <u>August 19, 2016:</u> | Public Notice Sign installed on Subject Lands.  |
| <u>August 19, 2016:</u> | Circulation of Notice of Complete Application and Preliminary Circulation for Applications ZAC-16-048 and 25T-201606 to 85 property owners within 120 m of the subject lands. |

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October 10, 2016: Ancaster Community Council meeting.

May 23, 2018: Public Notice Sign updated with Public Meeting Information.

June 1, 2018: Circulation of the Notice of Public Meeting to 85 property owners within 120 m of the subject lands.

**Details of Submitted Application**

**Location:** 20 Miller Drive, Ancaster (see Appendix “A” to Report PED18123)

**Owner:** 1921753 Ontario Ltd.

**Applicant:** GSP Group Inc. c/o Sarah Knoll

**Property Description:**

Lot Frontage: North 73 m, South 35 m

Lot Depth: North 111 m, South 69 m

Lot Area: 1.06 ha

Servicing: Municipal Piped Water and Municipal Sanitary Sewer System. Existing Storm Drainage is by Ditches.

**Existing Land Use and Zoning**

|                             | <b><u>Existing Land Use</u></b>                          | <b><u>Existing Zoning</u></b> |
|-----------------------------|--|-------------------------------|
| <b><u>Subject Lands</u></b> | Vacant, Former Maple Lane Elementary School (demolished) | Institutional “I” Zone        |

**Surrounding Land Uses**

|              |                           |                                |
|--------------|---------------------------|--------------------------------|
| <b>North</b> | Single Detached Dwellings | Existing Residential “ER” Zone |
| <b>East</b>  | Single Detached Dwellings | Existing Residential “ER” Zone |
| <b>South</b> | Single Detached Dwellings | Existing Residential “ER” Zone |

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**West**                      Single Detached Dwellings                      Existing Residential “ER” Zone

**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 and environmental protection) are reviewed and discussed in the Official Plan analysis below.

Staff also note Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS (2014). The following policies of the PPS (2014) also apply:

“2.6.1                      Significant built heritage resources and significant cultural heritage landscapes shall be conserved.”

The subject property comprises the former Maple Lane Public Elementary School, built in 1955 originally as a three-room school. The City recognizes there may be cultural heritage properties that are not yet identified or included in the Register of Property of Cultural Heritage Value or Interest nor designated under the *Ontario Heritage Act*, but still may be of cultural heritage interest. These may be properties that have yet to be surveyed, or otherwise identified, or their significance and cultural heritage value has not been comprehensively evaluated but are still worthy of conservation.

Although not formally recognized under the *Ontario Heritage Act* through registration or designation, the subject property is of potential cultural heritage value and staff do have an interest in ensuring any proposed changes are sympathetic to the historic character of the building and are contextually appropriate.

A Cultural Heritage Impact Assessment for the subject property was completed by McCallum Sather on April 26, 2016. The report assessed the impact of demolition and an evaluation of the cultural heritage attributes of the building.

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Staff are satisfied with the revised Cultural Heritage Impact Assessment and have no further concerns from a Cultural Heritage perspective. At the time of submission of these applications, the site was still developed with the former school, although closed. The school has since been demolished and the lands are currently vacant.

“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.”

The subject property meets three of the ten criteria for Archaeological potential and the policies found in Subsection 2.6.2 do not permit development on land in which there is archaeological potential unless the archaeological resources have been conserved. A Stage 2 archaeological report (P013-1150-2016) for the lands was submitted to the Ministry of Tourism, Culture and Sport and the City of Hamilton. Staff concur with the recommendations made in the Report, and the archaeology condition for the subject application has been met to the satisfaction of staff.

As the applications for a change in zoning and the Draft Plan of Subdivision comply with the Official Plan and the relevant PPS policies pertaining to Cultural Heritage, it is staff's opinion that the applications are:

- consistent with Section 3 of the *Planning Act*, and,
- consistent with the Provincial Policy Statement (2014).

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

The following policies, amongst others, from the Growth Plan for the Greater Golden Horseshoe are applicable to the proposal:

“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.
- b) within settlement areas, growth will be focused in:

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- i. delineated built-up areas;
- 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.”

The subject lands are located within a settlement area, within the built boundary, as shown on Appendix “G” – Boundaries Map of the UHOP. The lands are located within the interior of an established neighbourhood, bound by Highway No. 403, Fiddlers Green Road, and Garner Road West. The lands are within walking distance of three elementary schools and several Neighbourhood Parks, being Maple Lane Park and James Smith Park. The lands are also serviced by two HSR Routes, being #16 and #44, ensuring the lands are serviced by planned and existing transit. In addition, standard Conditions of Draft Plan of Subdivision will ensure that adequate services are installed on site to ensure that sufficient municipal systems are in place to support the proposal. Accordingly, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe (2017).

### **Urban Hamilton Official Plan (UHOP)**

The subject lands are designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations in the UHOP. The lands are also designated “Institutional, Public Elementary School” in the Garner Neighbourhood Secondary Plan and shown within the Built Boundary on Appendix “G” – Boundaries Map in the UHOP. The following policies, amongst others, are applicable to the subject applications.

#### **Residential Intensification**

- “B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:
- a) a balanced evaluation of the criteria in b) through g) as follows;
  - b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
  - c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
  - d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the

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City encourages the use of innovative and creative urban design techniques;

- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

**B.2.4.2.2** When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts.”

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The subject lands are located within the Neighbourhoods Designation and identified to be within the built-up area of Hamilton. The proposed development consists of two storey, single detached dwellings in a neighbourhood originally comprised of one storey “bungalow” style single detached dwellings. Recent redevelopments within the neighbourhood show a transition to two storey single detached dwellings, consistent with this proposal. Side yard setbacks, consistent with the established neighbourhood, have been introduced for lots directly adjacent to existing residential lots. Further, a maximum height of 9.5 m has been introduced to ensure that the height is compatible with the existing character. A lot size of 15.2 m has been proposed for lots 1, 16, and 22, adjacent to established developments to provide a transition between the existing lot widths of approximately 22 m to the proposed 12 m for interior lots (see Appendix “C” to Report PED18123). Accordingly, the proposal enhances the desired lot pattern and built form of the area that is well integrated with the use, scale, and character of the established neighbourhood. As part of the development, Roselawn Avenue will be extended to intersect with Miller Road, as intended through the original Subdivision for this area; both streets will be urbanized to facilitate this development to ensure transportation and infrastructure capacity are provided to current municipal standards.

Massing and height of the proposal is consistent with the new development within this neighbourhood, which is also consistent with the existing zoning permissions of the surrounding bungalow units of the area. Staff do not anticipate impact from shadow, noise, traffic, overlook, or other nuisance effects from this proposal. Transition lot widths of 15.2 m have been proposed adjacent to the existing residential uses to the east to provide for a gradual change of massing from the existing uses to the proposed development (see Lots 1, 16, and 22 of Appendix “C” to Report PED18123). Transitional massing in terms of rear yard setbacks, lot coverage, and restriction of balcony locations have been proposed for the southerly and easterly lots to ensure compatibility between the proposed development and existing lotting pattern (see Appendix “B” and lots 1, 12 – 16, and 22 of Appendix “C” to Report PED18123). Amenity space has been provided on each lot and additionally, the development is within a neighbourhood that has access to two parks within approximately 500 m of the subject lands.

### Noise

“B.3.6.3.1 Development of noise sensitive land uses, in the vicinity of provincial highways, parkways, minor or major arterial roads, collector roads, truck routes, railway lines, railway yards, airports, or other uses considered to be noise generators shall comply with all applicable and municipal guidelines and standards.”

The subject lands are approximately 85 m from Highway No. 403 and approximately 77 m from Fiddlers Green Road, which is designated as a Minor Arterial Road in

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Schedule “C” – Functional Road Classification in the UHOP. Accordingly, Standard Condition #32 of Draft Plan of Subdivision Approval requires the submission of a Noise Impact Study to ensure that noise mitigation measures are appropriately evaluated and implemented.

#### Natural Heritage

“C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

A Tree Protection Plan (TPP) prepared by Gardina Design, dated June 17, 2016 has been prepared in support of this application. The TPP shows that 55 trees have been observed on site, 52 of which are identified for removal as part of the development proposal. Staff note that revisions are required to the TPP, including exploration of opportunities to retain additional trees on site. These revisions are addressed as Standard Condition #12 for Draft Plan of Subdivision Approval.

#### Contaminated Sites

“C.3.6.1.1 The City shall require proponents of development or redevelopment proposals to document previous uses of the property(s) affected by the proposal for lands currently or previously used for:

- c) any activities involving the storage or use of hazardous substances, including fuels, oils, chemicals, paints, or solvents;”

The property was previously the site of Maple Lane Elementary School. While the information indicates that a Phase I Environmental Site Assessment was completed, the Ministry of Environment and Climate Change (MOECC) Registry does not show that a Record of Site Condition was uploaded. However, as the change is from an institutional to residential use, which are considered sensitive land uses, there is no mandatory need to file a Record of Site Condition. The information also indicates that the property may have had underground storage tanks (USTs). USTs fall under the jurisdiction of the Technical Standards & Safety Authority and not the MOECC. The MOECC would become involved in a situation where the contents of those USTs has leaked and crossed the property line, resulting in the contamination of an adjacent property.

#### Daylighting Triangles

“C.4.5.7 The City shall require the conveyance of property for appropriate daylighting triangles and corner rounding on existing roads at such times as the property is to be developed or redeveloped, as a condition of site

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plan approval, consent, or plan of subdivision approval, in accordance with City standards based on the intersecting roadways of the functional road classification detailed in Section C.4.5.2. Daylighting triangles at intersections shall generally be as follows:

- a) Local to local roads: 4.57 m triangle or radius;”

As part of the proposed development, the extension of Roselawn Avenue to Miller Drive is required, including the conveyance of a 4.57 m by 4.57 m daylight triangle. This conveyance will be addressed through Condition No. 2 in Appendix “D” to Report PED18123.

### Neighbourhoods

“E.6.2.6 Notwithstanding Policy E.6.2.2, where institutional uses cease on lands designated Institutional, low density residential uses, parks and open space uses, or community facilities / services uses may be permitted without an amendment to this Plan, provided the uses are compatible with the surrounding area and are in keeping with the policies of this Plan.

E.3.2.7 The City shall require quality urban and architectural design. Development of lands within the Neighbourhoods designation shall be designed to be safe, efficient, pedestrian oriented, and attractive, and shall comply with the following criteria:

- a) New development on large sites shall support a grid system of streets of pedestrian scale, short blocks, street oriented structures, and a safe and attractive public realm.
- b) Garages, parking areas, and driveways along the public street shall not be dominant. Surface parking between a building and a public street (excluding a public alley) shall be minimized.

E.3.4.1 The preferred location for low density residential uses is within the interior of neighbourhoods.

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

E.3.4.6 Development in areas dominated by low density residential uses shall be designed in accordance with the following criteria:

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- a) Direct access from lots to adjacent to major or minor arterial roads shall be discouraged.
- b) Backlotting along public streets and in front of parks shall be discouraged. The City supports alternatives to backlotting, such as laneway housing and window streets, to promote improved streetscapes and public safety, where feasible.
- d) Development, including the creation of infill lots involving the creation of new public streets or extensions, shall generally proceed by way of plan of subdivision. Such plans shall achieve the logical and sequential extension of streets and municipal services and an efficient lotting pattern.”

The applicant proposes to construct 22 single detached dwellings on lands that were previously used for institutional purposes and are permitted uses. The proposed Draft Plan of Subdivision includes the extension of Roselawn Avenue in order to maintain a grid road system at a pedestrian scale, with short blocks, and a safe public realm. The concept plans submitted by the applicant indicate the garages to be flush with the front façade of the dwellings, ensuring the garages are not set closer to the street edge, thereby not dominating the streetscape. The proposal is located on local roads and does not have direct access from major or minor arterial roads. In addition, an efficient lotting pattern is proposed which ensures a logical and sequential extension of streets and municipal services, and ensures no backlotting will occur.

#### Garner Neighbourhood Secondary Plan

The subject lands are designated “Institutional” on Map B.2.3.1 – Land Use Plan in the Garner Neighbourhood Secondary Plan.

Policy E.6.2.6 in Volume 1 of the UHOP permits low density residential uses on lands designated “Institutional”. Accordingly, the following policies apply as the proposal is for low density residential.

- “B.2.3.1.2
- a) Residential buildings in the Low Density Residential and Medium Density Residential designations shall have no more than three occupied storeys entirely above grade.
  - b) To minimize the impact of new residential development on existing single detached residential uses to the immediate east and west of the neighbourhood, a transition in dwelling type and density shall be applied. Adjacent to those existing single detached residential

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areas, single detached dwellings shall be located on minimum 15 metre frontage lots and larger.

- c) Where a higher density residential area (Low Density Residential 2a or higher) is adjacent or in proximity to a lower density residential area (Low Density Residential (Existing), 1 or 1a), potential conflicts related to physical compatibility of adjacent uses shall be reduced through the use of open space buffers, setbacks, screening, dwelling type and density, building/site design, and/or separator roads.”

The subject lands have a lot area of 1.05 ha, providing a density of 21 dwelling units per gross/net residential hectare, meeting the density allowed in the Low Density Residential 2a designation within the Secondary Plan, being a maximum density of 27 dwelling units per gross/net residential hectare. The surrounding lands are designated Low Density Residential 1a, which requires a minimum lot frontage of 15 m and maximum density of 18 dwelling units per gross/net residential hectare. In order to provide sufficient transition, the applicant proposes a minimum 2.0 m side yard setback to the existing residential uses to the east and a minimum lot width of 15 m for the same transitional lots. The proposed interior lots will have a minimum frontage of 12.2 m and maximum lot coverage of 40%. No modifications are proposed to the front yard setbacks to ensure the character of the streetscape is not impacted by the massing of the proposed units. The height of the proposed dwellings will be a maximum height of 9.5 m to further ensure compatibility with adjacent uses, which are comprised of one and two storey single detached dwellings and permit a maximum height of 9.5 m.

Based on the foregoing, the proposal complies with the Garner Neighbourhood Secondary Plan and Volume 1 of the UHOP.

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;

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- 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. The 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 Garner Neighbourhood Secondary Plan. Therefore, the proposal complies with the City’s Staging of Development policies.

Based on the foregoing, the proposal complies with the policies of the UHOP.

**Town of Ancaster Zoning By-law No. 87-57**

The subject lands are currently zoned Institutional “I” Zone in the Town of Ancaster Zoning By-law No. 87-57. The Institutional “I” Zone permits institutional uses and cemeteries, mausoleums, columbariums and accessory uses thereto. Accordingly, a rezoning is required to permit the proposal. The effect of this Zoning By-law Amendment will be to allow for the development of 22 single detached dwellings with modifications to the development standards, being lot coverage, side and rear yard setbacks, maximum building height, location of balconies, and definition of lot frontage are proposed to accommodate the development and ensure compatibility. The proposed zoning for the subject lands will be discussed in greater detail in the Analysis and Rationale for Recommendation Section of Report PED18123.

**RELEVANT CONSULTATION**

The following Departments / Agencies had no comments or objections:

- Hydro One;
- Geomatics and Corridor Management Section, Public Works Department; and,
- Recreation Division, Community and Emergency Services Department.

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The following Departments/Agencies have provided comments on the application:

**Canada Post Corporation** has reviewed the proposal and noted that the lands will be serviced by centralized mail facilities through the Community Mailbox program. The Standard Form Subdivision Agreement will address this requirement.

**Forestry and Horticulture Section, Public Works Department** has reviewed the submitted materials for these applications and approves the Landscape Plan as submitted. The Standard Form Subdivision Agreement requires that a Street Tree Planting Plan will be required, including payment of all street trees to be installed by the City.

The **Hamilton Conservation Authority (HCA)** has reviewed the proposal and has no objection for approval. The HCA has provided Special Condition Nos. 22 through 24 of Appendix "D" to Report PED18123, which require the completion of erosion and sediment control measures; a lot grading plan; and, implementation of an approved stormwater management scheme.

The **Ministry of Environment and Climate Change (MOECC)** has reviewed the application and acknowledges that the previous use of the property was an elementary school site. While the information indicates that a Phase I Environmental Site Assessment was completed, the Ministry Registry does not show that a Record of Site Condition was uploaded. However, as the change is from institutional to residential, there is no mandatory need to file a Record of Site Condition and the MOECC has no further concerns with the proposal.

The **Ministry of Transportation (MTO)** has noted that the lands fall within the MTO's permit control area and will require a Building and Land Use Permit prior to issuance of any Building Permits from the City. As part of the Building and Land Use Permit process, the applicant will be required to submit a Site Plan, Grading Plan, Site Servicing Plan, Erosion and Sediment Control Plan, Stormwater Management Brief, and Traffic Impact Letter. Condition No. 25 in Appendix "D" to Report PED18123 has been included to ensure the Permit is issued.

**Recycling and Waste Disposal Section, Public Works Department** staff have reviewed the application and note that the lands are eligible for municipal waste collection. Accordingly, Note No. 3 has been included in the Conditions of Draft Approval (see Appendix "D" to Report PED18123).

**Public Health Services Division, Healthy and Safe Communities Department** has requested the submission of a Pest Control Plan and Dust Mitigation Plan prior to any development and construction activity on site. Accordingly, Condition Nos. 6 and 26 have been included in Appendix "D" to Report PED18123.

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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 85 property owners within 120 m of the subject lands on August 19, 2016. A Public Notice Sign was posted on the property on August 19, 2016, and updated with the Public Meeting date on May 23, 2018. Thirteen submissions were received in objection to the proposal and are attached as Appendix “E” to Report PED18123 and summarized in the Analysis and Rationale for Recommendation Section of this Report. The Notice of Public Meeting was given in accordance with the provisions of the *Planning Act*.

### **Public Consultation Strategy**

As part of the applicant’s Public Consultation Strategy, the applicant presented the proposal to the Ancaster Community Council on October 10, 2016.

## **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 Growth Plan for the Greater Golden Horseshoe (Places to Grow);
  - (ii) It complies with the UHOP and the Garner 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 the Town of Ancaster Zoning By-law No. 87-57 for lands located at 20 Miller Drive. By way of these applications, the applicant is seeking to permit the development of 22 single detached dwellings on land formerly owned by the Hamilton-Wentworth District School Board (HWDSB). The requested amendments to the Ancaster Zoning By-law No. 87-57 include a change in zoning from the Institutional “I” Zone to a modified “R4” Zone. The surrounding lands are currently zoned Existing Residential “ER” Zone.

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As part of the applicant's proposal, lots of varying widths, from a minimum 12.2 m to 17.15 m, have been introduced adjacent to existing residential uses. The intent of the larger lots, being 15.2 and 17.15 m, provides for a transition of lot area and width from the established neighbourhood to the proposed development. Based on the minimum lot area requirements and maximum lot coverage, building envelopes ranging from approximately 225 sq m to 171 sq m are proposed on the subject lands. The existing single detached dwellings surrounding range in size from 120 sq m to 245 sq m, for an approximate average of 187 sq m. Accordingly, the proposed modified "R4" Zones will provide for dwelling units of similar size to the existing neighbourhood and will maintain the established lot depth and yard setbacks for the area. No modifications to the "R4" Zone are proposed for the minimum lot frontage of 12.0 m.

Additionally, modifications have been introduced by staff to ensure that the built form is consistent with the surrounding lands, as further discussed below.

#### Maximum Height

Staff have amended the application to reduce the maximum height of 9.5 m instead of the maximum permitted height of 10.5 m to be applied to the entire subject lands. The modification has been introduced to acknowledge the recent change to the Existing Residential "ER" Zone, which surrounds the subject lands. The proposed height will continue to allow for two storey dwellings and provide for a compatible built form with the surrounding lands in terms of similar height and massing. Further, the proposed height will ensure that the character of the neighbourhood is maintained. Based on the foregoing, the modification can be supported.

#### Lot Coverage

The applicant proposes a modification to the maximum lot coverage from 35% to a maximum lot coverage of 40% for interior lots (Block 1, except for corner lots, of Schedule A in Appendix "B" to Report PED18123). The 5% increase in lot coverage has been reviewed by staff from a stormwater management perspective to ensure that the increase in impervious surface area can be managed through existing and proposed stormwater infrastructure. Since no modifications are proposed to the front or side yard setbacks for these lots, the proposal is in keeping with the character of the area. Based on the foregoing, the modification is reasonable and supported by staff.

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Easterly Side Yard Setback

The applicant proposes to increase the minimum easterly side yard setback from 1.2 m to 2.0 m for lots adjacent to existing residential uses (Lots 1 and 22 of Appendix "C" to Report PED18123). The intent of the side yard setback increase is to provide additional separation from adjacent existing residential uses to comply with the residential intensification policies of the UHOP, which require that new uses be compatible with existing development. The proposed modification provides for a transition between the Existing Residential "ER" Zone and the proposed Residential "R4-694" Zone, which is in keeping with more current development standards. Accordingly, the modification is reasonable and supported by staff.

Minimum Rear Yard Setback

The applicant proposes a minimum rear yard setback of 10.0 m for Lots 13 to 16, excluding the corner lot, Lot 12 (Block 2). Staff have also included Lots 1 and 22 in this modification (Block 3). The proposed modification has been introduced in order to provide additional separation from the existing lots to the south and to the east. Since the lotting pattern of the proposed development will allow for up to three lots to back onto one existing lot, the increased minimum setback will provide for additional separation between these uses and reduce potential overlook. The proposed modification is also consistent with the minimum rear yard setback within the existing "ER" Zone. Based on the foregoing, the modification is reasonable and supported by staff.

Location of Balconies

The applicant proposes to prohibit balconies above the ground level in the rear and side yards for lots 12 to 16 (Block 2) whereas there is currently no restriction. Again, staff have included Lots 1 and 22 in this modification (Block 3). The proposed modification has been introduced to limit overlook onto existing uses, which are comprised of bungalow style dwellings, and is consistent with the "ER" Zone regulations. Based on the foregoing, the modification is reasonable and supported by staff.

Definition of Lot Frontage

Staff have amended the application to identify that lot frontage shall be measured 7.5 m from the front property line for all Blocks. This modification has been introduced to acknowledge that as a result of required daylight triangles, the corner lots would otherwise have 12 m frontages. However, the true width of the lots will be 17.15 m. The definition has been applied to all lots to ensure that the

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measurement is consistent for the entire development. Based on the foregoing, the modification is reasonable.

3. The proposed Plan of Subdivision will consist of 22 lots for single detached dwellings and the westerly extension of Roselawn Avenue to Miller Drive. 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 Garner 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 road extension 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 not identified concerns with school sites that are available to accommodate the anticipated student yield of this subdivision;
  - (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,

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- (m) The proposed development of the subject land is considered an infill development surrounded by existing single detached dwellings, on lands formerly containing an elementary school.

**4. Engineering Details:**

The City is proposing to urbanize Miller Drive from the south-west limit of the proposed lands to Garden Avenue including street lighting. These works would include a sidewalk on the north side of Garden Avenue from Fiddlers Green Road to Miller Drive and a sidewalk on the east side of Miller Drive from Garden Avenue to the south limit of the proposed development (south boundary of proposed lot 12). In addition, the developer has to extend the storm sewer along Miller Drive east of the subject land for about 200 m. The existing Miller Drive has rural cross-section with road-side drainage ditches and no sidewalks. As such, this will be an opportunity for the City to coordinate the works with the developer to urbanize this section of the road subject to 2019 Capital budget approval by the Council. If approved by Council, the applicant will be responsible for the design and construction of these works as part of the development, using the committed municipal funds.

The proposed development requires adjacent municipal roads to be developed with an urban cross-section adjacent to the proposed development. The roads adjacent to the proposed development shall be urbanized including street lighting. Sidewalks on Miller Drive and Roselawn Avenue are to be included in these urbanized cross-sections as follows:

- (a) The south side of Miller Drive from the east limit of the proposed development (east limit of proposed lot 1) to the bend in Miller Drive (approximately 170 m north of Garden Avenue);
- (b) The east side of Miller Drive from the bend in Miller Drive to the south limit of the proposed development (south boundary of proposed lot 12);
- (c) Both sides of Roselawn Avenue from Miller Drive to the east limit of the proposed development on the south side of Roselawn Avenue (east boundary of proposed lot 16); and,
- (d) The north side of Roselawn Avenue from the limit of the proposed development on the south side of Roselawn Avenue (east boundary of proposed lot 16) to the limit of the proposed development on the north side of Roselawn Avenue (east boundary of proposed lot 22).

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Page 22 of 26**

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The existing ditch drainage on the sides of Miller Drive and Roselawn Avenue, opposite the proposed development, shall be maintained such that storm water from the street is drained by catch basins, but the lands of the existing houses on both streets shall continue to drain through the existing ditch drainage system.

In accordance with City financial policies, the City of Hamilton will share costs with the owner for urbanization of roads as follows:

- (1) Concrete curb on the side of Miller Drive opposite the proposed development;
- (2) Catch basins on Miller Drive opposite the proposed development as required to provide adequate storm drainage of the street; and,
- (3) Minimal restoration to back-of-curb of existing lots fronting on Miller Drive opposite the proposed development.

The design of Miller Drive shall include appropriate pavement radius to ensure emergency vehicles can safely access the curve of Miller Drive (Condition No. 12 in Appendix "D" to Report PED18123). Further, the design of the streetscape shall be detailed through a Parking Plan showing information such as the location of all proposed driveways and location of on-street parking spaces (Condition No. 15 in Appendix "D" to Report PED18123). Prior to preliminary grading, the applicant will be required to provide a survey of the surrounding lands and to submit adequate securities for the cost of any repairs and reconstruction that may be damaged as a result of the development activity (Condition No. 18 in Appendix "D" to Report PED18123). An additional survey will be submitted post construction to identify any required repairs as a result (Condition No. 19 in Appendix "D" to Report PED18123). Similarly, video inspection of surrounding sanitary sewer mains shall be conducted before and after construction to identify any damages that occurred as a result of construction activity (Condition Nos. 20 and 21 in Appendix "D" to Report PED18123).

Other cost sharing provisions for this development shall be in accordance with the City's Financial Policy, if any, as required under Condition Nos. 9, 10, 11, and 14 in Appendix "D" to Report PED18123. In addition, the removal of any structures, such as garages, septic beds wells, and the relocation of any public utilities will be at the sole cost of the owner (Condition Nos. 4 and 5 in Appendix "D" to Report PED18123). The placement of utilities must not encumber infrastructure on existing properties in the surrounding area (Condition No. 7 in Appendix "D" to Report PED18123).

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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 Zoning By-law and Draft Plan of Subdivision  
for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12) -  
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A revised Functional Servicing Report, Stormwater Management Report, Hydrogeological Report, and Construction Management Plan signed and sealed by qualified professionals will be required during detailed engineering review (Condition Nos. 1, 13, 16, and 17 in Appendix “D” to Report PED18123). As part of the servicing design, the applicant will be required to provide a detailed sump pump design for the development (Condition No. 8 in Appendix “D” to Report PED18123).

A standard condition of Draft Approval is the completion of the approved Grading Plan for the subject lands. The applicants will also be required to include in all purchase and sale agreements a statement identifying that no alteration to the grading is permitted without the approval from the City (Condition No. 3 in Appendix “D” to Report PED18123).

5. As per the *Planning Act* and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 85 property owners within 120 m of the subject lands on August 19, 2016. In total, 13 submissions were received (see Appendix “E” to Report PED18123). The overall concerns are summarized below:

#### Tree Removal

Several adjacent property owners have raised concerns with the potential loss of the existing large trees on the subject property, which provide screening and noise attenuation from nearby road traffic. As part of the Subdivision Agreement, the applicant will be required to revise their submitted Tree Protection Plan, to show the trees to be protected and the replacement of any trees that are in conflict with the development proposal. In addition, noise attenuation will be required through the submission of a Noise Impact Study to identify if any additional noise mitigation measures are required.

#### Installation of Public Infrastructure

Several submissions have identified that the installation of street lights, public sidewalks, and sewer infrastructure would impact the established character of the existing neighbourhood. As well, other submissions have raised concerns that there is no infrastructure in this area to support additional lots. Staff note that the installation of public services are proposed as part of the Draft Plan of Subdivision and are to be paid through a cost sharing agreement between the City of Hamilton and the applicant. In addition, the provision of sidewalks and streetlights will increase safety in the neighbourhood and will also reduce traffic conflicts between pedestrians and vehicles. Further, the installation of sewers acknowledges current municipal standards.

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Number of Proposed Dwellings

Several submissions identified that 22 dwellings is too many for the site and that the applicant should explore options for less dwellings. Staff have reviewed the proposal against the Residential Intensification Policies of the UHOP and confirm that 22 dwellings is appropriate, with the inclusion of larger transitional lots adjacent to existing residential uses and the provision for 2.0 m easterly side yards, restriction of second storey balconies, and increased rear yard setbacks to further address compatibility for the transitional lots. These requirements ensure that the development remains compatible with surrounding uses while reflecting current urban development standards for the interior lots.

Increased Traffic and Parking

Submissions received by the City indicate concerns with increased traffic, including the extension of Roselawn Avenue. The former school site was developed over the public right of way of Roselawn Avenue, meaning the lands have already been dedicated to the City for the purposes of the road. As part of the Draft Plan of Subdivision, the applicant will be required to construct the extension of Roselawn Avenue to urban standards, intersecting with Miller Drive, in compliance with the intent of the Garner Neighbourhood Secondary Plan. In addition, the applicant will be required to prepare and submit an on-street parking plan to demonstrate adequate on-street parking opportunities are provided in relation to the proposed driveways and fire hydrants.

Time of Public Meeting

One submission from the public requested that the date and time of the Statutory Public Meeting be rescheduled during a time that allows for additional members of the public to attend and voice concerns to the Committee prior to any decisions on the subject applications. Staff note that if parties are unable to attend the public meeting, written submissions are also permitted and distributed to Planning Committee members before the meeting occurs.

Size of Proposed Dwellings

Concerns identified through public submissions indicate concerns with the proposed development of large two and a half storey single detached dwellings adjacent to existing one storey dwellings. Additional concerns were raised with the original proposal for a maximum lot coverage of 45%.

Staff note that the neighbourhood currently consists of a mix of one storey and two storey dwellings, which are zoned Existing Residential “ER” Zone. The “ER”

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for Lands Located at 20 Miller Drive, Ancaster (PED18123) (Ward 12) -  
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Zone permits a maximum height of 9.5 m, which is equivalent to two storeys. Staff have amended the application to permit a maximum height of 9.5 m to be consistent with the surrounding area. Additionally, an increased side yard setback of 2.0 m is proposed next to existing residential uses to provide additional separation and limit overlook between lots. Finally, the applicant has reduced the maximum lot coverage to 35%, permitted on both the “R4” and “ER” Zones, for lots adjacent to existing uses and corner lots, and a maximum lot coverage of 40% for all other proposed lots, to maintain the streetscape and to ensure compatibility with surrounding uses.

#### Provision of Open Space

Several submissions received by the City have suggested that as part of the development, open green space be included in the design of the development. Both the Recreation Division and Parks and Cemeteries staff have reviewed the application and have not requested additional open space as part of the development. In addition, the applicant will be required to pay cash-in-lieu of parkland dedication for future park acquisition in the City. Further, there are two existing parks, being Maple Lane Park and James Smith Park, within approximately 458 m and 515 m, respectively.

#### Property Values

Several public submissions identified concerns with respect to change in property values as a result of the proposed development. Staff are not aware of any supporting real estate information or documentation that would substantiate this concern, or any empirical data with respect to property devaluation.

### **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 only be developed in accordance with the Institutional “I” Zone which permits institutional uses, including a cemetery.

### **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.*

#### **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.*

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Page 26 of 26**

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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.*

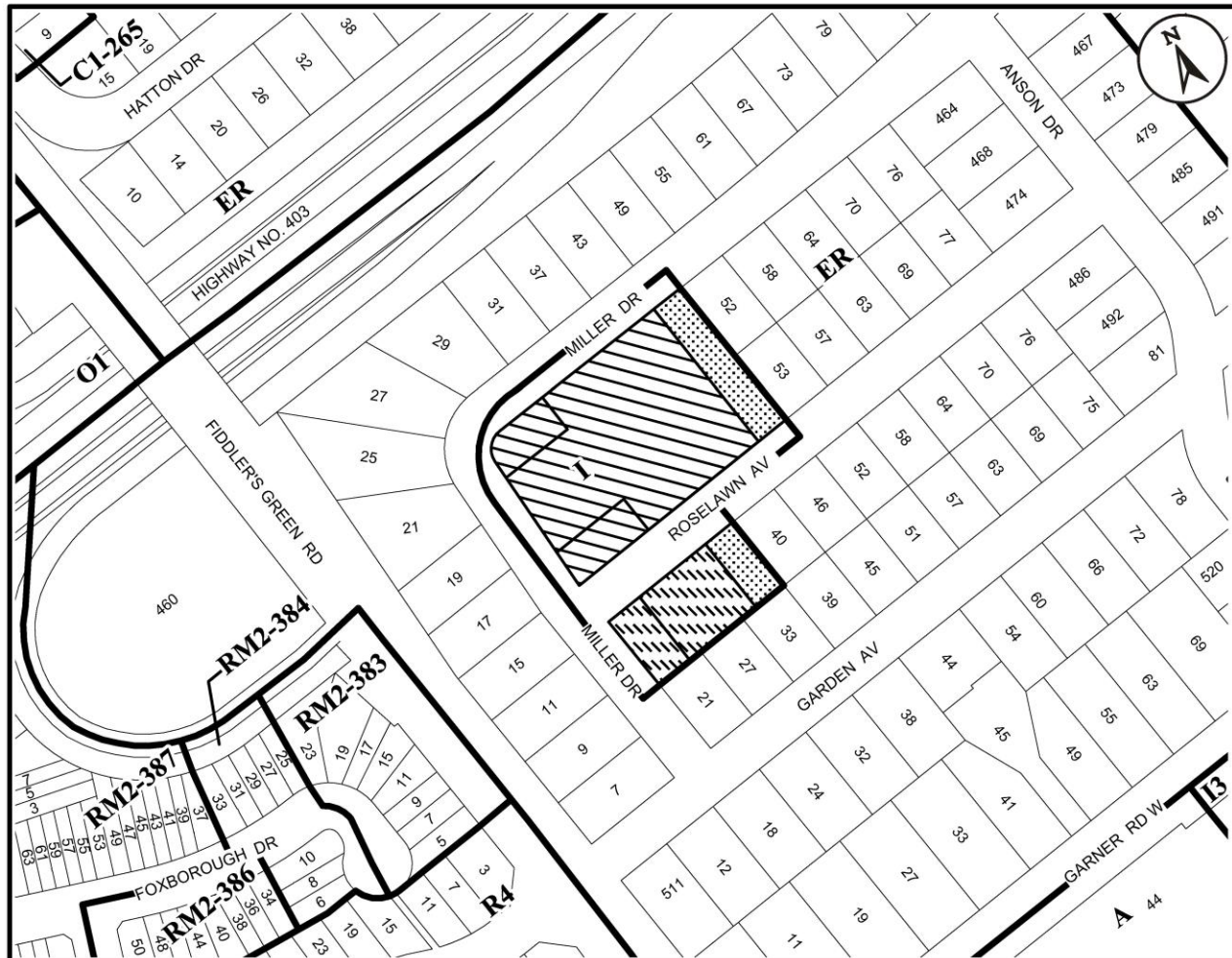
**Built Environment and Infrastructure**

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

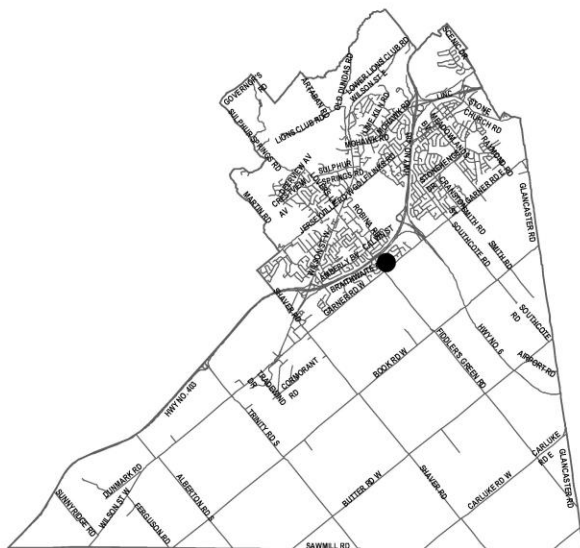
**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A” – Location Map
- Appendix “B” – Draft Zoning By-law Amendment
- Appendix “C” – Draft Plan of Subdivision
- Appendix “D” – Draft Plan Special Conditions
- Appendix “E” – Public Input

MS:mo



● Site Location



Key Map - Ward 12

N.T.S.



## Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-16-048 & 25T-201606

Date:  
May 3, 2018


Appendix "A"


Scale:  
N.T.S.


Planner/Technician:  
VM/AL

### Subject Property

20 Miller Drive

 **Block 1** - Change in zoning from the Institutional "I" to the Residential "R4-697" Zone, Modified

 **Block 2** - Change in zoning from the Institutional "I" to the Residential "R4-693" Zone, Modified

 **Block 3** - Change in zoning from the Institutional "I" to the Residential "R4-694" Zone, Modified



**Authority:** Item ,

Report (PED18XXX)  
CM:

Ward: 12

**Bill No.**

## **CITY OF HAMILTON**

### **BY-LAW NO.**

#### **To Amend Zoning By-law No. 87-57 Respecting Lands Located at 20 Miller Drive**

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**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** 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** the Council of the City of Hamilton, in adopting Section \_\_\_\_\_ of Report 18- of the Planning Committee at its meeting held on the XX<sup>th</sup> day of Month 2018, recommended that Zoning By-law No. 87-57 (Ancaster), 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. 1-B to Schedule "B", appended to and forming part of By-law No. 87-57 (Ancaster) is amended by changing the zoning from the Institutional "I" Zone to the Residential "R4-697" Zone, Modified (Block 1), Residential "R4-693" Zone, Modified (Block 2), and Residential "R4-694" Zone, Modified (Block 3) on

**To Amend Zoning By-law No. 87-57  
Respecting Lands Located at 20 Miller Drive**

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

2. The Section 34: Exceptions, to Zoning By-law No. 87-57 (Ancaster), as amended, is hereby further amended by adding the following Sub-Sections:

"R4-693"

**REGULATIONS**

That notwithstanding the provisions of Subsections 3.81, 12.2, (b), (c), (f), (g), and in addition to the provisions of Subsection 12.2, the following special provisions shall apply to lands zoned "R4-693":

- |     |                       |   |
|-----|-----------------------|---|
| (a) | Maximum Lot Coverage  | 40%, except on a corner lot the maximum lot coverage shall be 35%.                |
| (b) | Minimum Rear Yard     | 10.0 metres, except on a corner lot the minimum rear yard shall be 7.5 metres.    |
| (c) | Maximum Height        | 9.5 metres.   |
| (d) | Location of Balconies | Balconies above the ground floor shall not be permitted in the rear or side yard. |

**DEFINITIONS**

"Lot Frontage"

Shall mean the length of a straight line connecting the side lot lines measured from points located 7.5 metres from the intersection of the side and front lot lines.

"R4-694"

**REGULATIONS**

That notwithstanding the provisions of Subsections 3.81, 12.2 (b), (f), (g), and in addition to the provisions of Subsection 12.2, the following special provision shall apply to lands zoned "R4-694":

- |     |                            |             |
|-----|----------------------------|-------------|
| (a) | Minimum easterly side yard | 2.0 metres. |
| (b) | Maximum Height             | 9.5 metres. |

**To Amend Zoning By-law No. 87-57  
Respecting Lands Located at 20 Miller Drive**

- |                           |   |
|---------------------------|---|
| (c) Location of Balconies | Balconies above the ground floor shall not be permitted in the rear or side yard. |
| (d) Rear Yard             | 10.0 metres.  |

DEFINITIONS

"Lot Frontage"

Shall mean the length of a straight line connecting the side lot lines measured from points located 7.5 metres from the intersection of the side and front lot lines.

"R4-697"

REGULATIONS

That notwithstanding the provisions of Subsection 12.2 (c) and (g), and in addition to the provisions of Subsection 12.2, the following special provisions shall apply to lands zoned "R4-967":

- |                          |  |
|--------------------------|--|
| (a) Maximum Lot Coverage | 40%, except on a corner lot the maximum lot coverage shall be 35%. |
| (b) Maximum Height       | 9.5 metres.  |

DEFINITIONS

"Lot Frontage"

Shall mean the length of a straight line connecting the side lot lines measured from points located 7.5 metres from the intersection of the side and front lot lines.

**PASSED** this \_\_\_\_\_ , \_\_\_\_\_

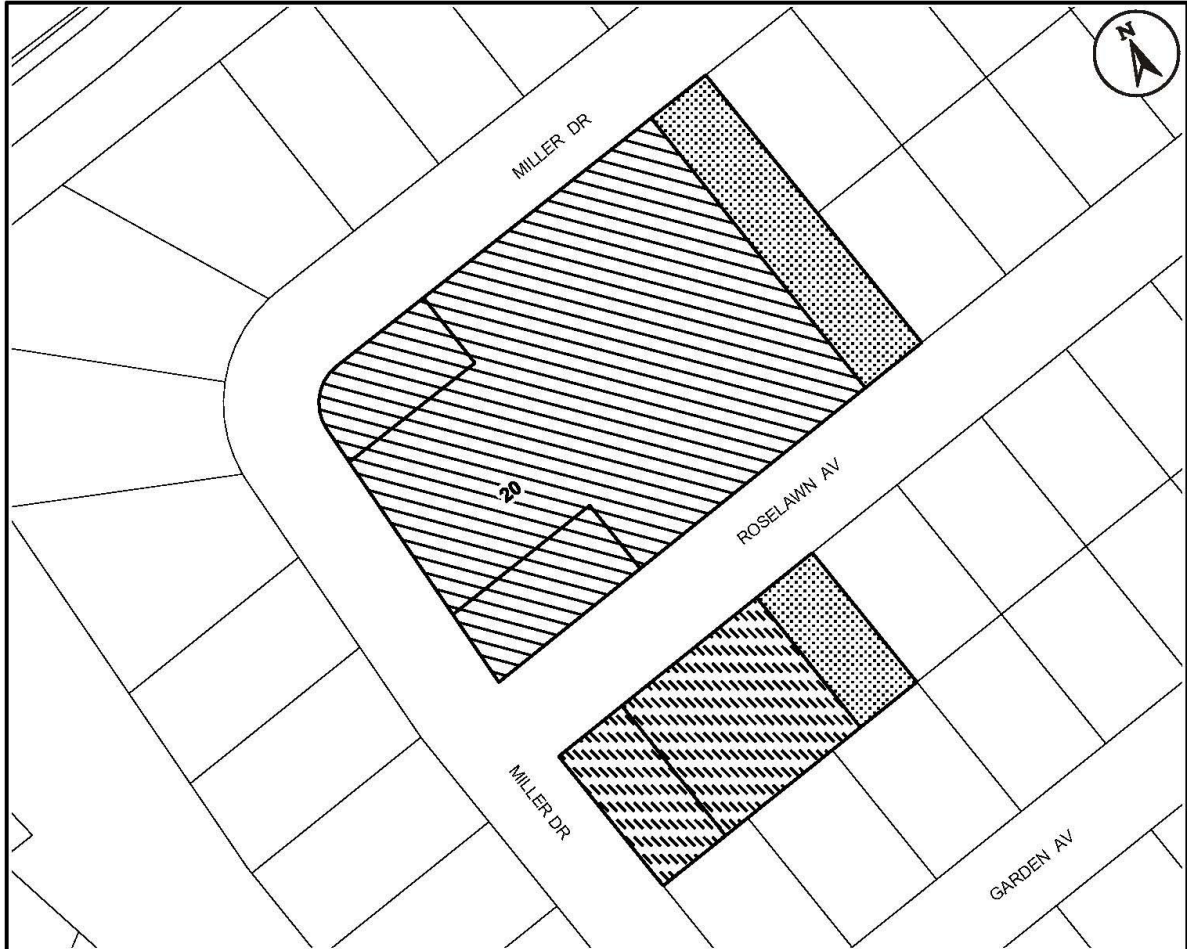
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F. Eisenberger  
Mayor

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City Clerk

**To Amend Zoning By-law No. 87-57  
Respecting Lands Located at 20 Miller Drive**



|  |   |
|--|---|
| <p>This is Schedule "A" to By-law No. 18-</p> <p>Passed the ..... day of ....., 2018</p> | <p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p> |
|--|---|

|   |  |
|---|--|
| <h2>Schedule "A"</h2> <p>Map Forming Part of<br/>By-law No. 18-_____</p> <p>to Amend By-law No. 87-57</p> | <p><b>Subject Property</b><br/>20 Miller Drive</p> <p> <b>Block 1</b> - Change in zoning from the Institutional "I" to the Residential "R4-697" Zone, Modified</p> <p> <b>Block 2</b> - Change in zoning from the Institutional "I" to the Residential "R4-693" Zone, Modified</p> <p> <b>Block 3</b> - Change in zoning from the Institutional "I" to the Residential "R4-694" Zone, Modified</p> |
|---|--|

|   |   |  |
|---|---|--|
| <p><b>Scale:</b><br/>N.T.S.</p>                     | <p><b>File Name/Number:</b><br/>ZAC-16-048 &amp; 25T-201606</p> |  |
| <p><b>Date:</b><br/>April 27, 2018</p>              | <p><b>Planner/Technician:</b><br/>MS/VS</p>                     |  |
| <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> |   |  |



## **Appendix "D"**

### **Special Conditions**

That this approval for the Draft Plan of Subdivision, 25T-201606, prepared by A.T. McLaren Ltd. and certified by S.D. McLaren, O.L.S., dated July 15, 2016, consisting of 22 lots (Lots 1-22) to be used for 22 single detached dwellings be received and endorsed by City Council with the following special conditions;

#### **Development Engineering Conditions**

1. That, **prior to preliminary grading**, a revised Functional Servicing Report, signed and sealed by a qualified, licensed professional engineer (P. Eng) will be required during detailed engineering review including the following components:
  - a. the domestic water demands;
  - b. the Required Fire Flow (RFF) calculated per "Water Supply for Public Fire Protection, 1999, Fire Underwriters Survey" (FUS), and supplemented where appropriate by NFPA 13; Details to support the RFF calculation (e.g. floor area, type of construction, fire wall location and fire resistance rating, sprinkler system credit and exposure charges, as applicable, etc.) must be clearly identified; and,
  - c. The Owner must ensure that the Fire Department and / or Building Department are satisfied with the firefighting arrangements;all to the satisfaction of the Senior Director of Growth Management.
2. That, **prior to registration**, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the intersection of Miller Drive and Roselawn Avenue to the satisfaction of the Senior Director of Growth Management.
3. That, **prior to registration**, the Owner shall agree to include in all offers of Purchase and Sale a statement that advises the prospective purchaser that there is an approved grading plan and that the purchaser agrees not to alter the approved grading plan without approval from the City of Hamilton to the satisfaction of the Senior Director of Growth Management.
4. That, **prior to preliminary grading**, the Owner agrees in writing that the removal of all existing septic beds, garages, playground equipment, wells, and / or any structures will be at the sole cost to the owner to the satisfaction of the Senior Director of Growth Management.
5. That, **prior to servicing**, the Owner be required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Miller Drive and

Roselawn Avenue, entirely at the owner's expense, to the satisfaction of the Senior Director of Growth Management.

6. That, **prior to preliminary grading**, the Owner agrees to provide in writing a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision. 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 contractor / agent contact information so that the City can direct the work to be completed as necessary all to the satisfaction of the Senior Director of Growth Management.
7. That, **prior to servicing**, the Owner shall demonstrate that there will be no encumbrances due to the placement of utilities or street lighting infrastructure on the existing properties on Miller Drive or Roselawn Avenue to the satisfaction of the Senior Director of Growth Management.
8. 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 to the satisfaction of the Senior Director of Growth Management.
9. That, **prior to grading**, the Owner shall include in the engineering design and cost estimate schedules provisions to develop Miller Drive and Roselawn Avenue with an urban cross-section adjacent to the subject lands including street lighting; specifically on:
  - a. Miller Drive from the south limit of the subject lands – approximately 35m south of Roselawn Avenue - to the bend in Miller Drive – approximately 85m north of Roselawn Avenue, with sidewalk only on the side of the road adjacent to the proposed development and with the existing ditch, culverts, and grades maintained on the side opposite the proposed development;
  - b. Miller Drive from the bend in Miller Drive - approximately 85m north of Roselawn Avenue - to the east limit of the subject lands, approximately 70m west of Anson Drive, with sidewalk only on the side of the road adjacent to the proposed development and with the existing ditch, culverts, and grades maintained on the side opposite the proposed development;
  - c. Roselawn Avenue from Miller Drive to the east boundary of the subject lands (east property line of proposed lot 22), approximately 115m east of Miller Drive with sidewalks on both sides of the road except that the sidewalk on the south side of Roselawn Avenue extend only to the east property line of lot 16 and that the existing ditch, culverts, and grades be

maintained on the south side of Roselawn Avenue east of lot 16 (as shown on the draft plan of subdivision dated July 15, 2016);

all to the satisfaction of the Senior Director of Growth Management.

10. That, **prior to registration**, the owner agrees to design, provide a cost estimate (as a City Share), and construct the following works subject to City Council approval of municipal funding:

- a. Sidewalk on the north side of Garden Avenue from Fiddlers Green Road to Miller Drive; and,
- b. Sidewalk on the east side of Miller Drive from Garden Avenue to the south limit of the proposed development (south boundary of proposed lot 12);

all to the satisfaction of the Senior Director of Growth Management.

11. That, **prior to grading**, the Owner shall include in the engineering design and cost estimate schedules provisions to develop all required sidewalks with including wheel chair ramps that incorporate integrated tactile accessibility features as per RD-124 to the satisfaction of the Senior Director of Growth Management.

12. That, **prior to registration**, the Owner demonstrates that a minimum 13.0m pavement radius is provided along the inside curb line at the 90 degree bend on Miller Drive complying with the City's Engineering Guidelines to the satisfaction of the Senior Director of Growth Management.

13. That, **prior to grading**, the Owner shall submit a detailed Stormwater Management Report, prepared by a qualified professional engineer, to demonstrate how quality and quantity control criteria will be achieved in accordance with the MOE Stormwater Management Planning and design Manual – 2003 and the City of Hamilton Stormwater Management Policies and to demonstrate that runoff from the 100-year storm can be conveyed to the appropriate downstream outlet(s) without impacting the adjacent properties all to the satisfaction of the Senior Director of Growth Management.

14. That, **prior to registration**, the Owner shall include in the engineering design and cost estimate schedules provisions to install the following storm sewers entirely at the owner's expense:

- a. on Miller Drive from the south limit of the subject lands – approximately 35m south of Roselawn Avenue to the existing storm sewer manhole approximately 50m east of the intersection of Miller Drive and Anson Drive; and,
- b. on Roselawn Avenue from the intersection of Miller Drive and Roselawn Avenue to the east limit of the proposed development on Roselawn



Avenue approximately 120m east of the intersection of Miller Drive and Roselawn Avenue;

all to the satisfaction of the Senior Director of Growth Management.

15. That, **prior to servicing**, the Owner shall provide a driveway location / on-street parking plan showing the following:

- a. on-street parking for 40% of the total dwelling units (including existing dwellings);
- b. on-street parking for 40% of the proposed dwelling units with their location limited to the side of each street adjacent to the proposed development;
- c. driveways, driveway ramps, and curb openings for all lots;
- d. the pairing of driveways;
- e. where lots in the subdivision abut a park entrance or a public walkway; and;
- f. the location of transit pads, community mailbox pads, and fire hydrants, where the location has been determined by the appropriate authorities;

all to the satisfaction of the Senior Director of Growth Management.

16. That, **prior to servicing**, the owner shall submit a Hydrogeological report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts during any construction within the subdivision, including but not limited to house construction, and to undertake the works as recommended including monitoring. The report shall also provide a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:

- a. an aquifer is breached during excavation;
- b. groundwater is encountered during any construction within the subdivision, including but not limited to house construction;
- c. sump pumps are found to be continuously running; and,
- d. water supply and sewage disposal systems and any surface and groundwater related infrastructure are negatively impacted;

all to the satisfaction of the Senior Director of Growth Management.

17. That, **prior to grading**, the owner shall prepare and provide a Construction Management Plan that provides:

- a. Details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc;
- b. Location and maximum dimensions of stockpiling;
- c. Identification of any required sidewalk and / or lane closures and the estimated length of time for such closures;
- d. Details on heavy truck routing; and,
- e. Alternate arrangements of any City or school bus routing and stop locations that may be impacted;

all to the satisfaction of the Senior Director of Growth Management.

18. That, **prior to preliminary grading**, the owner shall prepare and provide the following:

- a. a pre-construction survey of surrounding roads that are outside the subject lands; and,
- b. an adequate security for costs to repair and reconstruction to any of these roads that are damaged due to construction;

all to the satisfaction of the Senior Director of Growth Management.

19. That, **prior to registration**, the owner will to prepare a post-construction survey / photo inventory that corresponds to the pre-construction survey required in Condition 18 to identify any damages and the owner further agrees to repair those damages all to the satisfaction of the Senior Director of Growth Management.

20. That, **prior to preliminary grading**, the Owner shall complete a CCTV video inspection of existing sanitary sewer mains prior to construction entirely at the owner's expense as follows:

- a. Miller Drive – from Garden Avenue to the first manhole downstream of the east property limit of the subject lands on Miller Drive; and,
- b. Roselawn Avenue – from the west limit of the sewer to the first manhole downstream (adjacent to Municipal Number 63 Roselawn Avenue);

to the satisfaction of the Senior Director of Growth Management.

21. That, **prior to registration**, the owner will prepare a post-construction CCTV video inspection of existing sewer mains that corresponds to the pre-construction CCTV video survey required in Condition 20 entirely at the owner's expense in

order to identify any damages and the owner further agrees to repair those damages all to the satisfaction of the Senior Director of Growth Management.

CCTV video survey required in Condition 20 entirely at the owner's expense in order to identify any damages and the owner further agrees to repair those damages all to the satisfaction of the Senior Director of Growth Management.

### **Hamilton Conservation Authority Conditions:**

22. That ***prior to grading***, the applicant prepares and implements an erosion and sediment control plan for the subject property to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:
- a. All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;
  - b. All erosion and sediment control measures shall be inspected after each rainfall to the satisfaction of Authority staff;
  - c. Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,
  - d. All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.
23. That ***prior to grading***, the applicant prepares and implements a lot grading plan to the satisfaction of the Hamilton Conservation Authority.
24. That ***prior to grading***, the applicant prepares and implements a stormwater management plan for the subject property to the satisfaction of the Hamilton Conservation Authority.

### **Ministry of Transportation**

25. That ***prior to registration***, the owner obtain a Building and Land Use Permit from the Ministry of Transportation.

### **Public Health Services**

26. That ***prior to grading***, a pest control plan, focusing on rats and mice, shall be developed and implemented for the demolition, construction / development phase of the project and continue until the project is complete. The plan must

outline steps involved in the potential control of vermin during all of development / construction and must employ integrated pest management practices to the satisfaction of the Vector Borne Disease Section of Public Health Services.

### **City Cost Sharing**

In accordance with City financial policies, the City of Hamilton will share costs with the owner for urbanization of roads as follows:

1. Concrete curb on the side of Miller Drive opposite the proposed development;
2. Catch basins on Miller Drive opposite the proposed development as required to provide adequate storm drainage of the street;
3. Minimal restoration to back-of-curb of existing lots fronting on Miller Drive opposite the proposed development;

Other cost sharing provisions for this development shall be in accordance with the City's Financial Policy, if any.

### **NOTES TO DRAFT PLAN APPROVAL**

1. 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.
2. 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.
3. 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.

Appendix "E" to Report PED18123  
Page 1 of 16**From:****Sent:** September-10-16 8:21 PM**To:** Maurizio, Valeria**Cc:** Bishop, Kathy**Subject:** Re: Former School Property Adjacent to my House

It has come to our attention that a land developer has purchased the former school property (20 Miller Drive) and intends to convert that land into 22 homes. The property size that they intend to allow nearly doubles the density of homes within that area. I do not believe that this is in the best interests of our small community.

For many of us, our homes account for the bulk of our net worth. Anything that jeopardizes the future value of these properties will affect our financial well being and potentially our retirements. I believe that this is the case for many of us in the immediate area.

Like many of us, I have a small family, with a very young child. Increasing the housing density will impact road safety—we do not have sidewalks or street lighting to support this many homes, not to mention municipal services in the area.

This area maintains a unique character with a substantial heritage. It is one of the main reasons I chose to live here and continue to be a part of our community. I did not choose to live among the plethora of cookie cutter homes in the rest of the greater Hamilton area. The lower density housing of this subdivision is what sets it apart from the rest of the area.

I would propose that the city restrict development to lot sizes that are consistent with the rest of the subdivision, including firm restrictions on the size and height of all house builds. This would allow us to maintain the integrity of this community and the value of our investments. In addition, the developers should be required to provide an appropriate green space and playground within the proposed development. This should be mandatory as the current area is used by families as a safe play area.

I believe that the laws and by-laws should be there to protect the masses, not only the few who can buy and develop lands to make a quick profit. It deeply saddens me that a deep-pocketed developer can flip a school property to make a quick profit at the expense of a well-established community of longtime homeowners. They do not have to live with the decisions that impact our lives for years to come.

----- Forwarded message -----

From:

Date: Sunday, 11 September 2016

Subject: 20 Miller Drive

To: "

Dear :I agree with you, that 22 homes being built in place of the school at 20 Miller Drive wouldn't be in the best interest of existing home owners in the area. The better plan would be to keep a seamless approach and maintain the property size and density .The developers should only be allow to build maximum 12 homes with height restrictions limits of two story.I know ,that is hard to find lots of ¼ acre for bungalow in Ancaster. The size lots would certainly be a premium price, and would always sell well in up markets and down. The assessed values would attract high taxes for the City Of Hamilton ,to hopefully permit timely street repair, water mains and sewer upgrades in the future. I would support you in a petition or other method of objection.

P.S. The builder is certainly entitled to a profit! Equal to the profit they would realize from sale of 22 undersized ,cookie cutter homes.

Respectfully

**From:****Sent:** September-10-16 10:04 PM**To:** Maurizio, Valeria**Cc:** Ferguson, Lloyd**Subject:** ZAC-16-048 AND 25T-201606

Dear Ms. Maurizio and Mr. Ferguson,

We as homeowners of \_\_\_\_\_ to the proposed subdivision at 20 Miller Drive in Ancaster would like to voice some concerns.

The area in which we live is a low-density residential neighbourhood. The surrounding properties are ALL no less than seventy feet in width, while the proposed subdivision's plan shows the bulk of it's properties to have only forty foot lots. This change, if passed, would significantly affect the value of our area's properties, which is obviously a huge concern for many of us as the majority of our net worth is in the resale value of our homes.

Our own property is situated on a quiet cul-de-sac which is a large part of why many of the newer home-owners have chosen to purchase on this particular street. Neighbours come to walk their dogs and teach their children to ride their bikes as it is a low-traffic, safe area to do so. Such a significant increase in the number of homes as this new plan proposes will also cause other safety concerns as many of the current home owners in the area have small children and there are no sidewalks or street lights on any of the streets in the area surrounding the proposed new build.

The sign at the proposed subdivision site states that the Public meeting will take place at 9:30 AM, which also raises some red flags in itself. Most of the neighbouring homeowners are working class people, the majority of whom work regular daytime hours, which would ensure that very few of them/us would actually be able to attend the meeting and have the opportunity to voice any concerns or comments which, by the guidelines stated in the letter sent out by your office, will also ensure their inability to appeal the city's decision should they wish to do so.

It is our desire for you to stand up for our rights as tax-paying residents of the City of Hamilton, and ensure that our property value and our children's safety will not be negatively affected by the zoning and by-law amendments that are being proposed. We wish for the lot sizes to be maintained in fair comparison to all of the surrounding properties, and we would be very pleased if the street would remain a cul-de-sac, or that sidewalks and street lighting would be supplied to provide safety for our children and other area resident's. We also strongly request that the time and date of the Public Meeting will be amended to allow for many of the concerned resident's to be reasonably able to attend and voice their concerns.

Thank you for your time and your service on our behalf,

**From:****Sent:** September-09-16 11:59 PM**To:** Maurizio, Valeria**Subject:** ZAC\_16\_048 and 25T-201606 20 Miller DR

Dear Mrs Valeria Maurizio

RE: Planning Application ZAC-16048 & 25t-201606

We wish to make you aware of a number of strong objections that we have with regard to the proposed development of 20 Miller Dr . As of the proposed development, we are of the view that the proposed development will have a serious impact on our standard of living. Our specific objections are as follows:

This proposal will impact the population density , character of the neighborhood, over development ,

The Lots in this are 60ft or greater frontage losts with green space and trees.

Noise to residents.

It will also affect the trees that are on the site if they are removed.

It will impact traffic and safety for the neighborhood.

Another important factor is that it will take away green space that is needed for the environment.

The existing residential zone "ER" should remain and not be changed to the Residential "R4" just to accommodate on developer that has no history in the area, just trying to use his strength to change a zone for his own benefit.

We believe that the proposed development is a direct contravention of policies X and Y. The proposed dwelling would significantly alter the fabric of the area and amount to serious 'cramming' in what is a low density area.

We believe the proposal to contravene this guidance as it is to the detriment of the quality, character and amenity value of the area, as outlined in the points above.

We would be grateful if the council would take our objections into consideration when deciding this application. We would welcome the opportunity to meet with a representative of the planning department at our home to illustrate our objections at first hand.

Sincerely



**From:**

**Sent:** September-09-16 5:27 PM

**To:** Maurizio, Valeria

**Cc:**

**Subject:** 20 Miller Drive development

I am a resident of \_\_\_\_\_ and I feel that the proposed development at 20 Miller should be single detached housing like the rest of the area with height restrictions to blend with the rest of the area .

Thank you.

**From:****Sent:** September-09-16 1:37 PM**To:** Maurizio, Valeria**Cc:****Subject:** Miller Drive Land Development

To Whom This May Concern,

I am writing to express my concerns over the proposed property development in the Maple Lane survey at 20 Miller Drive. It has come to our attention that a land developer has purchased this former school property and intends to convert the space into a new subdivision. If accepted, the current plan will have a significant impact on our small community.

I grew up in this neighbourhood. Both my parents and grandparents lived here (Roselawn Ave and Miller Drive across from Maple Lane school) for most of their lives. When a bungalow came up for sale on last year, my husband and I jumped on the opportunity to purchase it. We knew we wanted to start a family and that this would be the perfect place to raise our children. We found out we were pregnant the night we bought this house and are now fortunate enough to have a 7 month old son. We chose to live in this neighbourhood knowing that it is one of the safest areas to live in Ancaster and one of the few remaining surveys to maintain the unique character that represents this historic town; a cul de sac with longtime residents, mature homes and a strong sense of community.

The current proposal to cram 22 oversized houses into this space is a poor reflection of our established neighbourhood; it would nearly double the density of the current low-rise bungalows here. There is a growing public concern over "monster homes" on the rise in Ancaster and this is a prime example of where we can intervene to help stop this trend. I propose that the City restrict development of this land to lot sizes consistent with the current area, including firm restrictions on the size and height of all new builds.

The proposed plan to convert Roselawn Avenue to a throughway street is of further concern. It has always been a quiet cul de sac, making it a safe place for the many children residing here to ride bicycles and walk from the bus stop. This was one of the key factors in our decision to purchase a home on this street. Increasing housing density and throughway access to our small street will negatively impact road safety. I strongly support the preservation of the current street layout to maintain the quality and safety of our neighbourhood.

I am also concerned over the potential destruction of green space. The majority of this land is a grass field with mature trees that our family and neighbours currently rely on for safe community play. We do not otherwise have a park in our immediate vicinity. My grandfather, as a member of the Ancaster Optimist Club, helped to raise the funds to build a play structure that stood here for many years to serve the children of this community. It was unfortunately destroyed several years back to pave a parking lot for the former Maple Lane School; this alone should never have been allowed to happen to a community-funded project. It should be

mandated that land developers include a park with green space to maintain a safe outdoor play area for the neighbourhood.

I realize that money holds a lot (if not all) of the power in land development but community holds a lot of power too. The majority of residents in this area are longstanding homeowners who make up a close-knit community. As part of that community, we would like to maintain the integrity of our neighbourhood to keep it the safe, family-friendly space we currently share. I also realize that change is inevitable but I believe that we should strive to maintain the heritage and landscape of this town as we adapt to economic development. Please consider our proposed amendments to the development of our neighbourhood. We live here and have to suffer the consequences of overdevelopment; the land developers don't.

Sincerely,

**From:****Sent:** September-08-16 10:48 PM**To:** Maurizio, Valeria**Subject:** ZAC-16-048 and 25T-201606

Valeria Maurizio, City of Hamilton

Planning and Economic Development Department

Development Planning, Heritage and Design - Suburban Team

71 Main Street West, 5th Floor, Hamilton, On, L8P 4Y5

Re: ZAC-16-048 and 25T-201606

We have been informed that a developer has purchased the lands at 20 Miller Drive with the goal of having it rezoned to allow for an additional 22 homes to be built. I am contacting you to express my concerns regarding this matter.

In order for 22 homes to be built in the proposed space the lots will need to be significantly smaller than those which are currently in the area. This will increase the density of the houses, increase the height of the houses, and drastically change the feel of the neighborhood for the worse.

On September 2, 2016 the Spec included an article which began to discuss the effects of new builds within mature areas. It suggested that the city is already being inundated with complaints regarding this matter, so much so that a public information session has to be held this month in order to discuss it. It doesn't make sense for the city to allow a problem that has already been identified to continue in a well established neighborhood such as this.

Additionally, the increased density of houses, and traffic that will accompany it, poses significant safety concerns, particularly for parents with very young children. Like many of my neighbours, my husband and I chose to forfeit some of the luxuries of newer built homes in order to reside in a well established area where we could safely raise our family. We have no sidewalks and no street lights but currently enjoy limited traffic on the roads allowing for safe and leisurely walks and bike rides for ourselves and our neighbors. Additionally there is a quiet cul-de-sac ideal for push cars, tricycles, small bikes and other children's activities. The school grounds also provide a large green space which many of the local children utilize for play in a safe environment away from the highway. This is important due to the plethora of negative health affects that accompany play areas which are located directly beside a highway. The proposed plan would remove the safety of the play space, the safety of the cul-de-sac, and increase the number of vehicles within the area by nearly 50 (assuming an average of 2 vehicles per household)! This would put many children and parents in harms way and is completely avoidable.

I would like to see the city revisit the development plans in order to keep the lot sizes consistent with those that are already in place. Additionally, restrictions on the size and height of new builds would allow the integrity of our community to be maintained. The developers should also be required to provide an appropriate green space and playground for children to use within their development plan.

I believe that the laws and by-laws should be there to protect all of us. It is very upsetting that the largest investment of many of our lives, our homes, which were carefully selected for so many reasons can have their value changed so dramatically by those who have enough money to simply buy and flip a school property. Not to mention that so many of the reasons why we selected the home we did are now being taken away by wealthy developers.

RECEIVED  
SEP 06 2016

ZAC-16-048  
25T-201606

Tuesday September 6th, 2016.

██████████  
██████████  
██████████

Dear Valerie Maurizio:

Regarding your letter about building 22 single, detached houses on the lot where Maple Lane School was formerly: Lot 20.

My concern is that these new houses will be directly adjacent to ██████████ and they will interfere with our privacy and quality of life. By privacy, we mean that these new houses will probably be two stories and people will be able to see into our back yards from their second floor windows. The established homes are one storey houses.

Would it be possible for there to be a space between the established houses of Miller Drive and Roselawn Avenue and these new houses?

There could be a short road to join Miller Drive and the extension of Roselawn Avenue. This would help with the increased volume of traffic. Or, if this is not possible, there could be a short walkway between Miller Drive and the extension of Roselawn Avenue and these new houses. People could walk with their children and their dogs on this walkway.

If you do publish this letter, please omit any personal information, such as names and addresses.

Thank-you for you consideration.

Concerned residents,

September 12, 2016

Dear Ms. Maurizio,

We are writing today in response to the proposed development of 22 homes on the former Maple Lane School property at Miller Drive and Roselawn Avenue, Ancaster, ON.

We are concerned that this proposed development will have a significant negative impact on the community of Maple Lane. We have lived on Roselawn Avenue for 25 years, as we bought this house as newlyweds. We have enjoyed living in this secure and friendly survey and raising our 3 teenage daughters. The quiet streets have allowed our girls to learn to bike, rollerblade and "be kids" playing outside without undue worry their well-being was at risk. The large lots in this survey have allowed us to foster friendships and a true sense of community with many of us in the area having no thoughts of moving out.

The proposed development to build 22 homes, with the majority of homes proposed to be built on lots that are half the width of the existing homes, will have a significant negative impact on this neighbourhood. One just has to drive around the Kitty Murray Lane area to see the impact of narrow lots with large homes. There is no space between or character to these "cookie cutter" homes. Children are unable to be outside and "be kids". We recognize that this is acceptable to many families however that is not the community that has been built in this subdivision.

There are many families with very young children in this survey who are out riding on their bikes, skipping, walking and/or being pushed in strollers every day, with often groups of parents and residents talking on the street. This demonstrates the sense of community.

Building 22 homes will impact the amount of traffic on our street and survey. With such narrow lots proposed and with the average home having at least 2 cars, will result in numerous cars being parked on the street, as there is no way that driveways will be large enough to accommodate these vehicles. Again, a drive through the Meadowland area here in Ancaster clearly demonstrates the parking chaos that results with narrow lots and large homes.

The former Maple Lane School property is used as a safe area for kids to throw a baseball, toss a Frisbee, walk their dogs etc.. Presuming this proposed development moves forward, the City of Hamilton has an obligation to ensure that there is appropriate green space and park area available for the area children. Researchers and child development experts are consistently saying that we must decrease the amount of "screen time" children have today and get them outside. As such the developers need to provide a safe and accessible area for play both for the children living here and those that will be moving into the area.

As the majority of homes in this survey are single story bungalow style dwellings on lots that are 75 feet wide, the City of Hamilton has an additional obligation to ensure that the landscape of this survey is not impacted. This requires that the City readdress the proposed lot size to align with the current sized lots

and also ensure firm restrictions are placed on the developer around the size and height of the homes that are to be built.

Additionally, we have learned today that an original survey for this subdivision has the property at the former Maple Lane school slated at 75 foot lots. This begs the question as to how the City can approve a developer's proposal to more than double the number of homes (using 35 foot lots) when the municipal services were not designed / built to accommodate that many homes.

We respectfully request that the City of Hamilton review the proposed development with consideration of the many concerns raised by us, as well as other long time residents in this survey. There must be a proposal that better meets the developer's desire to make money and also maintain the property value and sense of community that currently exists in this subdivision. We do not want to see our property value decrease due to the City of Hamilton allowing the development to move forward with so many homes.

Your review and consideration of our many concerns is sincerely appreciated.

Sincerely,



September 16, 2016

Ms. Valeria Maurizio, MCIP, RPP

Planner I

Development Planning, Heritage & Design (Suburban Team)

Planning and Economic Development

City of Hamilton

Dear Ms. Maurizio:

Further to the letter shared by \_\_\_\_\_ regarding the proposed development of the school property at 20 Miller Drive to build 22 homes, I (we) would like to share our concerns as well. We agree with \_\_\_\_\_ "that the city restrict development to lot sizes that are consistent with the rest of the subdivision, including firm restrictions on the size and height of all house builds." There is already one two-story home at the end of Anson Drive that looks out of place. We understand that the corner property at 486 Anson Drive is slated to be another huge dwelling. The builder/owner had advised some years ago that he would rebuild a new one-story home for himself and his family. Now he is starting on a two-story endeavor. We live on the \_\_\_\_\_ and are not impressed with this change of plans. We have learned that he will advertise that he will build to suit. Our area will grow again and in an unattractive manner. We understand that change is inevitable but good planning to maintain community enhancement should be a prerequisite. Broadening the tax base should not include developer greed and indifference.

Thank you for reading our concerns,

**From:**

**Sent:** September-17-16 1:50 PM

**To:** Maurizio, Valeria

**Subject:** Miller Drive Ancaster

Dear Valeria Maurizio,

I am concerned about the proposed development on 20 Miller Drive Ancaster.

This is a quiet residential area with bungalows on fairly large lots. To build 22 houses will negatively impact the community in numerous ways.

1. loss of a dead end street
2. loss of many mature trees
3. loss of open green space
4. much greater housing density than the surrounding area
5. increased traffic with increased noise and increased risk to pedestrians and children

I would like future development on that site to include a park/ green space, housing similar in density to the surrounding area, the preservation of most of the trees and maintaining Roselawn Avenue as a cul de sac.

sincerely

Appendix "E" to Report PED18123  
Page 15 of 16

**From:****Sent:** September-12-16 11:18 AM**To:** Bishop, Kathy**Subject:** Re: Concerned about recent information about development on Miller St. Ancaster

Thank you for your quick response. There are currently over 30 mature trees that are providing habitat, improved air quality, and sound buffers from the highway as well. We would like to determine the plans for these important trees. We are also concerned about the density of the housing.

Any feedback you can give us would be greatly appreciated and if you have any information concerning public meetings with regards to this development in our area.

Respectfully

[Second email from same household:]

- ☒ **no need for sidewalks, streetlights and new sewers** in our established subdivision – keep the ambiance as is and this will alleviate an increase to our city taxes that are already too high.
- ☒ **No need to remove the over 30 mature trees** in the area as they add value to the space, along with being noise filters, wind barriers, habitat.
- ☒ 22x new houses is way too many for this space = I believe that **15x new homes is plenty** for the space that each new home should **equate to the size of the current community house lots.**
- ☒ **Not necessary to provide the new homes with fences** – people can put up their own.
- ☒ There should a **culdesac with 6x homes on either side of a central roadway up the center of the fenced field and at the west end of the fenced field** provide a private safe green space for the new homeowners. This design will be more attractive to new home owners, specifically families for privacy and quiet. Each family would then have an existing tree or two in their backyards (that will face Miller and Roselawn respectfully. Entry into the culdesac via the extended Roselawn to Miller access.
- ☒ 1x house would sit nicely in the **arc of pines** adjacent to the 53 Roselawn house without having to remove the trees.
- ☒ 2x houses in the **parking lot on Millar**
- ☒ 2x houses in the **fenced parking** lot facing the new extension of Roselawn.
- ☒ 4x houses along **Millar facing Fiddler's Green**

From the desk of  
[REDACTED]

RECEIVED  
SEP 22 2016

Valeria Maurizio

I join with others in our neighborhood to state concern over the proposal to build 22 homes on the Ancaster parcel of land formerly occupied by Maple Lane Public school.

[REDACTED] has already stated reasons why these plans cannot go forward without displeasing current residents. (See attached letter which was distributed to neighboring residents.) We feel threatened by the economic impact on our property values. [NOT ATTACHED]

Twenty-two additional homes means 22(++?) more vehicles adding to increased traffic and safety concerns. The logical exit / entry route for this area has always been and will continue to be primarily via Garden Ave at Fiddlers Green Rd. We live [REDACTED] In the morning and afternoon rush hours Monday to Friday, there are roughly a dozen school buses turning at this intersection, as well as HSR buses every 30 minutes. During construction of the planned development, the trucks and worker vehicles alone will create a nightmare that will serve as premonition to the ensuing permanent traffic chaos.

As [REDACTED] points out, there are no sidewalks or streetlights along many of the roads connecting to the proposed development. No safe places for children to await and disembark from buses. Winter snowbanks will further diminish their safe passage.

We have lived in various areas of Ancaster for sixty years. We now watch as it transforms from a quiet safe village into a fast-paced urban center. I grieve for fellow residents losing their sunny gardens as towering, shadow-casting monster homes arise around their perimeters. Gardens will need to be re-planned for shade plants.

The proposed development of 22 homes on lot sizes half the average for this neighborhood presents a further example of over-crowding. We came to live in the suburbs. We faithfully paid our taxes, enjoyed the quiet of our space – please let us stay in the suburbs and save us from urbanization. More specifically, please schedule an OMB hearing that will allow us to challenge the current development plan to save us from traffic chaos, diminished property value and loss of safety for our neighborhood residents.

Thank you for your consideration. Please reply to address / email below.



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

|                          |  |
|--------------------------|--|
| <b>TO:</b>               | Chair and Members<br>Planning Committee  |
| <b>COMMITTEE DATE:</b>   | June 19, 2018  |
| <b>SUBJECT:</b>          | Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (Ward 3) (PED18129) |
| <b>WARD(S) AFFECTED:</b> | Ward 3   |
| <b>PREPARED BY:</b>      | Daniel Barnett (905) 546-2424 Ext. 4445  |
| <b>SUBMITTED BY:</b>     | Steve Robichaud<br>Director, Planning and Chief Planner<br>Planning and Economic Development Department                                |
| <b>SIGNATURE:</b>        |  |

#### RECOMMENDATION

- (a) That **Amended Zoning By-law Amendment Application ZAC-13-007 by MacNaughton Hermesen Britton Clarkson Planning Limited (c/o Eldon Theodore) on behalf of Archer Developments Corporation, Owner**, for a change in zoning from the “JJ” (Restricted Light Industrial) District to the “DE-2/S-1763-‘H’” (Multiple Dwellings) District, Holding, Modified to permit the construction of a five storey, 65 unit multiple dwelling on lands located at 100 Cumberland Avenue, Hamilton, as shown on Appendix “A” to Report PED18129, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED18129, 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 “B” to Report PED18129, be added to District Map No. E23 of Zoning By-law No. 6593;
  - (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (2017), and complies with the Urban Hamilton Official Plan;
  - (iv) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning.

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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: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 2 of 33**

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The Holding Provision “DE-2/S-1763-‘H” (Multiple Dwellings) District, Holding, Modified, be removed conditional upon:

- (a) The Owner submit a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment and Climate Change (MOECC). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECC, and submission of the City of Hamilton’s current RSC administration fee.
- (b) That the St. Clair Neighbourhood Plan be amended by changing the designation of the subject lands currently designated as “Industrial” to “High Density Apartments” to accommodate the proposed residential development.

### **EXECUTIVE SUMMARY**

The applicant is proposing to redevelop the existing industrial building, formerly the Lifesaver Candy Factory, into a five storey, 65 unit multiple dwelling with a total height of 20.4 m. The proposal includes a three storey addition onto the existing two storey building with step backs along the front façade and portions of the side façades. The proposal includes 85 parking spaces, a parking space for a car share vehicle and 70 indoor bicycle parking spaces and six outdoor bicycle parking spaces.

The proposed Zoning By-law Amendment is to change the zoning on the subject lands from the “JJ” (Restricted Light Industrial) District to “DE-2/S-1763-‘H” (Multiple Dwellings) District, Holding, along with modifications to implement the proposal. A Holding Provision will also be applied to the subject lands to secure a Record of Site Condition.

The application can be supported as it is consistent with Provincial Policy Statement (PPS), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and implements the key policies of the UHOP with respect to the Neighbourhoods designation and Residential Intensification. It is an appropriately scaled use representing a compatible form of intensification that will diversify the range of dwelling types, tenures and densities in the St. Clair neighbourhood while respecting its existing built character.

***Alternatives for Consideration – See Page 32***

### **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

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**SUBJECT: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 3 of 33**

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Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider a Zoning By-law Amendment application.

## **HISTORICAL BACKGROUND**

### **Proposal:**

The applicant is proposing to redevelop the former industrial building, formerly the Lifesaver Candy Factory, into a five storey, 65 unit multiple dwelling with a total height of 20.4 m and 85 parking spaces plus one car share parking space. The proposal includes a three storey addition onto the existing two storey building, which will be stepped back 6.0 m from the front façade and 3.0 m from the side façades for a portion of the addition. Three units will also be located partially below grade with direct access and amenity areas fronting Cumberland Avenue. The existing paved storage area on the west side of the building will be converted into surface parking for 39 vehicles. An additional 30 parking spaces will be accommodated in a new one storey above ground separate parking structure that will be constructed along the rear lot line, with the remaining 18 parking spaces being accommodated in an underground parking area located underneath the existing building. One additional parking space for a car share vehicle will be provided and the applicant will be required to enter into an agreement with a car share provider. The one storey parking structure at the rear lot line will also be integrated with a crash barrier to buffer the development from the rail line. A total of 76 bicycle parking spaces are proposed consisting of six short-term spaces outside of the building and 70 secure spaces located in the underground parking garage. The site will continue to have vehicular access from both Cumberland Avenue and Burris Street.

The proposed Zoning By-law Amendment is to change the zoning on the subject lands from the “JJ” (Restricted Light Industrial) District to a site specific “DE-2” (Multiple Dwellings) District. The proposed modifications are for building height, front, side and rear yard setbacks, balcony projections, parking area location, loading and parking space dimensions, minimum bicycle parking requirements and the location of the parking garage. A Holding Provision will also be applied to the subject lands to secure a Record of Site Condition. Staff have provided additional amendments to the Zoning By-law application to accommodate the required road widening and daylight triangle.

### **Chronology:**

April 12, 2013: Zoning By-law Amendment Application ZAC-13-007 and Official Plan Amendment Application OPA-13-001 received.

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May 8, 2013: Zoning By-law Amendment Application ZAC-13-007 and Official Plan Amendment Application OPA-13-001 are deemed complete.

May 14, 2013: Notice of Complete Application and Preliminary Circulation was sent to 199 property owners within 120 m of the subject lands, and the Public Notice sign posted on the property.

April 20, 2018: Official Plan Amendment Application withdrawn at the recommendation of staff.

May 23, 2018: Public Notice sign updated with Public Meeting date.

June 1, 2018: Circulation of Public Meeting Notice for Zoning By-law Amendment Application ZAC-13-007 to 199 property owners within 120 m of the subject lands.

**Details of Submitted Application:**

**Location:** 100 Cumberland Avenue, Hamilton

**Owner:** Archer Developments Corporation

**Applicant / Agent:** MacNaughton Hermsen Britton Clarkson (MHBC) Planning Limited (c/o Eldon Theodore)

**Property Description:**

|                      |            |
|----------------------|------------|
| <u>Lot Area:</u>     | 5,951 sq m |
| <u>Lot Frontage:</u> | 97.99 m    |
| <u>Lot Depth:</u>    | 60.58 m    |

**EXISTING LAND USE AND ZONING:**

|                                  | <b><u>Existing Land Use</u></b> | <b><u>Existing Zoning</u></b>                    |
|----------------------------------|---------------------------------|--|
| <b><u>Subject Lands:</u></b>     | Vacant Industrial Building      | “JJ” (Restricted Light Industrial) District      |
| <b><u>Surrounding Lands:</u></b> |                                 |  |
| <b>North</b>                     | Single Detached Dwellings       | “C” (Urban Protected Residential, Etc.) District |

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|              |   |   |
|--------------|---|---|
| <b>South</b> | Canada Pacific Railway Right-of -Way and Niagara Escarpment | “J” (Light and Limited Heavy Industry, Etc.) District |
| <b>East</b>  | Single Detached Dwellings and Commercial Retail             | “C” (Urban Protected Residential, Etc.) District      |
| <b>West</b>  | Public Park   | “JJ” (Restricted Light Industrial) District           |

## **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). 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 provided below.

### **Noise and Vibration**

“1.2.6.1 *Major facilities and sensitive land uses* should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate *adverse effects* from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of *major facilities*.”

As part of the application for a Zoning By-law Amendment, the applicant submitted an Environmental Noise Assessment prepared by Valcoustics Canada Ltd. and a Railway Vibration Analysis by Valcoustics Canada Ltd. both dated January 8, 2013. The noise and vibration studies reviewed the potential noise and vibration sources that might impact the subject property, and specifically identified an existing railway line located to the south of the subject property as the primary source of noise and vibration impacting the subject property.

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The noise and vibration studies identified mitigation measures to address noise and vibration impacts that exceed the guideline limit of the Canadian Pacific Railway (CPR) and noise level requirements of the Ministry of Environment and Climate Change (MOECC). Vibration mitigation measures recommended that below grade foundation be isolated from the surrounding soil with insulation material. Noise mitigation measures were identified including noise warning clauses, a 1.3 m high parapet sound barrier to protect the outdoor living area, exterior walls with a Sound Transmission Class (STC) rating of 54 and windows with a STC rating of 38, mandatory air conditioning, and a 2.5 m crash barrier.

CPR rail comments advised that they are not in favour of residential development in proximity to the CPR rail line but support the mitigation measures identified in the noise and vibration studies. The applicant, in consultation with CPR, will also be constructing a crash wall which will be integrated with the one storey parking garage located along the rear lot line. More detailed comments from CPR are addressed in the Relevant Consultation Section of this Report.

The necessary mitigation measures will be further reviewed and implemented as part of the Site Plan Control Application.

### Cultural Heritage

Staff note the Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS (2014). The following policy of the PPS (2014) also applies:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 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.”

Although the subject property is not protected under the *Ontario Heritage Act* through registration or designation, the property is included in the City’s Inventory of Buildings of Architectural and/or Historical Interest. The building has been part of the built fabric of the neighbourhood since the 1930s.

The retention of the existing building will contribute to maintaining the historical character of the neighbourhood. Additionally, staff note that the stone veneer and brick cladding proposed for the three storey addition are sympathetic to the existing built fabric and historical context of the property. The setback of the addition on the front façade provides an appropriate transition between old and new architecture. Detailed

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review and approval of the building elevation drawings and proposed materials will be done as part of the Site Plan Control Application.

Also the subject property meets four of the ten criteria used by the City of Hamilton and the Ministry of Tourism, Culture and Sport for determining archaeological potential. A written caution will be required to be included as part of the Site Plan Control Application requiring the Owner to acknowledge the archaeological potential of the subject property and that the Owner is required to contact the Ministry of Tourism, Culture and Sport should archaeological material or human remains be encountered during construction.

### Environmental Remediation

“3.2.2 Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no *adverse effects*.”

The subject property is recognized as a potentially contaminated site due to its use as a former industrial (Lifesaver Candy Factory) building. As such, the property is subject to environmental review to allow for the proposed multiple dwelling. The applicant has undergone a Phase I and II Environmental Site Assessment, but has not yet submitted their findings to the MOECC. As such, a Holding Provision is proposed as the provision of a Notice of Acknowledgement letter from the MOECC for the RSC is a requirement.

Based on the foregoing, the proposed development is consistent with the policies of the PPS.

### Growth Plan for the Greater Golden Horseshoe (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.

The Growth Plan supports intensification within built-up urban areas, particularly in proximity to transit. As noted in Section 2.1 of the Plan:

“To support the achievement of *complete communities* that are healthier, safer, and more equitable, choices about where and how growth occurs in the *GGH* need to be made carefully. Better use of land and *infrastructure* can be made by directing growth to *settlement areas* and prioritizing *intensification*, with a focus on *strategic growth areas*, including *urban growth centres* and *major transit station areas*, as well as *brownfield sites* and *greyfields*. Concentrating new development in these areas provides a focus for investments in transit as well as other types of *infrastructure* and *public service facilities* to support forecasted growth, while also supporting a more

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diverse range and mix of housing options. However, to protect public safety and prevent future flood risks, growth should generally be directed away from hazardous areas, including those that have been identified as Special Policy Areas in accordance with the PPS.”

Furthermore as noted in Section 2.2.1.2 (d):

“Development will be directed to settlement areas, except where the policies of this Plan permit otherwise.”

The subject property is located within a settlement area and is located in proximity to an existing transit route. The proposal represents a form of intensification that makes use of existing infrastructure and contributes to a diverse range and mix of housing options. Therefore, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe.

### **Urban Hamilton Official Plan**

There are several policies that specifically relate to this development proposal; namely, permitted uses, compatibility (scale, urban design, and residential intensification policies).

#### **1.0 Neighbourhoods Designation and High Density Residential Policies**

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and designated “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations. The following policies, amongst others, apply to the proposal:

##### *Neighbourhoods Designation*

- “E.3.2.1 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.3.2.4 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.”
  
- “E.3.2.15 The City shall encourage the adaptive reuse of the existing building stock for appropriate land uses. Rezoning applications for new uses shall be evaluated to ensure compatibility with surrounding land uses.”

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*High Density Residential*

- “E.3.6.1 High density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads.
- E.3.6.2 Uses permitted in high density residential areas include multiple dwellings, except street townhouses.
- E.3.6.4 High density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities / services, including public transit, schools, and active or passive recreational facilities.
- E.3.6.5 Proximity to the Downtown Urban Growth Centre, Sub-Regional Nodes or Community Nodes, and designated Employment Areas shall be considered desirable for high density residential uses.
- E.3.6.6 In high density residential areas, the permitted net residential densities, identified on Appendix G – Boundaries Map shall be:
- b) greater than 100 units per hectare and not greater than 200 units per hectare in all other Neighbourhoods designation areas.”

The proposed five storey, 65 unit multiple dwelling conforms to the above noted policies, as follows:

- The adaptive reuse and the addition to the former Lifesaver Candy Factory for a multiple dwelling will add to the mix of housing types in the St. Clair neighbourhood which predominantly consists of single detached dwellings;
- It is located on the southern periphery of the neighbourhood, adjacent to the Escarpment and located on a collector road (Cumberland Avenue) and within 60 m of minor arterial road (Sanford Avenue South);
- It abuts a public park and is in close proximity to community facilities and services including a number of schools, municipal parks, the Escarpment Rail Trail as well as a number of bus routes;
- It is located 2.6 km from Downtown (Urban Growth Centre), which is a 8 minute car ride, 10 minute bike ride or a 30 minute walk; and,

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- The density of development is 109 units per hectare before the road widening and approximately 117 units per hectare after the road widening.

## 2.0 Design Policies

Compatibility and design are addressed in the following sections on the UHOP.

### *High Density Residential*

“E.3.6.7 Development within the high density residential category shall be evaluated on the basis of the following criteria:

- a) Development should have direct access to a collector or major or minor arterial road.
- b) High profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses. A separation distance shall generally be required and may be in the form of a suitable intervening land use, such as a medium density residential use. Where such separations cannot be achieved, transitional features such as effective screening and/or design features shall be incorporated into the design of the high density development to mitigate adverse impact on adjacent low profile residential uses.
- c) High profile development may be considered appropriate, subject to the other policies of this Plan, where it would result in the preservation of natural heritage system features or public view corridors which may otherwise be compromised by more dispersed, lower profile development.
- d) Development shall:
  - i) provide adequate landscaping, amenity features, on-site parking, and buffering where required;
  - ii) be compatible with existing and future uses in the surrounding area in terms of heights, massing, and an arrangement of buildings and structures; and,
  - iii) provide adequate access to the property, designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.

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- e) In accordance with the policies of Section B.3.3 – Urban Design Policies, development shall contribute to an attractive public realm by minimizing the view of the following elements from the abutting public streets (excluding public alleys):
  - i) surface parking areas;
  - ii) parking structures;
  - iii) utility and service structures such as garbage enclosures; and,
  - iv) expanses of blank walls.
- f) The City may require studies, in accordance with Chapter F - Implementation Policies, completed to the satisfaction of the City, to demonstrate that the height, orientation, design and massing of a building or structure shall not unduly overshadow, block light, or result in the loss of privacy of adjacent residential uses.
- g) The orientation, design, and massing of a building or structure higher than six storeys shall take into account the impact on public view corridors and general public views of the area of the Niagara Escarpment, waterfront, and other parts of the City as identified through secondary plans or other studies.”

*Urban Design Policies*

“B.3.3.2.3 Urban design should foster a sense of community pride and identity by:

- a) respecting existing character, development patterns, built form, and landscape;
- b) promoting quality design consistent with the locale and surrounding environment;
- c) recognizing and protecting the cultural history of the City and its communities;
- d) conserving and respecting the existing built heritage features of the City and its communities;
- e) conserving, maintaining, and enhancing the natural heritage and topographic features of the City and its communities;

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- f) demonstrating sensitivity toward community identity through an understanding of the character of a place, context and setting in both the public and private realm;
- g) contributing to the character and ambiance of the community through appropriate design of streetscapes and amenity areas;
- h) respecting prominent sites, views, and vistas in the City; and,

**B.3.3.2.6** Where it has been determined through the policies of this Plan that compatibility with the surrounding areas is desirable, new development and redevelopment should enhance the character of the existing environment by:

- a) complementing and animating existing surroundings through building design and placement as well as through placement of pedestrian amenities;
- b) respecting the existing cultural and natural heritage features of the existing environment by re-using, adapting, and incorporating existing characteristics;
- c) allowing built form to evolve over time through additions and alterations that are in harmony with existing architectural massing and style;
- d) complementing the existing massing patterns, rhythm, character, colour, and surrounding context; and,
- e) encouraging a harmonious and compatible approach to infilling by minimizing the impacts of shadowing and maximizing light to adjacent properties and the public realm.

**B.3.3.3.2** New development shall be designed to minimize impact on neighbouring buildings and public spaces by:

- a) creating transitions in scale to neighbouring buildings;
- b) ensuring adequate privacy and sunlight to neighbouring properties; and,
- c) minimizing the impacts of shadows and wind conditions.

**B.3.3.3.3** New development shall be massed to respect existing and planned street proportions.

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- B.3.3.3.5 Built form shall create comfortable pedestrian environments by:
- a) locating principal façades and primary building entrances parallel to and as close to the street as possible;
  - b) including ample glazing on ground floors to create visibility to and from the public sidewalk;
  - c) including a quality landscape edge along frontages where buildings are set back from the street;
  - d) locating surface parking to the sides or rear of sites or buildings, where appropriate; and,
  - e) using design techniques, such as building step-backs, to maximize sunlight to pedestrian areas.”

There are several design requirements, as noted above, that have been addressed in this development. More specifically:

- Transition of higher profile / higher density multiple dwelling adjacent to low density residential uses – A five-storey building is not considered to be a high profile building. To address the transition and massing of the building, the three storey addition on top of the existing two storey building will be stepped back 6 m from the front façade and 3 m for the front portions of the side facades.
- Amenity Areas – the amenity areas of the four units proposed to be located below grade will have direct access to Cumberland Avenue which will address the street. Windows on all facades and balconies for units above the second storey will animate the street by reduce large expanses of blank walls, provide eyes on the street, and promote safety both on and off of the property. The proposed balconies, along with an indoor multi-purpose room and existing municipal parks, will meet the amenity needs of the residents of the proposed development.
- Access, Parking, Loading - Four dwelling units will have direct access at the front of the building and three entrances will be provided for the remaining units of which two entrances will be provided parallel to the street. Separate pedestrian and vehicular access will be provided to the existing street and sidewalks and adequate visibility will be provided for points of access to ensure that conflicts between traffic and pedestrians are minimized. The existing paved area on the western portion of the property will be converted into a surface parking lot while a one-storey garage will be constructed along the rear lot line. The remainder of the parking will be accommodated underground. The building and parking area will be landscaped to screen views from the street. The loading and garbage pick-up area will also be

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located at the rear of the building. These matters will be further reviewed at the Site Plan Control Application stage.

- Sun/Shadow Impacts – the applicant conducted a Sun Shadow Study to determine the shadow impacts of the proposed building. The test points were 9:00 a.m., 12:00 p.m. and 3:00 p.m. on March 21<sup>st</sup> (which also represents conditions for September 21<sup>st</sup>), June 21<sup>st</sup> and December 21<sup>st</sup>.

Results for March 21<sup>st</sup> and June 21<sup>st</sup> showed that shadowing would be minimal and contained largely on the subject lands and portions of the sidewalks and municipal road. The shadow impacts on the public realm are limited the south side of Cumberland Avenue and the west side of Burriss Street at 3 p.m. between March 21<sup>st</sup> and September 21<sup>st</sup>.

The shadow study also identified a small amount of shadowing on the existing municipal park only at 9 a.m. on March 21<sup>st</sup> and September 21<sup>st</sup>. Therefore, as the sun shadow impacts are limited to the south side of the street later in the day, and limited in respect to the existing municipal park, the proposed sun shadow impacts are appropriate.

Larger impacts were observed on December 21<sup>st</sup> at 9:00 a.m. and 3:00 p.m. when the public park and properties to the north, respectively, would experience some shadowing. The purpose of determining shadow impacts is to minimize the shadowing on public and private outdoor amenity spaces. Given that outdoor amenity areas are used less during the winter, these impacts are considered tolerable.

- Public views corridors and the Niagara Escarpment – Buildings greater than six storeys take into account the impact on public views corridors and general public views of the Niagara Escarpment. The applicant worked with the Niagara Escarpment Commission (NEC) to investigate potential view impacts on the Niagara Escarpment from the public realm. Based on the investigation the NEC concluded that the proposed five storey multiple dwelling will not have a net negative impact on the public views of the Niagara Escarpment.

### 3.0 Residential Intensification/Compatibility

“B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g) as follows;

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- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

*Residential Intensification in the Neighbourhoods Designation*

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of cultural heritage resources; and,
- j) infrastructure and transportation capacity and impacts.

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*Residential Intensification and Cultural Heritage Resources*

- B.2.4.3.1 Residential intensification involving cultural heritage resources shall be in accordance with Section B.3.4 – Cultural Heritage Resources Policies.
- B.2.4.3.2 Residential intensification in established historical neighbourhoods shall be in accordance with Policy B.3.4.3.6 and Policy B.3.4.3.7.
- B.3.4.3.6 The City shall protect *established historical neighbourhoods*, as identified in the cultural heritage landscape inventory, secondary plans and other City initiatives, by ensuring that new construction and *development* are sympathetic and complementary to existing cultural *heritage attributes* of the neighbourhood, including lotting and street patterns, building setbacks and building mass, height, and materials.
- B.3.4.3.7 *Intensification* through conversion of existing *built heritage resources* shall be encouraged only where original building fabric and architectural features are retained and where any new additions, including garages or car ports, are no higher than the existing building and are placed to the rear of the lot or set back substantially from the principal façade. Alterations to principal façades and the paving of front yards shall be avoided.”

The issues of compatibility and residential intensification have been addressed in the previous two sections as well as the PPS review; more specifically, the design of the building to reduce massing, establish a transition to lower density uses, creation of apartment units, addressing noise, overlook/privacy, retention of the public view and amenity spaces for the residents.

In terms of cultural heritage and residential intensification, Cultural Heritage staff have determined that the proposal is consistent with the historical context of the property and that the heritage attributes of the property will be conserved. The building is not protected under the *Ontario Heritage Act* through the registry or designation; however, the property is included in the City’s Inventory of Buildings of Architectural and/or Historical Interest. The shell of the existing Lifesavers Candy Factory will be retained for its historic association with the surrounding neighbourhood since the 1930s. The upper floors are setback from the principle facades. Sympathetic materials will be utilized for the proposed addition to reflect the existing building fabric and historical context of the area. Windows and balconies will provide eyes on both the street and on the site. Surface parking area will be located primarily to the side and rear of the building and will be buffered and screened from the street.

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In terms of servicing, there is adequate infrastructure and transportation capacity to support the proposed multiple dwelling. A Functional Servicing and Stormwater Management Report, and Water Servicing Analysis dated January 2013, and subsequently updated on December 2015, June 2016 and March 2018 have been reviewed by Development Engineering staff. Low water pressure was identified as an issue in the neighbourhood. A hydraulic analysis was conducted by Cole Engineering which showed that the water supply distribution system is capable of providing adequate flows and pressure to support the proposed multiple dwelling. Development Engineering staff have determined that the proposal can be adequately serviced however the detailed review in respect to servicing and storm water management will be undertaken as part of the Site Plan Control Application.

Based on the foregoing, staff are of the opinion that the proposal complies with the UHOP.

#### 4.0 Neighbourhood Plan – St. Clair Neighbourhood Plan

The subject lands are designated “Industrial” in the St. Clair Neighbourhood Plan. Although the St. Clair Neighbourhood Plan does not have policies associated with land use designations, a Neighbourhood Plan Amendment is required to change the designation on the subject lands from “Industrial” to “High Density Apartments” to more accurately reflect the proposed use and the current Neighbourhoods designation in the UHOP.

“High Density Apartments” is an appropriate designation of the subject lands as it allows for the development which complies with all other policies of the UHOP while maximizing the use of a currently underutilized piece of land. The proposal represents a form of residential intensification that is appropriately scaled and will strengthen the range of dwelling types, tenures and densities in the area while allowing for the adaptive reuse of an existing industrial building.

#### **City of Hamilton Zoning By-law No. 6593**

The subject property is zoned “JJ” (Restricted Light Industrial) District, which permits a range of industrial uses but does not permit a multiple dwelling. An amendment to the City of Hamilton Zoning By-law No. 6593 is required to change the zoning to a site specific “DE-2” (Multiple Dwellings) District. Site specific modifications are also required to implement the proposal and are discussed in greater detail in the Analysis and Rationale for Recommendation Section of this Report. Staff have included additional amendments to the Zoning By-law Application in order to accommodate the required road widening and daylight triangle requirement.

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## RELEVANT CONSULTATION

The following Departments and Agencies had no comments or no objections to the proposal:

- Horizon Utilities; and,
- Recreation Division (Community and Emergency Services Department).
- Hamilton Conservation Authority

The following Departments and Agencies have provided comments with respect to the proposed application:

**Canada Pacific Railway (CPR)** is not in favour of new residential developments near its right-of-ways. However, CPR has reviewed the submitted documents, including among other things, the Environmental Noise Study, Railway Vibration Assessment, Functional Servicing and Stormwater Management Report. They support the implementation of the mitigative measures proposed in the Railway Vibration Assessment and confirmed that their drainage will not be negatively impacted. Additionally, further consultation will be required during the detailed design stage of the crash wall to determine appropriate setbacks and designs standards which will be undertaken as part of the Site Plan Control Application.

**Corridor Management Section, Public Works Department** has requested that the existing driveway on Cumberland Avenue be aligned with Gladstone Avenue in order to reduce pedestrian and vehicle conflicts. This has been addressed by the applicant and is now complying. Additionally, they have requested that a Construction Management Plan be prepared at the Site Plan Control stage and that the applicant will be required to provide 5 m by 5 m visibility triangles at all driveway entrances, close any unused driveways and restore all curbing and sidewalks abutting the subject lands.

**Transportation Planning, Public Works Department** supports the provision of a car share space and recommends that it be located in the surface parking lot. This will be secured through a future Site Plan Control Application. Transportation Planning staff also recommend that the developer provide subsidized car share and/or bike share passes to future owners / tenants. This recommendation has been agreed to by the applicant and is addressed in the site specific By-law.

**Forestry and Horticulture Section, Public Works Department** has advised that municipal tree assets may be affected by this proposal; therefore a Tree Protection Plan (TPP) is required. Additionally, boulevard trees have been requested requiring a Landscape Plan. The applicant has provided both plans for comment which have been approved with revisions that will take place during the Site Plan Control stage when a detailed design and review of the site landscaping will occur.

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**Urban Renewal Section** has advised the applicant that the development may be eligible for the ERASE incentive program.

**Bell Canada** has advised that an easement may be required to service the proposed development. They will provide a more detailed review of the proposal through a future application for Plan of Condominium or Site Plan Control Application.

**Budgets and Finance Section, Corporate Services Department** staff have indicated that the property has an outstanding balance of \$3,522.70, which has since paid.

**Niagara Escarpment Commission** staff have indicated that there is no net visual impact of the proposal as submitted on the views of the Niagara Escarpment and that the proposal meets the Urban Area policies of the Niagara Escarpment Plan. The Commission will further comment on any barriers erected along the rail corridor during the Site Plan Control Application.

**Public Health Services, Health Protection Division** have indicated that there is potential for the presence of lead and mercury containing substances and asbestos-containing material within the building. Therefore, a proper abatement plan should be put into effect. Additionally, waste paints and other waste products being stored onsite in large plastic and steel containers should be removed from the property. As per the recommendations of the Phase 2 Environmental Site Assessment, the top layer of contaminated soil on the property should be removed and properly disposed of off-site. New uncontaminated soil should be brought in to fill the site.

All recommendations and mitigation measures coming from the Environmental Noise Assessment and the Railway Vibration Analysis requirements are to be followed and implemented at the Site Plan Control Application. Pest Control and Dust Mitigation Plans are to be formulated and will be reviewed and addressed at the Site Plan Control Application.

**Operation Support Section, Public Works Department** has indicated that the subject lands are eligible for municipal waste collection subject to the City's design and performance specifications. It will be up to the applicant to accommodate these specifications to receive municipal waste collection or arrange for a private collection service as an alternative.

### **Public Consultation**

In accordance with the provisions of the *Planning Act* and Council's Public Participation Policy, a Notice of Complete Application and Preliminary Circulation was circulated to 199 property owners within 120 m of the subject property on May 14, 2013, requesting public input on the application. A Public Notice sign was also posted on the property

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on May 14, 2013 and updated on May 23, 2018 with the date of the Public Meeting. Notice of the Public Meeting was given, in accordance with the requirements of the *Planning Act* on June 1, 2018. At the time of the writing of this Report staff received a total of nine submissions from the public including a joint letter with 31 signatures.

The issues raised in the letters of correspondence are summarized in the Analysis and Rationale for Recommendation Section of this Report.

**Public Consultation Strategy**

As the application for the Zoning By-law Amendment was submitted prior to July 1, 2016, the application pre-dated the requirement for a public consultation strategy to be undertaken. As such a Public Consultation Strategy was not required. However an information open house was held by the applicant on October 29<sup>th</sup>, 2013 and was attended by 25 interested parties. A number of questions were raised at the Public Information Meeting and the concerns raised are discussed in the Analysis and Rationale for Recommendation Section of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

- 1) The proposed Zoning By-law Amendment has merit and can be supported for the following reasons:
  - i) It is consistent with the PPS and conforms to the Growth Plan;
  - ii) It complies with key policies of the UHOP with respect to the Neighbourhoods designation and Residential Intensification; and,
  - iii) It is an appropriately scaled use that will diversify the range of dwelling types, tenures and densities in the St. Clair neighbourhood while respecting its existing character.
  
- 2) The proposed Zoning By-law Amendment is to change the zoning on the subject lands from the “JJ” (Restricted Light Industrial) District to the a site specific “DE-2” (Multiple Dwellings) District with modifications to height, front, side and rear yard setbacks, balcony projections, parking area location, loading and parking space dimensions, minimum bicycle parking requirements and the location of the parking garage. A Holding Provision will also be applied to the subject lands to secure a Record of Site Condition.
  
- 3) The applicant has requested the following site specific amendments to Zoning By-law No. 6593 to implement the proposal:

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Change in Zone

The change in zoning from the “JJ” (Restricted Light Industrial) District to the “DE-2” (Multiple Dwellings) District will permit the property to be used for a multiple dwelling. As discussed in the UHOP policy review section above, the proposed residential use implements the policies of the Neighbourhoods designation and maintains the residential function of the St. Clair neighbourhood while increasing the diversity of using types, tenures and densities available, and is compatible with the existing character of neighbourhood.

Therefore, staff support the proposed zoning change.

Restriction on Number of Dwelling Units

Staff are including a modification to restrict the number of dwelling units to a maximum of 65 dwelling units. This modification is to ensure that the proposed multiple dwelling remains small in size and scale and is compatible with the character of the area.

Therefore, staff support the proposed modification.

Restriction on Institutional Uses

The “DE-2” (Multiple Dwellings) District permits a long-term care facility and day nursery. Neither a long-term care facility or day nursery is being proposed as part of the proposed development nor have the impacts of day nursery or long-term care facility been reviewed as part of the proposed application. In order to ensure neither a long-term care facility or day nursery are not established on-site a modification is proposed to not permit the uses as part of the site specific By-law.

Therefore, staff support the proposed modification.

Reduction in Maximum Permitted Height

The current “JJ” (Restricted Light Industrial) District permits a maximum height of four storeys and 17.0 m. The proposed “DE-2” (Multiple Dwellings) District permits a maximum height of eight storeys and 26.0 m for multiple dwellings. The proposed modification is to reduce the maximum permitted height to five storeys and 22.0 m. This is the height of the multiple dwelling as proposed by the applicant. As discussed in the UHOP policy review section, this height complies with the relevant policies. It respects the character of the existing neighbourhood while not causing any undue nuisance impacts like excessive shadowing or overlook. The three

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storey addition is also stepped back from the front façade and portions of the side facades to further reduce its appearance with respect to its surroundings.

Therefore, staff support this modification.

Modifications to Required Yards

The “DE-2” (Multiple Dwellings) District requires a minimum required front yard depth of 7.5 m, minimum required side yard width of 9.0 m and a minimum required rear yard depth of 13.5 m. Modifications to the required yards provisions are proposed to recognize the location of the existing two storey building and to implement the step backs of the three storey addition.

It is noted that for the third to fifth storeys the required easterly and westerly side yard setback is greater for the front (north) portion of building while the rear portion (south) of the building aligns with the easterly and westerly setback of the existing two storey building. The transition between the front and rear portions of the third to fifth storeys occurs at 22.5 m from the front lot line.

| <b>Setback</b>   | <b>Required Setback</b> | <b>1<sup>st</sup> and 2<sup>nd</sup> Storey (Existing)</b> | <b>3<sup>rd</sup> to 5<sup>th</sup> Storey (New Addition)</b> |
|--|-------------------------|--|---|
| Front Yard   | 7.5 m                   | 6.5 m  | 12.5 m  |
| Easterly Side Yard (Less than 22.5 m from the front lot line)    | 9.0 m                   | 2.4 m  | 5.4 m   |
| Easterly Side Yard (Greater than 22.5 m from the front lot line) | 9.0 m                   | 2.4 m  | 2.4 m   |
| Westerly Side Yard (Less than 22.5 m from the front lot line)    | 9.0 m                   | 36.4 m   | 39.4 m  |
| Westerly Side Yard (Greater than 22.5 m from the front lot line) | 9.0 m                   | 36.4 m   | 36.4 m  |
| Rear Yard  | 13.5 m                  | 14.9 m   | 14.9 m  |

For the first two storeys, a front yard depth of 6.5 m, easterly side yard width of 2.4 m and westerly side yard width of 36.4 m are proposed. The proposed setbacks are considered appropriate as they represent the original location of the former industrial building, which has been part of the built fabric of the community since the 1930s, and ensures that the building can be retained and adaptively reused.

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For the remaining three storey addition, a front yard depth of 12.5 m, easterly side yard width of 5.4 m and westerly side yard width of 39.4 m are proposed. These modifications implement the step backs for the three storey building addition in the amount of 6.0 m for the front façade and 3.0 m for the front 10 m deep portion of the addition on the side façades. The step backs are important design features which reduce the appearance of the massing of the addition, allowing for a transition to the surrounding single detached dwellings. They also reduce the amount of shadowing and overlook onto surrounding properties.

A 14.9 m rear yard depth is proposed for all floors of the proposed multiple dwelling. This depth is more than is required by the Zoning By-law but is necessary in order to recognize the existing distance to the CP rail corridor, which ensures that no potential future additions are permitted closer than the location of the existing building.

Staff support the modifications in yard requirements as they recognize the location of the existing building and implement the step backs of the three storey addition above, which ensures that an appropriate transition in building height is achieved, reduces the overall massing of the building, and reduces sun shadow impacts on adjacent properties and the public realm.

Therefore, staff support these modifications.

#### Setback from Hypotenuse of Daylight Triangle

A 3.9 m road widening and 9.14 m by 9.14 m daylight triangle is required in order to meet the requirements of the UHOP.

The required road widening and daylight triangle requirements will result in the daylight triangle being located in close proximity to the existing building. As a result, a modification to permit a 0 m setback from the hypotenuse of the daylight triangle is required. As the proposed modification is to facilitate the road widening and daylight triangle dedications and the existing building location, the proposed modification can be supported.

#### Reduced Landscaping

A modification is required in order to reduce the landscaped area from 25% to 20%. A total of 26.67% landscaping would be provided on-site based on the size of the lot before the required road widening and daylight triangle dedications are taken and therefore would have conformed to the minimum 25% landscape area requirement. However, due to the fact that approximately 475 sq m of land is to be dedicated for the required road widening and daylight triangle, the landscaped area is to be

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reduced as the majority of the area to be dedicated would have been intended for landscaped area. It is noted that the 445 sq m that is to be included within the municipal boulevard is intended to be sodded and landscaped and therefore will contribute to the streetscape character of the area. As the streetscape character of the area will be maintained and the proposed modification is to facilitate the required road widening and daylight triangle dedications, the proposed modification can be supported.

#### Encroachments into Required Yards

Modifications are required to permit certain encroachments into required yards.

#### Below Grade Patio and Associated Open Stairs

A below grade patio providing access and amenity space for the four units located below the first storey is permitted to encroach 4.0 m into the front yard with an additional encroachment for an open stairway which is permitted to encroach up to the front lot line, instead of a maximum encroachment of 3.0 m with a minimum setback of 1.5 m. The existing front yard depth before the required road widening is greater than what is required by the "DE-2" (Multiple Dwellings) District. After the road widening is taken, 6.5 m will be maintained providing ample room to accommodate this feature. Additionally, since the patio is located below grade, it will not add to the massing of the building and therefore will not create negative visual impacts.

The proposed modification can be supported.

#### Balconies

Section 18(3)(vi)(cc) of Zoning By-law No. 6593 permits balconies to encroach 1.0 m into the required front yard but not closer than 1.5 m to the street line; and 1.0 m into the required rear yard and 1.0 m or one third of its width (whichever is lesser) into the required side yard. As such, a modification is required to permit the encroachment of balconies 1.8 m into the required rear and westerly side yard. These yards abut the CP railway corridor and a public park, respectively. This increase is appropriate as these yards do not abut any sensitive lands uses which could potentially be impacted by effects like overlook and loss of privacy.

An encroachment of 1.8 m into the front and easterly side yard is also requested but only for balconies located above the second storey. These yards abut Cumberland Avenue and Burris Street (respectively) and therefore have the potential to impact the appearance of the massing and height of the building. In response the current design only proposes balconies above the second storey on the front and easterly

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façade. The proposed encroachments will be contained fully within the step backs that are proposed for these storeys. Staff are of the opinion that the proposed encroachments will not have a negative visual impact on the street and will not detract from the function of the step backs to reduce visual impact of the height and massing of the building.

Staff are of the opinion that the proposed encroachments will not cause a negative visual impact on the surrounding properties and support the modifications.

#### Removal of Floor Area Ratio Limit

The “DE-2” (Multiple Dwellings) District permits a maximum floor area ratio of 0.90. Based on a lot area of 5,951.7 sq m, a maximum of 5,356.5 sq m of gross floor area would be permitted. Upon the dedication of the road widening and daylight triangle, the lot area is further reduced to approximately 5,476 sq m and therefore the maximum gross floor area would be further reduced to approximately 4,928 sq m. The proposed multiple dwelling will have a gross floor area of 8,004.4 sq m. The intent of the floor area ratio (FAR) provision is to control massing and density. The proposed modification is to remove the FAR requirement. The proposed multiple dwelling has been reviewed in detail through the Zoning By-law Amendment application. The massing and density of the proposed multiple dwelling is specifically regulated by the proposed by-law requirements for maximum height, encroachments, and, number of units, as well as by-law requirements for minimum setbacks and parking.

Therefore the intent of the FAR is still being achieved and the proposed modification can be supported.

#### Minimum Parking Space Requirements

The applicant is providing a number of measures to assist in mitigating the on-street parking availability issues in the surrounding neighbourhood. Zoning By-law No. 6593 requires that parking be provided at a rate of 1.25 spaces per dwelling unit, resulting in 82 required spaces for a 65 unit multiple dwelling. The applicant is proposing 85 parking spaces which represents a rate of 1.3 spaces per unit, of which 68 parking spaces will be provided for residents and 17 parking spaces will be provided for visitor parking. In addition to this, one space will be maintained for the sole use of a car share vehicle and a minimum of 70 secure bicycle parking spaces and six outdoor bicycle parking spaces, a ratio of 1.16 bicycle parking spaces per unit, are required to be provided on site. Since Zoning By-law No. 6593 does not contain any provisions requiring car share or bicycle parking, all of the modifications to minimum parking requirements discussed above represent the implementation of measures that are over and above the minimum requirements of

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Zoning By-law No. 6593. Staff support these modifications as they increase the minimum number of parking spaces required in an area with on-street parking capacity issues while giving future residents the option of switching to cycling as an alternative to the automobile.

Modifications for Accessory Building (Parking Garage)

The applicant is proposing a one storey 549.36 sq m parking garage for 30 parking spaces each accessed at grade located along the rear lot line of the subject lands. Zoning By-law No. 6593 permits accessory structures only in the rear yard provided that they are a minimum of 0.45 m from any lot line and do not occupy an area greater than one third of the area of the required rear yard and side yards combined. These provisions of the By-law are proposed to be replaced with a 0.0 m set back from the rear lot line, a 5.7 m set back from the side lot and a maximum area of 600 sq m. The modifications are needed in order to locate the structure at the rear lot line and within the westerly side yard which already contains the surface parking area. The garage will also incorporate a crash wall associated with the CP rail corridor to the south which will separate the proposed multiple dwelling from the existing CP rail corridor.

Therefore, staff support these modifications.

Parking and Loading Space Size

Zoning By-law No. 6593 requires that one loading space be provided that is a minimum of 18.0 m (length) by 3.7 m (width) with a vertical clearance of 4.3 m. The applicant is providing a loading space with a reduced length of 10.5 m. It is noted that the width and vehicle clearance height requirements are being met. The proposed 10.5 m loading space length will be sufficient to accommodate small cube trucks that would typically be utilized in respect to the loading and unloading activities of residents moving in and out. Therefore, staff support this reduction as it allows for the appropriate location of the loading area at the rear of the building between the easterly façade and the garbage area.

Zoning By-law No. 6593 requires that parking spaces be provided that are a minimum of 6.0 m by 2.7 m. The applicant is providing two parking spaces with a reduced width of 2.6 m in the underground parking garage. Staff support this reduction as it only affects two spaces on a site that are already exceeding its minimum parking requirement count. This reduction is appropriate as it allows the full utilization of the underground parking garage to accommodate vehicles.

Therefore, staff support these modifications.

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Parking within the Front Yard

The proposed surface parking area located within the westerly side yard extends approximately 4.0 m into the front yard and would be setback from the front lot line approximately 2.6 m, and as such four on-site parking space are proposed within the required front yard. Therefore a modification is required in order to permit parking within the required front yard.

As there is an excess of on-site parking and in order to permit the establishment of a large landscape buffer, staff are recommending that the two proposed parking spaces that are located entirely within the front yard be removed and replaced with landscaping. Based on the modification by staff the projection of parking to the front yard along Cumberland Avenue would be reduced from approximately 4.0 m to 1.3 m and would result in a landscape buffer area of approximately 5.6 m wide between the parking area and the front lot line. The amendment to the proposed modification results in a reduction in the number of parking space located within the front yard from four to two parking spaces.

Currently, the westerly side of the subject property is paved and being used for parking and storage, and is encroaching closer than 5.6 m to the front lot line. As part of the proposed redevelopment, the parking lot will be pulled away from the front lot line and landscaping will be added to screen it from street view. Staff support this modification as it allows for an appropriate amount of parking to be provided on site and will greatly improve the existing conditions with the addition of landscaping and moving the limits of the existing paved area further from the front lot line.

- 4) A Holding Provision will be applied to the subject lands which restricts any development until such time that a RSC is approved by the MOECC. This ensures that any site contamination is documented and remediated where necessary prior to development and occupancy by future residents.
- 5) There are public watermains and combined storm and sanitary sewers fronting and flanking the property on Cumberland Avenue and Burris Street. A storm relief sewer is located at the intersection of Cumberland Avenue and Burris Street.

Due to the reported water pressure issues in the neighbourhood, Development Engineering staff requested that the applicant conduct a hydraulic analysis to investigate the issue further and determine the potential impact of the proposed multiple dwelling. The analysis was conducted by Cole Engineering and showed that the water supply distribution system is capable of providing adequate flows and pressure to support the proposed multiple dwelling. Additionally, through the review of a Functional Servicing and Stormwater Management Report, Development

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Engineering staff are satisfied that the stormwater management and wastewater generation can be accommodated. The details of design in respect to site servicing, storm water management, erosion and siltation control, and grading and drainage will be undertaken as part of the Site Plan Control Application.

Also Cumberland Avenue is classified as a collector road in the UHOP. Collector roads have a designated width of 26.213 m, whereas Cumberland Avenue currently has a width of 18.29 m. A 3.96 m road widening is required in order to achieve the designated width of 26.213 m and a daylight triangle of 9.14 m by 9.14 m is required from the widened limit of Cumberland Avenue and Burris Street. The required dedications will be taken as part of the Site Plan Control Application.

- 6) The Public Consultation Section of this Report noted that staff received a total of nine submissions from the public including a joint letter with 31 signatures in Appendix "E" to Report PED18129 and summary of resident comments from the Public Open House in Appendix "F" to Report PED18129. The concerns were mainly centred on the issues of traffic, parking, height, public views, servicing infrastructure capacity, road widenings, conversion of one way streets, traffic calming measures, cost of units, length of construction, continuity of design, design and materials, landscaping, provision of commercial, and barrier to railway. These concerns are summarized below:

Traffic and Parking

Area residents were concerned about the potential for an increase in traffic as a result of the development. Corridor Management staff have not identified a potential traffic issue for the proposed 65 unit multiple dwelling and a Traffic Impact Study was not requested. It was requested that the driveway access on Cumberland Avenue be shifted west in order to line up with the centreline of Gladstone Avenue to reduce vehicle and pedestrian conflicts. The applicant has provided this modification.

Area residents also identified on-street parking availability as an issue in the neighbourhood. The multiple dwelling will be providing parking at a rate of 1.3 parking spaces per dwelling unit for a total of 85 parking spaces of which 68 spaces will be for residents along with 17 visitor parking spaces. This is above the minimum requirement in Zoning By-law No. 6593 which is a rate of 1.25 parking spaces per dwelling unit, resulting in 82 spaces. Additionally, 70 secure bicycle parking spaces, six outdoor bicycle parking and a car share space are proposed. The bicycle parking and car share parking space promote modal shift from the personal automobile to more sustainable alternatives and may further reduce the parking needs of the existing neighbourhood residents and future residents of the multiple dwelling.

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Height and Public Views

Some residents were concerned with the height of the building, particularly with respect to their view of the escarpment. The existing “JJ” (Restricted Light Industrial) District permits a maximum height of four storeys and 17.0 m while the proposed modified “DE-2” (Multiple Dwellings) District will permit a height of five storeys and 22.0 m. The applicant has included building step backs for the three storey addition of 6.0 m from the front façade and 3.0 m for portions of the side facades. The step backs reduce the visual impact of the massing from street view and reducing overlook and shadowing impacts. Additionally, the NEC has determined that there would not be a net negative impact on the views of the Niagara Escarpment and that the proposal complies with the Urban Area policies of the Niagara Escarpment Plan. Staff are of the opinion that the proposed increase of one storey and 5.0 m from what the current zoning allows is an appropriate modification as the proposed three storey addition includes step backs, which will improve the transition in building height and reduces the massing of the building.

Servicing Infrastructure Capacity

Area residents have identified that low water pressure is an issue in the neighbourhood. As discussed in the report Development Engineering staff have determined that there is existing capacity in the municipal servicing infrastructure to accommodate the proposed multiple dwelling while maintaining service levels within City standards. Also a detailed design review will be undertaken as part of the Site Plan Control Application.

Road Widening

A concern was raised about road widening dedication being required from the lands of neighbouring property owners. Required road widening dedications associated with the proposed development will only be taken from the subject property and will not be taken from any neighbouring properties.

Conversion of One Way Street to Two Way Streets, and Traffic Calming Measures

A request was made with respect to converting existing one way streets in the area to two way streets to improve traffic flow and to establish traffic calming measures (speed bumps) along the street to improve traffic safety. These measures cannot be undertaken as part of the scope of this development and would instead require a comprehensive review of the area by Public Works staff.

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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: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 30 of 33**

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Cost of Units

A question was raised in respect to the cost of dwelling units. The applicant identified an approximate cost of \$250,000. The City cannot regulate the cost of market units but policies of the UHOP support a range of housing types and tenures, and encourage housing for a range of income levels.

Tenure

A question was raised in respect to whether the proposed dwelling units would be rental or condominium units. The City cannot regulate the tenure through the Zoning By-law.

Length of Construction

A concern was raised in respect to the length of the construction and the impacts associated with respect to construction. The applicant identified a construction period of 12 to 14 months. There is sufficient space on site at the rear and westerly side of the existing building in which to provide storage of equipment and material, and to load and unload equipment and material. Therefore, building construction should not require the road closure for material and equipment storage. In addition, the applicant will be required to prepare a Construction Management Plan as part of the Site Plan Control Application.

Impact on Lifesaver Park

A question was raised in respect to whether the proposed development of the subject property will include Lifesaver Park located to the west of the subject property. Lifesaver Park is owned by the City of Hamilton and is not included as part of the proposed development. Additionally the proposed multiple dwelling is setback 36 m from Lifesaver Park and the proposed garage along the rear lot line will be setback 6 m from the park. Therefore the proposed development neither includes Lifesaver Park nor will the development impact Lifesaver Park.

Continuity of Design

A question was raised about whether the design will change after the approval. The proposed site specific By-law is based on the proposal for a five storey 65 unit multiple dwelling, and includes provision for minimum setbacks for both the lower and upper levels. Significant changes in design would not conform to the site specific By-law and therefore would require further public consultation and review to further modify the proposed design. In addition the details of the design of the

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**SUBJECT: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 31 of 33**

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building including the building materials for the proposed development will be evaluated as part of the Site Plan Control Application.

Design and Materials

A concern was raised that design and materials proposed are not in keeping with the character of the area. The proposed design utilizes setbacks in order to transition the design from the existing two storey building to the proposed five storey building. The proposed materials are intended to reflect the historical character of the existing 1930's building. The detailed design and specific materials will be determined as part of the Site Plan Control Application.

Landscaping

A concern was raised with respect to landscaping and greenspace. Landscaping is proposed along both Cumberland Avenue and Burris Street and additional landscaping will be provided through the site. Detailed landscape plans will be reviewed as part of the Site Plan Control Application.

Provision of Commercial

A question was raised with respect to providing commercial uses as part of the proposed development. The proposed development is seeking to maintain the existing two storey building. The design of the existing two storey building would not adequate support commercial street frontage that would facilitate a viable commercial use on site. Furthermore local commercial uses within the Neighbourhoods designation are required to be clustered with other local commercial use. As there are no existing local commercial uses adjacent to the subject lands the inclusion of local commercial uses would not comply with the policies of the UHOP.

Barrier to the Railway

A question was raised with respect to whether a barrier is to be provided between the proposed development and the railway line to the rear. An above ground parking structure along the rear lot line is proposed in conjunction with a crash barrier and noise barrier as part of the parking structure which will be reviewed as part of the Site Plan Control Application.

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**SUBJECT: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 32 of 33**

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## **ALTERNATIVES FOR CONSIDERATION**

Council may decide to deny the application as submitted by the applicant. The property may continue to be used for light industrial purposes as per the provisions of Zoning By-law No. 6593 and the “JJ” (Restricted Light Industrial) District.

## **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.*

### **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 Zoning By-law Amendment
- Appendix “C” – Concept Plan
- Appendix “D” – Concept Plan with Road Widening
- Appendix “E” – Public Correspondence

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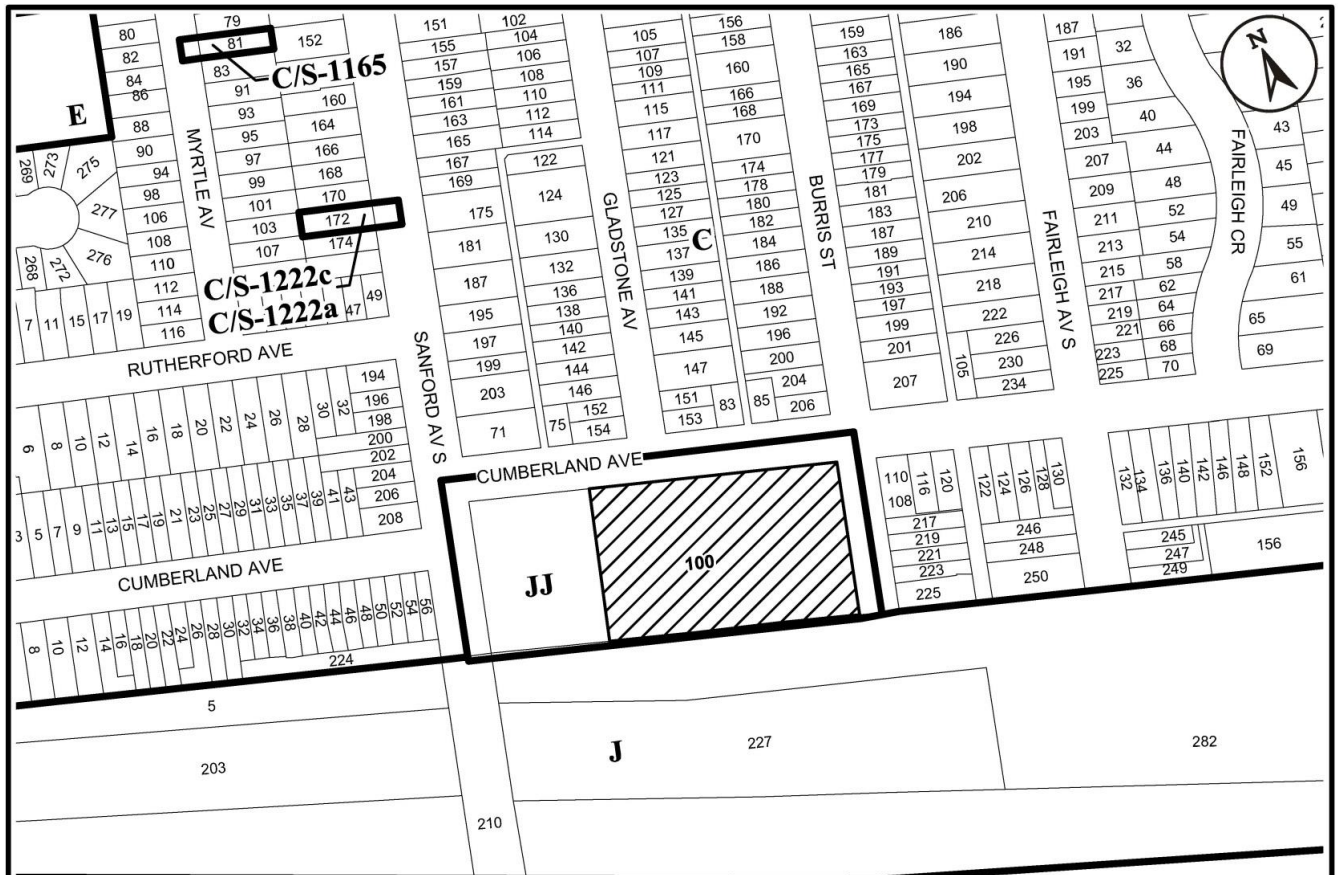
*OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.*

**SUBJECT: Application for an Amendment to City of Hamilton Zoning By-law No. 6593 for Lands Located at 100 Cumberland Avenue (PED18129) (Ward 3) - Page 33 of 33**

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Appendix "F" – Summary of Resident Comments and Concerns from Public Open House

DB:mo



A

● Site of the Application



Ward 3 Key Map

N.T.S.



# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

**File Name/Number:**  
ZAC-13-007 & OPA-13-001

**Date:**  
April 24, 2018

**Appendix "A"**

**Scale:**  
N.T.S.

**Planner/Technician:**  
DB/AL

### Subject Property

100 Cumberland Avenue



Change in Zoning from the "JJ" (Restricted Light Industrial) District to the "DE-2/S-1763-'H'" (Multiple Dwellings) District, Holding, Modified

**Authority:** Item [REDACTED]  
 Planning Committee  
 Report: 18-[REDACTED] (PED18XXX)  
 CM: [REDACTED]

**Bill No.**

## CITY OF HAMILTON

### BY-LAW NO. [REDACTED]

#### **To Amend Zoning By-law No. 6593 (Hamilton) Respecting the Lands Located at 100 Cumberland Avenue, Hamilton**

WHEREAS the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap.14, Schedule. C. did incorporate, as of January 1st, 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 Hamilton", and is the successor of the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

WHEREAS the Council of the Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25<sup>th</sup> day of July 1950, which By-law was approved by the Ontario Municipal Board by Order, dated the 7<sup>th</sup> day of December 1951, (File No. P.F.C. 3821);

WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 18 - [REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2018, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan approved August 16, 2013.

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

1. The Sheet No. E23 of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), as amended, is further amended by changing from "JJ" (Restricted Light Industrial) District to the "DE-2/S-1763-'H'"

(Multiple Dwellings) District, Holding, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That the "DE-2" (Multiple Dwellings) District provisions, as contained in Section 10B of Zoning By-law No. 6593, be modified to include the following special requirements:
  - a) Notwithstanding Section 10B(1)(vi), a multiple dwelling with a maximum of 65 dwelling units shall be permitted.
  - b) Sections 10B(1)(vii) and (viii) shall not apply.
  - c) Notwithstanding Section 10B(2)(ii), no building or structure for any other use shall exceed five storeys or 22.0 m in height.
  - d) Notwithstanding Section 10B(3)(i)(b), for every other building or structure a front yard of a depth of at least 6.5 m for the first two storeys and 12.5 m for all storeys above the second storey.
  - e) Notwithstanding Section 10B(3)(ii)(b):
    - i) an easterly side yard of a width of at least 2.4 m; except for the portion of the building above the second storey that is setback less than 22.5 m from the front lot line, than a side yard of a width of at least 5.4 m;
    - ii) a westerly side yard of a width of at least 36.4 m; except for the portion of the building above the second storey that is setback less than 22.5 m from the front lot line, than a side yard of a width of at least 39.4 m; and,
    - iii) A minimum width of 0.0 m from the easterly side lot line of the hypotenuse to the daylight triangle.
  - f) Notwithstanding Section 10B(3)(iii)(b), a rear yard of a depth of at least 14.9 m.
  - g) Section 10B(5) shall not apply.
  - h) Notwithstanding Section 10B(6), there shall be provided and maintained on the lot and within the district, at least 20% of the area of the lot on which it is situate, as landscaped area, unused for access or manoeuvring space or parking or any other purpose other than landscaped area including a playground.
  - i) Notwithstanding Section 18(3)(vi)(cc)(i), a balcony may project:
    - i) into a required front yard not more than 1.8 m above the second storey, provided that no such project shall be closer to a street line than 1.5 m;
    - ii) into a required rear yard not more than 1.8 m;



- iii) into a required easterly side yard not more than 1.8 m above the second storey; and,
  - iv) into a required westerly side yard not more than 1.8 m.
  - j) Notwithstanding Section 18(3)(d), a below grade porch providing access and amenity area to the units located below the first storey may project into a required front yard to a distance of not more than 4.0 m and every open stairway associated with the below grade porch shall be distant at least 0.0 m from the front lot line.
  - k) Notwithstanding Subsection 18(4)(iv), an accessory building shall:
    - i) not be located in a front yard or required side yard;
    - ii) be distant at least 0.0 m from the rear lot line;
    - iii) be distant a least 5.5 m from the side lot line;
    - iv) have maximum gross floor area of 600 sq m;
  - l) Notwithstanding Section 18A(1)(a) and (b), the following provisions shall apply:
    - i) A multiple dwelling is required to provide not less than 1.3 parking spaces per dwelling unit, 0.25 of which will be reserved for visitors.
    - ii) In addition to i) above, one parking space shall be provided on a surface parking area for the exclusive purpose of accommodating a car share vehicle.
    - iii) A multiple dwelling is required to provide not less than 1.16 bicycle parking spaces per dwelling unit of which six bicycle parking spaces shall be short term bicycle parking spaces and 70 bicycle parking space shall be secure long term bicycle parking spaces.
  - m) That in addition to Section 18A(1)(c), the required loading space may have a minimum length of 10.5 m.
  - n) That in addition to Section 18A(7), two parking spaces located within the underground parking garage may have a minimum width of 2.6 m.
  - o) Notwithstanding Subsection 18A(14g), a parking area shall not be located within a front yard except for a maximum 35.0 m wide portion which may not be any closer than 5.6 m to the front lot line.
3. That the 'H' Holding symbol, applicable to the lands zoned "DE-2/S-1763-'H'" (Multiple Dwellings) District, Holding, Modified, may be removed by further amendment to this By-law at such time as:

- a) The Owner submitting a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment and Climate Change (MOECC). This RSC must be to the satisfaction of the Director of Planning and Chief Planner, including a notice of acknowledgement of the RSC by the MOECC, and submission of the City of Hamilton's current RSC administration fee.
4. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "DE-2" (Multiple Dwellings) District, provisions, subject to the special requirements referred to in Section 2 of this By-law.
5. That Sheet No. E23 of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as "DE-2/S-1763-'H'".
6. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1763.
7. 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 [redacted] day of [redacted], 2018.

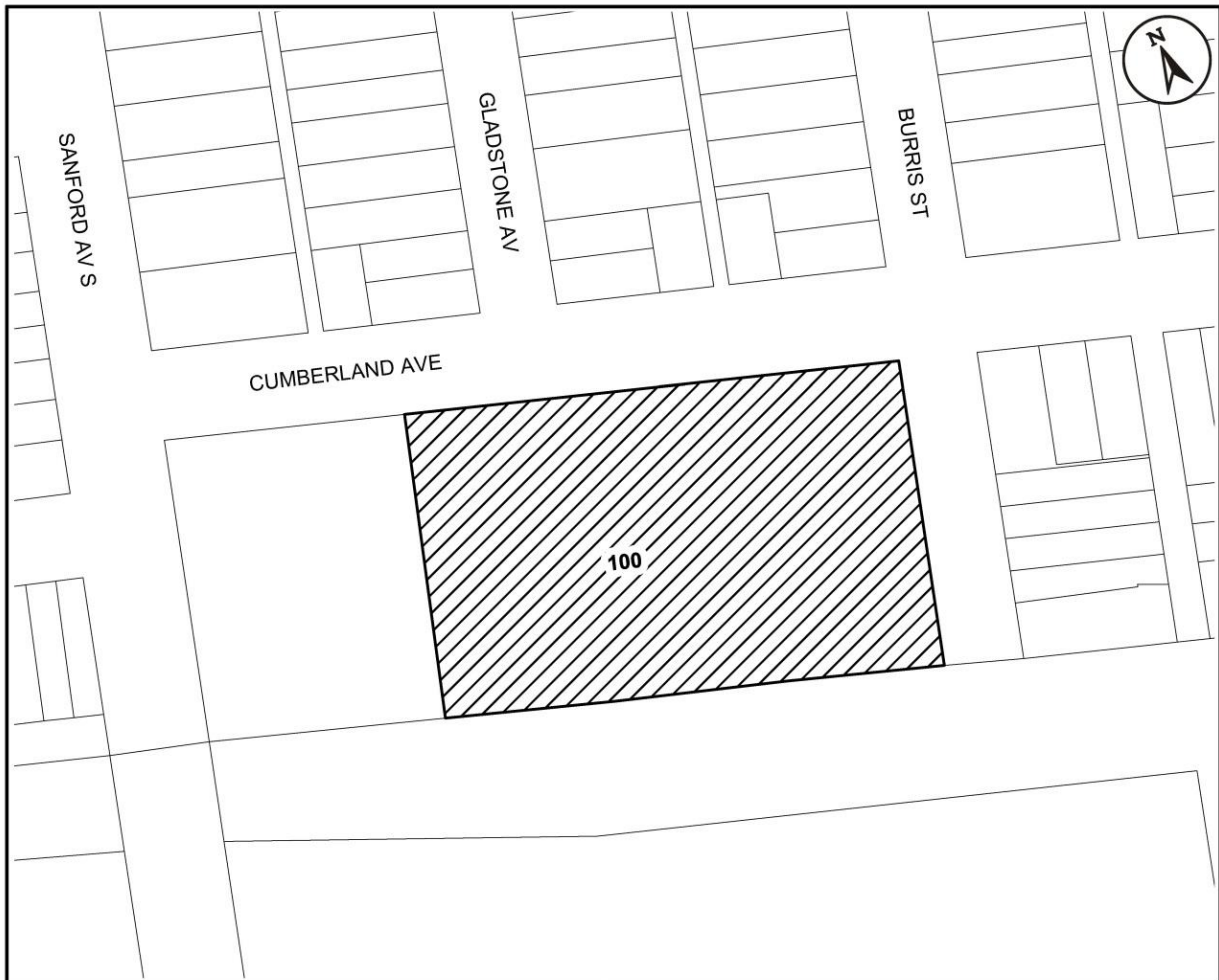
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F. Eisenberger  
Mayor

---

R. Caterini  
Clerk

ZAC-13-007



|   |                                      |
|---|--------------------------------------|
| This is Schedule "A" to By-Law No. 18-<br><br>Passed the ..... day of ....., 2018 | -----<br>Mayor<br><br>-----<br>Clerk |
|---|--------------------------------------|

|   |   |
|---|---|
| <h2 style="margin: 0;">Schedule "A"</h2><br><br><h3 style="margin: 0;">Map Forming Part of<br/>By-Law No. 18-_____</h3><br><br><h4 style="margin: 0;">to Amend By-law No. 6593</h4> | <b>Subject Property</b><br>100 Cumberland Avenue<br>Change in Zoning from the<br>"JJ" (Restricted Light Industrial) District to the<br>"DE-2/S-1763-'H" (Multiple Dwellings) District,<br>Holding, Modified |
|---|---|

|  |   |  |
|--|---|--|
| <b>Scale:</b><br>N.T.S.                      | <b>File Name/Number:</b><br>ZAC-13-007 / OPA-13-001 |  |
| <b>Date:</b><br>April 24, 2018               | <b>Planner/Technician:</b><br>DB/AL                 |  |
| PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT |   |  |

*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: Steve Robichaud

Report No.: PED18129

Date: 06/19/2018

Ward: 3

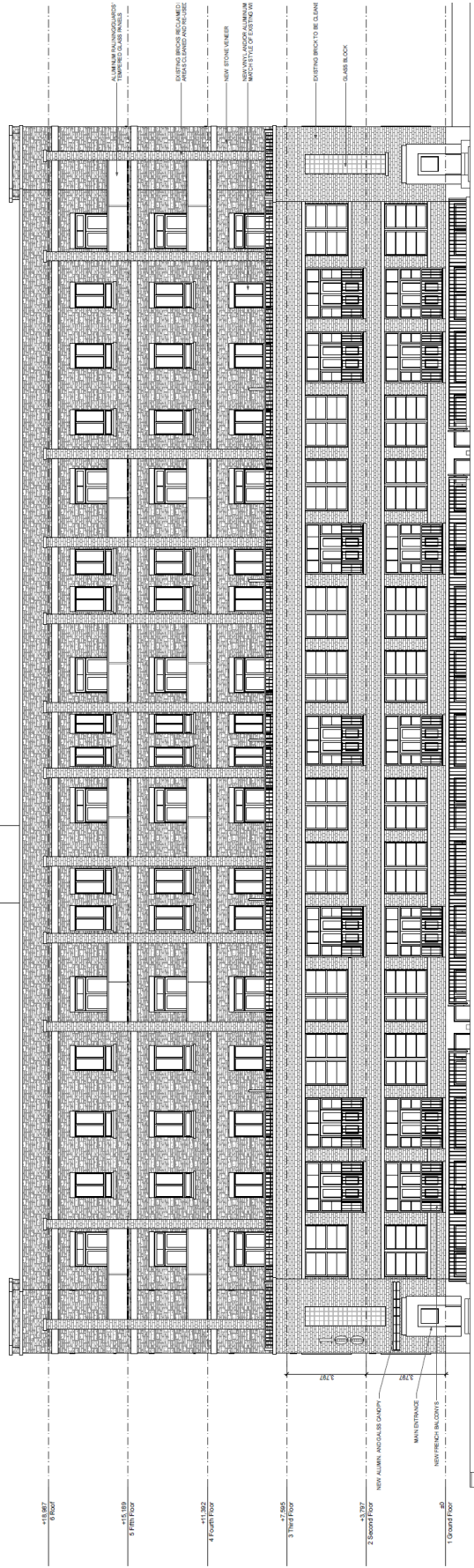
(MM/DD/YYYY)

Prepared by: Daniel Barnett

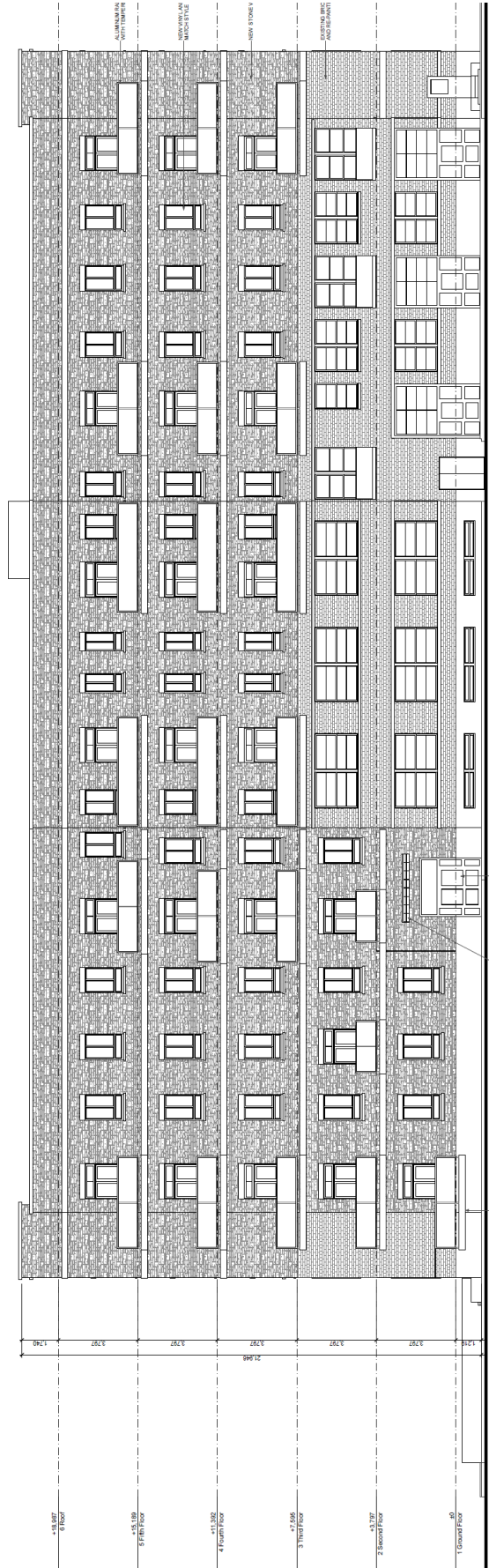
Phone No: 905-546-2424 ext. 4445

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

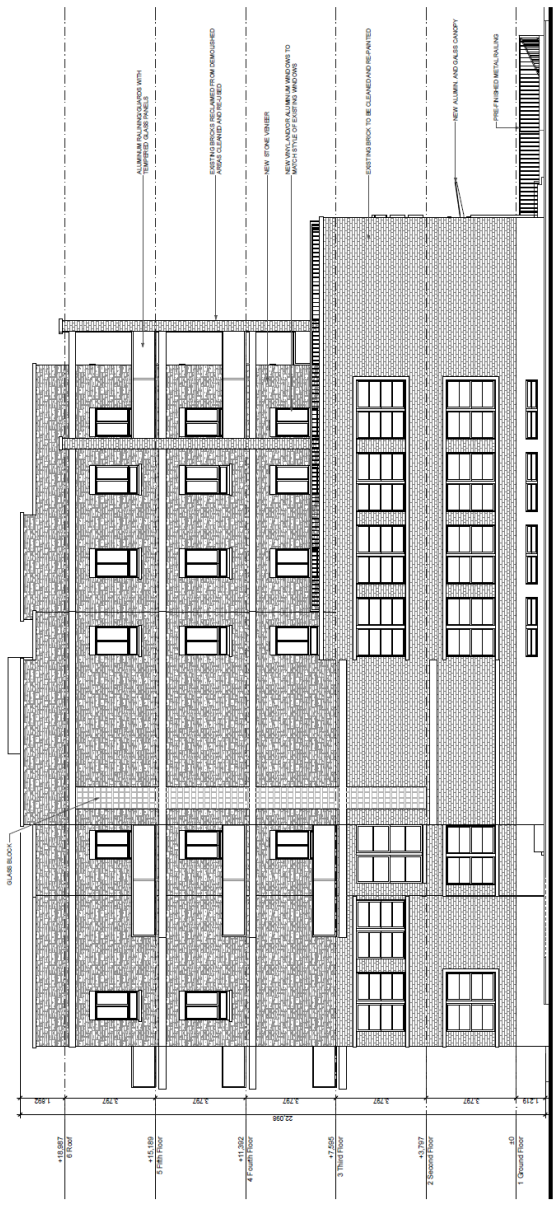




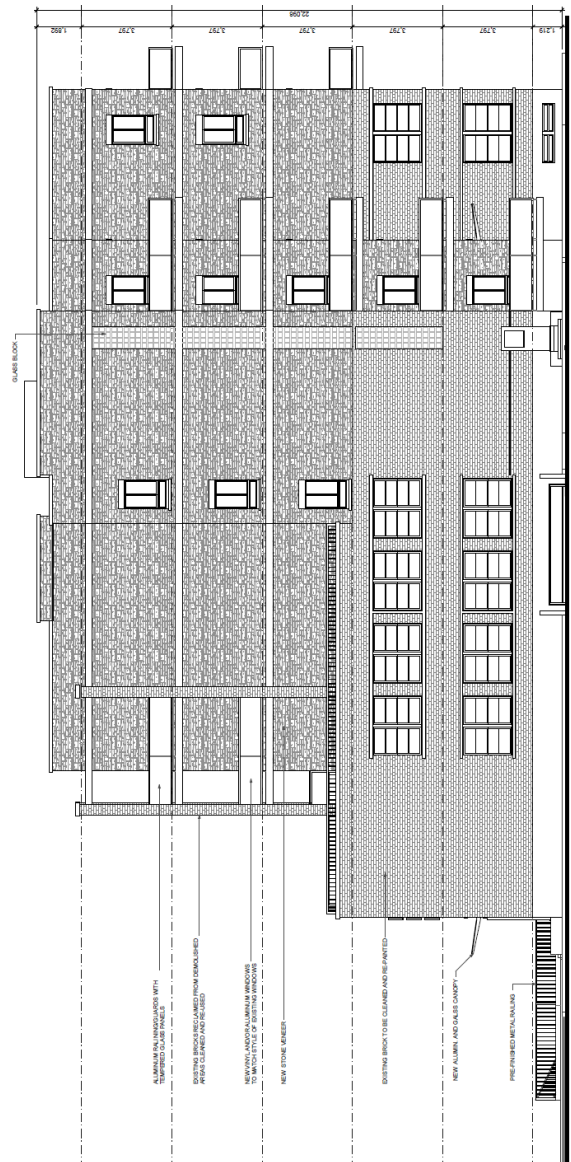
North Elevation  
SCALE: 1/100



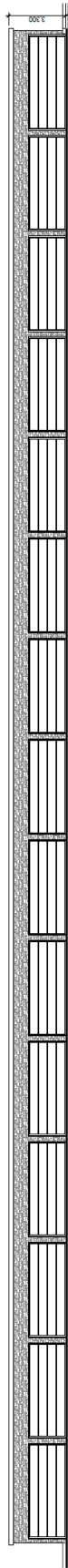
South Elevation  
SCALE: 1/100



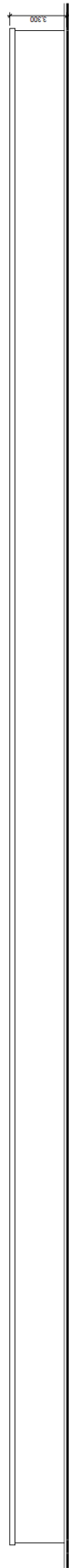
East Elevation  
SCALE: 1/10



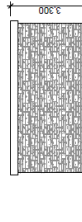
West Elevation  
SCALE: 1/10



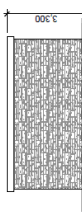
Garage North Elevation  
SCALE: 1/125



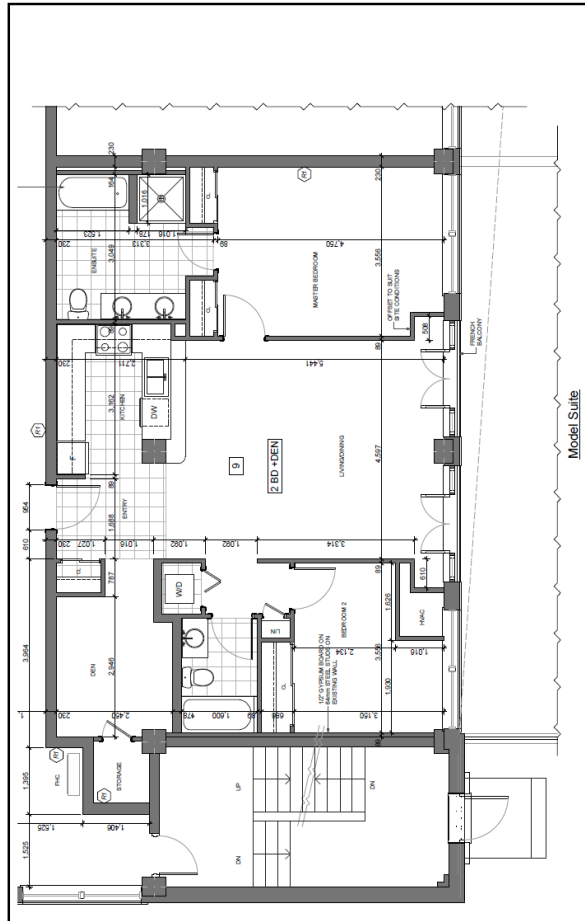
Garage South Elevation  
SCALE: 1/125



Garage West Elevation  
SCALE: 1/100

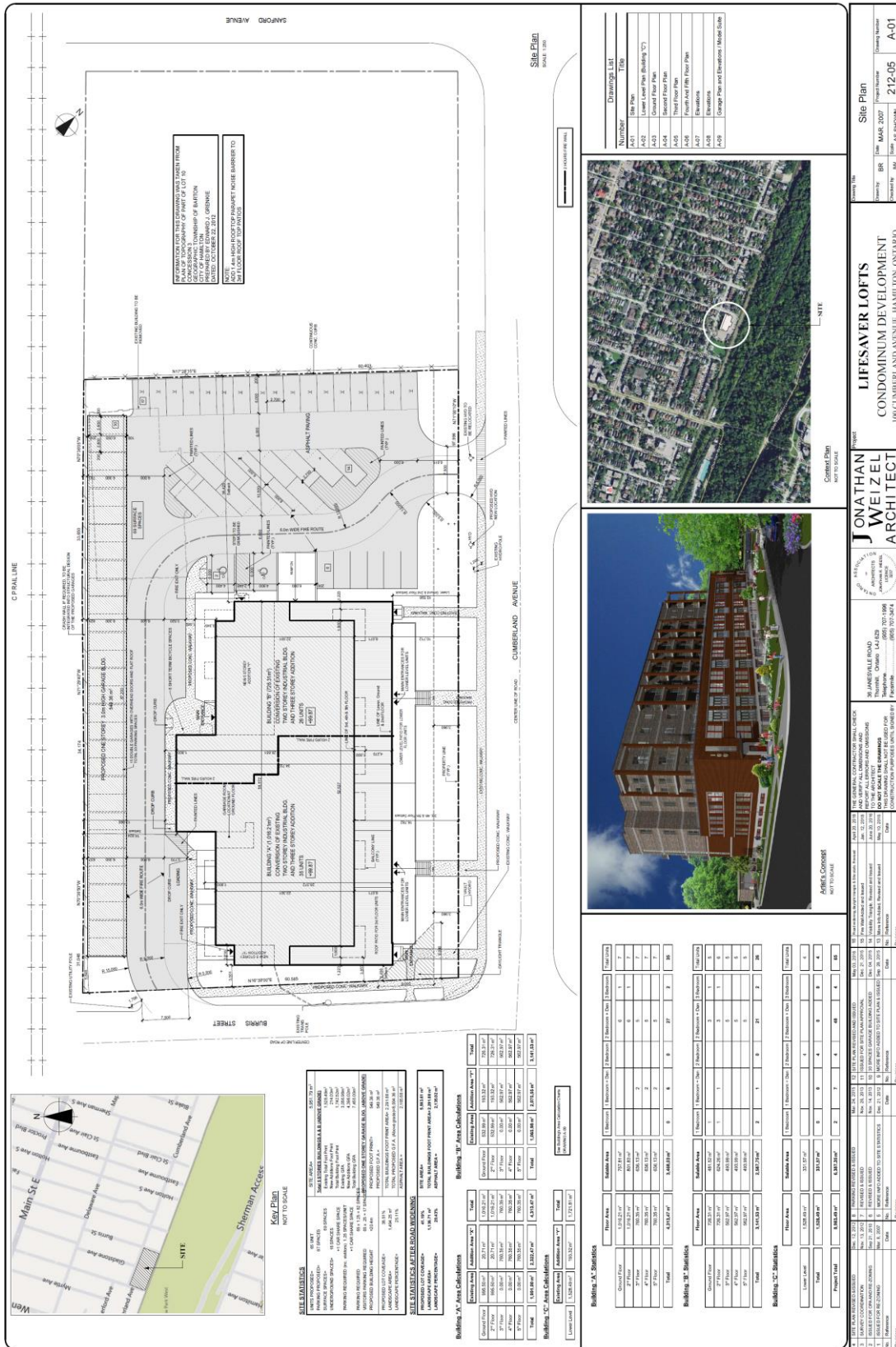


Garage East Elevation  
SCALE: 1/100



Model Suite  
SCALE: 1/50





RECEIVED

JUN 7 - 2013

June 7, 2013

Danielle Fama  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – East Section  
71 Main Street West, 5<sup>th</sup> Floor, Hamilton ON L8P 4T5

Re: Official Plan Amendment Application (File OPA-13-001) and Zoning By-Law Amendment Application (File No. ZAC-13-007), 100 Cumberland Avenue

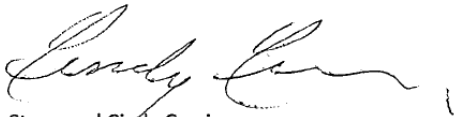
Dear Ms. Fama:

We the undersigned have received the Notice of Application for the above file numbers and would like to address our concerns on record. For expediency and reference the concerns will be listed by number.

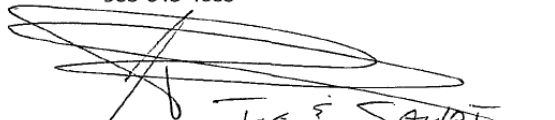
- 1) Does the proposed rezoning and accompanying construction include the property currently known as Lifesaver Park?
- 2) Will the 65 Unit Complex be available for purchase or as rental units?
- 3) Is the rezoning directly tied to the current plan as laid out or will the Builder have leeway to change the plan after the zoning has been changed?
- 4) Will the city and or the builder perform environmental testing prior to the application being approved?
- 5) Will a study of the sewage and water infrastructure in the area be conducted to determine if the current system is capable of sustaining the new additions?
- 6) Will traffic calming measures be put in place to protect the safety of the residents and children already living in the area?
- 7) Will the Builder agree to provide a signed contract to the surrounding residents agreeing to a specific completion date with a compensation package for any extensions and additional inconvenience that the extension may cause? And will the builder also compensate the residents for the loss of enjoyment of our nearby properties from noise, air and debris pollution?
- 8) Will the Builder agree to compensate the surrounding home owners for any reduction of property value directly caused by the addition of the Complex and its subsequent maintenance and use?
- 9) Parking in the area is already an issue. Will the city ensure that the Builder and/or the Unit Residents do not further contribute to the problem?
- 10) Further to Concern #9, will the Builder expropriate the street side parking on Cumberland for the duration of the project or for additional Unit parking afterward?

- 11) Will the building materials and equipment be contained within the property perimeter or will the Builder infringe on surrounding area (i.e. the adjacent park)?
- 12) The CP railway runs very close to the property. The trains idle daily in the area creating air and noise pollution. Is the builder aware that this will reduce the desirability of any units in that area and if so does the builder plan to sell or rent at a reduced price?
- 13) If the Units are rentals, can the residents expect that the City will remove all illegal apartments in the area to balance the rental properties against the single family owned homes?
- 14) There is another site located on Charleton which is proposing the building of Condominiums. Is there a restriction in the number of units being built at any one time in any one area?
- 15) Does the building contain any harmful materials that would require specialized removal that could put the neighborhood at risk?
- 16) Has any part of the building ever been or should be considered historical?


Sincerely,



Steve and Cindy Currie  
143 Gladstone Avenue  
905-645-4663



JOE SARDI  
109 GLADSTONE AVE  
289 389 2162



Lois E. Hughes-Cole  
James Cole  
111 Gladstone Ave  
905-528-3886

Danielle Dingle & Matron Deskiw  
105 Gladstone Ave Hamilton ON L8M 2H5  
905-540-8838

**Fama, Danielle**

---

**From:** Bruno Moos [brunofmoos@gmail.com]

**Sent:** Sunday, June 09, 2013 8:21 PM

**To:** Fama, Danielle

**Subject:** Plan Amendment Application, file number OPA13-001

Late but just an encouragement to go ahead with the approval of the proposed project. Although it is not a very "colourful" design, it is definitely acceptable and will bring quality life into a nice neighbourhood.

Thank you to give us the opportunity to respond to your planning request.

Elyane Grenier  
226 Fairleigh Av. S  
Hamilton, ON  
L8M 2K5

**Fama, Danielle**

---

**From:** Danielle Dingle [danielle.dingle@sympatico.ca]

**Sent:** Friday, June 07, 2013 8:15 PM

**To:** Fama, Danielle

**Subject:** Official Plan amendment Application (File OPA-13-001) and Zoning By-Law Amendment Application (File No. ZAC-13-007), 100 Cumberland Ave

June 7, 2013

Danielle Fama  
City of Hamilton  
Planning and Economic Development Department  
Development Planning, Heritage and Design – East Section  
71 Main Street West, 5<sup>th</sup> Floor, Hamilton ON, L8P 4T5

Re: Official Plan amendment Application (File OPA-13-001) and Zoning By-Law Amendment Application (File No. ZAC-13-007), 100 Cumberland Ave

Dear Ms. Fama

I wish to express my concern over the proposed zoning change at 100 Cumberland Ave Hamilton ON. I would like to go on record that I oppose the proposed zoning change on the basis that there is not enough information available to residents make an informed decision as of yet.

That being said, I have the following concerns:

- <!--[if !supportLists]-->1. <!--[endif]-->The current plans state that condo units are being built. Does the rezoning apply directly to the proposed plan or can the plans change once the residential status is in place?
- <!--[if !supportLists]-->2. <!--[endif]-->Limited parking is already a problem. How can we be assured that the population increase of a 5 storey unit will not negatively impact what is already a problem.
- <!--[if !supportLists]-->3. <!--[endif]-->Is Lifesaver Park subject to this rezoning?
- <!--[if !supportLists]-->4. <!--[endif]-->Will Lifesaver Park be open during construction?
- <!--[if !supportLists]-->5. <!--[endif]-->Will traffic calming measures be implemented to protect the safety of the residents and children?
- <!--[if !supportLists]-->6. <!--[endif]-->Can the current water and sewage system manage the increase volume created by the new building?

If you would be so kind as to include me on your mail/email list about the above rezoning it would be much appreciated. In the meantime, if you have any questions please do not hesitate to contact me.

Kindest Regards,

Danielle Dingle  
105 Gladstone Ave  
Hamilton, ON L8M 2H8  
905-540-8838

---

**From:** Cindy Currie [mailto:cindy.currie@sympatico.ca]

**Sent:** Monday, June 10, 2013 5:01 PM

**To:** Ariane Terveld; danielle.dingle@sympatico.ca; jah67@hotmail.com; keith\_hopkins\_@hotmail.com; spetrie4@cogeco.ca; shelleycox@sympatico.ca; jpaquette21@cogeco.ca; flashback7@hotmail.com; thebinns@sympatico.ca

**Cc:** Morelli, Bernie

**Subject:** Lifesavers Rezoning

Looking at the proposed plans with a magnifying glass I have noticed a few items right off the bat that are going to be an issue in the neighbourhood.

- 1) 22 of the proposed parking spaces will be underground.
- 2) There will still be an entrance directly across from Gladstone which will create traffic nightmares for the residents and children.
- 3) The smaller building will be demolished for parking – I have issues with this. The building could have historical significance.
- 4) The residents of Gladstone and Burris will be losing our view of the escarpment. I can't speak for all of you but that was one of the factors we considered when buying this house. If we are going to be inconvenienced for this building to go in, it really irks me that the new condo owners will take my view without paying me for it.
- 5) We need to be very vigilant about perusing the drawings and documents. It's not clear on the copies we were provided but in one of the smaller scale drawings, the subject property goes all the way to Sanford.

Did anyone find the name of the builder? I'd like to do a background check on other projects to see what type of corporate mind we are dealing with. I'd love for this corporation to be courteous and cooperative but I'm not holding my breath.

Also, if there are any names of others you have spoken too, can you send them on to me so that everyone can have a copy of the information we receive and or dig up.

Cindy

---

From: grantleyherbert58@hotmail.com  
To: info@hamilton.ca  
CC: danielle.farma@hamilton.ca  
Subject: 100 Cumberland Avenue  
Date: Tue, 28 May 2013 17:31:18 +0000

I am opposing this plan. The reason I am opposing it is that the City has done nothing about this low water pressure we are having. Mr. Morelli was supposed to fix it but it has not been done and we have low water pressure. With the addition of more residents we would have even less water pressure.

Also this land should be used for park space not housing.

There are vacant lots in the City that need this housing not an area that is developed.

Grantley Howell,  
39 Cumberland Avenue, Hamilton, ON L8M 1Y6, 905-577-0089

## Appendix "E" to Report PED18129

Page 7 of 14

-----Original Message-----

From: ejnewman@nfap.ca [mailto:ejnewman@nfap.ca]  
Sent: Wednesday, May 15, 2013 1:09 PM  
To: Fama, Danielle  
Cc: Morelli, Bernie  
Subject: Lifesaver lofts

We just received information about the official plan and zoning applications regarding Lifesaver Lofts. As a 37 year resident of Fairleigh Avenue (between Cumberland and Delaware), I personally feel this development is a vast improvement over a deteriorating, half empty industrial building with junk piling up in the yard. My concern is about the parking - 104 spots for 65 units is 1.6 spaces per unit - does this meet standard city planning guidelines for a new building in a residential neighbourhood?

We have a double garage, and driveway space 3 or 4 cars, but many houses around us have no parking and multiple vehicles. Street parking is very tight. As just one example, a neighbour across the street had 2 vehicles and one parking spot when they moved in. A son returned home adding both his car and a work van, meaning 3 vehicles to be parked on the street every night. The van often sits for several days without moving.

This development cannot be allowed to add to the current parking issues in the area.

Joyce Newman  
218 Fairleigh Ave. S  
Hamilton L8M 2K5



**From:** Ariane Terveld [aterveld@gmail.com]  
**Sent:** Friday, June 07, 2013 4:36 PM  
**To:** Fama, Danielle  
**Cc:** Morelli, Bernie; cindy.currie@sympatico.ca  
**Subject:** Lifesaver Lofts File #OPA-13-001 & ZAC-13-007

Hi Danielle

Sorry to send this in so late but I wanted to officially present some concerns that the homeowners on Gladstone Avenue have discussed and that I have regarding the proposed Lifesaver Factory Lofts.

First off, I personally think that the Architect has done a great job and that the building itself will be lovely. I wish it wasn't 5 stories high as it obliterates our view of the mountain, which is one of the reasons that we bought downtown, but I understand that the higher it is the more likely that the developer will make a profit on his time and investment.

Here are my concerns and suggestions for workarounds:

- **Close the entrance/exit off Cumberland** across from Gladstone Avenue. Our street has become very dangerous in the past few years, with cars using it as a quick access from Cumberland up to Main and back down again. We have a lot of children in the neighbourhood (20 on Gladstone between Cumberland and Delaware and 2 of which are hearing impaired). If you open up the driveway facing onto Cumberland then we have the potential for an additional 104 cars to rush up and down our street. I feel that using the existing street access on Burris, with a stop sign at Cumberland and Burris, will slow the traffic down.
- If you cannot get everyone to agree to doing this, then I would suggest taking the **East/West stop sign** at Gladstone and Delaware and moving it one block west to Sanford & Delaware. Where the current Stop sign is now there is no clear 4 way stop, as Gladstone jogs to the west a bit as you cross Delaware, and it is very awkward. There have been a few near misses as motorists are not aware of "who's turn it is". This would create a clear 4 way stop at the Sanford and Delaware intersection and increased safety for the bus riders who exit at the Sanford/Delaware stop. It would also work to create a longer wait for northbound/southbound cars trying to cross Delaware and use Gladstone as a "through traffic" street.
- Ultimately I would like to see the Lofts be limited to 4 floors so that they don't completely obstruct the view of the mountain and ruin the look of the neighbourhood.

Thank you for the opportunity to express my concerns.

I am happy that the development of the site is happening and I know, with a little compromise from all parties, that it will be something we can all look forward to being proud of!

--

thx  
ariane

"And those who were seen dancing were thought to be insane by those that could not hear the music."  
— Friedrich Nietzsche

Re: Lifesaver Lofts  
 File No: OPA-13-001  
 File No: ZAC-13-007

Page 1

JUN 7 - 2013

Danielle Fama, City of Hamilton  
 Planning and Economic Development Department

As "near downtown" residents, we generally support the conversion of unused and/or underused industrial buildings bordering residential areas. By creating more variety in inner city housing choices, we can reduce urban sprawl and the resulting loss of farmland.

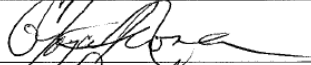


Conversions can be an asset to the neighbourhood:

- by visually improving the building and landscape, and turning a property that is currently a negative to potential buyers into a plus.
- by introducing young couples who may not have previously considered "downtown" living to lower city neighbourhoods.
- by providing smaller and more maintainable housing to ageing residents who can no longer manage a house, but want to stay in the area.

We are not opposed to the Lifesaver Lofts Condominium Development, but we want assurances that any development at 100 Cumberland Ave. will be an asset to our neighbourhood:

- The proposal we received for Lifesaver Lofts is for 65 condominium apartments. The Hamilton zoning by-law requires a minimum of 1.25 parking spaces per dwelling unit. Based on the 65 proposed units, a total of 82 parking spaces are required, 65 parking spaces for the 65 dwelling units and 17 parking spaces exclusively for visitor parking. The proposal is for 104 parking spots, 22 underground, 82 surface. In a 100 year old neighbourhood with limited parking and many multi-car households, parking is an issue. Those extra 22 parking spots for condo residents are essential, both for the condo owners and for the existing neighbourhood.
- Project architect Jonathan Weizel's website, under projects, lists "Lifesaver Lofts, 80 units, Hamilton". Is the development plan for 65 apartments? Or is it for 80? Legally, 104 parking spots could support 80 apartments.
- Will the building grow once the new zoning has been achieved? Could more floors be added? This is a neighbourhood of 2½ storey houses on narrow lots. Through landscaping and fencing, most of us have created reasonable privacy in our yards. The proposal presented, with a total of 5 stories across the back of the existing factory building, should maintain that sense of privacy and the character of the neighbourhood. Taller will not.

Is the proposal sent to neighbours what will be actually be built? Or is it simply an idea being presented for the purposes of getting the necessary regulatory changes?

| Name            | Address               | Signature   |
|-----------------|-----------------------|---|
| E. Joyce Newman | 218 FAIRLEIGH AVE S   |  |
| Don Newman      | 218 FAIRLEIGH AVE S   |  |
| Sandra Madson   | 214 FAIRLEIGH AVE. S. |  |

Re: Lifesaver Lofts  
 File No: OPA-13-001  
 File No: ZAC-13-007

Page 2

| Name            | Address               | Signature       |
|-----------------|-----------------------|-----------------|
| Julio Ramirez   | 221 FAIRLEIGH AVE. S  | Julio Ramirez   |
| R JOHNSON       | 25 FAIRLEIGH AVE      | R Johnson       |
| R Flock         | 65 Fairleigh cres     | R Flock         |
| Kim Kippen      | 230 Fairleigh Ave S.  | Kim Kippen      |
| Randall Watson  | 230 Fairleigh Ave. S. | Randall Watson  |
| SARAH DEBOER    | 234 Fairleigh Ave. S  | Sarah DeBoer    |
| Michelle Digout | 223 Fairleigh Ave S   | M. Digout       |
| Nick Muth       | 223 Fairleigh Ave S   | Nick Muth       |
| Ron ETTY        | 206 FAIRLEIGH AVE. S. | Ronald ETTY     |
| LINDA ETTY      | 206 FAIRLEIGH AVE. S. | Linda ETTY      |
| Karen Low       | 210 Fairleigh Ave S.  | Karen Low       |
| ROBERT LOW      | 210 Fairleigh Ave S.  | Robert Low      |
| AGNES BOBERSKI  | 213 Fairleigh Ave. S  | Agnes Boberski  |
| John Gelder     | 215 Fairleigh Ave. S. | John Gelder     |
| JEREMY MORROW   | 213 Fairleigh Ave. S. | Jeremy Morrow   |
| David Mills     | 222 Fairleigh Ave S.  | David Mills     |
| Jane Lebeau     | 222 Fairleigh Ave S   | Jane Lebeau     |
| Krishn Roe      | 222 Fairleigh Ave S   | Krishn Roe      |
| JONET RYDING    | 249 FAIRLEIGH AVE. S. | Jonet Ryding    |
| DOVSKARRATT     | 217 FAIRLEIGH AVE S   | Dovskarratt     |
| Judith Skarratt | 217 Fairleigh Ave S   | Judith Skarratt |



RECEIVED

JUN - 3 2013

Sunday, June 2, 2013

Page 1

Danielle Fama  
City of Hamilton  
Planning + Economic Development Department  
Development Planning, Heritage + Design  
- East Section  
71 Main Street West, 5th Floor  
Hamilton, ON  
L8P 4Y5

WITHOUT PREJUDICE

Re-Official Plan Amendment  
(File # OPA-13-001)

Dear Danielle:

This letter is in regards to our concerns to the building of a 5-storey - 65 unit residential building with 104 parking spaces at 100 Cumberland Avenue - Hamilton - (Ward 3)

Our first concern is in regards to the preservation of the mature trees at the front of the building. In the past, the owner cut some of the mature trees down. The remaining trees will ensure some privacy to the residents adjacent to the building.

The next concern is if this, we hope, will be an adult building. This is a neighbourhood of mature residents. We would prefer that this neighbourhood remain the same.

Page 2

will these units be purchased & owner occupied or will they be geared to income/market residents? The parking that will be assigned is for 104 spaces. Will some of these spaces be assigned for visitor parking? There are already parking issues on Cumberland & Burris streets. Many of the residents on these streets do not have driveways, therefore causing a parking shortage. Where do you intend to place the large garbage and recycling bins? We do not want these bins placed anywhere at the front of the building causing an eye sore. The garbage bins should be placed inside the loading area of the building. The recycling bins, if placed outside, should be in an enclosed area at the rear of the building.

Will each unit have individual washers & dryers with individual venting for these? When washers & dryers are running and venting to the outside there is a musty odour that comes out into the air.

Is the building going to use the existing City water pressure or will the building have its own pumping system? Our concern is water pressure loss in our home.

Will there be a designated on site superintendent or property managers? Will there be a Board of Directors assigned to this building?

How will the roof top air conditioning units operate to ensure a minimum of noise pollution?

Page 3

I would to thank you at this time for addressing my issues in this letter.  
I look forward to hearing from you in the near future.

Your truly,

horetta Sargent Latta M Sargent  
alvin Goodson J Goodson  
Deborah Ramsbottom, Deborah Ramsbottom  
of 207 Broad St. corner of Broad &  
Cumberland

Hand Delivered - MONDAY, JUNE 3, 2013

Also what is the completion date for project.



# MEMO



KITCHENER  
WOODBRIDGE  
LONDON  
KINGSTON  
BARRIE

|                 |   |
|-----------------|---|
| <b>To:</b>      | <b>Peter De Iulio</b>   |
| <b>From:</b>    | <b>Eldon Theodore</b>   |
| <b>Date:</b>    | <b>October 31, 2013</b>   |
| <b>File:</b>    | <b>1214A</b>  |
| <b>Subject:</b> | <b>100 CUMBERLAND AVE, HAMILTON –<br/>SUMMARY OF RESIDENT COMMENTS AND CONCERNS</b> |

The following is a summary of the comments received at the Open House on October 29<sup>th</sup>, 2013

**Resident:** Sharon Johnston

**Address:** 47 Rutherford Avenue

**Comment:** Overall thinks the development and proposal is great. One concern she has is 108+ cars being added to the area, concern is to do with the increased traffic with the park beside the development. Feels as though City needs to place large speed bumps or other traffic calming measures because drivers already drive poorly through the neighbourhood, mainly down Cumberland.

**Response:** City's responsibility to provide initiatives if there is an existing concern, however we will take this concern seriously and discuss it with the City.

**Resident:** Patricia Stevenson

**Address:** 71 Cumberland Avenue

**Comment:** Residence is located across the street from the park. Concern is regarding an apparent 12 m road widening on their side of the street, taking away from their property.

**Response:** Any landscaping for this proposal will be located on the south side of Cumberland on the 100 Cumberland property. Any road widening is up to the discretion of the City, which we are looking into to determine if it is necessary.

**Resident:** Danny Gaisin

**Address:** 138 Gladstone Avenue

**Comment:** Local streets within the immediate area are a maze of one way streets, with this proposal is there any hope that the City may change any of the streets to two way streets?

**Response:** Cannot comment for the city as to the history or need for one-way streets as the surrounding streets are their responsibility. You should speak with the City or local councilor to discuss any desired changes to the overall transportation network for the neighbourhood.

**Resident:** David Mills

**Address:** 222 Fairleigh Ave S



**Comment:** Would a potential road widening be a result of the function of traffic or something else? What would the price range be for these units? Price per square foot? Concern that development will be higher than five storeys.

**Response:** A road widening is a result of the New Official Plan street hierarchy with regards to desired roadway width for Cumberland Ave. We are investigating the need. Have not determined what the price will be, potential to start at approximately \$250,000.00. Number of levels has been cut back significantly since original proposals, will not be higher than what is currently proposed.

**Resident:** Patricia Stevenson

**Address:** 71 Cumberland Avenue

**Comment:** Concern with limited number of visitor parking spaces (17 on site), worried about overflow onto streets.

**Response:** 17 visitor parking spaces is as per the by-law; a lot compared to other municipalities.

**Resident:** Barry Duchesne

**Address:** 194 Sanford Street

**Comment:** How many people worked at the Life Saver factory when it was in full operation?

**Response:** Approximately 57 employees (Lee Whitely - Owner)

**Resident:** Ariana

**Address:** Gladstone Avenue

**Comment:** How long will construction take – 18 months? What is the plan for the excavation and how to get the construction vehicles through the community – Concern for noise within community? Will we know in advance who the general construction company is? Concern for work in regards to park. Potential to have driveways and site to be one way in one way out? Concern about blocking view of the escarpment. Why is the property still listed on the commercial real estate site?

**Response:** Construction will take between 12-14 months. Construction measure not known at the moment, work will begin at time when by-law states work is allowed to begin. Community will know who the construction company is in advance of construction, measures will be taken to ensure construction does not overflow onto park as per City requirements. We will consider the potential of one way in one way out, drive aisles will still need to be the width of two ways for the fire route. Five storey building is better than a ten storey building in terms of blocking the view of the escarpment. It is still listed on the commercial real estate site because they are still looking for investors, it is also listed on the residential real estate site.

**Resident:** Matthew Green

**Address:** 232 Holton Avenue South

**Comment:** What is the ongoing nature of the design? Will the design change again in six months?

**Response:** This proposal and design is already formally submitted, the only changes to the plan going forward will be as a result of comments received by the City.

**Resident:** Nick Muth

**Address:** 223 Fairleigh Avenue S

**Comment:** The whole timeline in terms of construction seems to be way off. Does timeline include cleanup of site? Is construction not based on percentage of sales of units? Will the existing servicing on the road or lot be dug up? Will additional parking be provided in front of the development on the street?

**Response:** We are anticipating Site Plan approval by spring 2014, construction to begin later next year. Unknown whether percentage of sales is actually required in order to proceed. Servicing on the road is

sufficient, servicing on site will need to be dug up and improved. Parking on street will be determined by the City but we anticipate it will remain.

**Resident:** Bruno Moos

**Address:** 226 Fairleigh Avenue S

**Comment:** Units seem to be geared towards older people due to the smaller units, not geared towards family units? If older people were to buy these units, many may not need cars, could walk to amenities and maybe traffic concerns could diminish. Is there potential for a store within the development?

**Response:** Units range in size with a lot being over 1,600 square feet with two or three bedroom. Substantial room for families. We looked into the potential for live/work units as ceilings are high, City was not keen with commercial.

**Resident:** Stacey Allen-Cillis

**Address:** 128 Cumberland Avenue

**Comment:** Serious concern is the traffic, big concern is the Burriss/Cumberland intersection. Is there is potential to revitalize the park as part of the development? Is there any green space on the property for the residents? Balcony gardening or green roof? Is there any known asbestos in the building?

**Response:** We will take into serious consideration the traffic and City needs to be made well aware of traffic concerns. Some of the units have large balconies and patios, no green roof on development. No asbestos on property, Phase I and II confirmed this.

**Resident:** Nick Vander Vliet

**Address:** 221 Burriss Street

**Comment:** Has a barrier between the railway and the development been contemplated?

**Response:** Yes a barrier has been contemplated. The full design of the barrier has not been determined but it will be a full noise barrier and extend to Burriss Street.

**Resident:** Susannah Bleasby and many others

**Address:** 103 Eastbourne Avenue

**Comment:** The coloured Life Savers on the building look cheesy, perhaps change them to stainless steel or various types of metals (could represent Hamilton with various steels). Fear that they will become outdated very quickly, red railings are also a visual concern. Does not fit into the existing heritage community. Where will the cash in lieu of parkland money go?

**Response:** We will look into changing the Life Savers and various colouring, perhaps add some stone etc. The cash in lieu of parkland money will be dealt with by the City, it is their responsibility, but can be used to upgrade the existing Lifesavers park.

**Resident:** Julio Ramirel

**Address:** 221 Fairleigh Avenue S

**Comment:** The design is completely out of character of the surrounding community. Is there potential to soften the walls? Existing proposed glass does not complement heritage character. Not completely opposing it like I was originally planning on doing. Concerned about only 17 visitor spaces as finding parking on streets in already very difficult in the neighbourhood. If the financing doesn't go through, is there the potential to make the units rental units (concerned).

**Response:** We can reexamine current design and see if there is anything that can be done to make it more appealing. It will remain a condo development, it is not within our control if units are then rented out by owners of the unit.

**Comments by Lee Whitley (Owner):** He has given the community the park, any revitalization is now the City's responsibility. City will get Cash-in-Lieu for parkland. The units will range from approximately \$250,000 - \$500,000+ and will be quality built and one of the nicest buildings in Hamilton. There will be a range of unit sizes, many that are very large in size to accommodate families. There will be no rentals within the unit, strictly condo sales. I will help public push the City for speed controls within the surrounding neighbourhood.

Open House comes to a close.



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

|                           |  |
|---------------------------|--|
| <b>TO:</b>                | Chair and Members<br>Planning Committee  |
| <b>COMMITTEE DATE:</b>    | June 19, 2018  |
| <b>SUBJECT/REPORT NO:</b> | Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway ("Laneway Housing") (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) |
| <b>WARD(S) AFFECTED:</b>  | Wards 1, 2, 3 and 4 (Parts Thereof)  |
| <b>PREPARED BY:</b>       | Edward John (905) 546-2424 Ext. 2359   |
| <b>SUBMITTED BY:</b>      | Steve Robichaud<br>Director, Planning and Chief Planner<br>Planning and Economic Development Department  |
| <b>SIGNATURE:</b>         |  |

### RECOMMENDATION

- (a) That Report PED16200(a) (City Initiative CI-18-F) to amend regulations of Section 19 of Zoning By-law No. 6593 to allow secondary units within detached structures for those properties within the lower City (parts of Wards 1, 2, 3 and 4) adjoining a laneway, be received;
- (b) That Report PED16200(a), together with any written submissions and input from delegations received at Planning Committee, be referred to staff for consideration and incorporated into a further report and amending by-law to be presented to the a future Planning Committee meeting;
- (c) That Corporate Services staff be requested to present Report PED16200(a) to the Development Charge Stakeholders subcommittee for consideration when recommending policy direction for the 2019 Development Charge Study.

### EXECUTIVE SUMMARY

The purpose of this Report is to continue the evolution and implementation of innovative measures to increase the supply, range of housing options and affordability of units within Hamilton, consistent with the Urban Hamilton Official Plan vision. This Report marks one of the continued and on-going strategies to support appropriate and compact infill development.

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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: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway (“Laneway Housing”) (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 2 of 18**

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In particular, this Report seeks to amend Section 19 of Zoning By-law 6593 with respect to secondary dwelling units in separate built structures. The proposed Zoning By-law Amendment would permit modest secondary residential units within the rear yard of existing dwellings for properties that adjoin a laneway for certain areas of the lower City.

The Zoning By-law will ensure the relationship between the principal unit and the secondary suite regulations is maintained over time with respect to servicing, access and maintenance.

The proposed By-Law Amendment would:

- Permit secondary dwelling units within stand alone buildings on lots adjoining a laneway;
- Limit these dwellings to 6m in height and 50 sq m in area;
- Restrict the location of windows and doors above 1<sup>st</sup> floor; and,
- Not require any additional parking.

A more detailed discussion of the specific amendments is provided in the Analysis/Rationale for Recommendations Section of this Report.

***Alternatives for Consideration – See Page 17***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** As detailed within the servicing review, separate services to the secondary unit are the preferred option by Growth Management staff. This option would likely result in increased cost of development due to the requirement of road cuts. Joint servicing from the private lot would be considered more cost effective (saving between \$15,000 and \$20,000) however, based on discussions with Growth Management staff, this would have to be reviewed and approved on a case-by-case basis.

This Report recommends potential changes to the Development Charges By-law when they are reviewed and updated July, 2019. The intent is to align the development charges with that of an accessory unit, notwithstanding that it is located wholly within a detached structure.

**Staffing:** There are no staffing implications.

**Legal:** As required by the *Planning Act*, Council must hold at least one Public Meeting to consider an amendment to the Zoning By-law.

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Public Notice as per the *Planning Act* has been provided in the Hamilton Spectator.

As this is a City-initiated Zoning By-law Amendment with City Wide effects, no notification by mail or sign on the property is required.

## **HISTORICAL BACKGROUND**

At its meeting on March 1<sup>st</sup>, 2016, Planning Committee approved the following motion:

“That staff prepare a report and presentation to Committee on the current inventory and policies related to ‘Laneway Housing’ in Hamilton.”

In response to this motion, staff brought forward Report PED16200 on December 5<sup>th</sup>, 2016 which provided an inventory and overview of the laneways within Hamilton. The Report identified that a number of constraints face the creation of Laneway Housing particularly with regard to servicing, emergency access and tenure.

As detailed in previous Report PED16200, although a number of examples of Laneway Housing exist, the current process to permit new Laneway Housing would require a rezoning application and potential site plan process. The required investment in time and money to pursue these applications limits the effectiveness and responsiveness of this form of housing in supporting rental stock development.

Report PED16200 also identified the significant constraints involved with the expense of constructing laneway servicing and functional challenges including garbage collection, snow clearing and emergency access.

These constraints are considerably more limiting when laneway units are dependent on servicing and access only through the laneway because the lot does not have frontage on a municipal street. Subsequently, Planning Division staff was requested to report back to Planning Committee following consultation with the Alleyway Management Strategy Working Group on a process for including appropriate permissions for Laneway Housing as part of the review and update of the City’s Residential Zoning By-law planned for 2018-2019.

Staff continues to review and resolve these issues. However, as presented within this report, staff is recommending an additional measure which would permit secondary dwelling units as a pilot project in existing and proposed accessory structures on those properties that adjoin a laneway. The absorption rate and any potential impacts will be monitored by Planning Division staff and the results of this monitoring will be used to

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**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway (“Laneway Housing”) (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 4 of 18**

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inform the development of secondary unit zoning permissions as part of the Comprehensive Residential Zoning Project.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### 1.0 Provincial Direction

The policy framework in place to support Laneway Housing in the City of Hamilton is derived from Provincial policies, goals and targets pertaining to growth and intensification, affordable housing, and the accommodation of a variety of housing forms. The *Strong Communities Through Affordable Housing Act, 2011* amended the *Planning Act, 1990* to improve the affordable housing system. Section 2 of the *Planning Act, 1990* was amended to further identify affordable housing as a matter of Provincial interest. The amendments also included enhanced provisions for garden suites and secondary units.

Garden suites are units intended for temporary purposes only, and are required through the *Planning Act* to be located in structures that are both temporary and moveable. Converted accessory buildings or newly constructed secondary units in accessory buildings would not be considered under the provisions of a garden suite, as by definition, the housing created through such units would be both permanent and within a structure that is not moveable. Secondary units are additional separate dwelling units on a property that would normally accommodate only one dwelling unit.

### 1.1 Growth Plan of the Greater Golden Horseshoe, 2017

The Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan) encourages municipalities to accommodate growth in the built-up areas, prescribes intensification targets, and supports intensification through the provision of a range and mix of housing, taking into account affordable housing needs and through the creation of secondary dwelling units. Policy 2.2.1.4 states in particular:

“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, and convenient access to local stores, services, and *public service facilities*;
- b) improve social equity and overall quality of life, including human health, for people of all ages, abilities, and incomes;

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**SUBJECT: Amendments to City of Hamilton Zoning By-law No. 6593 to allow secondary dwelling units in detached structures for properties adjoining a laneway (“Laneway Housing”) (PED16200(a)) (Parts of Wards 1, 2, 3 and 4) - Page 5 of 18**

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- 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;”

Secondary units located within accessory structures would provide the opportunity to accommodate growth within the built up area, and potentially address some affordable housing needs with respect to supply and, therefore, would conform with the Growth Plan.

## 1.2 Provincial Policy Statement, 2014

The Provincial Policy Statement, 2014 identifies the need for a range of residential options and prescribes the role of Planning authorities to identify opportunities and locations for suitable for intensification.

In particular, Policy 1.1 - Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, identifies that healthy, liveable and safe communities are sustained by an appropriate range and mix of residential uses including secondary units, affordable housing and housing for elderly people. The proposed by-law changes would assist in removing some of the regulatory barriers that encumber secondary suite development without compromising other planning objectives. More specifically, Policy 1.1.1 states:

“1.1.1 Healthy, liveable and safe communities are sustained by:

- a) Promoting efficient development and land-use patterns which sustain the financial well-being of the Province and Municipalities over the long term;
- b) Accommodating an appropriate range and mix of residential units including secondary units, affordable housing and housing for the elderly, employment including industrial and commercial, institutional including places of worship, cemeteries and long-term care homes, recreation, park and open space, and other uses to meet long-term needs;
- e) Promoting cost-effective development patterns and standards to minimize land consumption and servicing costs;”

Settlement areas are identified as the areas to focus on growth and development, and to use existing infrastructure to promote efficient development patterns. The proposed introduction of detached secondary dwelling units for those properties adjoining a laneway would encapsulate this efficient approach to development. In particular Policy 1.1.3.2 states:

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“1.1.3.2 Land use patterns within *settlement areas* shall be based on:

- a) densities and a mix of land uses which:
1. efficiently use land and resources;
  2. are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
  3. minimize negative impacts to air quality and climate change, and promote energy efficiency;
  4. support *active transportation*;
  5. are *transit-supportive*, where transit is planned, exists or may be developed;

Following review of impacts and existing infrastructure, it is considered in accordance with Policy 1.1.3.3 which states:

“1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for *intensification* and *redevelopment* where this can be accommodated taking into account existing building stock or areas, including *brownfield sites*, and the availability of suitable existing or planned *infrastructure* and *public service facilities* required to accommodate projected needs.”

Furthermore, Policy 1.4.3 specifically directs planning authorities to provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

“b) permitting and facilitating:

- 1) all forms of housing required to meet the social, health and well-being requirements of current and future residents, including *special needs* requirements;”

On the basis of the above comprehensive review, staff considers the proposed By-law to be consistent with the goals and direction of the PPS.

## 2.0 Urban Hamilton Official Plan

The Urban Hamilton Official Plan (UHOP) identifies forecasts and targets for growth and intensification, as mandated by the Growth Plan. In addition to population forecasts, the

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UHOP provides other targets that include the Downtown Urban Growth Centre Density Target of 250 people and jobs per hectare (Policy A.2.3.3.1) and a Residential Intensification Target that includes 40% of all residential development required to occur annually within the built-up area (Policy A.2.3.3.4). In accordance with the 2017 Growth Plan, these targets will be revised to 60% once the City updates the UHOP to implement the 2017 Growth Plan.

Section B.2.4 of the UHOP identifies the need for residential intensification to ensure the efficient use of infrastructure, support existing communities, and contribute to the development of vibrant communities. Intensification is directed to the Downtown Urban Growth Centre, as well as nodes, corridors, and neighbourhoods.

UHOP Policy B.2.4.1.4 sets out the criteria to be followed when evaluating the appropriateness of residential intensification developments. The criteria include, but are not limited to, compatibility and integration of the development with the existing neighbourhood and built form, the contribution the development will make to achieving a range of dwelling types, and infrastructure and transportation capacity.

With particular regard to residential intensification, Policy B.2.4.2.2 policy has been used to review and support the proposed Zoning By-law Amendment:

“When considering an application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) *compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;

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- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;
- i) the conservation of *cultural heritage resources*; and,
- j) infrastructure and transportation capacity and impacts.”

The UHOP also identifies ways in which the City can facilitate residential intensification:

“Facilitating Residential Intensification

- 2.4.4 The City, when reviewing or developing new secondary plans or corridor studies, shall identify opportunities for residential intensification to support the intensification targets and related policies.
- 2.4.5 The City shall establish zoning that permits residential intensification generally throughout the built-up area in accordance with this Plan.
- 2.4.6 The City shall prepare detailed design guidelines for residential intensification projects in a variety of contexts.
- 2.4.7 The City shall consider the creation of new, or expansion of existing programs, including public transit, to encourage and/or facilitate residential intensification.”

With respect to urban housing, UHOP Section B.3.2 outlines goals and policies that lay the groundwork for the creation and provision of a range of housing types, forms, tenures, densities, affordable housing, and housing in complete communities.

The potential for Laneway Housing is particularly influenced by the general urban housing policies of UHOP Section B.3.2.4, which makes allowances for secondary dwelling units and detached secondary dwelling units on lots of existing single detached dwellings (which secondary units adjoining a laneway would be considered), subject to the City undertaking a study, as follows:

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“3.2.4 General Policies for Urban Housing

- 3.2.4.4 Second dwelling units shall be permitted within single and semi-detached dwellings in all Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, and shall be subject to zoning regulations.
- 3.2.4.5 Subject to the City undertaking a study, in certain conditions it may be appropriate to permit new detached second dwelling units on lots of existing single detached dwellings.”

It is considered that for the purposes of this proposal, this Report fulfills this policy requirement.

Finally, with respect to the Hamilton’s Housing and Homelessness Action Plan, it is noted that a key outcome is to identify areas where pre-zoning for appropriate zoning designations is possible and would support affordable housing development. The consideration of Laneway Housing, and creation of appropriate zoning regulations to facilitate their creation, may potentially assist with the delivery of this outcome.

## **RELEVANT CONSULTATION**

- Recycling and Waste Disposal, Public Works;
- Growth Management, Planning and Economic Development Department;
- Building Services, Planning and Economic Development Department;
- Community Safety & Planning, Healthy and Safe Communities; and,
- Corporate Services, Finance.

### **Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Public Meeting was advertised in the Hamilton Spectator on May 25, 2018.

Given the potential for additional community or stakeholder consultation, staff will consider the possibility of a Public Consultation event in September prior to the matter being considered by Planning Committee. Matters raised at the public meeting and received correspondence will be addressed through this process.

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## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Previous staff Report PED16200(a) provided an inventory and characterization of Laneway Housing and existing laneways (See Appendix “B” to Report PED16200(a)). As detailed within Appendix “B”, existing laneways have the following general characteristics. They are:

- Predominantly public and un-assumed;
- Predominantly located within wards 1-4 (Lower City); and,
- Typically lower density zones with the majority of lots having 25-50% lot coverage.

### **1.0 Housing Opportunities**

It is considered that while constraints face the creation of independent Laneway Housing that is contingent on servicing and access from the laneway; as discussed below, the laneway itself provides numerous secondary advantages which support the consideration of accessory structures being permitted to convert to residential use or, alternatively, new separate buildings being purpose-built for residential occupation.

#### 1.1 Character and Separation

As previously noted within Report PED16200, laneways and laneway housing represent a historical presence throughout Hamilton, particularly within the lower City with over 100 km of laneways. These ‘service’ corridors represented a means for access for services, delivery, and in several cases secondary dwelling units. The proposed by-law to permit the conversion and / or creation of modest habitable units for those properties adjacent to a laneway is considered in keeping with the historical fabric of the area and would enhance the utilization and animation of the laneways.

This mild form of intensification is comparable to the impact of creating a basement unit except that, in this case, the unit would be within a separate structure within the rear yard. The laneway acts as a buffer that would limit concerns of overview and loss of privacy that may otherwise be experienced.

Additional advantages include separation from the typical backyard to backyard configuration, lessening concerns over loss of privacy and detrimental impacts upon daylight. Given that most laneways are between 3.0 – 6.0 m in width and are often considered to be public thruways, intensification along these routes is not considered to be detrimental to the character or amenity of the properties that adjoin them.

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These concerns would be further mitigated through the provisions that restrict the height of the structure and ensure second floor windows face only the laneway unless within the plane of a roofline (discussed further in Section 5.0 of this Report).

### 1.2 Laneway Animation

The ability to provide adequate pedestrian secondary access to the new unit, notwithstanding securing primary access particularly for vehicles, remains a concern of the laneways and is also considered to significantly contribute to the successful implementation of secondary dwelling units within accessory structures.

It is considered that allowing the creation and conversion of accessory buildings to residential uses would also provide the opportunity for greater animation, security and vitality of the laneway due to increased pedestrian usage through the creation of these additional units.

### 1.3 Site functionality

Maintaining a relationship with the principal dwelling unit provides considerable benefit in terms of the site functionality, with servicing and garbage collection permitted and required through the same arrangements as the principal dwelling.

On this basis, while not creating independent freehold units, the proposed provisions would increase the supply of housing stock, some of which maybe rental.

The intent is to permit a new secondary dwelling unit that is not severable and instead remains ancillary to the principal dwelling. This approach resolves many of the fundamental constraints related to the dependence upon the laneway as an access and servicing corridor, and instead recognizes the benefits of the laneway as a secondary access that provides a buffer between the typical rear yard to rear yard lot configuration.

### 1.4 Affordable Housing

These forms of secondary dwelling units can be used to house family, aging relatives or dependents, or rented out to provide a household income supplement. The regulations require these units to be smaller, both in height and area, than the principal dwelling, not require parking and be serviced from the public right-of-way at the front of the principal dwelling.

It should be noted that unlike a “granny suite” which by definition under the *Planning Act* must be wholly moveable and a temporary structure, secondary dwelling units would be

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permanent structures and be an investment opportunity, one that could provide a meaningful option to those residents challenged by housing affordability.

The proposed by-law modifications are considered to represent a meaningful way to address the supply of affordable rental housing in the City of Hamilton. While unlikely to cater to the need for housing families, the ability for this modest form of housing to address the shrinking rental market and provide more options within existing neighbourhoods is considered an important consideration. Given the size and location, the units may generate lower rental rates but be located close to many services – two important factors often desirable for those in search of affordable housing.

The provision may also assist with some of the pressures being experienced as a result of rising property values through the lower City. The ability to secure a secondary suite may provide a mechanism to create a revenue stream for the owner of the property, providing the option to either live in the principal dwelling and rent out the suite or, alternatively, rent out the principle dwelling and downsize to the new suite. Under either circumstance, additional opportunities would be provided which would allow residents who may be experiencing pressure to relocate and to remain within their neighbourhood.

Finally, the provisions proposed would also foster positive community building opportunities such as “aging in place” options, as well as opportunities for greater independence from those family members who are seeking separate accommodations but cannot afford to enter the formal market.

## **2.0 Geographic Considerations**

The proposed By-law Amendments would apply in the lower City only and more specifically as per Appendix “B” to Report PED16200(a) to residential areas zoned “C” (Urban Protected Residential, Etc.) District, or the “D” (Urban Protected Residential – One and Two Family Dwellings, etc.) District.

The restriction of these provisions to this geographic area was based on the consistency in character of the laneway configuration exhibited in these Wards. In addition, it is noted these areas contained the necessary infrastructure and services that could successfully accommodate the proposed intensification. Although laneways exist within the suburban and rural areas of the City, the character of these laneways was less consistent and more diverse in form and function.

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### 2.1 West of Highway 403

The Secondary Suite provisions as proposed in Appendix “B” to Report PED16200(a) do not extend west of Highway 403. The intent of this provision is to avoid over-intensification of the residential neighbourhoods, understanding these areas are characterized by modest dwellings on modest lots and which have been placed under increased development pressures as a result of the proximity to McMaster University. These areas have subsequently been zoned with site specific regulations intended to address these matters. On this basis, consideration of infill opportunities within these areas was not considered appropriate without additional study of the specific characteristics and pressures currently experienced within these areas.

### 2.2 Downtown Hamilton

The provisions also do not include Downtown Hamilton, which is part of the Secondary Plan and Zoning By-law Amendment Update, which has recently been approved by City Council, and does not extend north of Burlington Street which is predominantly an industrial area.

Given the recent updates to the Downtown Zoning By-law and the added concern that the role of alley ways within the Downtown Secondary Plan Area are more often strategically utilized as assembled components of more comprehensive developments, this area was not included in the pilot project. Inclusion of it will, however, be considered through the future Residential Zoning Review.

## **3.0 Zoning By-law Provisions**

### 3.1 Single Detached Dwelling

Additional secondary dwelling units would only be eligible for existing single detached dwelling lots and would not be permitted within maisonettes, semi-detached properties, multiple dwellings and townhouses. This requirement ensures appropriate intensification, and allows the City to monitor potential impacts from the pilot project prior to these permissions extending city wide.

Extending the provisions beyond single detached dwellings would require an Official Plan Amendment as Policy B.3.2.4.5 of the UHOP specifically identifies this as applicable to single detached dwellings only.

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### 3.2 Height and Area

To ensure the scale of laneway houses are modest and subservient to the scale and massing of the principal dwelling, restrictions to the height and area of the secondary dwelling unit are recommended. It is considered that the maximum height of 6m and Gross Floor area to 50 sq. m would ensure the ancillary residential unit would be comparable to the regulations that govern typical ancillary structures (See Appendix “C” to Report PED16200(a)).

### 3.3 Setbacks

The requirement to maintain a 7.5 m separation between the principal dwelling and the secondary unit would ensure sufficient amenity space is maintained for the main dwelling and that the lot is not overly intensified. Similarly, requiring the 1.2 m side yard setbacks allow for the built form to respect the existing configuration of built form as well as ensuring servicing such as swales are not detrimentally affected (See Appendix “C” to Report PED16200(a)).

### 3.4 Location of Fenestration

As discussed previously, requirements have been added to ensure loss of privacy and overlook are not generated. In particular, restricting second floor windows that could look into neighbouring private amenity areas is restricted. Second floor windows are only permitted facing the laneway, where due to the separation and existence of a public right-of-way, privacy expectations are less sensitive (See Appendix “C” to Report PED16200(a)).

### 3.5 Parking

As detailed in Appendix “A” to Report PED16200(a), additional parking will not be required for the new units created through the recommended provisions. It is considered that given the limited floor area (50 sq. m) of the unit and the fact that the unit would maintain access and relationship with the principal dwelling, demand for parking would be low. In those circumstances where parking is desired, informal use of the parking available for the principal dwelling could be utilized where available. It is noted that pressure may be placed for the front yard landscaping requirements of the principal dwelling to accommodate tenant parking. Where variances are sought to amend this requirement, such variances should not be supported.

The requirement to not have additional parking for the secondary unit also reduces the reliance on the laneway for vehicular access. Discussions regarding the precarious ability for these units to secure continued access in perpetuity to parking was

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highlighted in the previous staff report and, not requiring it as a provision within the recommended amendment would ensure those who do provide parking accessed from the laneway would not be placed in a position of non-conformity with the regulation should the laneway access be compromised in the future.

Finally, these units, as they would only exist on lots containing single detached dwellings, would be eligible for on-street parking permits, where applicable.

### 3.6 Site Plan Control

Under Section 8 of 15-176 of the Site Plan Control By-law, accessory buildings to single detached dwellings are not subject to the Site Plan.

It is not necessary to place these lands under site plan control to capture the review of these secondary dwelling units. It is considered that the proposed regulations are sufficient to address the continued functionality of the residential lots and those adjoining lots.

## **4.0 Financial Implications**

### 4.1 Development Charges

With respect to applicable Development Charges, it is noted that the current By-law does not specifically recognize the secondary suite as a separate item and instead, given that it is a separate structure, would be applied the rate of a single detached unit.

Given that this is more characteristically defined as a basement unit in an accessory structure it is considered that the applicable fee should be reviewed and assigned a lower rate. A recommendation has been made to identify secondary dwelling units within an accessory structure as a separately defined item within the future update to the Development Charge By-law to be brought forward in 2019.

### 4.2 Parkland

Based on the same rationale, as detailed above, it is recommended that secondary dwelling units adjacent to a laneway should be treated equal to that of any other units created through Section 19 conversion provisions and not be considered a separate new dwelling unit. This motion has been captured in the recent update to the Parkland Dedication By-law approved by Council in May, 2018 which established the same flat fee as an accessory apartment.

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#### 4.3 Taxation

Approval of secondary units will require Building Permits to be approved. As such, changes to the property’s assessed value will be captured by the Municipal Properties Assessment Corporation and result in increased Municipal taxation. In addition, it is noted that rental housing is exempt from the capital gains shelter and subject to increased income tax.

### **5.0 Technical Considerations**

#### 5.1 Servicing

All servicing (water/sanitary/utilities) will be facilitated from the public road of the principal dwelling or extended directly from the principal dwelling lot, where appropriate. As previously identified, servicing within the laneway was identified as a significant constraint, one borne not only due to the limited width in which to accommodate all the required services, but also the cost and tenure of the laneway in which to secure servicing and access in perpetuity.

Following discussions with Building and Growth Management Division staff, it was noted that under the current Building Code requirements, servicing under the existing dwelling is not permitted. On this basis, in accordance with current engineering guidelines, a separate service is preferred; however, given the potential additional road cut costs that would be incurred, staff would be willing to review alternative options on a case-by-case basis, subject to conformity with applicable Building Code provisions.

#### 5.2 Fire Suppression

As part of the approvals process, the applicant would be required to demonstrate to the satisfaction of the City’s Building Department that access and infrastructure such as hydrants are available to ensure any fire related issue can be safely and satisfactorily addressed. Matters such as the width of unencumbered access to the secondary unit, distance from the frontage of the property, and existing locations of hydrants would be matters addressed through this review.

#### 5.3 Severance Potential

It is not appropriate to permit separate title to the secondary unit to be established through severance. As detailed within this Report and previous Report (PED16200), full dependence on the laneway for access and servicing remains a significant constraint. It is not considered appropriate until such point as clear and effective reduced regulations can be approved for the servicing of reduced rights-of-way. In addition, the tenure of

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each entire laneway would need to be resolved to the extent that the laneways become assumed and officially maintained by the City of Hamilton. While this would secure in perpetuity the ability to provide access and offer the ability to service the laneway, it raises other fiscal and operational concerns from a Public Works perspective. While this will be continued to be reviewed, the alternative approach of maintaining a legal and functional relationship with the principal dwelling as proposed within this Report, would allow the possibility of securing smaller, more affordable rental units within the City.

## **6.0 Monitoring**

City Initiative CI-18-F is a pilot project intended to introduce a series of regulations that are to be comprehensively monitored to evaluate the impacts of regulatory changes on the built form and to assess the ease of administering the regulations. The monitoring program will be undertaken over an 18-24 month period as part of the residential zoning project.

## **7.0 Conclusion**

In conclusion, it is considered that the proposed amendment would provide a meaningful way to secure mild intensification, compact infill development and the potential to bolster declining rental options within the private market. Aspects such as character and amenity have been protected and enhanced through the recommended provisions.

## **8.0 Next steps**

It is noted that the proposed By-law changes represent part of a larger more comprehensive approach to innovative housing solutions within the City of Hamilton. Additional work will be required to review the potential for secondary dwelling units, and in particular, secondary dwelling units within accessory structures to be permitted City wide and, further, that the ability to sever and create small lot homes be explored.

## **ALTERNATIVES FOR CONSIDERATION**

- Option 1: Planning Committee / City Council could choose alternative performance standards.
- Option 2: Planning Committee / City Council could table this Report and direct any future changes to be included in the new residential zones for Zoning By-law No. 05-200.

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Option 3: Planning Committee / City Council could recommend the changes proposed not be approved. The existing conversion policies of By-law No.6593 would remain in effect.

## **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.*

### **Economic Prosperity and Growth**

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

### **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” – Draft Zoning By-law Amendment to Zoning By-law No. 6593

Appendix “B” – Background laneway Review

Appendix “C” – Relationship of Secondary Dwelling Units to Principal Dwelling

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**Authority:** Item [REDACTED]  
 Planning Committee: June 19, 2018  
 Report: 18-[REDACTED] (PED16200(a))  
 CM: [REDACTED]

**Bill No.**

## CITY OF HAMILTON

### BY-LAW NO. 18-[REDACTED]

**To Amend Zoning By-law No. 6593  
 Respecting Second Dwelling Units for Certain Lands Bounded by Highway 403,  
 Burlington Street, Red Hill Valley and the Escarpment**

**WHEREAS** the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality "City of Hamilton";

**AND WHEREAS** the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the City of Hamilton" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

**AND WHEREAS** the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

**AND WHEREAS** the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 18-[REDACTED] of the Planning Committee at its meeting held on the XX day of XX, 2018, recommended that Zoning By-law No. 6593 (Hamilton), 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:

- 1.0 That the following new Subsection be added to Section 19: Residential Conversion Requirements as follows:

**"(5) "C" and "D" Districts – Second Dwelling Unit on a Single Detached Dwelling Lot**

Notwithstanding anything contained in this by-law, a second dwelling unit on the same lot as a single detached dwelling may be constructed provided all the following requirements are met:

- (i) For the purpose of this Subsection, laneway shall mean a public highway or road allowance having a width of less than 12.0 metres;
- (ii) the lot shall contain a single-detached dwelling unit;
- (iii) the lot shall abut a laneway;
- (iv) Subsection (5) shall apply to lands zoned "C" (Urban Protected Residential, etc.) District and "D" (Urban Protected Residential-One and Two Family Dwellings, etc.) District and identified in Section 22 as Schedule P;
- (v) An accessory structure to the single detached dwelling legally existing at the date of the passing of this by-law {DATE} may be converted to a dwelling unit provided it meets all the following requirements:
  - (a) For any elevation not facing a laneway, windows and doors are permitted only on the ground floor or within a roof.
  - (b) it shall not exceed a gross floor area of 50 square metres, excluding any parking contained within the second dwelling unit.
  - (c) no parking shall be required.
- (vi) A second dwelling unit may be constructed on the same lot as a single detached dwelling unit provided it meets all the following requirements:
  - (a) the maximum height shall be 6.0 metres;
  - (b) it shall not be located in the required rear yard of the principal dwelling;
  - (c) it shall not be permitted in a front yard;
  - (d) A minimum 1.2 metre setback from a side and rear lot line shall be provided and maintained;
  - (e) For any elevation not facing a laneway, windows and doors are permitted only on the ground floor or within a roof;

- (f) it shall not exceed a gross floor area of 50 square metres, excluding any parking contained within the second dwelling unit; and,
  - (g) no parking shall be required.
2. That Section 22: Restricted Areas By-laws Repealed is amended by adding Schedule P.
  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*.

**PASSED and ENACTED** this \_\_\_\_ day of \_\_\_\_, 2018.

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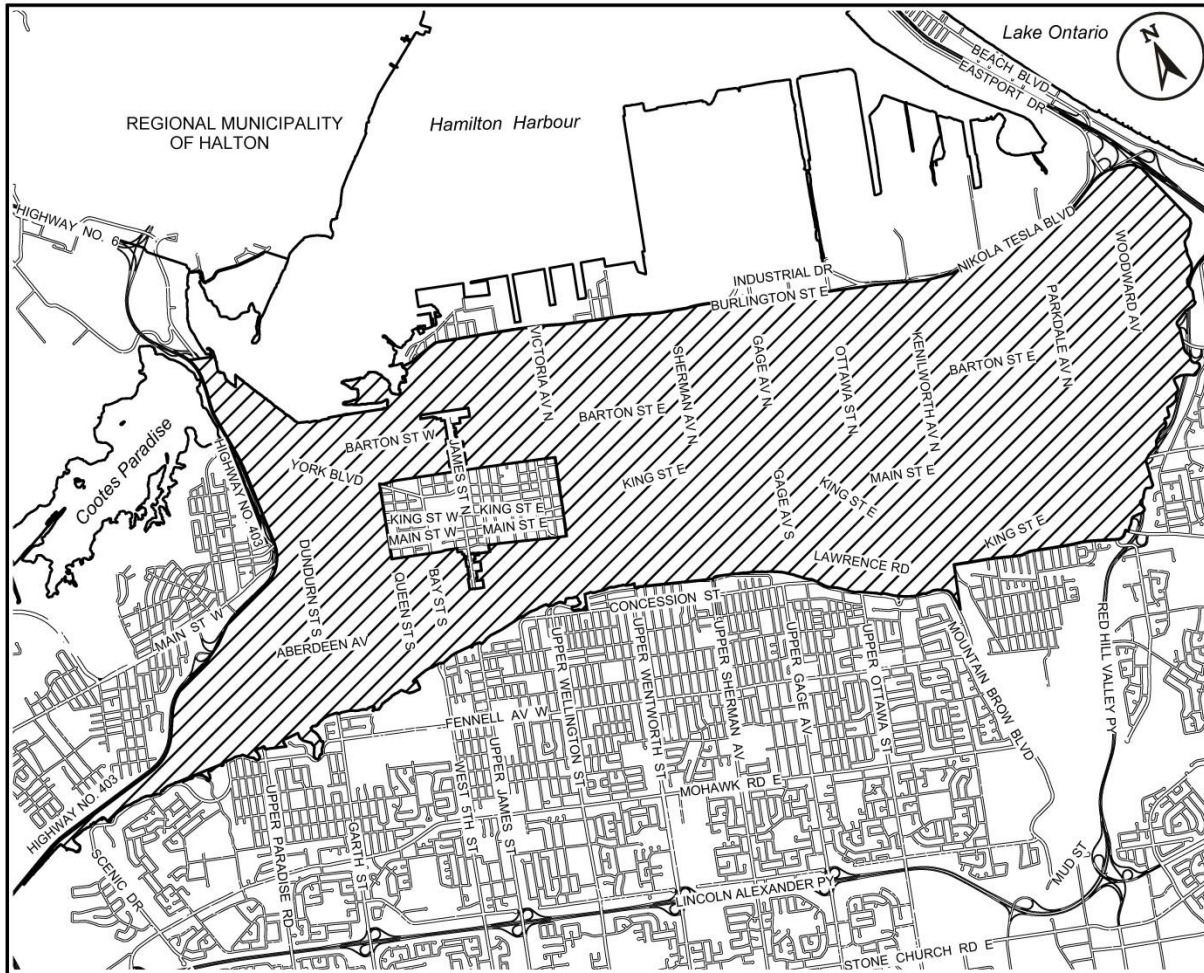
F. Eisenberger  
Mayor

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R. Caterini  
Clerk

CI 18-F





|  |   |
|--|---|
| <p>This is Schedule "A" to By-law No. 18-</p> <p>Passed the ..... day of ....., 2018</p> | <p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p> |
|--|---|

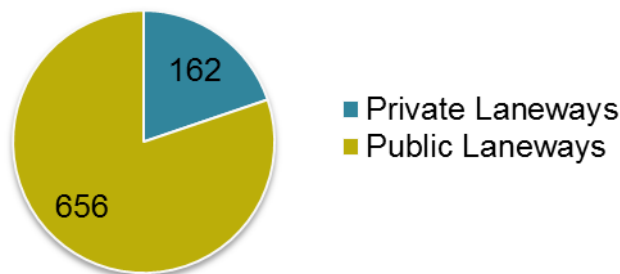
|  |  |
|--|--|
| <h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of<br/>By-law No. 18-_____</p> <p style="margin: 0 0 0 0;">to Amend By-law No. 6593</p> | <p><b>Add to Section 22 Schedule P</b></p> <p> Geographical area where Secondary Dwelling units for properties adjoining a laneway are permitted</p> |
|--|--|

|   |   |  |
|---|---|--|
| <p><b>Scale:</b><br/>N.T.S.</p>                     | <p><b>File Name/Number:</b><br/>CI-18-F</p> |  |
| <p><b>Date:</b><br/>May 17, 2018</p>                | <p><b>Planner/Technician:</b><br/>EJ/AL</p> |  |
| <p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p> |   |  |

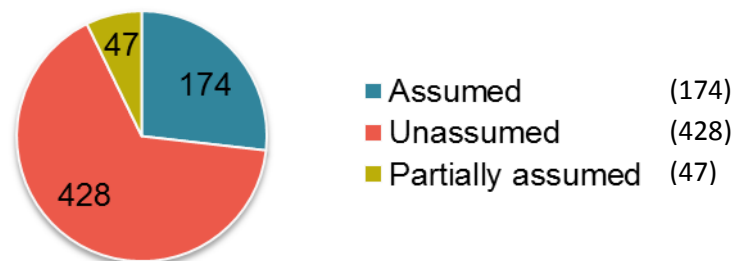
## Laneway Overview

There are 818 laneways in the City of Hamilton. In total, there are approximately 100 kilometres and 38 hectares of laneways. Laneway widths range between three and four meters. The large majority of laneways are City-owned (656), while the remainder are privately owned (162) (see Figure 1). Of the publicly owned laneways, 174 are assumed, 428 are unassumed, and 47 are partially assumed laneways (see Figure 2).

**Figure 1 – Laneway Ownership in the City of Hamilton**



**Figure 2 – Laneway Assumption in the City of Hamilton**

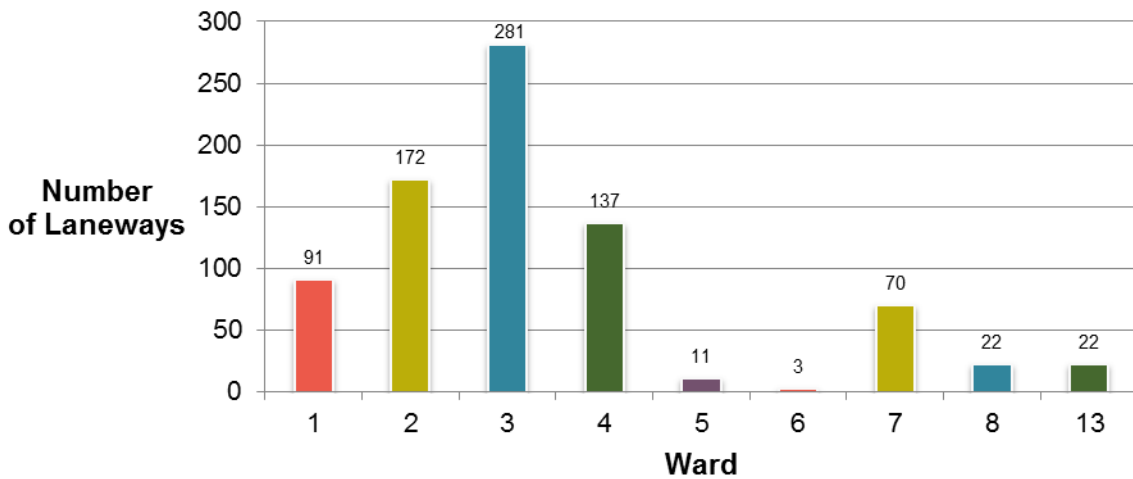


The majority of laneways are located in the lower city in the area bounded by Burlington Street to the north, Parkdale Avenue to the east, the Niagara Escarpment to the south, and Dundurn Street to the west (see Appendix “A” of Report PED16200). Ten percent of laneways are located within the Downtown Urban Growth Centre. Ward 3 contains the most laneways with 281 (34 percent of all laneways), followed by Ward 2 with 172 (21 percent), and Ward 4 with 137 (17 percent) (see Figure 3).

Laneways are also found in the upper city between Concession Street, Upper Gage Avenue, Fennell Avenue, and West 5<sup>th</sup> Street. A small pocket of laneways also exists in

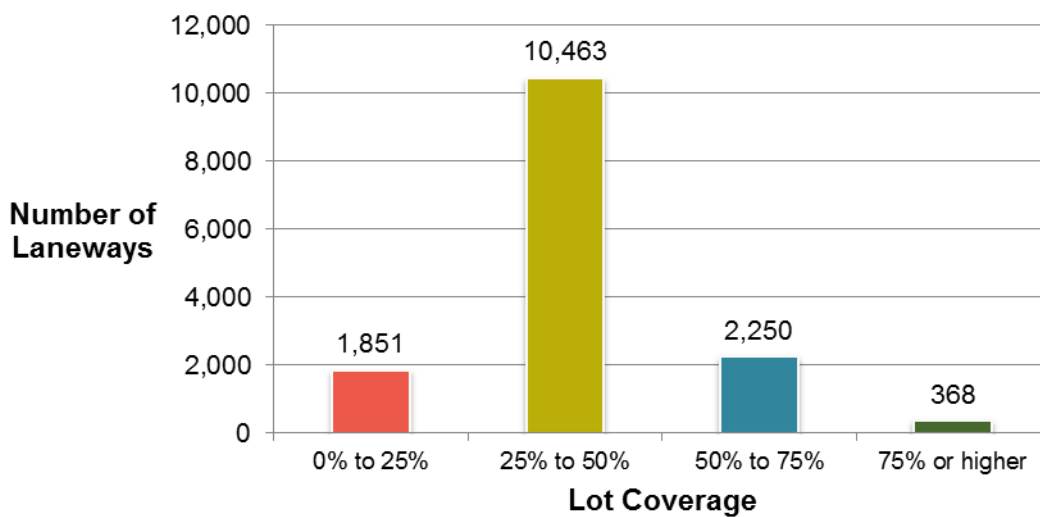
the upper city between Fennell Avenue, Upper James Street, South Bend Road West, and West 5<sup>th</sup> Street.

**Figure 3 – Location of Laneways in the City of Hamilton by Ward**



Approximately 15,435 properties in Hamilton abut laneways, 13,608 or 88 percent are currently used for residential purposes (see Appendix “B” of Report PED16200). Zoning for those existing residential units that abut a laneway vary, but are typically lower density zones.

**Figure 4 – Lot Coverage of Properties Abutting Laneways**



Laneway Housing

A laneway home is typically a small, detached home located at the centre of the block and fronting a laneway. Laneway homes are a form of secondary suite typically created through the conversion of an existing accessory building or new construction separate from the principal dwelling (see Figures 5 and 6 for examples of laneway homes in Hamilton).

**Figure 5 – 20 and 22 Wheeler Lane, Hamilton**



**Figure 6 – Fanning Street, Hamilton**



Many of the laneway homes in the City of Hamilton were originally built as outbuildings or carriage houses, but have since been adaptively reused to accommodate habitable space. There are approximately 70 known laneway homes in existence in the City of Hamilton, most of which are located in the lower city.

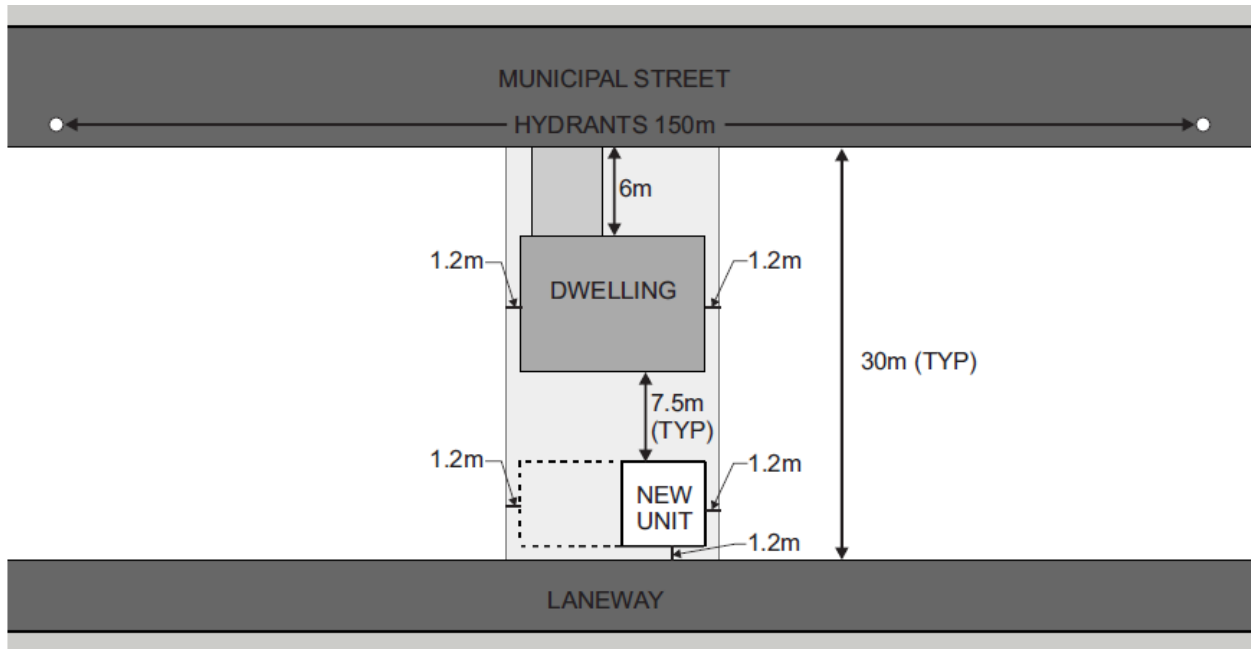
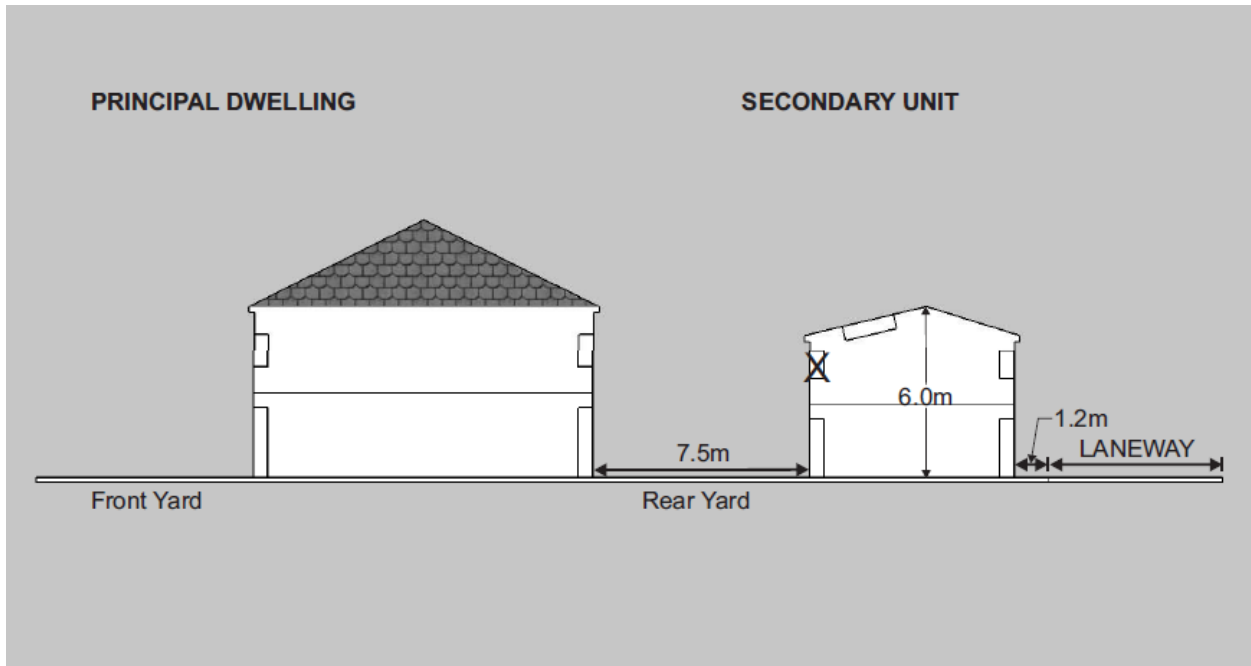
On the vast majority of abutting properties (10,463 properties), 25 to 50 percent of the lot is covered with a building or structure. Table 1 provides examples of setbacks and percent of existing building envelope for ten laneway homes that currently exist in Hamilton. Laneway house building envelopes are smaller than that of the principal dwelling unit, with the median percent of primary building envelope being approximately 41 percent. Front and side yard setbacks for laneway homes are also minimal (See Table 1).

The majority of laneway homes in Hamilton are non-complying and non-conforming uses with respect to the Urban Hamilton Official Plan and the City of Hamilton Zoning By-law.

**Table: 1 Examples of Setbacks and % Building Envelope for Existing Laneway Homes in Hamilton**

|                 | <b>Setback from Laneway (metres)</b> | <b>Combined Side Setback (metres)</b> | <b>Primary Dwelling Envelope (sq. meters)</b> | <b>Laneway House Envelope (sq. meters)</b> | <b>% of Primary Dwelling Envelope</b> |
|-----------------|--------------------------------------|---------------------------------------|---|--|---------------------------------------|
| 1               | 2.3                                  | 6.9                                   | 208   | 60   | 29%                                   |
| 2               | 0                                    | 4                                     | 136   | 54   | 40%                                   |
| 3               | 0                                    | 1.3                                   | 157   | 88   | 56%                                   |
| 4               | 0                                    | 8.8                                   | 162   | 56   | 35%                                   |
| 5               | 0                                    | 2.5                                   | 96  | 69   | 72%                                   |
| 6               | 0                                    | 11.2                                  | 294   | 122  | 41%                                   |
| 7               | 0.4                                  | 0.3                                   | 128   | 61   | 48%                                   |
| 8               | 0                                    | 5.3                                   | 204   | 66   | 32%                                   |
| 9               | 0.6                                  | 5.5                                   | 139   | 33   | 24%                                   |
| 10              | 0.8                                  | 0                                     | 97  | 73   | 75%                                   |
| <b>Median*</b>  | <b>0.6</b>                           | <b>4.65</b>                           | <b>148</b>                                    | <b>63.5</b>                                | <b>41%</b>                            |
| <b>Average*</b> | <b>0.82</b>                          | <b>4.6</b>                            | <b>162.1</b>                                  | <b>68.2</b>                                | <b>45%</b>                            |

\*If more than one “zero” value occurred in a column, only one “zero” value was used to calculate median and average.





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

|                           |  |
|---------------------------|--|
| <b>TO:</b>                | Chair and Members<br>Planning Committee  |
| <b>COMMITTEE DATE:</b>    | June 19, 2018  |
| <b>SUBJECT/REPORT NO:</b> | Proposed Changes to the Official Plans and Zoning By-law No. 05-200 – Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D) |
| <b>WARD(S) AFFECTED:</b>  | City Wide  |
| <b>PREPARED BY:</b>       | Joanne Hickey Evans (905) 546-2424 Ext. 1282   |
| <b>SUBMITTED BY:</b>      | Steve Robichaud<br>Director, Planning and Chief Planner<br>Planning and Economic Development Department  |
| <b>SIGNATURE:</b>         |  |

### RECOMMENDATION

- (a) That Report PED18120 (City Initiative CI-18-D) to amend the Rural Hamilton Official Plan, the Urban Hamilton Official Plan, and Zoning By-law No. 05-200, to modify the definition and associated regulations for a medical marihuana growing and harvesting facility, be received;
- (b) That Report PED18120, together with any written submissions and input from delegations received at Planning Committee, be referred to staff for consideration and incorporated into a further report and proposed changes to the Official Plan and Zoning By-laws to be presented to a future Planning Committee.
- (c) That prior to completion of the future Planning Committee Report, Planning staff present the proposed options for change to the Agricultural and Rural Affairs Committee and that staff report back on how the advice of the Agricultural and Rural Affairs Committee has been responded to in any proposed changes to the Official Plan and Zoning By-law.

### EXECUTIVE SUMMARY

The purpose of this Report is to report back on the November, 2017 and March, 2018 direction from City Council directing staff to review Official Plan (OP) policies and

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200 – Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 2 of 26**

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Zoning Regulations for medical and recreational marijuana production, distribution and sales (November, 2017 direction) and remove said regulations (March, 2018 direction).

The original planning policies and regulations were introduced in 2014/2015. Since that time, there have been changes to the federal regulations to the *Access to Cannabis for Medical Purposes Regulations (ACMPR)* for medical marihuana. Subsequent to the adoption of the Official Plan Policies and Zoning By-law regulations, Health Canada has advised that applicants for federal permission to grow, produce and distribute medical marihuana are not required to demonstrate that the location of the proposed facility complies with zoning. Rather, Health Canada has advised that a local municipality may elect to develop planning regulations for these uses and that medical marihuana producers are required to comply with local zoning regulations. In addition, there have been changes in the type and size of buildings used for growing and harvesting medical marihuana. Further, the production of cannabis oil is permitted.

It is noted that Council may choose to:

- maintain the current planning regulations “as is”;
- reverse the regulations to treat a medical marihuana growing and harvesting facility as a greenhouse and the existing greenhouse regulations would apply; or,
- consider revising one of more of the current in force and effect Official Plan policies and Zoning Regulations applicable to the urban or rural areas or both the urban and rural areas.

Based on a review of existing and proposed legislation, site specific development applications and best practices, staff have identified potential options for change to both the Rural Hamilton and Urban Hamilton Official Plans and Zoning By-law No. 05-200 for consideration and public feedback. Specifically:

- Rural Hamilton (RHOP) and Urban Hamilton Official Plan (UHOP) Amendments for consideration:
  - Updating the definition of medical marihuana growing and harvesting facility to reflect the new name of the Federal regulation (both OP’s);
  - Requiring a 150 m setback from the medical marihuana facility to an existing sensitive land use or to a specific zone boundary (both OP’s);
  - Removing the 2,000 sq m cap for new buildings and replacing with a restriction of 90,000 sq m for all buildings on the site (RHOP) and applying a maximum lot coverage, whichever is the lesser;
  - Including a cross reference to the regulations for a medical marihuana growing and harvesting facility in the Mineral Extractive Industrial Resource Area policies;

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200 – Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 3 of 26**

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- Adding aquaponics, greenhouse and medical marihuana growing and harvesting facility to the Airport Business Park Designation and the Airport Prestige Industrial and Airport Light Industrial Designations (UHOP).
- Zoning By-law No. 05-200 amendments for consideration:
  - Updating the definition of medical marihuana growing and harvesting facility to reflect the new name of the Federal regulation;
  - Requiring a 150 m setback from the medical marihuana facility to an existing sensitive land use or to a specific zone boundary;
  - Adding medical marihuana growing and harvesting facility, aquaponics and greenhouses to two Airport Industrial Zones – the Light Industrial (M10) Zone and the Prestige Business Park (M11) Zone;
  - Delete the restriction of 2,000 sq m in the Extractive Industrial (M12) Zone, A1 (Agricultural) and A2 (Rural) Zones but place a cap of 90,000 sq m for the lands zoned A1 and/or A2 and apply the maximum lot coverage, whichever is the lesser;
  - amend the definition of lot coverage to exclude P7 and P8 lands from the calculation and to include all land (driveways, access, parking etc) as part of the lot coverage calculations;
  - Increase the setback from any lot line from 20 m to 30 m in the A1 (Agricultural) and A2 (Rural) Zones; and,
  - Add new regulations for the maximum size of accessory uses and screening of parking areas for lands in the rural area.

There are no proposed changes to the planning documents for recreational marihuana since the legislation has not been passed. Once this Act and regulations are in effect staff will modify the OP's and Zoning By-law No. 05-200. The Act is currently before the Senate awaiting Third Reading.

Staff are recommending a multi-step process to bring forward the proposed modifications to the Rural Hamilton Official Plan, Urban Hamilton Official Plan, and Zoning By-law No. 05-200 for consideration by Planning Committee and Council. The first step is a Public Meeting to receive Report PED18120 and to receive any public submissions. To assist the public in understanding the alternative Official Plan changes and Zoning By-law changes, draft Official Plan Amendments and Zoning By-law Amendments are attached for information purposes only as Appendices "A," "B," and "C" to Report PED18120. Once the Public Meeting is closed, staff will prepare a further report and amending by-law to present to Planning Committee. This process is intended to inform Planning Committee of the recommended changes to the definition and associated regulations for a medical marihuana growing and harvesting facility, and allows any public submissions received at the Public Meeting to be considered by staff before amending by-laws are subsequently brought before Planning Committee for

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200 – Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 4 of 26**

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consideration. Prior to the staff completing a future staff report on the matter, staff present the proposed options for changes to the Agricultural and Rural Affairs Committee.

The proposed options for change to the Official Plans and Zoning Regulations are contained in the Draft Official Plan Amendments to the Rural Hamilton Official Plan, Urban Hamilton Official Plan, and the proposed Draft By-law for Zoning By-law No. 05-200, are attached as Appendices “A” to “C” attached to Report PED18120.

***Alternatives for Consideration – See Page 26***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** MPAC’s position was that medical marijuana grow operations are industrial and they were awaiting further clarification from the Ministry of Finance. To date, staff have not received any additional information.

**Staffing:** N/A

**Legal:** As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law. The Public Meeting is being held to receive Report PED18120 and to receive any public submissions, which will be referred to staff for consideration and incorporated into a further report and amending the planning instruments (Official Plans and Zoning by-law No. 05-200) to be presented to Planning Committee for consideration.

**HISTORICAL BACKGROUND**

**1.0 Context – Federal Regulations**

**1.1 Marihuana for Medical Purposes Regulations (MMPR)**

In 2014, the ability for medical marihuana produced by commercial growers was introduced by the Federal government through Marihuana for Medical Purposes Regulations (MMPR).

In response to this new regulation, staff prepared several staff reports (PED14037, PED14037a, PED14037b and PED13167c) to address the land use planning matters related to medical marihuana facilities in both the urban and rural areas.

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## 1.2 Access to Cannabis for Medical Purposes Regulations (ACMPR)

In February, 2017, the Federal Government introduced new regulations for medical marihuana - *Access to Cannabis for Medical Purposes Regulations (ACMPR)*. There were several changes; two of these changes relate to the City's planning documents. They include: deletion of the term medical marihuana facility and the replacement of the definition with a set of regulations for licenced producers and to allow for the production of cannabis oil.

In addition to the regulations, the Licencee must satisfy other federal land use related requirements. Specifically,

- The facility has to meet the applicable municipal by-laws (e.g. Official Plans and Zoning By-laws). Health Canada does not check to see if municipal by-laws are met but relies on the Licencee to determine compliance; and,
- 150 m separation distance between the facility and any residential use. The Federal government undertakes their own review of this requirement. This requirement is a "best protocol" by the Federal Government to achieve safety, protection, etc., and is not specifically articulated in the *Federal Act*.

## 2.0 Current Hamilton Official Plan and Zoning By-law Regulations

### 2.1 Urban Area

In June 2014, Council adopted Urban Hamilton Official Plan Amendment No.23 and Zoning By-law No 14-163 to amend Zoning By-law No.05-200, to define and permit medical marihuana facilities within several industrial areas of the City.

### 2.2 Rural Area

In September, 2014, City Council directed staff to consult with the rural community on proposed regulations associated with a medical marihuana facility as part of the larger rural zoning project. The definition and many of the regulations were similar to the Urban Area. There were additional regulations restricting the size and height of new buildings and allowing for the adaptive reuse on any existing building.

On July 10, 2015 adopted RHOPA No. 9 and Zoning By-law No. 15-273 to permit the use with restrictions in the rural areas.

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### 3.0 Planning Committee/Council Directions

#### 3.1 City Council, November 8, 2017

Council, at its meeting of November 8, 2107, passed the following motion:

“WHEREAS in 2014 Council approved amendments to the City’s Official Plan and Zoning By-laws with respect to medical marijuana (cannabis) facilities;

WHEREAS since 2014 the Federal and Provincial regulatory framework regarding marijuana (cannabis) has changed;

WHEREAS the City’s vision for the rural area is a vibrant rural economy focusing on food production and sustainable stewardship of the land base, water resources and compatibility;

WHEREAS, the City encourages marijuana (cannabis) producers to reuse existing buildings within the urban area; and,

WHEREAS, the City has put in place Official Plan policies and zoning regulations to allow limited, small scale production in the rural area;

THEREFORE BE IT IS RESOLVED:

- (a) That Planning staff be directed to consult with Federal and Provincial departments and ministries regarding the regulatory and land use planning framework for the marijuana (cannabis) industry; and,
- (b) That staff review and report back to Planning Committee on the revisions to the Economic Development Strategy, Official Plan Policies and Zoning Regulations with respect to medical and recreational marijuana (cannabis) production, distribution and sales.”

#### 3.2 Agricultural and Rural Affairs Committee (AARAC) Option for Change

On February 26, 2018, the AARAC adopted the following Option for Change:

“WHEREAS, licensed cannabis production, for medical and/or recreational-use purposes, should be considered a farming activity similar to those operating in green house structures,

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**THEREFORE BE IT RESOLVED:**

That staff be directed to remove the restriction of a 2000 square meter maximum building size and apply appropriate set back requirements to new cannabis production facilities in order to limit the impact on current land uses in rural Hamilton.”

Planning Committee, at its March 20, 2018 meeting, referred this resolution to staff for their review.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**1.0 Federal Regulations for Medical Marihuana**

The Federal Government, under the ACMPR, requires producers to receive a licence prior to production. In addition to the ACMPR, the federal government also requires that all facilities are setback 150 m from any residential use. This “best practice” is part of the Federal Government’s review and not part of the Act. All facilities must comply with all provincial and municipal by-laws, including zoning. Municipalities are permitted to include policies/regulations in their planning documents to address land use impacts.

**2.0 Provincial Policy**

*2.1 Greenbelt Plan, Growth Plan for the Greater Golden Horseshoe and Provincial Policy Statement*

The Greenbelt Plan 2017, Growth Plan 2017 and the Provincial Policy Statement (PPS) use the same term for agriculture which is from the PPS 2014. It defines agriculture to include the growing of crops. As such, a medical marihuana growing and harvesting facility is a permitted use within the rural area.

More specifically in the urban area, the Growth Plan definition of ‘employment area’ is “clusters of business and economic activities”. As such, medical marihuana growing and harvesting facilities would be considered as an economic activity.

*2.1.1 Comments from Ministry of Municipal Affairs and Ministry of Housing (MMAH)*

The Ministry of Municipal Affairs (MMA) in their letter dated, March 12, 2018 attached as Appendix “C” to Report PED18120, stated that:

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### **“Agricultural Uses**

Related to growing crops, OMAFRA’s Guidelines explain that in order to qualify as an agricultural use, crops should generally produce a harvestable product (e.g. fruit, vegetables, field crops, biomass, nursery crops, medicinal herbs and seeds). These crops may be used for a variety of purposes beyond food production. As outlined in the Provincial Policy Statement, 2014 (PPS) and Greenbelt Plan definition, on-farm buildings and structures associated with growing these crops are also considered agricultural uses. This includes greenhouses or other structures used for growing plants.

Based on this, the growing of medical cannabis crops qualifies as an agricultural use as per the Greenbelt Plan, including the growing of this crop in greenhouses or other structures.”

Further, as noted in the letter from MMA, MMA has left the decision to the City to determine if cannabis oil and other associated uses are considered as accessory and/or agriculturally-related uses. With respect to recreational marihuana, MMA has advised that no decisions on conformity to provincial documents will be made until the *Federal Act* and regulations have been approved.

The PPS defines “Agricultural-Related Uses”:

“as farm-related commercial and farm-related industrial uses that are directly related to a farm operation in the area, support agriculture benefit from being in close proximity to farm operations and provide direct products and/or services to farm operations as a primary activity.”

Based on this definition the production of cannabis oil which is pressed from fresh marihuana is considered as an agricultural related use. It is noted that the Greenbelt Plan provides a similar definition as the PPS.

It should be noted that agricultural uses can be grown in any on-farm structures including greenhouses. As a result they may locate on any agricultural land, regardless of soil classification (i.e. Classes 1 to 7).

### *1.2 Niagara Escarpment Plan*

In February, 2014, the Niagara Escarpment Commission (NEC) identified that a medical marihuana growing and harvesting facility would not be permitted within the Niagara Escarpment Plan (NEP) since the NEC, in their opinion, does not consider this use as an agricultural or institutional use.

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At this time, it is Planning staff's understanding the NEC is reconsidering its position and will be dealing with applications on an individual basis. Based on the 2017 NEP, NEC staff will determine if guidance material is necessary. Timing of completion of this material is unknown at this time.

### **3.0 Urban Area Planning Policies and Regulations**

#### *3.1 Urban Hamilton Official Plan*

##### 3.1.1 Definitions and Permitted Uses

The definition in the glossary is:

*Medical Marihuana Growing and Harvesting Facility* shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014;

Policies E.5.3.2 and E.5.4.2 state:

“The following uses shall be permitted on lands designated Employment Area – Industrial Land on Schedule E-1 – Urban Land Use Designations:

- d) limited agricultural uses including only a medical marihuana growing and harvesting facility, a greenhouse and an aquaponics facility;”

##### 3.1.2 Urban Land Use Designations

The use is defined and permitted (with restrictions) within the Employment Area – Industrial Land and Business Park designations. At the time, the amendments were introduced in 2014, the Airport Employment District Secondary Plan (AEGD) was under appeal. In Report PED14037(b), one of the Option for Changes was to include this use, greenhouses and aquaponics facilities within the AEGD once the appeal process has been concluded.

As a result, an amendment to permit this use, with restrictions, in the Airport Business Park and Prestige Industrial and Light Industrial designations in the AEGD Secondary Plan will be introduced as part of this project.

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### 3.1.3 Regulations

Policies E.5.3.9 and E.5.4.9 also apply:

“In addition to the requirements of Section E.5-Employment Area Designations, the following conditions shall apply to a medical marihuana growing and harvesting facility:

- a) the appropriate locations within the Employment Area-Industrial Land Designation and regulations for medical marihuana growing and harvesting facility shall be determined in accordance with the Zoning By-law;
- b) it shall be located a minimum of 20 m from a sensitive land use within the Neighbourhoods, Institutional or Commercial Mixed Use designations;
- c) notwithstanding E.5.3.2, retail sales shall not be permitted; and,
- d) no outside storage shall be permitted.”

### *3.2 Zoning By-law No. 05-200*

The definition and regulations are listed below.

#### 3.2.1 Definition

*Medical Marihuana Growing and Harvesting Facility* shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014. The testing, packaging, and shipping shall be accessory to the growing and harvesting of the marihuana for medical purposes.

#### 3.2.2 Urban Zones where a Medical Marihuana Growing and Harvesting Facility is Permitted

The use, with restrictions, is permitted in the following four zones:

- General Business Park (“M2”);
- Prestige Business Park (“M3”) Zone;
- General Industrial (“M5”) Zone; and,
- Light Industrial (“M6”) Zone.

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### 3.2.3 Regulations

In addition to the definitions, there are specific regulations applicable to a Medical Marihuana Growing and Harvesting Facility:

- 20 m setback from property lines;
- No retail permitted; and,
- No outdoor storage.

Further modifications to the AEGD zoning regulations would be required to permit the use, aquaponics facilities and greenhouses in two Airport Industrial Zones – the Light Industrial (M10) Zone, located within the interior of the future AEGD; and the Prestige Business Park (M11) Zone, located on the periphery of the AEGD.

## **4.0 Rural Area Planning Policies and Regulations**

### *4.1 Rural Hamilton Official Plan (RHOP)*

#### 4.1.1 Definitions

In addition, to the specific medical marihuana growing and harvesting facility use definition (see Section 3.1.1. above), the following definitions apply to a Medical Marihuana Growing Facility and Harvesting Facility use:

- **Agriculture Use:** means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and *structures*, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment (PPS, 2005).
- **Agricultural-related use:** means farm-related commercial and farm-related industrial uses that are *small scale*, producing products and services, wholly and directly related to a farming operation and which are required in close proximity to an *agricultural use*.

Based on the definitions above and in consultation with the Province and AARAC, the growing, harvesting and drying of fresh marihuana is considered to be an agriculture use. In this form the crop has not been transformed into another product. The shipping, testing, packaging, and destroying are accessory uses to the agricultural use. However, cannabis oil is a derivative of fresh marihuana and therefore is considered as agriculture processing (an agricultural-related use).

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#### 4.1.2 Land Use Designations

Medical marihuana growing and harvesting facilities, including accessory and agricultural-related uses, is permitted (with restrictions) within the Agriculture, Specialty Crop, Rural designations and Mineral Aggregate Resource Extraction Areas on Schedule “D” – Rural Land Use Designations.

#### 4.1.3 Regulations

There are specific Official Plan policies that apply to a medical marihuana facility. Policy D.2.1.1.4 states:

“Medical marihuana growing and harvesting facilities are permitted in accordance with the regulations set out in the Zoning By-law and provided that the following conditions are met:

- a) a medical marihuana growing and harvesting facility is permitted in buildings existing at the date of the passing of the Zoning By-law;
- b) The gross floor area for a new medical marihuana growing and harvesting facility shall not exceed 2,000 sq m;
- c) No retail sales are permitted;
- d) No outdoor storage is permitted; and,
- e) The establishment of a new medical marihuana growing and harvesting facility or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building size and location, set-backs, drainage and any other matters.”

In reviewing the Mineral Aggregate Resource Extraction Area policies (Section D.6), staff note that there is no cross reference to the medical marihuana growing and harvesting facility policies in the Agriculture designation. An amendment would therefore be required to establish the cross reference to permit the use within this designation.

With respect to the existing in force Official Plan policies, the main concern of the Medical Marihuana industry is with the 2,000 sq m size restriction in that it does not meet their business plans which contemplate larger scale growing facilities and therefore requires the industry to seek relief from the current planning regulations by way of applications for an Official Plan Amendment and rezoning.

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## 4.2 Zoning By-law No. 05-200

### 4.2.1 Definitions

In addition to the specific definition (see Section 4.2 above) of a medical marihuana growing and harvesting facility, four other definitions are relevant:

- **Agriculture** - Shall mean the growing of crops, including Nursery and horticultural crops; raising of livestock; raising, boarding and training of horses; raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; aquaponics; apiaries; agro-forestry; maple syrup production; greenhouse operations; Medical Marihuana Growing and Harvesting Facilities; hydroponics; and other such accessory uses as are customarily and normally associated with agriculture, including limited value retention uses required to make a commodity grown primarily as part of the farm operation salable, such as, but not limited to, grain drying, washing, sorting, grading, treating, storing, packing and packaging, feed mill, or grain mill, and selling of agricultural products primarily grown as part of the farm operation, and associated on-farm buildings and structures, including one Single Detached farm dwelling and a Farm Labour Residence.
- **Agricultural Processing Establishment – Secondary** - Shall mean a Secondary use to an Agricultural operation on the same lot, for a facility dedicated to the transformation of raw agricultural commodities, but shall not include an Abattoir or Agricultural Brewery/Cidery/Winery. Agricultural Processing - Secondary shall be limited to the processing of agricultural commodities grown primarily as part of the farm operation, and may include Accessory Retail.
- **Agricultural Processing Establishment – Stand Alone** - Shall mean the use of land, building or structure, or portion thereof, for a stand alone facility dedicated to the transformation of raw agricultural commodities and may include Accessory Retail, but shall not include an Abattoir, or Agricultural Brewery/Cidery/Winery.
- **Agricultural Research Operation** - Shall mean a Secondary use to an Agricultural operation on the same lot for the study and research of Agriculture.

The drying/growing of the medical marihuana is considered as an agriculture use. The production of cannabis oil using the marihuana grown on-site is considered as an agricultural processing establishment – secondary. An agricultural processing establishment – stand alone would allow the marihuana to be transported to another site for this processing, which is not the intent and therefore, an amendment is required. Within the A1 and A2 Zones which would include the production of cannabis oil, is restricted to 500 sq m.

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Any of the labs and testing areas are secondary uses based on the definition of agricultural research operation. Similar to the above, the area for testing and labs for medical marihuana is restricted to 500 sq m.

#### 4.2.2 Rural Zones where a Medical Marihuana facility is Permitted

The use, with associated performance standards, is permitted in the following zones:

- Agriculture (A1) Zone;
- Rural (A2) Zone;
- Conservation /Hazard Lands (P6) Zone (existing buildings only); and,
- Extractive Industrial (M12) Zone.

#### 4.2.3 Regulations – Rural Zones

In addition to the definitions, there are specific performance standards that a medical marihuana facility must comply with. The standards are:

- 20 m setback from all property lines;
- No retail permitted;
- No outdoor storage;
- Permitted to be located within any building existing as of July 10, 2015; and,
- New buildings are restricted to 2,000 sq m in size.

The regulations relating to building size allows a facility to locate within any existing building which permits the adaptive reuse of existing buildings; new buildings were restricted in size to 2,000 sq m. This building size restriction was established in recognition of the size of new facilities were generally in line with the requested building size of 2,000 sq m size (see Report PED14037(b)). The restriction was also introduced to minimize potential impacts from any large scale facilities which may be built predominately in concrete structures.

Based on discussions with Health Canada and the industry, the Federal Government has also applied a 150 m (500 ft) screening requirement whereby all new facilities should be located 150 m or greater from any existing residential uses. This is not a Zoning By-law regulation.

#### 4.3 Site Specific Exceptions

There are two properties with site specific RHOP and zoning by-law exceptions:

- 1) 780 Concession 8 Road West

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- permits a medical marihuana facility of 21,500 sq m;
- 2) 97 Concession 5 Road East
- permits a medical marihuana facility of 10,000 sq m and a minimum side yard of 13 m.

## **RELEVANT CONSULTATION**

- Ministry of Municipal Affairs and Ministry of Housing;
- Corporate Services – Finance Department; and,
- Public Meeting – Site Plan for Butter Road West.

With respect to Butter Road West, the residents in the area convened a public meeting with the Ward Councillor, who invited staff from Planning and Hamilton Water Divisions, to discuss the site plan application for 240 Butter Road West. As part of that meeting issues were raised about medical marihuana growing and harvesting facilities. The concerns were:

- 1) the total overall number of buildings and the size of each building;
- 2) medical marihuana growing and harvesting facility and greenhouses being permitted on prime agricultural lands;
- 3) lot coverage and adequate setbacks;
- 4) storm water runoff from the facility into the creek based on more buildings and paved surfaces;
- 5) impact on adjacent wells;
- 6) light from greenhouses;
- 7) Number of parking spaces and increase in traffic,
- 8) 24 hour security measures;
- 9) Odour; and,
- 10) property values.

Concerns 1 to 3: They have been captured in this Report in terms of options for regulating size and location of said facilities.

Concerns 4 to 6: Site Plan Control would respond to these matters through the condition of approval.

Concern 7: There are no minimum parking requirements for agricultural uses in the rural area and no requirements for parking areas to be paved. Screening of parking areas has been captured in this Report as an option for consideration.

Concerns 8 and 9: as part of the Federal licence, the Licensee has to address security and odour.

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Concern 10: There is no documented evidence to suggest property values are affected in either a negative or positive fashion.

- **Agricultural and Rural Affairs Committee**

Since the AARAC has commented on the proposed approach, it would be appropriate for Planning staff to report back to AARAC on the proposed options for change, prior to the completion of a future staff Report

## **ANALYSIS AND RATIONALE FOR OPTION FOR CHANGE**

### **1.0 Purpose of the Report**

Since the introduction of OP policies and Zoning By-law regulations for medical marihuana facilities in 2014/2015, there have been changes in the industry and to the Federal legislation/regulations. More specifically:

- Medical marihuana facilities are being established in greenhouse structures which take advantage of the natural sunlight instead of concrete structures that rely on artificial lighting;
- Proposed facilities are larger in scale (approximately 13,000 sq m);
- The production of cannabis oil, in addition to dried and fresh marihuana, is permitted by the applicable federal regulation; and,
- The Federal government will be introducing new regulations for recreational marihuana.

The purpose of this Report is to address these matters. The proposed options for change are mainly focused on the rural area since there are more restrictions in this area and the new development is mainly occurring there.

### **2.0 Research From Other Municipalities**

As part of this project and the individual development applications, staff researched OP policy and Zoning By-law regulations for other municipalities within Canada. There were 25 municipalities surveyed in Canada, based on website information as well as email and telephone correspondence with some municipal planners. Of the 25 municipalities surveyed, the planning policy and regulations were included for 20 municipalities, all of which have a rural area. Details are included in Appendices “E” to “E-2”

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There are four municipalities (Cobourg, Leamington, Nanaimo, B.C. and Port Colborne) updating their planning policies and Zoning By-law regulations for this use.

There are many different zoning approaches to regulate medical marihuana growing operations. Most commonly:

- The use is considered as an agricultural use in the rural area;
- The use can also be considered as an industrial use;
- Many of the municipalities include definitions of the use, most of which mirror the former federal definition; and,
- Municipalities include a setback from a sensitive land use.

### **3.0 Land Use Issues – Medical Marihuana**

#### *3.1 Definitions – OPs and Zoning (Rural and Urban Areas)*

##### 3.1.1 Medical Marihuana growing and Harvesting Facility Definition

The current definition, including the reference to the applicable legislation, in the OPs and Zoning By-law 05-200 was based on the previous MMPR regulation.

*Medical Marihuana Growing and Harvesting Facility* shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014.

The definition in the Zoning By-law is slightly different as it makes a direct reference to accessory uses.

*Medical Marihuana Growing and Harvesting Facility* shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014. The testing, packaging, and shipping shall be accessory to the growing and harvesting of the marihuana for medical purposes.

The current federal regulation (ACMPR) does not have a specific definition but it includes activities that a licensed producer can conduct – possess, produce, sell,

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provide, ship, deliver, transport and destroy marihuana (fresh and dried) or cannabis oil. In vitro testing is also permitted.

The OP and Zoning definitions of medical marihuana growing and harvesting facility are partially outdated as a result of the passage of the ACMPR. Cannabis oil production is not included in the City's Official Plan and Zoning definition.

Any changes to this definition, including the reference to the legislation, must consider both the amended Federal regulation, as well as provincial policy. Based on the letter from MMA, the growing and harvesting is considered as an agricultural use.

Proposed Option for Change 1:

The definitions in the Urban Hamilton Official Plan, the Rural Hamilton Official Plan and Zoning By-law No. 05-200 could be updated to replace "Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014" with *Access to Cannabis for Medical Purposes Regulations (ACMPR)*.

Rationale:

The references to MMPR are outdated and have been replaced with ACMPR.

3.1.2 Agricultural Processing Establishment – Stand Alone (Zoning By-law)

MMA has advised that the City can and should determine if the other associated uses are considered as accessory or agriculturally related (Agricultural Processing). The Zoning By-law, under the definition of agricultural processing, allows for the transformation of raw agricultural products. Production of cannabis oil is considered as agricultural processing. This processing is permitted as part of the farm cluster (agricultural processing-secondary) or on a separate lot from the crop (agricultural processing-stand alone). To ensure the medical marihuana related products is on the same site as the crop, the definition of Agricultural Processing Establishment – Stand Alone should be amended.

Proposed Option for Change 2:

The definition could be updated to delete the word "or" and add "or processing of cannabis products" after the words "Agricultural Brewery/Cidery/Winery".

**Agricultural Processing Establishment – Stand Alone** Shall mean the use of land, building or structure, or portion thereof, for a stand alone facility dedicated to the transformation of raw agricultural commodities and may include Accessory Retail, but shall not include an Abattoir, or **Agricultural Brewery/Cidery/Winery or processing of cannabis products.**

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### 3.2 *Type of Building Construction (Rural Area)*

Based on multiple discussions with industry operators, many operators have been purchasing existing greenhouses or building new greenhouses to grow the crop. These facilities capitalize on sunlight and considerably reduce electricity costs. Previously, these facilities were built in concrete or cinder block structures, similar to mushroom operations. Other operators are using structures similar to an implement shed or barn with corrugated steel siding.

Proposed Option for Change 3:

A definition of greenhouse could be added to the Zoning By-law as part of a housekeeping amendment since there are specific zoning regulations for greenhouse but there is no definition.

Rationale:

Crops, which are agricultural uses, are grown in many different building forms. It is difficult to regulate building type.

### 3.3 *Lot Coverage and Size of Buildings (Rural Area)*

Two regulations impact the extent of buildings and structures on a site: size of building and lot coverage. Under the current regulations, the size of medical marihuana growing and harvesting facility is restricted to 2,000 sq m. In addition, lot coverage requirements restrict greenhouses to 70% of the site; whereas other buildings and structures are limited to 20%.

#### 3.3.1 Lot Coverage

*Definition*

In addition, the total GFA of the buildings is governed by lot coverage. The Zoning By-law restricts the lot coverage for all buildings and structures for agricultural and secondary as well as dwellings and accessory structures. It does not include apply to areas for access, parking, and outside storage.

Lot coverage is defined as “the percentage of the lot covered by all buildings, but shall not include swimming pools and decks.”

It is calculated based on the entire lot area and not based on the zones that permit the use.

Proposed Option for Change 4:

The definition of lot coverage could be amended to exclude Conservation/Hazard Land (P7) and Conservation/Hazard Land (P8) Zones as part of the calculation of lot coverage.

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It could also include all areas that are used for parking, driveways, access or other lands required for the operation.

Rationale:

Since a medical marihuana growing and harvesting facility is not permitted in a P7 or P8 zone, these lands could be removed from the calculation of lot coverage.

A similar approach has been used, in Zoning By-law 05-200, which has a similar requirement that has regulations for lands that are zoned A1, A2 and P6 only with regards to Landscape Contracting Establishment – Secondary [Sections 12.1.3.2.i ii) and 12.2.3.2 h) ii)].

In addition, the lands required for the facility could include not only the buildings but all the area occupied or associated with use.

*Percentage*

The current Zoning By-law regulations permit a lot coverage of 20% for all buildings except for greenhouse which is 70%. For example, if the lot was 1 ha (10,000 sq m in size) in size, the total gross floor area of all buildings could range from 2,000 sq m (20%) to 7,000 sq m (70%). In many cases, greenhouses are located on smaller agricultural lots.

Although the maximum gross floor area per site is proposed to be changed to 90,000 sq m, the buildings are also governed by lot coverage. On a small site, the gross floor area of the site may not be achieved because of the lot coverage restriction. All farm buildings, houses or structures have a maximum lot coverage of 20% except for greenhouses which have a maximum lot coverage of 70%.

3.3.2 Size of buildings

At the time the 2014/2015 medical marihuana facility regulations were developed, the City had received several Letters of Intent from prospective licensees. Based on the information received about size and height of buildings and the construction type, the approach to the Zoning By-law regulations for the rural area included a 2,000 sq m cap on the size of new buildings (regardless of construction type) and a 11.5 m height restriction, among other regulations. It was staff's opinion that multiple smaller buildings would be more consistent with the character of the rural landscape than one large building, especially if the building had industrial characteristics, as opposed to traditional rural buildings such as greenhouses.

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The Zoning By-law does not restrict the size of farm buildings or greenhouses or type of crop (e.g. flowers versus tomatoes).

Facilities that have been or are being developed in recent years are larger, both as individual buildings as well as the construction of multiple buildings on one lot. The building(s) also include secondary/agricultural processing uses (production of cannabis oil), agricultural research operations (labs), as well as accessory uses (offices, vaults etc.). The current cap did not take into account these additional uses. In one of the recent Planning application, the facility included approximately 1,000 sq m for accessory uses, 40 sq m for testing and 40 sq m of processing.

Only one municipality, with as-of-right use permissions, have a building size restriction specific to the use (Squamish-Lillooet District, B.C).

There are no building size restrictions in the urban area since this type of use and construction is reflective of industrial buildings in an urban context. However, in some cases there are maximum lot coverages for industrial buildings where medical marihuana facilities are permitted.

The issue that has arisen most frequently is the 2,000 sq m for buildings on the site because it is too restrictive based on the industry changes from 2014/2015.

Proposed Option for Change 5:

The restriction of 2,000 sq m could be replaced with a maximum cap of 90,000 sq m total gross floor area (GFA) for all buildings and structures on that portion of the site zoned A1, A2, P6 and/or M-12, regardless of lot size.

The lot coverage requirements could apply and so whichever calculation is the lesser would apply (i.e. if the lot was 12 ha, the maximum size of the building would be 84,000 sq m at 70% lot coverage and 24,000 sq m at 20% lot coverage).

Rationale:

The type of buildings that are being used for marihuana production has changed in the last five years. More common building types include greenhouses which capitalize on the sunlight. Other recent building types include farm structure such as implement sheds or barns. The original reason for limiting the size of the buildings was the use of concrete structures.

In addition, these facilities are getting larger in size because of operational efficiencies.

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By combining the lot coverage with building size, to achieve 90,000 square metres building the lot size is slightly smaller than 13 ha. Any lot size over 13 ha would be restricted to a maximum building size.

### 3.4 *Building Setbacks (Rural Area)*

In the rural area the setbacks from a lot line for any principal use ranges from 15 m (agricultural buildings) to 30 m (agricultural processing establishment). A medical marihuana facility is 20 m.

Proposed Option for Change 6: The setback could be increased from 20 m to 30 m from any lot line in the A1 (Agricultural) and A2 (Rural) Zones.

Rationale: As noted in Section 2.2 of the Analysis and Option for Change Section, the production of cannabis oil is considered as agriculturally-related use in the Rural Hamilton Official Plan and agricultural processing in Zoning By-law No. 05-200. Since cannabis oil is often located within the same building as the growing operation, the 20 m setback should be harmonized for all buildings and structures associated with this use.

To maintain consistency with the Urban Industrial Zone regulations, the 20 m setback in the industrial areas would remain unchanged since industrial buildings have a 20 m setback from property line to property line.

### 3.5 *Separation Distances from Sensitive Land uses (Rural and Urban Areas)*

The most common sensitive land use in the rural area is residential. The urban area includes more uses such as schools, places of worship, long term care facilities, parks, etc.

The Federal government has applied a 150 m separation distance from existing residential uses, not just residential zones, as part of their requirements for a licence. In other words, they look at the location of houses regardless if the house was in an agricultural area or commercial areas. Based on a review of other municipalities, there are seven municipalities (Brant, Cowichan Valley, B.C., Capital regional District, B.C., Nanaimo, B.C., Norfolk, Ottawa, and Port Colborne) that require these facilities be separated between 50 to 300 m) from certain sensitive land uses; the most common restriction is between 70 and 150 m. The 70 m was applied in some urban areas (Norfolk). The 70 m setback was a recognition this use was considered as light industrial.

Proposed Option for Change 7: An additional requirement could be added that a medical marihuana growing and harvesting facility should not be located within

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200  
– Medical Marihuana Growing and Harvesting Facilities, Aquaponics  
and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 23 of 26**

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150 m of a sensitive land use (residential uses and some institutional uses). In the rural area, the separation distance would be measured from the marihuana facility to the lot line of an existing residential or sensitive institutional use of the zone boundary of the Settlement Zones (S1, S2 and S3). In the urban area, the medical marihuana facility building would not be permitted within 150 m of a residential, institutional and certain commercial mixed use zones and any lot of an existing residential use, measured between the building of the medical marihuana facility to the lot line of an existing residential use.

Rationale: As noted in the Policy Implications and Legislated Requirements Section, the federal government has a condition of issuing the licence that there are no residential uses within 150 of the medical marihuana growing and harvesting facility. These uses can either be on the property or on the adjacent property measured from building to building. The zoning by-law has setbacks from zone boundaries.

### 3.6 *Parking Requirements/Areas (Rural Area)*

There are no parking requirements for the majority of uses within the rural area. However, certain operations have a greater number of employees (e.g. landscape contracting, medical marihuana facilities).

Proposed Option for Change 8: A new regulation could be added that would require all unenclosed parking areas in the rural area associated with a medical marihuana growing and harvesting facility be screened using a wall, berm or fence.

Rationale: This regulation would be similar to one that is in place for Landscape Contracting Facilities where unenclosed parking areas are to be screened from view with a wall, berm, fence or some combination. The regulation was established to ensure the parking area for employees is buffered from the street and other properties. Based on the recent information from development applications, there will be several employees associated with this use.

### 3.7 *Accessory Uses*

The Zoning By-law permits accessory uses to a principal use to have a gross floor area of 49% of the total gross floor area of the principal use. Since these facilities are very large a maximum size should be placed on the accessory uses. The one recent facility has accessory uses (office, vault, shipping areas etc.) totalling approximately 900 sq m. There is a similar restriction in industrial areas for the percentage of accessory retail for products produced on the property.

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200 – Medical Marihuana Growing and Harvesting Facilities, Aquaponics and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 24 of 26**

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Proposed Option for Change 9: A new regulation could be added to restrict accessory uses such as (vaults, shipping areas, office spaces, employee spaces etc.) to 1,000 sq m for the site, not per building or 25% of the GFA, whichever is the lesser.

Rationale: At the present time, accessory uses may be permitted up to 49% of the gross floor area of the building(s). Given the potential growing area of these facilities, it is more appropriate to include a square metre cap for the use instead of a percentage. A percentage based on gross floor area can be very large. There are other zones within the Zoning By-law (e.g. industrial zones) which have a square metre cap on accessory uses instead of a percentage of gross floor area.

#### 4.0 Current Planning Act Applications

There are currently three *Planning Act* applications before the City for new facilities.

| Address/Owner   | Applications            | Planning Committee Date | Nature of application  |
|---|-------------------------|-------------------------|--|
| 1915 Jerseyville Road West, Ancaster/Green Organic Dutchman | OPA/ZBA (Site specific) | June 5, 2018 (Tabled)   | <ul style="list-style-type: none"> <li>- To allow the construction of a 13,000 sq m greenhouse</li> <li>- To allow new medical marihuana buildings of 2,000 sq m per building</li> </ul>   |
| Hwy 6 North/Beleave   | OPA/ZBA Site specific)  | To be determined        | <ul style="list-style-type: none"> <li>- To allow for the construction of a 10,000 sq m greenhouse</li> <li>- Applicant has not indicated whether they are going to produce cannabis oil or not. They have only asked for generally processing.</li> </ul> |
| 240 Butter Road West, Ancaster                              | Site Plan               | N/A                     | <ul style="list-style-type: none"> <li>- Site plan was conditionally approved on March 5, 2018 for a 2,000 sq m medical marihuana facility with 34 parking spaces.</li> </ul>  |

#### 5.0 Other Options for Change

One other potential option is to include different regulations for the A1 (Agricultural) A2 (Rural) Zones. The same regulations in the Rural Zone would also apply in the “M-12”

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200  
– Medical Marihuana Growing and Harvesting Facilities, Aquaponics  
and Greenhouses (PED18120) (City Wide) (CI-18-D) - Page 25 of 26**

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(Mineral Aggregate Extraction) Zone. Alternatively, the existing by-law regulations could be retained and proposals for increased size would be assessed on an application by application basis, either through a rezoning or minor variance application.

## **6.0 Public Access to Medical Marihuana**

Under the current ACMPR regulations, users of medical marihuana are required to get a Option for Change from a doctor and then order their required dose on-line. No retailing is permitted. However, there a number of illegal marihuana dispensaries that operate in the City. This matter is being addressed by Hamilton Police Services and Municipal By-law Enforcement.

## **7.0 Recreational Marihuana**

### *7.1 Cannabis Act*

In April, 2017, the Federal Government introduced the proposed *Cannabis Act* which establishes “strict legal framework for controlling the production, distribution, sale and possession of cannabis across Canada.”

<https://www.canada.ca/en/services/health/campaigns/legalizing-strictly-regulating-cannabis-facts.html>)

At the present time, the Standing Committee on Social Affairs, Science and Technology approved the Committee Report on May 30, 2018. It is before the Senate for consideration.

At this point there are no details for the growing requirements on a commercial scale. There is some thought that similar regulations respecting the growing, harvesting, production etc. to the ACMPR will be introduced.

### *7.2 Retailing*

The Province of Ontario is responsible for controlling the sale of recreational marihuana. The Province is proposing to have the Liquor Control Board of Ontario (LCBO) responsible for the sale and distribution of recreational cannabis because of their experience in the distribution of alcohol. Cannabis will be sold in stores, separate buildings from a LCBO store, which meet federal requirements for cannabis sales. In addition, cannabis can be purchased online and be delivered securely and safely across the Province. Based on Zoning By-law No. 05-200, this use would be considered as retail.

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**Subject: Proposed Changes to the Official Plans and Zoning By-law No. 05-200  
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*7.3 Changes to OP's and Zoning By-law No. 05-200.*

Changes to these documents should not be made until such time as more clarity has been provided by the Federal government in the Cannabis Act and future regulations. In addition, for a similar reason, MMAH cannot comment on this use would conform to Provincial land Use Planning documents.

**ALTERNATIVES FOR CONSIDERATION**

Planning Committee and City Council could add, delete or change any of the proposed regulations for medical marihuana growing and harvesting facilities in the urban or rural areas.

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

**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.*

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix “A” – Draft Amendment to the Urban Hamilton Official Plan (For Information Purposes Only)
- Appendix “B” – Draft Amendment to the Rural Hamilton Official Plan (For Information Purposes Only)
- Appendix “C” – Draft Amendment to Zoning By-law No. 05-200 (For Information Purposes Only)
- Appendix “D” – Letter dated March 12, 2018, from Ministry of Municipal Affairs and Ministry of Housing
- Appendix “E” – Summary of Other Municipal Policies and Regulations
- Appendix “E-1” – Summary of Other Municipalities with Urban and Rural Zoning By-law regulations
- Appendix “E-2” – Summary of Other Municipalities with Rural Zoning By-law regulations

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## **DRAFT Rural Hamilton Official Plan Amendment No. XX**

The following text constitutes Official Plan Amendment No. XX to the Rural Hamilton Official Plan.

### **1.0 Purpose and Effect:**

The purpose and effect of this Amendment is to revise medical marihuana growing and harvesting facility policies and the definition of Medical Marihuana Growing and Harvesting Facility to reflect the current Federal regulatory framework concerning said agricultural uses.

### **2.0 Location:**

Lands affected by this Amendment are located within the Agricultural, Rural and Specialty Crop Land Use Designations, as identified on Volume 1, Schedule D of the RHOP.

### **3.0 Basis:**

The basis for permitting this Amendment is:

- The Federal regulatory framework regarding medical marihuana has changed since the introduction of Official Plan policies concerning medical marihuana in 2014.
- The Federal government has established a best practice to limit sensitive lands uses, in particular, residential uses within 150 metres of a medical marihuana growing and harvesting facility.
- There has been a change in the building types used for medical marihuana growing and harvesting facility from a concrete / cinder block construction to more greenhouses.
- The proposed amendment is consistent with the Provincial Policy Statement, 2014 and conforms to the Greenbelt Plan, 2017.

#### 4.0 **Actual Changes:**

#### 4.1 **Volume 1 – Parent Plan**

##### **Text**

##### 4.1.1 Chapter D – Rural Systems/Designations

- a. That Section D.2.1 – Permitted Uses, Policy D.2.1.1.4 b) be amended by deleting the policy in its entirety and replacing it with the following new policy:

“b) The total gross floor area for all buildings and structures on the site where a medical marihuana growing and harvesting facility exists shall not exceed 90,000 square metres or the lot coverage of the Zoning By-law, whichever is the lesser.”

- b. That Section D.2.1 – Permitted Uses, Policy D.2.1.1.4 be amended by adding a new policy, as follows:

“c) An appropriate setback between a medical marihuana growing and harvesting facility and a sensitive land use shall be established in the Zoning By-law;”

and renumbering the subsequent policies.

- c. That Section D.2.1 – Permitted Uses, Policy D.2.1.1.4 e) be amended by:

- i) deleting the words “size and” between the words “building” and “location”;
- ii) replacing the word “set-backs” with the word “setbacks”; and,
- iii) adding the words “, sustainable private services” between the words “drainage” and “and”,

so that the policy reads, as follows:

“D.2.1.1.4 e) The establishment of a new *medical marihuana growing and harvesting facility* or the expansion of an existing facility shall be subject to Site Plan approval to address the appropriate building location, setbacks, drainage, sustainable private services and any other matters.”

- d. That Section D.6.6 – Permitted uses be amended by adding a new clause c as follows:
    - c) a medical marihuana growing and harvesting facility, in accordance with the regulations in Policy D.2.1.1.4.
- and renumbering the subsequent policies.

#### 4.1.2 Chapter G – Glossary

- a. That the definition of Medical Marihuana Growing and Harvesting Facility be amended by deleting the phrase "Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014" and replacing it with the phrase "Access to Cannabis for Medical Purposes Regulations (ACMPR)", so that the definition reads, as follows:

**"Medical Marihuana Growing and Harvesting Facility:** shall mean a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana, for medical purposes as permitted under the *Access to Cannabis for Medical Purposes Regulations (ACMPR)*; The testing, packaging, and shipping shall be accessory to the growing and harvesting of the marihuana for medical purposes."

### 5.0 Implementation:

An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. \_\_\_\_\_ passed on the day of month, 2018.

### The City of Hamilton

\_\_\_\_\_  
Fred Eisenberger  
MAYOR

\_\_\_\_\_  
CITY CLERK

## **DRAFT Urban Hamilton Official Plan Amendment No. XX**

The following text constitutes Official Plan Amendment No. XX to the Urban Hamilton Official Plan.

### **1.0 Purpose and Effect:**

The purpose and effect of this Amendment is:

- to revise medical marihuana growing and harvesting facility policies and the definition of Medical Marihuana Growing and Harvesting Facility to reflect the current Federal framework concerning said agricultural uses; and,
- to revise policies concerning the Airport Employment Growth District to permit three agricultural uses – medical marihuana growing and harvesting facility, greenhouse, and aquaponics facility within specific Employment Area designations.

### **2.0 Location:**

The lands affected by this Amendment are located within the Employment Area, specifically, the Industrial Land and Business Park Designations on Volume 1, Schedule E-1 – Urban Land Use Designations, as well as lands designated Airport Prestige Business and Airport Light Industrial Designations on Volume 2, Map B.8-1 – Airport Employment Growth District Secondary Plan, Land Use Plan.

### **3.0 Basis:**

The basis for permitting this Amendment is:

- The Federal regulatory framework regarding medical marihuana has changed since the introduction of Official Plan policies concerning medical marihuana in 2014.
- The Federal government has established a best practice to limit sensitive lands uses, in particular, residential uses within 150 metres of a medical marihuana growing and harvesting facility.
- The proposed Amendment extends the same policy framework that permits

limited agricultural uses, specifically greenhouses, aquaponics and medical marihuana growing and harvesting facilities, within Employment Areas to the Airport Employment Growth District Secondary Plan Area.

- The proposed Amendment is consistent with the Provincial Policy Statement, 2014 and conforms to the Growth Plan for the Greater Golden Horseshoe, 2017.

#### **4.0 Actual Changes:**

#### **4.1 Volume 1 – Parent Plan**

#### **Text**

##### **4.1.1 Chapter E – Urban Systems/Designations**

- a. That Section E.5.3 – Employment Area – Industrial Land Designation, Policy E.5.3.9 b) be deleted in its entirety and replaced with the following new policy:

“E.5.3.9 b) an appropriate setback between a medical marihuana growing and harvesting facility and a sensitive land use shall be established in the Zoning By-law;”.

- b. That Section E.5.4 – Employment Area – Business Park Designation, Policy E.5.4.9 b) be deleted in its entirety and replaced with the following new policy:

“E.5.4.9 b) an appropriate setback between a medical marihuana growing and harvesting facility and a sensitive land use shall be established in the Zoning By-law;”.

- c. That Section E.5.5 – Employment Area – Airport Employment Growth District Designation, Policy E.5.5.1 be amended by adding a new clause h), as follows:

“h) Limited agricultural uses, including only a *medical marihuana growing and harvesting facility*, a greenhouse and an aquaponics facility.”

- d. That Section E.5.5 – Employment Area – Airport Employment Growth District Designation be amended by adding the following new policies as Policy E.5.5.10:

**"Medical marihuana growing and harvesting facility**

E.5.5.10 In addition to the requirements of Section E.5 – Employment Area Designations, the following conditions shall apply to a *medical marihuana growing and harvesting facility*:

- a) the appropriate locations within the Employment Area – Business Park Designation and regulations for *medical marihuana growing and harvesting facility* shall be determined in accordance with the Zoning By-law;
- b) an appropriate setback between a medical marihuana growing and harvesting facility and a sensitive land use shall be established in the Zoning By-law;
- c) notwithstanding E.5.5.1, retail sales shall not be permitted; and,
- c) no outside storage shall be permitted."

4.1.2 Chapter G – Glossary

- a. That the definition of Medical Marihuana Growing and Harvesting Facility be amended by deleting the phrase "federal government's Marihuana for Medical Purposes regulations (MMPR) SOR/2013-119" and replacing it with the phrase "the Federal government's *Access to Cannabis for Medical Purposes Regulations (ACMPR)*", so that the definition reads, as follows:

**"Medical Marihuana Growing and Harvesting Facility:** means a wholly enclosed building or structure used for growing, harvesting, testing, destroying, packaging and shipping of marihuana used for medical purposes as permitted under the Federal government's *Access to Cannabis for Medical Purposes Regulations (ACMPR)*."

**4.2 Volume 2 – Secondary Plans**

**Text**

4.2.1 Chapter B.8.0 – Airport Employment Growth District Secondary Plan

- a. That Policy B.8.2.13 – Agricultural Principles be amended by adding the words "agricultural and" between the words "complements" and "food" so that portion of the policy reads, as follows:

"B.8.2.13 The employment lands shall develop in a manner which complements agricultural and food production operations and minimizes conflict between land uses."

- b. That Policy B.8.4 – Employment Area Policies be amended by adding the words ", as well as limited agricultural uses" after the words "Airport Related Business", so that portion of the policy reads, as follows:

**"B.8.4 Employment Area Policies**

The Airport Employment Growth District Secondary Plan provides for a wide range of employment and airport-related employment, consisting of Airport Prestige Business, Airport Light Industrial, Airside Industrial, and Airport Related Business, as well as limited agricultural uses."

- c. That Section B.8.4.5 – Airport Prestige Business be amended by:

- i) adding a new clause as Policy B.8.4.5.2, as follows:

"B.8.4.5.2 Limited agricultural uses including only a *medical marijuana growing and harvesting facility*, a greenhouse and an aquaponics facility may be permitted in accordance with Policy E.5.5.10 of Volume 1."; and,

- ii) renumbering the subsequent policies.

- d. That Section B.8.4.6 – Airport Prestige Business, be amended by:

- i) adding a new clause as Policy B.8.4.6.2, as follows:

"B.8.4.6.2 Limited agricultural uses including only a *medical marijuana growing and harvesting facility*, a greenhouse and an aquaponics facility may be permitted in accordance with Policy E.5.5.10 of Volume 1."; and,

- ii) renumbering the subsequent policies.

**5.0 Implementation:**

An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. \_\_\_\_\_ passed on the  
day of month, 2018.

**The  
City of Hamilton**

\_\_\_\_\_  
Fred Eisenberger  
MAYOR

\_\_\_\_\_  
CITY CLERK



Authority: Item ,  
Report (PED18120)  
CM:  
Wards: City Wide

Bill No.

## CITY OF HAMILTON

BY-LAW NO. 18-\_\_\_

### DRAFT

#### To Amend Zoning By-law No. 05-200

#### Respecting General Text Amendment for Greenhouses, Aquaponics and Medical Marihuana Growing and Harvesting Facilities

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*, S.O. 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 first stage of the new Zoning By law, being By-law No. 05-200, came into force on the 25<sup>th</sup> day of May, 2005;

WHEREAS the Council of the City of Hamilton, in adopting Item x of Report PED18120 of the Planning Committee, at its meeting held on the xx day of xx, 2018, 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, upon approval of Official Plan Amendment No. xx.

WHEREAS this By-law is in conformity with the Rural Hamilton Official Plan, upon approval of Official Plan Amendment No. xx.

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

1. That SECTION 3: DEFINITIONS of By-law No. 05-200 is hereby amended as follows:
  - 1.1. That the definition of medical marihuana growing and harvesting facility be amended by deleting the word "Marihuana for Medical Purposes Regulations (MMPR) SOR/2013-119 made under the Controlled Substances Act as the MMPR read on March 31, 2014", and replacing these words with "Access to *Cannabis for Medical Purposes Regulations (ACMPR)*";".

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

- 1.2 That the definition of Agricultural Processing - Stand Alone be amended by adding the words "or processing of cannabis products" after the words "Agricultural Brewery/Cidery/Winery".
2. That SECTION 9: INDUSTRIAL ZONES be amended as follows:
  - 2.1 That Subsection 9.2.3 l) be amended by adding the following new clause as iii):

"iii) Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone. "
  - 2.2 That Subsection 9.3.3 s) be amended by deleting clause iii) and replacing it with the following new clause as iii):

"iii) Notwithstanding Subsection 9.3.3.e), Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone."
  - 2.3 That Subsection 9.5.3 k) be amended by adding the following new clause as iii):

"iii) Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone. "
  - 2.4 That Subsection 9.6.3 r) be amended by deleting clause iii) and replacing it with the following new clause as iii):

"iii) Notwithstanding Subsection 9.6.3.f), Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone. "
  - 2.5. That Subsection 9.10.1 be amended by adding the following three new uses, as follows:
    - (a) Aquaponics;
    - (b) Greenhouse; and,
    - (c) Medical Marihuana Growing and Harvesting Facility

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

- 2.6. That Subsection 9.10.3 be amended by adding the following new provisions as follows and renumbering the subsequent clauses:

|   |  |
|---|--|
| l) Additional Regulations for Medical Marihuana Growing and Harvesting Facility | In addition to the regulations of Section 9.10.3, the following additional regulations shall apply:  |
|   | i) Notwithstanding Section 9.10.3 g), no outdoor storage or outdoor assembly shall be permitted.   |
|   | ii) Notwithstanding Section 9.10.3 k), no retail sales shall be permitted.   |
|   | iii) Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone. |

- 2.7. That Subsection 9.11.1 be amended by adding the following three new uses, as follows:

- (a) Aquaponics;
- (b) Greenhouse; and,
- (c) Medical Marihuana Growing and Harvesting Facility

- 2.8. That Subsection 9.11.3 be amended by adding the following new provisions as follows and renumbering the subsequent clauses:

|   |   |
|---|---|
| o) Additional Regulations for Medical Marihuana Growing and Harvesting Facility | In addition to the regulations of Section 9.11.3, the following additional regulations shall apply: |
|   | i) Notwithstanding Section 9.11.3 g), no outdoor storage or outdoor assembly shall be permitted.    |
|   | ii) Notwithstanding Section 9.11.3 n), No retail sales shall be permitted.                          |

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

|  |   |
|--|---|
|  | iii) Notwithstanding Subsection 9.11.3.g), Any building, structure used for a medical marihuana growing and harvesting facility shall be located a minimum of 150 metres measured from the building or structure in which the use is located to a Residential, Institutional or Commercial and Mixed Use Zone |
|--|---|

2.9 That Subsection 9.12.3.1 m) be amended by:

(a) deleting clause i) and replacing it with a new clause i) as follows:

“The total gross floor area for all buildings and structures on the site where a medical marihuana growing and harvesting facility exists shall not exceed 90,000 square metres or shall not exceed the lot coverage in Section 9.12.3.1 d), whichever is the lesser.”

(b) deleting the words ”Notwithstanding Section 9.12.3.1. m)i) at the beginning of clause ii);

(c) deleting “20” and replacing it with “30” in clause iii);

(d) adding the following two new clauses as iii) and iv) and renumbering the subsequent clauses:

“iii) The maximum gross floor area for all accessory uses shall not exceed 25% of the gross floor area of the principal use or 1,000 square metres gross floor area, whichever is the lesser.”

“iv) “Any building used for a medical marihuana growing and harvesting facility shall have a minimum separation distance of 150 metres measured from the building or structure in which the use is located to a S1, S2 or S3 Zone and any existing residential dwelling unit, farm labour residence, mobile home, park, educational establishment, residential care facility, place of worship, and day care;

(e) adding the following two clauses as viii) and ix):

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

"viii) All unenclosed parking areas associated with the medical marihuana growing and harvesting facility shall be screened by a visual barrier in accordance with Section 4.19 of this by-law."

ix) For the purposes of Section 12.1.3.1 m) and notwithstanding the definition of lot coverage:

"Lot coverage shall mean the percentage of the lot, excluding lands zoned Conservation/Hazard Land (P7) Zone, and Conservation/Hazard Land (P8) Zone, covered by all buildings structures, driveways, parking areas, access and other lands associated with the use, but shall not include swimming pools and decks."

3. That SECTION 12: RURAL ZONES be amended as follows:

3.1 That Subsection 12.1.3.1 m) be amended by:

(a) deleting clause i) and replacing it with a new clause i) as follows:

"The total gross floor area for all buildings and structures on the site where a medical marihuana growing and harvesting facility exists shall not exceed 90,000 square metres or shall not exceed the lot coverage in Section 12.1.3.1 e), whichever is the lesser."

(b) deleting the words "Notwithstanding Section 12.1.3.1. m)i) at the beginning of clause ii);

(c) deleting "20" and replacing it with "30" in clause iii);

(d) adding the following two new clauses as iii) and iv) and renumbering the subsequent clauses:

"iii) The maximum gross floor area for all accessory uses shall not exceed 25% of the gross floor area of the principal use or 1,000 square metres gross floor area, whichever is the lesser."

"iv) "Any building used for a medical marihuana growing and harvesting facility shall have a minimum separation distance of 150 metres measured from the building or structure in which the use is located to a S1, S2 or S3 Zone and any existing residential dwelling unit, farm labour residence, mobile home, park, educational establishment, residential care facility, place of worship, and day care;

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

(e) adding the following two new clauses as viii) and ix):

"viii) All unenclosed parking areas associated with the medical marihuana growing and harvesting facility shall be screened by a visual barrier in accordance with Section 4.19 of this by-law."

ix) For the purposes of Section 12.1.3.1 m) and notwithstanding the definition of lot coverage:

"Lot coverage shall mean the percentage of the lot, excluding lands zoned Conservation/Hazard Land (P7) Zone, and Conservation/Hazard Land (P8) Zone, covered by all buildings structures, driveways, parking areas, access and other lands associated with the use, but shall not include swimming pools and decks."

3.2 That Subsection 12.2.3.1 m) be amended by:

(a) deleting clause i) and replacing it with a new clause i) as follows:

"The total gross floor area for all buildings and structures on the site where a medical marihuana growing and harvesting facility exists shall not exceed 90,000 square metres or shall not exceed the lot coverage in Section 12.2.3.1 e), whichever is the lesser."

(b) deleting the words "Notwithstanding Section 12.2.3.1. m)i) at the beginning of clause ii);

(c) deleting "20" and replacing it with "30" in clause iii);

(d) adding the following two new clauses as iii) and iv) and renumbering the subsequent clauses:

"iii) The maximum gross floor area for all accessory uses shall not exceed 25% of the gross floor area of the principal use or 1,000 square metres gross floor area, whichever is the lesser."

"iv) "Any building used for a medical marihuana growing and harvesting facility shall have a minimum separation distance of 150 metres measured from the building or structure in which the use is located to a S1, S2 or S3 Zone and any existing residential dwelling unit, farm labour residence, mobile home, park, educational establishment, residential care facility, place of worship, and day care;

**DRAFT**  
**To Amend Zoning By-law No. 05-200**  
**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical**  
**Marihuana Growing and Harvesting Facilities**

(e) adding the following two new clauses as viii) and ix):

“viii) All unenclosed parking areas associated with the medical marihuana growing and harvesting facility shall be screened by a visual barrier in accordance with Section 4.19 of this by-law.

ix) For the purposes of Section 9.12.3.1 m) and notwithstanding the definition of lot coverage:

“Lot coverage shall mean the percentage of the lot, excluding lands zoned Conservation/Hazard Land (P7) Zone, and Conservation/Hazard Land (P8) Zone, covered by all buildings structures, driveways, parking areas, access and other lands associated with the use, but shall not include swimming pools and decks.”

2. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law in accordance with the *Planning Act*.
3. That for the purposes of the Building Code, this By-law or any part of it is not made until it has actually come into force as provided by Section 34 of the *Planning Act*.
4. That this By-law comes into force in accordance with Section 34 of the *Planning Act*.

**PASSED** this \_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
F. Eisenberger  
Mayor

\_\_\_\_\_  
City Clerk

**DRAFT**

**To Amend Zoning By-law No. 05-200**

**Respecting General Text Amendment for Greenhouses, Aquaponics and Medical  
Marihuana Growing and Harvesting Facilities**

*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: Chair and Members      Report No.: PED18120      Date: 06/19/2018

Ward(s) or City Wide: City Wide      (MM/DD/YYYY)

Prepared by: Joanne Hickey Evans      Phone No: 905-546-2424 ext.1282

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



Ministry of  
Municipal Affairs

Ministère des  
Affaires municipales

Ministry of Housing  
Municipal Services Office  
Central Ontario

Ministère du Logement  
Bureau des services aux municipalités  
du Centre de l'Ontario



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March 12, 2018

*Via email only*

Joanne Hickey-Evans, MCIP, RPP  
Manager, Policy Planning and Zoning By-law Reform  
Planning Division  
Planning and Economic Development Department  
City of Hamilton  
71 Main Street West, 4th Floor  
Hamilton, Ontario L8P 4Y5

Dear Ms. Hickey-Evans:

**RE: Interpretation of Medical Cannabis / Marihuana Facilities in the Greenbelt Plan  
File No 25-OTH-189816**

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This letter is in response to your request from February 12, 2018, seeking comments from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and the Ministry of Municipal Affairs (MMA) on whether medical cannabis facilities can be considered an agricultural use or agriculture-related use under the Greenbelt Plan, 2017 (Greenbelt Plan). In preparing this response, we have consulted with OMAFRA technical staff. It should be noted that this response is limited to cannabis production for medical purposes. At this time, the Federal government is proposing to legalize recreational cannabis use and production. The Province of Ontario (Ontario) is continuing to consider its response to the anticipated legalization of recreational cannabis in 2018, and will continue to review input from municipalities, Indigenous communities and other stakeholders in this regard. Ontario reserves its right to comment upon cannabis production for recreational purposes as an agricultural use or an agriculture-related use at a later time if the anticipated federal amendments are enacted.

The production of medical cannabis is regulated by the Federal government under the Access to Cannabis for Medical Purposes Regulations (ACMPR). Under the ACMPR, licensed producers are permitted to conduct a number of activities, including the production of the cannabis crop. These activities result in different land uses, which are regulated through the land use planning system. Some of these uses can be considered agricultural uses, while others may be considered agriculture-related uses under the Greenbelt Plan.

As you are aware, the Greenbelt Plan provides specific policy direction to protect the agricultural land base in the long term. This includes specific policies that apply to prime agricultural areas, including specialty crop areas. Policies 3.1.2.1 and 3.1.3.1 of the Greenbelt Plan set out the following for specialty crop areas and prime agricultural areas respectively:

“All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected and a full range of agricultural uses, agriculture-related uses and on-farm diversified uses are permitted based on the provincial Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas. Proposed agriculture-related uses and on-farm diversified uses shall be compatible with and shall not hinder surrounding agricultural operations.”

The Greenbelt Plan does not set out the crops, specific uses or practices that should be permitted on or in prime agricultural and specialty crop areas. Instead, it defines the terms agricultural uses, normal farm practices, agriculture-related uses, and on-farm diversified uses and provides examples of uses that would meet these definitions.

To provide further guidance on how to interpret provincial land use planning policies related to these uses in prime agricultural areas, OMAFRA developed the [“Guidelines on Permitted Uses in Ontario’s Prime Agricultural Areas”](#) (OMAFRA’s Guidelines). These guidelines include criteria and examples of what constitutes agricultural uses and agriculture-related uses.

### **Agricultural Uses**

Related to growing crops, OMAFRA’s Guidelines explain that in order to qualify as an agricultural use, crops should generally produce a harvestable product (e.g. fruit, vegetables, field crops, biomass, nursery crops, medicinal herbs and seeds). These crops may be used for a variety of purposes beyond food production. As outlined in the Provincial Policy Statement, 2014 (PPS) and Greenbelt Plan definition, on-farm buildings and structures associated with growing these crops are also considered agricultural uses. This includes greenhouses or other structures used for growing plants.

Based on this, the growing of medical cannabis crops qualifies as an agricultural use as per the Greenbelt Plan, including the growing of this crop in greenhouses or other structures.

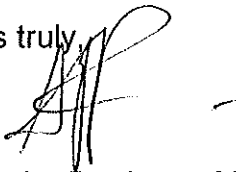
### **Agriculture-related Uses**

Agriculture-related uses are permitted in prime agricultural areas subject to certain conditions. The Greenbelt Plan defines agriculture-related uses as “farm related commercial and industrial uses that are directly related to farm operations in the area, support agriculture, benefit from being in close proximity to farm operations, and provide direct products and/or services to farm operations as a primary activity”. To be considered an agriculture-related use in prime agricultural areas, all of the foregoing criteria must be met. Moreover, agriculture-related uses shall be compatible with, and shall not hinder surrounding agricultural operations.

As mentioned above, in addition to growing medical cannabis crops, licensed producers are allowed to conduct a number of activities under the ACMPR, which may result in different land uses. In order to determine whether these other land uses can be considered agriculture-related uses, the municipality would need to examine the specifics of an operation against the policies of the Greenbelt Plan and OMAFRA's Guidelines. Section 2.5 (Implementation) of OMAFRA's Guidelines also identifies land use planning tools that the City of Hamilton may want to consider to regulate proposed medical cannabis facilities.

If you have any questions please contact me at [Alejandra.Perdomo@ontario.ca](mailto:Alejandra.Perdomo@ontario.ca) or 416-585-6332, or Darryl Lyons, Manager, Community Planning and Development at [Darryl.Lyons@ontario.ca](mailto:Darryl.Lyons@ontario.ca) or 416-585-6048.

Yours truly,



Alejandra Perdomo, MCIP RPP  
Planner, Community Planning and Development (West)  
Municipal Services Office

Cc: John Turvey, Policy Advisor, Land Use Policy & Stewardship, OMAFRA  
Jackie Van de Valk, Rural Planner, Land Use Policy & Stewardship, OMAFRA

| Summary of Other Municipal Policies and Regulations                             |  |                                   |      |                                    |   |   |
|---|--|-----------------------------------|------|------------------------------------|---|---|
| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |      | Max. Lot Coverage<br>(Use / Zones) | Separation Distance from Sensitive Uses<br>(MMPF) | Comments  |
|   |  | Ag./Ru.                           | Ind. |                                    |   |   |
| <b>Ontario</b>  |  |                                   |      |                                    |   |   |
| Brant County, ON<br><br>Zoning By-law No. 110-01                                | MEDICAL MARIJUANA PRODUCTION FACILITY means a lot, building or structure used for producing, processing, testing, destroying, packaging and shipping of Medical Marijuana authorized by a license issued by the federal Minister of Health, pursuant to the Marijuana for Medical Purposes Regulations, under the <i>Controlled Drugs and Substances Act</i> . | √                                 | √    | 70%<br>(Greenhouse)                | 150 m   | MEDICAL MARIJUANA PRODUCTION FACILITIES are subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use. |
| Clearview Township, ON<br><br>Zoning By-law No. 06-54                           | N/A  | √                                 |      | 20%<br>(Farms in Ag. Zone)         |   | Municipality considers the growing/production of medical marijuana the same as any other type of farm produce.  |
| Town of Cobourg, ON<br><br>Zoning By-law No. 85-2003<br><br><i>Under Review</i> | N/A  |                                   | √    | 20%<br>(Farms in Ru. Zones)        |   | Currently regarded as GENERAL INDUSTRIAL USE, although working on Zoning regulations now.   |

| Summary of Other Municipal Policies and Regulations                       |   |                                   |      |  |   |  |
|---|---|-----------------------------------|------|--|---|--|
| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)   | Zones Permitting MMPF As-of-Right |      | Max. Lot Coverage<br>(Use / Zones)   | Separation Distance from Sensitive Uses<br>(MMPF) | Comments   |
|   |   | Ag./Ru.                           | Ind. |  |   |  |
| Municipality of Greater Napanee, ON<br><br>Zoning By-law No. 02-22        | MEDICAL MARIHUANA PRODUCTION FACILITY means a federally-licensed facility used for the cultivation, processing, testing, destruction, packaging or shipping of marihuana used for medical purposes as permitted under the federal government's Marihuana for Medical Purposes Regulations or any subsequent legislation which may be enacted in substitution thereof. |                                   | √    | 5%<br>(Farms in Ag. Zone)<br><br>10%<br>(Farms in Ru. Zone)                        |   | MEDICAL MARIHUANA PRODUCTION FACILITIES are subject to the regulations of the Zones that permit the use.   |
| Haldimand County, ON<br><br>Zoning By-law Nos. 1-DU 80, 1-H 86, NE-1 2000 | N/A   |                                   |      | N/A  |   | Use is considered Agricultural and a Site Specific Zoning By-law Amendment is required to permit a MEDICAL MARIJUANA PRODUCTION FACILITY in the Agricultural (A) Zone.   |
| Municipality of Kincardine, ON<br><br>Zoning By-law No. 2003-25           | N/A   |                                   |      | 10-15%<br>(Greenhouses in Rural Com./Ind. Zone)<br><br>50% (Principal Ag. Bldg. in |   | Medical marihuana facilities may be regarded as either an INDUSTRIAL USE or a GREENHOUSE and would be subject to the corresponding regulations. However, a Site Specific Zoning By-law Amendment is required to establish the use. |

| Summary of Other Municipal Policies and Regulations                               |  |                                   |      |                                    |   |   |
|---|--|-----------------------------------|------|------------------------------------|---|---|
| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |      | Max. Lot Coverage<br>(Use / Zones) | Separation Distance from Sensitive Uses<br>(MMPF) | Comments  |
|   |  | Ag./ Ru.                          | Ind. |                                    |   |   |
|   |  |                                   |      | Energy Centre<br>Ind. Zone)        |   |   |
| Town of Leamington, ON<br><br>Zoning By-law No. 890-09<br><br><i>Under Review</i> | N/A  | √                                 | √    | 80%<br>(Greenhouses)               |   | Currently, the growing of cannabis is considered a permitted AGRICULTURAL USE, although some operations may be considered production and be permitted as an INDUSTRIAL USE.<br><br>Municipality is currently undertaking a 5-year OP review and will be considering land use policies and Zoning regulations related to Medical Marihuana Facilities. |
| City of London, ON<br><br>Zoning By-law No. Z.-1                                  | N/A  |                                   | √    | 70%<br>(Greenhouses)               |   | Use is permitted where a PHARMACEUTICAL AND MEDICAL PRODUCTS INDUSTRY is a permitted use in the Zoning By-law, and where the property meets the minimum regulations of the specific Zone that permits the use.  |
| Niagara-on-the-Lake, ON<br><br>Zoning By-law No. 4316-09                          | MARIHUANA FOR MEDICAL PURPOSES PRODUCTION FACILITY means a building used for the cultivation, processing, testing, destruction, packaging and/or shipping of medical marihuana, licensed under the <i>Marihuana for Medical Purposes</i> |                                   | √    | TBD                                |   | Based on the mapping, only a handful of properties have zoning that would permit MARIHUANA FOR MEDICAL PURPOSES PRODUCTION FACILITY as-of-right.<br><br>MARIHUANA FOR MEDICAL PURPOSES PRODUCTION FACILITIES are subject to the   |

| Summary of Other Municipal Policies and Regulations  |   |                                   |      |   |   |   |
|--|---|-----------------------------------|------|---|---|---|
| Municipality   | Definition for Medical Marihuana Production Facility (MMPF)   | Zones Permitting MMPF As-of-Right |      | Max. Lot Coverage<br>(Use / Zones)                            | Separation Distance from Sensitive Uses<br>(MMPF) | Comments  |
|  |   | Ag./Ru.                           | Ind. |   |   |   |
|  | <i>Regulations to the Controlled Drugs and Substances Act.</i>  |                                   |      |   |   | regulations of the Zones that permit the use, as well as additional regulations specific to the use.  |
| Norfolk County, ON<br><br>Zoning By-law No. 1-Z-2014 | MEDICAL MARIHUANA PRODUCTION FACILITY means premises used for producing, processing, testing, destroying, packaging and shipping of medical marihuana authorized by a license issued by the federal Minister of Health, pursuant to section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, to the <i>Controlled Drugs and Substances Act, SC 1996, c 19</i> , as amended from time to time, or any successors thereto. | √                                 | √    | N/A   | 150 m.+<br><br>70 m. †                            | + Within the Agricultural Zone: 150 m. from Residential, Institutional and Open Space Zones; 150 m from any dwelling, public school, private school, place of worship, or day nursery.<br><br>† Within the Industrial Zones: 70 m from Residential, Institutional and Open Space Zones; 70 m. from any dwelling, public school, private school, place of worship, or day nursery. |
| City of Ottawa, ON<br><br>Zoning By-law No. 2008-250 | MEDICAL MARIHUANA PRODUCTION FACILITY means a federally-licensed facility used for the cultivation, processing, testing, destruction, packaging or shipping of marihuana used for medical purposes as permitted under the federal government's <i>Marihuana for Medical Purposes Regulations</i> or any subsequent legislation which may be   | √                                 | √    | 50%<br>(MMPF, as per Ru. General Ind. & Ru. Heavy Ind. Zones) | 150 m.  | MEDICAL MARIHUANA PRODUCTION FACILITIES are subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use.   |

| Summary of Other Municipal Policies and Regulations                              |  |                                   |      |   |   |  |
|--|--|-----------------------------------|------|---|---|--|
| Municipality   | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |      | Max. Lot Coverage<br>(Use / Zones)  | Separation Distance from Sensitive Uses<br>(MMPF) | Comments   |
|  |  | Ag./ Ru.                          | Ind. |   |   |  |
|  | enacted in substitution thereof.   |                                   |      |   |   |  |
| City of Port Colborne, ON<br>Zoning By-law No. 1150/97/81<br><i>Under Review</i> | MEDICAL MARIHUANA PRODUCTION FACILITY means a building or structure used for the cultivation, processing, testing, destruction, packaging and shipping of marihuana used for medicinal purposes as permitted under the Federal Government's <i>Marihuana for Medical Purpose Regulations</i> (MMPR), as amended from time to time, or an successors thereto. | √                                 |      | 30%<br>Lots less than 5 ha.<br><br>10%<br>Lots 5 - 10 ha.<br><br>5%<br>Lots greater than 10 ha.<br><br>(MMPF) | 150 m.  | MEDICAL MARIHUANA PRODUCTION FACILITIES are currently permitted within the AGRICULTURAL (A) and RURAL (RU) ZONES.<br><br>Draft New Comprehensive By-law proposes to also permit the use within the INDUSTRIAL ZONES. |



| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right | Max. Lot Coverage (Use / Zones) | Separation Distance from Sensitive Uses (MMPF) | Comments   |
|---|--|-----------------------------------|---------------------------------|--|--|
| <b>Alberta</b>  |  |                                   |                                 |  |  |
| Mountain View County, AB<br><br>Zoning By-law No. 15-15 | <p>Currently, only one facility is permitted through a Site Specific Special Exception, which contains the following definition:</p> <p>MARIJUANA PRODUCTION FACILITY means a facility, comprised of one or more buildings or structures used for the purpose of growing, processing, packaging, testing, destroying, storing or shipping Federally licensed marijuana. A marijuana production facility consists of some or all of the following components: greenhouses, warehouses, laboratories, processing facilities, administrative offices, a rainwater reservoir, and shipping facilities but does not include onsite retail sales of Federally Licenced Marijuana. All activities associated with the growing, processing or shipping functions shall be located inside fully enclosed buildings.</p> |                                   | N/A                             |  | Establishment of a MARIJUANA PRODUCTION FACILITY requires a Site Specific Zoning By-law Amendment. |

| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)   | Zones Permitting MMPF As-of-Right |  | Max. Lot Coverage (Use / Zones)     | Separation Distance from Sensitive Uses (MMPF) | Comments  |
|---|---|-----------------------------------|--|-------------------------------------|--|---|
| <b>British Columbia</b>   |   |                                   |  |                                     |  |   |
| Agricultural Land Reserve (ALR)<br><br>BC Regulation No. 204/2017   |   | √                                 |  | N/A                                 |  | The production of marihuana in accordance with the Marihuana for Medical Purposes Regulations, SOR/2013-119 (Canada) is designated as farm use for the purposes of the Act.<br><br>Therefore, no local government by-law shall prohibit the use on ALR lands.   |
| Capital Regional District, BC<br><br>Zoning By-law Nos. 3602 & 2040 | INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119. (By-law Nos. 3602 & 2040)<br><br>MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119 | √<br>ALR only                     |  | 60% (MMPF)<br><br>(By-law No. 2040) | 15 m.<br>(By-law No. 2040)                     | INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION is only permitted as-of-right on lands within the Agricultural Land Reserve (ALR). (By-law Nos. 3602 & 2040)<br><br>For lands outside the ALR, a Site Specific Rezoning Application is required. (By-law Nos. 3602 & 2040)<br><br>INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION is subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use. (By-law Nos. 3602 & 2040)<br><br>A Site Specific Rezoning Application is required to zone lands GENERAL INDUSTRIAL |

| Municipality   | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |   | Max. Lot Coverage (Use / Zones)                               | Separation Distance from Sensitive Uses (MMPF)  | Comments   |
|--|--|-----------------------------------|---|---|---|--|
|  | authorized to grow, produce, possess, sell, provide, ship, deliver, transport, destroy, research, export and/or import marihuana for medical purposes. (By-law No. 2040)   |                                   |   |   |   | MEDICAL MARIHUANA (M-2MM) Zone, which includes regulations specific to the use. No other uses are permitted. (By-law No. 2040)   |
| Regional District of Central Okanagan, BC<br><br>Zoning By-law Nos. 1195 & 871                                       | MEDICAL MARIHUANA PRODUCTION FACILITY means a facility, licensed by the Federal Government under the Marihuana for Medical Purposes Regulation used solely for the production, manufacturing, processing, packaging, shipping and destroying of marihuana for medical purposes. This use is prohibited in all zones except as explicitly permitted under the provisions in this Bylaw. | √                                 |   | 75 % (Greenhouses and other combined)<br><br>(By-law No. 871) |   | MEDICAL MARIHUANA PRODUCTION FACILITY is subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use.   |
| Cowichan Valley Regional District, BC<br><br>Zoning By-law Nos. 3520, 985, 1015, 3705, 1840, 2600, 2524, 1020 & 2465 | MEDICAL MARIHUANA GROWING AND PROCESSING means the cultivation, harvesting, processing, packaging, storage and distribution of plants or parts of plants of the genus <i>Cannabis</i> as permitted under the <i>Marihuana for Medical Purposes Regulation of the Government of Canada</i> . (By-law Nos. 3520, 985, 1840, 2600, 2524, 1020, 2465)                                      |                                   | √ | 50% (Greenhouses and other combined)                          | 300 m. Residential, Comprehensive or Mixed Zone<br><br>100 m. Institutional or Parks Zone<br><br>50 m. Agricultural | Only Zoning By-law No. 3520 permits MEDICAL MARIHUANA GROWING AND PROCESSING as-of-right in the Bamberton Light Industrial (1A) and (1B) Zones.<br><br>MEDICAL MARIHUANA GROWING AND PROCESSING is subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use. |

| Municipality  | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |  | Max. Lot Coverage (Use / Zones)            | Separation Distance from Sensitive Uses (MMPF)  | Comments   |
|---|--|-----------------------------------|--|--|---|--|
|   | <p>MEDICAL MARIHUANA PROCESSING means the use of land, buildings or structures for production, including the growing, processing, packaging and distribution, of medical marihuana in accordance with the Marihuana for Medical Purposes Regulations. (By-law No. 1015, 3705)</p>  |                                   |  |  | <p>Resource Zone<br/><br/>(By-law No. 3520)</p> |  |
| <p>City of Delta, BC<br/><br/>Zoning By-law Nos. 2750 &amp; 7600<br/><br/><i>Recently Updated</i></p> | <p>MARIHUANA means marihuana as defined in the Marihuana for Medical Purposes Regulations, SOR/203-119, as amended from time to time. (By-law No. 2750)</p> <p>CANNABIS PRODUCTION means the growing, cultivation, drying, testing, packaging, storage or distribution, including barter or sale, of cannabis or any products containing or derived from cannabis. (By-law No. 7600)</p> |                                   |  | <p>35%<br/>(Ag. Uses like Greenhouses)</p> |   | <p>Former Comprehensive Zoning By-law No. 2750 included definitions for MARIHUANA and MEDICAL MARIHUANA, but did not permit or contain any regulations concerning MEDICAL MARIHUANA. Therefore, a Site Specific Zoning By-law Amendment was required to establish the use.</p> <p>New Comprehensive Zoning By-law No. 7600 prohibits CANNABIS PRODUCTION and CANNABIS RESEARCH AND DEVELOPMENT in all Zones, except on lands within the Agricultural Land Reserve (ALR). Therefore, a Site Specific Zoning By-law Amendment is required to establish the use on non-ALR lands.</p> |

| Municipality   | Definition for Medical Marihuana Production Facility (MMPF)   | Zones Permitting MMPF As-of-Right |   | Max. Lot Coverage<br>(Use / Zones)                              | Separation Distance from Sensitive Uses<br>(MMPF) | Comments  |
|--|---|-----------------------------------|---|---|---|---|
|  |   | ✓                                 | ✓ |   |   |   |
| Fraser Valley Regional District, BC<br><br>Zoning By-law Nos. 801, 90, 85 & 559                  | MEDICAL MARIHUANA GROW OPERATION means the cultivation, growth, storage, distribution, testing or research of marihuana for medical purposes as lawfully permitted and authorized under the applicable federal or provincial law.                                 | ✓                                 | ✓ | 60%<br>(Greenhouses and other combined)<br><br>(By-law No. 559) |   | Zoning By-laws do not contain any regulations specific to a MEDICAL MARIHUANA GROW OPERATION.   |
| Regional District of Nanaimo, BC<br><br>Zoning By-law Nos. 500 & 1285<br><br><i>Under Review</i> | MEDICAL MARIHUANA PRODUCTION means the cultivation and production of medical marihuana wholly within a facility as permitted under the Marihuana for Medical Purposes Regulations (MMPR), and any subsequent regulations or acts which may be enacted henceforth. | ✓<br>ALR only                     | ✓ | 75%<br>(Greenhouse)   | 60 m.<br>residential<br><br>150 m.<br>park/school | MEDICAL MARIHUANA PRODUCTION is permitted within the Agricultural Land Reserve (ALR) in certain Electoral Districts, but not on agricultural lands outside the ALR.<br><br>MEDICAL MARIHUANA PRODUCTION is subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use.<br><br>Municipality is proposing By-law Amendments to change the terminology from MARIHUANA to CANNABIS and to reflect new federal government regulatory framework which will allow medicinal and non-medicinal cannabis production. |
| Squamish – Lillooet Regional District, BC  | MEDICAL MARIHUANA PRODUCTION FACILITY means the growing, cultivation, storage, distribution, or destruction of marihuana as lawfully  | ✓                                 | ✓ | 5-15%<br>(Ru. Resource Zones)                                   |   | MEDICAL MARIHUANA PRODUCTION FACILITY is subject to the regulations of the Zones that permit the use, as well as additional regulations specific to the use.  |

| Municipality                           | Definition for Medical Marihuana Production Facility (MMPF)  | Zones Permitting MMPF As-of-Right |  | Max. Lot Coverage (Use / Zones) | Separation Distance from Sensitive Uses (MMPF) | Comments   |
|--|--|-----------------------------------|--|---------------------------------|--|--|
| Zoning By-law Nos. 670-1999, 1350-2016 | <p>permitted and authorized pursuant to the Federal Marihuana for Medical Purposes Regulations, as amended from time to time. (By-law No. 670-1999)</p> <p>MEDICAL MARIHUANA PRODUCTION FACILITY means building(s) used for the growing, cultivation, storage, distribution, or destruction of marihuana as lawfully permitted and authorized pursuant to the Federal Marihuana for Medical Purposes Regulations, as amended from time to time. (By-law No. 1350-2016)</p> |                                   |  |                                 |  | <p>Maximum Gross Floor Area for MEDICAL MARIHUANA PRODUCTION FACILITY is 2,500 sq. m. in all Zones, where permitted.</p> <p>Within the Agricultural (AGR1) Zone of Zoning By-law No. 1350-2016, MMPF greater than 3,700 sq. m. requires an approved rainwater management plan and agricultural liquid waste management plan.</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |  |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b>                                    | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
| <b>Ontario</b>   |  |   |  |
| Brant County, ON<br><br>Zoning By-law No. 110-01                                 | Agricultural (A)<br><br>Agricultural Employment (AE)<br><br>Light Industrial (M2)<br><br>Heavy Industrial (M3) | <p><b>MEDICAL MARIJUANA PRODUCTION FACILITY</b> means a lot, building or structure used for producing, processing, testing, destroying, packaging and shipping of Medical Marijuana authorized by a license issued by the federal Minister of Health, pursuant to the Marijuana for Medical Purposes Regulations, under the <i>Controlled Drugs and Substances Act</i>.</p> <p><b>AGRICULTURAL USE</b> means the cultivation of land, the production of crops and the selling of such product on the premises, and the breeding and care of livestock and the selling of such livestock or the product of such livestock raised on the premises, and without limiting the generality of the foregoing includes aviaries, apiaries, animal husbandry, and the raising and harvesting of field, bush, or tree crops, market gardening, nurseries, greenhouses and an accessory air strip. However, "agricultural use" does not include facilities for the permanent or temporary housing of persons employed on the lot, an abattoir or any premises used for the killing of livestock or the processing of meat, fish farms or mushroom operations.</p> <p><b>GREENHOUSE, FARM</b> means a building used for the growing of plants, shrubs, trees and similar vegetation which are transplanted outdoors on the same lot containing such greenhouse.</p> | <p><b>All development in relation to the establishment of or expansion to a Medical Marijuana Production Facility shall be subject to Site Plan Control process.</b></p> <p><b>The facility operations, including loading spaces and storage, must be located within in a wholly enclosed building. Loading spaces may be located within the rear yard, not adjacent to a street, if the property is fully fenced and the property has security fencing in place. Loading spaces shall not be permitted within any front yard or any yard adjacent to a street.</b></p> <p><b>No Minor Variance Applications for regulations related to a MEDICAL MARIJUANA PRODUCTION FACILITY shall be permitted by the Committee of Adjustment and shall only be dealt with through a Zoning By-law Amendment. County to amend this prohibition in future, when other amendments related to Provincial and Federal regulations are brought forward.</b></p> <p>GENERAL REGULATIONS FOR GREENHOUSES<br/>Max. Lot Coverage: 70%<br/>Max. Building Height: 5 m.<br/>Min. Landscaped Open Space: 3 m. wide planting strip abutting a Residential Zone or residential use.<br/>Open Storage: Permitted in the rear yard or interior side yard, provided it is screened from any street or a residential use.</p> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |  |
|---|--|--|--|
| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|   |  | <p>GREENHOUSE, COMMERCIAL means a building used for the growing of flowers, fruits, vegetables, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, and are sold directly from the lot either at wholesale or retail.</p> | <p>Other Regulations: No manure, compost or equipment related to, may be stored within 30 metres of a road allowance, or a watercourse, or a residential use on an adjacent lot.</p> <p>AGRICULTURAL (A) and AGRICULTURAL EMPLOYMENT (AE) ZONES<br/>           Min. Lot Area: 40 ha. (A); 1.0 ha. (AE)<br/>           Max. Lot Coverage: 30% (A); 60% (AE)<br/>           Min. Landscaped Open Space: 10%<br/>           Max. Building Height: 10 m. (A); 12 m. (AE)<br/> <b>Min. Distance Separation of Building or Structures: 150 m. from any Residential Zone or use, Institutional Zone or use, or Open Space Zone.</b><br/> <b>Open Storage: Prohibited</b><br/> <b>Building or structure for security person may be located within the front yard.</b></p> <p>LIGHT INDUSTRIAL (M2) and HEAVY INDUSTRIAL (M3) ZONES<br/>           Min. Lot Area: 1.1 ha.<br/>           Max. Lot Coverage: 60%<br/>           Min. Landscaped Open Space: 10%<br/>           Max. Building Height: 12 m.<br/>           Max. Area of Retail Store: 10% of gross floor area of the permitted use to which it is accessory (M2).<br/> <b>Min. Distance Separation of Building or Structures: 70 m. from any Residential Zone or use, Institutional Zone or use, or Open Space Zone.</b><br/> <b>Open Storage: Prohibited</b></p> |



| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |  |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  |   |  | <b>Building or structure for security person may be located within the front yard.</b>   |
| Clearview Township, ON<br><br>Zoning By-law No. 06-54                            | Agricultural (AG)<br><br>Rural (RU)   | PRODUCE FARM means lands where crops such as tender fruits (peaches, cherries, and plums), grapes, other fruit crops, ginseng, vegetable crops, greenhouse crops and other crops and may also include maple syrup production, agro-forestry, and apiaries. This use includes on-farm processing, storage, and outside storage. A produce farm may also include a farm winery or cidery.<br><br>COMMERCIAL GREENHOUSE means a premises used for the growing of flowers, fruits, vegetables, plants, shrubs, trees, and similar vegetation which are sold directly from the lot either by wholesale or retail. | Municipality considers the growing/production of medical marijuana the same as any other type of farm produce.<br><br>AGRICULTURAL (AG) ZONE<br>Min. Lot Area: 35 ha.<br>Max. Lot Coverage: 20%<br>Max. Building Height: 20 m.<br>Max. Structure Height: 30 m.<br><br>RURAL (RU) ZONE<br>Min. Lot Area: 0.4 ha.<br>Max. Lot Coverage: 20%<br>Max. Building and Structure Height: 18 m.<br><br>Unlike other agricultural operations, they do require site plan approval for large operations that may have an impact on neighbours. |
| Town of Cobourg, ON<br><br>Zoning By-law No. 85-2003<br><br><i>Under Review</i>  | General Industrial (GM)   | INDUSTRIAL USE, GENERAL shall mean the use of land, building or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage or goods and related accessory uses.  | Currently regarded as GENERAL INDUSTRIAL USE, without specific Zoning regulations. Working on Zoning regulations now.<br><br>GENERAL INDUSTRIAL (GM) ZONE<br>Min. Lot Area: 1.4 ha.<br>Max. Height: 13 m.<br>Max. Lot Coverage: 60%<br>Min. Landscaped Open Space: 10%   |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |  |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  |   |  | RURAL (RU) ZONE<br>Min. Lot Area: 8.0 ha.<br>Max. Lot Coverage: 20%<br>Max. Height: 13 m.  |
| Municipality of Greater Napanee, ON<br><br>Zoning By-law No. 02-22               | Light Industrial (M1)<br><br>General Industrial (M2)                        | <p><b>MEDICAL MARIHUANA PRODUCTION FACILITY</b> means a federally-licensed facility used for the cultivation, processing, testing, destruction, packaging or shipping of marihuana used for medical purposes as permitted under the federal government's Marihuana for Medical Purposes Regulations or any subsequent legislation which may be enacted in substitution thereof.</p> <p><b>AGRICULTURAL PRODUCE WAREHOUSE</b> means a building or part of a building used for the storage of agricultural produce and may include facilities for wholesale distribution or an accessory retail commercial outlet for the sale of agricultural products to the public.</p> <p><b>FARM or AGRICULTURAL USE</b> means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur, or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment but does not include the growing of <b>MEDICAL MARIHUANA</b>.</p> | <p><b>LIGHT INDUSTRIAL (M1) ZONE</b><br/>Min. Lot Area: 0.2 ha.<br/>Min. Interior Yard: 20 m., where abuts a Residential Zone.<br/>Max. Lot Coverage: 50%<br/>Min. Landscaped Open Space: 10%<br/>Max. Height: 12 m.<br/>Open Storage: Lands used for the outside display and/or storage of goods and materials shall:</p> <ol style="list-style-type: none"> <li>Be accessory to the use of the main building on the lot.</li> <li>Lands used for open storage of goods and materials shall comply with the required front and exterior side yard and setback requirements provided outside storage is not located closer</li> <li>than 6.0 metres to an interior side lot line where the lot abuts a lot zoned in a residential category.</li> <li>Not exceed 20 percent of the lot area.</li> <li>Be screened from residential uses and public streets adjoining the lot by buildings or be enclosed by a planting strip, or be enclosed by a fence at least 1.8 metres in height from finished grade.</li> </ol> <p><b>GENERAL INDUSTRIAL (M2) ZONE</b><br/>Min. Lot Area: 0.4 ha.<br/>Min. Interior Yard: 20 m. where abuts a Residential Zone.</p> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |   |  |
|---|--|---|--|
| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)  | Comments / Relevant Regulations<br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|   |  | <p>GREENHOUSE, COMMERCIAL means a building or structure for the growing of flowers, fruits, vegetables, plants, shrubs, trees and similar vegetation, which are not necessarily planted outdoors on the same lot containing such greenhouse, and, which are sold directly from such lot at wholesale or retail.</p> | <p>Max. Lot Coverage: 50%<br/> Min. Landscaped Open Space: 10%<br/> Max. Height: 12 m.<br/> Open Storage: Lands used for the outside display and/or storage of goods and materials shall:</p> <ol style="list-style-type: none"> <li>Be accessory to the use of the main building on the lot.</li> <li>Lands used for open storage of goods and materials shall comply with the required front and exterior side yard and setback requirements provided outside storage is not located closer than 6.0 metres to an interior side lot line where the lot abuts a lot zoned in a residential category.</li> <li>Not exceed 50 percent of the lot area.</li> <li>Be screened from residential uses and public streets adjoining the lot by buildings or be enclosed by a planting strip, or be enclosed by a fence at least 1.8 metres in height from finished grade.</li> </ol> <p>PRIME AGRICULTURAL (PA), RESTRICTED AGRICULTURAL (RA) and RURAL ZONE (RU)<br/> FARM USE<br/> Min. Lot Area: 20 ha. (PA); 5.0 ha. (RA); 10 ha. (RU)<br/> Max. Lot Coverage: 5% (PA &amp; RA); 10% (RU)<br/> Max. Building Height: 12.0 m. (PA), (RA) &amp; (RU)</p> |
| Haldimand County, ON<br><br>Zoning By-law Nos. 1-DU 80,                   | None   | <p>FARM means the use of land, building or structure for apiaries, aviaries, the growing of field crops, horticultural crops, ornamental crops, tobacco, ginseng or mushrooms; the breeding, raising, boarding sale or training of horses; the breeding, raising or sale of cattle,</p>                             | <p>Use is considered Agricultural and a site specific Zoning By-law Amendment is required to permit a MEDICAL MARIJUANA PRODUCTION FACILITY in the Agricultural (A) Zone.<br/><br/> <b>AGRICULTURAL (A) ZONE</b></p>   |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
| 1-H 86, NE-1 2000  |   | <p>goats, sheep, swine and fur bearing animals; cattle or goat dairying; raising or sale of chickens, ducks, geese, turkeys, pigeons or other fowl, game birds, fish and frogs; or egg production. (By-law No. 1-DU 80 and 1-H 86)</p> <p>FARM-RELATED PROCESSING means a gainful occupation conducted in whole or in part of an accessory building where produce is processed, preserved, packaged and/or stored and may include uses such as but not limited to wineries, cideries, and the production of maple products, jams, baked goods and jellies and other items typically found in Ontario. Farm-related processing does not include heavy water users or furniture manufacturing. (By-law Nos. 1-DU 80, 1-H 86, and NE-1 2000)</p> <p>COMMERCIAL GREENHOUSE means a greenhouse structure used for the growing of plants, flowers, shrubs, trees and produce to be sold wholesale. Retail sales may be permitted on site according to the provisions for retail sales in the industrial zones and the provisions for a farm produce outlet in the Agricultural Zone. (By-law No. NE-1 2000)</p> <p>FARM means the use of land, building or structure for:</p> <ol style="list-style-type: none"> <li>i. growing of crops, produce, fruit, horticultural plants, trees, pasture and / or sod;</li> </ol> | <p>Min. Lot Area: 1.855 ha.<br/>Max. Building Height: 11 m.<br/>(By-law No. 1-DU 80 and 1-H 86)</p> <p><b>AGRICULTURAL (A) ZONE</b><br/>Min. Lot Area: 0.9 ha. (lot of record); 1.86 ha. (new lot)<br/>Max. Building Height: 11 m.<br/>Min. Separation Distance for FARM PROCESSING facility: 30 m. from dwelling on an adjacent lot.<br/>(By-law No. NE-1 2000)</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
|--|---|---|--|
| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  |   | <ul style="list-style-type: none"> <li>ii. hatching, raising, breeding, boarding, training and / or sale of livestock, fur bearing animals, game, birds and/ or insects;</li> <li>iii. raising cattle and / or goats for milk;</li> <li>iv. fish farming and / or aquaculture;</li> <li>v. greenhouse and / or hydroponics farming;</li> <li>vi. egg production; and / or;</li> <li>vii. apiary or bee keeping.</li> </ul> <p>Any other agricultural use which generally falls under one or more of these categories shall be included in the definition of farm. (By-law No. NE-1 2000)</p> <p>FARM PRODUCE OUTLET shall mean an outlet for the retail sale of farm produce. The use is separate and distinct from 'Farmers Market' and 'Food and Agricultural Product Processing' as defined herein. (By-law No. NE-1 2000)</p> <p>FOOD AND AGRICULTURAL PRODUCT PROCESSING means a building or part of a building used for the sorting, packing, washing, drying, grinding, processing or storage of crops and produce for gain, compensation or commercial use. This shall not include an abattoir or slaughter house. (By-law No. NE-1 2000)</p> |  |
| Municipality of Kincardine, ON<br><br>Zoning By-law                              | None  | INDUSTRIAL USE means the use of any land, building or structure for the purpose of compounding, processing, packaging, crating, bottling, packing, manufacturing, assembling, making, preparing,  | A new medical marihuana production facility requires a Site Specific Zoning By-law Amendment, and may be regarded as either an INDUSTRIAL USE or a GREENHOUSE and would be subject to the corresponding regulations. |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |   |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
| No. 2003-25  |   | <p>inspecting, ornamenting, finishing, treating, altering, repairing, or adapting for sale any good, substance, or article, or any part thereof, as distinguished from the buying and selling of commodities [commercial use] and the supplying of personal services.</p> <p>INDUSTRIAL USE, LIGHT means an industrial use which is wholly enclosed within the building except for parking and loading facilities, and outside storage is accessory to the permitted uses and which in its operation does not ordinarily result in emission from the building of odours, fumes, noise, cinder, vibrations, heat, glare or electrical interference.</p> <p>GREENHOUSE means an enclosed structure, or collection of structures, covered with a rigid or flexible glazing material, with sides that may or may not open to the air, in which the environment is controlled for the cultivation or protection of plants for all or part of the year.</p> | <p>One facility was established within the urban area through the conversion of an existing greenhouse operation. Second facility was established in the rural area through a site specific Zoning By-law Amendment. (WITHIN THE AGRICULTURAL AREA: Site Specific Zoning By-law Amendment No. 2015-008 regarded the use as: A facility for the growing of fruits, vegetables, herb plants, and the production of medical marijuana; and defined it as: Processing and sales of medical marijuana, including but not limited to storing, drying, processing, analyzing, selling, shipping and destroying of medical marijuana or its by-products are permitted, in accordance with the Controlled Drugs and Substances Act, S.C. 1996 and the Marijuana for Medical Purposes Regulations, SOR/2013-119, as amended from time to time.</p> <p>GENERAL INDUSTRIAL (M1) ZONE<br/>(INDUSTRIAL USE)<br/>Min. Lot Area: 0.4 ha. (private services); 0.3 ha. (partial); 0.185 ha. (full)<br/>Min. Interior Side Yard: 6.0 m. abutting Residential Zone<br/>Max. Lot Coverage: 20%<br/>Max. Building Height: 15 m.</p> <p>AGRICULTURAL COMMERCIAL / INDUSTRIAL (ACI) and RURAL COMMERCIAL / INDUSTRIAL (RCI) ZONES<br/>(GREENHOUSE)<br/>Min. Lot Area: 0.4 ha. (Private Services); 0.3 ha. (Communal</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b>  |   |  |   |
|---|---|--|---|
| <b>Municipality</b>   | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b>                       | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|   |   |  | <p>Services)<br/>           Max. Lot Coverage: 10% (Principal Building)<br/>           Min. Ground Floor Area: 70 sq. m.<br/>           Max. Height: 15 m.</p> <p>ENERGY CENTRE INDUSTRIAL (ECI) ZONE<br/>           GREENHOUSES<br/>           Min. Lot Area: 2.0 ha.<br/>           Max. Lot Coverage: 50% (Principal Building)</p> <p>GENERAL AGRICULTURE (A1) ZONE<br/>           (GREENHOUSE)<br/>           Min. Lot Area: 39 ha.<br/>           Max. Lot Coverage: 15%</p>   |
| Town of Leamington, ON<br><br>Zoning By-law No. 890-09<br><br><i>Under Review</i> | Agricultural General (A1)<br><br>Agricultural Restricted (A2)<br><br>Agricultural Hobby Farm (A3) | <p>AGRICULTURAL USES means the growing of crops, including nursery and horticultural crop; greenhouses, raising of livestock, raising of other animals for food, fur or fibre, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production and associated on-farm buildings and structures, including accommodation for full-time farm labour when the size and nature of the operation requires additional employment.</p> <p>GREENHOUSES means a structure made of plastic or glass that is used for growing plants in regulated temperatures, humidity, and ventilation. A greenhouse can range from a small room carrying a few plants over</p> | <p>Currently, the growing of cannabis is considered a permitted AGRICULTURAL USE, with no specific provisions or definitions with respect to medical or non-medical cannabis facilities. Some operations may be considered production and be permitted as an INDUSTRIAL USE.</p> <p>Municipality is currently undertaking a 5-year OP review and will be considering land use policies and related Zoning regulations in relation to Medical Marihuana Facilities.</p> <p>AGRICULTURAL GENERAL (A1) ZONE<br/>           AGRICULTURE<br/>           Min. Lot Area: 2.0 ha.<br/>           Max. Lot Coverage: 80%</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |  |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  |   | <p>the winter, to an immense heated building called a hothouse or conservatory, covering acres of ground and used for growing fruits, vegetables or flowers and includes parking, shipping and warehousing facilities as an accessory use.</p> <p>INDUSTRIAL USE means the use of land, building or structures for the purpose of manufacturing, assembling, making, preparing, inspecting, ornamenting, finishing, treating, altering, repairing, warehousing, or storage or adapting for sale of any goods, substances, article or thing, or any part thereof and the storage of building and construction equipment and materials as distinguished from the buying and selling of commodities and the supplying of personal services. This definition does not include a mine, pit or quarry or obnoxious industry. Accessory uses may include transportation, wholesaling, storage, shipping and receiving incidental to the industrial use.</p> | <p>FARM HELP DWELLINGS: Max. 2.5 labourers per 0.5 ha.</p> <p>AGRICULTURAL RESTRICTED (A2) ZONE</p> <p>AGRICULTURAL USES<br/>Min. Lot Area: 10 ha.<br/>Max. Building Height: 11 m.</p> <p>GREENHOUSES<br/>Min. Lot Area: 2.0 ha.<br/>Max. Lot Coverage: 80%<br/>FARM HELP DWELLINGS: Max. 2.5 labourers per 0.5 ha.</p> <p>AGRICULTURAL HOBBY FARM (A3) ZONE</p> <p>AGRICULTURAL USES<br/>Min. Lot Area: 1.0 ha.<br/>Max. Lot Coverage: 25%</p> <p>GREENHOUSES<br/>Min. Lot Area: 2.0 ha.<br/>Max. Lot Coverage: 80%<br/>FARM HELP DWELLINGS: Max. 2.5 labourers per 0.5 ha.</p> |
| City of London, ON<br><br>Zoning By-law No. Z.-1                                 | Office Business Park (OB1)<br><br>Light Industrial                          | PHARMACEUTICAL AND MEDICAL PRODUCTS INDUSTRY means a building or part thereof used for the manufacture, fabrication and processing of drugs in pharmaceutical preparations for human or veterinary use, and the manufacture of orthopaedic, prosthetic and   | Use is permitted where a PHARMACEUTICAL AND MEDICAL PRODUCTS INDUSTRY is a permitted use in the Zoning By-law, and where the property meets the minimum regulations of the specific Zone that permits the use.   |



| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
|--|---|---|--|
| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  | (L11)   | <p>surgical appliances and supplies.</p> <p>GREENHOUSE means a building or structure used for the growing of plants, shrubs, trees and similar vegetation in a climatically controlled environment constructed primarily from a translucent building material. A greenhouse of less than 10 square meters is considered an accessory structure in accordance with Section 4.1 of this by-law</p> <p>GREENHOUSE, COMMERCIAL means a building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.</p> <p>GREENHOUSE FARM means an agricultural use in which the predominant activity is the growing of crops within a greenhouse. A greenhouse farm may include packing, loading, shipping and any other ancillary facilities required to support the growing and wholesale of the crops grown in the facility. A greenhouse farm may include a SECONDARY FARM DWELLING as an accessory use. A greenhouse farm does not include a COMMERCIAL GREENHOUSE on site or any other retail use.</p> | <p>OFFICE BUSINESS PARK (OB1) ZONE<br/>Min. Lot Area: 0.15 ha.<br/>Min. Distance Separation: 15.0 m. abutting Residential Zone<br/>Max. Lot Coverage: 40%<br/>Min. Landscaped Open Space: 30%<br/>Max. Height: 12 m. (or according to map)</p> <p>LIGHT INDUSTRIAL (LI1) ZONE<br/>Min. Lot Area: 0.25 ha.<br/>Min. Distance Separation: 15.0 m. abutting Residential Zone<br/>Min. Landscaped Open Space: 10%<br/>Max. Height: 15 m. (abutting Residential Zone); 50 m. (abutting non-Residential Zone)</p> <p>AGRICULTURAL (AG1) ZONE<br/>GREENHOUSES<br/>Min. Lot Area: 0.4 ha.<br/>Max. Lot Coverage: 70% (Max. 5% of the growing portion for packing, shipping and loading)<br/>Max. Height: 10 m.</p> |
| Niagara-on-the-Lake, ON  | Glendale Community Zoning   | MARIHUANA FOR MEDICAL PURPOSES PRODUCTION FACILITY means a building used for the  | Based on the mapping, only a handful of properties have zoning that would permit MARIHUANA FOR MEDICAL PURPOSES  |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |  |
|---|--|--|--|
| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
| Zoning By-law No. 4316-09   | District - Light Industrial (LI)                                     | <p>cultivation, processing, testing, destruction, packaging and/or shipping of medical marihuana, licensed under the <i>Marihuana for Medical Purposes Regulations</i> to the <i>Controlled Drugs and Substances Act</i>.</p> <p>AGRICULTURAL PROCESSING FACILITY means a building or buildings used to process agricultural products grown locally or on the property where the agricultural processing facility is located and includes products directly related to agriculture such as fruits, vegetables, nuts, seeds, corn, wheat, flowers, plants and bedding plants. The total area for the agricultural processing facility shall be related to the size of the agricultural operation.</p> <p>AGRICULTURAL USE or FARM means the growing of crops, including nursery and horticultural crops; raising of livestock; raising of other animals for food, fur or fiber, including poultry and fish; aquaculture; apiaries; agro-forestry; maple syrup production; and associated on-farm buildings and structures, including an owner's dwelling and secondary buildings, and farm help accommodation for seasonal and full-time farm labour when the size and nature of the operation requires additional employment. Agricultural uses shall not include the butchering and rendering of animals raised on the premises. The Minimum Distance Separation Formulae I and II criteria apply to certain types of</p> | <p>PRODUCTION FACILITY as-of-right.</p> <p>GLENDALE COMMUNITY ZONING DISTRICT – LIGHT INDUSTRIAL (LI) ZONE:<br/>           Min. Lot Area 0.2 ha.<br/>           Max. Lot Coverage: 50%<br/>           Min. Landscaped Open Space: 10%<br/>           Outside Storage: <b>Prohibited</b><br/>           Min. Buffer Strip: <b>3.0 m., where Interior or Rear Yard Abuts a sensitive land use.</b></p> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |   |
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| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right         | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|   |  | <p>agricultural uses and vary by types of livestock operation, and manure storage.</p> <p>AGRICULTURAL-RELATED USES means those farm-related uses that relate to the size of the farm operation and is directly related to the farm operation and are required to be in close proximity to the farm operation such as an agricultural processing facility, an agricultural produce storage building, an agricultural stand, a pick your own agricultural operation, a farm or cottage winery, or a riding stable.</p> <p>GREENHOUSE, COMMERCIAL means a building(s) or protective environment structure(s), including a hoop house designed to optimize maximum solar radiation in which, temperature, humidity, carbon dioxide and air flow can be regulated for the cultivation of plants for the purpose of a commercial enterprise. The retail operation is to be secondary to the greenhouse operation and limited to twenty-five per cent (25%) of the gross floor area of the main use.</p> |   |
| Norfolk County, ON<br><br>Zoning By-law No. 1-Z-2014                      | General Industrial (MG)<br><br>Light Industrial (ML)<br><br>Rural Industrial | MEDICAL MARIHUANA PRODUCTION FACILITY means premises used for producing, processing, testing, destroying, packaging and shipping of medical marihuana authorized by a license issued by the federal Minister of Health, pursuant to section 25 of the Marihuana for Medical Purposes Regulations, SOR/2013-119, to the <i>Controlled Drugs and</i>   | GENERAL INDUSTRIAL (MG), LIGHT INDUSTRIAL (ML) and RURAL INDUSTRIAL (MR) ZONES<br>Min. Lot Area: 0.1855 ha. (MG and MR); 0.17 ha. (ML)<br>Max. Building Height: 11 m. (MR); varies (MG and ML)<br><b>Min. Separation Distance: 70 m from Residential, Institutional and Open Space Zones; 70 m. from any dwelling, public school, private school, place of worship, or day nursery.</b> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |  |
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| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right   | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>(‘bold’ indicates regulations specific to Medical Marihuana Production Facilities)  |
|   | (MR)<br><br>Agricultural (A)   | <p><i>Substances Act, SC 1996, c 19</i>, as amended from time to time, or any successors thereto.</p> <p>GARDEN CENTRE means a building, structure or lot used for the retail sale of 2.67 agricultural products such as plants, trees and shrubs and ancillary sales of landscaping materials and products and shall not include a MEDICAL MARIHUANA PRODUCTION FACILITY.</p> <p>WHOLESALE OUTLET means an establishment in which goods, wares, merchandise, substances, articles or things are offered or kept for sale in large quantities for wholesale to retail business establishments and shall not include a MEDICAL MARIHUANA PRODUCTION FACILITY.</p> | <p>Outdoor Storage: <b>Prohibited</b><br/><b>Building or structure for security purposes may be located within the front yard and does not need to comply with Yard requirements.</b><br/><b>Subject to Site Plan Control.</b></p> <p>AGRICULTURAL (A) ZONE<br/>Min. Lot Area: 40 ha.<br/>Max. Building Height: 11 m.<br/><b>Min. Separation Distance: 150 m from Residential, Institutional and Open Space Zones; 150 m from any dwelling, public school, private school, place of worship, or day nursery.</b><br/>Outdoor Storage: <b>Prohibited</b><br/><b>Building or structure for security purposes may be located within the front yard and does not need to comply with Yard requirements.</b><br/><b>Subject to Site Plan Control.</b></p> |
| City of Ottawa, ON<br><br>Zoning By-law No. 2008-250                      | General Industrial (IG)<br><br>Heavy Industrial (IH)<br><br>Rural General Industrial (RG)<br><br>Rural Heavy | <p>MEDICAL MARIHUANA PRODUCTION FACILITY means a federally-licensed facility used for the cultivation, processing, testing, destruction, packaging or shipping of marihuana used for medical purposes as permitted under the federal government’s <i>Marihuana for Medical Purposes Regulations</i> or any subsequent legislation which may be enacted in substitution thereof.</p> <p>AGRICULTURAL USE means the cultivation of the soil to produce crops and the raising of farm animals, and without limiting the generality of the foregoing includes:</p>   | <p><b>A MEDICAL MARIHUANA PRODUCTION FACILITY:</b></p> <ul style="list-style-type: none"> <li><b>a) must be a listed permitted use in the zone it is located in and must comply with the provisions of that zone,</b></li> <li><b>b) must be located completely within a building,</b></li> <li><b>c) must not have any outdoor storage;</b></li> <li><b>d) is not permitted in a dwelling;</b></li> <li><b>e) must not be located in a building that is within 150 metres of a Residential, Institutional, Village Residential, Rural Residential or Rural Institutional Zone;</b></li> <li><b>f) despite (e) above, may be located within 150 metres of a Rural Institutional Zone or Institutional Zone if the only</b></li> </ul>                |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |  |
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| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|   | Industrial (RH)  | <ul style="list-style-type: none"> <li>a) the growing of crops;</li> <li>b) nurseries, greenhouses, market gardens, orchards, vineyards, agro-forestry operations and maple syrup production;</li> <li>c) the keeping and raising of livestock, fowl, fish, bees or fur or wool bearing animals;</li> <li>d) farm-based home industry involving the production of value-added or value-retained products from produce grown or raised on-site;</li> <li>e) a farm produce outlet selling agricultural products produced on the premises; or</li> <li>f) uses of a farm-tourism nature that are secondary to and subordinate to the agricultural use such as: <ul style="list-style-type: none"> <li>i. seasonal or occasional festivals or events,</li> <li>ii. recreational activities, or</li> <li>iii. educational displays</li> </ul> </li> </ul> <p>but does not include a medical marihuana production facility.</p> | <p><b>permitted uses in these zones are an environmental preserve and educational area, emergency service, municipal service centre, office, storage yard or warehouse,</b></p> <p><b>g) established in compliance with this Section is not considered to be non-complying to (e) and (f) above by the subsequent erection of a residential or institutional use building on another lot.</b></p> <p>GENERAL INDUSTRIAL (IG) ZONE<br/>Min. Lot Area: 01 ha.<br/>Max. Lot Coverage: 65%<br/>Max. Floor Space Index (FSI): 2, unless otherwise shown on zoning maps<br/>Max. Building Height: 22 m., unless otherwise shown on zoning maps; 11 m. within 20 m. of a Residential or Institutional Zone</p> <p>HEAVY INDUSTRIAL (IH) ZONE<br/>Min. Lot Area: 0.4 ha.<br/>Max. Floor Space Index (FSI): 2<br/>Max. Building Height: 22 m.</p> <p>RURAL GENERAL INDUSTRIAL (RG) and RURAL HEAVY INDUSTRIAL (RH) ZONES<br/>Min. Lot Area: 0.4 ha. (RG); 0.8 ha. (RH)<br/>Max. Lot Coverage: 50% (RG &amp; RH)<br/>Max. Building Height: 15 m. (RG &amp; RH)</p> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations   |  |   |   |
|---|--|---|---|
| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right   | Relevant Definition(s)  | Comments / Relevant Regulations<br><br>(‘ <b>bold</b> ’ indicates regulations specific to Medical Marihuana Production Facilities)  |
| City of Port Colborne, ON<br><br>Zoning By-law No. 1150/97/81<br><br><i>Draft New Comprehensive By-law</i><br><br><i>Under Review</i> | Agricultural (A)<br><br>Rural (RU)<br><br><i>Light Industrial (LI)</i><br><br><i>Heavy Industrial (HI)</i><br><br><i>Gateway Industrial (GI)</i> | <p>MEDICAL MARIHUANA PRODUCTION FACILITY means a building or structure used for the cultivation, processing, testing, destruction, packaging and shipping of marihuana used for medicinal purposes as permitted under the Federal Government’s <i>Marihuana for Medical Purpose Regulations</i> (MMPR), as amended from time to time, or an successors thereto.</p> <p>GREENHOUSE means a building or structure used for the cultivation and propagation of plants.</p> | <p>A MEDICAL MARIHUANA PRODUCTION FACILITY is currently permitted within the AGRICULTURAL (A) and RURAL (RU) ZONES, and the draft New Comprehensive By-law proposes to also permit the use within the INDUSTRIAL ZONES.</p> <p>AGRICULTURAL (A) and RURAL (RU) ZONE<br/> <b>Min. Lot Area: Permitted only on an existing lot having a min. lot size of 3 ha.</b><br/> <b>Max. Lot Coverage: 30% (lots less than 5 ha.); 10% (lots 5 ha. to 10 ha.); 5% (lots greater than 10 ha.)</b><br/> <b>Min. Distance Separation: 150 m. to Sensitive Land Use</b><br/> <b>Planting Strip: 1.5 m abutting a Sensitive Land Use</b><br/> <b>Outdoor Storage: Not permitted</b><br/> <b>Visible Nighttime Lighting: Building constructed of more than 40% glass and where artificial lighting is required, opaque fencing shall be provided and maintained adjacent to every lot line that abuts a Sensitive Land Use.</b></p> <p><i>The draft New Comprehensive Zoning By-law permits MEDICAL MARIHUANA PRODUCTION FACILITY within the (A), (RU), (LI), (HI) AND (GI) ZONES</i><br/> <b>Max. Lot Coverage: 30% (lots less than 5 ha.); 10% (lots 5 ha. to 10 ha.); 5% (lots greater than 10 ha.)</b><br/> <b>Min. Distance Separation: 150 m. to Sensitive Land Use</b><br/> <b>Planting Strip: 1.5 m abutting a Sensitive Land Use</b><br/> <b>Outdoor Storage: Not permitted</b><br/> <b>Visible Nighttime Lighting: Building constructed of more than 40% glass and where artificial lighting is required, opaque</b></p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |   |
|--|---|---|---|
| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b>  |
|  |   |   | <i>fencing shall be provided and maintained adjacent to every lot line that abuts a Sensitive Land Use.</i>   |
| <b>British Columbia</b>  |   |   |   |
| Regional District of Central Okanagan, BC<br>By-law No. 871                      | Agricultural (A1)<br><br>Rural (R1)<br><br>Rural (R2)                       | <p>MARIHUANA means all parts of the genus cannabis whether growing or not and the seed or clone of such plants.</p> <p>MEDICAL MARIHUANA PRODUCTION FACILITY means a facility, licensed by the Federal Government under the Marihuana for Medical Purposes Regulation used solely for the production, manufacturing, processing, packaging, shipping and destroying of marihuana for medical purposes. This use is prohibited in all zones except as explicitly permitted under the provisions in this Bylaw.</p> <p>A standard HOME BASED BUSINESS use shall not include:</p> <ol style="list-style-type: none"> <li>The repair or painting of vehicles, trailers, boats, commercial equipment, and industrial equipment;</li> <li>Welding or machine shops;</li> <li>Spray painting or spray coating operations;</li> <li>MEDICAL MARIHUANA PRODUCTION FACILITIES.</li> </ol> | <p><b>General Provisions exclude MEDICAL MARIHUANA PRODUCTION FACILITIES from Major / Standard / Minor Home Based Business.</b></p> <p><b>MEDICAL MARIHUANA PRODUCTION FACILITIES are only permitted on lands outlined within defined zones or lands within the Agricultural Land Reserve and shall be subject to the following regulations:</b></p> <ol style="list-style-type: none"> <li><b>The site must be licensed by the Federal Government.</b></li> <li><b>Min. Lot Area: 8.0 ha.</b></li> <li><b>Min. Yards: 30.0 m from all lot lines; 15.0 m from all watercourses, except when the subject property is located in a Development Permit Area or Floodplain and is subject to other Floodplain Regulations.</b></li> <li><b>The buildings used for Medical Marihuana Production Facilities do not discharge or emit odorous, toxic or noxious matter or vapour; heat, glare or radiation; recurrently generated ground vibration; noise in excess of ambient noise at the property boundary; electrical interference; or any other health or safety hazards.</b></li> </ol> <p>AGRICULTURAL (A1) ZONE<br/>Min. Lot Area: 4.0 ha. (outside ALR); No minimum (in ALR)<br/>Max. Lot Coverage: 35% other than greenhouses; 75% for</p> |

| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations   |   |   |   |
|---|---|---|---|
| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right  | Relevant Definition(s)  | Comments / Relevant Regulations<br><br>('bold' indicates regulations specific to Medical Marihuana Production Facilities)   |
|   |   | <p>Minor HOME BASED BUSINESS use shall not include:</p> <ul style="list-style-type: none"> <li>a) The repair or painting of vehicles, trailers, boats, commercial equipment and industrial equipment;</li> <li>b) Welding or machine shops;</li> <li>c) Spray painting or spray coating operations;</li> <li>d) MEDICAL MARIHUANA PRODUCTION FACILITIES.</li> </ul>   | <p>greenhouses and other than greenhouses combined.<br/>Max. Height: 12 m. (principal buildings); 8 m. (accessory buildings and structures)<br/>One single detached dwelling<br/>Up to 2 accessory homes are permitted, subject to General Provisions.</p> <p>RURAL (RU1) and RURAL (RU2) ZONES<br/>Min. Lot Area: 30 ha. (RU1); 4.0 ha. (RU2)<br/>Max. Lot Coverage: 10%<br/>Min. Yard: 15 m. (greenhouses)<br/>Max. Height: 12 m. (principal buildings); 8 m. (accessory buildings and structures)<br/>Dwellings: 1 single detached dwelling; up to 2 accessory homes are permitted, subject to General Provisions.</p> |
| <p>Cowichan Valley Regional District, BC</p> <p>Zoning By-law Nos. 3520, 985, 1015, 3705, 1840, 2600, 2524, 1020 &amp; 2465</p> | <p><u>By-law No. 3520</u></p> <p>Bamberton Light Industrial (1A)</p> <p>Bamberton Light Industrial (1B)</p> | <p>MEDICAL MARIHUANA GROWING AND PROCESSING means the cultivation, harvesting, processing, packaging, storage and distribution of plants or parts of plants of the genus <i>Cannabis</i> as permitted under the <i>Marihuana for Medical Purposes Regulation of the Government of Canada</i>. (By-law Nos. 3520, 985, 1840, 2600, 2524, 1020, 2465)</p> <p>MEDICAL MARIHUANA PROCESSING means the use of land, buildings or structures for production, including the growing, processing, packaging and distribution, of medical marihuana in accordance with the Marihuana for Medical Purposes Regulations. (By-law No. 1015,</p> | <p>MEDICAL MARIHUANA GROWING AND PROCESSING pursuant to the Government of Canada's <i>Marihuana for Medical Purposes Regulation</i> is prohibited on all parcels, except as explicitly permitted otherwise in the By-law. Prohibited as a home based business.</p> <p><u>Zoning By-law No. 3520</u></p> <p>BAMBERTON LIGHT INDUSTRIAL (I-1A) ZONE<br/>Retail sales accessory to a principal permitted use.<br/>Min. Lot Area: 80 ha. (May be subdivided by Zone boundary)<br/>Max. Lot Coverage: 60% for all buildings, 70% impervious surface.<br/>Max. Height: 20 m. (Building and Structures)</p>                      |



| Summary of Other Municipal with Urban and Rural Zoning By-law Regulations |  |  |   |
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| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|   |  | <p>3705)</p> <p>FOOD PROCESSING means the use of land, buildings or structures for the processing, warehousing, and distribution of food and beverage products, but specifically excludes fish, livestock, medical marihuana, poultry processing or brewery or distillery. (By-law No. 3705)</p> | <p><b>Min. Distance Separation for all Buildings/Structures:</b><br/> <b>50 m. from lot lines abutting A-1 Zone</b><br/> <b>100 m. of Institutional or Parks Zone</b><br/> <b>300 m. from Residential, Comprehensive or Mixed Zone (where sensitive uses are permitted)</b></p> <p>AGRICULTURAL RESOURCE 1 (A-1) ZONE<br/> GREENHOUSES<br/> Min. Lot Area: 30 ha.<br/> Max. Lot Coverage: 50%</p> <p>LIGHT INDUSTRIAL (I-1B) ZONE<br/> Min. Lot Area: 0.1 ha.<br/> Max. Lot Coverage: 60% for all buildings, 70% impervious surface.<br/> Servicing: Full Services required.<br/> Dwelling Units: No more than three (3) are permitted.<br/> Max. Height: 20 m. (Building and Structures)</p> <p><b>Min. Distance Separation for all Buildings/Structures:</b><br/> <b>50 m. from lot lines abutting A-1 Zone</b><br/> <b>100 m. of Institutional or Parks Zone</b><br/> <b>300 m. from Residential, Comprehensive or Mixed Zone (where sensitive uses are permitted)</b></p> <p><u>Zoning By-law No. 3705</u></p> <p>One MEDICAL MARIHUANA PROCESSING facility is permitted as a Site Specific Exception within the AGRICULTURAL SERVICE (A7) ZONE of the Electoral Area D – Cowichan Bay.</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|  |   |   | <p><b>Buildings and structures for MEDICAL MARIHUANA PROCESSING shall:</b></p> <p>a) <b>Not be located within 50 m of any parcel line;</b></p> <p>b) <b>Not be located within 300 m of land within a residential or mixed use zone;</b></p> <p>c) <b>Not be located within 100 m of land within a parks or institutional zone.</b></p> <p>AGRICULTURAL RESOURCE (A1) and AGRICULTURAL PROCESSING (A1A) ZONES<br/>GREENHOUSES<br/>Min. Lot Area: 30 ha. (A1 &amp; A1A)<br/>Max. Lot Coverage: 50% (A1 &amp; A1A)</p>  |
| City of Delta, BC<br><br>Zoning By-law Nos. 2750 & 7600                          | None  | <p>CANNABIS means cannabis as defined in the Marihuana for Medical Purposes Regulations, SOR/203-119, as amended from time to time. (By-law Nos. 2750 and 7600)</p> <p>MARIHUANA means marihuana as defined in the Marihuana for Medical Purposes Regulations, SOR/203-119, as amended from time to time. (By-law No. 2750)</p> <p>MEDICAL MARIHUANA means marihuana, cannabis or its constituent or derivative forms, grown, cultivated, dried, tested, packaged, stored, distributed and/or sold pursuant to the Marihuana for Medical Purposes</p> | <p>Former Comprehensive Zoning By-law No. 2750 included definitions for MARIHUANA and MEDICAL MARIHUANA, but did not permit or contain any regulations concerning MEDICAL MARIHUANA. Therefore, a Site Specific Zoning By-law Amendment was required to establish the use.</p> <p>New Comprehensive Zoning By-law No. 7600 recently came into force and effect (April 9, 2018) and the By-law anticipates that recreational cannabis is forthcoming in 2018.</p> <p>CANNABIS replaces MEDICAL MARIHUANA.</p> <p>CANNABIS PRODUCTION and CANNABIS RESEARCH AND DEVELOPMENT is prohibited in all Zones, except on lands within</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |  |   |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|  |   | <p>Regulations, SOR/203-119, as amended from time to time. (By-law No. 2750)</p> <p>MEDICAL MARIHUANA PRODUCTION means the use of land, buildings or structures for the growing, cultivation, drying, testing, packaging, storage, distribution and/or sale of "Medical Marihuana". (By-law No. 2750)</p> <p>MEDICAL MARIHUANA RESEARCH AND DEVELOPMENT means the use of land, buildings or structures for the systematic research, testing, data collection and manipulation, or technical or scientific development of "Medical Marihuana", and may include a research laboratory, but does not include "Medical Marihuana Production". (By-law No. 2750)</p> <p>CANNABIS DISPENSARY means a premises used for the sale, barter, distribution or dispensing of cannabis or any products containing or derived from cannabis, or the advertising or offering of such items for sale, barter, distribution or dispensing. (By-law No. 7600)</p> <p>CANNABIS PRODUCTION means the growing, cultivation, drying, testing, packaging, storage or distribution, including barter or sale, of cannabis or any products containing or derived from cannabis. (By-law No. 7600)</p> | <p>the Agricultural Land Reserve (ALR). Therefore, a Site Specific Zoning By-law Amendment is required to establish the use on non-ALR lands.</p> <p>CANNABIS DISPENSARY is not permitted as a home occupation and is prohibited, except where specifically permitted. No Site Specific Exceptions currently permit the use.</p> <p>Within the Definitions Section of the By-law it is specified that COMMUNITY SERVICES, CONVENIENCE STORE, DRUG STORE, HEALTH CARE OFFICE, OFFICE OPERATION, PHARMACY, POLYCLINIC, RETAIL SALES do not include CANNABIS DISPENSARY. (By-law No. 7600)</p> <p>Definitions related to smoking and apparatuses related to smoking cannabis (e.g. bong hooka) use are included in By-law, but not otherwise referenced, except that a PRIVATE SMOKING club is prohibited in all Zones, unless specifically permitted (no Site Specific Exceptions currently permit the use).</p> <p><u>Zoning By-law Nos. 2750 &amp; 7600</u></p> <p>AGRICULTURE (A1) ZONE<br/>USES SIMILAR TO GREENHOUSES<br/>Max. Lot Coverage: 35%</p> |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities) |
|  |   | <p>CANNABIS RESEARCH AND DEVELOPMENT means the systematic research, testing, data collection and manipulation, or technical or scientific development of cannabis or any products containing or derived from cannabis, and may include a research laboratory, but does not include cannabis production. (By-law No. 7600)</p> <p>FARM means an area of land whose primary use is for farming and which</p> <ol style="list-style-type: none"> <li>a) consists of one or more lots, all of which are operated by a farm owner and managed as a single business unit, and</li> <li>b) is classified as a farm under the Assessment Act. (By-law No. 7600)</li> </ol> <p>FARMING means the use of land, buildings or structures for any of the following:</p> <ol style="list-style-type: none"> <li>(a) growing, producing, raising or keeping animals and plants, including apiculture, poultry and the growing of mushrooms and the primary products of those plants or animals, but does not include the breeding of pets or operating a kennel;</li> <li>(b) cultivation in plantations of any specialty wood crops or specialty fibre crops prescribed by the Minister responsible for Agriculture;</li> <li>(c) turf production, with approval under the</li> </ol> |  |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |  |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>  | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities) |
|  |   | <p>Agricultural Land Commission Act, if required;</p> <p>(d) raising or keeping of farmed game by a person licensed to do so under the Animal Health Act;</p> <p>(e) raising or keeping of fur-bearing animals by a person licensed to do so under the Animal Health Act;</p> <p>(f) raising or keeping of exotic animals prescribed by the Minister responsible for Agriculture;</p> <p>(g) a British Columbia licensed winery or cidery, provided that the use is in accordance with all conditions in the Agricultural Land Commission Act and all regulations or orders pursuant thereto;</p> <p>(h) the following farm activities to enable uses (a) to (g) above of the farm on that lot:</p> <ol style="list-style-type: none"> <li>i. clearing, draining, irrigating or cultivating land;</li> <li>ii. using farm machinery, equipment, devices, materials and structures;</li> <li>iii. applying fertilizers, manure, pesticides, biological control agents, including ground and aerial spraying;</li> <li>iv. storage of agricultural products and the products of on-farm processing and on-farm product preparation. (By-law No. 7600)</li> </ol> <p>GREENHOUSE means a structure which is covered with translucent material, used for growing plants and is of sufficient size for persons to work within. (By-law No. 7600)</p> |  |

| <b>Summary of Other Municipal with Urban and Rural Zoning By-law Regulations</b> |   |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities) |
|  |   | GREENHOUSE OPERATION means the use of a greenhouse on a farm for the purpose of growing plants. (By-law No. 7600) |  |

| <b>Summary of Other Municipal with Rural Zoning By-law Regulations</b> |   |   |  |
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| <b>Municipality</b>  | <b>Zones Permitting Medical Marihuana Production Facilities As-of-Right</b> | <b>Relevant Definition(s)</b>   | <b>Comments / Relevant Regulations</b><br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
| <b>Alberta</b>   |   |   |  |
| Mountain View County, AB<br><br>Zoning By-law No. 15-15                | None  | <p>The following definitions are related to the Site Specific Zoning By-law Amendment to permit a MARIJUANA PRODUCTION FACILITY.</p> <p>FEDERALLY LICENSED MARIJUANA means plants grown for the production of marijuana based products, authorized by a licence issued under the Federal government's marijuana production related legislation and regulations.</p> <p>MARIJUANA PRODUCTION FACILITY means a facility, comprised of one or more buildings or structures used for the purpose of growing, processing, packaging, testing, destroying, storing or shipping Federally licensed marijuana. A marijuana production facility consists of some or all of the following components: greenhouses, warehouses, laboratories, processing facilities, administrative offices, a rainwater reservoir, and shipping facilities but does not include onsite retail sales of Federally Licenced Marijuana. All activities associated with the growing, processing or shipping functions shall be located inside fully enclosed buildings.</p> | <p>Establishment of a MARIJUANA PRODUCTION FACILITY requires a Site Specific Zoning By-law Amendment. Currently, only one facility is permitted through the following Site Specific Special Exception:</p> <p><b>DIRECT CONTROL DISTRICT 17.17</b><br/> <b>Min. Site Area: 38.8 ha.</b><br/> <b>Min. Front Yard: 40 m.</b><br/> <b>Min. Yard Abutting Riparian Area: 5 m.</b><br/> <b>Min. Side Yard: 78 m.</b><br/> <b>Min. Rear Yard: 70 m.</b><br/> <b>Max. Building Height: 7.5 m.</b><br/> <b>Outdoor Storage: Prohibited</b><br/> <b>Accessory Buildings: Max. 2 Security Suites</b></p> <p>AGRICULTURAL (A) DISTRICT<br/> AGRICULTURAL USES<br/> Min. Lot Area: 32.37 ha.<br/> Max. Building Height: Appropriate for the intended use.</p> <p>AGRICULTURAL (A2) DISTRICT<br/> AGRICULTURAL USES<br/> Min. / Max. Lot Area: 16.16 ha. / 32.33 ha.<br/> Max. Building Height: Appropriate for the intended use.</p> |

| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right   | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
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| <b>British Columbia</b>   |  |  |  |
| Agricultural Land Reserve (ALR), BC<br><br>ALR Use, Subdivision and Procedure Regulation No. B.C. Reg. 204/2017 | N/A  | N/A  | The production of marihuana in accordance with the Marihuana for Medical Purposes Regulations, SOR/2013-119 (Canada) is designated as farm use for the purposes of the Act.<br><br>Therefore, no local government by-law shall prohibit the use on ALR lands.  |
| Capital Regional District, BC<br><br>By-law Nos. 3602 & 2040  | Agricultural * (A) (AG) (By-law Nos. 3602 & 2040)<br><br>General Industrial Medical Marihuana (M-2MM) (By-law No. 2040)<br><br>* ALR lands only. | INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION means a use related to the growing, production, possessing, selling, provision, shipping, delivering, transporting, destroying, research, exporting and/or importing of marihuana for medical purposes undertaken by a medical marihuana licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119. (By-law Nos. 3602 & 2040)<br><br>MEDICAL MARIHUANA LICENSED PRODUCER means a licensed producer pursuant to the Marihuana for Medical Purposes Regulation, SOR/2013-119 authorized to grow, produce, possess, sell, provide, ship, deliver, transport, destroy, research, export and/or import marihuana for medical purposes. | INTENSIVE AGRICULTURE – MEDICAL MARIHUANA PRODUCTION is permitted as-of-right on lands within the Agricultural Land Reserve. For lands outside the Agricultural Land Reserve, a Site Specific Rezoning Application is required.<br><br>AGRICULTURAL (A) and AGRICULTURAL (AG) ZONES (By-law Nos. 3602 & 2040)<br><b>Only permitted on lands within the Agricultural Land Reserve.</b><br>Min. Lot size: 4 ha.<br>Max. Lot Coverage 20%<br>Min. Yard Requirements: <b>30 m. (all yards)</b><br>Max. Building Height: 11 m.<br>Dwellings (ALR lands): 1 one-family dwelling plus 2 additional dwelling units are permitted on a lot with the approval of the Agricultural Land Commission. |



| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
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|              |  | <p>(By-law Nos. 3602 &amp; 2040)</p> <p>GREENHOUSES AND PLANT NURSERIES means uses or buildings for the raising, storage and sale of bedding, household and ornamental plants.<br/>(By-law Nos. 3602 &amp; 2040)</p> | <p>Lands are Zoned M-2MM through a Site Specific Zoning By-law Amendment.</p> <p><b>GENERAL INDUSTRIAL MEDICAL MARIHUANA (M-2MM) ZONE</b> (By-law No. 2040)<br/> <b>Min. Lot Size: 0.09 ha.</b><br/> <b>Max. Lot Coverage: 60%</b></p> <p>a) <b>Front yards shall be a minimum of 7.5 m;</b><br/> b) <b>Side yards shall be a minimum of 4.5 m, except:</b></p> <ul style="list-style-type: none"> <li>i. <b>when the lot abuts a Residential, Rural Residential, or Multiple Family Residential Zone, the side yard shall be a minimum of 15m;</b></li> <li>ii. <b>when the lot abuts an Industrial Zone, the side yard may be zero;</b></li> <li>iii. <b>when the lot abuts any other Zone, the side yard shall be a minimum of 3 m;</b></li> </ul> <p>c) <b>Flanking yards shall be a minimum of 6 m CTS;</b><br/> d) <b>Rear yards shall be a minimum of 7.5 m, except: where a rear lot line abuts a Residential, Rural Residential, or Multiple Family Residential Zone the rear yard shall be a minimum of 15 m; where a rear lot line abuts an Industrial Zone, the rear yard may be reduced to not less than 4.5 m.</b></p> <p><b>Max. Building &amp; Structure Height: 14 m.</b><br/> <b>Max. Unenclosed Storage Height: 3.5 m. within 30 m. of a Residential Zone, Multiple Family Residential Zone, Commercial Zone, Rural Zone, Agricultural Zone or Institutional Zone.</b><br/> <b>Storage shall not be permitted in required yards adjacent to</b></p> |

| Municipality   | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
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|  |  |  | <b>any Residential or Multiple Family Residential Zone. Dwellings: 1 Dwelling per lot.</b>   |
| Regional District of Central Okanagan, BC<br><br>By-law No. 1195 | Large Holdings (LH)<br><br>Rural Acreage (RA)                        | <p>MARIHUANA means all parts of the genus cannabis whether growing or not and the seed or clone of such plants.</p> <p>MEDICAL MARIHUANA PRODUCTION FACILITY means a facility, licensed by the Federal Government under the Marihuana for Medical Purposes Regulation used solely for the production, manufacturing, processing, packaging, shipping and destroying of marihuana for medical purposes. This use is prohibited in all zones except as explicitly permitted under the provisions in this Bylaw.</p> <p>A standard HOME BASED BUSINESS use shall not include:</p> <ol style="list-style-type: none"> <li>a) The repair or painting of vehicles, trailers, boats, commercial equipment, and industrial equipment;</li> <li>b) Welding or machine shops;</li> <li>c) Spray painting or spray coating operations;</li> <li>d) MEDICAL MARIHUANA PRODUCTION FACILITIES.</li> </ol> <p>Minor HOME BASED BUSINESS use shall not include:</p> <ol style="list-style-type: none"> <li>a) The repair or painting of vehicles, trailers, boats, commercial equipment and industrial equipment;</li> <li>b) Welding or machine shops;</li> <li>c) Spray painting or spray coating operations;</li> </ol> | <p><b>General Provisions exclude MEDICAL MARIHUANA PRODUCTION FACILITIES from Home Occupation.</b></p> <p>MEDICAL MARIHUANA PRODUCTION FACILITIES are only permitted on lands outlined within defined zones or lands within the Agricultural Land Reserve (ALR) and shall be subject to the following regulations:</p> <ol style="list-style-type: none"> <li><b>1. The site must be licensed by the Federal Government.</b></li> <li><b>2. Min. Lot Area: 8.0 ha.</b></li> <li><b>3. Min. Yards: 30.0 m from all lot lines; 15.0 m from all watercourses, except when the subject property is located in a Development Permit Area or Floodplain and is subject to other Floodplain Regulations.</b></li> <li><b>4. The buildings used for Medical Marihuana Production Facilities do not discharge or emit odorous, toxic or noxious matter or vapour; heat, glare or radiation; recurrently generated ground vibration; noise in excess of ambient noise at the property boundary; electrical interference; or any other health or safety hazards.</b></li> </ol> <p>LARGE HOLDINGS (LH) and RURAL ACREAGE (RA) ZONES<br/>Min. Lot Area: 30 ha. (LH); 4.0 (RA)<br/>Max. Lot Coverage: 20% (LH); 10% (RA)<br/>Max. Height: 12 m. (buildings); 8 m. (structures)<br/>Max. Number of Dwellings: 2 (Min. GFA 60 sq. m.)</p> |

| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right   | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
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|   |  | d) MEDICAL MARIHUANA PRODUCTION FACILITIES.  |   |
| Fraser Valley Regional District, BC<br><br>Zoning By-law Nos. 801, 90, 85 & 559 | <u>By-law No. 801</u><br><br>Rural (R-1)<br><br>Rural (R-4)<br><br>Industrial (I-1)<br><br><u>By-law No. 90</u><br><br>Agricultural (Ag-1)<br><br>Rural (R)<br><br>Rural (R-II)<br><br>Limited Use (L-1)<br><br><u>By-law No. 85</u> | <p>MEDICAL MARIHUANA GROW OPERATION means the cultivation, growth, storage, distribution, testing or research of marihuana for medical purposes as lawfully permitted and authorized under the applicable federal or provincial law. (By-law Nos. 801, 90, 85, 559)</p> <p>FARM USE means a use providing for the growing, rearing, producing and harvesting of primary agricultural products; includes the processing and storage of the agricultural products grown, reared, produced or harvested on an individual farm, the storage of machinery, implements and supplies necessary to the farming use, and the repair of the machinery and implements necessary to the said use; includes the keeping of dogs, horses, cattle, sheep, swine, poultry, pigeons, doves, bees, fur-bearing animals or other livestock, the growing of fruits, mushrooms, vegetables and nursery stock, and the storage of feeds and fertilizers required for the farming use; excludes MEDICAL MARIHUANA GROW OPERATION and all manufacturing, processing, storage and repairs not specifically included in this definition. (By-law No. 801, 85)</p> <p>GENERAL AGRICULTURAL USE means a use providing for the growing, rearing, producing or harvesting of agricultural products, and includes:</p> <ul style="list-style-type: none"> <li>a) the keeping of livestock; and</li> <li>b) the processing on an individual farm of the primary agricultural products harvested, reared or produced on that farm; and</li> </ul> | <p>All Zoning By-laws reviewed do not contain any regulations specific to a MEDICAL MARIHUANA GROW OPERATION.</p> <p><u>Regional District of Fraser-Cheam Rural Portions of Electoral Area "B" (By-law No 801)</u></p> <p>RURAL (R-1) ZONE / RURAL (R-4) ZONE<br/>Min. Lot Area: N/A<br/>One one-family residence, plus one second residence per lot.</p> <p>INDUSTRIAL (I-1) ZONE<br/>Min. Lot Area: N/A<br/>Min. Yard: 15 m. abutting an R-1 or I-1 Zone<br/>Max. Building &amp; Structure Height: None<br/>Visual Barrier: 1.8 - 2.4 m. solid uniformly painted fence or landscape screen abutting Highway Commercial, Rural, Residential and Recreational Assembly, Rural Resource, Industrial, and Park Zones.</p> <p><u>Regional District of Fraser-Cheam Community Plan Areas of Electoral Area "B" By-law No. 90</u></p> <p>AGRICULTURAL (Ag-1) ZONE<br/>Min. Lot Area: 8.0 ha.<br/>One one-family residence per lot, plus one accessory employee residence.</p> <p>RURAL (R) ZONE<br/>Min. Lot Area: 2.0 ha.</p> |

| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right  | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
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|              | Agricultural (Ag-1)<br><br>Rural (R)<br><br>Resource Industrial (I-1)<br><br>Limited Use (L-1)<br><br>Light Manufacturing (M-1)<br><br><u>By-law No. 559</u><br><br>Upland Agriculture (A-1)<br><br>Floodplain Agriculture (A-2)<br><br>Agricultural Market (A-3)<br><br>General Industrial (M-1) | <p>c) the storage of farm machinery, implements and agricultural supplies used on that farm as well as the repair activities related to this farm machinery and implements; but excludes an Intensive Agricultural Use, MEDICAL MARIHUANA GROW OPERATION or manufacturing, processing, storage and repair activities not specifically included in this definition. (By-law No. 559)</p> <p>GENERAL INDUSTRIAL USE means a use providing for industrial processing, assembling, manufacturing, repairing, and packaging; workshops for trade contractors; transportation, storage, communication and utility uses; and wholesale trade uses; but excludes heavy industrial uses and MEDICAL MARIHUANA GROW OPERATION. (By-law No. 559)</p> <p>HEAVY INDUSTRIAL USE includes the following: cement plants; processing and manufacturing of industrial chemicals and fertilizers; processing and repair of heavy machinery; abattoirs and meat processing plants; metal manufacture and foundries; brick kilns; wrecking and salvaging yards; cargo handling and wharf facilities; sawmills, shake and shingle mills; but excludes MEDICAL MARIHUANA GROW OPERATION. (By-law No. 559)</p> | <p>One one-family residence per lot, plus one accessory employee residence.</p> <p>RURAL (R-II) ZONE<br/>Max. Lot Coverage: 15%<br/>Max. Building Height: 9 m.</p> <p>LIMITED USE (L-1) ZONE:<br/>Min. Lot Area: 8.0 ha.<br/>One one-family residence per lot, plus one accessory employee residence.</p> <p><u>Regional District of Fraser-Cheam Southern portion of Electoral Area "B"/Laidlaw By-law No. 85</u></p> <p>AGRICULTURAL (Ag-1) ZONE<br/>Min. Lot Area: 8.0 ha.<br/>Dwellings: One one-family residence per lot, plus one accessory employee residence.</p> <p>RURAL (R-1) ZONE<br/>Min. Lot Area: 2.0 ha.<br/>Dwellings: One one-family residence per lot, plus one accessory employee residence.</p> <p>RESOURCE INDUSTRIAL (I-1) ZONE<br/>Min. Lot Area: 0.8 ha. (water services); 4.0 ha. (no water)<br/>Max. Height: 15.24 m.<br/>Min. Yard: 15.24 m from Residential or Commercial Zone<br/>Visual Barrier: 1.8 - 2.4 m. solid uniformly painted fence abutting</p> |

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|              | <p>Heavy Industrial (M-2)</p> <p>Rural Zones* (R-1, 2, 3, 4, 5, 6)</p> <p>* Outside Electoral District "F"</p> |                        | <p>Residential or Commercial Zone<br/>Outdoor Storage: 7.6 m. from any required Visual Barrier<br/>Dwellings: One accessory one-family dwelling above or behind principal use.</p> <p><b>SERVICE INDUSTRIAL (I-2) ZONE</b><br/>Min. Lot Area: 0.9 ha. (water services); 4 ha. (no water)<br/>Max. Height: 12.1 m.<br/>Visual Barrier: 1.8 - 2.4 m. solid uniformly painted fence abutting Residential or Commercial Zone<br/>Outdoor Storage: 7.6 m. from any required Visual Barrier<br/>Dwellings: One accessory one-family dwelling above or behind principal use.</p> <p><b>LIMITED USE (L-1) ZONE</b><br/>Min. Lot Area: 8.0 ha.<br/>Dwellings: One one-family residence per lot, plus one accessory employee residence.</p> <p><b>LIGHT MANUFACTURING (M-1) ZONE</b><br/>Min. Lot Area: 0.093 ha. (full service); 0.4 (partial); 1.0 ha. (unserviced)<br/>Min. Yards: 15 m. Rear / 8 m. All Others, when abutting Residential, Commercial or Campground / Holiday Park Zone – May be subject to greater through Development Review<br/>Max. G.F.A. for Accessory Office: 15%<br/>Max. Building Height: 10 m.<br/>Outdoor Storage: Permitted as accessory (sliding scale – 20% to 0.5 ha.)<br/>Visual Barrier: 1.8 - 2.4 m. solid uniformly painted fence abutting</p> |

| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s) | <b>Comments / Relevant Regulations</b><br>(' <b>bold</b> ' indicates regulations specific to Medical Marihuana Production Facilities)  |
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|              |  |                        | <p>Residential, Commercial or Campground/Holiday Park Zone<br/>           Outdoor Storage: 8 m. from any required Visual Barrier and must be screened on all sides by building, fence or natural growth.<br/>           Dwellings: One accessory one-family dwelling above or behind principal use; an accessory one-family residential use.</p> <p><u>Fraser Valley Regional District Consolidated Zoning Bylaw No. 559, Area "G", Portions of "C" and "F"</u></p> <p>UPLAND AGRICULTURE (A-1), FLOODPLAIN AGRICULTURE (A-2) and AGRICULTURAL MARKET (A-3) ZONES<br/>           Min. Lot Area: 4.0 ha. (A-1); 16.0 ha. (A-2, A-3)<br/>           Max. Lot Coverage: 40% (all buildings except Greenhouses); 60% (including Greenhouses)<br/>           Dwellings: One dwelling unit per parcel and accessory buildings (second dwelling unit prohibited).</p> <p>GENERAL INDUSTRIAL (M-1) and HEAVY INDUSTRIAL (M-2) ZONES<br/>           Min. Lot Area: 1.0 ha.<br/>           Visual Barrier: Adjacent to any Residential or Commercial uses (hedge, fence, wall), at least 2.0 m. in height.<br/>           Dwellings: One dwelling unit per parcel and accessory buildings (second dwelling unit prohibited).</p> <p>RURAL (R-1, 2, 3, 4, 5, 6) ZONES<br/>           Min. Lot Area: 2.0 ha. (R-1); 4.0 ha. (R-2); 8.0 ha. (R-3, R-6); No Minimum (R-4, R-5);<br/>           Max. Lot Coverage: 30% (R-1, R-2, R-3); No Maximum (R-4, R-5); 7% or Max. Building Footprint 4,500 sq. m., whichever is</p> |

| Municipality   | Zones Permitting Medical Marihuana Production Facilities As-of-Right  | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
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|  |   |  | lesser (R-6)<br>Dwellings: One dwelling unit per parcel and accessory buildings (second dwelling unit prohibited).   |
| <p>Regional District of Nanaimo</p> <p>Zoning By-law Nos. 500, 1285</p> <p><i>Proposed Amendments to Zoning By-laws</i></p> <p><i>Under Review</i></p> | <p><u>Zoning By-law No. 500</u></p> <p>Agricultural 1 *</p> <p>Agriculture 2 *</p> <p><u>Zoning By-law No. 1285</u></p> <p><i>Agricultural 1* (A-1)</i></p> <p><i>Industrial 1 (I-1)</i></p> <p><i>Industrial 2 (I-2)</i></p> <p><i>Industrial 3 (I-3)</i></p> <p>* ALR lands only.</p> | <p>MEDICAL MARIHUANA PRODUCTION means the cultivation and production of medical marihuana wholly within a facility as permitted under the Marihuana for Medical Purposes Regulations (MMPR), and any subsequent regulations or acts which may be enacted henceforth. (By-law Nos. 500, 1285)</p> <p>AGRICULTURE means a use providing for the growing, rearing, producing and harvesting of agricultural products, and includes the growing of crops; fruit and berry production; growing trees and shrubs; housing livestock, poultry, fur-bearing animals, bees; animal feeding and holding areas; storage of crops; and the processing of the primary agricultural products harvested, reared or produced on that farm, including the rough sawing of logs, but excludes animal care, medical marihuana production except on lands located within the agricultural land reserve, and specifically excludes the following uses on land located within the Resource Management (RM3) and Rural 5 (RU5) zones that is not located in an agricultural land reserve: feed lot; fur farm; mushroom farm; horse boarding stable; and intensive swine operation. (By-law No. 500)</p> <p>AGRICULTURE means a use providing for growing, rearing, producing and harvesting of agricultural products; boarding of livestock and poultry; and includes the storage and sale on an individual farm of the products harvested,</p> | <p>Municipality allows MEDICAL MARIHUANA PRODUCTION within the Agricultural Land Reserve (ALR) in certain Electoral Districts, but not on agricultural lands outside the ALR.</p> <p>Municipality is proposing By-law Amendments to change the terminology from MARIHUANA to CANNABIS and to reflect new federal government regulatory framework which will allow medicinal and non-medicinal cannabis production. Proposed Amendments also include changes to the Definitions sections in both By-laws and to also permit the establishment of CANNABIS PRODUCTIONS within the AGRICULTURE 1 (A-1), INDUSTRIAL 1 (I-1) and INDUSTRIAL 3 (I-3) ZONES under Zoning By-law No. 1285.</p> <p><u>Zoning By-law No. 500</u></p> <p>GENERAL PROVISIONS<br/><b>Min. Yards: 30 m, except in the A1 Zone: 60 m. from all lot lines adjacent to non-ALR residential uses; 150 m. from any lot containing a park or school.</b></p> <p>MEDICAL MARIHUANA PRODUCTION prohibited as a home based business.</p> <p>MEDICAL MARIHUANA PRODUCTION is only permitted within the Agricultural Land Reserve, if: <b>the production of medical marihuana is contained wholly within licensed facilities as</b></p> |

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|              |  | <p>reared or produced on that farm, the storage of farm machinery and implements used on that farm and includes temporary sawmill and excludes medical marihuana production (By-law No. 1285)</p> <p><i>AGRICULTURE means a use providing for the growing, rearing, producing and harvesting of agricultural products, and includes the growing of crops; fruit and berry production; growing trees and shrubs; housing livestock, poultry, fur-bearing animals, bees; animal feeding and holding areas; storage of crops; and the processing and sale of the primary agricultural products harvested, reared or produced on that farm, including the rough sawing of logs, but excludes animal care, and the following uses on lands that are not in the Agricultural Land Reserve: fur farm, mushroom farm, intensive swine operation, feedlot and medical marihuana production and specifically excludes horse boarding stable on land located within the Resource Management 3 (RM3) and Rural 5 (RU5) zones. (By-law Nos. 500)</i></p> <p>FARM means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land. (By-law No. 500)</p> <p>FARM OPERATION means farm operation as defined in the Farm Practices Protection (Right to Farm) Act and may include but is not limited to activities such as growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or</p> | <p><b>permitted by the Marihuana for Medical Purposes Regulation (MMPR), the minimum setback for all structures associated with medical marihuana production is 30.0 metres from all property lines.</b></p> <p><b>AGRICULTURE 1 &amp; AGRICULTURE 2 ZONES (Only Lands within the ALR)</b><br/><i>Subject to the Agricultural Land Commission Act and Regulations, and applicable orders of the Agricultural Land Commission.</i></p> <p><b>GREENHOUSES</b><br/>Max. Lot Coverage: 75%</p> <p><u>Zoning By-law No. 1285</u></p> <p>MEDICAL MARIHUANA PRODUCTION is prohibited, except where specifically permitted. MEDICAL MARIHUANA PRODUCTION prohibited as a home based business.</p> <p><b>GENERAL PROVISIONS</b><br/><b>Min. Yards: 30 m, except: 60 m. from all lot lines adjacent to non-ALR residential uses; 150 m. from any lot containing a park or school.</b></p> <p><b>AGRICULTURAL 1 (A-1) ZONE (Only Lands within the ALR)</b><br/><i>Subject to the Agricultural Land Commission Act and Regulations, and applicable orders of the Agricultural Land Commission.</i></p> <p><b>GREENHOUSES</b><br/>Min. Lot Size: 4.0 ha.</p> |



| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)  | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)  |
|--------------|--|---|--|
|              |  | <p>animals; aquaculture; and processing or direct farm marketing of products in accordance with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. (By-law No. 500)</p> <p>FARM USE means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by and in accordance with the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, and includes but is not limited to activities such as farm retail sales; storing, packing, preparing and processing farm products; a winery or cidery; and agri-tourism activities and includes farm operation. (By-law Nos. 500, 1285)</p> <p>GREENHOUSE means a building for the growing of flowers, plants, shrubs, trees and similar vegetation which are sold directly from such lot as wholesale and may include accessory product sales and garden supply sales limited to 150 m<sup>2</sup>, but specifically excludes the sale of agricultural machinery. (By-law No. 1285)</p> <p><i>FARM USE means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by the Agricultural Land Reserve Use, Subdivision and Procedure Regulation, and includes but is not limited to activities such as farm retail sales; storing, packing, preparing and processing farm products; agri-tourism and a winery or cidery and includes farm operation and</i></p> | <p>Max. Lot Coverage: 75%</p> <p><i>INDUSTRIAL 1 (I-1) ZONE</i><br/> <i>Min. Lot Area: 2.0 ha.</i><br/> <i>Max. Lot Coverage: 30%, with remainder of lot greater than 1.0 ha. being 5%</i><br/> <i>Max. Building and Structure Height: 15 m.</i><br/> <i>Dwellings: 1 dwelling unit per lot</i></p> <p><i>INDUSTRIAL 2 (I-2) ZONE:</i><br/> <i>Min. Lot Area: 2.0 ha.</i><br/> <i>Max. Lot Coverage: 30%, with remainder of lot greater than 1.0 ha. being 5%</i><br/> <i>Max. Building and Structure Height: 15 m.</i><br/> <i>Dwellings: 1 dwelling unit per lot</i></p> <p><i>INDUSTRIAL 3 (I-3) ZONE:</i><br/> <i>Min. Lot Area: 2.0 ha.</i><br/> <i>Max. Lot Coverage: 10%</i><br/> <i>Max. Building and Structure Height: 15 m.</i><br/> <i>Dwellings: 1 dwelling unit per lot</i></p> |

| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities) |
|--------------|--|--|---|
|              |  | <p><i>cannabis production. (By-law No. 1285)</i></p> <p><i>CANNABIS means any plant of the genus Cannabis; including:</i></p> <ul style="list-style-type: none"> <li><i>a) any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not;</i></li> <li><i>b) any substance or mixture of substances that contains or has on it any part of such a plant; and</i></li> <li><i>c) any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained.</i></li> </ul> <p><i>(By-law Nos. 500, 1285)</i></p> <p><i>CANNABIS PRODUCTIONS means the medical and non-medical commercial production, cultivation, synthesis, harvesting, altering, propagating, processing, packaging, storage, distribution or scientific research of cannabis or cannabis products as permitted by the Access to Cannabis for Medical Purposes Regulations (ACMPR) and Bill C-45 (the Cannabis Act), and any subsequent regulations or acts which may be enacted henceforth, but excludes the growing of cannabis by an individual for their personal use and consumption. (By-law Nos. 500, 1285)</i></p> <p><i>CANNABIS PRODUCTS means plant material from cannabis and any products that include cannabis or cannabis derivatives, intended for human use or consumption. (By-law Nos. 500, 1285)</i></p> |   |

| Municipality  | Zones Permitting Medical Marihuana Production Facilities As-of-Right   | Relevant Definition(s)  | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|---|--|---|---|
| Squamish-Lillooet Regional District, BC<br><br>Zoning By-law Nos. 670-1999, 1350-2016 | <u>Zoning By-law No. 670, 1999</u><br><br>Rural Resource (RR1)<br><br>Rural Resource (RR2)<br><br>Light Industrial (M1)<br><br>Heavy Industrial (M2)<br><br><u>Zoning By-law No. 1350-2016</u><br><br>Agriculture (AGR1)<br><br>Rural Resource (RR2)<br><br>Rural Resource (RR3) | <p>MEDICAL MARIHUANA PRODUCTION FACILITY means the growing, cultivation, storage, distribution, or destruction of marihuana as lawfully permitted and authorized pursuant to the Federal Marihuana for Medical Purposes Regulations, as amended from time to time. (By-law No. 670-1999)</p> <p>MEDICAL MARIHUANA PRODUCTION FACILITY means building(s) used for the growing, cultivation, storage, distribution, or destruction of marihuana as lawfully permitted and authorized pursuant to the Federal Marihuana for Medical Purposes Regulations, as amended from time to time. (By-law No. 1350-2016)</p> <p>AGRICULTURE means the use of land, buildings, and structures for the growing, producing, raising or keeping of animals and plants, including apiculture, and the primary products of those plants or animals. It includes the harvesting, processing, storing, and sale of agricultural products produced from the same parcel or same farm, the repair of farm machinery and related equipment used on the same farm. It also includes agroforestry, greenhouse and nursery uses, but does not include kennels, or a medical marihuana production facility. (By-law Nos. 670-1999, 1350-2016)</p> <p>FARM PRODUCT means a commodity or good derived from the cultivation or husbandry of land, plants, or animals (except pets and exotic animals) that are grown, reared, raised or produced on a farm. (By-law No. 1350-2016)</p> | <u>Zoning By-law No. 670-1999</u><br><br>RURAL RESOURCE (RR1), RURAL RESOURCE (RR2) ZONES<br><b>Min. Lot Area: 10 ha.</b><br><b>Min. Yard: 15 m. (All Yards)*</b><br><b>Max. Height: 10 m.*</b><br><b>Max. G.F.A.: 2,500 sq. m.</b><br>Dwellings: 2 Single Family Dwellings or 1 Duplex; 1 Secondary Suite (90 sq. m.).per Single Family Dwelling<br><b>* Setback and height requirements don't apply to existing building being repurposed for a MEDICAL MARIHUANA PRODUCTION FACILITY.</b><br><br>LIGHT INDUSTRIAL (M1) and HEAVY INDUSTRIAL (M2) ZONE<br><b>Min. Lot Area: 0.5 ha. (serviced); 1.0 ha. (unserviced)</b><br><b>Min. Yard: 15 m. (All Yards)* (M1 only)</b><br>Max. Lot Coverage: 60%<br><b>Max. Height: 10 m.*</b><br><b>Max. G.F.A.: 2,500 sq. m.</b><br>Dwellings: 2 Single Family Dwellings or 1 Duplex; 1 Secondary Suite (90 sq. m.). per Single Family Dwelling<br><b>* Setback and height requirements don't apply to existing building being repurposed for a MEDICAL MARIHUANA PRODUCTION FACILITY.</b><br><br><u>Electoral District "D" Zoning By-law No. 1350-2016</u><br><br>AGRICULTURE (AGR1) ZONE<br><b>Min. Lot Area: 60 ha.</b><br><b>Min. Yard: 25 m. (All Yards) *</b> |

| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s)   | Comments / Relevant Regulations<br><br>( <b>'bold'</b> indicates regulations specific to Medical Marihuana Production Facilities)   |
|--------------|--|--|---|
|              |  | <p>FARM RESIDENCE means the principal single family dwelling that accommodates one dwelling unit and located on a lot within the Agricultural Land Reserve. (By-law No. 1350-2016)</p> <p>FARM RETAIL SALES means the retail sale to the public of tangible products grown or raised on a farm, from that farm and may include the sale of non-farm products as permitted by the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. Farm retail sales exclude the retail sale of medical marihuana. (By-law No. 1350-2016)</p> <p>HOME INDUSTRY means an auxiliary use of a parcel in conjunction with a dwelling for a small scale industrial use providing a service for remuneration. Such industrial use may include a portable sawmill, vehicle repair, maintenance and auto body shops, but excludes auto wrecking, manufacture of concrete products, bulk fuel or chemical storage or refining depots, animal or agricultural products processing, the production of animal feeds, and a medical marihuana production facility. (By-law No. 670-1999)</p> | <p><b>Min. Setback from Watercourse: 30 m.</b><br/> <b>Max. Height: 15 m. *</b><br/> <b>Max. G.F.A.: 2,500 sq. m. **</b><br/> Dwelling: 1 FARM RESIDENCE (250 sq. m.), 1 secondary suite (90 sq. m.). General and siting requirements for farm residential footprint in the AGR1 ZONE.<br/> <b>* Setback and height requirements don't apply to existing building being repurposed for a MEDICAL MARIHUANA PRODUCTION FACILITY.</b><br/> <b>** Any MEDICAL MARIHUANA PRODUCTION FACILITY that is 3,700 sq. m. or larger requires an approved rainwater management plan and agricultural liquid waste management plan.</b></p> <p>RURAL RESOURCE (RR2) and RURAL RESOURCE (RR3) ZONES<br/> <b>Min. Lot Area: 10 ha.</b><br/> Max. Lot Coverage: 5%<br/> <b>Min. Yard: 15 m. (All Yards)*</b><br/> <b>Max. Height: 15 m.*</b><br/> <b>Max. G.F.A.: 2,500 sq. m.</b><br/> Dwellings: 1 Single Family Dwellings or 1 Duplex; 1 Secondary Suite (90 sq. m.).per Single Family Dwelling<br/> <b>* Setback and height requirements don't apply to existing building being repurposed for a MEDICAL MARIHUANA PRODUCTION FACILITY.</b></p> <p>RURAL RESOURCE (RR4) ZONE<br/> <b>Min. Lot Area: 10 ha.</b><br/> Max. Lot Coverage: 15%</p> |

| Municipality | Zones Permitting Medical Marihuana Production Facilities As-of-Right | Relevant Definition(s) | <b>Comments / Relevant Regulations</b><br>(' <b>bold</b> ' indicates regulations specific to Medical Marihuana Production Facilities)   |
|--------------|--|------------------------|---|
|              |  |                        | <b>Min. Yard: 15 m. (All Yards)*</b><br><b>Max. Height: 15 m.*</b><br><b>Max. G.F.A.: 2,500 sq. m.</b><br>Dwellings: 1 Single Family Dwellings or 1 Duplex; 1 Secondary Suite (90 sq. m.).per Single Family Dwelling<br><b>* Setback and height requirements don't apply to existing building being repurposed for a MEDICAL MARIHUANA PRODUCTION FACILITY.</b> |

|                           |   |
|---------------------------|---|
| <b>TO:</b>                | Chair and Members<br>Planning Committee   |
| <b>COMMITTEE DATE:</b>    | June 19, 2018   |
| <b>SUBJECT/REPORT NO:</b> | Animal Adoption Fees (PED18004(a)) (City Wide)  |
| <b>WARD(S) AFFECTED:</b>  | City Wide   |
| <b>PREPARED BY:</b>       | Sue Russell (905) 546-2424 Ext. 7999  |
| <b>SUBMITTED BY:</b>      | Ken Leendertse<br>Director, Licensing and By-law Services<br>Planning and Economic Development Department |
| <b>SIGNATURE:</b>         |   |

**RECOMMENDATION**

- (a) That the proposed Animal Adoption Fees set out in Appendix “A” to Report PED18004(a) be approved;
- (b) That the Animal Adoption Fees described in subsection (a) be added to the User Fees and Charges By-law, in a form satisfactory to the City Solicitor.

**EXECUTIVE SUMMARY**

At its meeting on February 28, 2018, Council approved Item 11 of Planning Committee Report 18-003 respecting the implementation of an Animal Adoption Pilot Program to be operated by Animal Services.

The purpose of this Report is to approve the adoption fees established for the animals in the City of Hamilton’s adoption program and to authorize the addition of such fees to the City’s User Fees and Charges By-law.

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

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The animal adoption fees are set to recover some of the costs associated with sheltering and the anticipated cost of preparing the animals for the adoption program.

Staffing: N/A

**SUBJECT: Animal Adoption Fees (PED18004(a)) (City Wide) - Page 2 of 3**

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Legal: Notice of the proposed fees has been given in accordance with the provisions of the City's Public Notice Policy By-law. The approved fees will be added to the City's User Fees and Charges By-law.

**HISTORICAL BACKGROUND**

On February 28, 2018, Council approved the implementation of an Animal Adoption Pilot Program to be operated by Animal Services. As a result, animal adoption fees have been calculated to cover the anticipated costs related to this Pilot Project and are being presented for approval.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

Legal Services and Finance and Administration were consulted in the preparation of this Report and amending By-law.

Other municipal shelters were surveyed regarding the cost of animal adoption fees.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

The animal adoption user fees were benchmarked against other local municipal animal adoption programs. Each municipality differs in regard to what is included in the adoption fees. Some municipalities will spay/neuter the pet before adoption and some provide vaccinations but do not include rabies vaccinations. The setting of adoption fees generally take into consideration the cost of preparing the pet for the adoption program. A comparison of the fees charged by other local municipal animal adoption programs is attached as Appendix "B" to this Report,

It is important that animals in the City of Hamilton's adoption program are spayed/neutered to prevent breeding, vaccinated against rabies, microchipped and licensed to provide identification, where applicable.

The proposed adoption fees reflect the costs associated with Animal Services providing these services to the adoptable animals.

**ALTERNATIVES FOR CONSIDERATION**

N/A

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**SUBJECT: Animal Adoption Fees (PED18004(a)) (City Wide) - Page 3 of 3**

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**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.*

**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": Proposed Animal Adoption Fees  
Appendix "B": Animal Adoption Fee Comparison

KL:SR:st



**Appendix "A" to Report PED18004(a)**  
**Page 1 of 1**

**PROPOSED ANIMAL ADOPTION FEES**

**Department:** Planning & Economic Development

**Division:** Licensing & By-law Services – Animal Services – Animal Adoption Fees

| Service or Activity Provided or Use of City Property | 2018 Proposed Fee | HST (Y/N)* |
|--|-------------------|------------|
| <b>Animal Adoption Fees</b>                          |                   |            |
| Dog/Puppy  | \$250             | Y          |
| Dog Senior/Special Needs                             | \$25-75           | Y          |
| Cat/Kitten   | \$150             | Y          |
| Cat Senior/Special Needs                             | \$25 – 75         | Y          |
| Small Domestic Animal/Bird/Other                     | \$5 – 100         | Y          |
| Snake or Reptile                                     | \$5 – 100         | Y          |

## Appendix "B" to Report PED18004(a)

Page 1 of 1

Animal Adoption Fee Comparison

| <b>Municipality</b> | <b>Dog Fee</b>      | <b>Cat Fee</b>  | <b>Includes</b>  | <b>Small Animal Fee</b> | <b>Bird Fee</b>        |
|---------------------|---------------------|-----------------|--|-------------------------|------------------------|
| Burlington          | \$210               | \$135           | Over 6 months of age; includes altering, age appropriate vaccinations, microchip | Various - minimum \$20  | Various - minimum \$20 |
| Brampton            | \$200               | \$120           | Altered, age appropriate vaccinations, first year licence, microchip             | \$5 and up              | \$5 and up             |
| London              | \$205               | \$135           | Altered, vaccinated, licence, microchip  | All \$5                 | \$5 - \$25             |
| Mississauga         | \$120.88 - \$261.90 | \$20 - \$193.36 | Altered, limited vaccinations, first year licence, microchip                     | \$7.02 - \$140.28       | \$7.02 - \$140.28      |



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

|                           |   |
|---------------------------|---|
| <b>TO:</b>                | Chair and Members<br>Planning Committee   |
| <b>COMMITTEE DATE:</b>    | June 19, 2018   |
| <b>SUBJECT/REPORT NO:</b> | Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) (Outstanding Business List Item) |
| <b>WARD(S) AFFECTED:</b>  | City Wide   |
| <b>PREPARED BY:</b>       | Dawn Johnson (905) 546-2424 Ext. 5809   |
| <b>SUBMITTED BY:</b>      | Ken Leendertse<br>Director, Licensing and By-law Services<br>Planning and Economic Development Department                           |
| <b>SIGNATURE:</b>         |   |

### RECOMMENDATION

- (a) That the Licensing and By-Law Services Division create a one year pilot program to provide a subsidy for accessible taxicab trips to further support the provision of accessible taxicab services for the accessible community;
- (b) That, subject to the approval of Recommendation (a) of Report PED18082, Financial Incentives for Taxi Operations to Provide Accessible Taxicab Trips, the following be approved:
- (i) That a one year pilot program be created within the Licensing Section to provide a \$5 flat subsidized rate to all qualified accessible taxicab drivers for each accessible taxi trip dispatched with Hamilton Cab and Blue Line Taxi Brokers, at an estimated cost of \$115,000;
  - (ii) That \$20,000 be allocated from the Tax Stabilization Reserve to support the funding of the pilot program. The \$20,000 represents the "in lieu of accessibility" voluntary annual revenue received in 2017;
  - (iii) That in support of achieving 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 with the on-demand accessible taxicab initiative, the results of the pilot program be referred to the 2019 budget process for further consideration;

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**SUBJECT: Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) - Page 2 of 6**

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- (iv) That Report PED18082 respecting Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips be brought to the next Advisory Committee for Persons with Disabilities meeting for information only;
  - (v) That 0.25 temporary full-time equivalent (FTE) be approved for program administration, to be funded from the Personal Transportation Providers revenues generated from new licences;
  - (vi) That the Director of Licensing and By-Law Services and/or designate be authorized and directed to negotiate and execute a new agreement with Blue Line Taxi and Hamilton Cab, in a form satisfactory to the City Solicitor, for the provision of accessible taxicab subsidized payments in the amount of \$5.00 per dispatched trip;
- (c) That the item respecting Financial Incentives for Taxi Operators to make replacement vehicles accessible be identified as complete and removed from the Planning Committee Outstanding Business List.

**EXECUTIVE SUMMARY**

Staff has met with the Advisory Committee for Persons with Disabilities (ACPD) Transportation Working Group and have had discussions with the two taxi brokers in the City of Hamilton, Hamilton Cab and Blue Line Taxi, regarding the need for improved on-demand accessible taxicab service.

This Report proposes a pilot program to provide a \$5 subsidy for each dispatched accessible trip, providing each qualified accessible taxicab driver with additional earnings per accessible dispatched trip, fully funded by the Licensing and By-Law Services Division, utilizing funds generated from Personal Transportation Provider (PTP) “in-lieu of accessibility” voluntary annual revenue. This proposal increases the potential of meeting the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) mandate of on-demand accessible trips and will provide the City with a good indication as to how to support the on-demand accessible transportation mandate (AODA) for our community.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The pilot project will be funded through revenue collected through the “in-lieu of accessibility” payments made by PTP license holders and will not be funded through licensing fees. As a result, there is no impact to the levy or business licensing fees.

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**SUBJECT: Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) - Page 3 of 6**

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Currently the “in-lieu of accessibility” funds amount to \$40,000, however staff anticipates an additional \$40,000 to \$60,000 will be collected during the course of the pilot program. This revenue would support 8,000 to 20,000 accessible trips under the pilot program.

Staff is also requesting that \$20,000 from the Tax Stabilization Reserve be allocated to this pilot project. This \$20,000 represents the “in lieu of accessibility” payment made in 2017 and would support 4,000 additional accessible trips, for a total of up to 24,000 accessible taxicab trips that may be supported under the pilot program.

In the event of higher demand for accessible taxicab trips, staff will seek approval for an additional funding source for the pilot.

As this is not a sustainable option, Licensing intends to report back to Council as part of the 2019 Budget process for next steps.

**Staffing:** The addition of 0.25 temporary FTE, at a cost of \$21,000, to support program administration, be funded by the PTP per trip fees generated from existing and new PTP under Schedule 24 of Licensing By-Law No. 07-170.

**Legal:** The City has the authority to implement the proposed approach to funding the cost of accessible taxicab trips.

## **HISTORICAL BACKGROUND**

On October 24, 2012, Council approved 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 AODA.

On December 14, 2016, Council approved 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 April 27, 2016, Council approved General Issues Report 16-011, Item 9, directing that the ACPD Report 16-002, Item 1, respecting Financial Incentives for Accessible Taxi Services, be referred to staff for a report back to the Planning Committee.

On May 10, 2017, Council approved General Issues Committee 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 ACPD and that staff be directed to report back to ACPD on steps to be actively taken to ensure full and equitable access to the City’s taxi system for all persons with disabilities.

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**SUBJECT: Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) - Page 4 of 6**

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On February 28, 2018, Council approved Planning Committee Report 18-002, Item 7, directing staff to issue 18 additional accessible taxicab plates and create an accessible priority list.

**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)*

**RELEVANT CONSULTATION**

Finance and Administration, Legal Services, Hamilton Cab, Blue Line Taxi and the ACPD Transportation Working Group were consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

Taxicab driver earnings can be significantly lower for accessible vehicles because of the additional time required to load and unload passengers and equipment. With less accessible taxicabs, drivers also have to travel further distances to pick-up and return clients, including wait times in some cases. Taxicab drivers must charge the same rate for accessible rides as for regular rides.

The accessible community requires additional qualified accessible drivers willing to take/carry-out trips for persons with disabilities. In consultation with the Taxicab Industry and the ACPD Transportation Working Group, it was determined that there was a need for additional accessible taxicab trips, which can only be achieved with additional qualified and willing accessible taxicab drivers.

To support the above goal, and to support the implementation of the pilot program, staff recommend entering into agreements with Hamilton Cab and with Blue Line Taxi to require each Broker to provide the City with monthly data documenting the number of accessible trips dispatched through its company for the relevant period. Pursuant to the agreement, the City would then pay to the Broker, quarterly, the proposed subsidy for each accessible trip dispatched through its service and reported to the City, and require the Broker to distribute the \$5.00 per trip subsidy amongst its drivers who made the dispatched accessible trips.

The subsidized pilot program will provide performance measures, such as statistics relating to the number of accessible trips and the number of drivers making accessible trips, to determine if the City is able to properly support the accessible community with more readily available accessible taxicab drivers.

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**SUBJECT: Financial Incentives for Taxi Operators to Provide Accessible Taxicab Trips (PED18082) (City Wide) - Page 5 of 6**

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**Accessible Taxicab Statistics**

- An average of 22,000 accessible taxicab rides take place per year;
- Numerous complaints per month related to access to available accessible taxicabs;
- Average of 45 driver no-shows per month; and,
- With the release of the additional 18 plates this year, the ratio of accessible plates will increase from 22 (4.9% of the total taxicab fleet) to 40 (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, the additional plates to be released almost doubles the existing accessible taxicab fleet. The focus now is on increasing the number of willing accessible drivers and providing a financial incentive for qualified accessible taxicab drivers to make accessible trips. Currently there is no incentive for accessible plates as accessible rides tend to take longer to complete or lack the financial incentive to carry out.

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 work towards providing on-demand service.

The subsidized pilot program will support the improvement of the accessible transportation needs of our community, as well as working towards compliance with the regulations outlined in the AODA.

**ALTERNATIVES FOR CONSIDERATION**

N/A

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

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**SUBJECT: Financial Incentives for Taxi Operators to Provide Accessible  
Taxicab Trips (PED18082) (City Wide) - Page 6 of 6**

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**APPENDICES AND SCHEDULES ATTACHED**

N/A

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# 9.1

## CITY OF HAMILTON M O T I O N

Planning Committee: June 19, 2018

**MOVED BY COUNCILLOR J. FARR.....**

**SECONDED BY COUNCILLOR .....**

**To Waive Road Widening Requirement for 71 Rebecca Street**

WHEREAS, the Planning Act and the Urban Hamilton Official Plan state that the City shall reserve or obtain road widenings for rights-of-way as described in Schedule C-2 – Future Road Widenings;

WHEREAS, Official Plan Amendment and Zoning By-law Amendment applications (UHOPA-17-023 and ZAC-17-053) have been submitted for 71 Rebecca Street, Hamilton, for the development of a 30 storey, mixed use building; and

WHEREAS, road widenings for Rebecca Street and John Street North have been identified;

THEREFORE, BE IT RESOLVED:

That staff be directed to waive the requirement for road widenings for 71 Rebecca Street, Hamilton (UHOPA-17-023 and ZAC-17-053).