



City of Hamilton
PLANNING COMMITTEE

Meeting #: 19-007
Date: April 30, 2019
Time: 9:30 a.m.
Location: Council Chambers, Hamilton City Hall
71 Main Street West

Lisa Chamberlain, Legislative Coordinator (905) 546-2424 ext. 4605

	Pages
1. CEREMONIAL ACTIVITIES	
2. APPROVAL OF AGENDA (Added Items, if applicable, will be noted with *)	
3. DECLARATIONS OF INTEREST	
4. APPROVAL OF MINUTES OF PREVIOUS MEETING	
4.1 April 16, 2019	5
5. COMMUNICATIONS	
6. DELEGATION REQUESTS	
6.1 Glenn Wise, Macassa Bay Live-Aboard Association, respecting Obtaining Permanent Approval for Year Round Residency on a Boat (For today's meeting)	22
7. CONSENT ITEMS	
7.1 By-law Enforcement Strategy Update (PED08263(c)) (City Wide)	23
7.2 Expanding Administrative Penalty System (APS) to Include the Sign By- law 10-197 (PED19092) (City Wide)	29

7.3	By-law No. 18-261 - Correction of Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a)) (Ward 15)	49
7.4	Hamilton Municipal Heritage Committee Report 19-003 (To be distributed)	
8.	PUBLIC HEARINGS / DELEGATIONS	
8.1	Applications to Amend the Urban Hamilton Official Plan, the Township of Glanbrook Zoning By-law No. 464, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11)	57
8.2	Application for a Zoning By-law Amendment for Lands Located at 122 and 126 Augusta Street and 127 Young Street, and 125 Young Street, Hamilton (PED19089) (Ward 2)	138
8.3	Entertainment on Outdoor Commercial Patios - Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide)	198
9.	STAFF PRESENTATIONS	
9.1	Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide)	224
10.	DISCUSSION ITEMS	
10.1	Amendments to Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 to Include Tree Requirements (PED19088) (City Wide) (Outstanding Business List Item)	366
10.2	Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) (Outstanding Business List Item)	374
11.	MOTIONS	
12.	NOTICES OF MOTION	

13. GENERAL INFORMATION / OTHER BUSINESS

13.1 Outstanding Business List

13.1.a Items to be Removed:

C - OMB Decision respecting 121 Augusta Street - Staff review of RCF's as it relates to special needs and the Human Rights Code

(Addressed as Item 9.1 on this agenda)

G - Feasibility of Tree Services By-law

(Addressed as Item 10.2 on this agenda)

13.1.b Items Requiring New Due Dates:

B - City Initiative to Amend Zoning By-law No. 6593 for 118 - 338 Mountain Brow Blvd.

Current Due Date: July 9, 2019

Proposed New Due Date: July 2020

D - Request to Designate 437 Wilson Street East

Current Due Date: March 19, 2019

Proposed New Due Date: September 17, 2019

H - Report back on engagement between the HMHC and property owners surrounding the Gore

Current Due Date: February 5, 2019

Proposed New Due Date: October 1, 2019

I - Report back on City's Policies respecting Boulevard Standards with options/alternatives for future designs

Current Due Date: March 19, 2019

Proposed New Due Date: September 17, 2019

J - Sign Variance Appeal for 430 McNeilly Road

Current Due Date: March 19, 2019

Proposed New Due Date: September 3, 2019

P - Updated Discharge of Firearms By-law

Current Due Date: February 19, 2019

Proposed New Due Date: May 14, 2019

Q - Update on Animal Adoption Pilot Program

Current Due Date: September 3, 2019

Proposed New Due Date: December 3, 2019

T - Development Fees - additional staffing requirements and potential funding model

Current Due Date: April 2, 2019
Proposed New Due Date: October 15, 2019

U - Review of Hamilton Airshed Modelling System
Current Due Date: March 19, 2019
Proposed New Due Date: November 5, 2019

Z - Update on Effectiveness of Driving School By-law
Current Due Date: August 13, 2019
Proposed New Due Date: February 2020

GG - Staff recommendations after one year Pilot Program for
dedicated Mohawk College Parking Enforcement Officer
Current Due Date: October 15, 2019
Proposed New Due Date: December 3, 2019

14. PRIVATE AND CONFIDENTIAL

15. ADJOURNMENT



PLANNING COMMITTEE

MINUTES 19-006

9:30 a.m.

Tuesday, April 16, 2019

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Councillors M. Pearson (Chair), M. Wilson, J. Farr (1st Vice Chair), C. Collins, J.P. Danko, B. Clark, B. Johnson and J. Partridge

Absent with Regrets: Councillor C. Collins – City Business
Councillor T. Whitehead – Personal

Also Present: Councillor T. Jackson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

1. Hamilton Municipal Heritage Committee Report 19-002 (Item 7.1)

(Partridge/Farr)

Dunnington-Grubb Gardens, 1000 Main Street East (Item 11.1)

WHEREAS, the Hamilton Municipal Heritage Committee has received a verbal update respecting the Dunnington-Grubb Gardens; and

WHEREAS, the property known as Gage Park is currently on staff's work plan for Designation;

THEREFORE BE IT RESOLVED:

- (a) That the Hamilton Municipal Heritage Committee recommends that areas of Gage Park remain as a historic passive Victorian park;
- (b) That the preservation and conservation of Dunnington-Grubb Gardens continue;
- (c) That the Hamilton Municipal Heritage Committee recommends that Gage Park continue to be used for educational programs geared towards youth, post-secondary students and potential tourism programs;

- (d) That the Hamilton Municipal Heritage Committee support “non-financial” initiatives of the Friends of Gage Park and the Dunnington-Grubb Gardens Foundation; and,
- (e) That City staff continue their engagement with the Friends of Gage Park and Dunnington-Grubb Gardens Foundation.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

2. Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED19070) (City Wide) (Item 7.2)

(Danko/Johnson)

That Report PED19070 respecting Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications, be received.

CARRIED

3. Licensing and By-law Services Housekeeping and Technical Amendments to By-laws (PED19011(a)) (City Wide) (Item 7.3)

(Clark/Danko)

That Report PED19011(a) respecting Licensing and By-law Services Housekeeping and Technical Amendments to By-laws, be received.

CARRIED

4. To Incorporate City Lands into Soho Street By By-law (PED19079) (Ward 9) (Item 7.4)

(Clark/Johnson)

- (a) That the following City lands designated as Parts 1, 2, and 4 on Plan 62R-20860 and Part 2 on Plan 62R-21053, be established as a public highway to form part of Soho Street;
- (b) That the By-law to incorporate the City lands to form part of Soho Street be prepared to the satisfaction of Corporate Counsel and be enacted by Council;

- (c) That the General Manager of Public Works be authorized and directed to register the By-law.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

5. To Incorporate City Lands into Upper Mount Albion Road by By-law (PED19080) (Ward 9) (Item 7.5)

(Clark/Johnson)

- (a) That the following City lands designated as Parts 6 and 8 on Plan 62R-20860, be established as a public highway to form part of Upper Mount Albion Road;
- (b) That the By-law to incorporate the City lands to form part of Upper Mount Albion Road be prepared to the satisfaction of Corporate Counsel and be enacted by Council;
- (c) That the General Manager of Public Works be authorized and directed to register the By-law.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

6. To Incorporate City Lands into Columbus Gate by By-law (PED19081) (Ward 9) (Item 7.6)

(Clark/Farr)

- (a) That the following City lands designated as Part 7 on Plan 62R-20860, be established as a public highway to form part of Columbus Gate;
- (b) That the By-law to incorporate the City lands to form part of Columbus Gate be prepared to the satisfaction of Corporate Counsel and be enacted by Council;
- (c) That the General Manager of Public Works be authorized and directed to register the By-law.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

7. Applications to Amend the Urban Hamilton Official Plan, Zoning By-law Nos. 3692-92 and 05-200, and Approval of a Draft Plan of Subdivision “Midtown” for lands located at 1809, 1817, 1821 Rymal Road East, Stoney Creek (PED19030) (Ward 9) (Item 8.1)

(Clark/Johnson)

- (a) That Amended Urban Hamilton Official Plan Amendment Application UHOPA-16-025 by Losani Homes Limited (Owner), for changes in land use designation in Volume 1 from Mixed Use – Medium Density to Neighbourhoods; from Arterial Commercial to Mixed Use – Medium Density; and Volume 2 from Mixed Use – Medium Density to Medium Density Residential 2; from Low Density Residential 2 to Medium Density Residential 2; to remove a public road from the Land Use Map; to add lands to Site Specific Policy Area “C” to permit a minimum residential density of 55 units per net hectare; to establish a Site Specific Policy Area to permit a minimum residential density of 50 units per net hectare; and, to establish a Site Specific Policy Area to permit a maximum of eight stories and a maximum residential density of 170 units per net hectare, in the Trinity West Secondary Plan, for lands located at 1809, 1817 and 1821 Rymal Road East, Stoney Creek, as shown on Appendix “A” to Report PED19030, be approved on the following basis:

- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED19030, be adopted 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-16-064 by Losani Homes Limited (Owner), for a further modification to the Multiple Residential “RM3-57” Zone, Modified (Block 4); and changes in zoning from Neighbourhood Development “ND” Zone to Multiple Residential “RM3-57” Zone, Modified (Block 5); Single Residential “R1” Zone to Single Residential “R3-41” Zone, Modified (Block 6); Single Residential “R1” Zone to Single Residential “R3-41a” Zone, Modified (Block 7); Neighbourhood Development “ND” Zone to Multiple Residential “RM3-67” Zone, Modified (Block 8); Multiple Residential “RM2-43” Zone to Multiple Residential “RM3-67” Zone, Modified (Block 9); and Service Commercial “CS-1” Zone, Modified, to Multiple Residential “RM3-67” Zone, Modified (Block 10), to permit an increased maximum density from 100 to 170 units per hectare and an increase in maximum height from 6 storeys to 8 storeys for multiple dwellings (Blocks 4 & 5), to permit a decrease in minimum density from 60 to 50 units per net hectare, consisting of townhouses, maisonette dwellings and stacked townhouses (Blocks 8, 9 and 10), and four single detached dwellings, to accommodate additional lands and reconfiguration of the road network as part of a residential community on lands located at 1809, 1817 and 1821 Rymal Road East (Stoney Creek), as shown on Appendix “A” to Report PED19030, be approved, on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED19030, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) 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 intent of the Urban Hamilton Official Plan, upon finalization of Urban Hamilton Official Plan Amendment No.____.
- (c) That Amended Zoning By-law Amendment Application ZAC-16-064 by Losani Homes Limited (Owner), for changes in zoning from Service Commercial “CS-1” Zone, Modified to Mixed Use - Medium Density (C5) Zone (Block 1); Single Residential (R1) Zone to Mixed Use - Medium Density (C5) Zone (Block 2); and Neighbourhood Development (ND) Zone to Mixed Use - Medium Density (C5) Zone (Block 3), to permit reconfiguration of commercial uses on lands located at 1809, 1817 and 1821 Rymal Road East (Stoney Creek), as shown on Appendix “A” to Report PED19030, be approved, on the following basis:

- (i) That the draft By-law, attached as Appendix “D” to Report PED19030, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) 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 intent of the Urban Hamilton Official Plan, upon finalization of Urban Hamilton Official Plan Amendment No. XX.
- (d) That Draft Plan of Subdivision Application 25T-201609 by Losani Homes Limited (Owner), to establish a Draft Plan of Subdivision known as “Midtown”, on lands located at 1809, 1817 and 1821 Rymal Road East, Stoney Creek, as shown on Appendix “F” to Report PED19030, be approved, subject to the following:
- (i) That this approval apply to the Draft Plan of Subdivision “Midtown”, 25T-201609, prepared by MHBC and certified by D. McLaren, O.L.S., dated November 16, 2018, consisting of one block for multiple dwellings and street townhouses including karst spring SP-3 (Block 1), one block for commercial development (Block 2), and one block for the purpose of a right of way widening along Rymal Road East (Block 3), subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions, attached as Appendix “G”, **as amended**, to Report PED19030.
 - (ii) 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 Development; and,
 - (iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, with the calculation for the payment to be based on the value of the lands on the day prior to the day of issuance of each building permit, for each said Block, and in the case of multiple residential blocks, prior to the issuance of the first building permit, all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.
- (e) That the public submissions received did not affect the decision.**

Result: Main Motion, As Amended, CARRIED by a vote of 6 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins

YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 NOT PRESENT – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

8. Durand Neighbourhood Character Study Review (PED19017) (Ward 2) (Item 10.1) (Deferred from the March 19, 2019 meeting)

(Farr/Wilson)

- (a) That Appendix “A” attached to Report PED19017 respecting the Peer Review and Recommendations on Zoning: Durand Neighbourhood Character Study be received;
- (b) That the recommendations of the Peer Review of the Durand Neighbourhood Character Study Final Report be referred to the new Residential Zoning project;
- (c) *That the appropriate staff from PED be directed to meet and work together with the DNA as required and up to October 31, 2019 to develop a tool (based on the Durand Neighbourhood Character Study Final Report) that assesses and guides character within all future Planning Act applications or projects proposed for properties listed in the Durand Built Heritage Inventory; and,*
- (d) *That staff be directed to use that tool for assessing and guiding Durand Neighbourhood Character until such time as a Durand Neighbourhood Secondary Plan and new zoning are adopted.*

Result: Main Motion, As Amended, CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

FOR INFORMATION:

(a) APPROVAL OF THE AGENDA (Item 2)

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

1. CORRESPONDENCE (Item 5)

- 5.2 Correspondence from Dan van den Beukel respecting Development at 310 Frances Avenue, Hamilton (Referred to the General Manager of Planning and Economic Development at the March 27, 2019 Council meeting)

2. DELEGATION REQUESTS (Item 6)

- 6.2 Lachlan Holmes, HamiltonForward, respecting Development at 310 Frances Avenue, Hamilton (For today's meeting)

3. PUBLIC HEARINGS / DELEGATIONS (Item 8)

8.1.a Written Comments

1. Bashir Dhalwani
2. Sam Destro

8.1.b Staff Presentation

- 8.5 Delegation from Frank D'Amico has been withdrawn and he has submitted written comments instead.

4. DISCUSSION ITEMS

- 10.1 Report PED19017 is being moved up in the agenda to be heard before Item 8.2

(Clark/Partridge)

That the agenda for the April 16, 2019 meeting be approved, as amended.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

(b) DECLARATIONS OF INTEREST (Item 3)

None declared.

(c) APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING (Item 4)

(i) April 2, 2019 (Item 4.1)

(Danko/Farr)

That the Minutes of the April 2, 2019 meeting be approved, as presented.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

(d) CORRESPONDENCE (Item 5)

(i) Correspondence from the City of Toronto respecting support for their Resolution to adequately fund the Local Planning Appeal Tribunal (Item 1 and 2 referred from the March 27 Council meeting) (Item 5.1)

(Clark/Partridge)

That the correspondence from the City of Toronto respecting support for their Resolution to adequately fund the Local Planning Appeal Tribunal, be received.

CARRIED

(ii) Correspondence from Dan van den Beukel respecting Development at 310 Frances Avenue, Hamilton. (Referred to the General Manager of Planning and Economic Development at the March 27, 2019 Council meeting) (Added Item 5.2)

(Wilson/Danko)

That the correspondence from Dan van den Beukel respecting Development at 310 Frances Avenue, Hamilton, be received.

CARRIED

(e) DELEGATION REQUESTS (Item 6)

- (i) Janice Brown, Durand Neighbourhood Association, respecting the Durand Neighbourhood Character Study Review (Item 6.1)**

(Farr/Partridge)

That the Delegation Request from Janice Brown, Durand Neighbourhood Association, respecting the Durand Neighbourhood Character Study Review, be approved for today's meeting.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES – Councillor Maureen Wilson
NOT PRESENT – Councillor Jason Farr
NOT PRESENT – Councillor Chad Collins
YES – Councillor John-Paul Danko
YES – Councillor Maria Pearson
YES – Councillor Judi Partridge
NOT PRESENT – Councillor Terry Whitehead
YES – Councillor Brenda Johnson
YES – Councillor Brad Clark

- (ii) Lachlan Holmes, HamiltonForward, respecting Development at 310 Frances Avenue, Hamilton (Added Item 6.2)**

(Partridge/Danko)

That the Delegation Request from Lachlan Holmes, HamiltonForward, respecting Development at 310 Frances Avenue, Hamilton, be approved for today's meeting.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
YES – Councillor Jason Farr
NOT PRESENT – Councillor Chad Collins
YES – Councillor John-Paul Danko
YES – Councillor Maria Pearson
YES – Councillor Judi Partridge
NOT PRESENT – Councillor Terry Whitehead
YES – Councillor Brenda Johnson
YES – Councillor Brad Clark

(f) PUBLIC HEARINGS / DELEGATIONS (Item 8)

- (i) Applications to Amend the Urban Hamilton Official Plan, Zoning By-law Nos. 3692-92 and 05-200, and Approval of a Draft Plan of Subdivision “Midtown” for lands located at 1809, 1817, 1821 Rymal Road East, Stoney Creek (PED19030) (Ward 9) (Item 8.1)**

In accordance with the provisions of the *Planning Act*, Chair Pearson 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 Amendment, Zoning By-law Amendment or Draft Plan of Subdivision the person or public body is not entitled to appeal the decision of the Council of the City of Hamilton to the 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.

Yvette Rybensky, Senior Project Manager – Suburban Team, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available on the City’s website at www.hamilton.ca or through the Office of the City Clerk.

(Clark/Partridge)

That the staff presentation be received.

CARRIED

David Aston, MHBC Planning, agent for the applicant was in attendance and indicated that the applicant is in agreement with the staff report. David Aston provided an overview of the proposal.

(Clark/Johnson)

That the overview of the proposal by David Aston, MHBC Planning, be received.

CARRIED

Delegations:

1. Lynda Lukasik, Environment Hamilton

Lynda Lukasik, Environment Hamilton, addressed the Committee in support of the proposal, but noted some concerns.

(Farr/Danko)

That the delegation from Lynda Lukasik, Environment Hamilton, be received.

CARRIED

(Partridge/Danko)

That the written comments from Bashir Dhalwani and Sam Destro (Item 8.1.a), be received.

CARRIED

(Clark/Wilson)

That the public meeting be closed.

CARRIED

(Clark/Johnson)

(a) That the Conditions of Draft Plan of Subdivision Approval (Appendix G to Report PED19030) be amended by adding Condition 19:

19. That staff be directed to retain an independent firm to conduct a Peer Review of the Hydrogeological and Geotechnical studies of the natural spring known as SP3 which includes; Monitoring Plan, Karst Management Protection, Buffering and Implementation.

(b) That the recommendations in Report PED19030 be amended by adding the following sub-section (e):

(e) That the public submissions received did not affect the decision.

Result: Amendment CARRIED by a vote of 6 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 NOT PRESENT – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

For disposition of this matter, refer to Item 7.

(ii) Janice Brown, Durand Neighbourhood Association, respecting the Durand Neighbourhood Character Study Review (Added Item 8.1)

Janice Brown, Durand Neighbourhood Association (DNA), addressed the Committee respecting the Durand Neighbourhood Character Study Review. Janice Brown noted that the staff report indicates “that following completion of the Peer Review, the DNA opted not to pursue the implementation of a zoning overlay at this time”, but the DNA has not opted out of pursuing the

implementation of the zoning overlay. Janice Brown noted that the Study “perceives the Durand Neighbourhood’s primary concern to be with the design and location of taller buildings and more intense residential forms rather than concerns related to inappropriate low-rise development”, and the DNA does not agree with this perception.

(Farr/Wilson)

That the delegation from Janice Brown, Durand Neighbourhood Association, respecting the Durand Neighbourhood Character Study Review, be received.

CARRIED

(g) DISCUSSION ITEMS (Item 10.1)

(i) Durand Neighbourhood Character Study Review (PED19017) (Ward 2) (Item 10.1) (Deferred from the March 19, 2019 meeting)

(Farr/Wilson)

That the recommendations of Report PED19017 respecting Durand Neighbourhood Character Study Review be amended by deleting sub-section (c) in its entirety and adding a new sub-section (c) and (d):

~~(e) That staff be directed to use the Durand Neighbourhood Character Study Final Report as a tool for assessing character within the *Planning Act* applications in the Durand Neighbourhood, until such time as a Durand Neighbourhood Secondary Plan and new zoning are adopted.~~

(c) *That the appropriate staff from PED be directed to meet and work together with the DNA as required and up to October 31st, 2019 to develop a tool (based on the Durand Neighbourhood Character Study Final Report) that assesses and guides character within all future Planning Act applications or projects proposed for properties listed in the Durand Built Heritage Inventory; and,*

(d) *That staff be directed to use that tool for assessing and guiding Durand Neighbourhood Character until such time as a Durand Neighbourhood Secondary Plan and new zoning are adopted.*

Result: Amendment CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge

NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

For disposition of this matter, refer to Item 8.

(f) PUBLIC HEARINGS / DELEGATIONS (Item 8) (Continued)

Melanie Schneider, Planner II, provided an overview of the status of the Development at 310 Frances Avenue, Hamilton.

(Partridge/Clark)

That the overview of the status of the Development at 310 Frances Avenue, Hamilton by Melanie Schneider, be received.

CARRIED

(iii) Lakewood Beach Community Council respecting Development at 310 Frances Avenue, Hamilton (Item 8.2)

Vivian Saunders, Lakewood Beach Community Council addressed the Committee respecting Development at 310 Frances Avenue, Hamilton.

(Johnson/Partridge)

That Vivian Saunders be granted an additional five minutes to speak.

Result: Motion CARRIED by a vote of 5 to 0, as follows:

NOT PRESENT – Councillor Maureen Wilson
 NOT PRESENT – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

(iv) Jen Davis respecting Development at 310 Frances Avenue, Hamilton (Item 8.3)

Jen Davis did not attend the meeting.

(v) Mark Victor respecting Development at 310 Frances Avenue, Hamilton (Item 8.4)

Mark Victor addressed the Committee respecting Development at 310 Frances Avenue, Hamilton.

(vi) Frank D'Amico respecting Development at 310 Frances Avenue, Hamilton (Item 8.5)

Frank D'Amico was unable to attend the meeting and submitted written comments.

(vii) Sherry Hayes respecting Development at 310 Frances Avenue, Hamilton (Item 8.6)

Sherry Hayes addressed the Committee respecting Development at 310 Frances Avenue, Hamilton.

(viii) Eleanor Boyle respecting Development at 310 Frances Avenue, Hamilton (Item 8.7)

Eleanor Boyle did not attend the meeting.

(xi) David Bertrand respecting Development at 310 Frances Avenue, Hamilton (Item 8.8)

David Bertrand did not attend the meeting.

(x) Lachlan Holmes, HamiltonForward, respecting Development at 310 Frances Avenue, Hamilton (Added Item 8.10)

Lachlan Holmes, HamiltonForward, addressed the Committee respecting Development at 310 Frances Avenue, Hamilton.

(Johnson/Farr)

That the following delegations and written comments respecting Development at 310 Frances Avenue, Hamilton, be received:

1. Vivian Saunders (Delegation)
2. Mark Victor (Delegation)
3. Frank D'Amico (Written comments)
4. Sherry Hayes (Delegation)
5. Lachlan Holmes (Delegation)

CARRIED

(Pearson/Clark)

- (a) That staff be directed to report back to the Planning Committee on the proposed developments on the subject property, 310 Frances Avenue, with the Minutes of the Design Review Panel, and any studies required for future Site Plan approval, with staff recommendations for consideration by the Planning Committee and;
- (b) That staff consult with the Ward Councillor to provide proper public notice.

Result: Motion CARRIED by a vote of 7 to 0, as follows:

YES – Councillor Maureen Wilson
 YES – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

(h) GENERAL INFORMATION/OTHER BUSINESS (Item 13)

(i) Outstanding Business List (Item 13.1)

(Clark/Danko)

That the following changes to the Outstanding Business List, be approved:

Item JJ – Housekeeping Amendments to City of Hamilton Property Standards By-law 10-221 and Yard Maintenance By-law 10-118
 (Addressed as Item 7.3)

Result: Motion CARRIED by a vote of 5 to 0, as follows:

NOT PRESENT – Councillor Maureen Wilson
 NOT PRESENT – Councillor Jason Farr
 NOT PRESENT – Councillor Chad Collins
 YES – Councillor John-Paul Danko
 YES – Councillor Maria Pearson
 YES – Councillor Judi Partridge
 NOT PRESENT – Councillor Terry Whitehead
 YES – Councillor Brenda Johnson
 YES – Councillor Brad Clark

(ii) General Manager's Update (Added Item 13.2)

Jason Thorne, General Manager of Planning and Economic Development, advised the Committee that a Press Release announcing a call for submissions for the Urban Design and Architecture awards was scheduled for April 17, 2019.

(i) PRIVATE AND CONFIDENTIAL (Item 14)

(i) Closed Session Minutes – April 2, 2019 (Item 14.1)

(Johnson/Partridge)

- (a) That the Closed Session Minutes of the April 2, 2019 Planning Committee meeting be approved, as presented; and,
- (b) That the Closed Session Minutes of the April 2, 2019 Planning Committee meeting, remain confidential.

Result: Motion CARRIED by a vote of 6 to 0, as follows:

YES – Councillor Maureen Wilson
NOT PRESENT – Councillor Jason Farr
NOT PRESENT – Councillor Chad Collins
YES – Councillor John-Paul Danko
YES – Councillor Maria Pearson
YES – Councillor Judi Partridge
NOT PRESENT – Councillor Terry Whitehead
YES – Councillor Brenda Johnson
YES – Councillor Brad Clark

(j) ADJOURNMENT (Item 15)

(Danko/Clark)

That, there being no further business, the Planning Committee be adjourned at 1:42 p.m.

CARRIED

Respectfully submitted,

Councillor M. Pearson
Chair, Planning Committee

Lisa Chamberlain
Legislative Coordinator
Office of the City Clerk

Form: Request to Speak to Committee of Council

Submitted on Wednesday, April 17, 2019 - 4:33 pm

==Committee Requested==

Committee: Planning Committee

==Requestor Information==

Name of Individual: Glenn wise

Name of Organization: Macassa Bay Live-Aboard
Association

Contact Number:

Email Address:

Mailing Address:

Hamilton on

Reason(s) for delegation request: To obtain permanent
approval for year round residency on a boat

Will you be requesting funds from the City? No

Will you be submitting a formal presentation? Yes



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	By-law Enforcement Strategy Update (PED08263(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kelly Barnett (905) 546-2424 Ext. 1344
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

That the updated By-law Enforcement Priority Framework attached as Appendix "A" to Report PED08263(c) be approved.

EXECUTIVE SUMMARY

This Report recommends updating the Licensing and By-law Services Comprehensive By-law Enforcement Strategy in accordance with new initiatives and by-law changes approved by Council that was last revised in 2015.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

N/A

HISTORICAL BACKGROUND

City Council, on November 26, 2008, approved a Comprehensive By-law Enforcement Strategy including by-law prioritization, more effective enforcement efforts, minimizing non-value added work and a public awareness campaign. The strategy is used to comprehensively manage performance and to focus staff's efforts on the enforcement issues deemed by Council to be most important to the community.

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: By-law Enforcement Strategy Update (PED08263(c)) (City Wide) -
Page 2 of 3**

The By-law Enforcement Priority Strategy was previously updated by City Council on May 11, 2011 and again on August 14, 2015.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

In the interest of quality of life and public health and safety, the Licensing and By-law Services Division enforces over 50 by-laws/illegal activities within the Municipal Law Enforcement, Licensing and Animal Services sections as detailed in Appendix "A" to this Report.

It is not practical to focus proactive enforcement efforts on all of these by-laws all of the time with current staff resources. Therefore, it is critical that some form of prioritization system be adopted and implemented so that staff can focus on the enforcement issues deemed by Council to be most important to the community.

It is necessary to update the by-law enforcement priorities to reflect adjustments between the enforcement teams and a number of new initiatives and by-law changes since the priorities were last updated in 2015, including the Parks By-law and Waterfall Enforcement.

Other minor wording changes have been made to update the document, but no material changes are included which were not approved by City Council.

ALTERNATIVES FOR CONSIDERATION

N/A

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.

Our People and Performance

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

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: By-law Enforcement Strategy Update (PED08263(c)) (City Wide) -
Page 3 of 3**

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – By-law Enforcement Priority Framework

KL:KB:st

By-law Enforcement Priority Strategy

Municipal Law Enforcement Team

<p><i>Top Priority – Proactive and Reactive Enforcement</i></p> <p>These by-laws will take precedent due to a potential blatant health and safety/liability issue.</p>	<p><i>Periodic Proactive Enforcement</i></p>	<p><i>Lower Priority and/or Reactive - Complaint Driven</i></p>
<ul style="list-style-type: none"> ▪ Yard Waste/Maintenance By-law (e.g., long weeds and grass; garbage and debris; inoperable vehicles) ▪ Graffiti Enforcement Student Program in conjunction with Graffiti Management Strategy ▪ Snow and Ice By-law (Winter) ▪ Parks By-law (Waterfall enforcement) ▪ Illegal Dumping on private property ▪ Streets/Traffic By-law (5 By-laws) (e.g., mud tracking; road encumbrances; road games) ▪ Forestry – Tree Private and Public ▪ Property By-laws (5 By-laws) ▪ Property Standards By-law ▪ Vacant Building By-law ▪ Adequate Heat By-law ▪ Proactive Property Standards Team (Council approved and Ward rotation) ▪ Vital Services By-law ▪ Noise By-law ▪ Public Nuisance 	<ul style="list-style-type: none"> ▪ Yard Waste/Maintenance Blitz – Hotspots identified across the City including Downtown Core and BIA ▪ Cigarette Butt litter – if budget approved ▪ Snow and Ice Clearing Proactive – Based on reactive complaint identify other properties in the vicinity that did not clear snow/ice from sidewalk ▪ Property Standards – Downtown Core and BIA (e.g., Night walks) ▪ Property Standards Blitz – Highly visible areas and hotspots identified across the City ▪ McMaster-Mohawk Proactive (September and April) ▪ Special Projects with Hamilton Police Services and other Enforcement Agencies (tent city; no permit in parks, etc.) 	<ul style="list-style-type: none"> ▪ Parks By-law (violations other than waterfalls) ▪ Anti-Idling By-law ▪ Discharge of Firearm By-law ▪ Fence By-law ▪ Transit By-law (in partnership with HSR) ▪ Water By-law (Summer - as requested by Water/Wastewater during water shortages) ▪ Zoning By-law (6 By-laws)

Licensing Team

Top Priority – Proactive and Reactive Enforcement	Periodic Proactive Enforcement	Lower Priority and/or Reactive - Complaint Driven
<p>All Licensing Activity is Proactive in nature due to the requirements of the Licensing By-law</p> <ul style="list-style-type: none"> ▪ Business Licensing (includes compliance with Property Standards, Zoning, Yard Maintenance and the Sign By-law) ▪ Zoning – Business Zoning (if a zoning issue relates to a business licence then carried through to completion by Licensing) ▪ Mobile Licensing Inspections – taxi, PTP (Uber & Lyft) limos, food trucks, peddlers, etc.) ▪ Sign By-law (except rural area) ▪ Lodging Homes (Schedule 9 of Licensing By-law) (at least during Council endorsed pilot program for the next two years) ▪ Residential Care Facilities (Schedule 20 of Licensing By-law) ▪ Cannabis Enforcement (ensuring legal dispensaries are in accordance with CLA 2018 and AGCO regulations and addressing illegal dispensaries by enforcing by-laws ie signs, property standard etc. No authority to close them down) 	<ul style="list-style-type: none"> ▪ Sign Proactive – Hotspots across the City based on streets with recurring multiple violations and business signs repeatedly without permits ▪ Special Events Management - Attend Community Events/Festivals to educate and gain compliance with Licensing By-law ▪ Adult Entertainment Blitz – Body Rub Parlours, Adult Entertainment Venues, etc ▪ Trades (Schedule 29, locating unlicensed companies) 	<ul style="list-style-type: none"> ▪ Lottery Licensing ▪ Sign By-law (reactive only in rural areas as per City Council Aug 12/10) ▪ Street Vendors (e.g., flower vendors (Easter and Mother's Day), concession stands, special events vendors)

Animal Services Team

Top Priority – Proactive and Reactive Enforcement	Periodic Proactive Enforcement	Lower Priority and/or Reactive - Complaint Driven
<p><u>Enforcement</u></p> <ul style="list-style-type: none"> ▪ Responsible Animal Ownership By-law ▪ Dog Licensing – expired licences ▪ Dog Licensing – new licence leads ▪ Feeding Wildlife By-law – rabies response and enforcement ▪ Dogs at Large – no owners present and actively running at large ▪ All bite complaints – Animal to Animal and Animal to Human ▪ Dangerous and Potentially Dangerous Dog Designations ▪ Dog Owners' Liability Act (bites, attacks, pit bulls) <p><u>Non-Enforceable</u></p> <ul style="list-style-type: none"> ▪ Injured wildlife and domestic animals to ensure public safety ▪ Pick up and hold animals "Held In Trust" in cooperation with Hamilton Fire, Police and EMS ▪ Pick-up, hold and release bats for Public Health monitoring/testing for possible rabies transmission to people/animals ▪ Dogs in Hot Cars – in cooperation with Hamilton Police ▪ Coyote Sightings - Public Education 	<p><u>Enforcement</u></p> <ul style="list-style-type: none"> ▪ Park Patrols ▪ Leash Free patrols ▪ Pet store inspections – in cooperation with Licensing Officers for the business licences ▪ Dog Designation Inspections – to ensure compliance with the regulations ▪ Dog Licensing 	<p><u>Enforcement</u></p> <ul style="list-style-type: none"> ▪ Dog at Large – reports where the owner was present, or it occurred in the past ▪ New Licensing leads ▪ Dog off Leash ▪ Number of animals and prohibited animals ▪ Barking dogs (by complaint) ▪ Poop and scoop ▪ Park patrols ▪ Dangerous Dog designations ▪ Claiming animals impounded from the shelter (enforcement) ▪ Feeding Wildlife <p><u>Non-Enforceable</u></p> <ul style="list-style-type: none"> ▪ Trap Neuter Release – Community Cats ▪ Community events/meetings in cooperation with Public Health for rabies education. ▪ Wildlife Seminars in cooperation with a Licensed Wildlife Rehabilitator ▪ Picking up Deceased wildlife and domestic animals for disease prevention and public safety



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Luis Ferreira (905) 546-2424 Ext. 3087
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

That the Administrative Penalty System By-law 17-225 (APS) be amended to include the Sign By-law 10-197 as Table 16 to Schedule A, in accordance with the amending by-law attached as Appendix "A" to Report PED19092 to be enacted by Council.

EXECUTIVE SUMMARY

At its meeting of September 27, 2017 Council approved Item 3 of Planning Committee Report 17-015 directing staff to implement Administrative Penalty System (APS) to Municipal By-laws. Staff is now ready to include the Sign By-law as Table 16. This approach aids in reducing congestion in the Courts, as well as providing a more local, accessible and less adversarial dispute resolution process.

APS is a process to deal with minor by-law infractions in a manner that is fair, effective and efficient. APS has been adopted by numerous municipalities who have experienced the same benefits as the City of Hamilton, including: improving service excellence, enhancing staff efficiencies and effectiveness, supporting operational cost recovery and autonomy over infraction penalty amounts as contained in s. 434.1(3) of the *Municipal Act, 2001*.

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: Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (City Wide) - Page 2 of 5

APS enforcement transfers by-law disputes from the courtroom to the municipality through a quasi-judicial process with the Hearing Officers having final and binding authority over the matter.

Screening Officers review Administrative Penalty Notices (APNs) that are not voluntarily paid and Hearing Officers (Independent Council Appointees) adjudicate APNs that are not successfully remedied by the Screening Officers.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial / Staffing / Legal: N/A

HISTORICAL BACKGROUND

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

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

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

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The APS By-law 17-225 will be amended to include the Sign By-law 10-197 as Table 16 to Schedule A.

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The *Municipal Act, 2001* authorizes the use of APS for designated by-laws. The City of Hamilton APS By-law currently holds seven Parking By-laws, two Animal Services By-laws, one Licensing By-law and five Municipal By-laws. The APS By-law has been written in a manner to allow for other Municipal By-laws to be added as additional tables to Schedule A to By-law 17-225.

SUBJECT: Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (City Wide) - Page 3 of 5

The *Municipal Act, 2001* specifically authorizes the implementation of APS for designated by-laws. Staff is seeking approval to expand APS to include the Sign By-law 10-197.

Historically Municipal By-law Enforcement Officers (MLEOs) issued Part I tickets for contraventions of Municipal By-laws. Voluntary payment is made to the Province and disputes are addressed within the Provincial Courts. The current court process for disputing charges under *the Provincial Offences Act* mirrors a criminal trial, which involves significant public resources such as, the requirement of a Justice of the Peace, a Prosecutor, court support staff, security and the MLEO who provide evidence. There is also the time spent by Enforcement Staff (Officers and Clerks) who prepare case files and other court documents. The current court process is inconvenient for the defendants as expenses are often incurred, including the time and cost associated with finding legal representation, travel, child care costs, and taking time off work to attend court.

APS is a process to deal with minor by-law infractions in a manner that is fair, effective and efficient. This system has been adopted by numerous municipalities and is designed to streamline the enforcement process and increase compliance with by-laws.

After the MLEO issues a penalty notice to an alleged offender, the matter can be reviewed by a Screening Officer during regular business hours. If the citizen is unsatisfied with the outcome, they may escalate the matter to be adjudicated by a Hearing Officer, usually scheduled within a month or two of the date of the offence.

Utilizing Screening Officers, who review APNs and Hearing Officers, who adjudicate these matters is more efficient, as the City maintains greater control of the integrity of the penalty amount, the resolution process, as well as offering easy payment options through the Licensing and By-law Services Office, the six Municipal Service Centres, the Animal Services facility as well as online using "Paytickets".

Benefits with the Implementation of APS

- Fewer court disputes which means efficiencies on staff resources spent preparing and attending these matters;
- Additional administrative fees and improved collection options granted to municipalities by the *Municipal Act, 2001* to aid in higher recovery rates of unpaid fines;
- Additional revenues collected through enforcement activities; and,

SUBJECT: Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (City Wide) - Page 4 of 5

- Additional administrative fees applied to individuals who fail to pay or dispute their ticket by the due date.

Improved Customer Service

- Citizens resolve by-law infraction matters in a more convenient and citizen-friendly environment as City staff is more capable of dealing with by-law contraventions in a timely manner;
- Citizens will have flexibility:
 - extensions of time in which to request a review of a matter;
 - extensions of time to pay a penalty;
- Wait times to appeal by-law tickets will be reduced as staff can schedule additional hearing dates to accommodate demand. A quasi-judicial type setting for hearings are less intimidating to the public; and,
- Removes potential perception that the dispute process is biased, the Hearing Officer is an independent contractor (with a qualified legal background) not a City employee, who on a balance of probabilities adjudicates on the merits of the violation and renders a final and binding decision not subject to any judicial review.

Efficient Use of Staff Time

- Time spent preparing and attending Provincial Court will be drastically reduced. Enforcement Officers do not have to attend Provincial Court or APS Hearings to defend tickets (it was estimated that Officers spent a minimum of two hours waiting to make a brief appearance in court with a minimum of three appearances to resolve the matter);
- The amount of time staff spent processing individual infractions will be reduced as tickets can no longer be re-opened, previously defendants had the ability to appeal their convictions to a higher court;
- Screening Officers review APNs on the spot and affirm, amend, give more time to pay and cancel tickets. If unsuccessful they set hearing dates to resolve the matter usually within a month or two;
- Shift scheduling will not be required as Supervisors no longer have to schedule Officers around court dates or hearing dates;

SUBJECT: Expanding Administrative Penalty System (APS) to Include the Sign By-law 10-197 (PED19092) (City Wide) - Page 5 of 5

- Reducing congestion in Provincial Courts, allowing the over-burdened Provincial Courts to address other matters; and,
- Promoting better use of court time and other resources.

Autonomy of APS

- The review and adjudication process, the language used in the issuance of an APN and the penalty amount imposed (any by-laws enacted under the *Municipal Act, 2001*) are under the jurisdiction of the municipality and no longer require the use of Provincial Courts or the approval of the Chief Justice of Ontario.

The City of Hamilton APS By-law has been written as such to allow for inclusion of other Municipal By-laws as applicable.

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

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Healthy and Safe Communities

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

APPENDICES AND SCHEDULES ATTACHED

Appendix "A": By-law Adding Table 16 to Schedule A of the APS By-law 17-225

Appendix "A" to Report PED19092

Page 1 of 15

Authority: Item ,
Report
CM:
Ward: City Wide

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

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

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

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

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

1. The amendments in this By-law include any necessary grammatical, numbering and lettering changes.
2. Schedule A of By-law No.17-225 is amended by adding a new Table 16 titled BY-LAW NO.10-197 HAMILTON SIGN BY-LAW

Table 16: By-law 10-197 Hamilton Sign By-law

ITEM	COLUMN 1 DESIGNATED BY-LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
PERMITS				
1	10-197	3.2.1(a)	display ground sign without permit	\$300.00
2	10-197	3.2.1(b)	display wall sign without permit	\$300.00
3	10-197	3.2.1(c)	display mobile sign without permit	\$100.00
4	10-197	3.2.1(d)	display banner sign without permit	\$100.00
5	10-197	3.2.1(e)	display temporary sign without permit	\$50.00
6	10-197	3.2.1(f)	display inflatable sign without permit	\$100.00
7	10-197	3.2.1(g)	display billboard without permit	\$500.00
8	10-197	3.2.1(h)	display digital billboard without permit	\$500.00
9	10-197	3.2.4	alter sign from original sign without written permission from Director/Chief Building Official	\$200.00
EXISTING SIGN				
10	10-197	3.4.3(2)	fail to comply with conditions of sign permit by Director	\$100.00

Appendix "A" to Report PED19092

Page 2 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
GENERAL PROHIBITIONS/REGULATIONS				
11	10-197	4.1(a)	permit/display sign without permit	\$100.00
12	10-197	4.1(b)	permit/display sign not in compliance with Sign By-law conditions/variance	\$200.00
13	10-197	4.1(c)	permit/display sign not specifically permitted under Sign By-law	\$200.00
14	10-197	4.1(d)(i)	permit/display sign on City property except poster/election sign as permitted	\$100.00
15	10-197	4.1(d)(ii)	permit/display sign on City property without permission	\$200.00
16	10-197	4.1(e)	permit/display sign on property without owner's permission	\$200.00
17	10-197	4.1(f)	permit/display sign which obstructs the view by pedestrian	\$200.00
18	10-197	4.1(f)	permit/display sign which obstructs the view by driver of vehicle	\$200.00
19	10-197	4.1(f)	permit/display sign which obstructs traffic signal	\$200.00
20	10-197	4.1(f)	permit/display sign which obstructs traffic control device	\$200.00
21	10-197	4.1(f)	permit/display sign which interferes with vehicular traffic	\$200.00
22	10-197	4.1(g)	permit/display sign on traffic signal	\$100.00
23	10-197	4.1(g)	permit/display sign on traffic control device	\$100.00
24	10-197	4.1(h)	permit/display sign which illuminates onto adjacent property	\$100.00
25	10-197	4.1(h)	permit/display sign which illuminates onto path of vehicular traffic	\$200.00
26	10-197	4.1(i)	permit/display sign not maintained	\$100.00
27	10-197	4.1(i)	permit/display sign that is unsightly	\$100.00
28	10-197	4.1(i)	permit/display sign that is structurally inadequate	\$200.00
29	10-197	4.1(i)	permit/display sign that is faulty	\$100.00
30	10-197	4.1(i)	permit/display sign that is hazardous	\$200.00
31	10-197	4.1(j)	permit/display sign when directed to remove	\$200.00
32	10-197	4.1(k)	permit/display sign which bears City logo without permission	\$200.00
33	10-197	4.1(k)	permit/display sign which bears City crest without permission	\$200.00
34	10-197	4.1(k)	permit/display sign which bears City seal without permission	\$200.00
35	10-197	4.1(l)	permit/display sign which does not comply with By-law	\$200.00
36	10-197	4.1(l)	permit/display sign which does not comply with statutes or regulation including Ontario Heritage Act	\$200.00
37	10-197	4.2	sign owner fail to stop the display of sign	\$200.00
PROHIBITED SIGNS				
38	10-197	5.1.1(a)	permit/display sign with a video screen or any flashing, kinetic, or illusionary motion	\$100.00
39	10-197	5.1.1(b)	permit/display sign supported entirely/partly by the roof of a building/structure and which projects above the roof	\$200.00
40	10-197	5.1.1(c)	permit/display sign displayed within a visibility triangle	\$200.00
41	10-197	5.1.1(d)	permit/display sign displayed on a vehicle/trailer/truck parked/located on property unrelated to its normal use	\$100.00
42	10-197	5.1.1(e)	permit/display sign which obstructs parking space required by zoning by-laws	\$100.00

Appendix "A" to Report PED19092

Page 3 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
43	10-197	5.1.1(f)	permit/display sign within 400m of Highway 403/Queen Elizabeth Way/Lincoln M. Alexander Parkway or the Red Hill Valley Parkway	\$100.00
44	10-197	5.1.2	permit/display sign not expressly permitted by Sign By-law	\$200.00
45	10-197	5.1.3	permit/display sign not permitted by zoning	\$200.00
46	10-197	5.1.3	permit/display sign on property not permitted by zoning	\$200.00
GROUND/CONSTRUCTION SIGN				
47	10-197	5.2.1	permit/display a Ground Sign not in accordance to By-law	\$300.00
48	10-197	5.2.2(a)	permit/display a Ground Sign without permit	\$300.00
Permit/Timing				
49	10-197	5.2.2(b)	permit/display construction information Ground Sign not in compliance with approved construction/development project under Planning Act	\$300.00
50	10-197	5.2.2(c)	permit/display construction information Ground Sign for more than 28 days after construction/development	\$100.00
Structure				
51	10-197	5.2.2(d)	Ground Sign not embedded in a foundation in the ground to a depth of at least 1.2m or secured in a manner that is satisfactory	\$300.00
52	10-197	5.2.2(d)	Ground Sign not secured in a manner satisfactory to Chief Building Official	\$300.00
53	10-197	5.2.2(e)	permit/display a Ground Sign with a maximum sign area of 0.3m ² for every 1.0m of frontage	\$300.00
54	10-197	5.2.2(e)	permit/display Ground Sign exceeding a total sign area of 18.0m ² for a single- faced Ground Sign	\$300.00
55	10-197	5.2.2(e)	permit/display Ground Sign exceeding a total sign area of 36.0m ² for a double or multi-faced	\$300.00
56	10-197	5.2.2(f)	permit/display Ground Sign exceeding a maximum height of 7.5m	\$300.00
Content				
57	10-197	5.2.2(g)(i)	permit/display Ground Sign without municipal address number of property less than 15.0cm in height	\$200.00
58	10-197	5.2.2(g)(ii)1.	permit/display Ground Sign without the name of business in copy less than 15.0cm in height	\$100.00
59	10-197	5.2.2(g)(ii)2.	permit/display Ground Sign without the registered trademark of business in copy less than 15.0cm in height	\$100.00
60	10-197	5.2.2(g)(ii)3.	permit/display Ground Sign without name of ownership of business in copy less than 15.0cm in height	\$100.00
61	10-197	5.2.2(g)(ii)4.	permit/display Ground Sign without name of activity/ product/service in copy less than 15.0cm in height	\$100.00
62	10-197	5.2.2(g)(iii)	permit/display Ground Sign exceeding more than 50% readograph or electronic message display	\$200.00
63	10-197	5.2.2(g)(iii)	permit/display Ground Sign with readograph or electronic message display less than 3 seconds and movement/ colour/intensity/illumination change	\$100.00
64	10-197	5.2.2(g)(iv)	permit/display Ground Sign for institutional purposes exceeding 75% with readograph or electronic message display	\$100.00

Appendix "A" to Report PED19092

Page 4 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
65	10-197	5.2.2(g)(iv)	permit/display Ground Sign for institutional purposes with readograph or electronic message display copy less than 3 seconds and movement/colour /intensity/ illumination change	\$100.00
66	10-197	5.2.2(g)(v)	advertise a business not on property by Ground Sign	\$100.00
67	10-197	5.2.2(g)(v)	advertise an activity not on property by Ground Sign	\$100.00
68	10-197	5.2.2(g)(v)	advertise a product/service not on property by Ground Sign	\$100.00
69	10-197	5.2.2(g)(v)	advertise a charity/community activity not on property by Ground Sign	\$100.00
70	10-197	5.2.2(g)(vi)	Ground Sign exceeding 25% of the sign area or 1.2m ² , whichever is lesser for electronic message display not within Downtown Community Improvement Project/ Business Improvement/Ancaster Village Core/Glanbrook Village Core Areas	\$100.00
71	10-197	5.2.2(g)(vii)	Ground Sign not advertising business/activity/product/ service on property within the Downtown Community Improvement Project/Business Improvement/Ancaster Village Core/Glanbrook Village Core Areas	\$100.00
Location				
72	10-197	5.2.2(h)	permit/display Ground Sign within 15.0m of a traffic signal/ traffic control device	\$100.00
73	10-197	5.2.2(i)	permit/display Ground Sign within 1.5m or distance equal to 75% of the height of the Ground Sign, whichever is greater, of any property line	\$100.00
74	10-197	5.2.2(j)	permit/display Ground Sign along the same frontage used to calculate the maximum sign area	\$100.00
75	10-197	5.2.2(k)	permit/display Ground Sign within 200m of another Ground Sign along same frontage	\$100.00
76	10-197	5.2.2(l)(i)	permit/display more than 1 construction information Ground Sign per frontage	\$100.00
77	10-197	5.2.2(l)(ii)	permit/display more than 1 Ground Sign which provides courtesy/directional information/menu board/clearance sign per frontage	\$100.00
78	10-197	5.2.2(m)	permit/display more than 2 Construction Information Ground Sign for any single development/construction project	\$100.00
79	10-197	5.2.2(n)(i)	permit/display Ground Sign on property of single detached dwelling	\$75.00
80	10-197	5.2.2(n)(ii)	permit/display Ground Sign on property of semi detached dwelling	\$75.00
81	10-197	5.2.2(n)(iii)	permit/display Ground Sign on property of duplex dwelling	\$75.00
82	10-197	5.2.2(n)(iv)	permit/display Ground Sign on property of triplex dwelling	\$75.00
83	10-197	5.2.2(n)(v)	permit/display Ground Sign on property of fourplex dwelling	\$75.00
84	10-197	5.2.2(n)(vi)	permit/display Ground Sign on street townhouse property	\$75.00
85	10-197	5.2.2(n)(vii)	permit/display Ground Sign on property of mobile home	\$75.00
86	10-197	5.2.2(n)(viii)	permit/display Ground Sign on property of residential care facility	\$100.00
87	10-197	5.2.2(n)(ix)	permit/display Ground Sign on property of lodging house	\$100.00
88	10-197	5.2.2(n)(x)	permit/display Ground Sign on property of retirement home	\$100.00

Appendix "A" to Report PED19092

Page 5 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
89	10-197	5.2.2(n)(xi)	permit/display Ground Sign on property of emergency shelter	\$100.00
90	10-197	5.2.3	permit/display Ground Sign on undeveloped or vacant property where Billboard has not been removed	\$200.00
WALL SIGNS/PROJECTING SIGNS				
91	10-197	5.3.1	permit/display Wall Sign not in accordance to By-law	\$200.00
Permit/Timing				
92	10-197	5.3.2(a)	permit/display Wall Sign without a permit	\$200.00
Structure				
93	10-197	5.3.2(b)	permit/display Wall Sign to extend beyond the sides or top of the wall	\$200.00
94	10-197	5.3.2(c)	permit/display Wall Sign to exceed 15% of total area of the wall	\$200.00
95	10-197	5.3.2(d)	permit/display Wall Sign less than 2.8m above grade	\$200.00
Content				
96	10-197	5.3.2(e)	permit/display Projecting Sign more than 1.0m ² with sign area exceeding 20% copy	\$100.00
97	10-197	5.3.2(f)	permit/display Wall Sign to exceed 50% of the sign area be a readograph/electronic message	\$200.00
98	10-197	5.3.2(f)	permit/display Wall Sign with a readograph/electronic message display message with less than 3 seconds of movement/change in colour/intensity of illumination	\$200.00
99	10-197	5.3.2(g)	permit/display Wall Sign that does not advertise the business/activity/product or service/charity's/community organization's activity on the property	\$100.00
100	10-197	5.3.2(h)	permit/display Wall Sign that exceeds 25% of the sign area or 1.2m ² , whichever is less	\$200.00
101	10-197	5.3.2(i)	permit/display Wall Sign within the Downtown Community Improvement Project/Business Improvement/Ancaster Village Core/Glanbrook Village Core areas that does not advertise the business/activity/service on the property	\$100.00
Location				
102	10-197	5.3.2(j)	permit/display Wall Sign that overhangs public right of way with no encroachment agreement/liability insurance	\$200.00
103	10-197	5.3.2(k)	permit/display Wall Sign that overhangs public right of way on the same building wall used to calculate the maximum sign area	\$200.00
104	10-197	5.3.2(l)(i)	permit/display Wall Sign on a Single Detached Dwelling	\$75.00
105	10-197	5.3.2(l)(ii)	permit/display Wall Sign on a Semi-Detached Dwelling	\$75.00
106	10-197	5.3.2(l)(iii)	permit/display Wall Sign on a Duplex	\$75.00
107	10-197	5.3.2(l)(iv)	permit/display Wall Sign on a Triplex	\$75.00
108	10-197	5.3.2(l)(v)	permit/display Wall Sign on a Fourplex or Quadruplex	\$75.00
109	10-197	5.3.2(l)(vi)	permit/display Wall Sign on a Street Townhouse	\$75.00
110	10-197	5.3.2(l)(vii)	permit/display Wall Sign on a Mobile Home	\$75.00
111	10-197	5.3.2(l)(viii)	permit/display Wall Sign on a Residential Care Facility	\$100.00
112	10-197	5.3.2(l)(ix)	permit/display Wall Sign on a Lodging House	\$100.00
113	10-197	5.3.2(l)(x)	permit/display Wall Sign on a Retirement Home	\$100.00
114	10-197	5.3.2(l)(xi)	permit/display Wall Sign on an Emergency Shelter	\$100.00

Appendix "A" to Report PED19092

Page 6 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
MOBILE SIGNS				
115	10-197	5.4.1	permit/display Mobile Sign not in accordance to By-law	\$100.00
Permit/Timing				
116	10-197	5.4.2(a)	permit/display Mobile Sign without permit	\$100.00
117	10-197	5.4.2(d)	permit/display Mobile Sign exceeding 28 consecutive days	\$100.00
Structure				
118	10-197	5.4.2(g)	permit/display Mobile Sign with sign area exceeding 4.5m ² for commercial/industrial use	\$100.00
119	10-197	5.4.2(h)	permit/display Mobile Sign exceeding maximum height of 2.7m and maximum width of 2.5m	\$100.00
Content				
120	10-197	5.4.2(i)	permit/display Mobile Sign that is illuminated	\$100.00
121	10-197	5.4.2(j)	permit/display Mobile Sign with electronic message display	\$100.00
122	10-197	5.4.2(k)	permit/display Mobile Sign without name and telephone number of sign owner clearly visible	\$100.00
123	10-197	5.4.2(m)	permit/display Mobile Sign advertising a business/activity/product/service that is not on the property	\$100.00
Location				
124	10-197	5.4.2(n)	permit/display Mobile Sign in location not approved by Director	\$100.00
125	10-197	5.4.2(o)(i)	permit/display Mobile Sign within 15.0m of an intersection/traffic signal/traffic control device	\$100.00
126	10-197	5.4.2(o)(ii)	permit/display Mobile Sign within 3.0m of a driveway line	\$100.00
127	10-197	5.4.2(o)(iii)	permit/display Mobile Sign within 15.0m of a side property line abutting a residential property	\$100.00
128	10-197	5.4.2(o)(iii)	permit/display Mobile Sign within 3.0m of a side property line abutting a property with other use	\$100.00
129	10-197	5.4.2(o)(iv)	permit/display Mobile Sign within 1.5m of a street line	\$100.00
130	10-197	5.4.2(o)(v)	permit/display Mobile Sign in parking space required by zoning	\$100.00
131	10-197	5.4.2(p)	permit/display Mobile Sign on vacant property	\$100.00
132	10-197	5.4.2(q)	permit/display 2 Mobile Signs, not separated by at least 50.0m on a property at any one time	\$100.00
133	10-197	5.4.2(r)(i)	permit/display Mobile Sign on property of a Single Detached Dwelling	\$75.00
134	10-197	5.4.2(r)(ii)	permit/display Mobile Sign on property of a Semi-Detached Dwelling	\$75.00
135	10-197	5.4.2(r)(iii)	permit/display Mobile Sign on property of a Duplex	\$75.00
136	10-197	5.4.2(r)(iv)	permit/display Mobile Sign on property of a Triplex	\$75.00
137	10-197	5.4.2(r)(v)	permit/display Mobile Sign on property of a Fourplex or Quadruplex	\$75.00
138	10-197	5.4.2(r)(vi)	permit/display Mobile Sign on a Street Townhouse	\$75.00
139	10-197	5.4.2(r)(vii)	permit/display Mobile Sign on property of a Mobile Home	\$75.00
140	10-197	5.4.2(r)(viii)	permit/display Mobile Sign on property of a Residential Care Facility	\$100.00
141	10-197	5.4.2(r)(ix)	permit/display Mobile Sign on property of a Lodging House	\$100.00
142	10-197	5.4.2(r)(x)	permit/display Mobile Sign on property of a Retirement Home	\$100.00

Appendix "A" to Report PED19092

Page 7 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY-LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
143	10-197	5.4.2(r)(xi)	permit/display Mobile Sign on property of an Emergency Shelter	\$100.00
BANNERS				
144	10-197	5.5.1	permit/display Banner Sign not in accordance to By-law	\$100.00
Permit/Timing				
145	10-197	5.5.2(a)	permit/display Banner Sign with sign area exceeding 1m ² without permit	\$100.00
146	10-197	5.5.2(c)	permit/display Banner Sign exceeding 28 consecutive days	\$100.00
Structure				
147	10-197	5.5.2(d)	permit/display Banner Sign not securely attached	\$100.00
148	10-197	5.5.2(e)	permit/display Banner Sign exceeding maximum 6.0m ² sign area	\$100.00
Content				
149	10-197	5.5.2(f)(ii)	permit/display Banner Sign of a business/activity/product or service not located on property	\$100.00
150	10-197	5.5.2(g)(ii)	permit/display Banner Sign of a business/activity/product or service not located on the adjacent property	\$100.00
Location				
151	10-197	5.5.2(h)	permit/display Banner Sign on boundary fence	\$100.00
152	10-197	5.5.2(i)	permit/display more than 1 Banner Sign on each building elevation/structure or fence	\$100.00
153	10-197	5.5.2(j)(i)	permit/display Banner Sign on property of a Single Detached Dwelling	\$75.00
154	10-197	5.5.2(j)(ii)	permit/display Banner Sign on property of a Semi-Detached Dwelling	\$75.00
155	10-197	5.5.2(j)(iii)	permit/display Banner Sign on property of a Duplex	\$75.00
156	10-197	5.5.2(j)(iv)	permit/display Banner Sign on property of a Triplex	\$75.00
157	10-197	5.5.2(j)(v)	permit/display banner Sign on property of a Fourplex or Quadruplex	\$75.00
158	10-197	5.5.2(j)(vi)	permit/display Banner Sign on a Street Townhouse	\$75.00
159	10-197	5.5.2(j)(vii)	permit/display Mobile Sign on property of a Mobile Home	\$75.00
160	10-197	5.5.2(j)(viii)	permit/display Mobile Sign on property of a Residential Care Facility	\$100.00
161	10-197	5.5.2(j)(ix)	permit/display Mobile Sign on property of a Lodging House	\$100.00
162	10-197	5.5.2(j)(x)	permit/display Mobile Sign on property of a Retirement Home	\$100.00
163	10-197	5.5.2(j)(xi)	permit/display Mobile Sign on property of an Emergency Shelter	\$100.00
BANNERS/TEMPORARY/ARICULTUAL PRODUCE PORTABLE/COROGATED PLASTIC/NEW HOME DEVEL. & SIDEWALK SIGNS				
164	10-197	5.6.1	permit/display Temporary Sign not in accordance to By-law	\$100.00
Permit/Timing				
165	10-197	5.6.2(a)	permit/display Temporary Sign without a permit	\$100.00
166	10-197	5.6.2(b)	permit/display Corrugated Plastic Sign for more than 1year	\$100.00
167	10-197	5.6.2(c)(ii)	permit/display New Home Devel. Portable Sign before noon on Friday and after noon the following Monday	\$100.00
168	10-197	5.6.2(d)	permit/display Sidewalk Sign on public property without permit	\$100.00

Appendix "A" to Report PED19092

Page 8 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
Structure				
169	10-197	5.6.2(e)(i)	permit/display Temporary Sign permanently secured to the ground/structure or tree	\$100.00
170	10-197	5.6.2(e)(ii)	permit/display Temporary Sign to exceed 0.48m ² of sign area for each face	\$100.00
171	10-197	5.6.2(e)(iii)	permit/display Temporary Sign to exceed 0.8m in height	\$100.00
172	10-197	5.6.2(f)	permit/display Corrugated Plastic Sign to exceed 2.2m ² of sign area for each face	\$100.00
Content				
173	10-197	5.6.2(g)	permit/display Temporary Sign that is illuminated	\$100.00
174	10-197	5.6.2(h)	permit/display Temporary Sign that is an electronic message display	\$100.00
175	10-197	5.6.2(i)(ii)	permit/display Corrugated Plastic Sign on private property of a business/activity/product or service not located on the property	\$100.00
176	10-197	5.6.2(j)(ii)	permit/display Sidewalk Sign on public property of a business/activity/product or service not located on the adjacent private property	\$100.00
Location				
177	10-197	5.6.2(k)(i)	permit/display Agricultural Produce/New Home Devel. Portable Sign on public property	\$100.00
178	10-197	5.6.2(k)(ii)	permit/display Agricultural Produce/New Home Devel. Portable Sign obstructing permanent sign	\$100.00
179	10-197	5.6.2(k)(iii)	permit/display Agricultural Produce/New Home Devel. Portable Sign on traffic island/median or attached to pole	\$100.00
180	10-197	5.6.2(k)(iv)	permit/display Agricultural Produce/New Home Devel. Portable Sign on public sidewalk	\$100.00
181	10-197	5.6.2(k)(v)	permit/display Agricultural Produce/New Home Devel. Portable Sign less than 3.0m from driveway	\$100.00
182	10-197	5.6.2(k)(vi)	permit/display Agricultural Produce/New Home Devel. Portable Sign less than 1.5m from edge of curb/travelled portion of roadway	\$100.00
183	10-197	5.6.2(k)(vii)	permit/display Agricultural Produce/New Home Devel. Portable Sign on the untravelled portion of the street	\$100.00
184	10-197	5.6.2(k)(viii)	permit/display more than 1 Agricultural Produce/New Home Devel. Portable Sign per person on corner of intersection	\$100.00
185	10-197	5.6.2(k)(ix)	permit/display Agricultural Produce/New Home Devel. Portable Sign without liability insurance	\$100.00
186	10-197	5.6.2(l)(i)	permit/display Corrugated Plastic Sign on public property	\$100.00
187	10-197	5.6.2(l)(ii)(1)	permit/display Corrugated Plastic Sign within 15.0m of intersection of traffic signal/device	\$100.00
188	10-197	5.6.2(l)(ii)(2)	permit/display Corrugated Plastic Sign within 3.0m of driveway	\$100.00
189	10-197	5.6.2(l)(ii)(3)	permit/display Corrugated Plastic Sign within 15.0m of side property abutting property used as residential	\$100.00
190	10-197	5.6.2(l)(ii)(3)	permit/display Corrugated Plastic Sign within 3.0m of side property abutting property not used as residential	\$100.00
191	10-197	5.6.2(l)(ii)(4)	permit/display Corrugated Plastic Sign within 1.5m of street	\$100.00

Appendix "A" to Report PED19092

Page 9 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
192	10-197	5.6.2(l)(ii)(5)	permit/display Corrugated Plastic Sign in parking space required by zoning	\$100.00
193	10-197	5.6.2(l)(iii)	permit/display Corrugated Plastic Sign on vacant property	\$100.00
194	10-197	5.6.2(l)(iv)	permit/display Corrugated Plastic Sign within 10.0m of another corrugated plastic sign	\$100.00
195	10-197	5.6.2(m)(i)	permit/display Sidewalk sign on private property not close to front wall	\$100.00
196	10-197	5.6.2(m)(ii)	permit/display more than 1 Sidewalk sign per business	\$100.00
197	10-197	5.6.2(m)(iii)(1)	permit/display Sidewalk sign on a sidewalk/boulevard/travelled portion of street in the Downtown Community Improvement Project Area/a Business Improvement Area/Ancaster Village Core Area/Glanbrook Village Core Area	\$100.00
198	10-197	5.6.2(m)(iii)(2)	permit/display Sidewalk sign adjacent to curb opposite/against front wall of business not maintaining minimum 1.5m of unobstructed sidewalk	\$100.00
199	10-197	5.6.2(m)(iii)(3)	permit/display Sidewalk sign not during hours of operation of business	\$100.00
200	10-197	5.6.2(m)(iii)(4)	permit/display Sidewalk sign without liability insurance	\$100.00
INFLATABLE SIGNS				
201	10-197	5.7.1	permit/display Inflatable Sign not in accordance to By-law	\$100.00
Permit/Timing				
202	10-197	5.7.2(a)	permit/display Inflatable Sign without a permit	\$100.00
203	10-197	5.7.2(c)	permit/display Inflatable Sign exceeding 14 days	\$100.00
Structure				
204	10-197	5.7.2(d)	permit/display Inflatable Sign not properly secured	\$100.00
205	10-197	5.7.2(e)	permit/display Inflatable Sign exceeding 7.0m tall/6.0m wide	\$100.00
Content				
206	10-197	5.7.2(g)	permit/display Inflatable Sign not advertising business on the property/activity/product or service	\$100.00
Location				
207	10-197	5.7.2(h)	permit/display Inflatable Sign less than 5.0m from property line	\$100.00
208	10-197	5.7.2(i)	permit/display Inflatable Sign on property not zoned commercial/industrial	\$100.00
POSTERS				
209	10-197	5.8.1	permit/display Poster Sign not in accordance to By-law	\$100.00
Permit/Timing				
210	10-197	5.8.2(b)	permit/display Poster Sign exceeding 21 days	\$100.00
211	10-197	5.8.2(b)	permit/display Poster Sign exceeding 3 days after event	\$100.00
Structure				
212	10-197	5.8.2(c)	permit/display Poster Sign not affixed by tape only	\$100.00
213	10-197	5.8.2(d)	permit/display Poster Sign not made of biodegradable material	\$100.00
214	10-197	5.8.2(e)	permit/display Poster Sign exceeding 0.13m ² sign area	\$100.00

Appendix "A" to Report PED19092

Page 10 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
Location				
215	10-197	5.8.2(f)(i)	permit/display more than 1 Poster Sign for a kiosk on public property	\$100.00
216	10-197	5.8.2(f)(ii)	permit/display more than 1 Poster Sign on a poster sleeve on public property	\$100.00
217	10-197	5.8.2(f)(iii)	permit/display more than 1 Poster Sign on a utility pole on public property	\$100.00
218	10-197	5.8.2(f)(iii)	permit/display more than 1 Poster Sign on a utility pole within 200m of another utility pole with same advertising on public property	\$100.00
219	10-197	5.8.2(g)(i)	permit/display Poster Sign exceeding 2.2m ² of sign area on private property	\$100.00
220	10-197	5.8.2(g)(ii)	permit/display Poster Sign within 200m of another sign on same private property	\$100.00
ELECTION SIGNS				
221	10-197	5.9.1	permit/display Election Sign not in accordance to By-law	\$50.00
Permit/Timing				
222	10-197	5.9.2(b)	permit/display Federal/Provincial Election Sign before date of writ of election	\$50.00
223	10-197	5.9.2(c)	permit/display Municipal Election Sign 28 days prior to voting day	\$50.00
224	10-197	5.9.2(d)	fail to remove Election Signs 3 days after voting day	\$50.00
Structure				
225	10-197	5.9.2(e)(i)	permit/display Election Sign exceeding 1.5m ² on property of Single Detached Dwelling	\$50.00
226	10-197	5.9.2(e)(ii)	permit/display Election Sign exceeding 1.5m ² on property of Semi Detached Dwelling	\$50.00
227	10-197	5.9.2(e)(iii)	permit/display Election Sign exceeding 1.5m ² on property of Duplex	\$50.00
228	10-197	5.9.2(e)(iv)	permit/display Election Sign exceeding 1.5m ² on property of Triplex	\$50.00
229	10-197	5.9.2(e)(v)	permit/display Election Sign exceeding 1.5m ² on property of Fourplex or Quadruplex	\$50.00
230	10-197	5.9.2(e)(vi)	permit/display Election Sign exceeding 1.5m ² on property of Street Townhouse	\$50.00
231	10-197	5.9.2(e)(vii)	permit/display Election Sign exceeding 1.5m ² on property of Mobile Home	\$50.00
232	10-197	5.9.2(e)(viii)	permit/display Election Sign exceeding 1.5m ² on property of Residential Care Facility	\$50.00
233	10-197	5.9.2(e)(ix)	permit/display Election Sign exceeding 1.5m ² on property of Lodging House	\$50.00
234	10-197	5.9.2(e)(x)	permit/display Election Sign exceeding 1.5m ² on property of Retirement Home	\$50.00
235	10-197	5.9.2(e)(xi)	permit/display Election Sign exceeding 1.5m ² on property of Emergency Shelter	\$50.00
Content				
236	10-197	5.9.2(g)	permit/display Election Sign with electronic message display	\$50.00

Appendix "A" to Report PED19092

Page 11 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
BILLBOARDS				
237	10-197	5.10.1	permit/display Billboard Sign not in accordance to By-law	\$500.00
Permit/Timing				
238	10-197	5.10.2(a)	permit/display Billboard Sign without permit	\$500.00
Structure				
239	10-197	5.10.2(b)	permit/display Billboard Sign exceeding 18.0m ² sign area	\$500.00
240	10-197	5.10.2(c)	permit/display Billboard Sign exceeding 12.0m high and more than 4.0m wide	\$500.00
Content				
241	10-197	5.10.2(d)	permit/display non-tri-vision Billboard Sign with animation	\$500.00
242	10-197	5.10.2(e)	permit/display Billboard Sign exceeding 50% readograph sign area	\$500.00
Location				
243	10-197	5.10.2(f)	permit/display Billboard Sign on property within Downtown Community Improvement Project/Waterdown Urban Settlement Areas	\$500.00
244	10-197	5.10.2(g)	permit/display Billboard Sign less than 300.0m from another Billboard	\$500.00
245	10-197	5.10.2(h)	permit/display Billboard Sign less than 300.0m from any residentially zoned property	\$500.00
246	10-197	5.10.2(i)	permit/display Billboard Sign less than 15.0m from any property line	\$500.00
247	10-197	5.10.2(j)	permit/display Billboard Sign on vacant/undeveloped property zoned commercial/industrial	\$500.00
248	10-197	5.10.3	sign owner fail to remove Billboard Sign from un-vacant/undeveloped property	\$500.00
DIGITAL BILLBOARDS				
249	10-197	5.10A.1	permit/display Digital Billboard Sign not in accordance to By-law	\$500.00
Permit/Timing				
250	10-197	5.10A.2(a)	permit/display Digital Billboard Sign without a permit	\$500.00
Structure				
251	10-197	5.10A.2(b)(i)	permit/display single/double/V-shape Digital Billboard Sign exceeding maximum sign area of 18.6 m ² for each sign face	\$500.00
252	10-197	5.10A.2(b)(ii)	permit/display Digital Billboard Sign exceeding maximum height of 6.1 m for each sign face	\$500.00
253	10-197	5.10A.2(b)(iii)	permit/display Digital Billboard Sign exceeding maximum width of 10m	\$500.00
254	10-197	5.10A.2(b)(iii)	permit/display Digital Billboard Sign exceeding maximum width of 12m facing the Lincoln M. Alexander Parkway	\$500.00
255	10-197	5.10A.2(c)(i)	permit/display Digital Billboard Sign facing the Lincoln M. Alexander Parkway exceeding maximum sign area of 36.2m ²	\$500.00
256	10-197	5.10A.2(c)(ii)	permit/display Digital Billboard Sign facing the Lincoln M. Alexander Parkway exceeding maximum height of 10.7m	\$500.00
257	10-197	5.10A.2(c)(iii)	permit/display Digital Billboard Sign facing the Lincoln M. Alexander Parkway exceeding maximum width of 12m	\$500.00

Appendix "A" to Report PED19092

Page 12 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
Content				
258	10-197	5.10A.2(d)	permit/display Digital Billboard Sign exceeding maximum luminosity level of 300 candelas per m ² at night and 6000 candelas per m ² during the day	\$500.00
259	10-197	5.10A.2(e)(i)	permit/display Digital Billboard Sign that does not limit light to 0.3 candles above ambient light levels at a distance of 41m with a sign area not more than 18.6m ²	\$500.00
260	10-197	5.10A.2(e)(ii)	permit/display Digital Billboard Sign that does not limit light to 0.3 candles above ambient light levels at a distance of 51m with a sign area of more than 18.6m ²	\$500.00
261	10-197	5.10A.2(e)(iii)	permit/display Digital Billboard Sign that does not limit light to 0.3 candles above ambient light levels at a distance of 76m with a sign area of more than 28m ²	\$500.00
262	10-197	5.10A.2(f)	permit/display Digital Billboard Sign between the hours of 12 a.m. and 6 a.m.	\$500.00
263	10-197	5.10A.2(g)	permit/display Digital Billboard Sign less than minimum dwell time of 6 seconds	\$500.00
264	10-197	5.10A.2(h)	permit/display Digital Billboard Sign more than maximum transition time of 1 second	\$500.00
Location				
265	10-197	5.10A.2(i)	permit/display Digital Billboard Sign not on a property within Downtown Community Improvement Project/ Waterdown Urban/Waterdown Settlement Areas	\$500.00
266	10-197	5.10A.2(k)	permit/display Digital Billboard Sign less than 300m from another Digital Billboard	\$500.00
267	10-197	5.10A.2(k)	permit/display Digital Billboard Sign less than 180m from another Digital Billboard when facing the Lincoln M. Alexander Parkway	\$500.00
268	10-197	5.10A.2(k)	permit/display Digital Billboard Sign less than 40m from another Digital Billboard when facing any other street	\$500.00
269	10-197	5.10A.2(l)(i)	permit/display Digital Billboard Sign less than 300m from any residentially zoned property	\$500.00
270	10-197	5.10A.2(m)	permit/display Digital Billboard Sign less than 3.5m from any property line	\$500.00
271	10-197	5.10A.2(n)	permit/display Digital Billboard Sign less than 30m from an intersection	\$500.00
OTHER SIGNS				
Agricultural Sign				
272	10-197	5.11.2(a)(i)	permit/display Agricultural Sign more than 3.0m ² of sign area	\$50.00
273	10-197	5.11.2(a)(ii)	permit/display Agricultural Sign not in agricultural zone	\$50.00
Agricultural Society Sign				
274	10-197	5.11.2(b)(i)	permit/display Agricultural Sign by a non-profit agricultural society for an event or fair more than 9.0m ² of sign area	\$50.00
275	10-197	5.11.2(b)(ii)	permit/display Agricultural Sign by a non-profit agricultural society for an event or fair not in agricultural zone	\$50.00
Branding Sign				
276	10-197	5.11.2(c)(i)1.	permit/display Branding Sign on property without business name	\$50.00

Appendix "A" to Report PED19092

Page 13 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
277	10-197	5.11.2(c)(i)2.	permit/display Branding Sign on property without registered trademark of business	\$50.00
278	10-197	5.11.2(c)(i)3.	permit/display Branding Sign on property without ownership information	\$50.00
279	10-197	5.11.2(c)(i)4.	permit/display Branding Sign on property without activity/product/service information	\$50.00
Commemorative Sign				
280	10-197	5.11.2(d)(i)	permit/display Commemorative Sign more than 3.0m ² of sign area	\$50.00
281	10-197	5.11.2(d)(ii)	permit/display Commemorative Sign less than 1.5m from street line/property line	\$50.00
Directional Sign				
282	10-197	5.11.2(e)(i)1.	permit/display Directional wall-mounted Sign with more than 1m ² of sign area	\$50.00
283	10-197	5.11.2(e)(i)2.	permit/display Directional wall-mounted Sign less than 2.8m above grade	\$50.00
284	10-197	5.11.2(e)(ii)1.	permit/display Directional Sign with more than 0.5m ² of sign area	\$50.00
285	10-197	5.11.2(e)(ii)2.	permit/display Directional Sign more than 1.5m in height	\$50.00
286	10-197	5.11.2(e)(ii)3.	permit/display Directional Sign less than 1.5m from street/property/driveway lines	\$50.00
Home Occupation Sign				
287	10-197	5.11.2(f)(i)	permit/display Home Occupation Sign with more than 0.3m ² of sign area	\$50.00
288	10-197	5.11.2(f)(ii)	permit/display Home Occupation Sign with illumination	\$50.00
289	10-197	5.11.2(f)(iii)	permit/display Home Occupation Sign not in residential zone	\$50.00
290	10-197	5.11.2(f)(iv)	permit/display Home Occupation Sign attached to wall not the home advertised	\$50.00
Incidental Sign				
291	10-197	5.11.2(g)(i)	permit/display Incidental/Directional Sign exceeding maximum sign area of 1.0m ²	\$50.00
292	10-197	5.11.2(g)(ii)	Preview Menu Board visible from street	\$50.00
293	10-197	5.11.2(g)(iii)	permit/display Incidental/Directional Sign less than 1.5m from street line/property line	\$50.00
294	10-197	5.11.2(g)(iv)	permit/display Incidental/Directional Sign on property not incidentally related	\$50.00
295	10-197	5.11.2(g)(v)	permit/display Incidental/Directional Sign on agricultural/commercial/industrial/institutional property not incidentally related	\$50.00
Mural				
296	10-197	5.11.2(h)(i)	permit/display Mural Sign not in commercial zone more than 50% of total wall area	\$100.00
Open House Directional Sign				
297	10-197	5.11.2(i)(i)	permit/display open house directional sign before 10:00am of the day of the open house	\$100.00
298	10-197	5.11.2(i)(i)	permit/display open house directional sign after 6:00pm of the day of the open house	\$100.00

Appendix "A" to Report PED19092

Page 14 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
299	10-197	5.11.2(i)(ii)	permit/display open house directional sign with more than 0.5m ² sign area	\$100.00
300	10-197	5.11.2(i)(iii)	permit/display open house directional sign on traffic island	\$100.00
301	10-197	5.11.2(i)(iii)	permit/display open house directional sign on median	\$100.00
302	10-197	5.11.2(i)(iii)	permit/display open house directional sign attached to light standard	\$100.00
303	10-197	5.11.2(i)(iii)	permit/display open house directional sign attached to utility pole	\$100.00
304	10-197	5.11.2(i)(iv)	permit/display open house directional sign less than 0.3m from sidewalk	\$100.00
Real Property Sale/Lease/Rent Sign				
305	10-197	5.11.2(j)(i)	permit/display real property sale/lease/rent sign for more than 14 days	\$100.00
306	10-197	5.11.2(j)(ii)	permit/display real property sale/lease/rent sign for 1 dwelling more than 0.6m ² sign area	\$100.00
307	10-197	5.11.2(j)(iii)	permit/display real property sale/lease/rent sign for other than 1 dwelling more than 4.0m ² sign area	\$100.00
308	10-197	5.11.2(j)(iv)	permit/display real property sale/lease/rent sign with illumination	\$100.00
309	10-197	5.11.2(j)(v)	permit/display real property sale/lease/rent sign on property not being sold/leased/rented	\$100.00
Religious Emblem				
310	10-197	5.11.2(k)	permit/display religious emblem not on private property	\$100.00
Sale of Seasonal Farm Produce Sign				
311	10-197	5.11.2(l)(i)	permit/display sign advertising sale of seasonal farm produce more than 3.0m ² sign area	\$100.00
312	10-197	5.11.2(l)(ii)	permit/display sign advertising sale of seasonal farm produce not in agricultural zone	\$100.00
Trade Sign				
313	10-197	5.11.2(m)(i)	permit/display sign advertising work to repair/renovate/landscape other than during work being performed	\$100.00
314	10-197	5.11.2(m)(ii)	permit/display sign advertising work to repair/renovate/landscape more than 0.48m ² of sign area	\$100.00
315	10-197	5.11.2(m)(iii)	permit/display sign advertising work to repair/renovate/landscape more than 0.8m in height	\$100.00
316	10-197	5.11.2(m)(iv)	permit/display sign advertising work to repair/renovate/landscape with illumination	\$100.00
Window Sign				
317	10-197	5.11.2(n)(i)	permit/display electronic message display window sign more than 0.48m ² of sign area	\$100.00
318	10-197	5.11.2(n)(ii)	permit/display window sign more than 50% of window surface area	\$100.00
319	10-197	5.11.2(n)(iii)	permit/display window sign on property other than commercial/industrial/institutional zoned	\$100.00
Yard/Garage/Lawn Sale Sign				
320	10-197	5.11.2(o)(i)	permit/display more than 4 yard/garage/lawn sale signs	\$50.00
321	10-197	5.11.2(o)(ii)	permit/display yard/garage/lawn sale sign more than 1 day before event	\$50.00

Appendix "A" to Report PED19092

Page 15 of 15

Table 16: By-law 10-197 Hamilton Sign By-law				
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	PENALTY AMOUNT Box 1
322	10-197	5.11.2(o)(ii)	permit/display yard/garage/lawn sale sign after conclusion of the event	\$50.00
323	10-197	5.11.2(o)(iii)	permit/display yard/garage/lawn sale sign for more than 36 hours	\$50.00
324	10-197	5.11.2(o)(iv)	permit/display yard/garage/lawn sale sign more than 0.2m ² of sign area	\$50.00
PENALTIES AND ENFORCEMENT				
325	10-197	7.1	person contravened provision of the Sign By-law	\$500.00
326	10-197	7.1	person failed to comply with an order made under Sign By-law	\$500.00

PASSED this _____ , _____

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	By-law No.18-261 – Correction of Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a))
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Elyse Meneray (905) 546-2424 Ext. 6360
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That By-law No. 18-261, respecting 5 Hamilton Street North, Flamborough be amended to correct one error and to add two administrative clauses, on the following basis:
- i) That Section 3 (d) of By-law 18-261 be amended by deleting the word “east” and replacing it with “north”;
 - ii) The following two administrative sections be added to By-law 18-261 as clauses 5 and 6:
 5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act; and,
 6. That no building or structure shall be erected, 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 Mixed Use – Medium Density (C5) Zone provisions, subject to the special requirements as referred to in Section 2 of this By-law.

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: To Correct Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a)) (Ward 15) - Page 2 of 5

- (b) That the draft By-law attached as Appendix “B” to Report PED18179(a), which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (c) That the proposed amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and the Urban Hamilton Official Plan.

EXECUTIVE SUMMARY

The purpose of this Report is to amend By-law No. 18-261 to correct the inadvertent errors in the By-law.

By-law No. 18-261 will be amended as follows:

- a) Section 3 (d) of the original By-law stated that the principal commercial entrance within the ground floor façade shall be located on the east side of the building, whereas Section 3 (d) of the By-law should state that the principal commercial entrance within the ground floor façade shall be located on the north side of the building; and
- b) The following administrative sections shall be added to the By-law:
 - (i) 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; and,
 - (ii) That no building or structure shall be erected, 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 Mixed Use – Medium Density (C5) Zone provisions, subject to the special requirements as referred to in Section 2 of this By-law.

The Application was heard by Planning Committee on September 4, 2018 and was approved by Council on September 12, 2018. After the By-law was passed, typographical errors in the text of the By-law were identified.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

SUBJECT: To Correct Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a)) (Ward 15) - Page 3 of 5

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an Official Plan Amendment and Zoning By-law Amendment. Notice of these Amendments has been posted in the Hamilton Spectator, as required by the *Planning Act*.

HISTORICAL BACKGROUND

The application for a Zoning By-law Amendment (ZAR 18-015 by Hawk Ridge Homes, Inc.) was submitted for the property identified as 5 Hamilton Street North, Flamborough. The purpose of the subject application was to amend Zoning By-law No. 05-200 and Town of Flamborough Zoning By-law 90-145-Z to permit a six storey mixed use building with 74 residential units and commercial space on the ground floor on the subject lands. The principal commercial entrance is planned for the north side of the building.

The application was approved by Planning Committee on September 4, 2018 and by Council on September 12, 2018. Two By-laws were passed: one bylaw was to amend Flamborough Zoning By-law 90-145-Z and the other By-law 18-261 was to amend Zoning By-law No. 05-200 to modify the Mixed Use Medium Density (C5) Zone to permit the development to proceed. By-law No. 18-261 is in effect.

Staff noticed that the principal commercial entrance in By-law No. 18-261 was inadvertently referenced as the east side of the building whereas the principal entrance was on the north side. Further, it was identified two administrative clauses regularly included in Zoning By-law amendments were left out.

As such, staff have drafted proposed By-law revisions attached as Appendix "B" to Report PED18179(a).

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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 Urban and Rural Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework.

The extent of the changes proposed to By-law No. 18-261 are administrative and do not conflict with the Provincial Policy framework.

SUBJECT: To Correct Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a)) (Ward 15) - Page 4 of 5

Accordingly, it is staff's opinion that these amendments:

- Are Consistent with the Provincial Policy Statement (2014);
- Conform to the Growth Plan for the Greater Golden Horseshow (2017); and,
- Conform to the Greenbelt Plan (2017).

Urban Hamilton Official Plan (UHOP)

The following policy, amongst others apply:

"F.1.17.7 Public meetings under the *Planning Act*, R.S.O., 1990 c. P.13 shall not be required for minor administrative amendments to this Plan such as format changes, typographical errors, grammatical errors and policy number changes."

Although staff are directing Council to amend the previously approved By-law and approve the revised By-law, the proposed revised By-law does not require a public meeting because the intent is to correct typographical errors.

RELEVANT CONSULTATION

Not applicable.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The purpose of the proposed amendments to By-law No. 18-261 is:

- a) To amend Section 3 (d) of the original By-law to state that the principal commercial entrance within the ground floor façade shall be located on the north side of the building; and,
- b) Add the following administrative sections to the By-law:
 - (i) 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; and,
 - (ii) That no building or structure shall be erected, 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 Mixed Use – Medium Density (C5) Zone provisions, subject to the special requirements as referred to in Section 2 of this By-law.

SUBJECT: To Correct Typographical Errors for Lands Located at 5 Hamilton Street North, Flamborough (PED18179(a)) (Ward 15) - Page 5 of 5

ALTERNATIVES FOR CONSIDERATION

If the proposed By-law amendments are not approved, inconsistencies in the application of the Zoning By-law may occur.

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.

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” – Zoning By-law No. 05-200 Amendment



● Site Location



Key Map - Ward 15

N.T.S.



Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-18-015

Date:
March 19, 2019

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
EM/VS

Subject Property



5 Hamilton Street North, Flamborough

Authority:
Ward: 15
Bill No.

CITY OF HAMILTON
BY-LAW NO.

**To Amend Zoning By-law No. 05-200, as amended by By-law 18-261
Respecting Lands Located at 5 Hamilton Street North (Flamborough)**

WHEREAS Council approved Item ___ of Report _____ of the Planning Committee, at the meeting held on April 30, 2019;

AND WHEREAS typographical errors and omissions were identified in By-law 18-261;

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 By-law No. 18-261 be amended by:
 - (a) deleting the word "east" and replacing it with the word "north" in Section 3 (d)
 - ii) adding the following two administrative sections be added as clauses 5 and 6:
 5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act; and,
 6. That no building or structure shall be erected, 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 Mixed Use – Medium Density (C5) Zone provisions, subject to the special requirements as referred to in Section 2 of this By-law.

PASSED this ___ day of _____, 2019.

Fred Eisenberger
Mayor

J. Pilon
Acting City Clerk

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.: PED18179(a) Date: 04/30/2019

Ward: Ward: 15 (MM/DD/YYYY)

Prepared by: Elyse Meneray

Phone No: 905-546-2424 ext. 6360

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



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Applications to Amend the Urban Hamilton Official Plan, the Township of Glanbrook Zoning By-law No. 464, the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11)
WARD(S) AFFECTED:	Ward 11
PREPARED BY:	Jennifer Roth (905) 546-2424 Ext. 2058
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Urban Hamilton Official Plan Amendment Application UHOPA-18-01 by Branthaven Mount Hope Inc., Owner**, is to amend the Mount Hope Secondary Plan from “Neighbourhood Park”, “Low Density Residential 2c”, “Institutional” and “Utility” to “Low Density Residential 2”; from “Low Density Residential 2” to “Utility”; from “Low Density Residential 2” to “Natural Open Space”; and, from “Utility” to “Natural Open Space”. The amendment will also add a Site Specific Policy Area in order to permit residential development between 28 and 30 NEF contour lines; and, establish new local roads, for the lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook), as shown on Appendix “A” to Report PED19046, to be **APPROVED**, on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED19046, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 2 of 42

- (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-18-003 by Branthaven Mount Hope Inc., (Owner)**, for changes in zoning from the Deferred Development “DD” Zone, Existing Residential “ER” Zone, Residential “H-R3-122” Zone and Public “P” Zone to Residential “R4-312” Zone, Modified for Blocks 1, 4, 6 - 8 and Residential “R4-312a” Zone, Modified for Blocks 4 and 5 in Zoning By-law No. 464; for lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook), as shown on Appendix “A” to Report PED19046, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “C” to Report PED19046, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (PPS) and conform to the Growth Plan for the Greater Golden Horseshoe (2017); and,
- (iii) That the proposed changes in zoning comply with the Urban Hamilton Official Plan upon finalization of Urban Hamilton Official Plan Amendment No. XX.
- (c) That **Zoning By-law Amendment Application ZAC-18-003 by Branthaven Mount Hope Inc., (Owner)**, for a change in zoning from the Deferred Development “DD” Zone to the Conservation / Hazard Land (P5) Zone, Modified (Blocks 125 and 126) to recognize the Natural Heritage System and vegetation protection zone and add a specific exception to permit a reduced setback from any building or structure to the Conservation / Hazard Land (P5) Zone, Modified, in Zoning By-law No. 05-200; for lands located 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook), as shown on Appendix “A” to Report PED19046, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “D” to Report PED19046, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 3 of 42

- (ii) That the proposed changes in zoning are consistent with the Provincial Policy Statement (PPS) and conform to the Growth Plan for the Greater Golden Horseshoe (2017); and,
 - (iii) That the proposed changes in zoning comply with the Urban Hamilton Official Plan upon finalization of Urban Hamilton Official Plan Amendment No. XX.
- (d) That **Draft Plan of Subdivision Application 25T-201801 by Branthaven Mount Hope Inc., (Owner)**, to establish a Draft Plan of Subdivision on lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook), as shown in Appendix “E” to Report PED19046, be **APPROVED** subject to the following:
- (i) That this approval apply to the Draft Plan of Subdivision “Branthaven Mount Hope” 25T-201801, prepared by Urban Solutions Planning & Land Development Consultants Inc., and certified by Dan McLaren, O.L.S., dated November 28, 2018, consisting of a maximum of 123 lots for single detached dwellings (Lots 1 - 123), one block for a 0.3 metre road reserve (Block 124), one block for a storm sewer connection and walkway (Block 125), one block for open space purposes (Block 126), and three proposed public streets, shown as Streets “A,” “B” and “C”, subject to the Owner entering into a standard form subdivision agreement as approved by City Council and will Special Conditions attached as Appendix “F” to Report PED19046.
 - (ii) 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 development; and,
 - (iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, prior to the issuance of each building permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the issuance of each building permit, all in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 4 of 42

EXECUTIVE SUMMARY

The applicant has applied for approval of an Urban Hamilton Official Plan Amendment, in particular the Mount Hope Secondary Plan, amendments to the Glanbrook Zoning By-law No. 464 and Zoning By-law No. 05-200 and a Draft Plan of Subdivision for lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive in Glanbrook. The proposed applications are to permit the development of 123 single detached dwellings, one block for servicing and a walkway, one block for open space, three proposed streets and one block for a 0.3 m road reserve, as shown on Appendix “E” to PED Report 19046.

The applicant is proposing to designate a portion of the lands from “Neighbourhood Park”, “Low Density Residential 2c”, “Institutional” and “Utility” to “Low Density Residential 2”; from “Low Density Residential 2” to “Utility”; from “Low Density Residential 2” to “Natural Open Space”; and, from “Utility” to “Natural Open Space” in the Mount Hope Secondary Plan. The amendment will also add a Site Specific Policy Area to permit residential development between the 28 and 30 NEF contour lines as part of a plan of subdivision.

The applicant is proposing two site specific Single Residential “R4” Zones, Modified in the Town of Glanbrook Zoning By-law No. 484, for the lands intended for residential purposes and a Conservation / Hazard Land (P5) Zone in the City of Hamilton Zoning By-law No. 05-200 for the lands proposed to be developed for open space, stormwater management infrastructure and a walkway, all proposed to be public lands, in the City of Hamilton.

The proposed Single Residential “R4-312” Zone contains modifications that will decrease the minimum lot frontage, decrease minimum lot area, increase maximum lot coverage, decrease minimum front yard setbacks, decrease minimum side yard setbacks, decrease minimum rear yard setbacks, increase maximum building height, increase permitted encroachments into yards and permit an encroachment into a parking stall within a garage space. Staff amended the application to increase the garage parking stall size with the applicant’s agreement. The majority of the proposed modifications are in keeping with modifications recently approved for the adjoining lands in the Lancaster Heights Subdivision.

The proposed site specific Single Residential “R4-312a” Zone, Modified includes all the site specific development criteria proposed in the Single Residential “R4-312” Zone and adds a staff initiated modification to require a minimum 2.0 m separation between

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 5 of 42

dwelling units to allow for back to front drainage or a major overland flow route, as required by Development Engineering.

To facilitate the development, a land exchange with the City of Hamilton has been proposed between 3302 and 3306 Homestead Drive to facilitate the orderly development of the Site and permit the extension of Marion Street. Specifically, the City of Hamilton will convey 0.289 ha of land to the west of Fire Hall 19 which is located at 3302 Homestead Drive and in exchange Branthaven Mount Hope Inc. will convey 0.289 ha on the south side of Fire Hall 19. A Memorandum of Understanding has been prepared and agreed upon by all parties involved to facilitate the land swap.

The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS) and conforms to the Growth Plan for the Greater Golden Horseshoe (2017). The proposal will allow for an efficient use of land by permitting the development of a residential greenfield development with a total of 123 single detached units at an overall density of approximately 24 units per hectare and will comply with the Mount Hope Secondary Plan and UHOP upon approval of UHOP Amendment.

Alternatives for Consideration – See Page 42

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The City's cost-sharing with respect to this development shall be in accordance with the City's Financial Policies and determined at the time of development.

Staffing: N/A

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

HISTORICAL BACKGROUND

Proposal:

The subject lands are located on the west side of Marion Street, west of Homestead Drive. The lands are currently vacant, are irregular in shape, comprising an area of approximately 1.2 ha, are legally described as Part of Lot 5, Concession 5, Glanford, and municipally known as 78 and 80 Marion Street and 3302 and 3306 Homestead

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 6 of 42

Drive (see location map attached as Appendix “A” to Report PED19046). A portion of the lands are located within Mountville Estates Subdivision which was Draft Approved in 1992 for the development of 10 single detached dwellings but was never registered.

The proposed applications are to permit a maximum of 123 lots for single detached dwellings (Lots 1 - 123), one block for a 0.3 m road reserve (Block 124), one block for a storm sewer connection and walkway (Block 125), one block for open space purposes (Block 126), and three proposed public streets shown as Streets “A,” “B” and “C”, as shown on Appendix “E” to Report PED19046. Staff amended the application with the applicant’s agreement and, as result, the applicant has submitted a revised draft plan of subdivision demonstrating lots that can accommodate 2.0 m side yard setback separation between dwelling units and a revised zoning by-law amendment detailing garage parking stall sizes.

A land swap with the City of Hamilton is required to facilitate the proposed development and to extend Marion Street. A Memorandum of Understanding has been prepared and agreed upon to facilitate the land swap.

Official Plan Amendment:

An application has been made to amend the Mount Hope Secondary Plan. Specifically, the applicant has applied to:

- Re-designate lands from “Neighbourhood Park”, “Low Density Residential 2c”, “Natural Open Space” “Institutional” and “Utility” to “Low Density Residential 2”;
- Re-designate lands from “Low Density Residential 2” to “Utility”;
- Re-designate lands from “Low Density Residential 2” to “Natural Open Space”;
- Re-designate lands from “Utility” to “Natural Open Space”; and,
- Add a site specific policy area in order to permit residential development between the 28 and 30 NEF contour lines and to establish new local roads.

The effect of the amendment is to allow for a Plan of Subdivision that includes residential, utility, institutional and open space land uses. The proposed amendments are contained in Appendix “B” to Report PED19046.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 7 of 42

Zoning By-law Amendment:

A Zoning By-law Amendment Application was submitted to rezone the subject lands from the Deferred Development “DD” Zone, Existing Residential “ER” Zone, Residential “H-R3-122” Zone, Public “P” Zone and General Commercial “C3-048” Zone to two site specific Residential “R4” Zones in the Town of Glanbrook Zoning By-law No. 464.

Each of the proposed residential zones will contain site specific provisions to implement the proposed development. With agreement from the applicant, staff have amended the application to increase the garage parking stall size and provide for increased side yard setbacks between buildings for lots that may experience back to front drainage.

The proposed site specific zoning regulations are described in greater detail in Appendix “G” to Report PED19046.

A proposed Zoning By-law Amendment will bring a portion of the lands into Zoning By-law No. 05-200 and establish a Conservation / Hazard Land (P5) Zone for the lands proposed to be developed for open space and for lands intended for a storm sewer connection and a walkway, in the City of Hamilton Zoning By-law No. 05-200, as shown in Appendix “D” to Report PED19046. Further, a site specific zoning regulation to reduce the special setback to a Conservation / Hazard Land (P5) Zone is discussed in Appendix “G” to Report PED19046.

Draft Plan of Subdivision:

The proposed Draft Plan of Subdivision (see Appendix “E” of Report PED19046) proposed the following:

- 123 lots for single detached dwellings (Lots 1 - 123);
- One block for a 0.3 m road reserve (Block 124);
- One block for a storm sewer connection and a walkway (Block 125);
- One block for open space (Block 126); and,
- Three proposed internal public streets (shown as Street “A”, “B” and “C”).

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 8 of 42

Access to the proposed development will be via Marion Street, Spitfire Drive and Street "C" identified on Appendix "E" to Report PED19046. The total unit yield for this Draft Plan of Subdivision will be a maximum of 123 single detached dwellings.

Chronology

December 1, 2017: Urban Hamilton Official Plan Amendment Application UHOPA-18-01, Zoning By-law Amendment Application ZAC-18-003 and Plan of Subdivision Application 25T-201801 received.

December 20, 2017: Urban Hamilton Official Plan Amendment Application UHOPA-18-01, Zoning By-law Amendment Application ZAC-18-003 and Plan of Subdivision Application 25T-201801 deemed complete.

January 4, 2018: Notice of Complete Application and Preliminary Circulation mailed to 170 property owners within 120 m of the subject lands.

January 15, 2018: Public Notice Sign posted on site.

April 3, 2019: Public Notice sign updated to include date of Public Meeting.

April 12, 2019: Circulation of the Notice of Public Meeting to 170 property owners within 120 m of the subject lands.

Details of submitted applications:

Location: Part of Lot 5, Concession 5, Glanford (Glanbrook) City of Hamilton (78 and 80 Marion Street and 3302 and 3306 Homestead Drive)

Owner: Branthaven Mount Hope Inc.

Agent: Urban Solutions

Property Description:

<u>Lot Area:</u>	approx. 1.2 ha
<u>Lot Frontage:</u>	approx. 94 m
<u>Lot Depth:</u>	approx. 137 m

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 9 of 42

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Vacant with a Woodlot on a portion of the lands	Deferred Development “DD” Zone, Existing Residential “ER” Zone, Residential “H-R3-122” Zone, Public “P” Zone and General Commercial “C3-048” Zone

Surrounding Land Uses:

North:	Single Detached Dwellings and Mount Hope Elementary School	Residential “R3” Zone, Residential “R3-131” Zone, Multiple Residential “RM1-123” Zone, Commercial Mixed Use (C5, 652, H102) Zone and Institutional “I” Zone
South:	Single Detached Dwellings and a Woodlot	Existing Residential “ER” Zone, Residential “R1” Zone, Public Open Space “OS2” Zone and Public “P” Zone
East:	Fire Station and Vacant Land	Public “P” Zone, Residential “R3” Zone, and General Commercial “C3-048” Zone, Modified
West:	Vacant Land to be developed as part of the “Lancaster Heights” Subdivision	Residential “R4-218(A)”, Modified Zone, Residential Multiple “RM3-284(B)” Zone, Modified and Conservation /Hazard Land (P5) Zone

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 10 of 42

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 following policies, amongst others, apply to the proposed development.

With respect to Settlement Areas, the PPS provides the following:

“1.1.3.1 *Settlement areas* shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

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;
 4. *support active transportation*;
 5. are *transit-supportive*, where transit is planned, exists or may be developed;
- b) a range of uses and opportunities for *intensification* and *redevelopment* in accordance with the criteria in policy 1.1.3.3, where this can be accommodated.”

The subject property is located within a settlement area as defined by the PPS. The proposed Plan of Subdivision, consisting of 123 dwelling units efficiently uses land and resources while promoting intensification and a range of compact housing that is compatible with adjacent existing residential development.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 11 of 42

Cultural Heritage

Staff note that the current Cultural Heritage policies of the UHOP have not yet been updated in accordance with the PPS (2014). As such, the following policy of the PPS also (2014) applies:

“2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

The subject property meets four of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential. A Stage 1-2 archaeological assessment (P390-0289-2017) was submitted as part of the subject applications to the City and to the Ministry of Tourism, Culture, and Sport. The report recommended that further archaeological work be conducted to address the archaeological potential of the site. As a result, a Stage 3 Archaeological Assessment was required for portions of the land and was submitted (P038-0907-2017). The Stage 3 Archaeological Assessment required a Stage 4 for a portion of the lands which has been submitted (P-058-1651-2018). At the time of preparation of this Report, three acceptance letters for Stages 1 – 2, Stage 3 and Stage 4 have been provided by the Ministry of Tourism, Culture and Sport. Staff agree with the findings of the Archaeological Assessment (Stages 1 – 4). Accordingly, the archaeological interest on the subject property has been satisfied.

Transportation

“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.

1.6.9.1 Planning for land uses in the *vicinity of airports, rail facilities and marine facilities* shall be undertaken so that:

- a) their long term operation and economic role is protected; and,
- b) airports, rail facilities and marine facilities and sensitive land uses are appropriately designed, buffered and/or separated from each other, in accordance with policy 1.2.6.”

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 12 of 42

The proposal is consistent with the Land Use Compatibility and Airport, Rail and Marine policies of the Provincial Policy Statement. The PPS protects airports and their long term operation and economic role and requires that sensitive land uses such as residential development are appropriately separated. A Noise Feasibility Study completed by HGC Engineering and dated October 31, 2017, a revised Noise Feasibility Study completed by HGC Engineering and dated May 15, 2018, and a Planning Justification Report Addendum completed by UrbanSolutions Planning & Land Development Consultants Inc., dated May 2018, have been submitted in support of the application. The findings of the reports note that the proposed residential development, which is a sensitive land use, is located between the 25 – 28 and 28 – 30 NEF contour. The NEF ranges are a result of the site's proximity to the John C. Munro International Airport, which is a major facility. Lands located within the 25 – 28 NEF contour can be developed for residential uses subject to the implementation of the appropriate mitigation measures, without hindering the development or expansion of the airport. The portion of the lands located between the 28 – 30 NEF contours do not permit residential development, as per the Urban Hamilton Official Plan. However, the Environmental Noise Guideline, NPC-300, permits residential development up to the 30 NEF contour.

The supporting reports determine that residential development can be located in this area given that there are existing residential approvals on a portion of the lands obtained prior to the Urban Hamilton Official Plan coming into effect and the remainder of the site that is located within the 28 – 30 NEF contours is currently designated as a Neighbourhood Park, which is also a sensitive land use. Given that an existing sensitive land use has already been established on the site, it has been determined that permitting residential development in this infill location is appropriate provided adequate mitigation measures will be implemented, including the installation of air conditioners, upgraded building construction requirements and warning clauses.

Given the surrounding residential development already existing in the same proximity to the John C. Munro International Airport, the proposed 123 lots would not result in additional adverse impacts to the long-term viability of the Airport. Instead the proposed warning clauses will inform future purchasers of the noise levels. Further, the proposal is compliant with Ministry of Environment, Conservation and Park Environmental Noise Guideline (NPC-300).

John C. Munro International Airport has advised that they are not supportive of residential development of the site. However, given the proposed mitigation measures and the pre-existing sensitive land use designation on site, being Neighbourhood Park, Staff feel that this proposal will cause no additional impact to the viability of the airport and, with warning clauses and mitigation measures, will provide further protection than

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 13 of 42

is currently provided on this site. On this basis, staff are supportive of the proposed residential development on the site.

Based on the foregoing, the proposal is consistent with the policies of the PPS.

Growth Plan for the Greater Golden Horseshoe (2017)

The following policies, amongst others, are applicable to the proposed development:

- “2.1 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 diverse range and mix of housing options.
- 2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:
- c) within settlement areas, growth will be focused in:
 - i) delineated built-up areas; and,
 - d) development will be directed to *settlement areas*, except where the policies of this Plan permit otherwise.”

The subject lands are within the built boundary (delineated built up area) of the City of Hamilton in a settlement area where full municipal services are available and will provide for the achievement of a complete community while contributing to a range of housing forms and tenures.

The following applicable policies, amongst others, apply as it relates to the airport:

- “3.2.4.2 The Province and municipalities will work with agencies and transportation service providers to:
- a) co-ordinate, optimise, and ensure the long-term viability of major goods movement facilities and corridors.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 14 of 42

- 3.2.5.1 In planning for development, optimization, or expansion of existing and *planned corridors* and supporting facilities, the Province, other public agencies and upper- and single-tier municipalities will:
- b) ensure that existing and *planned corridors* are protected to meet current and projected needs in accordance with the transportation and *infrastructure* corridor protection policies in the PPS;
- 3.2.5.2 The planning, location, and design of *planned corridors* and the land use designations along these corridors will support the policies of this Plan, in particular that development is directed to *settlement areas*.”

As stated, the proposed development for single detached dwellings is located within the 25 – 28 and 28 - 30 NEF contours. Lands located between the 25 – 28 NEF contour are subject to the implementation of appropriate mitigation measures and permits residential and other sensitive land uses without hindering the development or expansion of the airport, as per the policies in the Urban Hamilton Official Plan (UHOP). The portion of the lands located between 28 – 30 NEF contours do not permit residential development in the UHOP. However, given the existing sensitive land uses on site, including existing residential land use permissions and the existing Neighbourhood Park designation on the site, and compliance with the Ministry of Environment, Conservation and Park guidelines, staff are supportive of the proposed residential development.

Based on the foregoing, 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 “Neighbourhoods” on Schedule “E” – Urban Structure, designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations, and shown outside of the Built Boundary on Appendix “G” – Boundaries Map. The subject lands are further designated “Low Density Residential 2”, “Low Density Residential 2c,” “Institutional”, “Neighbourhood Park and “Utility” on Map B.5.4-1 – Mount Hope Secondary Plan Land Use Plan.

The following policies, amongst others, are applicable to the subject applications.

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 15 of 42

Noise

- “B.3.6.3 Noise, vibration, and other emissions such as dust and odours from roads, airports, railway lines and stationary sources have the potential to negatively impact the quality of life of residents. The objective of the following policies is to protect residents from unacceptable levels of noise, vibration, and other emissions and to protect the operations of transportation facilities, commercial, and employment (industrial) uses.
- 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 provincial and municipal guidelines and standards.
- B.3.6.3.2 Any required noise or vibration study shall be prepared by a qualified professional, preferably a professional engineer with experience in environmental acoustics, in accordance with recognized noise and vibration measurement and prediction techniques, to the satisfaction of the City, and in accordance with all applicable guidelines and standards.
- C.4.8.1 It is the objective of this Plan to support John C. Munro International Airport as a 24 hour, seven day a week operation. The Airport and the adjacent Airport Business Park is one of the City’s major economic nodes and a valued transportation facility which links the movement of goods and people.
- C.4.8.2 The lands identified as John C. Munro International Airport on Schedule E-1 – Urban Land Use Designations are recognized as the City’s major airport facility, which includes both airport uses and complementary uses supporting the primary function of the Airport. These lands are intended to have full municipal services.
- C.4.8.4 The City shall maintain Noise Exposure Forecast (NEF) contours and the Primary Airport Zoning Regulation, as amended from time to time, and formulate guidelines for development in the vicinity of John C. Munro International Airport.
- C.4.8.5 The City shall minimize future conflicts between operation of the Airport and surrounding land uses to ensure:

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 16 of 42

- a) there shall be no negative impact on the long-term operations of the Airport;
- b) the opportunities for expansion of airport operations shall not be limited; and,
- c) there are no land uses in the vicinity which may cause a potential aviation hazard.
- d) development that is noise or land use sensitive to airport operations or will limit the opportunities for expansion of airport operations shall be restricted.

C.4.8.6 NEF contours and the Airport Influence Area are identified on Appendix D (Urban) – Noise Exposure Forecast Contours and Primary Airport Zoning Regulations, and designated on Schedule G – Airport Influence Area of the Rural Hamilton Official Plan.

C.4.8.7 All development and redevelopment shall comply with all provincial and municipal standards, criteria and guidelines regarding noise and vibration from air traffic sources, including Section B.3.6.3 - Noise, Vibration and Other Emissions.

C.4.8.8 Proposals for development, infill development and redevelopment of residential or other sensitive land uses shall comply with the following requirements in Table C.4.8.1 – Requirement for Development in the Vicinity of John C. Munro International Airport, based on all applicable locational criteria. Proposals may meet more than one locational criteria and thereby be subject to more than one set of requirements.”

Table C.4.8.1

	Locational Criteria	Requirements
1	35 NEF and greater, and / or within the Airport Influence Area	<p>a) All new development of residential and other sensitive land uses, including infill development and redevelopment, shall be prohibited.</p> <p>b) New land uses which may cause a potential aviation hazard shall be prohibited.</p>

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 17 of 42

	Locational Criteria	Requirements
2	28 NEF and greater, but less than 35 NEF	<p>a) All new development of residential and other sensitive land uses, including infill development and redevelopment, shall be prohibited.</p> <p>b) New land uses which may cause a potential aviation hazard shall be prohibited.</p> <p>c) All development applications approved prior to the approval of this Plan may proceed.</p>
3	25 NEF and greater, but less than 28 NEF	<p>a) All development and redevelopment proposals for residential and other sensitive land uses shall be required to submit a detailed noise study, employ noise mitigation measures and include appropriate warning clauses in accordance with Section B.3.6.3 – Noise, Vibration and Other Emissions, and Policy C.4.8.6.</p> <p>b) New land uses which may cause a potential aviation hazard shall be prohibited.</p>

As previously discussed, adequate reports were prepared in relation to noise concerns from adjacent roads and the John C. Munro Hamilton International Airport and as a result a revised study and addendum, noise warning clauses, specific building materials and air conditioner units will be required and will be implemented through the Draft Plan of Subdivision agreement (Condition Nos. 11 - 13 of Appendix “F” to Report PED19046). Based on the above, Staff are satisfied that the intent of the policies are met as the site is infill development and a portion of the site contains a park designation which is a sensitive land use.

Natural Heritage

Based on mapping within the UHOP (Volume 1-Schedule B Natural Heritage System and Volume 2-Mount Hope Secondary Plan Land Use Plan Map B.5.4-1), Core Areas have been identified within and adjacent to the subject properties. The Core Areas have been identified as a Significant Woodland and watercourses. The watercourses are also regulated by the Niagara Peninsula Conservation Authority (NPCA).

“C.2.5.4 New development and site alteration shall not be permitted within significant woodlands, significant valleylands, significant wildlife habitat and significant areas of natural and scientific interest unless it has been

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 18 of 42

demonstrated that there shall be no negative impacts on the natural features or on their ecological functions; and,

- 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 impact on the natural features or on their ecological functions.”

An Environmental Impact Statement (EIS) prepared by GeoProcess Research Associates (GRA) November 2017 and a revised EIS (prepared by GRA, May 2018) were reviewed by Natural Heritage Planning staff and the City’s Environmentally Significant Areas Impact Evaluation Group (ESAIEG) on May 17, 2018 but was not approved. A subsequent Comment Response and revised Tree Protection Plan (TPP), prepared by GRA (November 2018) clarified outstanding issues and the EIS has now been approved, subject to the following mitigation measures which will be implemented as conditions through the Draft Plan of Subdivision:

- Preparation and implementation of a Vegetation Protection Zone (VPZ) Restoration Plan (See Condition 1 in Appendix “F” to Report PED19046);
- Implementation of a maintenance and monitoring plan (See Condition 2 in Appendix “F” to Report PED19046);
- Implementation of a Transplant Plan (See Condition 3 in Appendix “F” to Report P PED19046);
- Development and distribution of a Stewardship Brochure (See Condition 4 in Appendix “F” to Report PED19046);
- Approval of a Tree Protection Plan (See Condition 5 in Appendix “F” to Report PED19046);
- Acknowledgement of the Migratory Birds Convention Act by placing a note on the Tree Protection Plan (See Condition 6 in Appendix “F” to Report PED19046);
- Preparation and approval of a Landscape Plan (See Condition 7 in Appendix “F” to Report PED19046);

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 19 of 42

- Avoidance of grading within the VPZ (See Condition 8 in Appendix “F” to Report PED19046);
- Construction of a fence along the rear and / or side yards of Lots 104 - 114 that cannot have gates (See Condition 9 in Appendix “F” to Report PED19046); and,
- Inclusion of warning clauses in all purchase and sale and / or lease agreements and registered on title for Lots 104-114 that the lots abut a Significant Woodland and VPZ (See Condition 10 in Appendix “F” to Report PED19046).

As previously mentioned, a Core Area (Significant Woodland) has been identified adjacent to Block 126 (VPZ) and Lots 104 - 114. The Core Area and its functions are to be protected from the impacts of the proposed changes that will occur before, during and after construction. Generally, this protection is provided through a vegetation protection zone (VPZ). Within the Comment Response prepared by GRA (November 2018), it was identified that a VPZ ranging from 11.0 – 15.0 m will be provided to protect the Significant Woodland. The VPZ (which will be located within Block 126) will be redesignated from “Low Density Residential 2” to “Natural Open” and zoned as P5 (Conservation / Hazard Land) and is established through policy and zoning mapping changes. This designation and zone allows for conservation and protection of the natural heritage feature and its functions.

“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.”

Through the inventories within the EIS, a small woodland / thicket bisected by a channel, a farm lane and a hedgerow on the western limit of the existing dry pond have been identified on the subject property. These trees will be required to be removed to facilitate development and a Tree Protection Plan (TPP) has been submitted for the restoration of trees and secured as a condition of the Draft Plan of Subdivision (See Condition 5 in Appendix “F” to Report PED19046).

Archaeology

As noted previously, the archaeological interest on the subject property has been satisfied.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 20 of 42

Urban Design

The UHOP has a detailed set of policies related to urban design. The following policies, amongst others, apply to this proposal.

- “B.3.3.1.7 Promote development and spaces that respect natural processes and features and contribute to environmental sustainability.
- B.3.3.2.8 Urban design should promote environmental sustainability by:
- a) achieving compact development and resulting built forms;
 - b) integrating, protecting, and enhancing environmental features and landscapes, including existing topography, forest and vegetative cover, green spaces and corridors through building and site design; and,
 - c) encouraging on-site stormwater management and infiltration through the use of techniques and technologies, including stormwater management ponds, green roofs, and vegetated swales.”

The proposed development has been integrated with the natural environment and protected through the establishment of a Conservation / Hazard Land (P5) Zone, Modified.

- “B.3.3.1.3 Create pedestrian oriented places that are safe, accessible, connected, and easy to navigate for people of all abilities;
- B.3.3.1.5 Ensure that new development is compatible with and enhances the character of the existing environment and locale;
- B.3.3.1.8 Promote intensification that makes appropriate and innovative use of buildings and sites and is compatible in form and function to the character of existing communities and neighbourhoods.
- B.3.3.2.9 Urban design plays a significant role in the physical and mental health of our citizens. Community health and well-being shall be enhanced and supported through the following actions, where appropriate:

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 21 of 42

- a) creating high quality, safe streetscapes, parks, and open spaces that encourage physical activity and active transportation.”

Through discussions with staff, the applicant has submitted a revised draft plan of subdivision design with a modified road network that will contribute to the provision of safe streetscapes.

“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; and
- e) Conserving, maintaining, and enhancing the natural heritage and topographic features of the City and its communities.”

By way of yard setbacks, frontages, and lot area requirements in the amending By-law (see Appendix “D” to Report PED18017) the proposed development is similar in design to the existing development in Mount Hope, located to the east of the subject lands and to the proposed “Lancaster Heights development to the west. As well, the proposed “Branthaven Mount Hope” development will respect the planned character, development patterns and building form in the area while promoting urban design that is consistent with the locale and surrounding environment. Staff have requested that revised Urban Design Guidelines be submitted which will illustrate the most recent lot layout, proposed material palette, strategy for priority lots and concept designs (Condition No. 14 in Appendix “F” to Report PED19046).

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;

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 22 of 42

- 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 proposal is consistent with the Criteria for Staging of Development in that utilities and services are available. This proposal supports a healthy growing economy, provides for additional assessment and Development Charges revenue, provides housing opportunities, will comply with the UHOP upon approval of the required amendments, will not adversely impact upon the transportation system; respects the natural environment and will integrate well with the existing development in the area, being the Mount Hope Neighbourhood Area.

Based on the foregoing, the proposal complies with the applicable policies of Volume 1 of the UHOP.

Mount Hope Secondary Plan

The subject lands are designated “Low Density Residential 2”, “Low Density Residential 2c,” “Institutional”, “Neighbourhood Park and “Utility” on Map B.5.4-1 – Mount Hope Secondary Plan Land Use Plan. The following General Policies, amongst others, apply.

- “B.5.4.2.1 In addition to Section E.3.0 – Neighbourhoods Designation of Volume 1, the following policies shall apply to the lands designated for residential uses on Map B.5.4-1 – Mount Hope – Land Use Plan:
- a) Development of the residential area within the Mount Hope Urban Settlement Area shall proceed in a generally north to south pattern and in an orderly, efficient, economical, and well-planned manner.
 - b) Residential development shall be sensitive to existing residential uses, and redevelopment of the vacant portions of existing large lot residential development shall be encouraged.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 23 of 42

- c) Residential areas should be integrated with parkland in order to provide a convenient, safe and visually pleasing living environment.
- d) Permitted residential uses shall include single detached dwellings, semi-detached dwellings, townhouses, apartments and housing with supports.”

The proposed development has been designed to be sensitive to the existing residential character and is for the development of single detached dwellings. As a result, the proposed development conforms to the General Policies.

Furthermore, the “Low Density Residential” policies of Section B5.4.2.2 of Volume 2 apply.

“B.5.4.2.2 Low Density Residential

- a) Notwithstanding Sections E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the lands designated Low Density Residential 2 on Map B.5.4-1 – Mount Hope – Land Use Plan:
 - i) The permitted uses shall primarily consist of single detached dwellings, duplex, semi-detached and triplex dwellings.
 - ii) The maximum density shall be 25 units per net hectare.

The “Low Density Residential 2” designation in the Secondary Plan identifies a maximum density of 25 units per net residential hectare, which permits single detached dwellings, duplex, semi detached and triplex dwellings. The proposed amendment to the UHOP is to permit the reconfiguration of land designations. The initial submission required the creation of a Site Specific Policy Area to permit an increase in density to 26.77 units per net hectare, however through site re-design and the addition of lands on the east side of Homestead Drive, the density has decreased to 24.23 units per net hectare. Further, the proposal consists exclusively of single detached dwellings which are permitted, thereby meeting the above noted policies.

“B.5.4.6.1 In addition to Sections B.3.4.3 – Parkland Policies and C.3.3 – Open Space Designation Network of Volume 1, the following policies shall apply to lands designated Community Park, Neighbourhood Park, Natural Open Space and General Open Space on Map B.5.4-1 – Mount Hope – Land Use Plan:

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 24 of 42

- a) The open space system planned for the Mount Hope Secondary Plan area includes the following:
 - i) Community Park;
 - ii) Neighbourhood Park;
 - iii) Natural Open Space; and,
 - iv) General Open Space.
- b) The wooded area of approximately 1.0 hectares at the western end of Aberdeen Avenue is designated Natural Open Space. This woodlot shall be preserved.
- c) Mount Hope Park (formerly Gord Oakes Park) located behind the Glanford Community Hall, approximately 3.1 hectares, shall be retained.”

The Secondary Plan identifies a small portion of land within the proposed development as “Neighbourhood Park”. The Parkland Advisory Review Committee (PARC) noted that the developer of Lancaster Heights (formerly Mountaingate) proposed a new, more centralized location for the park block in the Mount Hope Secondary Plan. PARC continues to be supportive of the centralized location for the park, however understands that the Mount Hope Secondary Plan still shows the previous park block within the proposed subdivision development. PARC is supportive of the removal of the original, and now additional park block through the Official Plan Amendment application as it is too close to the more centralized and large park proposed in the Lancaster Heights Subdivision. Instead, cash in lieu of parkland dedication will be required for this subdivision.

The developer of Lancaster Heights will develop a 1.96 ha park within that subdivision. Despite an overall projected deficit within the Secondary Plan area of 1.06 ha of parkland, PARC has determined that retaining the park block on the subject lands is not supported due to limited development opportunities, proximity to the park in the Lancaster Heights subdivision and the requirement of only one more Neighbourhood Park in the Secondary Plan. PARC believes that the parkland needs of the Mount Hope community can be accommodated within the Lancaster Height’s park and are supportive of the removal of the park block on the subject lands from the Secondary Plan.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 25 of 42

A watercourse, used for stormwater purposes, bisects the subject lands and is currently designated as “Utility” within the Secondary Plan. These lands will be incorporated into the proposed design of the subdivision and be consolidated with the proposed residential lots since all stormwater from this development is to be designed utilizing the stormwater ponds proposed on the adjacent “Lancaster Heights” development. The Niagara Peninsula Conservation Authority is supportive of the removal of the watercourse provided a Work Permit is obtained (see Condition 19 in Appendix “F” to Report PED19046). Further, additional lands will be designated “Utility” (Block 125) to accommodate the required underground stormwater infrastructure and at grade path that is proposed adjacent to the woodlot and will connect to the park proposed in the “Lancaster Heights” development. To accommodate these adjustments, portions of the lands will be re-designated from “Utility” to the “Low Density Residential 2” designation to allow for the integration and consolidation with surrounding residential lands and will be redesignated from “Low Density Residential 2” to “Utility” to reflect and accommodate the revised stormwater design.

- “B.4.8.1 In addition to Section C.4.0 – Integrated Transportation Network of Volume 1, the following policies shall apply to the Mount Hope Secondary Plan area:
- a) The internal public road system shall provide an efficient, practical and safe transportation network to accommodate the movement of people and goods within the Mount Hope Secondary Plan area and accommodate a limited number of intersections with the existing public roads adjacent to Mount Hope.
 - b) All lands required for new internal public roads, road widenings for existing public roads and daylighting triangles, shall be dedicated free of charge and free of all encumbrances to the City.
 - c) The costs related to the design and construction of all new public roads and the upgrading of the adjacent existing public roads required as a result of the development of the Mount Hope Secondary Plan area shall be at the expense of the developer(s). The details regarding these works and costs shall be established in the subdivision agreement(s) and/or the development, maintenance and use (site plan) agreement(s) to be approved by the City and executed by the City and the developer(s).”

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 26 of 42

- d) An overall preliminary traffic study to assess the impact of development on adjacent provincial highways and roads, shall be required to the satisfaction of the Province and the City, prior to the formal submission of any draft plan of subdivision.”

A realignment of the proposed local roads and daylight triangles, is proposed. A scoped Traffic Impact Statement (TIS) was submitted and approved, followed by a subsequent Traffic Impact Brief. Through a cursory staff review, it was determined that additional review was required and it will be addressed through a Special Condition, being Condition No. 23 of Appendix “F” to Report PED19046. The costs related to the design and construction of all new public roads and the upgrading and maintenance of the adjacent existing public roads during construction are reflected in Condition Nos. 33 and 55 of Appendix “F” to Report PED19046.

Policies pertaining to Noise and Other Airport Impacts in the Secondary Plan apply in addition to the policies from Volume 1 of the UHOP, including:

- “B.5.4.9.1 Mount Hope Secondary Plan area is in the vicinity of John C. Munro International Airport, Highway 6, and the Airport Business Park. All of these uses have the potential to cause negative impacts on nearby sensitive land uses. To ensure that negative impacts on sensitive land uses are minimized and the operations of John C. Munro International Airport, Highway 6, and the Airport Business Park are not compromised:
- a) Sections B.3.6.3 – Noise, Vibration and Other Emissions and C.4.8 – Airport of Volume 1, shall apply to the Mount Hope Secondary Plan area;
 - b) all new development and redevelopment shall conform to all relevant legislation, policies, standards and guidelines;
 - c) future residents of residential development shall be advised of the potential for noise nuisance through appropriate warning clauses included in lease or rental agreements, agreements of purchase and sale, and within required development agreements; and,
 - d) Notwithstanding Policy C.4.8.8, Table C.4.8.1, Subsection 2) of Volume 1, for lands at or above the 28 NEF Contour and at or below the 30 NEF Contour, and designated Institutional or Residential, Residential or Mixed Use – Medium Density on Map

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 27 of 42

B.5.4-1 – Mount Hope Secondary Plan – Land Use Plan, the provisions of Table C.4.8.1, Subsection 3) shall apply.”

As discussed previously, the proposal is for infill development and a number of studies have been submitted to establish acoustic requirements for this development with respect to road noise and airport noise from the John C. Munro Hamilton International Airport.

Based on the results of the studies and addendum, noise warning clauses, specific building materials and air conditioner units will be required (Condition Nos. 11 -13 of Appendix “F” to Report PED19046).

In summary, the development complies with the policies of the Mount Hope Secondary Plan.

Town of Glanbrook Zoning By-law No. 484

The subject lands are currently zoned Residential “H-R3-122” Zone, Modified, Deferred Development “DD” Zone, Public “P” Zone and General Commercial “C3-048” Zone, Modified in the Town of Glanbrook Zoning By-law No. 464.

The Residential “H-R3-122” Zone, Modified permits single detached dwellings with a minimum lot frontage of 17 metres for a corner lot. The Holding Provision can only be removed when adequate storm water management facilities are provided for these lands and the lands to the north; until the Holding can be removed, the lands can only be used for a storm water management facility.

The Deferred Development “DD” Zone is a future development Zone and only permits agricultural uses (with the exception of livestock operations, poultry operations, mushroom farms, fur bearing animal farms, manure storage facilities), greenhouses, kennels, home industries, erection of new buildings and enlargement of existing non-residential buildings and existing dwellings. It also permits urban farms and community gardens subject to Site Plan Control under the City’s Site Plan Control By-law.

The General Commercial “C3-048” Zone, Modified permits a range of commercial uses while the site specific modification permits a reduction in the minimum lot frontage from 23 m to 19.5 m. This portion of the site is currently vacant.

To implement the proposed development for 123 single detached dwellings, the applicant has applied to change the zoning to two site specific Single Residential “R4”

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 28 of 42

Zones. With the applicant's approval, staff amended the application to increase the garage parking stall size and to provide for adequate separation between buildings for lots that may experience back to front drainage.

The first site specific Single Residential "R4-312" Zone, Modified permits a:

Reduction in the minimum lot frontage for interior lots from 15 m to 10 m and for corner lots from 18 m to 11.6 m;

- Reduction in the minimum lot area for interior lots from 450 sq m to 275 sq m and for corner lots from 550 sq m to 315 sq m;
- Increase in the minimum lot coverage from 35% to 50%;
- Decrease in the minimum front yard from 7.5 m to 4.5 m, except 6 m to an attached garage;
- Decrease in the minimum side yard from 1.2 m and 4.5 m on the side where there is no garage or carport to 1.2 m on one side and 0.6 m on another;
- Decrease in the minimum side yard for a flankage lot line of a corner lot from 6 m to 3 m;
- Decrease in the minimum rear yard from 7.5 m to 7 m;
- Increase in the maximum building height from 10.7 m to 11 m;
- Increase in the maximum front and rear yard encroachment for an unenclosed porch from 1.5 m to 3 m and increase in maximum encroachment into any yard for architectural elements from 0.5 m to 0.6 m;
- Require that all garage parking spaces be 3 m by 6 m; and,
- Increase the encroachment into garage parking space to permit a maximum of three riser steps being 0.4 m in depth.

The second site specific Single Residential "R4-312a" Zone, Modified permits the same regulations as the first site specific Single Residential "R4-312" Zone, but provides an additional requirement for a sideyard setback of 2.0 m between adjacent dwellings for

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 29 of 42

Lots 1 – 18, as required by Development Engineering for stormwater management purposes.

The proposed zoning is discussed in greater detail in the Zone Chart include in Appendix “G” to Report PED19046.

City of Hamilton Zoning By-law No. 05-200

The Zoning By-law Amendment is to incorporate lands into Zoning By-law No. 05-200 and zone the lands Conservation / Hazard Land (P5, 722) Zone, Modified to allow for the development of stormwater infrastructure, a walkway, natural buffers for the protection of the existing woodlot and create a site specific exception to permit a reduced special setback from any building or structure to the Conservation / Hazard Land (P5, 722) Zone, Modified.

The proposed zoning modifications are discussed in greater detail in the Zone Chart include in Appendix “G” to Report PED19046.

RELEVANT CONSULTATION

The following Departments / Agencies had no comments or objections:

- Hydro One.

The following Departments / Agencies have provided comments with respect to the proposed applications:

Operations Support, Strategic Planning Section, Corporate Assets and Strategic Planning Division (Public Works Department) has noted that the subject lands are eligible for waste collection services. Operations Staff provided the General Requirements for Waste Collection.

Forestry and Horticulture Section (Public Works Department) indicated that there are several Municipal Tree Assets located along the road allowance and therefore a Tree Management Plan will be required. A Landscape Planting Plan, prepared and signed by a certified Landscape Architect, will also be required. This plan, together with the Tree Management Plan, must be submitted for review and comments to the Forestry & Horticulture Section.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 30 of 42

The condition of Street Tree Planting will be cleared upon receipt of a plan depicting new trees and a cash payment.

(Condition 2.8 of the City's Standard Conditions of Subdivision Approval)

Transportation Planning (Planning and Economic Development) advised that Homestead Drive is a Collector Road with an ultimate width of 26.213 m and the remainder of the roads are Local Roads with a maximum width of 20.117 m. The daylight triangles for Local Roads must be 4.57 m by 4.57 m. Buffered sidewalks along both sides of the right of way are required to be 1.5 m wide.

Transportation Planning required a Transportation Demand Management Report to be prepared and submitted for approval; and subsequently the TDM Report was approved as it met the objectives of the City.

A scoped Terms of Reference was approved and subsequently a Traffic Impact Brief was submitted to the City for review. Further review by staff is required and will occur through Special Condition No. 17 in Appendix "F" to Report PED19046).

Finance (Corporate Services) has identified that there is an annual charge of \$749.32 on 3306 Homestead Drive.

Public Health (Healthy and Safe Communities) advised that a pest control plan would be required and is included as Special Condition No. 15 in Appendix "F" of this Report.

Recreation Planning (Healthy and Safe Communities) acknowledged that the neighbourhood park is being provided in the "Lancaster Heights" Subdivision and as a result supports the redesignation of the Neighbourhood Park land use designation to Low Density Residential 2. Staff note that private outdoor amenity space should be provided within the proposed development.

Parkland Advisory Review Committee (PARC) noted that the developer of Lancaster Heights (formerly Mountaingate) proposed a new, more centralized location for the park block in the Mount Hope Secondary Plan. PARC continues to be supportive of the centralized location for the park, however understands that the Mount Hope Secondary Plan still shows the previous park block within the proposed subdivision development. PARC is supportive of the removal of the original, and now additional park block.

While there is a projected deficit within the Secondary Plan area of 1.06 ha of parkland, this deficit is not due to the relocation of the park block because there were only ever

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 31 of 42

two Neighbourhood Parks contemplated in the Secondary Plan. PARC is not supportive of retaining the park block on the subject lands because of the proximity to the park in Lancaster Heights and limited development opportunities due to the physical attributes of the site. Finally, PARC has advised that the parcel could be rezoned as Open Space (P4) Zone however, it should not contribute to parkland dedication; instead, cash in lieu will be required.

Niagara Peninsula Conservation Authority (NPCA) staff reviewed the submitted Environmental Impact Study, prepared by Geo Process, dated November, 2017, the Functional Servicing Report (FSR) and associated Preliminary Drawings, prepared by S. Llewellyn and Associates, dated November, 2017 as part of the subject applications. The NPCA regulates watercourses including the one located on the subject property. As a result of the proposed subdivision application, the watercourse will be removed which was supported by the EIS due to the limited ecological function within this section of the watercourse. The remaining portion of the watercourse is not anticipated to cause further erosion and will contribute to stabilizing the headcutting that has been occurring.

Upon review of the FSR, NPCA has no concerns with the drainage of the proposed development being directed to the future stormwater management facility in the adjacent “Lancaster Heights” development. However, until such a time as the stormwater management facility is constructed, the NPCA will require details on the developments interim measures to treat all stormwater runoff, attenuate all post development peak flows and mitigate the impacts of erosion.

The NPCA requires the inclusion of the following conditions in the Conditions of Draft Approval for the Subdivision application:

- That the Developer apply for and obtain a Work Permit for the removal of the watercourse (Condition No. 18 in Appendix “F” to Report PED19046).
- That the Developer submit to the Niagara Peninsula Conservation for review and approval, grading, storm servicing, stormwater management, and construction sediment control drawings (Condition No. 19 in Appendix “F” to Report PED19046).
- That final registration of this Subdivision not occur until the stormwater management facilities on the adjacent lands to the west (Lancaster Heights Subdivision) or a satisfactory alternative temporary outlet have been installed to the satisfaction of the Niagara Peninsula Conservation Authority (Condition No. 20 in Appendix “F” to Report PED19046).

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 32 of 42

- That the Subdivision Agreement between the Developer and the City of Hamilton contain wording requiring that all oils and fuels be stored away from water in properly designated locations with appropriate spill containment and clean up equipment, to the satisfaction of the Niagara Peninsula Conservation Authority (Condition No. 21 in Appendix “F” to Report PED19046).
- That the above 4 conditions are to be incorporated into the Subdivision Agreement (Condition No. 22 in Appendix “F” to Report PED19046).

John C. Munro International Airport advised that they are not supportive of the proposed development in accordance with the Hamilton Airport Zoning Regulations and the Noise Exposure Forecast (NEF) Contours to ensure that the current and future operation of the Airport is not impacted. Due to the residential nature of the development and the subject site falling within an area that is highly susceptible to aircraft noise, the Airport is not supportive of the proposal.

However, as the application is proceeding, the Airport requires the noise mitigation measures identified in the Noise Feasibility Study completed by HGC Engineering be implemented, which includes appropriate warning clauses and building materials (Condition Nos. 11 -13 in Appendix “F” to Report PED19046).

NAV Canada advised that they had no objection to the project as submitted but would require any information related to the use of cranes on the site to ensure that there are no adverse effects on Air Navigation.

Union Gas has requested that as a condition of final approval, the owner / developer is required to provide to Union Gas the necessary easements and / or agreements required by Union Gas for the provision of gas services for this project, in a form satisfactory to Union Gas. This requirement is a Standard Condition of Draft Approval.

Canada Post stated that the development will be serviced through the Community Mailbox program and have requested the inclusion of conditions in the Draft Plan outlining that advised that the proposed subdivision will receive mail service to centralized mail facilities provided through their Community Mailbox program.

They have requested to have included in all offers of purchase and sale, a statement that advises the prospective purchaser / lessor:

- i) that the home / business mail delivery will be from a designated Centralized Mail Box.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 33 of 42

- ii) that the developers / owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

Canada Post has also requested that the owner further agree to work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision. Also, to install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post to facilitate the placement of Community Mail Boxes. The owner shall also identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and / or curb installation of the plan of subdivision. The location of all centralized mail receiving facilities shall be determined in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

(Condition No. 16 of Appendix “F” to Report PED19046 and Condition 1.22 of the City’s Standard Conditions of Subdivision approval).

Hamilton Street Railway (HSR) has requested that the development continues to provide efficient pedestrian connects to Airport Road to connect to existing transit service, being Route #20 (A-line).

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 170 property owners within 120 m of the subject lands on January 4, 2018. A Public Notice sign was posted on the property on January 15, 2018 and updated on April 3, 2019. Notice was mailed to 170 property owners within 120 m of the subject lands on April 12, 2019. At the time of preparation of this report, one letter was received inquiring about the development and the impacts on their property and is attached as Appendix “C” to Report PED19046. The letter did not outline any concerns about the proposed development, however the resident inquired about the reconstruction of their driveway as a result of the extension of Spitfire Drive and the removal of the existing turning bulb.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 34 of 42

Public Consultation Strategy

The applicant prepared a Public Consultation Strategy in accordance with the Provisions of the *Planning Act*. In addition to the standard Public Notice Sign, the applicant also posted a second sign detailing their contact information. A Microsite was prepared where all the public materials were posted for the public to review.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed UHOP Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications have merit and can be supported for the following reasons:
 - (i) They comply with the general intent of the UHOP, subject to the approval of the UHOP Amendment, as they are an extension of the approved developments to the east of the subject lands, add to the creation of a complete community, and contribute to a range of housing options in the Mount Hope area;
 - (ii) The proposed development is considered to be compatible with the existing and planned development in the immediate area and acts as transition between these developments. It will provide a complete community, with a variety of lands uses in the Mount Hope Neighbourhood;
 - (iii) The proposed development represents good planning by, among other things, providing a compact and efficient urban form. Furthermore, it acts as a natural extension of approved adjacent development, thereby providing servicing to the area. The form of development will be an efficient use of infrastructure; and,
 - (iv) They are consistent with the Provincial Policy Statement and conform to the Growth Plan for the Greater Golden Horseshoe, as they represent an opportunity for growth in settlement areas.
2. As discussed in the policy section of this Report, an amendment to the UHOP is required to amend the Mount Hope Secondary Plan as follows:
 - Reconfiguration of designations; and,

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 35 of 42

- Creation of a Site Specific Policy Area in order to permit residential development between the 28 and 30 NEF contour lines and to establish new local roads.

Staff are supportive of the land use changes in the Secondary Plan as they create a community which is compatible with and an extension of the existing residential development in Mount Hope. Low density detached homes will complement the existing large lots to the south while providing a transition in residential densities from the existing residential development to the west to the draft approved “Lancaster Heights” development to the east.

The proposed road network contains three local roads, providing an extension of Spitfire Drive to Lancaster Heights, a connection to Marion Street by way of “Street B” and an extension of Marion Street to connect the existing dead ends of Marion Street providing an integrated and complete road network, as illustrated in Appendix “E” to Report PED19046.

The development proposes “Low Density Residential 2” and meets the maximum density of 25 units per net hectare within the Mount Hope Secondary Plan.

As discussed, Staff are supportive of the of the removal of the Neighbourhood Park from the subject lands as adequate parkland is accommodated within the Mount Hope Secondary Plan area. Cash-in-lieu of parkland dedication will be required for this subdivision.

Lands intended for stormwater purposes will be appropriately designated “Utility” and the site will drain to the stormwater management facility proposed in the Lancaster Heights development.

Staff are supportive of the amendments required to accommodate these adjustments as they allow more efficient development of the land and support UHOP policies that focus on providing for a diversity of housing types. Given the prescribed density ranges within the UHOP as well as market demand, the proposed development contains an appropriate range of housing sizes and forms and aligns with other existing and proposed built forms in the neighbourhood. The proposal will act as a transition in density from the existing residential development to the east and the denser development (40 units per net hectare) in Lancaster Heights.

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 36 of 42

While the proposed development is generally consistent with the direction established in the Secondary Plan and complies with its broader policy vision; due to the differences identified and discussed above, amendments will be required to allow for the proposed development. Based on the foregoing, staff supports the proposed UHOP Amendments.

3. Staff have reviewed the parking plan and have noted that the applicant is providing more than the 40% requirement for on-street parking availability. Confirmation of the number of on-street parking opportunities provided will be determined once a Utilities Plan is completed.

Staff note that under-dimensioned garages and intrusions of multiple steps in developments over the last decade in this ward have rendered many garages as unsuitable for vehicle parking. In turn, this has caused on-street parking issues for residents who are forced to park their secondary vehicles on the roadway. As a result, staff has amended the application with consent from the applicant, to provide appropriately sized parking spaces within the garages.

4. Development Engineering reviewed the application and supportive documents from the most recent submission from December 2018 and support the subject development applications. Any cost sharing with the Owner will be in accordance with the City's Financial Policy. The Owner will be required to enter into a formal subdivision agreement with the City of Hamilton, to the satisfaction of the Senior Director of Growth Management (Condition No. 23 in Appendix "F" to Report PED19046). Further, staff have amended the zoning to require a minimum 2 m side yard setback separation between buildings for lots that may experience back to front drainage.

Warning Clauses are required for the lots containing rear catch basins which must be included on applicable purchase and sale agreements (Condition No. 24 in Appendix "F" to Report PED19046).

As a result of each lot containing two parking spaces, a Warning Clause is required on all purchase and sale agreements to notify purchasers that no additional private or public parking spaces are guaranteed (Condition No. 25 in Appendix "F" to Report PED19046).

The owner must demonstrate that appropriate lands have been acquired or an easement across the lands to Street "D" in the neighbouring Lancaster Heights (formerly Mountaingate) will provide for adequate infrastructure connections to the

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 37 of 42

satisfaction of the Senior Director of Growth Management (Condition No. 26 in Appendix “F” to Report PED19046).

During the construction stage of development, the owner must agree to minimize impacts on neighbours through a Construction Management Plan, a Dust Management Plan and to specifically minimize impacts to existing residents on Spitfire Drive, as it relates to driveway access, street closures, and garbage pick up (Condition Nos. 27, 34 and 40 in Appendix “F” to Report PED19046).

Block 125, between Lots 114 and 115, is to be conveyed to the City with no City Share to accommodate a storm sewer connection and a public walkway, to the satisfaction of the Senior Director of Growth Management (Condition No. 29 in Appendix “F” to Report PED19046). Further, easements in favour of the City must be established to the satisfaction of the Senior Director of Growth Management (Condition No. 29 in Appendix “F” to Report PED19046).

Any pipe oversizing is not eligible for cost sharing (Condition No. 30 in Appendix “F” to Report PED19046).

The engineering design and cost estimate schedules for:

- construction of sidewalks,
- removal of existing temporary turning circles on Spitfire Drive and Marion Street,
- removal of the existing temporary storm water management pond,
- 1.5 metres high black vinyl coated heavy duty chain link fence,
- Minimum 2 metres separations between foundation walls,
- a maximum water surface depth of 0.3 m on rear lot catch basins in any case where there is a requirement for an overland flow,
- provision for the owner’s share of maintenance works and monitoring on the downstream stormwater management pond in the adjacent Lancaster Heights subdivision, and,

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 38 of 42

- construction of a storm sewer between lots 11 and 12 that conveys storm runoff

must be prepared to the satisfaction of the Senior Director of Growth Management (Condition Nos. 31 – 33, 35, 46, 47 and 53 in Appendix “F” to Report PED19046).

The preparation and submission of a revised on-street parking plan for Streets ‘A’ and ‘B’ is required to the satisfaction of the Senior Director of Growth Management (Condition No. 36 to Report PED19046).

4.5 m by 4.5 m daylight triangles must be established on the final plan of subdivision to the satisfaction of the Senior Director of Growth Management (Condition No. 37 in Appendix “F” to Report PED19046).

All septic beds, buildings, structures, stormwater management ponds and associated infrastructure must be removed to the satisfaction of the Senior Director of Growth Management (Condition No. 38 in Appendix “F” to Report PED19046). Further, all utility related infrastructure will need to be relocated at the cost of the owner to the satisfaction of the Senior Director of Growth Management (Condition No. 39 in Appendix “F” to Report PED19046).

The preparation and submission of a Hydrogeological report and a mitigation plan for water well interference is required to the satisfaction of the Senior Director of Growth Management (Condition Nos. 41 and 42 in Appendix “F” to Report PED19046).

The owner must pay cost recoveries to the City for sanitary sewers and watermains on Marion Street to the satisfaction of the Senior Director of Growth Management (Condition No. 43 in Appendix “F” to Report PED19046).

All purchase and sale agreements must have a statement informing purchasers that an approved grading plan is in effect and that they are not to alter the lands in any way that would conflict with the approved grading plan to the satisfaction of the Senior Director of Growth Management (Condition No. 44 in Appendix “F” to Report PED19046).

All driveway locations must be identified on all engineering drawings and be located within their own lot frontages (Condition No. 45 in Appendix “F” to Report PED 19046).

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 39 of 42

The completion of a Stormwater Management Report including the demonstration that the hydraulic grade line for post-development 100 year storm event is located at or below the top of grade elevation at all inlet locations, that drainage routing through the subject lands for any external flows are maintained and that runoff from 100 year storm can be conveyed to the appropriate downstream outlet to the satisfaction of the Senior Director of Growth Management (Condition No. 48 in Appendix "F" to Report PED19046).

Suitable stormwater management facility, appropriate overland flow route and suitable storm outlet for the drainage area that includes the rear lots of 104-114 and Block 126 must be demonstrated to the satisfaction of the Senior Director of Growth Management (Condition No. 49 in Appendix "F" to Report PED19046).

Prior to preliminary grading, the owner must demonstrate that the existing temporary stormwater management facility on the subject lands is decommissioned to the satisfaction of the Senior Director of Growth Management (Condition No. 50 in Appendix "F" to Report PED19046). If uncontrolled overland runoff is expected to drain south from lots 84 to 101 onto the private lands to the south the owner of the subject lands must demonstrate that they have riparian rights to do so, that an emergency spillway has been established between lots 32 and 42 Aberdeen Avenue and that an appropriate easement has been established for the spillway to the satisfaction of the Senior Director of Growth Management (Condition No. 51 in Appendix "F" to Report PED19046).

If grading works are required external to the site, written permission is required to the satisfaction of the Senior Director of Growth Management (Condition No. 52 in Appendix "F" to Report PED19046).

The preparation of a pre-construction survey of surrounding lands with appropriate securities for any repairs and reconstruction to roads damaged during construction must be submitted and approved to the satisfaction of the Senior Director of Growth Management (Condition No. 54 in Appendix "F" to Report PED19046). Further, a post-construction survey is also required to identify any damages and agree to repair any damages to the satisfaction of the Senior Director of Growth Management (Condition No. 55 in Appendix "F" to Report PED19046).

If retaining walls are proposed the owner must provide a minimum 0.45 m separation between the base of the retaining wall and adjacent property lines with the retaining wall located on the property of higher elevation to the satisfaction of

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 40 of 42

the Senior Director of Growth Management (Condition No. 56 in Appendix “F” to Report PED19046).

Lots 1 – 18 must remain undevelopable until it has been demonstrated that runoff from neighbouring school lands to the north can be adequately conveyed through the subject lands to the satisfaction of the Senior Director of Growth Management (Condition No. 57 in Appendix “F” to Report PED19046).

5. Growth Planning Staff advise that should development occur, there are minor changes required to the Draft Plan of Subdivision including improved accuracy of the scale bar, confirmation of road alignment with adjacent subdivisions, re-naming of the subdivision and inclusion of the specific municipal services.

The existing Draft Approval on a portion of the subject lands, known as Mountville Estates 25T-92009, should be closed as a condition of approval of the subject application (Condition No. 58 of Appendix “F” to Report PED19046). Growth Planning has requested that the following Note be added to the Draft Approval Conditions:

“Notes: Pursuant to Section 51(31) 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.”

Requirements for the completion of a Noise Study due to the site’s proximity to the airport were identified. It is noted that any concerns relating to noise have been addressed.

6. The proposed Plan of Subdivision will consist of 123 lots for single detached dwellings (Lots 1 - 123), one block for a 0.3 metre road reserve (Block 124), one block for infrastructure and walkway (Block 125), one block for open space purposes (Block 126), and 3 proposed streets shown as Streets “A,” “B” and “C”, attached as Appendix “E” to Report PED19046.

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;

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 41 of 42

- (b) Through the phasing of development within the Mount Hope 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 Urban Hamilton Official Plan as well as the proposed Urban Hamilton Official Plan Amendment;
- (d) The lands can be appropriately used for the use for which it is to be subdivided;
- (e) The proposed roads will adequately service the proposed subdivision and can connect with the current road system;
- (f) The dimensions and shape of the lots are appropriate;
- (g) Restrictions and regulations for the development of the subdivision are included in the implementing Zoning By-law Amendment, conditions of draft plan approval and Subdivision Agreement;
- (h) No substantial natural resources are evident on site, and flood control will be addressed through stormwater management plans that will be required as standard conditions of draft plan approval;
- (i) Adequate municipal services will be available, the particulars of which will be determined as part of the conditions of draft plan approval and Subdivision Agreement; and,
- (j) 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.

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

7. To date, one letter of correspondence was received asking for clarification as to whose responsibility it is to remove the temporary bulb at the current terminus of Spitfire Drive and establish the full driveway and front yard depth on their property (see Appendix "H" to Report PED19046). In this case, it is the Mountville Estate developer's responsibility to remove the temporary bulb and establish the full driveway and front yard depth. Securities were provided to the City to secure this

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

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

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

SUBJECT: Applications to Amend the Urban Hamilton Official Plan, to Amend the Township of Glanbrook Zoning By-law No. 464, to Amend the City of Hamilton Zoning By-law No. 05-200, and for Approval of a Draft Plan of Subdivision for Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, Glanbrook (PED19046) (Ward 11) - Page 42 of 42

work, which can be released to the developer of the subject property to complete this work.

ALTERNATIVES FOR CONSIDERATION

Should the applications be denied, the lands could be developed in accordance with the Residential “H-R3-122” Zone, Modified, Deferred Development “DD” Zone and General Commercial “C3-048” Zone, Modified in the Town of Glanbrook Zoning By-law No. 464 which correspondingly permits single detached dwellings, agricultural uses and a range of commercial uses.

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.

Built Environment and Infrastructure

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

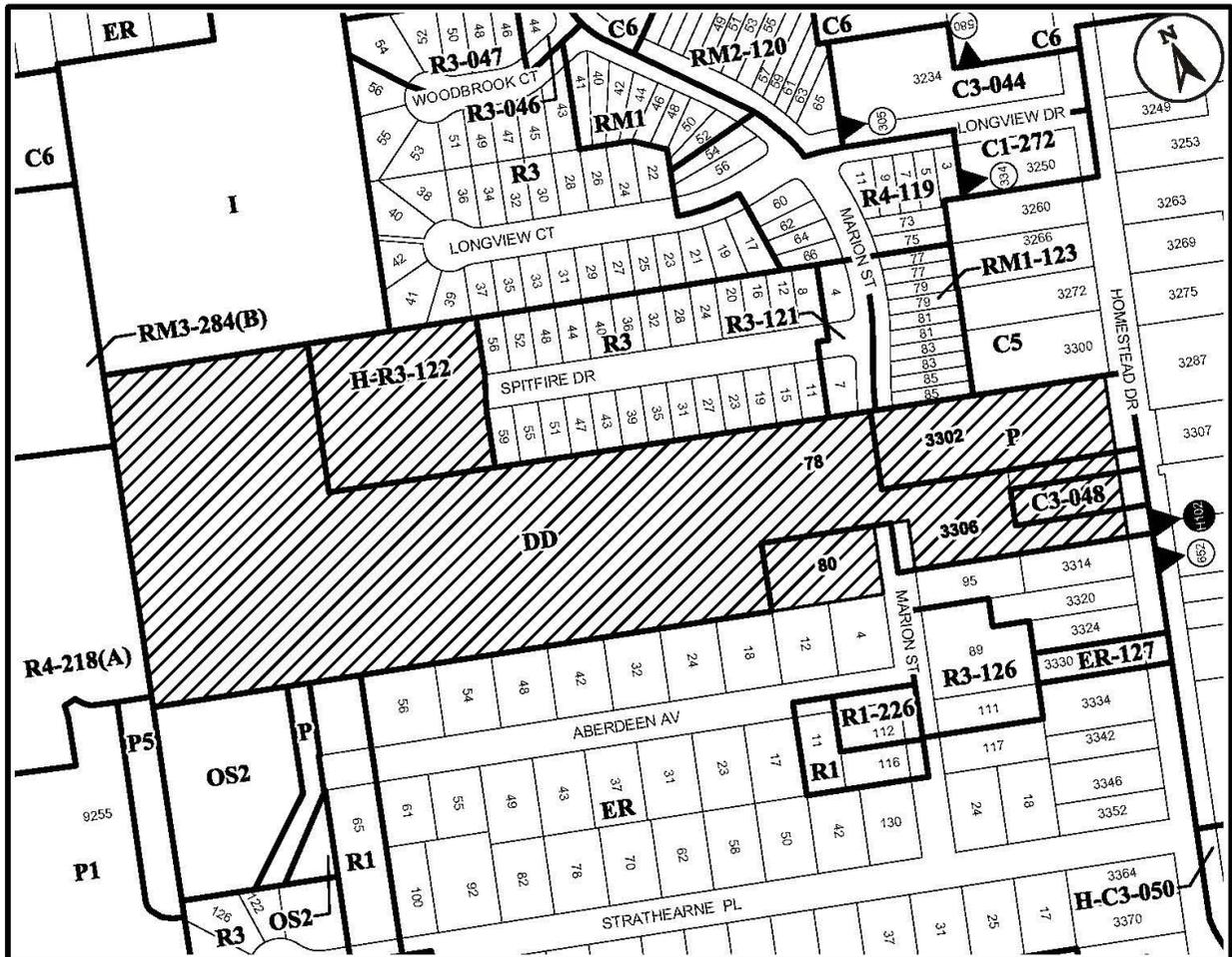
Our People and Performance

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

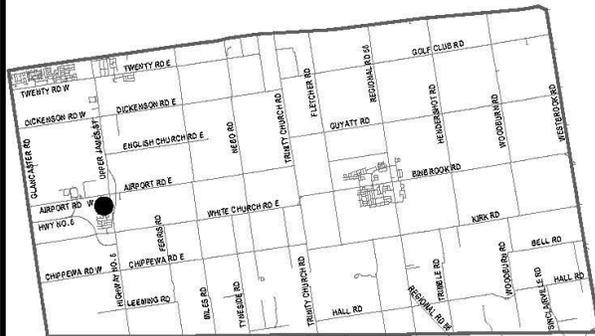
APPENDICES AND SCHEDULES ATTACHED

- Appendix “A” – Location Map
- Appendix “B” – Draft Urban Hamilton Official Plan Amendment
- Appendix “C” – Draft Town of Glanbrook Zoning By-law No. 464 Amendment
- Appendix “D” – Draft City of Hamilton Zoning By-law No. 05-200 Amendment
- Appendix “E” – Draft Plan of Subdivision
- Appendix “F” – Special Conditions
- Appendix “G” – Zoning Chart
- Appendix “H” – Public Submissions

YR:jr



● Site Location



Key Map - Ward 11

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAC-18-003

Date:
January 3, 2019

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
JR/AL

Subject Property

78 & 80 Marion Street & 3302 & 3306 Homestead Drive



Change in Zoning from Deferred Development "DD" Zone, Existing Residential "ER" Zone, Residential "H-R3-122" Zone and Public "P" Zone to Conservation Hazard Land (P5-x) Zone in the City of Hamilton Zoning By-law 05-200 and to Residential "R4-a" Zone, Modified and Residential "R4-b" Zone, Modified in the Town of Glanbrook Zoning By-law No. 464

Schedule "1"

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

The following text, together with Appendix "A" – Volume 2, Map B.5.4-1 - Mount Hope Secondary Plan – Land Use Plan 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 re-designate lands, establish 3 new local roads, and add Area Specific Policies for lands that fall within the Mount Hope Secondary Plan Area. The effect is to allow a Plan of Subdivision that includes residential, utility and open space land uses.

2.0 Location:

The lands affected by this Amendment are known municipally as 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, in the former Township of Glanbrook.

3.0 Basis:

The basis for permitting this Amendment is:

- The proposed amendment is in keeping with the policies of the Urban Hamilton Official Plan and Mount Hope Secondary Plan to provide a diversity of housing opportunities that are suitable for different segments of the population to make the best use of urban lands.
- The proposed development is considered to be consistent with, and complementary to, the planned and existing development in the immediate 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 2 – Secondary Plans**

Text

4.1.1 Chapter B.5 – Glanbrook Secondary Plans – Section B.5.4 – Mount Hope Secondary Plan

- a. That Volume 2, Chapter B.5 – Glanbrook Secondary Plans, Section B.5.4 – Mount Hope Secondary Plan be amended by adding Area Specific Policy – Area X to a portion of the subject lands, as follows:

“Area Specific Policy – Area X

B.5.4.11.X Notwithstanding Section C.4.8.8 and Table C.4.8.1, Subsection 2 of Volume 1 and Policy B.4.9.1 d) of Volume 2, for a portion of lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive and identified as “Area Specific Policy – Area X”, residential development may be permitted in the form of single detached dwellings between 28 – 30 NEF noise contours.”

Maps

4.2.1 Volume 2, Map B.5.4-1 – Mount Hope Secondary Plan – Land Use Plan

- a. That Volume 2, Map B.5.4-1 – Mount Hope Secondary Plan – Land Use Plan be amended by:
 - i. redesignating a portion of the subject lands from “Neighbourhood Park” to “Low Density Residential 2”;
 - ii. redesignating a portion of the subject lands from “Low Density Residential 2” to “Utility”;
 - iii. redesignating a portion of the subject lands from “Low Density Residential 2” to “Natural Open Space”;
 - iv. redesignating a portion of the subject lands from “Utility” to “Low Density Residential 2”;

- v. redesignating a portion of the subject lands from "Utility" to "Natural Open Space";
- vi. redesignating a portion of the subject lands from "Institutional" to "Low Density Residential 2";
- vii. redesignating a portion of the subject lands from "Low Density Residential 2c" to "Low Density Residential 2";
- viii. identifying a portion of the subject lands as Area Specific Policy – Area X;
- ix. deleting "Proposed Roads"; and,
- x. adding "Proposed Roads",

as shown on Appendix "A", attached to this Amendment.

5.0 Implementation:

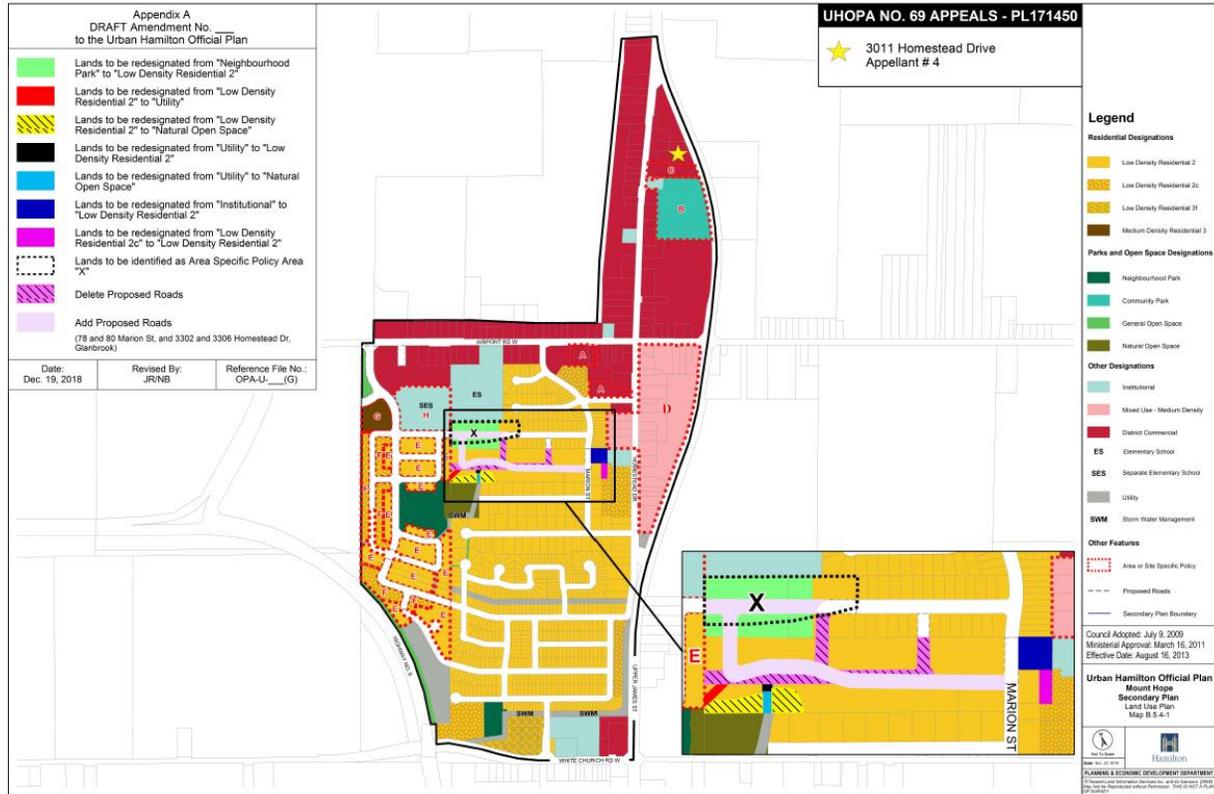
An implementing Zoning By-Law Amendment and Draft Plan of Subdivision will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. _____ passed on the ___th day of ___, 2019.

**The
City of Hamilton**

F. Eisenberger
MAYOR

J. Pilon
ACTING CITY CLERK



Authority: Item ,
Report (PED19046)
CM:
Ward: 11

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 464 (Glanbrook)

Respecting Lands Located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook)

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

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

AND WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS the Council of the City of Hamilton, in adopting Section _____ of Report PED19046 of the Planning Committee at its meeting held on the 30th day of April 2019, recommended that Zoning By-law No. 464 (Glanbrook), be amended as hereinafter provided; and

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan, upon finalization of Official Plan Amendment No. XXX;

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

1. That Schedule "F" – Mount Hope Urban Settlement Area Land Use Plan, appended to and forming part of By-law No. 464 (Glanbrook), be amended as follows:
 - (a) by changing the zoning from Deferred Development "DD" Zone to Residential "R4-312", Modified, for lands comprised in "Block 1";
 - (b) by removing the Deferred Development "DD" Zone, Modified, for the lands comprised in "Block 2" and "Block 3";
 - (c) by changing the zoning from Residential "H-R3-122" Zone with a Holding to Residential "R4-312a" Zone, Modified, for the lands comprised in "Block 4";
 - (d) by changing the zoning from the Deferred Development "DD" Zone to Residential "R4-312a" Zone, Modified for lands comprised in "Block 5";
 - (e) by changing the zoning from Residential "H-R3-122" Zone with a Holding to Residential "R4-312" Zone, Modified for the lands comprised in "Block 6";
 - (f) by changing the zoning from the Existing Residential "ER" Zone to Residential "R4-312" Zone, Modified for the lands comprised in "Block 7";
 - (g) by changing the zoning from the Public "P" Zone to Residential "R4-312" Zone, Modified for the lands comprised in "Block 8";

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

2. That Section 44, "Exceptions to the Provisions of the By-law", as amended, of Zoning By-law No. 464, is hereby further amended by modifying the "R4" Zone provisions (a), (b), (c), (d), (e), (f) and (h) as follows:

R4-312

- | | | | |
|------|-----|----------------------|---|
| 16.2 | (a) | Minimum Lot Frontage | 10 metres, except on a corner lot the minimum frontage shall be 11.6 metres |
|------|-----|----------------------|---|

- (b) Minimum Lot Area 270 square metres, except on a corner lot the minimum lot area shall be 315 square metres
- (c) Maximum Lot Coverage 50 percent
- (d) Minimum Front Yard 4.5 metres to a building, and 6.0 metres to an attached garage
- (e) Minimum Side Yard
 - (i) On an interior lot, the minimum side yard shall be 1.2 metres on one side and 0.6 metres on the other side
 - (ii) On a corner lot, the minimum side yard abutting the flanking street shall be 3.0 metres
- (f) Minimum Rear Yard 7.0 metres
- (h) Maximum Height 11.0 metres

Notwithstanding the provisions pursuant to Subsections 7.26a) and 7.26b): Encroachments into Yards, the following provisions shall apply:

- (a) Window projections, with or without foundations, porches and architectural elements without a foundation such as, but not limited to, fireplaces, chimneys, pilasters, corbels and bay windows, may project into any required yard a distance of not more than 0.6 metres; and
- (b) Balconies, canopies, and fruit cellars may project into any required front or rear yard a distance of not more than 1.5 metres, or into any minimum side yard a distance not more than 0.6 metres and unenclosed porches may project into any required front, flanking side yard or rear yard a distance of not more than 1.5 metres.

Notwithstanding the provisions stated in this subsection, no encroachment into registered easements shall be permitted.

Notwithstanding the provisions pursuant to Subsection 7.35a) (vii): Minimum Parking Requirements, the following provisions shall apply:

(a) Minimum Parking Requirements

- (vii) Each parking space within a garage shall have a minimum width of 3 metres and a minimum length of 6 metres. Stairs, to a maximum of 1 riser step, shall be permitted to encroach to a maximum of 0.25 metres into the interior garage parking space.

3. That Section 44, "Exceptions to the Provisions of the By-law", as amended, of Zoning By-law No. 464, is hereby further amended by modifying the "R4-312" Zone provisions as follows:

R4-312a

In addition to the provisions of the Residential "R4-312" Zone, Modified, a minimum of 2.0 metres separation between dwelling units shall be provided and maintained.

All other regulations of the Residential "R4-312" Zone, Modified shall apply.

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 Residential "R4" Zone provisions, subject to the special requirements as referred to in Section 2 and 3 of this By-law.
5. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this by-law, in accordance with the *Planning Act*.



This is Schedule "A" to By-law No. 19- Passed the day of, 2019	----- Mayor ----- Clerk
---	--------------------------------------

<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-law No. 19-_____</p> <p style="margin: 10px 0 0 0;">to Amend By-law No. 464</p>		<p>Subject Property 78 & 80 Marion Street & 3302 & 3306 Homestead Drive</p> <ul style="list-style-type: none"> Block 1 - Change in zoning from "DD" to "R4-312" Zone Block 2 - Refer to By-law No. 05-200 Block 3 - Refer to By-law No. 05-200 Block 4 - Change in zoning from "H-R3-122" to "R4-312a" Zone Block 5 - Change in zoning from "DD" to "R4-312a" Zone Block 6 - Change in zoning from "H-R3-122" to "R4-312" Zone Block 7 - Change in zoning from "ER" to "R4-312" Zone Block 8 - Change in zoning from "P" to "R4-312" Zone
Scale: N.T.S.	File Name/Number: ZAC-18-003	<p style="margin: 0;">Hamilton</p>
Date: March 6, 2019	Planner/Technician: JR/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

PASSED this _____ , 2019

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk

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.: PED19046

Date:

Ward(s) or City Wide: Ward 11

(MM/DD/YYYY)

Prepared by: Jennifer Roth, Planner I

Phone No: 905-546-2424 ext. 2058

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

Authority: Item ,
Report PED19046
CM:
Ward: 11

Bill No. XXX

CITY OF HAMILTON
BY-LAW NO. 19-XXX

To Amend Zoning By-law No. 05-200 (Hamilton) Respecting lands located at 78 and 80 Marion Street and 3302 and 3306 Homestead Drive (Glanbrook)

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to different areas incorporated into the City by virtue of the *City of Hamilton Act 1999*, Statutes of Ontario, 1999 Chap.14;

WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

WHEREAS the first stage of the new Zoning By law, being By-law No. 05-200, came into force on the 25th day of May, 2005;

WHEREAS the Council of the City of Hamilton, in adopting Item XX of Report PED19046 of the Planning Committee, at its meeting held on the 19th day of March 2019, which recommended that Zoning By-law No. 05-200 be amended as hereinafter provided; and,

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

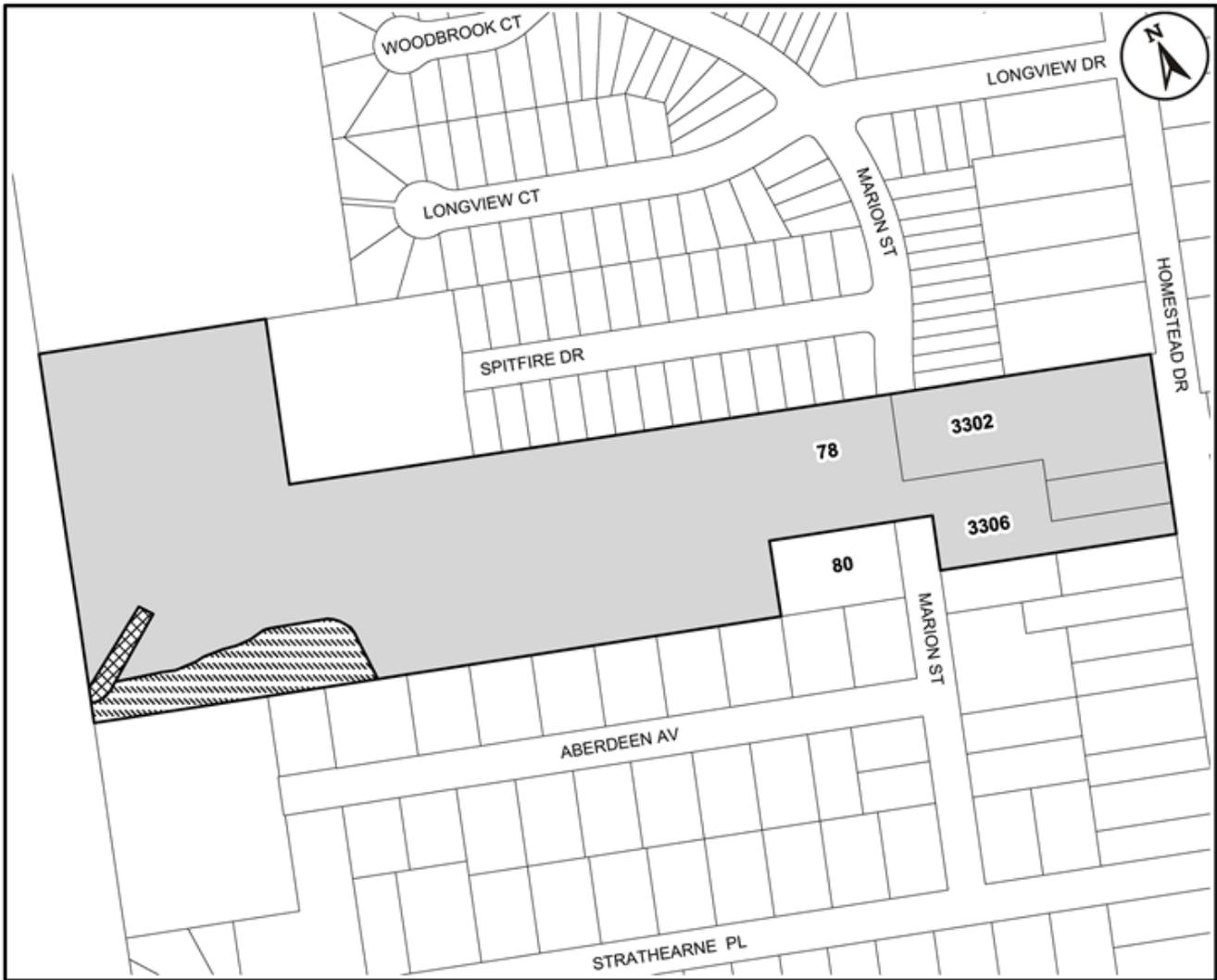
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Map Nos. 1748 and 1785 of Schedule "A" – Zoning Maps of Zoning By-law No.05-200, be amended as follows:
 - a) by adding to the City of Hamilton Zoning By-law No. 05-200, the lands the extent and boundaries of which are shown as "Blocks 1 and 2" on a plan hereto annexed as Schedule "A"; and
 - b) by establishing a Conservation / Hazard Land (P5, 722) Zone to the lands, the extent and boundaries of which are shown as "Block 1" and "Block 2" on a plan hereto annexed as Schedule "A".
2. That Schedule "C" – Special Exceptions of By-law No. 05-200, is amended, by adding the following special provision:

"722. Within lands zoned Conservation / Hazard Land (P5, 722) Zone, identified on Map Nos. 1748 and 1785 of Schedule "A" – Zoning Maps, and described as

Part of 78 and 80 Marion Street and 3302 and 3306 Homestead Drive, the following special provision shall apply:

- a) Notwithstanding Subsection 4.23 d), the minimum setback from any building or structure to Conservation / Hazard Land (P5) Zone will be 0 metres."
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*.



This is Schedule "A" to By-law No. 19- Passed the day of, 2019	----- Mayor ----- Clerk
---	--------------------------------------

<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-law No. 19-_____</p> <p style="margin: 10px 0 0 0;">to Amend By-law No. 05-200 Maps 1748 & 1785</p>	<p>Subject Property 78 & 80 Marion Street & 3302 & 3306 Homestead Drive</p> <p> Block 1 - Lands to be added to the Zoning By-law No. 05-200 and zoned Conservation / Hazard Land (P5, 722) Zone</p> <p> Block 2 - Lands to be added to the Zoning By-law No. 05-200 and zoned Conservation / Hazard Land (P5, 722) Zone</p> <p> Refer to By-law No. 464</p>
--	--

Scale: N.T.S.	File Name/Number: ZAC-18-003	
Date: March 6, 2019	Planner/Technician: JR/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

PASSED and ENACTED this _____ day of _____, 2019

F. Eisenberger
Mayor

J. Pilon
Acting City Clerk

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.: PED19046 Date:

Ward(s) or City Wide: Ward 11 (MM/DD/YYYY)

Prepared by: Jennifer Roth, Planner I Phone No: 905-546-2424 ext. 2058

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

DRAFT PLAN OF SUBDIVISION BRANTHAVEN MOUNT HOPE INC.



**DRAFT PLAN OF SUBDIVISION OF
PART OF LOT 5
CONCESSION 5
GEOGRAPHIC TOWNSHIP OF QUANBORO
CITY OF HAMILTON**

SCALE: 1" = 100'

DATE: 11/11/2011

PREPARED BY: [Firm Name]

HISTORICAL INFORMATION REGARDING THE SUBJECT LANDS

DATE OF THE PLAN: 11/11/2011

OWNER'S AUTHORIZATION: [Signature]

SUBDIVISION'S CERTIFICATE: [Signature]

LAND USE	AREA (SQ. FT.)	PERCENTAGE
LOT 1-12	1,200,000	100%
LOT 13-24	1,200,000	100%
LOT 25-36	1,200,000	100%
LOT 37-48	1,200,000	100%
LOT 49-60	1,200,000	100%
LOT 61-72	1,200,000	100%
LOT 73-84	1,200,000	100%
LOT 85-96	1,200,000	100%
LOT 97-108	1,200,000	100%
LOT 109-120	1,200,000	100%
LOT 121-132	1,200,000	100%
LOT 133-144	1,200,000	100%
LOT 145-156	1,200,000	100%
LOT 157-168	1,200,000	100%
LOT 169-180	1,200,000	100%
LOT 181-192	1,200,000	100%
LOT 193-204	1,200,000	100%
LOT 205-216	1,200,000	100%
LOT 217-228	1,200,000	100%
LOT 229-240	1,200,000	100%
LOT 241-252	1,200,000	100%
LOT 253-264	1,200,000	100%
LOT 265-276	1,200,000	100%
LOT 277-288	1,200,000	100%
LOT 289-300	1,200,000	100%
LOT 301-312	1,200,000	100%
LOT 313-324	1,200,000	100%
LOT 325-336	1,200,000	100%
LOT 337-348	1,200,000	100%
LOT 349-360	1,200,000	100%
LOT 361-372	1,200,000	100%
LOT 373-384	1,200,000	100%
LOT 385-396	1,200,000	100%
LOT 397-408	1,200,000	100%
LOT 409-420	1,200,000	100%
LOT 421-432	1,200,000	100%
LOT 433-444	1,200,000	100%
LOT 445-456	1,200,000	100%
LOT 457-468	1,200,000	100%
LOT 469-480	1,200,000	100%
LOT 481-492	1,200,000	100%
LOT 493-504	1,200,000	100%
LOT 505-516	1,200,000	100%
LOT 517-528	1,200,000	100%
LOT 529-540	1,200,000	100%
LOT 541-552	1,200,000	100%
LOT 553-564	1,200,000	100%
LOT 565-576	1,200,000	100%
LOT 577-588	1,200,000	100%
LOT 589-600	1,200,000	100%
LOT 601-612	1,200,000	100%
LOT 613-624	1,200,000	100%
LOT 625-636	1,200,000	100%
LOT 637-648	1,200,000	100%
LOT 649-660	1,200,000	100%
LOT 661-672	1,200,000	100%
LOT 673-684	1,200,000	100%
LOT 685-696	1,200,000	100%
LOT 697-708	1,200,000	100%
LOT 709-720	1,200,000	100%
LOT 721-732	1,200,000	100%
LOT 733-744	1,200,000	100%
LOT 745-756	1,200,000	100%
LOT 757-768	1,200,000	100%
LOT 769-780	1,200,000	100%
LOT 781-792	1,200,000	100%
LOT 793-804	1,200,000	100%
LOT 805-816	1,200,000	100%
LOT 817-828	1,200,000	100%
LOT 829-840	1,200,000	100%
LOT 841-852	1,200,000	100%
LOT 853-864	1,200,000	100%
LOT 865-876	1,200,000	100%
LOT 877-888	1,200,000	100%
LOT 889-900	1,200,000	100%
LOT 901-912	1,200,000	100%
LOT 913-924	1,200,000	100%
LOT 925-936	1,200,000	100%
LOT 937-948	1,200,000	100%
LOT 949-960	1,200,000	100%
LOT 961-972	1,200,000	100%
LOT 973-984	1,200,000	100%
LOT 985-996	1,200,000	100%
LOT 997-1008	1,200,000	100%
LOT 1009-1020	1,200,000	100%
LOT 1021-1032	1,200,000	100%
LOT 1033-1044	1,200,000	100%
LOT 1045-1056	1,200,000	100%
LOT 1057-1068	1,200,000	100%
LOT 1069-1080	1,200,000	100%
LOT 1081-1092	1,200,000	100%
LOT 1093-1104	1,200,000	100%
LOT 1105-1116	1,200,000	100%
LOT 1117-1128	1,200,000	100%
LOT 1129-1140	1,200,000	100%
LOT 1141-1152	1,200,000	100%
LOT 1153-1164	1,200,000	100%
LOT 1165-1176	1,200,000	100%
LOT 1177-1188	1,200,000	100%
LOT 1189-1200	1,200,000	100%
LOT 1201-1212	1,200,000	100%
LOT 1213-1224	1,200,000	100%
LOT 1225-1236	1,200,000	100%
LOT 1237-1248	1,200,000	100%
LOT 1249-1260	1,200,000	100%
LOT 1261-1272	1,200,000	100%
LOT 1273-1284	1,200,000	100%
LOT 1285-1296	1,200,000	100%
LOT 1297-1308	1,200,000	100%
LOT 1309-1320	1,200,000	100%
LOT 1321-1332	1,200,000	100%
LOT 1333-1344	1,200,000	100%
LOT 1345-1356	1,200,000	100%
LOT 1357-1368	1,200,000	100%
LOT 1369-1380	1,200,000	100%
LOT 1381-1392	1,200,000	100%
LOT 1393-1404	1,200,000	100%
LOT 1405-1416	1,200,000	100%
LOT 1417-1428	1,200,000	100%
LOT 1429-1440	1,200,000	100%
LOT 1441-1452	1,200,000	100%
LOT 1453-1464	1,200,000	100%
LOT 1465-1476	1,200,000	100%
LOT 1477-1488	1,200,000	100%
LOT 1489-1500	1,200,000	100%
LOT 1501-1512	1,200,000	100%
LOT 1513-1524	1,200,000	100%
LOT 1525-1536	1,200,000	100%
LOT 1537-1548	1,200,000	100%
LOT 1549-1560	1,200,000	100%
LOT 1561-1572	1,200,000	100%
LOT 1573-1584	1,200,000	100%
LOT 1585-1596	1,200,000	100%
LOT 1597-1608	1,200,000	100%
LOT 1609-1620	1,200,000	100%
LOT 1621-1632	1,200,000	100%
LOT 1633-1644	1,200,000	100%
LOT 1645-1656	1,200,000	100%
LOT 1657-1668	1,200,000	100%
LOT 1669-1680	1,200,000	100%
LOT 1681-1692	1,200,000	100%
LOT 1693-1704	1,200,000	100%
LOT 1705-1716	1,200,000	100%
LOT 1717-1728	1,200,000	100%
LOT 1729-1740	1,200,000	100%
LOT 1741-1752	1,200,000	100%
LOT 1753-1764	1,200,000	100%
LOT 1765-1776	1,200,000	100%
LOT 1777-1788	1,200,000	100%
LOT 1789-1800	1,200,000	100%
LOT 1801-1812	1,200,000	100%
LOT 1813-1824	1,200,000	100%
LOT 1825-1836	1,200,000	100%
LOT 1837-1848	1,200,000	100%
LOT 1849-1860	1,200,000	100%
LOT 1861-1872	1,200,000	100%
LOT 1873-1884	1,200,000	100%
LOT 1885-1896	1,200,000	100%
LOT 1897-1908	1,200,000	100%
LOT 1909-1920	1,200,000	100%
LOT 1921-1932	1,200,000	100%
LOT 1933-1944	1,200,000	100%
LOT 1945-1956	1,200,000	100%
LOT 1957-1968	1,200,000	100%
LOT 1969-1980	1,200,000	100%
LOT 1981-1992	1,200,000	100%
LOT 1993-2004	1,200,000	100%
LOT 2005-2016	1,200,000	100%
LOT 2017-2028	1,200,000	100%
LOT 2029-2040	1,200,000	100%
LOT 2041-2052	1,200,000	100%
LOT 2053-2064	1,200,000	100%
LOT 2065-2076	1,200,000	100%
LOT 2077-2088	1,200,000	100%
LOT 2089-2100	1,200,000	100%
LOT 2101-2112	1,200,000	100%
LOT 2113-2124	1,200,000	100%
LOT 2125-2136	1,200,000	100%
LOT 2137-2148	1,200,000	100%
LOT 2149-2160	1,200,000	100%
LOT 2161-2172	1,200,000	100%
LOT 2173-2184	1,200,000	100%
LOT 2185-2196	1,200,000	100%
LOT 2197-2208	1,200,000	100%
LOT 2209-2220	1,200,000	100%
LOT 2221-2232	1,200,000	100%
LOT 2233-2244	1,200,000	100%
LOT 2245-2256	1,200,000	100%
LOT 2257-2268	1,200,000	100%
LOT 2269-2280	1,200,000	100%
LOT 2281-2292	1,200,000	100%
LOT 2293-2304	1,200,000	100%
LOT 2305-2316	1,200,000	100%
LOT 2317-2328	1,200,000	100%
LOT 2329-2340	1,200,000	100%
LOT 2341-2352	1,200,000	100%
LOT 2353-2364	1,200,000	100%
LOT 2365-2376	1,200,000	100%
LOT 2377-2388	1,200,000	100%
LOT 2389-2400	1,200,000	100%
LOT 2401-2412	1,200,000	100%
LOT 2413-2424	1,200,000	100%
LOT 2425-2436	1,200,000	100%
LOT 2437-2448	1,200,000	100%
LOT 2449-2460	1,200,000	100%
LOT 2461-2472	1,200,000	100%
LOT 2473-2484	1,200,000	100%
LOT 2485-2496	1,200,000	100%
LOT 2497-2508	1,200,000	100%
LOT 2509-2520	1,200,000	100%
LOT 2521-2532	1,200,000	100%
LOT 2533-2544	1,200,000	100%
LOT 2545-2556	1,200,000	100%
LOT 2557-2568	1,200,000	100%
LOT 2569-2580	1,200,000	100%
LOT 2581-2592	1,200,000	100%
LOT 2593-2604	1,200,000	100%
LOT 2605-2616	1,200,000	100%
LOT 2617-2628	1,200,000	100%
LOT 2629-2640	1,200,000	100%
LOT 2641-2652	1,200,000	100%
LOT 2653-2664	1,200,000	100%
LOT 2665-2676	1,200,000	100%
LOT 2677-2688	1,200,000	100%
LOT 2689-2700	1,200,000	100%
LOT 2701-2712	1,200,000	100%
LOT 2713-2724	1,200,000	100%
LOT 2725-2736	1,200,000	100%
LOT 2737-2748	1,200,000	100%
LOT 2749-2760	1,200,000	100%
LOT 2761-2772	1,200,000	100%
LOT 2773-2784	1,200,000	100%
LOT 2785-2796	1,200,000	100%
LOT 2797-2808	1,200,000	100%
LOT 2809-2820	1,200,000	100%
LOT 2821-2832	1,200,000	100%
LOT 2833-2844	1,200,000	100%
LOT 2845-2856	1,200,000	100%
LOT 2857-2868	1,200,000	100%
LOT 2869-2880	1,200,000	100%
LOT 2881-2892	1,200,000	100%
LOT 2893-2904	1,200,000	100%
LOT 2905-2916	1,200,000	100%
LOT 2917-2928	1,200,000	100%
LOT 2929-2940	1,200,000	100%
LOT 2941-2952	1,200,000	100%
LOT 2953-2964	1,200,000	100%

Appendix "F"

Special Conditions

That this approval for the Revised Draft Plan of Subdivision, 25T-201801, prepared by UrbanSolutions Planning & Land Development Consultants Inc. and certified by Dan McLaren, O.L.S., dated November 28, 2018, consisting of 123 lots to be used for single detached dwellings four blocks (Lots 1 -123), one block (Block 124) for a 0.3 metre road reserve, one block for stormwater management easement a walkway (Block 125), one block for open space (Block 126) and three proposed internal roads known as Streets "A", "B" and "C" be received and endorsed by City Council with the following special conditions;

Development Planning, Heritage and Design Conditions:

Natural Heritage Planning

1. That, **prior to registration**, the Owner/developer shall prepare a Vegetation Protection Zone (VPZ) Restoration Plan to the satisfaction of the Director of Planning and Chief Planner. The VPZ Restoration Plan is to be prepared by a certified landscape architect in consultation with an ecologist and will identify the locations and species to be planted. All plantings within the VPZ shall use only non-invasive plant species native to Hamilton.
2. That, **prior to registration**, the Owner/Developer shall implement the maintenance and monitoring plan outlined within the revised Environmental Impact Statement (EIS) prepared by GeoProcess Research Associates (GRA) May 2018 to the satisfaction of the Director of Planning and Chief Planner to maintain and monitor the success of the planted species.
3. That, **prior to grading and servicing**, the Owner/developer shall prepare and implement a Transplant Plan for the Gray-headed Coneflower and Tower Mustard to the satisfaction of the Director of Planning and Chief Planner. The Transplant Plan will include:
 - Transplant Plan: This will outline the following:
 - Methodology;
 - Timing of re-location;
 - GPS co-ordinates and mapping of the individuals within the subject properties;
 - GPS co-ordinates and mapping of "donor" areas ; and,
 - Photographic records of both the subject sites and the "donor" sites.
 - Written Letter indicating the completion of work: Once the species have been transplanted, a written letter from a qualified botanist is to be submitted.
 - Monitoring Plan: Monitoring of the health of the species is to occur for a period of two years. Two monitoring reports would be required to be submitted (1st

report after first full year of monitoring; 2nd report after second year of monitoring)

4. That, **prior to registration**, the Owner/Developer shall prepare a Stewardship Brochure to the satisfaction of the Director of Planning and Chief Planner. This brochure will describe the importance of the natural feature and its functions and how the homeowner can minimize their impact on this feature.
5. That, **prior to preliminary grading or servicing**, the Owner/Developer shall submit a Tree Protection Plan (TPP) prepared by a tree management professional (i.e. certified arborist, registered professional forester or landscape architect) showing the location of drip lines, edges of existing plantings, the location of all existing trees and the methods to be employed in retaining trees to be protected to the satisfaction of the Director of Planning and Chief Planner.
6. That, **prior to preliminary grading or servicing**, the owner is aware of the Migratory Birds Convention Act, 1994 and agrees that removal of any vegetation on the subject lands is to occur outside of the breeding bird season (March 31st to August 31st) by placing a note on the TPP. However, in the event that vegetation removal is proposed during the restricted breeding period, the owner/applicant shall have a qualified biologist conduct a nest search of the vegetated area with City Natural Heritage Planning staff, prior to any work commencing. Accordingly, removal may occur if it is determined that active nests are not present in the proximity to the removal area, to the satisfaction of the Director of Planning and Chief Planner.
7. That, **prior to registration**, the Owner/Developer shall prepare a Landscape Plan by a certified Landscape Architect showing the placement of compensation trees for any tree removals, completed in accordance with the Tree Protection Plan prepared by GeoProcess Research Associates to the satisfaction of the Director of Planning and Chief Planner.
8. That, **prior to grading and servicing**, the Owner agrees, that should it be determined through detailed design that grade changes are required in order to accommodate development of Lots adjacent to the VPZ, any grade changes must be accommodated outside of the VPZ and the lot lines must be adjusted accordingly, to the satisfaction of the Niagara Peninsula Conservation Authority and the City of Hamilton.
9. That, **prior to servicing**, the Owner shall include in the engineering design and cost estimate installation of a minimum 1.5 m high chainlink fence along the rear and/or side yards of Lots 104 - 114 that abut the Significant Woodland and Vegetation Protection Zone to the satisfaction of the Senior Director of Growth Management.

- For the fences to be built in the rear of Lots 104 - 114, gates shall be prohibited.
10. That, **prior to registration**, the Owner / applicant agrees to include the following warning clause in all purchase and sale and/or lease agreements and registered on title for Lots 104 - 114 that abut the Significant Woodland and Vegetation Protection Zone to the satisfaction of the Director of Planning and Chief Planner:

"For the fences to be built in the rear of Lots 104 - 114, gates shall be prohibited."

Noise

11. That, **prior to registration**, the owner / applicant agrees to include the following clauses, for all lots, in all purchase and sale and / or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

Warning Clause "A"

"Purchasers/tenants are advised that sound levels due to increasing road and air traffic may occasionally interfere with some activities of the dwelling unit occupants as the sound levels exceed the sound level limits of the City of Hamilton's and the Ministry of the Environment and Climate Change."

Warning Clause "B":

"Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasion interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the City of Hamilton's and the Ministry of the Environment and Climate Change."

Warning Clause "C":

"This dwelling unit has been designed with the provision for adding central air conditioning at the occupant's discretion. Installation of central air conditioning by the occupant in low and medium density developments will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the City of Hamilton's and the Ministry of the Environment and Climate Change."

12. That, **prior to issuance of a building permit**, when architectural drawings are available for all the lots, an acoustic consultant should provide revised glazing recommendations based on actual window to floor area ratios, to the satisfaction of the Director of Planning and Chief Planner.

13. That, **prior to the assumption of the subdivision**, the City of Hamilton's Building Department inspector or a Professional Engineer qualified to provide acoustical engineer services in the Province of Ontario shall certify that the noise control measures have been properly installed and constructed, to the satisfaction of the Senior Director of Growth Management.

Urban Design

14. That, **prior to registration**, the Owner shall submit revised Urban Design Guidelines, to the satisfaction of the Manager of Development Planning, Heritage and Design, and which shall include:
 - a. Illustrations and mapping reflecting the most current proposed lot layout and street network;
 - b. Proposed material palette, including principal wall cladding materials;
 - c. Design strategies for priority lot dwellings, including corner lots and lots backing onto public spaces; and,
 - d. Concept designs for each dwelling model.

Public Health Services Conditions:

15. 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 mansteps 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.

Canada Post Conditions:

16. That, **prior to registration**, the owner / applicant agrees to include the following clauses in all purchase and sale and / or lease agreements, and registered on title to the satisfaction of the Director Growth Management and Canada Post:
 - i) the home / business mail delivery will be from a designated Centralized Mail Box (CMB); and,
 - ii) that the developers / owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box (CMB) locations prior to the closing of any home sales.

Transportation Planning Conditions:

17. That, **prior to servicing**, a Traffic Impact Brief is to be submitted to the satisfaction of the Manager of Transportation Planning.

Niagara Peninsula Conservation Authority Conditions:

18. That **prior to preliminary grading or servicing**, the Developer apply for and obtain a Work Permit from the Niagara Peninsula Conservation Authority for the removal of the watercourse.
19. That **prior to grading**, the Developer submit to the Niagara Peninsula Conservation Authority for review and approval, grading, storm servicing, stormwater management and construction sediment control drawings.
20. That **prior to registration**, the stormwater management facilities on the adjacent lands to the west (Lancaster Heights Subdivision) have been installed or that an alternative suitable temporary storm outlet has been established, including any necessary easements or other legal access requirements, to the satisfaction of the Niagara Peninsula Conservation Authority.
21. That **prior to registration**, the Subdivision Agreement between the Developer and the City of Hamilton contain wording requiring that all oils and fuels be stored away from water in properly designated locations with appropriate spill containment and clean up equipment, to the satisfaction of the Niagara Peninsula Conservation Authority.
22. That **prior to registration**, the Owner / Applicant agrees in the executed Subdivision Agreement to implement all plans and required works arising from meeting Conditions 18 to 21, inclusive, noted above, to the satisfaction of the Niagara Peninsula Conservation Authority.

Development Engineering Conditions:

23. That, **prior to registration of the plan of subdivision**, the Owner shall enter into a formal subdivision agreement with the City of Hamilton to the satisfaction of the Senior Director of Growth Management.
24. That, **prior to registration of the plan of subdivision**, the Owner agrees to put the following warning clause in the purchase and sale agreements of any and every lot that contains a rear yard catch basin:

This property includes a rear yard catch basin that has been designed and located to provide proper storm drainage of the subdivision. The owner of the property is responsible for maintaining the rear yard catch basin and associated underground infrastructure on this property in good operating condition at all times.

25. That, **prior to registration of the plan of subdivision**, the Owner agrees to put the following warning clause in the purchase and sale agreements for all lots:

This property includes two private parking spots for motor vehicles - one in the garage and one in the driveway. No additional private or public parking spaces are guaranteed.

26. That, **prior to preliminary grading**, the owner shall adequately demonstrate that they have acquired the lands or an easement across the lands to "Street D" in the neighbouring Lancaster Heights subdivision (formerly Mountaingate, draft plan revision dated 2017-09-08) and shall include in the engineering design and cost estimate schedules provisions for an adequate storm connection, a concrete walkway, and capacity to convey the major overland storm flows from Street B to the satisfaction of the Senior Director of Growth Management.
27. That, **prior to preliminary grading**, the owner agrees to stage construction of the subdivision such that the impact to the existing residents on Spitfire Drive are minimized including, but not limited to driveway access, street closures, and garbage pickup, to the satisfaction of the Senior Director of Growth Management.
28. That, **prior to registration of the plan of subdivision**, the Owner establish and submit the necessary transfer deeds to the City's Legal Services to convey to the City with no City Share for land or construction costs in accordance with the current Development Charges Bylaw a 9.0 m wide block at the south-west limit of the subdivision between Lots 114 and 115 as shown on the Draft Plan with revision date 2018-11-20 in order to accommodate the storm sewer connection and a public walkway to the adjacent lands to the satisfaction of the Senior Director of Growth Management.
29. That, **prior to registration of the plan of subdivision**, the Owner establish the following easements in favour of the City:
- a. A 9.0 m wide easement from Street 'A' (future extension of Spitfire Drive) to the north limits of the subdivision between Lots 11 and 12 as shown on the Draft Plan with revision date 2018-11-20 in order to accommodate the storm sewer connection to the adjacent lands to the north,
 - b. A 9.0 m wide easement from Street B to the north limits of the subdivision between Lots 56 and 57 as shown on the Draft Plan with revision date 2018-11-20 in order to accommodate a storm sewer for major storm flows
- all to the satisfaction of the Senior Director of Growth Management.
30. That, **prior to registration of the plan of subdivision**, the owner agrees that any pipe oversizing required to convey flows during storm events beyond the five-year storm are entirely at the cost of the owner and will not be eligible for

- cost sharing with the City, to the satisfaction of the Senior Director of Growth Management.
31. 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 wheel chair ramps that incorporate integrated tactile accessibility features as per RD-124 entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
 32. That, **prior to servicing**, the owner agrees to include in the design and cost estimates removal of the existing temporary turning circles at the west end of Spitfire Drive and at both ends of Marion Street, including restoration of road surface, curbs, driveways, and property grading, entirely at the owner's expense, to the satisfaction of Senior Director of Growth Management.
 33. That, **prior to servicing**, the owner agrees to include in the design and cost estimates removal of the existing temporary storm water management pond at the west end of Spitfire Drive and restoration with engineered fill suitable for the proposed development as certified by a qualified geotechnical professional entirely at the owner's expense to the satisfaction of Senior Director of Growth Management.
 34. That, **prior to preliminary grading**, the owner shall prepare and provide a Construction Management Plan that:
 - a. Includes confirmation of permission from each adjacent land owner where access to properties external to the subject lands is required,
 - b. Identifies the plan and procedure for removal of excess soils,
 - c. Identifies the plan and procedure for imported fill including quality control measures to ensure suitability for the proposed works, any time constraints on when materials can be brought to the site, and any required staff and experts required to oversee import and placement of materials,
 - d. Provides details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc.,
 - e. location and maximum dimensions of stockpiling,
 - f. Identifies any required sidewalk and/or lane closures and the estimated length of time for such closures,
 - g. Includes details of heavy truck routing,

- h. Identifies any items to be relocated, such as affected utility poles, hydrants, pedestals, hydro vaults, etc. on Spitfire Drive and Marion Street, all to the satisfaction of the Senior Director of Growth Management,
- 35. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for construction of a 1.5 metre high black vinyl coated heavy duty chain link fence entirely at the owner's expense in the following locations as identified on the Draft Plan with revision date 2018-11-20:
 - a. Along the east and west limits of the servicing corridor and walkway block shown as Block 125,
 - b. Along the north boundaries (rear lot lines) of Lots 1 to 14 inclusive,
 - c. Along the west boundary (side lot line) of Lot 1,
 - d. Along the North boundary of Block 126 from Block 125 to east limit of the subdivision lands (along the adjacent lot lines of Lots 104 to 114 inclusive),
 - e. Along the east boundary (rear lot lines) of lots 72 to 79 inclusive, all to the satisfaction of the Senior Director of Growth Management.
- 36. That, **prior to servicing**, the Owner prepare a revised on-street parking plan for Streets A and B based on the premise of achieving on-street parking for 40% of the total number of units and it shall include:
 - a. driveway ramps and curb openings for all lots,
 - b. the pairing of driveways,
 - c. where lots in the subdivision abut a park entrance or a public walkway, and
 - d. 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.
- 37. That, **prior to registration of the plan of subdivision**, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the following intersections:
 - a. Street 'A' and Street 'B',
 - b. The bend in Street 'B' where it transitions from North-South to East-West,

- c. Street 'B' and Street 'C' (extension of Marion Street),
- all to the satisfaction of the Senior Director of Growth Management.
38. That, **prior to preliminary grading**, the Owner agrees in writing that the removal of all existing septic beds, buildings, sheds, storm water management ponds (including associated infrastructure), or any structures will be at the sole cost to the owner to the satisfaction of the Senior Director of Growth Management.
39. That, **prior to servicing**, the Owner be required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. on Spitfire Drive and Marion Street entirely at the owner's expense to the satisfaction of the Senior Director of Growth Management.
40. 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 including building construction within the subdivision and that this document will 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.
41. That, **prior to servicing**, the owner shall submit a revised 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.

42. That, **prior to servicing**, the owner shall submit an impact and mitigation plan that:
- a. addresses the scenario where water well interference issues arise from the development
 - b. includes a protocol for investigating potential complaints and a plan for mitigating impacts in case they are attributable to the development

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

43. That, **prior to registration of the plan of subdivision**, the owner agrees to pay to the City cost recoveries including indexing for inflation per the City's financial policy for existing works by others that benefit the development including:
- 131.66 m total frontage for sanitary sewer on Marion Street,
 - 200.66 m total frontage for watermain on Marion Street

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

44. That, **prior to registration of the plan of subdivision**, 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 any lands in a way that would conflict with the approved grading plan without approval from the City of Hamilton to the satisfaction of the Senior Director of Growth Management.

45. That, **prior to servicing**, the Owner shall indicate all driveway locations on the engineering drawings for all lots, and that no driveway shall be located within a daylight triangle. Further, all driveway locations at bends and corners shall be situated to ensure that the driveways are within their own lot frontages to the satisfaction of the Senior Director of Growth Management.

46. That, **prior to servicing**, the owner shall include in the engineering design and cost schedules entirely at the owner's expense provision for a minimum of 2.0m separation between foundation walls and a maximum water surface depth of 0.30m on rear lot catch basins in any case where there is a requirement of an overland flow route to the municipal road allowance to the satisfaction of the Senior Director of Growth Management.

47. That, **prior to servicing**, the owner shall include in the engineering design and cost schedules provision for their share of maintenance works and monitoring on the downstream storm water management pond in the adjacent Lancaster Heights subdivision (draft plan revision dated 2017-09-08) to the satisfaction of the Senior Director of Growth Management.

48. 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. demonstrate that the hydraulic grade line (HGL) for the post-development 100-year storm event is located at or below the top of grade elevation at all inlet locations, and that the 5 year HGL shall not exceed the obvert of the sewers,
 - c. maintain drainage routing through the subject lands for any external storm flows that drain to or through the lands,
 - d. 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.

49. That, **prior to preliminary grading**, the Owner shall demonstrate that:
- a. the SWM facility in the neighbouring Lancaster Heights subdivision (draft plan revision dated 2017-09-08) is complete and fully operational or that an alternative suitable temporary storm outlet has been established including any necessary easements or other legal access requirements,
 - b. An appropriate overland flow route through the neighbouring Lancaster Heights subdivision (draft plan revision dated 2017-09-08) for the subject development is constructed and operational,
 - c. A suitable storm outlet for the drainage area that includes the rear yards of lots 104 to 114 inclusive and Block 126 is established in accordance with the FSR prepared for the neighbouring Lancaster Heights subdivision (draft plan revision dated 2017-09-08),

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

50. That, **prior to preliminary grading**, the owner shall demonstrate that the temporary SWM facility on the subject lands at Spitfire Drive is decommissioned to the satisfaction of the Senior Director of Growth Management.
51. That, **prior to preliminary grading**, if any uncontrolled overland runoff up to the 100-year storm event is expected to drain south from lots 84 to 101 of the subject

lands onto the private lands to the south (fronting onto Aberdeen Avenue), the Owner shall demonstrate:

- that the subject development has riparian rights to do so,
- that an emergency spillway has been established between 32 and 42 Aberdeen Avenue that can convey 100-year post development flows, and
- that an appropriate easement has been established for this spillway,

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

52. That, **prior to preliminary grading**, the Owner shall obtain written permission from adjacent land owners for any grading works external to the site to the satisfaction of the Senior Director of Growth Management.
53. That, **prior to servicing**, the owner shall include in the engineering design and cost schedules entirely at the owner's expense a storm sewer between lots 11 and 12 that conveys storm runoff from the 100-year storm from catchments EX1, EX3, and EX4 (as shown on the Storm Drainage Area Plan) to the satisfaction of the Senior Director of Growth Management.
54. 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;
 - b. an adequate security for costs to repair and reconstruction to any of these roads that are damaged due to construction;to the satisfaction of the Senior Director of Growth Management.
55. That, **prior to registration of the plan of subdivision**, the owner agrees to prepare a post-construction survey/photo inventory that corresponds to the pre-construction survey required in Condition 54 to identify any damages and the owner further agrees to repair those damages all to the satisfaction of the Senior Director of Growth Management.
56. That, **prior to preliminary grading**, the owner agrees to provide a minimum of 0.45m between the base of any proposed retaining walls and adjacent property lines and that retaining walls shall be located on the property of higher elevation where possible to the satisfaction of the Senior Director of Growth Management.
57. That, **prior to preliminary grading**, lots 1 to 18 remain undevelopable until it has been demonstrated that runoff from the neighbouring school lands north of those

lots can be adequately conveyed through the subject lands, including any easements as required to the satisfaction of the Senior Director of Growth Management.

Growth Planning

58. That **prior to registration**, the existing Draft Approval on a portion of the subject lands (Mountville Estates 25T-92009) is closed to the satisfaction of the Director of Growth Planning.

City Cost Sharing

Any share costs with the Owner will be in accordance with the City's Financial Policy.

NOTES TO DRAFT PLAN APPROVAL

- Pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses.
- That payment of Cash-in-Lieu of Parkland will be required for the development prior to the issuance of each building permit for the lots within the plan. The calculation of the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of the building permit; all in accordance with the Financial Policies for Development, and the City's Parkland Dedication By-law, as approved by Council.
- This property is eligible for weekly collection of Garbage, Recycling, Organics, and Leaf and Yard Waste through the City of Hamilton subject to compliance with specifications indicated by the Public Works Department and subject to compliance with the City's Solid Waste By-law 09-067, as amended.

Specific Modification to the R4-312 Zone

Regulation	Required	Modification	Analysis
Minimum Lot Frontage	15 metres for interior lots and 18 metres for corner lots	10 metres for interior lots and 11.6 metres for corner lots	The applicant has proposed a minimum lot frontage of 10 metres for interior lots and 11.6 metres for corner lots. The proposed reduction for interior and corner lots is appropriate for the subject property because it accommodates adequate building envelopes, driveway widths for a parking space, side yard setbacks and is considered a sufficient width to maintain good engineering practices. Further, the proposed lot frontage will act as a streetscape transition between the Lancaster Heights Subdivision to the west which accommodates narrower frontages and different residential forms and the existing neighbourhood to the east with larger lot frontages. As such, this request for a reduction is considered minor and appropriate for the streetscape as it is compatible with the surrounding neighbourhood and staff are supportive of this modification.
Minimum Lot Area	450 square metres for interior lots and from 550 square metres for corner lots	270 square metres for interior lots and 315 square metres corner lots	The applicant has proposed a minimum lot area of 270 square metres for interior lots and 315 square metres corner lots. The reduction in minimum lot size has been deemed to be adequate as it provides a transition from the existing residential development to the east to the approved but unbuilt Lancaster Heights Subdivision to the west. Further, the reduced lot sizes can accommodate enough parking spaces, landscaping and appropriate engineering practices. As such, this request for a reduction is considered minor and appropriate as it is compatible with the surrounding

Regulation	Required	Modification	Analysis
			neighbourhood and staff are supportive of this modification.
Minimum Lot Coverage	35%	50%	The applicant has requested an increase in the maximum lot coverage from 35 % to 50%. The front yard, rear yard and side yard setbacks, which are also discussed in this Appendix, establish a building footprint that is appropriate for this form of development and provides adequate outdoor amenity space. Also, similar forms of development exist to the east and west in other residential areas and is consistent with the Mount Hope community. As such, staff are supportive of this modification as it maintains the existing character of the Mount Hope community.
Minimum Front Yard	7.5 metres	4.5 metres, except 6 metres to an attached garage	The applicant has requested a decrease in the minimum front yard setback from 7.5 metres to 4.5 metres for the dwelling and 6 metres to an attached garage. The modification to the garage is considered to be minimal reduction and will allow for a more consistent streetscape. The front yard will be compatible with the lands to the east, located in the "Lancaster Heights" development and are a minimal transition to the lots located on Spitfire Drive and Marion Street with a front yard of 7.5 metres. The reduced front yard will allow for a recessed garage so that it does not dominate the frontage of the dwelling and will allow for a driveway parking space. Further, combined with the rear yards, adequate amenity space will be provided. As such, staff are supportive of this modification as it maintains the existing character of the Mount Hope community.

Regulation	Required	Modification	Analysis
Minimum Side Yard	1.2 metres and 4.5 metres on the side where there is no garage or carport	1.2 metre on one side and 0.6 metres on another	The applicant is proposing a 1.2 metre side yard setback on one side and 0.6 metres on the other side. The side yard setbacks are satisfactory to provide for access and engineering requirements. Further the reduced side yard setbacks provide for a modern built form which compliments similar compact development within Mount Hope and as a result staff are supportive of the modification.
Minimum Side Yard (flankage lot line of a corner lot)	6 metres	3 metres	On a corner lot, the minimum side yard abutting the flanking street shall be 3 metres. Staff are satisfied that this request is considered minor, maintains good planning principles, is in keeping with current urban development standards and can be supported to compliment similar compact development occurring to the west and in other residential areas within the Mount Hope community.
Minimum Rear Yard	7.5 metres	7 metres	The applicant has requested a decrease in the minimum rear yard from 7.5 metres to 7 metres. Staff consider the request of a 0.5 metre change to be minor and consistent with zoning for other areas of Mount Hope. Further, there are a number of lots that have an excess of the requested minimum, which contributes to lot variability in the Mount Hope area. As a result, staff are satisfied that the request maintains good planning principles and are supportive of the request.

Regulation	Required	Modification	Analysis
Maximum Building Height	10.7 metres	11 metres	The applicant has requested an increase in building height from 10.7 metres to 11 metres. Staff consider the 0.3 metres increase in height to be modest and will be compatible with adjacent developments. The increase will not provide for additional storeys in each dwelling unit and will not create concerns of overlook or privacy, but will provide architectural flexibility. As a result, staff are satisfied that this request is minor and maintains good planning principles.
Maximum Encroachments for Architectural Elements	0.5 metres	0.6 metres, except a porch may encroach 1.5 metres into a front and rear yard	The applicant has requested an increase in the encroachment into any yard to permit architectural elements such as wall projections and bay windows. Further, the applicant has requested an increase in the projection into front and rear yards for porches. Encroachment for porches into a front yard of 1.5 metres will also be permitted which will allow for an ultimate minimum front yard of 3 metres which is considered to be appropriate given the size of the rear yard amenity area and proximity to the Neighbourhood Park and is in keeping with the focus on creating a pedestrian friendly environment. An encroachment into a rear yard of 1.5 metres has the potential to permit a rear yard of 5.5 metres which is considered to be sufficient for stormwater management requirements. Staff are supportive of both increases to permitted encroachments as it will result in more architectural variability and useable porch space for amenity areas for future residents. Staff consider the request to be minor and consistent with zoning for other areas of Mount Hope.

Regulation	Required	Modification	Analysis
Minimum Parking Space Size in a Garage	3 metres x 6 metres with 35% of spaces being 3 metres x 5.8 metres	3 metres x 6 metres	The applicant requested a decrease in the length of a parking stall size for each space for ninety degree perpendicular parking however staff amended the application to require the entire space to be 3 metres x 6 metres. This modification is technical in nature and staff consider the modification to be minor since it will still allow adequate parking space within the garage. Staff are satisfied with the modification.
Encroachment into Garage Parking Space	35% of the parking space may have a minimum width of 2.6 metres and a minimum length of 5.8 metres	Maximum encroachment into a garage parking space of 0.25 metres	The applicant has requested a modification to permit an encroachment of 0.25 metres into a garage parking space to allow for steps leading from the dwelling to the garage. As the modification provides clarity on the existing regulation which permits 35% of any parking space to be 2.6 metres in width and 5.8 metres in length, it is considered to be minor and will allow for a useable parking space within the garage. Further, the requested modification will permit direct access to the garage and parked vehicles from the dwelling. As a result, the encroachment into a garage space is considered to be minor and consistent with zoning for other areas of Mount Hope.

Specific Modification to the R4-312a Zone

Regulation	Required	Modification	Analysis
Separation Between Adjacent Dwellings	n/a	2.0 metres (Lots 1-18)	Development Engineering has requested a modification to create a setback of 2.0 metres between adjacent dwellings for Lots 1 – 18 to facilitate adequate stormwater drainage controls. The request will allow for variability of the streetscape and contribute to the transition between existing residential development to the east and the “Lancaster Heights” development to the west, as well as providing the necessary drainage controls. As a result, staff are satisfied with the proposed modification.

Specific Modification to the P5, 722 Zone

Regulation	Required	Modification	Analysis
Setback to a P5 Zone	7.5 metres	0 metres	Natural Heritage has requested that the buffer provided between the residential development and the woodlot be zoned Conservation / Hazard Land (P5) Zone to ensure adequate conservation of the woodlot. Staff support the reduction to the special setback as the open space block incorporates the required buffers to the woodlot.

From: KYUNG WON Eun
To: [Roth, Jennifer](#)
Cc: [ygy7606](#)
Subject: Re: Question for notice
Date: July 17, 2018 10:47:40 AM

Hi Jennifer,

Good morning.

Thanks for your reply.

If possible, I would like to see the agreement that is a developer's responsible included relative personal property i.e. lawn, front yard, driveway.

Also, plz let me know when you have additional information about developing land later e.g. starting date of developing.

Thank you again.

Kyung-Won Eun(Kevin Eun)

56 Spitfire Dr.
Mount Hope, L0R 1W0
- dasanain@gmail.com
- [289-659-3070](tel:289-659-3070)

On 16 July 2018 at 16:04, Roth, Jennifer <Jennifer.Roth@hamilton.ca> wrote:

Good afternoon:

I apologize for the extensive delay. The Engineer pulled the Subdivision agreement, and the lawn, front yard and driveway will be extended at the cost of the developer of the adjacent lands. It is difficult to gauge when approvals will be in place, because there are additional challenges to work through.

If you have any other comments or questions, do not hesitate to contact me.

Thank you,

Jennifer

From: KYUNG WON Eun [mailto:dasanain@gmail.com]
Sent: January 11, 2018 8:27 PM
To: Roth, Jennifer <Jennifer.Roth@hamilton.ca>
Subject: Question for notice

Dear Ms Roth,

How are you?

My name is Kyung-Won Eun and live at [56 Spitfire Dr. Mount Hope](#), ON L0R 1W0.

Thanks for your detailed notice of application.

According to your notice, my house is located next area H-R3-122 as per the attached file.

Thanks for your notice about the building plan that will be developed in the future.

I'm writing because I need some information about this plan.

1. Will my lawn and front yard be extended (including the drive way) when it is started?

Right now it's court (as per the attached) and the drawing shows that it will be a straight road.

2. If it will be extended, who will be responsible for that change?

3. When will develop begin on the Housing Land Development?

Thank you very much.

Best regards,

Kyung-Won Eun

[56 Spitfire Dr.](#)

[Mount Hope, LOR 1W0](#)

- dasanain@gmail.com

- [289-659-3070](tel:289-659-3070)

From: KYUNG WON Eun
To: [Roth, Jennifer](#)
Subject: Question for notice
Date: January 11, 2018 8:27:10 PM
Attachments: [Original letter.tiff](#)

Dear Ms Roth,

How are you?

My name is Kyung-Won Eun and live at 56 Spitfire Dr. Mount Hope, ON L0R 1W0.

Thanks for your detailed notice of application.

According to your notice, my house is located next area H-R3-122 as per the attached file.

Thanks for your notice about the building plan that will be developed in the future.

I'm writing because I need some information about this plan.

1. Will my lawn and front yard be extended (including the drive way) when it is started?

Right now it's court (as per the attached) and the drawing shows that it will be a straight road.

2. If it will be extended, who will be responsible for that change?

3. When will develop begin on the Housing Land Development?

Thank you very much.

Best regards,

Kyung-Won Eun

56 Spitfire Dr.
Mount Hope, L0R 1W0
- dasanain@gmail.com
- [289-659-3070](tel:289-659-3070)



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street, and 125 Young Street, Hamilton (PED19089) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Mark Kehler (905) 546-2424 Ext. 4148
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the **Amended Zoning By-law Amendment Application ZAC-18-013, by 1955132 Ontario Ltd., Owner**, for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to the “E-3/S-1767” (High Density Multiple Dwellings) District, Modified and the “D/S-1767” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified to permit a four storey, 27 unit multiple dwelling and a three family dwelling on lands located at 122 & 126 Augusta Street and 127 Young Street, and 125 Young Street, Hamilton as shown on Appendix “A” to Report PED19089 be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED19089 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 PED19089 be added to District Map E5 of Zoning By-law No. 6593 as “E-3/S-1767” and “D/S-1767”;
 - (iii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 2 of 29

Holding Symbol 'H' as a suffix to the proposed zoning for Blocks 1, 3 and 4 as shown on Schedule "A" of Appendix "B" to Report PED19089;

The Holding Provision "E-3/S-1767-H" (High Density Multiple Dwellings) District, Modified, Holding applicable to Block 1 as shown on Schedule "A" of Appendix "B" to Report PED19089, be removed conditional upon:

- (1) The Owner conduct a Stage 3 Archaeological Assessment, and Stage 4 Archaeological Assessment if required, for the site and receive approval of this / these report(s) from the Ministry of Tourism, Culture and Sport and the City of Hamilton, to the satisfaction of the Manager of Development Planning, Heritage and Design.

The Holding provision "D/S-1767-H" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, Holding applicable to Block 3 as shown on Schedule "A" of Appendix "B" to Report PED19089, be removed conditional upon:

- (1) The Owner apply for a Building Permit to legalize the existing three family dwelling, to the satisfaction of the City's Chief Building Official.

The Holding Provision "D/S-1767-H" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, Holding applicable to Block 4 as shown on Schedule "A" of Appendix "B" to Report PED19089, be removed conditional upon:

- (1) The Owner conduct a Stage 3 Archaeological Assessment, and Stage 4 Archaeological Assessment if required, for the site and receive approval of this / these report(s) from the Ministry of Tourism, Culture and Sport and the City of Hamilton, to the satisfaction of the Manager of Development Planning, Heritage and Design.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) and complies with the Urban Hamilton Official Plan.
- (b) That upon finalization of the amending By-law, that the subject lands be re-designated from "Single and Double" to "Medium Density Apartments" in the Corktown Neighbourhood Plan.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 3 of 29

EXECUTIVE SUMMARY

The Owner, 1955132 Ontario Ltd. has applied for a Zoning By-law Amendment to permit a four storey, 27 unit multiple dwelling and a three family dwelling. A total of 21 surface parking spaces are proposed for the multiple dwelling and two surface parking spaces are proposed for the three family dwelling.

The purpose of the Zoning By-law Amendment is to rezone the lands municipally known as 122 & 126 Augusta Street and 127 Young Street, and 125 Young Street from the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to the “E-3/S-1767” (High Density Multiple Dwellings) District, Modified (Blocks 1 and 2 on Appendix “A” to Report PED19089) and the “D/S-1767” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified (Blocks 3 and 4 on Appendix “A” to Report PED19089).

The applicant has requested modifications to the “E-3” District for:

- Reduced maximum building height;
- Reduced minimum front, side and rear yard setbacks;
- Reduced minimum landscaped area;
- Eliminated minimum separation for a front porch, bay, balcony, dormer, canopy, cornice, eave of gutter projection from a street line;
- Reduced overall parking rate;
- Reduced visitor parking rate;
- Modified minimum parking space dimensions;
- Eliminated loading space requirement;
- Reduced separation distance from a parking area to a residential district; and,
- Reduced separation distance from an access driveway to a residential district.

Modifications to the “D” District are required to legalize the existing three family dwelling within the existing three storey building on a reduced lot. The applicant has also requested modifications to the required parking space dimensions and manoeuvring space.

The proposed multiple dwelling and three family dwelling represent an appropriate level of intensification at this location that respects and enhances the character of the neighbourhood and diversifies the housing type, form and tenure in the area. The application has merit and can be supported as the proposal is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2017) (the Growth Plan), and complies with the Urban Hamilton Official Plan (UHOP).

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 4 of 29

Alternatives for Consideration – See Page 28

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 an application for an amendment to the Official Plan and Zoning By-law.

HISTORICAL BACKGROUND

Proposal

The four storey, 27 unit multiple dwelling and three family dwelling would occupy two properties located at 122 & 126 Augusta Street and 127 Young Street, and 125 Young Street respectively. The property known as 122 & 126 Augusta Street and 127 Young Street has frontages on both Augusta Street and Young Street and is located mid-block between Catharine Street South and Walnut Street South. 125 Young Street is located on the north side of Young Street, mid-block between Catharine Street South and Walnut Street South.

The property located at 122 & 126 Augusta Street and 127 Young Street is currently occupied by a one storey single detached dwelling fronting Augusta Street. 125 Young Street is occupied by a three storey building containing a three family dwelling and a detached garage in the rear yard. A three family dwelling is not a permitted use in the “D” District zoning applicable to the subject lands and there is insufficient information in Building Division records to determine if the existing three family dwelling at 125 Young Street was legally established prior to the passing of former City of Hamilton Zoning By-law No. 6593.

The applicant is proposing to demolish the existing dwelling at 122 & 126 Augusta Street and 127 Young Street to construct a four storey multiple dwelling with 27 dwelling units, and 21 associated surface parking spaces, including four visitor parking spaces. A total of 31 long term and 5 short term bicycle parking spaces are proposed. The multiple dwelling would front Augusta Street with vehicle access provided from Young Street at the rear of the site. The proposal includes a 325 sq m outdoor amenity area on the roof of the multiple dwelling and a 176 sq m outdoor amenity area at the southeast corner of the site. The existing three family dwelling at 125 Young Street is proposed to be recognized and maintained through the amending by-law with a total of two parking spaces located at the rear of the site.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 5 of 29

The applicant intends to sever a rear portion of 125 Young Street and add it to the development site at 122 & 126 Augusta Street and 127 Young Street to accommodate additional surface parking for the proposed multiple dwelling. In addition, the applicant intends to sever a westerly portion of the property at 122 & 126 Augusta Street and 127 Young Street and add it to the development site at 125 Young Street to increase the lot width for the existing three family dwelling and increase the manoeuvring space for the proposed rear yard parking spaces.

To accommodate the proposed development, the applicant has applied for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to the “E-3/S-1767” (High Density Multiple Dwellings) District, Modified (Blocks 1 and 2 on Appendix “A” to Report PED19089) and the “D/S-1767” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified (Blocks 3 and 4 on Appendix “A” to Report PED19089).

Modifications to the “E-3” District have been requested for

- Reduced maximum building height;
- Reduced minimum front, side and rear yard setbacks;
- Reduced minimum landscaped area;
- Eliminated minimum separation for a front porch, bay, balcony, dormer, canopy, cornice or eave projection from a street line;
- Reduced overall parking rate;
- Reduced visitor parking rate;
- Modified minimum parking space dimensions;
- Eliminated loading space requirement;
- Reduced separation distance from a parking area to a residential district; and,
- Reduced separation distance from an access driveway to a residential district.

Modifications to the “D” District have been requested to legalize the existing three family dwelling within the existing three storey building on a reduced lot and modify the required parking space dimensions.

On October 12, 2018, the applicant submitted a revised concept site plan in response to comments from Planning staff. Revisions included increased side yard setbacks from 1.2 m to 2.0 m, increased landscape strips between the proposed parking area and adjacent residential uses, and revised parking space sizes to meet to the Council approved Zoning By-law No. 05-200 minimum parking space size of 3.0 m by 5.8 for the proposed multiple dwelling.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 6 of 29

On January 17, 2019, the applicant submitted a revised concept plan in response to Transportation Planning comments that included 31 long term and five short term bicycle parking spaces.

Finally, on February 8, 2019, the applicant submitted a revised concept plan that includes revised parking space sizes for the three family dwelling that meet the Council approved Zoning By-law No. 05-200 minimum parking space size of 3.0 m by 5.8 m.

Chronology:

<u>October 19, 2017:</u>	Meeting with the Corktown Neighbourhood Association
<u>December 21, 2017:</u>	Submission of Zoning By-law Amendment Application ZAC-18-013.
<u>January 16, 2018:</u>	Application ZAC-18-013 deemed complete.
<u>January 25, 2018:</u>	Notice of Complete Application and Preliminary Circulation was sent to 696 property owners within 120 m of the subject lands.
<u>January 26, 2018:</u>	Public Notice Sign installed on the subject lands.
<u>February 8, 2018:</u>	Microsite posted by the applicant.
<u>March 8, 2018:</u>	Address of the microsite posted below the Public Notice sign on site.
<u>October 12, 2018:</u>	Revised concept plan submitted in response to staff comments.
<u>January 17, 2019:</u>	Revised concept plan submitted in response to staff comments.
<u>February 8, 2019:</u>	Revised concept plan submitted in response to staff comments.
<u>April 3, 2019:</u>	Notice Sign updated with the Public Meeting date.
<u>April 12, 2019:</u>	Circulation of the Notice of Public Meeting to 696 property owners within 120 m of the subject property.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 7 of 29

Details of Submitted Applications:

Owner:	1955132 Ontario Ltd.
Applicant:	1955132 Ontario Ltd.
Agent:	UrbanSolutions (c/o Matt Johnston)
Location:	122 & 126 Augusta Street and 127 Young Street, and 125 Young Street (see Appendix “A” to Report PED19089).
Property Description:	<u>122 & 126 Augusta Street and 127 Young Street</u>
	<u>Lot Frontage:</u> 35.53 m (Augusta Street)
	<u>Lot Depth:</u> Irregular
	<u>Lot Area:</u> 1,819 sq m (0.182 ha)
	<u>Servicing:</u> Existing Full Municipal Services
	<u>125 Young Street</u>
	<u>Lot Frontage:</u> 9.75 m
	<u>Lot Depth:</u> 40.72 m
	<u>Lot Area:</u> 394 sq m (0.39 ha)
	<u>Servicing:</u> Existing Full Municipal Services

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	A one storey single detached dwelling and a three storey three family dwelling	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 8 of 29

Surrounding Land Uses:

North	A two storey building containing an institutional use and a two storey vacant building	Community Institutional (I2, 456) Zone and “E/S-950” (Multiple Dwellings, Lodges, Clubs, Etc.) District, Modified
East	Single detached dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District
South	A two storey building containing a chiropractors office and a two and a half storey building containing an office	“E-3/S-1040” (High Density Multiple Dwellings) District, Modified and “E-3/S-1225” (High Density Multiple Dwellings) District, Modified
West	Semi-detached dwellings	“D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The Provincial Planning 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 of, adoption and subsequent Local Planning Appeal Tribunal approval of the UHOP, 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 (i.e. efficiency of land use, balanced growth and environmental protection) are reviewed and discussed in the Official Plan analysis that follows.

Staff note that the 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.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 9 of 29

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 existing one storey detached dwelling at 122 & 126 Augusta Street and 127 Young Street is included in the City’s Inventory of Buildings of Architectural and / or Historical Interest. The subject lands are also adjacent to the following properties included in the City’s Inventory of Buildings of Architectural and / or Historical Interest:

- 112, 114, 116, 118, 128, 130, 132, 134 and 138 Augusta Street; and,
- 117, 119, 121, 131, 133 and 139 Young Street.

The applicant submitted a Cultural Heritage Impact Assessment (CHIA) dated August 30, 2017 prepared by Megan Hobson. The CHIA assessed the impact of the proposed demolition of the existing dwelling at 122 & 126 Augusta Street and 127 Young Street and the redevelopment of the subject lands on adjacent cultural heritage resources. The CHIA recognizes design features that would make the proposed development more compatible with the character of the neighbourhood including red brick building material, projecting bays similar to adjacent properties and window proportions and locations that are similar to adjacent dwellings. Further, the CHIA recommends additional measures to mitigate the impact of the development including the use of traditional materials for walls and balconies and architectural details to add further texture and articulation. Staff have reviewed the CHIA and consider it comprehensive and complete. Staff recommend that any historic fabric to be removed be salvaged for re-use where feasible. Should the application be approved, a Documentation and Salvage Report would be required as a condition of Site Plan.

The CHIA was reviewed by the Policy and Design Working Group (the Working Group) on March 19, 2018. The Working Group commented that the existing building at 122 & 126 Augusta Street and 127 Young Street is important to the character of the neighbourhood as a rare remaining example of an architectural style. The Working Group suggested that the building should be retained with the possibility of relocating it either on site or within the neighbourhood. Staff have considered the input provided by the Working Group and are of the opinion that the existing dwelling represents an underutilization of the subject lands and that cultural heritage can be addressed through sensitive design of the proposed multiple dwelling and the salvage of materials from the existing building where feasible.

In addition, the subject property meets two of the ten criteria used by the City of Hamilton and the Ministry of Tourism, Culture and Sport for determining archaeological potential:

1. In areas of pioneer EuroCanadian settlement; and,

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 10 of 29

2. Along historic transportation routes

A Stage 1-2 Archaeological Assessment dated September 15, 2017 was completed for the subject lands by Detritus Consulting Ltd. and submitted to the City of Hamilton and the Ministry of Tourism, Culture and Sport. The Assessment recommends that further archaeological work be conducted to address the archaeological potential of the property. Staff concur with this recommendation and require that a Holding Provision be added to the amending by-law requiring that a Stage 3 Archaeological Assessment be submitted to and approved by the City of Hamilton and the Ministry of Tourism, Culture and Sport. Should the Stage 3 Assessment identify the need for a Stage 4 Archaeological Assessment, this Assessment would also be required prior to removal of the Holding Provision.

As the application for a change in zoning complies with the UHOP, and based on staff's review of the proposal, it is staff's opinion that the application is:

- Consistent with Section 3 of the *Planning Act*;
- Consistent with the PPS; and,
- In conformity with the Growth Plan.

Urban Hamilton Official Plan

The subject property is identified as "Neighbourhoods" on Schedule "E" – Urban Structure and designated "Neighbourhoods" on Schedule "E-1" – Urban Land Use Designations of the UHOP. The following policies, amongst others, apply:

Neighbourhoods

- "E.2.6.4 The Neighbourhoods element of the urban structure shall permit and provide for a full range of housing forms, types and tenure, including affordable housing and housing with supports.
- E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted. Applications for development and residential intensification within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Section B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and E.6.0 – Institutional Designation.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 11 of 29

- 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.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and housing with supports;
- E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.”

Policies E.2.6.4, E.3.2.1 and E.3.2.3 a) reinforce the importance of providing a range of residential dwelling types and densities within a neighbourhood. The Corktown neighbourhood includes a mix of residential dwelling types including single detached, semi-detached and townhouse dwellings. Low-rise and mid-rise multiple dwellings exist within the neighbourhood, including mid-block on local streets, and high rise multiple dwellings exist towards the Niagara Escarpment at the southern edge of the neighbourhood. The proposed four storey multiple dwelling and three family dwelling would add to the range of dwelling types and densities in a form that is consistent with the neighbourhood character.

Policies E.2.6.7 and E.3.2.4 establish that new development shall be compatible with the existing character of the neighbourhood. According to the UHOP, the term compatible means “land uses and building forms that are mutually tolerant and capable of existing together in harmony within the area. Compatibility or compatible should not be narrowly interpreted to mean “the same as” or even as “being similar to.” The proposed multiple dwelling respects and enhances the existing character of the neighbourhood that includes multiple dwellings located mid-block on local roads. For example, a ten storey multiple dwelling and a six storey multiple dwelling exist on the east side of Catharine Street South between Augusta Street and Young Street and three storey multiple dwellings exists mid-block on Young Street and Forest Avenue between Walnut Street South and Ferguson Avenue South. The proposed 13.5 m height for the primary building is compatible with the 14.0 m building height permitted in the surrounding “D” District Zone and is consistent with the four storey townhouse development located a block west of the subject lands at the southwest corner of Augusta Street and Catharine Street South. In order to ensure compatibility with the adjacent two and two and a half storey detached dwellings, a minimum two metre side

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 12 of 29

yard setback is required for the multiple dwelling and a minimum six metre side yard setback is required for the proposed rooftop amenity area.

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.3.6.4 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:
- a) greater than 100 units per hectare and not greater than 500 units per hectare in Central Hamilton”

The subject lands are included in the Central Hamilton area in accordance with Appendix G – Boundaries Map of the UHOP. The proposed multiple dwelling would have a net residential density of 138.7 units per hectare and the proposed three family dwelling would have a net residential density of 111.7 units per hectare. Overall, the proposed development would have a net residential density of 135.4 units per hectare. Therefore, as per Policy E.3.6.6 a), the proposed density falls within the high density residential policies of the Neighbourhoods designation.

Consistent with Policy E.3.6.1, the subject lands are located at the northern periphery of the portion of the Corktown neighbourhood located to the south of the CN railway tracks in proximity (approximately 200 m) to John Street South, a minor arterial road.

With regards to Policies E.3.6.4 and E.3.6.5, the subject lands are located one block south of the Downtown Urban Growth Centre and are within walking distance of HSR transit on John Street South, Hunter Street East, and at the Hunter Street Bus Terminal. Inter-city transit is available at the nearby Hunter Street GO Centre. The site is within safe convenient walking distance of Queen Elizabeth Public School and Corktown Park and Shamrock Park.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 13 of 29

In accordance with the High Density Residential policies of the UHOP, the subject lands are located at an appropriate location within the neighbourhood to accommodate a High Density Residential use and have convenient access to services, commercial uses and employment opportunities.

“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. If direct access to such a road is not possible, the development may be permitted direct access to a collector or major or minor arterial road via a local road upon which abut only a small number of low density residential category dwellings.
- 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.
- 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.
- 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;

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 14 of 29

- iii) utility and service structures such as garbage enclosures; and,
- iv) expanses of blank walls.

In accordance with Policy E.3.6.7 a), both the multiple dwelling and the three family dwelling would have direct access to John Street South, a minor arterial road, via Young Street, a local road. The south side of Young Street between the subject lands and John Street South is occupied by multiple dwellings and commercial uses. A small number of low density single detached and semi-detached dwellings about the north side of Young Street (a total of eight).

The proposed four storey multiple dwelling is a mid rise building and therefore is not considered high profile as per Policy E.3.6.7 b). Therefore, in the opinion of staff, a separation distance or intervening land use is not required. The proposal incorporates design features such as setbacks, planting strips and visual barriers to mitigate adverse impacts on adjacent low profile residential uses.

As per Policy E.3.6.7 d), the Zoning By-law requires the proposed multiple dwelling to provide landscape strips adjacent to the surface parking area along the south, east and west property lines. A 176 sq m landscaped amenity area is proposed to the rear of the multiple dwelling and a 325 sq m outdoor amenity is proposed on the roof (see Appendix “D” to Report PED19089). Combined, the landscaped area and rooftop amenity area provide for a total of 18.5 sq m of shared outdoor amenity space per unit. In addition, the concept plan for the multiple dwelling includes private balconies for each unit and a shared gym space in the basement. The three family dwelling would have a 41 sq m outdoor amenity area located within the rear yard that meets the rear yard setback requirements applicable to the “D” District.

A total of 21 parking spaces are proposed for the multiple dwelling, including 17 parking spaces for residents and 4 parking spaces for visitors. The number of spaces represents a deficiency of 1 visitor parking space under the requirements of Zoning By-law No. 6593. A total of two resident parking spaces are proposed for the three family dwelling, whereas four parking spaces are required, including one visitor parking space. Given the availability of transit in the area and the provision of 31 long term and 5 short term bicycle parking spaces for the multiple dwelling, staff are satisfied that adequate parking would be provided for the proposed multiple dwelling and three family dwelling.

The proposed multiple dwelling is compatible with existing and future uses in the area as the 13.5 m height for the primary building is consistent with the 14.0 m height permitted in the surrounding “D” District zoned area and setbacks are provided to limit impacts on the low rise residential uses to the east, west and south. There is one proposed vehicle access for the multiple dwelling off of Young Street and pedestrian

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 15 of 29

access at the front of the building from Augusta Street. There is no proposed vehicle access from Augusta Street, limiting conflicts between traffic and pedestrians. Vehicle access for the three family dwelling will remain in its current location to the west of the existing dwelling. In the opinion of staff, the features of the proposed development satisfy Policy E.3.6.7 d).

With respect to Policy E.3.6.7 e), the proposed multiple dwelling contributes to the public realm by locating parking behind the building. The façades feature extensive glazing and there are no expanses of blank walls facing the public realm. Staff will review the landscape plan required at the Site Plan Control stage to ensure any utility structures or outdoor garbage facilities are adequately screened.

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 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;

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 16 of 29

- 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.”

The proposed multiple dwelling contributes to the range of dwelling types and tenures by developing an underutilized site with an appropriately scaled residential building, as per Policy B.2.4.1.4 c). The proposal complements the existing function of the neighbourhood as per Policy B.2.4.2.2 h) as the proposed high density development is located at the periphery of the neighbourhood with direct access to a minor arterial road, and has convenient access to public transit, services and the Downtown Hamilton Urban Growth Centre. As per Policy B.2.4.1.4 e), the Neighbourhoods policies of the Urban Structure encourage a range of dwelling types and tenures and development that complements the form and function of the neighbourhood as described above.

The proposed development respects and enhances the existing neighbourhood character as required by Policy B.2.4.1.4 b). It provides an appropriately designed building on an underutilized lot in a neighbourhood that features a mix of residential dwelling types, including multiple dwellings located mid-block on local roads. In accordance with Policies B.2.4.1.4 d) and B.2.4.2.2 b), c) and d), the proposal is designed to ensure compatibility with the surrounding area, including limiting nuisance effects such as shadowing, noise, lighting, traffic and overlook, and provides

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 17 of 29

appropriate setbacks and visual barriers to adjacent low rise residential buildings. To ensure there are no overlook effects from the proposed amenity area on the roof of the multiple dwelling, a minimum 6.0 m setback will be required from the rooftop patio to the side lot lines abutting adjacent single family dwellings. No windows are proposed along the west or east facades of the multiple dwelling, further limiting overlook. The proposed 13.5 m height for the primary building aligns with the permitted 14 m building height in the existing “D” District zone applicable to the lands, therefore shadow impacts would not significantly exceed those permitted as of right. Minimum 0.7 m planting strips and 1.2 m to 2.0 m high visual barriers are required to mitigate noise and light impacts of the surface parking area on adjacent residential uses.

Proposed amenity areas include a rooftop patio and rear yard landscaped area for the multiple dwelling and a rear yard amenity area for the three family dwelling. As per Policy B.2.4.2.2 f), the proposed amenities will complement the existing public parks within walking distance of the subject site, including Shamrock Park located approximately 50 m to the east.

The lot pattern in the neighbourhood features a mix of smaller lots containing single detached and semi-detached dwelling and larger lots containing multiple dwellings. The applicant has proposed to sever a rear portion of the lot at 125 Young Street and add it to the development site at 122 & 126 Augusta Street and 127 Young Street resulting in a reduced lot area from 393.6 sq m to 268.5 sq m for the three family dwelling. The applicant has submitted a lot study of the surrounding area demonstrating that the revised lot area would be consistent with other lots located in the immediate vicinity. The lots identified in the study are expected to contain primarily single family and two family dwellings, however the applicant has demonstrated that the existing three family dwelling can function on a reduced lot with appropriate provisions for parking and outdoor amenity. In addition, the applicant has proposed to sever a portion of 122 & 126 Augusta Street and 127 Young Street and add it to the east side of 125 Young Street, increasing the lot frontage at the street line for the three family dwelling from 9.75 m to 11.0 m. The lot for the proposed multiple dwelling is larger than the lots containing ten storey and six storey multiple dwellings to the west of the subject lands on the east side of Catharine Street between Augusta Street and Young Street. The multiple dwelling will enhance the existing streetscape by aligning the front of the building with adjacent buildings while maintaining appropriate setbacks to the single detached buildings to the east and west. Based on the foregoing, the proposal complies with Policies B.2.4.2.2 e) and g).

With respect to Policies B.2.4.1.4 f) and B.2.4.2.2 j), the subject site is serviced by municipal water, sewer and stormwater infrastructure. Staff did not request a Transportation Impact Study for the proposal as the size of the development does not raise concerns from a transportation capacity perspective.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 18 of 29

As discussed in the Provincial Policy section of this report, the applicant submitted a CHIA in response to Policy B.2.4.2.2 i). The CHIA recognizes that the proposed development includes design features that would complement adjacent cultural heritage resources and recommends additional measures to mitigate the impact of the development such as the use of traditional materials for walls and balconies and architectural details to add further texture and articulation. These measures will be further refined at the Site Plan Control stage.

Furthermore, the following urban design policies, amongst others, also apply:

Urban Design

“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;
- 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;

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;
- d) locating surface parking to the sides or rear of sites or buildings, where appropriate;
- e) using design techniques, such as building step-backs, to maximize sunlight to pedestrian areas.”

As per Policy B.3.3.2.3 a), the proposed four storey multiple dwelling and existing three family dwelling respect the character and development pattern of the area that includes

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 19 of 29

a mix of single detached, semi-detached, townhouse and multiple dwellings. In accordance with Policy B.3.3.2.3 g), the proposed multiple dwelling will complement the existing streetscape along Augusta Street by redeveloping an underutilized site and aligning the front main wall of the building with adjacent dwellings. Design features such as a front step back at the fourth storey (Policy B.3.3.3.5 e)), red brick cladding materials and projecting bays on the front façade further complement the neighbourhood character. In addition to the positive design elements noted above, staff will continue to work with the applicant through the Site Plan Control process to ensure the final design of the development, including amenity areas, façade materials and landscaping, provides a quality design that is sensitive to the community identity in accordance with Policies B.3.3.2.3 b) and B.3.3.2.3 f).

Consistent with Policies B.3.3.5 a) and b), entrances to the proposed multiple dwelling would be located close to the street and ample glazing is proposed along the Augusta Street frontage. Consistent with Policy B.3.3.4 d), on site parking is proposed at the rear of the proposed multiple dwelling and the existing three family dwelling.

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 provincial and municipal guidelines and standards.

B.3.6.3.7 A noise feasibility study, or detailed noise study, or both, shall be submitted as determined by the City prior to or at the time of application submission, for development of residential or other noise sensitive land uses on lands in the following locations:

e) 400 of a railway line.”

The proposed residential development would be located approximately 65 m from the CN railway line to the north and is a noise sensitive use. In addition, the development would be in close proximity to the GO / Metrolinx layover yard, a stationary noise source.

An Environmental Noise Assessment dated August 30, 2017 was prepared by Novus Environmental and submitted with the application. The report analysed noise levels in the area and recommended noise control measures including warning clauses, central air conditioning and noise reducing façade construction. Staff are satisfied with the report for rezoning purposes, however an addendum study will be required at the Site Plan Control stage providing further detail on the acoustical upgrades required. Noise

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 20 of 29

warning clauses will be included in all future purchase or lease agreements and noise control measures recommended in the addendum report will be implemented at the Site Plan Control stage.

Neighbourhood Plans

The following policy related to Neighbourhood Plans, amongst others, applies:

- “F.1.2.7 Neighbourhood plans are policies adopted by council resolution and do not form part of the Official Plan. Any proposal for development or redevelopment must conform to the designations, and policies in the Neighbourhood Plan.
- F.1.2.8 Any amendment to the Neighbourhood Plan must be evaluated using the provisions of Policies F.1.1.3 and F.1.1.4 and shall require a formal Council decision to enact the amendment.”

The subject property is designated “Single and Double” within the Corktown Neighbourhood Plan and is located within a Neighbourhood Residential Area. The “Single and Double” designation does not reflect the proposed multiple dwelling or three family dwelling. Therefore, staff recommend the Neighbourhood Plan be amended to designate the lands “Medium Density Apartments.”

The policies of the Corktown Neighbourhood Plan permit infill residential development within the Neighbourhood Residential Area. Buildings with heights greater than three storeys are permitted where the upper levels are stepped back. The Plan encourages predominantly street townhouses with some semi-detached and single detached houses. Staff are of the opinion that the scale and design of the proposed multiple dwelling and existing three family dwelling are consistent with the built form envisioned in the plan. Therefore, the proposed amendment to the Corktown Neighbourhood Plan is appropriate.

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

City of Hamilton Zoning By-law No. 6593

The subject lands are currently zoned “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

To permit the proposed multiple dwelling on lands identified as Blocks 1 and 2 on Appendix “A” to Report PED19089, the applicant has applied to change the zoning to a site specific “E-3/S-1767” (High Density Multiple Dwellings) District. The applicant has requested the following site specific modifications to the “E-3” District zoning:

SUBJECT: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 21 of 29

- Deem the Augusta Street the front lot line and Young Street the rear lot line;
- Permit a Multiple Dwelling only, notwithstanding all other uses permitted in the District;
- Reduce the maximum permitted building height to 13.5 m, with a mechanical penthouse and rooftop stair having a maximum height of 16.5 m;
- Reduce the minimum front yard depth to 0.0 m;
- Reduce the minimum side yard width to 2.0 m, except for a rooftop patio which shall be setback not less than 6.0 m from any side lot line;
- Reduce the minimum rear yard depth of 9.7 m;
- Reduce the minimum landscaped area to 17% of the lot area;
- Permit front porch, bay, balcony, dormer, canopy, cornice and eave projections to be located 0.0 m from a street line;
- Reduce the parking rate to 0.75 parking spaces per unit of which 0.13 shall be allocated for visitor parking;
- Provide no loading space;
- Modify the minimum parking space dimensions to 3.0 m by 5.8 m for non-parallel spaces;
- Modify the minimum parallel parking space dimensions to 2.4 m by 6.7 m. End spaces which have a clear unobstructed approach shall have a minimum length of 5.5 m;
- Reduce the minimum separation distance from a parking area to a residential district to 0.8 m; and,
- Reduce the minimum separation distance from an access driveway to a residential district to 0.7 m.

To maintain and legalize the existing three family dwelling on lands identified as Blocks 3 and 4 on Appendix “A” to Report PED19089, the applicant has proposed modifications to the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, including:

- Permit a three family dwelling within the existing building on a reduced lot with a minimum width of 11 m and a minimum lot area of 268.5 sq m; and,
- Minimum parking space dimensions of 3.0 m by 5.8 m.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections to the applications:

- Recycling & Waste Disposal, Environmental Services Division, Public Works Department
- Recreation Division, Healthy and Safe Communities Department; and,

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 22 of 29

- Alectra Utilities (formerly Horizon Utilities Corporation).

The following Departments and Agencies have provided comments on the applications:

CN Rail advised that the subject lands are located in close proximity to their Hamilton Subdivision, which is classified as a Principle Main Line. At Site Plan Control stage, a warning clause will be required in all offers of purchase and sale or lease advising residents of inherent adverse environmental factors (noise and vibration) due to the proximity of the site to the railway line.

Metrolinx advised that mitigation measures proposed in the Environmental Noise Assessment submitted by the applicant are appropriate and that a standard Metrolinx noise warning clause will be required in all offers of purchase and sale or lease. The Owner shall grant Metrolinx an environmental easement for operational emissions, registered on title against the subject residential dwellings in favour of Metrolinx. These comments will be addressed at the Site Plan Control stage.

Forestry and Horticulture Section, Public Works Department, noted that there are municipal tree assets on site. Should the applications be approved, a Tree Management Plan and Landscape Plan for street trees would be required at the Site Plan Control stage.

Transportation Planning Division, Planning and Economic Development Department, recommended that long term bicycle parking be provided at a rate of 0.5-1.25 per unit (14 to 34 spaces) and short term bicycle parking at a rate 0.05 to 0.2 per unit (2 to 5 spaces). The applicant has provided a revised concept plan that includes 31 long term and 5 short term bicycle parking spaces. They advised that 3 m by 3 m visibility triangles are required for the access driveway and that sidewalks are required to be continuous through the driveway approach. These comments will be addressed at the Site Plan Control stage.

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 was sent to 696 property owners within 120 m of the subject property on January 25, 2018. A Public Notice sign was posted on the property on January 25, 2018 and updated with the Public Meeting date on April 3, 2019. Finally, a Notice of Public Meeting was sent to all 696 property owners within 120 m of the subject property on April 12, 2019.

To date, five letters and a petition with 46 signatures have been submitted expressing concerns with the proposed development (Appendix “E” of Report PED19089). These concerns are summarized in the Analysis and Rationale section of this Report.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 23 of 29

Public Consultation Strategy

In accordance with their submitted Public Consultation Strategy, the applicant met with the Corktown Neighbourhood Association on October 19, 2017, prior to the submission of their application. On February 8, 2018, the applicant posted the application materials on a microsite available to the public. On March 9, 2018, a sign with the address of the microsite was added to the bottom of the Public Notice signs posted on site.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS (2014) and conforms to the Growth Plan (2017);
 - ii) It complies with the UHOP, in particular the function, scale and design of the High Density Residential use category of the Neighbourhoods designation; and,
 - iii) It provides appropriately designed and scaled residential intensification at an appropriate location within the neighbourhood and will diversify the types of housing available in the area, contributing to a more competitive community and supporting redevelopment of an underutilized site.

2. Zoning By-law Amendment

The subject lands are currently zoned “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District.

To permit the proposed multiple dwelling on lands identified as Blocks 1 and 2 on Appendix “A” to Report PED19089, the applicant has applied to change the zoning to a site specific “E-3/S-1767” (High Density Multiple Dwellings) District, Modified. The applicant has requested the following site specific modifications to the “E-3” District zoning:

- Deem the Augusta Street the front lot line and Young Street the rear lot line;
- Permit a Multiple Dwelling only, notwithstanding all other uses permitted in the District;
- Reduce the maximum permitted building height to 13.5 m, with a mechanical penthouse and rooftop stair having a maximum height of 16.5 m;
- Reduce the minimum front yard depth to 0.0 m;

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 24 of 29

- Reduce the minimum side yard width to 2.0 m, except for a rooftop patio which shall be setback not less than 6.0 m from any side lot line;
- Reduce the minimum rear yard depth of 9.7 m;
- Reduce the minimum landscaped area to 17% of the lot area;
- Permit front porch, bay, balcony, dormer, canopy, cornice or eave projections to be located 0.0 m from a street line;
- Reduce the parking rate to 0.75 parking spaces per unit of which 0.13 shall be allocated for visitor parking;
- Provide no loading space;
- Modify the minimum parking space dimensions to 3.0 m by 5.8 m for non-parallel spaces;
- Modify the minimum parallel parking space dimensions to 2.4 m by 6.7 m. End spaces which have a clear unobstructed approach shall have a minimum length of 5.5 m;
- Reduce the minimum separation distance from a parking area to a residential district to 0.8 m; and,
- Reduce the minimum separation distance from an access driveway to a residential district to 0.7 m.

To maintain and legalize the existing three family dwelling on lands identified as Blocks 3 and 4 on Appendix “A” to Report PED19XX, the applicant has proposed modifications to the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, including:

- Permit a three family dwelling within the existing building;
- Permit a minimum easterly side yard width of 1.6 m for the existing building;
- Permit a minimum lot width of 10.8 m and area of 265 sq m;
- Reduce the minimum number of parking spaces to 2 for a three family dwelling, with no visitor parking;
- Modify the minimum parking space dimensions to 3.0 m by 5.8 m; and,
- Reduce the minimum required maneuvering space to 4.5 m for 90 degree parking.

The proposed modifications are included in Appendix “B” and an analysis of the requested modifications is provided in Appendix “C” to Report PED19089.

3. An “H” Holding Provision is recommended for Blocks 1, 3 and 4 as shown on Schedule “A” of Appendix “B” PED19089.

The Stage 1- 2 Archaeological Assessment submitted with the application recommends that a Stage 3 Archaeological Assessment be completed for the lands

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 25 of 29

at 122 & 126 Augusta Street and 127 Young Street. The results of the Stage 3 Assessment will determine if a Stage 4 Archaeological Assessment is required. Staff recommend a Holding Provision be included for Blocks 1 and 4 requiring that the Owner submit and receive approval of a Stage 3 Archaeological Assessment, and a Stage 4 Archaeological Assessment if required, to the satisfaction of the Ministry of Tourism, Culture and Sport, and the Manager of Development Planning, Heritage and Design.

To ensure the existing three family dwelling at 125 Young Street meets applicable building code requirements, staff recommend a Holding Provision be included for Block 3 requiring that the applicant apply for a building permit to legalize the existing use.

4. Severance Application

An application to the Committee of Adjustment is required to permit the severance of the rear portion of 125 Young Street (Block 2) proposed to be added to 122 & 126 Augusta Street and 127 Young Street (Block 1), and the westerly portion of 122 & 126 Augusta Street and 127 Young Street (Block 4) proposed to be added to 125 Young Street (Block 3). Staff will request that the Committee of Adjustment, as a condition of severance approval, require that the severed lands be merged on title with adjacent lands as proposed on the concept plan. In effect, Block 2 will be required to merge on title with Block 1 and Block 4 will be required to merge on title with Block 3.

In addition, staff will request that the Committee of Adjustment impose a condition requiring the Owner to remove the rear portion of the mutual access easement in favour of the west abutting property (121 Young Street) that exists on Block 2.

5. Development Engineering staff have reviewed the revised Functional Servicing Report (FSR) dated November 2018 prepared by S. Llewellyn & Associates Limited.

The development can be accommodated within the existing combined sewer system. The applicant is proposing to contain stormwater within the site to relieve the sewer system and reduce the impact to surrounding lands.

Staff have identified revisions to the preliminary Site Servicing Plan and preliminary Grading and Erosion Control Plan that would be required at Site Plan Control stage. In order to address the Required Fire Flow (RFF) for the development, Development Engineering requires that the total gross floor area used for calculating RFF be limited through the installation of firewalls to a maximum of 870 sq m if ordinary construction materials are used or 1360 sq m if

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 26 of 29

non-combustible construction materials are used. This requirement would be implemented at the Site Plan Control stage to the satisfaction of the Manager of Development Engineering Approvals.

6. The circulation of the application resulted in the submission of correspondence from five area residents and a petition in opposition with 46 signatures (see Appendix “E” to Report PED19089). The issues identified are as follows:

i) Over development of multiple dwellings

There is a concern that the Corktown neighbourhood already features a high number of multiple dwellings, including rental units, with a shortage of detached, semi-detached and townhouse dwellings in the area.

Staff recognize that there is a demand for a range of dwelling types in the City of Hamilton. The proposed multiple dwelling has been designed to complement the character of the neighbourhood, including adjacent low profile residential dwellings, and would increase the availability of residential units by redeveloping an underutilized site that is transit accessible and has convenient access to services. The location of the development is consistent with the Neighbourhoods policies of the UHOP that permits high density residential dwelling forms on the periphery of neighbourhoods.

ii) Parking

There is a concern that the development does not provide adequate parking and that this will impact the availability of on street parking in the surrounding area.

The subject lands are located within Area “A” of Schedule “H” of City of Hamilton Zoning By-law No. 6593 that requires a residential parking rate of 0.8 spaces per unit for a multiple dwelling, including 0.16 parking spaces designated for visitors. Based on this rate, the proposed 27 unit multiple dwelling would require 22 parking spaces, including 17 resident parking spaces and 5 visitor parking spaces. The proposed multiple dwelling would provide 17 resident parking spaces and 4 visitor parking spaces. Staff are satisfied that the deficiency of 1 visitor parking space would not significantly impact the availability of on street parking in the area. In addition, the residents of the multiple dwelling would not be eligible for on street parking permits or time limit exemptions.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 27 of 29

Staff are satisfied that the proposed two parking spaces are adequate for the existing three family dwelling given the central location of the site in close proximity to the Hunter Street GO Station, the Downtown Urban Growth Centre and local transit.

iii) Heritage character

There is a concern that the proposed multiple development does not complement the heritage character of the surrounding neighbourhood.

Issues of character and heritage preservation are addressed in the Urban Design Brief and CHIA submitted with the application. The current concept features a modern design with elements to complement neighbouring dwellings, including a front step back at the fourth storey, wall articulation featuring projecting bays, red brick cladding materials for the first three storeys, and parking located at the rear of the site (see Appendix “D” to Report PED19089). Staff will work with the applicant at Site Plan Control stage to further refine the design to complement the architectural character of the Corktown neighbourhood.

iv) Height, privacy and visual impact

There is a concern that the proposed multiple dwelling building is too large and will have adverse privacy and visual impacts on adjacent dwellings. The proposed 13.5 m building height for the primary building is less than the 14.0 m height permitted in the adjacent “D” District Zone. To further mitigate the impact of proposed four storey multiple dwelling, a minimum 2.0 m setback from adjacent dwellings is required and the fourth floor is stepped back 2.4 m from the street. In addition, the proposed rooftop patio will be setback 6.0 m from the side lot lines to mitigate issues of privacy and overlook.

v) Trees

There is a concern that trees were removed from the site and that the properties provide deficient landscaping.

Staff will require a landscape plan at the Site Plan Control stage and will work with the applicant to provide trees, including street trees, and other plantings where feasible within the landscaped areas proposed.

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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 28 of 29

vi) Public engagement

There is a concern that there has been a lack of engagement on the part of the proponent.

In accordance with their submitted Public Consultation Strategy, the applicant met with the Corktown Neighbourhood Association on October 19, 2017, prior to the submission of their application. The applicant posted the application materials on a microsite available to the public and posted the address for the site on the subject property.

In addition, Notice of Complete Application and Notice of Public Meeting were provided in accordance with the *Planning Act*. Residents have the opportunity to share feedback on the proposal in writing or at the Public Meeting.

Staff are of the opinion that the applicant has met the public notice requirements of the *Planning Act* and has implemented their submitted Public Consultation Strategy.

ALTERNATIVES FOR CONSIDERATION

Should the proposed Zoning By-law Amendment application be denied, the properties could be utilized in accordance with the existing “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District zoning which would permit a single family dwelling, two family dwelling, foster home, residential care facility, retirement home or lodging house.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement & Participation

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

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

OUR 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: Application for a Zoning By-law Amendment for Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton (PED19089) (Ward 2) – Page 29 of 29

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.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

Appendix “B” – Amendment to Zoning By-law No. 6593

Appendix “C” – Zoning Modification Table

Appendix “D” – Concept Plan

Appendix “E” – Public Submissions

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.



Key Map

to By-law No. 19-_____

Subject Property

122 & 126 Augusta Street and 127 & 125 Young Street

-  **Block 1** - "E-3/S-1767-H" (High Density Multiple Dwellings) District, Modified, Holding
-  **Block 2** - "E-3/S-1767" (High Density Multiple Dwellings) District, Modified
-  **Block 3** - "D/S-1767-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding
-  **Block 4** - "D/S-1767-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding

Scale: N.T.S.	File Name/Number: ZAC-18-013	 Hamilton
Date: March 29, 2019	Planner/Technician: MK/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

Authority:
City Wide
Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton

WHEREAS the *City of Hamilton Act, 1999*, Statutes of Ontario, 1999 Chap. 14, Schedule 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 and Official Plans of the former area municipalities and the Official Plan of the former regional municipality continue in full 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 _____ of Report 19-_____ of the Planning Committee, at its meeting held on the 30th day of April 2019, 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 of the City of Hamilton.

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

1. That Sheet No. E5 of the District Maps appended is amended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended by changing the zoning from the "D" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District to the "E-3/S-1767-H" (High Density Multiple Dwellings) District, Holding, Modified (Block 1), "E-3/S-1767" (High Density Multiple Dwellings) District, Modified (Block 2) and the "D/S-1767-H" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Holding, Modified (Blocks 3 and 4); the

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton

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

2. That the "E-3" (Multiple Dwellings) District provisions, as contained in Section 11C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following special requirements:
 - a) That notwithstanding Section 2.(2)J.(xiii), for the purposes of this By-law, Augusta Street shall be deemed the front lot line.
 - b) That notwithstanding Section 2.(2)J.(xiv), for the purposes of this By-law, Young Street shall be deemed the rear lot line.
 - c) That notwithstanding Section 11C.(1) the following uses shall be permitted:
 - i) A use permitted in a "D" District;
 - ii) A Multiple Dwelling.
 - c) That notwithstanding Section 11C.(1a) no building or structure shall exceed 13.5 metres in height, wherein a roof top patio shall be permitted together with a mechanical penthouse and roof top stair not exceeding 16.5 metres in height.
 - d) That notwithstanding Section 11C.(2)(a), a front yard having a depth of 0 metres, except that any portion of the building exceeding three storey shall be set back not less than 2.4 metres from the front lot line.
 - e) That notwithstanding Section 11C.(2)(b), a side yard having a width not less than 2.0 metres, except that a roof top patio shall be setback not less than 6.0 metres from any side lot line.
 - f) That notwithstanding Section 11C.(2)(c), a rear yard having a depth not less than 9.7 metres.
 - g) That notwithstanding Section 11C(5), for every building or structure, there shall be provided and maintained on the lot and within the district at least 17% of the area of the lot on which it is situate, as landscaped area.
 - h) That notwithstanding Section 18(3)(vi)(b), a canopy, cornice, eave or gutter may project 0 metres from a street line.
 - i) That notwithstanding Section 18(3)(vi)(cc), a bay, balcony or dormer may project 0 metres from a street line.

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton

- j) That notwithstanding Section 18(3)(vi)(d), a roofed-over or screened but otherwise unenclosed one-storey porch at the first storey level, including eaves and gutters, may project 0 metres from a front lot line.
 - k) That notwithstanding Section 18A(1)(a), a multiple dwelling shall provide 0.75 parking spaces per Class A dwelling unit.
 - l) That notwithstanding Section 18A.(1)(b), for a multiple dwelling, a minimum 0.13 parking spaces per dwelling unit shall be allocated for visitor parking.
 - m) That notwithstanding 18A.(1)(c) no loading space shall be required.
 - n) That notwithstanding Section 18A.(7), every required parking space, other than a parallel parking space, shall have dimensions not less than 3.0 metres wide by 5.8 metres long.
 - o) That notwithstanding Section 18A.(8), every parallel parking space shall have dimensions not less than 2.4 metres wide and 6.7 metres long. End spaces which have a clear unobstructed approach shall have a minimum length of 5.5 metres.
 - p) That notwithstanding Section 18A.(11)(a), the boundary of every parking area on a lot containing five or more parking spaces located on the surface of a lot adjoining a residential district shall be fixed not less than 0.8 metres from the adjoining residential district boundary.
 - q) That notwithstanding Section 18A.(25), where a multiple dwelling is adjacent to a residential district that does not permit such a use, every access driveway to the multiple dwelling shall be located not less than 0.7 metres from the common boundary between the district in which the multiple dwelling is located and the district that does not permit such uses.
3. That the "D" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District provisions, as contained in Section 10 of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following special requirements:
- a) That in addition to Section 10.(1), a three family dwelling shall be permitted within the building existing on the date of the passing of this By-law.
 - b) That notwithstanding Section 10.(3)(ii), an easterly side yard width of at least 1.6 shall be required for the building existing on the date of the passing of this By-law.

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton

- c) That in addition to Section 10.(4), for a three family dwelling a width of at least 10.8 metres and an area of at least 265.0 square metres.
 - d) That notwithstanding Section 18A.(1)(a), a three family dwelling shall provide a minimum of 2 parking spaces.
 - e) That notwithstanding Section 18A.(1)(b), for a three family dwelling, no visitor parking is required.
 - f) That notwithstanding Section 18A.(7), every required parking space, other than a parallel parking space, shall have dimensions not less than 3.0 metres wide by 5.8 metres long.
 - g) That notwithstanding Section 18A.(1)(f), A minimum maneuvering space width of 4.5 metres is required for 90 degree parking.
4. That the 'H' symbol applicable to the lands referred to in Section 1 of this By-law, shall be removed conditional upon:
- a) The holding provision "E-3/S-1767-H" (High Density Multiple Dwellings) District Modified, Holding applicable to Block 1 be removed conditional upon:
 - (i) The Owner conduct a Stage 3 Archaeological Assessment, and Stage 4 Archaeological Assessment if required, for the site and receive approval of this / these report(s) from the Ministry of Tourism, Culture and Sport and the City of Hamilton, to the satisfaction of the Manager of Development Planning, Heritage and Design.
 - b) The holding provision "D/S-1767-H" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, Holding applicable to Block 3 be removed conditional upon:
 - (i) The Owner apply for a Building Permit to legalize the existing three family dwelling, to the satisfaction of the City's Chief Building Official.
 - c) The holding provision "D/S-1767-H" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District, Modified, Holding applicable to Block 4 be removed conditional upon:
 - (i) The Owner conduct a Stage 3 Archaeological Assessment, and Stage 4 Archaeological Assessment if required, for the site and receive approval of this / these report(s) from the Ministry of

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton

Tourism, Culture and Sport and the City of Hamilton, to the satisfaction of the Manager of Development Planning, Heritage and Design.

5. 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 "E-3" (High Density Multiple Dwellings) District and "D" (Urban Protected Residential – One and Two Family Dwellings, Etc.) District provisions, subject to the special requirements referred to in Sections 2, 3 and 4.
6. That Sheet No. E5 of the District Maps is amended by marking the lands referred to in Section 1 of the By-law as "E-3/S-1767-H", "E-3/S-1767" and "D/S-1767-H".
7. That By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-1767.
8. 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 this ___ day of _____, 2019.

Fred Eisenberger
Mayor

Janet Pilon
Acting City Clerk

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.: PED19089 Date:
Ward(s) or City Wide: Ward 2 (MM/DD/YYYY)

Prepared by: Mark Kehler, Planner II Phone No: 905-546-2424 ext. 4148

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

To Amend Zoning By-law No. 6593 Respecting Lands Located at 122 & 126 Augusta Street and 127 Young Street and 125 Young Street, Hamilton



This is Schedule "A" to By-law No. 19- Passed the day of, 2019	----- Mayor ----- Clerk
---	--------------------------------------

<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-law No. 19-_____</p> <p style="margin: 10px 0 0 0;">to Amend By-law No. 6593</p>		<p>Subject Property</p> <p>122 & 126 Augusta Street and 127 & 125 Young Street</p> <ul style="list-style-type: none"> Block 1 - "E-3/S-1767-H" (High Density Multiple Dwellings) District, Modified, Holding Block 2 - "E-3/S-1767" (High Density Multiple Dwellings) District, Modified Block 3 - "D/S-1767-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding Block 4 - "D/S-1767-H" (Urban Protected Residential - One and Two Family Dwellings, Etc.) District, Modified, Holding 				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">Scale: N.T.S.</td> <td style="padding: 2px;">File Name/Number: ZAC-18-013</td> </tr> <tr> <td style="padding: 2px;">Date: March 7, 2019</td> <td style="padding: 2px;">Planner/Technician: MK/AL</td> </tr> </table>	Scale: N.T.S.	File Name/Number: ZAC-18-013	Date: March 7, 2019	Planner/Technician: MK/AL	<p style="text-align: center; margin-top: 5px;">Hamilton</p>	<p style="font-size: small; margin: 0;">PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>
Scale: N.T.S.	File Name/Number: ZAC-18-013					
Date: March 7, 2019	Planner/Technician: MK/AL					

Site Specific Modifications to the “E-3” (High Density Multiple Dwellings) District

Regulation	Required	Modification	Analysis
2.(2)J.(xiii) Definition of Lot-Line, Front	"Lot-Line Front" with reference to a through lot shall mean and include each of the two shorter boundary lines along streets;	That for the purposes of this By-law, Augusta Street shall be deemed the front lot line.	For the purposes of this By-law, the Augusta Street lot line will function as the front lot line as the proposed multiple dwelling will be located towards the north of the lot with main pedestrian entrances facing Augusta Street. Therefore, the proposed modification to the definition of front lot line can be supported.
2.(2)J.(xiv) Definition of Lot-Line, Rear	"Lot-Line, Rear" shall mean the lot line farthest from and opposite to the front lot line of any lot except a through lot.	That for the purposes of this By-law, Young Street shall be deemed the rear lot line.	For the purposes of this By-law, the Young Street lot line will function as the rear lot line, with parking, an access driveway and rear amenity space occupying the lot to the rear of the proposed multiple dwelling. Therefore, the proposed modification to the definition of rear lot line can be supported
11C.(1) Permitted Uses	Permits a range of residential and intuitional uses and accessory service uses	To limit the permitted uses to a multiple dwelling.	Staff have not assessed the impact of the range of uses permitted in an “E-3” District on adjacent lands within the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District through this application. Therefore, staff recommend the permitted uses be limited to uses permitted in a “D” District in addition to a multiple dwelling as proposed by the applicant.
11C.(1a) Height Requirements	Where a building or structure is distant not greater than 30.0 metres from a “D” District, the height of a building or	That no building or structure shall exceed 13.5 metres in height, wherein a roof top patio shall be permitted together	In order to ensure compatibility with the dwellings within the “D” District surrounding the subject lands, the proposed amending by-law limits the permitted building height to 13.5 metres, excluding a mechanical penthouse or staircase to access a rooftop patio. The maximum 13.5 metre building height is consistent with the 14.0 metre maximum building height permitted in the “D” District and the

Regulation	Required	Modification	Analysis
	structure shall not exceed eight storeys or 26 metres.	with a mechanical penthouse and roof top stair not exceeding 16.5 metres in height.	<p>impact of the building height will be mitigated by design features such as a step back at the fourth storey and 2 metre side yard setbacks.</p> <p>Additional permitted height up to 16.5 metres is proposed for a mechanical penthouse or rooftop stair. Staff are of the opinion that the impact of the additional height can be mitigated by appropriately massing the mechanical and staircase structures so that their visual impact is limited and setting back the rooftop patio 6 metres from the side lot lines to limit issues of privacy and overlook.</p> <p>Therefore, based on the foregoing, staff are supportive of the proposed modified building height.</p>
11C.(2)(a) Front Yard Depth	A front yard having a depth of at least 3.8 metres	A front yard having a depth of 0 metres, except that any portion of the building exceeding three storeys shall be set back not less than 2.4 metres from the front lot line.	<p>The proposed multiple dwelling would be located almost at the front lot line, which is consistent with adjacent dwellings and the neighbourhood character. An increased setback of 2.4 metres is required above the third storey to limit the visual impact of the proposed 13.5 metre building height.</p> <p>Therefore, staff support the proposed modification to front yard depth.</p>
11C.(2)(b) Side Yard Width	Along each side lot line a side yard having a width of at least 2.26 metres	A side yard having a width not less than 2.0 metres, except that a roof top patio shall be setback not less than 6.0 metres from any side lot	<p>The purpose of the proposed 2.0 metre side yard setback for the multiple dwelling is to mitigate the impact of the proposed building height on adjacent dwellings to the east and west and ensure compatibility with the neighbourhood character. The surrounding "D" District zoning requires a 2.7 metre side yard setback for any building or structure with a height greater than 11.0 metres up to a maximum height of 14 metres. Recognizing the intent of this requirement to mitigate the impact of increased building height, staff requested that the</p>

Regulation	Required	Modification	Analysis
		line.	<p>applicant increase the 1.2 metre side yards proposed in the initial submission. The applicant responded by increasing the side yards to 2.0 metres.</p> <p>Staff are satisfied that the 2.0 metre side yard setbacks will help mitigate the impact of the proposed building height greater than 11.0 metres while respecting the neighbourhood character that features narrow side yards.</p> <p>In addition, an increased minimum side yard of 6.0 metres is required to the proposed roof top patio to address issues of privacy and overlook.</p> <p>Therefore, based on the foregoing, staff are supportive of the proposed modification to side yard width.</p>
11C.(2)(c) Rear Yard Depth	A rear yard having a depth of at least 5.0 metres.	A rear yard depth having a depth not less than 9.7 metres.	<p>The proposed minimum 9.7 metre rear yard depth is required to accommodate the parking and landscaped amenity area for the multiple dwelling. Staff are satisfied that proposed rear yard provides for appropriate transition to adjacent residential uses.</p> <p>Therefore, staff support the proposed rear yard modification.</p>
11C(5) Landscaped Area	For every building or structure in an "E-3" District, there shall be provided and maintained on the lot and within the district, at least 40% of the area of the lot on which it is situate, as	For every building or structure, there shall be provided and maintained on the lot and within the district at least 17% of the area of the lot on which it is situate, as landscaped area.	<p>The landscaped area requirements of the Zoning By-law provide for outdoor amenity for residents, a balance between soft landscaping and paved areas and buffering to adjacent uses.</p> <p>In addition to the 176 square metre outdoor amenity area included in the proposed landscape calculation, a 325 square metre outdoor amenity space is proposed on the roof of the proposed multiple dwelling.</p> <p>Staff are satisfied that sufficient soft landscaping is proposed and that landscape strips will be provided to buffer the proposed building and</p>

Regulation	Required	Modification	Analysis
	landscaped area, and at least 40% of said landscaped area shall be in one space having a least dimension of 6.0 metres and in other than the front yard.		parking area from adjacent residential uses. Therefore, based on the foregoing, staff support the proposed modification for landscaped area.
18(3)(vi) (b), (cc) & (d) Projections	A canopy, cornice, eave or gutter may project no closer to a street line than 1.5 metres; and, A bay, balcony or dormer may project no closer to a street line than 1.5 metres. An unenclosed front porch may project no closer to a front lot line than 1.5 metres	Any front porch, canopy, cornice, eave, gutter, bay, balcony or dormer projection may be located 0 metres from a street line.	The proposed multiple dwelling provides a front setback close to 0 metres abutting Augusta Street, which is consistent with neighbouring dwellings and the neighbourhood character. Therefore any projections will be located up to 0 metres from the Augusta Street lot line. In addition, there is a landscaped area within the public right-of-way separating the proposed building from the sidewalk, limiting issues of shadow and overlook. Based on the foregoing, staff support the modification to permit projections to be located 0 metres from a street line.
18A(1) (a) & (b) Parking Rate	A multiple dwelling shall provide 0.8 parking spaces	A multiple dwelling shall provide 0.75 parking spaces per	The subject lands are located within Area "A" of Schedule "H" of City of Hamilton Zoning By-law No. 6593 that requires a residential parking rate of 0.8 spaces per unit for a multiple dwelling, including 0.16 parking

Regulation	Required	Modification	Analysis
	per Class A dwelling unit of which 0.16 shall be allocated for visitor parking.	Class A dwelling unit of which 0.13 shall be allocated for visitor parking.	<p>spaces designated for visitors. Based on this rate, the proposed 27 unit multiple dwelling would require 22 parking spaces, including 17 resident parking spaces and 5 visitor parking spaces. The proposed multiple dwelling would provide 17 resident parking spaces and 4 visitor parking spaces. Staff are satisfied that the proposed parking is sufficient for the development and that the deficiency of 1 visitor parking space would not significantly impact the availability of street parking in the area.</p> <p>Therefore, staff support the proposed modified parking rate.</p>
18A(1) (c) Loading Space	A minimum of 1 loading space is required for a multiple dwelling with 5 to 30 dwelling units.	That no loading space is required for a multiple dwelling with up to 27 dwelling units.	<p>The proposal does not include any accessory commercial or service uses. Therefore, loading operations would be limited to resident moves and deliveries that can occur within the rear parking area on site. Staff are satisfied that the frequency of loading operations associated with the proposed 27 unit multiple dwelling does not require a dedicated loading space.</p> <p>Therefore, staff support the proposed modification to eliminate the loading space requirement.</p>
18A(7) and 18A(8) Parking Space Size	Every required parking space, other than a parallel parking space have dimensions not less than 2.7 metres wide and 6.0 metres long and every parallel parking space shall have dimensions not	Every required parking space, other than a parallel parking space, shall have dimensions not less than 3.0 metres wide by 5.8 metres long and every parallel parking space shall have dimensions not less than 2.4	<p>The applicant has designed their parking spaces based on the standards approved by Hamilton City Council on November 9, 2017 (By-law No. 17-240) for City of Hamilton Zoning By-law No. 05-200.</p> <p>Therefore, staff are supportive of the proposed modifications to parking space size.</p>

Regulation	Required	Modification	Analysis
	less than 2.5 metres wide and 6.7 metres long.	metres wide and 6.7 metres long. End spaces which have a clear unobstructed approach shall have a minimum length of 5.5 metres.	
18A(11)(a) Separation Distance for a Parking Area from a Residential District	The boundary of every parking area on a lot containing five or more parking spaces located on the surface of a lot adjoining a residential district shall be fixed not less than 1.5 metres from the adjoining residential district boundary	The boundary of every parking area on a lot containing five or more parking spaces located on the surface of a lot adjoining a residential district shall be fixed not less than 0.8 metres from the adjoining residential district boundary	The proposed parking area would be setback less than 1.5 metres on portions of the lot to a minimum extent of 0.84 metres along the east property line and 1.37 metres along the west property line. A planting strip and minimum 1.2 to 2.0 metre high visual barrier is required along all properties lines adjacent to the parking area to mitigate nuisance effects such as noise and light trespass. Staff would work with the applicant at site plan control stage to ensure that the areas provided between the parking area and adjacent residential uses are appropriately designed to mitigate nuisance effect on adjacent dwellings. Therefore, staff are supportive of this modification.
18A(25) Separation Distance for an Access Driveway from a Residential District	Where a multiple dwelling is adjacent to a residential district that does not permit such uses, every access	Where a multiple dwelling is adjacent to a residential district that does not permit such a use, every access driveway to the	The proposed access driveway from Young Street would be located a minimum of 0.71 metres from the 125 Young Street lot line to the west. The applicant intends to sever a portion of 122 & 126 Augusta Street and 127 Young Street and add it to 125 Young Street. This new lot configuration would result in an easterly side yard for the existing three family dwelling at 125 Young Street of 1.67 metres. A total distance of 2.38 metres would exist from the access driveway for the

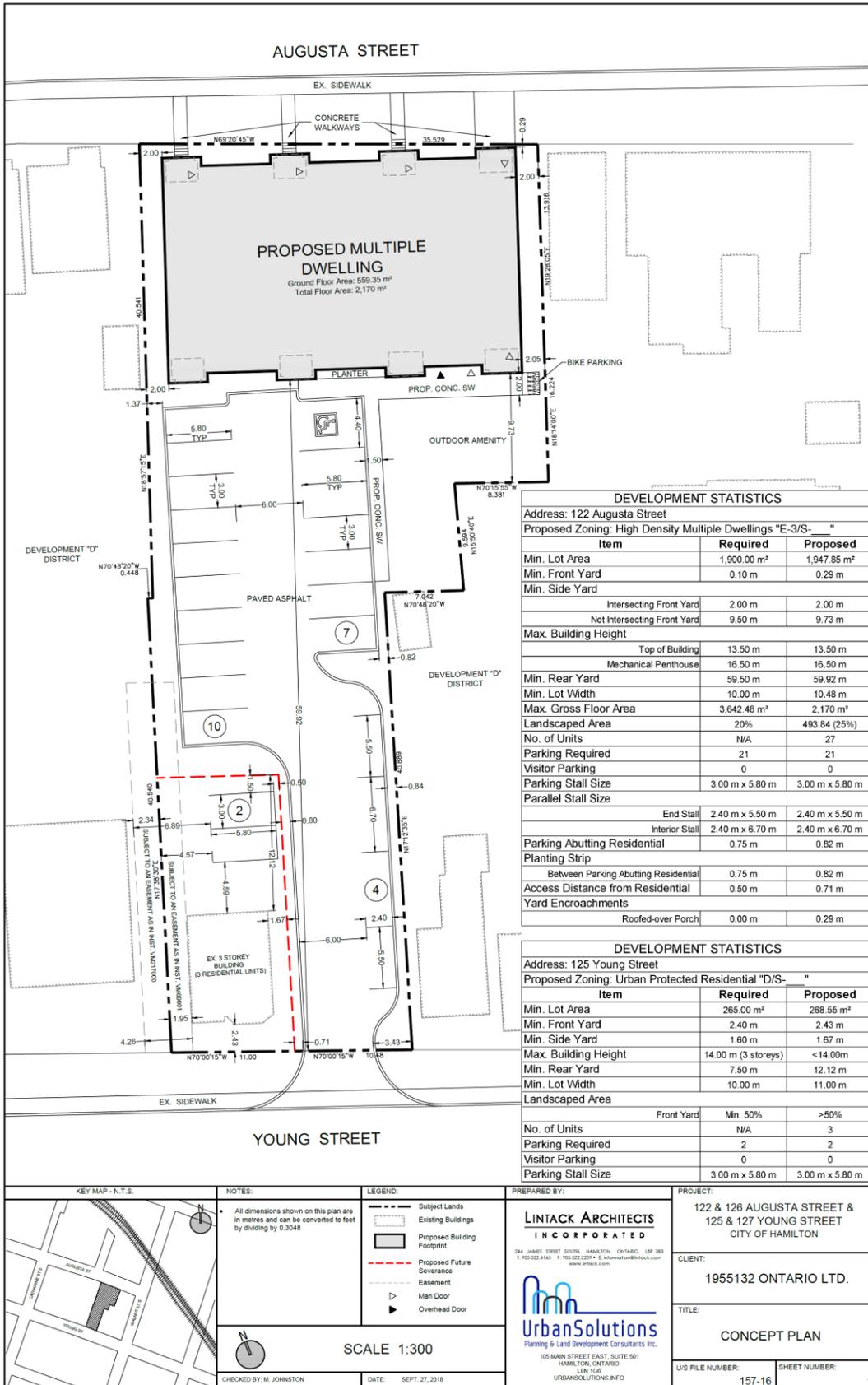
Regulation	Required	Modification	Analysis
	driveway to the multiple dwelling shall be located not less than 3.0 metres from the common boundary between the district in which multiple dwelling is located and the district that does not permit such uses.	multiple dwelling shall be located not less than 0.7 metres from the common boundary between the district in which the multiple dwelling is located and the district that does not permit such uses.	multiple dwelling to the existing three family dwelling. In addition, a planting strip and minimum 1.2 to 2.0 metre high visual barrier would be required along the westerly property line abutting the access driveway. Staff are satisfied that the proposed separation distance is sufficient to mitigate nuisance impacts generated by the driveway on the three family dwelling to the west. Therefore, staff are supportive of this modification.

Site Specific Modifications to the “D” (Urban Protected Residential – One and Two Family Dwellings, Etc.) District

Regulation	Required	Modification	Analysis
10.(1) Permitted Uses and 10.(4) Lot Width and Area	A three family dwelling is not a permitted use.	To permit a three family dwelling within the existing building on a reduced lot.	Modifications are required to permit the existing three family dwelling at 125 Young Street and to establish a minimum lot width and area for a three family dwelling. There are insufficient Building Division records to determine if the three family dwelling was legally established prior to the passing of Zoning By-law No. 6593. In addition, the applicant has proposed to reduce the lot area of the existing lot at 125 Young Street from 393.62 square metres to 268.55 square metres through a severance that would add a rear portion of the lands to the development site at 122 & 126 Augusta Street and 127 Young Street. Staff are satisfied that the existing three family dwelling can continue to function on the reduced lot as there is sufficient room for a two parking spaces and a 46 square metre rear amenity space. The applicant has demonstrated that the proposed lot size is consistent with other lots in the area and the neighbourhood character.

Regulation	Required	Modification	Analysis
			<p>Should the existing building be demolished, the property would be required to be developed as per the requirements of the “D” District.</p> <p>Based on the foregoing, staff support this modification.</p>
10.(3)(ii)	A minimum side yard width of 2.7 metres is required for a 3 storey building.	To permit an easterly side yard width of 1.6 metres.	<p>The applicant intends to sever a westerly portion of 122 & 125 Augusta Street and 127 Young Street and add it to the east side of 125 Young Street. This new lot configuration will alter the existing easterly side yard for the existing building at 125 Young Street and therefore triggers a variance to the 2.7 metre side yard required for a 3 storey building.</p> <p>The proposed 1.6 metre easterly side yard is an improvement over the existing condition and is sufficient for access to the east side of the building.</p> <p>Therefore, staff support the proposed modification to the easterly side yard.</p>
18A.(1) (a) and (b) Parking Rate	A three family dwelling shall provide 1.33 parking spaces per Class A dwelling unit of which 0.33 shall be allocated for visitor parking.	A total of 2 parking spaces shall be required for a three family dwelling none of which shall be allocated for visitor parking.	<p>The existing regulation requires 4 parking spaces for the existing three family dwelling, including 1 visitor parking space.</p> <p>Staff are satisfied that the proposed 2 parking spaces are sufficient given the central location of the site in close proximity to the Downtown Urban Growth Centre, the Hunter Street GO Station and local bus routes.</p> <p>Therefore staff support the proposed parking reduction.</p>
18A.(7) Parking Space Size	Every required parking space, other than a parallel parking space have	Every required parking space, other than a parallel parking space, shall have	<p>The applicant has designed the parking spaces based on the standards approved by Hamilton City Council on November 9, 2017 (By-law No. 17-240) for City of Hamilton Zoning By-law No. 05-200.</p> <p>Therefore, staff are supportive of the proposed modifications to parking</p>

Regulation	Required	Modification	Analysis
	dimensions not less than 2.7 metres wide and 6.0 metres long.	dimensions not less than 3.0 metres wide by 5.8 metres long.	space size.
18A.(1)(f) Maneuvering Space	A minimum maneuvering space width of 6.0 metres is required for 90 degree parking	A minimum maneuvering space width of 4.5 metres is required for 90 degree parking	<p>The proposed rear yard parking spaces for the three family dwelling are accessed via a mutual access easement with the west abutting property (121 Young Street). Including the lands accessible via the easement, a total maneuvering space of 6.8 metres is provided for the parking spaces.</p> <p>Therefore, the intent of the maneuvering space requirement is met and staff support this modification.</p>





NEW DEVELOPMENT
AUGUSTA + YOUNG

HAMILTON, ON

SCALE:
NTS

DATE:
FEB 2018

LINTACK ARCHITECTS
INCORPORATED
244 JAMES STREET SOUTH, HAMILTON, ONTARIO, L8P 3B3
T: 905.522.6165 • F: 905.522.2209 • E: information@lntack.com
www.lntack.com

FRONT
ELEVATION

JOB No. 16.090
DWG. No. A4.1

NOV 2018



NEW DEVELOPMENT AUGUSTA + YOUNG	SCALE: NTS	LINTACK ARCHITECTS	ELEVATION	
HAMILTON, ON	DATE: FEB 2018	INCORPORATED <small>244 JAMES STREET SOUTH, HAMILTON, ONTARIO, L8P 3B3 T: 905.522.6165 • F: 905.522.2209 • E: information@lntack.com www.lntack.com</small>	JOB No. 16.090	DWG. No. A4.2

Kehler, Mark

From: [REDACTED]
Sent: February-19-18 11:17 AM
To: Kehler, Mark
Subject: Re: ZAC-18-013 Application for Zoning By-law Amendment

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Mark Kehler, City of Hamilton, Planning & Economic Development Department
 Development Planning, Heritage & Design-Urban Team
 File # ZAC-18-013

Dear Sir,

It was with sadness, disappointment, and abject disbelief that we learned about and received notification via mail of the proposed Zoning By-law amendment for lands located at 122 & 126 Augusta and 125 & 127 Young Street. We vehemently oppose the proposed zoning by-law amendment for a number of reasons, which are detailed below.

When we purchased our first home 12 years ago, we searched out an area in Hamilton that was on the cusp of change and growth. Adopting the motto 'be the change you want to see' we became active in the neighbourhood, vigorously and loudly campaigned for change and a decrease in crime, and pushed for growth. As Brits, we felt at home in a very Irish/British looking area and were saddened by the boarded up store fronts and run down old Victorians. We saw the potential in both the city and our own little neighbourhood and did not understand why we were repeatedly told to purchase on the Mountain. Forays into the then sketchy downtown core had us flabbergasted at the lack of amenities, restaurants, and individuals residing in the core. A healthy city is one in which residents both live and work in the downtown sector. We did not see this at the time and quickly learned to tell all that we resided 'just above the downtown core at the base of the escarpment.'

As the years went by, we were delighted to see massive change and growth, both in our neighbourhood and the city. Our neighbourhood demographics changed and we were thrilled to see a new school developed on Walnut Street South, young couples and families moved into the area, purchasing the old neglected Victorians, and businesses opened all around us. We met our street neighbours regularly at the new art crawl and Corktown Neighbourhood Association events, frequented the new shops and restaurants around us, and were proud to call Corktown home. We watched as empty lots became homes, and loved the developments in our immediate neighbourhood that allowed singles, young couples, and families to purchase a home in our neighbourhood. Our neighbourhood and city changed, from being a dead town of individuals who commuted to the suburbs to an area of vibrant change and growth.

We look forward to further change and smart, planned growth in our neighbourhood. As such, we believe that the proposed development is a poor fit for our neighbourhood. There is NO shortage of rental units in the Corktown neighbourhood with vacancy rates telling this tale. High rise developments on Catherine Street below King, Charlton & John (St. Joe's area), Catherine & Forest, Corktown Plaza, and Walnut & Main all will bring hundreds of residences into Corktown. What we DO lack is single family homes and townhomes. The downtown core has a plethora of high rise buildings. Corktown & Durand once had many more single family homes, homes for families that would live and raise children in the downtown core, send kids to local schools, shop locally, and help revitalise the downtown core. The land at Augusta & Young would best be used as such.

Parking—our street is a street of gardens, an oasis in the downtown concrete core. As such, few houses have driveways. On street parking is tight already with traffic from the core and nearby hospital. Adding a 27 unit building in an already saturated parking situation will create huge problems.

Victorian look—Augusta is one of the oldest streets in Hamilton, a strip of 2 storey homes and businesses in the core. Why not leave it as an oasis in the city and continue the Victorian look homes? Much of Hamilton's history and historic buildings have been lost. Why can Augusta Street not be left alone as a charming nod back to the roots of the city. Should the subject properties be developed, Victorian style homes or townhomes would fit nicely with the aesthetics of the neighbourhood.

Appendix "E" to Report PED19089

As proud Corktown residents, we feel that this development is not a good fit for our neighbourhood. The aesthetics of the building do not fit in with our Victorian and Edwardian era homes. Our small neighbourhood is already saturated regarding parking challenges. Proposed developments listed above will stretch this further. We simply have no room for more cars, or for 4 storeys of residents as suggested by the developer. Corktown does not lack rental units. It lacks townhomes and single family homes. As such, we believe this kind of development is best suited to the neighbourhood--single family homes and townhomes. An apartment building steals a home from a young family or couple that will live and grow old in our neighbourhood. This development is a massive step backwards for Corktown, a step back into the times of mid-rise apartment buildings and a movement out of the downtown core. We trust that Council will continue to be forward thinking and push for smart, planned growth in our charming old neighbourhood and deny this request for a zoning by-law amendment.

We respectfully request that all our personal information be removed from this correspondence prior to becoming part of the public record made available to the general public.

Regards,

[REDACTED]
[REDACTED]

Kehler, Mark

From: HLomas
Sent: February-06-18 4:50 PM
To: Kehler, Mark
Cc: Farr, Jason
Subject: ReZoning

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sir,

As a resident the area of Young/Augusta/Walnut and Catherine Sts, I firmly object to rezoning for the explicit use of a 4 storey apartment building. My reasons being as follows:

- a. It is would be esthetically displeasing to the eye in this older area of single home dwellings.
- b. The proposed number of parking spaces allowed is definitely not enough for the area. We are already overloaded with street parking and all these streets have become busier over the last few years. Council needs to understand that in this day and age most people own two cars, mainly for convenience to work.
- c. This type of building would be an eyesore to those that are already established here and they would be looking at a building in their backyard instead of some greenspace and some privacy.
- d. The roads in this area too are constantly being dug up for repair to old pipes etc, and we have ended up with a patchwork of repair and potholes.
- e. In the last three years there have been already multi units built and this little core of Hamilton cannot take more.

Sincerely,
Hilary Lomas



Kehler, Mark

From: James MacNevin [REDACTED]
Sent: February-22-18 12:51 AM
To: Kehler, Mark
Cc: Farr, Jason
Subject: Rezoning application ZAC-18-013

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Kehler,

I am writing in regard to the application for a zoning by-law amendment at 122-126 Augusta Street and 125-127 Young Street (file no. ZAC-18-013). I live one block away from the site in question and I have a keen interest in planning and development issues.

In general, I support the rezoning and the proposed building, for two main reasons. First, Hamilton needs densification in the core and near transit hubs, for both economic and ecological reasons, and low-rise infill development is one of the best and most humane ways to densify. Second, Hamilton needs more purpose-built rental housing to address the low vacancy rate and rising rents. Given that Corktown has long been a diverse community with a variety of housing types and tenures, I feel the proposed development is perfectly appropriate for this community.

That said, I do have a number of concerns about the proposed building, two of which I would like to highlight here:

1) Design. Augusta Street offers one of the most intact and pleasant Victorian streetscapes in the area, and as such the design of the new building should be done with exceptional sensitivity. This is not to say the building should be designed in a faux-Victorian style, but rather that it should *complement* the existing Victorian architecture of the street. In that connection, I applaud the architect's efforts to make the building consistent with the scale and articulation of the neighbouring buildings, but I am troubled by the following statement in the Urban Design Report: "External cladding materials and colours will be developed at the appropriate time in the approvals process. They will be high quality and in character with the contemporary nature of the design" (p. 9). This vague wording does not inspire confidence.

In the Cultural Heritage Impact Assessment, the heritage consultant recommended that the design and the cladding materials be reviewed by the Design Review Panel (p. 36), and I would urge the City to follow through on that recommendation. While I recognize that it would be unusual for the Design Review Panel to review a small building on a residential street, I think it could be appropriate given the heritage character of this particular street. One way or another, I urge the City to use every available mechanism to ensure that the final design of the building makes a positive contribution to the Augusta streetscape.

2) Landscaping and environmental mitigation. A large number of mature trees have been cut down on the property, and the proposed development threatens to compound this destruction by paving most of the site to create a surface parking lot. This is especially troubling because Corktown, like much of central Hamilton, is already deficient in trees and greenery. I would like to see more trees and greenery incorporated into the development (including, perhaps, on the rooftop patio). I also think it would be appropriate for the parking lot to be built to a higher ecological standard, e.g. using permeable paving materials like bricks or paving stones as

opposed to asphalt. Here again, I would urge the City to use every available mechanism to ensure the development makes a positive contribution and mitigates the considerable ecological damage the property owners have done and are proposing to do.

In closing, while I support this development and look forward to welcoming new neighbours, I hope that the developer, the City, and the local community can work together to address the issues I've raised and the additional issues I assume other area residents will raise.

Sincerely,

James MacNevin

[REDACTED]
[REDACTED]

Kehler, Mark

From: [REDACTED]
Sent: February-21-18 2:27 PM
To: Kehler, Mark
Subject: ZAC-18-013

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Kehler

Re: ZAC-18-013

I received notice of complete application by urban solutions land development for the above referenced file. As the owner of a property on Baillie, I am quiet concerned about the number of residents being planned for the space at 122 and 126 Augusta. I would appreciate viewing a proposed building plan to see how these residencies will fit in the context of the other homes in the vicinity. I am also concerned about the number of residences in the space as you know Augusta is quite a small street.

I look forward to your response and hope to see the design proposal. Please do not publish my personal information publicly.

Regards,

[REDACTED]
[REDACTED]

File #. ZAC-18-013

February 15, 2018

Dear Mark Kehler, City of Hamilton,

As concerned neighbours of the property at 122 & 126 Augusta Street and 127 Young Street owned by Mario Nesci of 1955132 Ontario Ltd., we are opposed to the proposed rezoning of the property.

We respectfully ask for no zoning change on this parcel not because we are anti-growth but because we are enthusiastic supporters of smart, planned urban development.

Our most compelling reasons include:

- We do not feel that squeezing a four storey apartment building between existing two-storey houses is compatible with the historic nature of the street. The illustration included in the Urban Design report shows that no effort has been made for the proposed structure to fit into the Victorian era look of the neighbourhood.
- The planning report states "High profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses"
- Corktown is one of Hamilton's oldest neighbourhoods. Corktown has lost a great deal of historic houses but there are still some streets of charming historic houses. There is an extensive amount of medium and high density buildings to the south, east and west with at least five more developments in the works including: Catherine & Forest, Corktown Plaza, and Charlton and John. These will also weigh heavily on the community infrastructure. Perhaps Augusta and Young Streets could and should remain the oasis of low rise character dwellings in the neighbourhood.
- This property has historic and contextual values that contribute to an understanding of the early development of Corktown, one of the oldest neighbourhoods in Hamilton. Most of the houses in this area date to the early 1900's.
- Lack of genuine neighbourhood engagement — the property owner and developer had one meeting which was used to inform the neighbourhood of the plans, not to engage in dialogue or consider neighbours' concerns.
- Lack of parking will lead to increased pressure on existing street parking. There is also worry due to increased traffic along Walnut Street which is a school zone.
- We do not oppose development of the properties listed. We would prefer a development that can be done under the existing bylaw. Recent developments on Walnut Street (Walnut and Young) and Augusta (Augusta and Catherine) fit into the neighbourhood and add beauty and charm. Additionally they both provided adequate parking for the new units.

Dave Fritz ~~Walt~~ ~~[REDACTED]~~

Ann Boguski ~~[REDACTED]~~ Barry Boguski

ME DEBRIC McDaniel ~~[REDACTED]~~ ~~[REDACTED]~~

* Request the city remove our personal information from appearing on their website

* Request the city remove our personal information from appearing on their website

We the concerned neighbours want to see change as positive and adding to the vibrancy of the neighbourhood. The neighbourhood has a very active neighbourhood committee and the people in the neighbourhood have put in much time making the neighbourhood beautiful, welcoming and friendly.

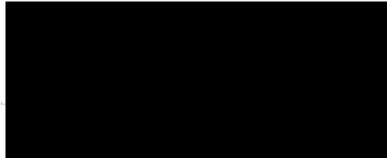
respectfully the concerned neighbours of
122 & 126 Augusta Street and 127 Young Street

Brenda Ferguson



Brenda ferg

~~Melissa McClellan~~
Melissa McClellan



* Request the city remove our personal information from appearing on their website

Carol Mahon (owner) [REDACTED]
Chocoma Bakula [REDACTED]

Trevor Stephenson [REDACTED]
MARY VAUGHAN [REDACTED]
[REDACTED]

MARY LAMSON
[REDACTED]
[REDACTED]

* Request the city remove our personal information from appearing on their website



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide)
WARD AFFECTED:	City Wide
PREPARED BY:	Joanne Hickey-Evans (905) 546-2424 Ext. 1282
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **City Initiative CI-17-C** to extend Temporary Use By-laws Nos. 17-083, and 17-255, under Zoning By-law No. 05-200 for a period of 36 months, to allow for commercial entertainment/recreation, including live or recorded music and dance facilities on Outdoor Commercial Patios for four urban pilot project areas: Downtown Hamilton, Hess Village, parts of Upper James Street (Stone Church Road to Rymal Road), and Dundas; and some properties within the Rural area on the following basis:
- (i) That the draft Temporary Use By-laws, attached as Appendices “A” and “B” to Report PED16155(b) for the five pilot project areas and the rural area, be approved by City Council; and,
 - (ii) That the draft Temporary Use By-laws are consistent with the Provincial Policy Statement (PPS) 2014, conform to the 2017 Growth Plan for the Greater Golden Horseshoe, and comply with the Rural (RHOP) and Urban Hamilton Official Plans (UHOP).
- (b) That approval be given to **City Initiative CI-17-C** to extend Temporary Use By-laws No. 17-082 under Zoning By-law No. 6593 for a period of 36 months, to allow for commercial entertainment/recreation, including live or recorded music and

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 2 of 8

dance facilities on Outdoor Commercial Patios for two urban pilot project areas on James Street North and James Street South, on the following basis:

- (i) That draft Temporary Use By-law, attached as Appendix “C” to Report PED16155(b) for the James Street North and James Street South pilot project areas, be approved by City Council; and,
 - (ii) That the draft Temporary Use By-law is consistent with the Provincial Policy Statement (PPS) 2014, conforms to the 2017 Growth Plan for the Greater Golden Horseshoe and complies with the Urban Hamilton Official Plan (UHOP).
- (c) That approval be given to **City Initiative CI-17-C** to establish a Temporary Use By-law in Zoning By-law No. 05-200 for a period of 36 months, to allow for commercial entertainment/recreation, including live or recorded music and dance facilities on Outdoor Commercial Patios for two urban pilot project areas: James Street North and James Street South / Augusta Street, on the following basis:
- (i) That the Temporary Use By-law, attached as Appendix “D” to Report PED16155(b) for James Street North and James Street South / Augusta Street pilot areas, be approved by City Council; and,
 - (ii) That the draft Temporary Use By-law is consistent with the Provincial Policy Statement (PPS) 2014, conforms to the 2017 Growth Plan for the Greater Golden Horseshoe and complies the Urban Hamilton Official Plan (UHOP).

EXECUTIVE SUMMARY

In May, 2017, City Council approved three Temporary Use By-laws to Zoning By-law Nos. 05-200, 6593 and 3281-86, to allow for commercial entertainment/recreation, including live or recorded music and dance facilities, on Outdoor Commercial Patios for seven pilot project areas (Downtown Hamilton, James Street North, James Street South/Augusta Street, Hess Village, West Harbour area, Downtown Dundas, and Upper James Street (Stone Church to Rymal Road); and some properties (predominantly golf courses) within the Rural area. These By-laws were appealed to the LPAT (formerly the Ontario Municipal Board). The appeals were withdrawn in June, 2018.

The By-laws were established for a period of 24 months. They expire on May 10, 2019.

In November, 2017, a fourth Temporary Use By-law was passed when two of the pilot project areas (Upper James Street and Dundas), that were subject to Zoning By-laws No. 6593 and 3581-86, were removed and included in Zoning By-law No. 05-200.

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 3 of 8

This By-law will expire on June 22, 2019.

The purpose of these Amendments is to:

- Extend Temporary Use By-laws Nos. 17-082 (Zoning By-law o. 653 - James Street North and James Street South pilot project areas only), 17-083 (Zoning By-law No. 05-200) and 17-255 (Zoning By-law No. 05-200) for a period of 36 months (May 1, 2022); and,
- Establish a new Temporary Use By-law for the James Street North and James Street South / Augusta Street pilot project areas. These lands have been removed from Zoning By-law No. 6593 and included in Zoning By-law No. 05-200. At the time of the passage of the new Downtown and Commercial and Mixed Use zoning projects, the companion temporary use by-laws were not passed for these lands.

There are no additional pilot project areas permitted as a result of these by-law extensions. The West Harbour area has been removed from By-law No. 17-082 which was a condition of the withdrawal of the appeal.

Alternatives for Consideration – See Page 7

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Subsection 39 of the *Planning Act* allows a municipality to pass Temporary Use By-laws for a three year period with an extension of up to another three years.

These By-laws are passed under Subsection 34 of the *Planning Act* and therefore a public meeting of the Planning Committee is required.

HISTORICAL BACKGROUND

1.0 Zoning By-law Amendments Nos. 17- 082 to 084

On May 10, 2017, City Council approved three Temporary Use By- laws. The purpose of these by-laws is to allow for commercial entertainment/recreation, including live or recorded music and dance facilities on Outdoor Commercial Patios for the following seven urban pilot project areas and the rural area:

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 4 of 8

1. Downtown Hamilton;
2. Hess Village;
3. West Harbour area;
4. Downtown Dundas;
5. James Street North;
6. James Street South/Augusta Street;
7. Upper James Street (Stone Church to Rymal Road); and,
8. Some properties (predominantly golf courses) within the Rural area.

The By-laws were established for a period of 24 months. They expire on May 10, 2019.

At the time these Temporary Use By-laws were in effect, there were three Zoning By-laws which had to be amended:

- By-law No. 17-082 (Zoning By-law No. 6593) – applied to James Street North, Augusta/James Street South, West Harbour and Upper James Street;
- By-law No. 17-083 (Zoning By-law No. 05-200) – applied to parts of the Downtown area, Hess Village and the rural area; and,
- By-law 17-084 (Zoning By-law No. 3581-86) – applied to Downtown Dundas.

These three by-laws were appealed to the Ontario Municipal Board by the Harbour West Neighbours (HWN). On June 2, 2018, the HWN withdrew their appeals on the By-laws. There was also an agreement that the HWN would not appeal any extension to the Temporary Use By-laws provided the Waterfront area was removed.

2.0 Zoning By-law Amendment No. 17-255

On November 22, 2017, City Council passed By-law No. 17-255 to include two pilot project areas (Upper James Street and Downtown Dundas) within Zoning By-law No. 05-200. These two areas were previously approved by Zoning By-law No. 17-082 (Schedule A-4) and Zoning By-law No. 17-084 (Dundas). This By-law expires on June 22, 2019.

There were no appeals to this By-law.

3.0 Amendments to the Noise By-law

As part of this pilot project, there were amendments to the Noise Control By-law to require applicants to obtain an outdoor commercial patio exemption permit. To obtain a permit, the applicant must provide:

SUBJECT: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 5 of 8

- a Certificate of Compliance by a certified acoustic consultant/engineer;
- a detailed Floor Plan showing:
 - (a) surrounding residential areas, properties and dwelling units;
 - (b) a detailed floor plan;
 - (c) position/direction of the noise source;
 - (d) position/direction of hospitals, schools, senior care facilities/residences;
- contact information and undertaking of person(s) supervising the activity; and,
- a \$500 application fee.

In addition, there are conditions imposed on an outdoor commercial patio exemption permit:

- the dates / times be limited from Thursday to Saturday, 11 a.m. – 11 p.m.;
- any resulting noise be restricted to a maximum equivalent sound level (Leq) 60 dBA measured at the permit holder's property line (i.e. conversation in a restaurant, office, background music, air conditioning unit at 30 m);
- the activity/use be in compliance with all City by-laws and other applicable law;
- no sound equipment other than equipment approved under the permit shall be used; and,
- all sound equipment shall be placed and used in accordance with the approved Site Plan and Certificate of Compliance.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The proposed Temporary Use By-laws and the extension are consistent with the 2014 Provincial Policy Statement, conform to the 2017 Growth Plan and comply with the Urban and Rural Hamilton Official Plans. Report PED16055(a) provides the detailed explanation respecting conformity to Provincial and municipal planning documents.

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 6 of 8

RELEVANT CONSULTATION

- Legal Services Division, Corporate Services Department ; and,
- Licensing and By-law Services, Planning and Economic Development Department.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1.0 Background

Since Temporary Use By-laws have a fixed expiry date, the pilot project could not commence until the appeals were withdrawn. The purpose of the temporary use was to allow staff to evaluate the impact of potential entertainment noise from outdoor patios on adjacent residents. Given the late date for the start of the pilot project (July, 2018), insufficient time was allowed for Noise by-law permit applications and any data could only be collected for the 2018 summer months (approximately three months). No permits have been issued to date.

2.0 Temporary Use By-law Extensions

Based on the Temporary Use By-laws that are in effect, at the time of writing the Report, three by-laws (By-law Nos. 17-082, 17-083 and 17-255) require extensions.

The *Planning Act* allows for a 36 month period extension. After this extension period is over, no further extensions are permitted. Prior to or after the expiration, Staff can choose to complete the review of the pilot project areas and provide options on future permanent zoning changes.

It should be noted that the extension to By-law No. 17-255 requires minor amendments to delete zones in the preamble that do not apply to this particular geographic area and to renumber the temporary use provision.

This By-law only applies to lands that are zoned as Commercial and Mixed Use in Dundas and on Upper James Street. The amendment is to delete the text below and replace it as follows:

“Section 4.20 d) of this By-law shall not apply for a maximum period of 19 months from the date of passing of the Zoning By-law Amendment, being October 25, 2017 for those lands zoned Downtown Central Business District (D1) Zone, Downtown Prime Retail (D2) Zone, Downtown Prime Retail (D2, 451) Zone, Downtown Mixed Use (D3) Zone, Settlement Commercial (S2) Zone, Open Space (P4) Zone, Open Space (P4, 80) Zone, Open Space (P4, 115) Zone, Open Space (P4, 164) Zone, Neighbourhood Commercial (C2) Zone, Mixed Use Medium Density (C5, SE 570) Zone, Mixed Use Medium Density Pedestrian Focus (C5a, SE 570) Zone, Mixed

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 7 of 8

Use Medium Density (C5) Zone, Mixed Use Medium Density (C5, SE 318) Zone, and described as:”

Replacement

“Section 4.20 d) of this By-law shall not apply for a period running until May 1, 2022 for those lands zoned Neighbourhood Commercial (C2) Zone, Mixed Use Medium Density (C5) Zone, and Mixed Use Medium Density Pedestrian Focus (C5a) Zone, and described as:”.

The second minor amendment is to renumber the temporary use from T3 to T4.

The By-laws are attached as Appendices “A”, “B” and “C” to Report PED16155(b).

3.0 Adding a new Temporary Use By-law

In November, 2017 and April, 2018, the City passed new zoning Lands identified on Schedule “A2” of By-law 17-082 (lands east of the Downtown and the Downtown area) to remove them from Zoning By-law No. 6593 and include them in Zoning By-law No. 05-200. However, a Temporary Use By-law for these lands was not passed when the zoning was incorporated in Zoning By-law No. 05-200.

This zoning was appealed to the LPAT. Once the Downtown zoning is in effect for the James Street South/Augusta pilot project areas, By-law 17-082, will become inoperative since the lands will no longer be within Zoning By-law No. 6593. Therefore, a new Temporary Use By-law under Zoning By-law No. 05-200 must be passed so these lands can retain the temporary use permissions. The By-law is attached as Appendix “D” Report PED16155(b).

ALTERNATIVES FOR CONSIDERATION

Option 1: No extensions to and no additional Temporary Use By-laws are passed.

Option 2: The extension could include an alternative time frame (i.e. 24 months).

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.

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: Entertainment on Outdoor Commercial Patios – Extension and Establishment of the Temporary Use By-laws (PED16155(b)) (City Wide) - Page 8 of 8

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” - Proposed Temporary Use By-law Extension for Zoning By-law No. 05-200 (By-law 17-083)
- Appendix “B” - Proposed Temporary Use By-law Extension for Zoning By-law No. 05-200 (By-law 17-255)
- Appendix “C” - Proposed Temporary Use By-law Extension for Zoning By-law No. 6593 (By-law 17-082)
- Appendix “D” - Proposed Additional Temporary Use By-law for Zoning By-law No. 05-200 (Lands in the James Street South/Augusta area)

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.

Authority:
Wards 2, 11, 12, 13, 14, 15
Bill No.

CITY OF HAMILTON

BY-LAW NO. 19-

To Amend By-law 05-200

As amended by By-law No. 17-083

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Downtown Hamilton, Hess Village and for certain lands Zoned Open Space (P4) Zone and Settlement Commercial (S2) Zone in the Rural Area

WHEREAS, the City of Hamilton's new comprehensive Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS By-law 17-083 added a temporary use allowing for entertainment on outdoor commercial patios on certain lands located in the Downtown area, Hess Village and the rural area;

AND WHEREAS that temporary use expires on May 10, 2019;

AND WHEREAS subsection 39(3) of the *Planning Act* provides that Council may by by-law grant further periods of time that the temporary use is in effect for a period not more than three years; and,

AND WHEREAS this By-law conforms with the Rural and Urban Hamilton Official Plan.

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

1. That the period of time that the temporary use in By-law No. 17-083 is in effect be extended to May 1, 2022.
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 this By-law comes into force in accordance with section 34 of the *Planning Act*.

To Amend By-law 05-200

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Downtown Hamilton, and for certain lands Zoned Open Space (P4) Zone and Settlement Commercial (S2) Zone in the Rural Area

(Page 2 of 3)

PASSED this day of May, 2019.

Fred Eisenberger
Mayor

Janet Pilon
Acting City Clerk

To Amend By-law 05-200

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Downtown Hamilton, and for certain lands Zoned Open Space (P4) Zone and Settlement Commercial (S2) Zone in the Rural Area

(Page 3 of 3)

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

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

Committee: Chair and Members Report No.: PED16155(b) Date: 04/30/2019

Ward(s) or City Wide: City Wide (MM/DD/YYYY)

Prepared by: Joanne Hickey-Evans Phone No: 1282

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

Authority:
Wards: 8, 13
Bill No.

CITY OF HAMILTON

BY-LAW NO. 19-

To Amend Zoning By-law 05-200

As amended by By-law No. 17-255

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Upper James Street between Stone Church Road and Rymal Road and Downtown Dundas

WHEREAS the City of Hamilton's new comprehensive Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS By-law 17-255 added a temporary use allowing for entertainment on outdoor commercial patios on certain lands located along Upper James Street between Stone Church Road and Rymal Road and lands generally located in Downtown Dundas;

AND WHEREAS that temporary use expires on June 22, 2019;

AND WHEREAS subsection 39(3) of the *Planning Act* provides that Council may by by-law grant further periods of time that the temporary use is in effect for a period not more than three years; and,

AND WHEREAS this By-law conforms with the Urban Hamilton Official Plan.

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

1. That the period of time that the temporary use in By-law No. 17-255 is in effect be extended to May 1, 2022.
2. That Schedule "E" – Temporary Use of By-law 05-200 is amended as follows:
 - (i) renumbering the Temporary Use Number from "3" to "4";
 - (ii) deleting the following text:

"Section 4.20 d) of this By-law shall not apply for a maximum period of nineteen (19) months from the date of passing of the Zoning By-law Amendment, being October 25, 2017 for those lands zoned Downtown Central Business District (D1) Zone, Downtown Prime Retail (D2) Zone, Downtown Prime Retail (D2, 451) Zone, Downtown Mixed Use (D3) Zone, Settlement Commercial (S2) Zone, Open Space (P4) Zone, Open

To Amend Zoning By-law 05-200

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Upper James Street between Stone Church Road and Rymal Road and Downtown Dundas

(Page 2 of 3)

Space (P4, 80) Zone, Open Space (P4, 115) Zone, Open Space (P4, 164) Zone, Neighbourhood Commercial (C2) Zone, Mixed Use Medium (C5, SE 570) Zone, Mixed Use Medium Pedestrian Focus (C5a, SE 570) Zone, Mixed Use Medium (C5) Zone, Mixed Use Medium (C5, SE 318) Zone, and described as:

and replacing it with the following text:

"Section 4.20 d) of this By-law shall not apply for a period running until May 1, 2022 for those lands zoned Neighbourhood Commercial (C2) Zone, Mixed Use Medium Density (C5) Zone, and Mixed Use Medium Density Pedestrian Focus (C5a) Zone, and described as:".

3. 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*.
4. That this By-law comes into force in accordance with section 34 of the *Planning Act*.

PASSED this xx day of xx, 2019.

Fred Eisenberger
Mayor

Janet Pilon
Acting City Clerk

To Amend Zoning By-law 05-200

Respecting Pilot Project for Entertainment on Outdoor Commercial Patios generally located in the areas of Upper James Street between Stone Church Road and Rymal Road and Downtown Dundas

(Page 3 of 3)

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

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

Committee: Chair and Members Report No.: PED16155(b) Date:

Ward(s) or City Wide: Wards (MM/DD/YYYY)

Prepared by: Joanne Hickey-Evans Phone No: 1282

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

Authority:
Ward 2
Bill No.

CITY OF HAMILTON

BY-LAW NO. 19-

To Amend Zoning By-law No. 6593

As amended by By-law No. 17-082

James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South between Hunter Street East and Young Street

WHEREAS, Zoning By-law No. 6593 (Hamilton) was enacted on the 25th day of July, 1950, which was approved by the Ontario Municipal Board dated the 7th day of December, 1951 (File No, P.F.C. 3821);

AND WHEREAS By-law 17-082 added a temporary use allowing for entertainment on outdoor commercial patios for certain lands located on James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South between Hunter Street East and Young Street;

AND WHEREAS that temporary use expires on May 10, 2019;

AND WHEREAS subsection 39(3) of the *Planning Act* provides that Council may by by-law grant further periods of time that the temporary use is in effect for a period not more than three years; and,

AND WHEREAS this By-law conforms with the Urban Hamilton Official Plan.

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

1. That the period of time that the temporary use in By-law No. 17-082 is in effect be extended to May 1, 2022.
2. That By-law No. 17-082 be amended by:
 - i) modifying Schedule "A2" to include only the lands within Zoning By-law No. 6593, as shown on the attached Schedule "A" to this By-law; and,
 - ii) deleting Schedules "A3" and "A4".
3. 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*.

To Amend Zoning By-law 6593
James Street North between Murray Street and Cannon Street, and certain lands generally located at
James Street South between Hunter Street East and Young Street

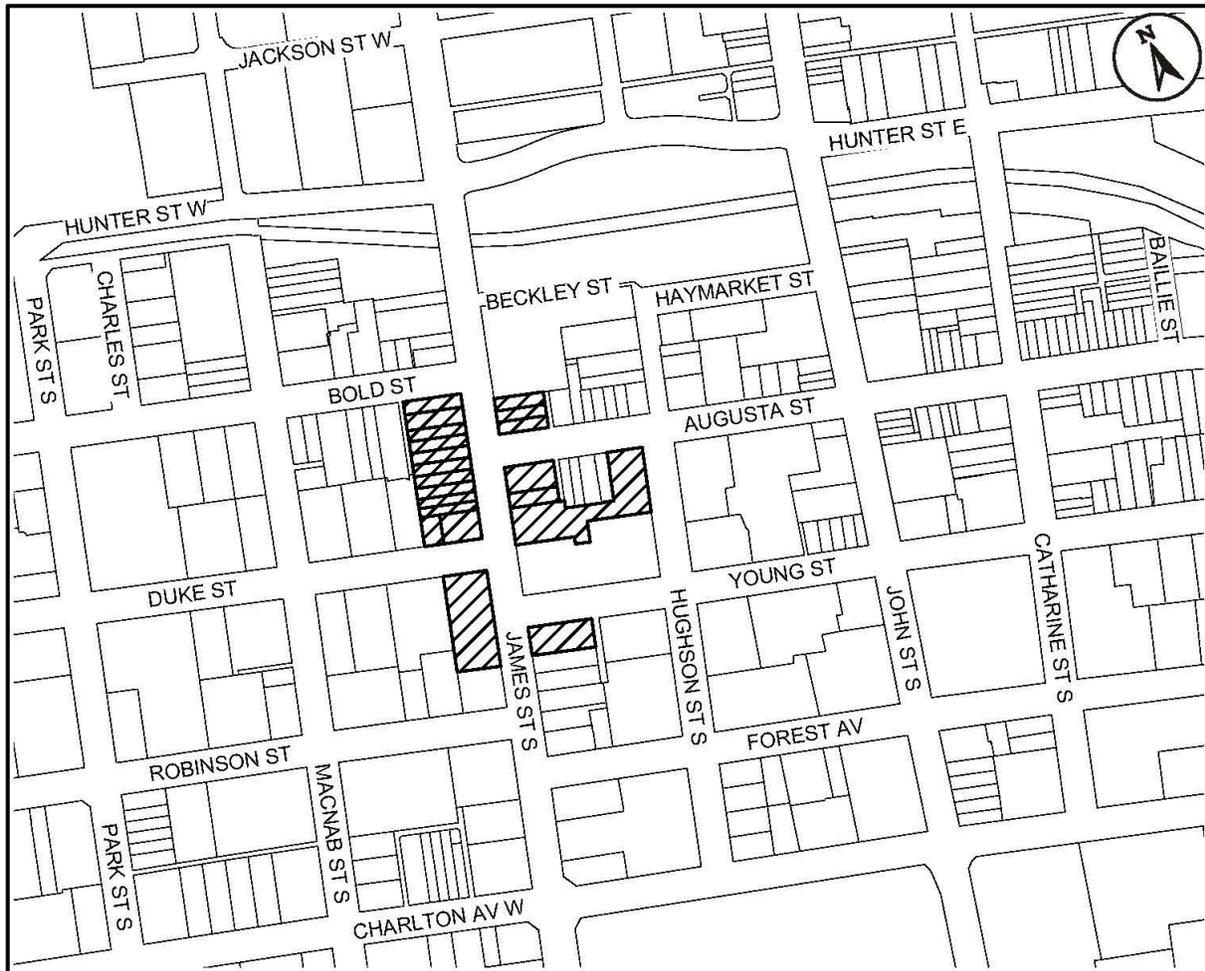
(Page 2 of 4)

4. That this By-law comes into force in accordance with section 34 of the *Planning Act*.

PASSED this day of May, 2019.

Fred Eisenberger
Mayor

Janet Pilon
Acting City Clerk



This is Schedule "A2" to By-law No. 19-

Passed the day of, 2019

Mayor

Clerk

Schedule "A2"

Map Forming Part of
By-law No. 19-_____

to Amend By-law No. 6593

Subject Property

James Street / Augusta Pilot Area



Lands subject to the extension of
Temporary Use By-law No. 17-082

Scale:
N.T.S.

File Name/Number:
OCP - Pilot Project (Augusta)

Date:
March 27, 2019

Planner/Technician:
JHE/AL



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Appendix "C" to Report PED16155(b)

To Amend Zoning By-law 6593
James Street North between Murray Street and Cannon Street, and certain lands generally located at
James Street South between Hunter Street East and Young Street

(Page 4 of 4)

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.: PED16155(b) Date: 04/30/2019

Ward(s) or City Wide: City Wide (MM/DD/YYYY)

Prepared by: Joanne Hickey-Evans Phone No: 1282

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

Authority:
Ward: 2
Bill No.

CITY OF HAMILTON

BY-LAW NO. 19-

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

WHEREAS the City of Hamilton's new comprehensive Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS this By-law adds a Temporary Use in Zoning By-law No. 05-200 to allow for entertainment on outdoor commercial patios in By-law 05-200 on certain lands located along James Street North between Cannon Street and Murray Street, and lands generally bounded by James Street South, Haymarket Street, John Street South, Augusta Street, and Hughson Street; and,

AND WHEREAS this By-law conforms with the Urban Hamilton Official Plan.

NOW THEREFORE the Council of the City of Hamilton amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zoning Maps is amended by adding the Temporary Use symbol to Maps 868, 869, 910, 911, 952, 994 attached as Schedules "A" and "A1" of this By-law.
2. That Schedule "E" – Temporary Use By-law is amended by adding the following new Subsection to the existing Temporary Use (T5) Zone:
 - "5. "Section 4.20 d) of this By-law shall not apply for a period running until May 1, 2022 for those lands zoned Downtown Central Business District (D1) Zone, Downtown Prime Retail (D2) Zone, and Mixed Use Medium Density (C5) Zone and as further described as:".

Property Address	Map Number
13 Augusta Street	994
14 Augusta Street	994
16 Augusta Street	994
17 Augusta Street	994
18 Augusta Street	994
19 Augusta Street	994

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

Property Address	Map Number
20 Augusta Street	994
21 Augusta Street	994
23 Augusta Street	994
25 Augusta Street	994
29 Augusta Street	994
45 Augusta Street	994
49 Augusta Street	994
51 Augusta Street	994
53 Augusta Street	994
57 Augusta Street	994
1 Duke Street	994
18, 22 Haymarket Street	994
111 Hughson Street, 2 Haymarket Street	994
112 Hughson Street	994
115 Hughson Street	994
117 Hughson Street	994
120, 122 Hughson Street	994
155, 157 James Street North	910
161 James Street North	910
163, 165 James Street North	910
166 James Street North, 15 Cannon Street West	910, 911
167 James Street North	910
169 James Street North	910
170, 172, 174 James Street North	910, 911
173 James Street North	910
175 James Street North	910
176, 178, 180 James Street North	910, 911
181, 183, 185, 187, 191 James Street North	910
193, 195, 197 James Street North	910, 911
199 James Street North	910, 911
201 James Street North	910, 911
203, 205 James Street North	910, 911
207, 209 James Street North	910, 911
213 James Street North	910, 911
219 James Street North	910, 911
224 James Street North	911
225, 227 James Street North	910, 911
226 James Street North	911
229 James Street North	910, 911
230, 232 James Street North	911

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

Property Address	Map Number
231 James Street North	910, 911
233 James Street North	910, 911
235 James Street North	910, 911
236 James Street North	911
237 James Street North	910, 911
238 James Street North	911
241 James Street North	911
243 James Street North	911
244 James Street North	911
245 James Street North	911
246 James Street North	911
249, 253 James Street North	911
255, 257, 259 265 James Street North, 3 Colbourne Street	911
274, 276 James Street North	911
275 James Street North	911
278 James Street North	911
280 James Street North	911
282 James Street North	911
284, 286 James Street North	911
288 James Street North	911
290 James Street North	911
292 James Street North	911
294 James Street North	911
295 James Street North	911
298, 300 James Street North	911
299 James Street North	911
301 James Street North	911
302 James Street North, 4, 6 Barton Street East	911
10 Barton Street East	911
18 Barton Street East	911
306 James Street North	911
308 James Street North	911
309 James Street North	911
310 James Street North	911
314 James Street North	911
316 James Street North	911
318, 320 James Street North	911
322, 324 James Street North	911
325 James Street North	869, 911

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

Property Address	Map Number
326 James Street North	911
328 James Street North	911
329, 331, 333 James Street North	869
330 James Street North	911
332 James Street North	869, 911
334 James Street North	869, 911
337 James Street North	911
340 James Street North	869, 911
342 James Street North	869
344 James Street North	869
345 James Street North	869
346 James Street North	869
360 James Street North	869
142 James Street South	994
144 James Street South	994
146 James Street South	994
148 James Street South	994
149 James Street South	994
150 James Street South	994
151 James Street South	994
152 James Street South	994
153 James Street South	994
154 James Street South	994
155 James Street South	994
156 James Street South	994
158 James Street South	994
160 James Street South	994
163 James Street South	994
164, 166 James Street South, 2 Duke Street	994
165 James Street South	994
180 James Street South	994
183 James Street South, 2, 4 Young Street	994
133 John Street South	994
135, 137, 139 John Street South	994
145 John Street South	994
151 John Street South	994
155, 157, 159, 163, 167, 169, 171 John Street South, 69, 75, 77 Augusta Street	994
160 John Street South	994
166 John Street South	994

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

Property Address	Map Number
170 John Street South	994
172 John Street South	994
173 John Street South, 70 August Street	994
174, 176 John Street South, 64 Augusta Street	994
175 John Street South	994
177 John Street South	994
178 John Street South	994
179 John Street South	994
194, 198 John Street South	994

2. 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*.
3. That this By-law comes into force in accordance with Section 39 of the *Planning Act*.

PASSED this XXX of May, 2019.

Fred Eisenberger
Mayor

Janet Pilon
Acting City Clerk

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street



This is Schedule "A" to By-law No. 19- Passed the day of, 2019	----- Mayor ----- Clerk
---	--------------------------------------

<h2 style="margin: 0;">Schedule "A"</h2> <h3 style="margin: 0;">Map Forming Part of By-law No. 19-_____</h3> to Amend By-law No. 05-200 Maps 952 & 994	Subject Property Augusta Pilot Area To add Temporary Use No. (T5) to the subject lands
---	---

Scale: N.T.S.	File Name/Number: OCP - Pilot Project (Augusta)
Date: March 13, 2019	Planner/Technician: TL/AL
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	



To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street



This is Schedule "A1" to By-law No. 19- Passed the day of, 2019		_____ Mayor _____ Clerk
<h2>Schedule "A1"</h2> Map Forming Part of By-law No. 19-_____ to Amend By-law No. 05-200 Maps 868, 869, 910 & 911		Subject Property James North Pilot Area To add Temporary Use No. (T5) to the subject lands
Scale: N.T.S.	File Name/Number: OCP - Pilot Project (James North)	
Date: March 13, 2019	Planner/Technician: TL/AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

To Amend Zoning By-law 05-200 Respecting a Pilot Project for Entertainment on Outdoor Commercial Patios located along James Street North between Murray Street and Cannon Street, and certain lands generally located at James Street South, August Street, Hughson Street, John Street South, and Haymarket Street

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: PC

Report No.: PED16155(b) Date: 04/30/2019

Ward(s) or City Wide: Ward: 2

(MM/DD/YYYY)

Prepared by: Joanne Hickey Evans

Phone No: X1282

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



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
 Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joanne Hickey Evans (905) 546-2424 Ext.1282
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Report PED19091 (City Initiative CI-19-B), including the Discussion Paper titled Residential Care Facilities and Group Homes - Human Rights and the Zoning By-Laws within the Urban Area - March 2019, attached as Appendix "A" to Report PED19091 be received;
- (b) That staff be directed to undertake public engagement on the proposed Zoning By-law regulation options, in conjunction with other housing issues, as part of the development of the new residential zones;
- (c) That staff report back to the Planning Committee summarizing public input and identifying the preferred zoning definition and regulations for residential care facilities and group homes to be incorporated into the new residential zones in Zoning By-law No. 05-200.

EXECUTIVE SUMMARY

The purpose of this Discussion Paper, attached as Appendix "A" to Report PED19091 is to review the Zoning By-law regulations (e.g. radial separation distance, capacity) and definition of residential care facilities (RCF) and group homes within the urban area. Although this review was directed by City Council in response to a specific OMB hearing

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 2 of 12

(Lynwood Charlton) and the Ontario Human Rights Commission (OHRC) concerns respecting Zoning By-law regulations for RCFs, the review will be used as input into the new residential zones for Zoning By-law No. 05-200.

This Report does not address other housing forms such as retirement homes, emergency shelters, correctional facilities, and long term care homes, nor will it address affordable housing issues. The use of the word RCF in this report also encompasses the term 'group home'.

Preliminary recommendations

Based on the review of the OHRC concerns, Zoning By-laws of other municipalities and the former City of Hamilton, a series of recommended changes to Zoning By-law No. 05-200 to create harmonized regulations for the urban area are proposed. Preliminary recommendations include:

Zoning By-law	Preliminary Recommendation
Definition	
<p>Highlight-delete text <i>Italics</i> – add text</p>	<p><u>amend the definition as follows in Zoning Bylaw No. No. 05-200:</u></p> <p>Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents as permitted by the zone, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps or personal distress and which residential setting is developed for the well-being of its residents through the provision of supports/services of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation or if:</p> <ul style="list-style-type: none"> a) The resident was referred to the facility by a hospital, court or government agency; or b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments. <p>A residential care facility shall include a children's residence and group home but shall not include an</p>

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 3 of 12

Zoning By-law	Preliminary Recommendation
	emergency shelter, lodging house, corrections residence or correctional facility.
Capacity by Zone	
	<u>regulate both minimum and maximum capacity by zone as follows:</u>
	Low Density Zones (single/semi-detached dwellings) Minimum capacity: 4 residents Maximum capacity: 6 residents
	Medium Density (including the Community Institutional (I2) Zone) Minimum capacity: 4 residents Maximum capacity: 24 residents
	High Density Zone (including the Mixed Use High Density Zone) Minimum capacity: 15 residents Maximum capacity: none
Radial Separation Distance and Moratorium Area	
	<u>Delete requirement for both</u>
Counselling Services	
	Permit counselling services (i.e. social service establishment) in conjunction with a RCF in a Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 4 of 12

HISTORICAL BACKGROUND

Residential care facilities (RCFs) and group homes are a congregate form of housing that initially developed in the 1970s in response to the Provincial government's "deinstitutionalization". It provided accommodation for persons who were previously living in institutions, to live in a home where they would receive on-site support and supervision. RCFs are located in neighbourhoods where services and facilities (parks, transit, etc.) are available. Through the decades, the housing models have been shifting away from the congregate living to a more independent living arrangement that includes on-site supports (e.g. common dining room / cafeteria, nurse, etc.) based on the needs of the residents.

There were two major Hamilton Zoning By-law reviews of these facilities; in the 1980s and in early 2000. In 2016, staff were directed by City Council to review the radial separation distance (RSD) requirements in response to Ontario Human Rights Commission (OHRC) concerns. This direction provided the opportunity for staff to also review the Zoning By-law regulations of all former municipal Zoning By-laws with the goal of establishing harmonized regulations for the City's residential areas. The Downtown (2005 and 2018) and the Rural areas (2015) as well as the Institutional (2007) and the Commercial Mixed Use Zones (2017) have regulations that apply on a city-wide basis.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

1.0 Provincial Policy

1.1 Provincial Policy Statement 2014 (PPS)

Section 1 – Building Strong Healthy Communities – requires a municipality to include policies in their Official Plan to address affordable housing (Policy 1.4.3.a) and the provision of housing for special needs groups (Policy 1.4.3.b.1.). Healthy, liveable and safe communities are sustained by accommodating an appropriate range and mix of residential, institutional, recreation, park and open space, and other uses to meet long-term needs.

Section 4 – Implementation and Interpretation - states the PPS shall be implemented in a manner that is consistent with the Ontario *Human Rights Code* and the Canadian *Charter of Rights and Freedoms* (Policy 4.6).

The proposed Zoning By-law changes are consistent with the PPS in that it allows for a specific housing form within areas of the City that permit residential uses.

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 5 of 12

1.2 Growth Plan for the Greater Golden Horseshoe

1.2.1 2017 Growth Plan

The Growth Plan does not specifically address special needs housing. However it contains similar policies to the PPS that requires a municipality, through the completion of a Housing Strategy, to identify affordable housing for current and future populations. Policy 2.2.6.1 a) i) requires that municipalities plan to achieve certain density targets for both inside and outside the built boundary. To achieve these targets, municipalities must identify a diverse range and mix of housing options and densities, including second units and affordable housing to meet projected needs of current and future residents.

1.2.2 Amendment No. 1 to the Growth Plan

In January, 2019, the Province introduced Amendment No. 1 which proposes to remove the need to complete a Housing Strategy. However, the requirement to identify and plan for a diverse range and mix of housing remains. At the time of writing this Report, Amendment No. 1 had not received final approval.

2.0 Urban Hamilton Official Plan

The Housing Policies of the Urban Official Plan ensure that housing is available for all residents with a wide variety of needs. In order to do so, there must be a sufficient supply of housing with a range of housing types, forms, tenures, densities, affordability levels and housing with support services. Sections 3.2.1 - Urban Housing Goals and 3.2.4 – General Policies for Housing – provide direction for a range of housing to meet the needs of the population, including housing with supports. Housing with Supports includes residential care facilities.

Small scale residential care facilities are permitted in the Neighbourhoods, Institutional, and Commercial Mixed Uses designations in accordance with the Zoning By-law (Policy C.3.2.2.c).

3.0 Zoning By-laws

With the introduction of Zoning By-law No. No. 05-200 zones, there are harmonized regulations for lands that are:

- Located in the Downtown and the rural areas; and,
- Zoned Institutional and Commercial Mixed Use.

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 6 of 12

Within the urban residential areas, there are six Zoning By-laws that apply: five of which allow these facilities in certain areas. Ancaster's Zoning By-law does not permit the use. Each of the former Zoning By-laws defines and regulates residential care facilities differently. There are various approaches, such as:

- Various definitions are used to describe the same use: residential care facility (No. 05-200, Hamilton, Stoney Creek) and group home (Dundas, Flamborough, Glanbrook and Stoney Creek);
- Some municipalities include the minimum capacity within the definition (No. 05-200, Dundas, Hamilton, and Stoney Creek) and other municipalities include both a minimum and maximum capacity within the definitions (Flamborough and Glanbrook); and,
- Some municipalities have a set of regulations for residential care facilities (capacity, radial separation distance, parking) in the general provisions of the by-law (Flamborough and Stoney Creek), while other municipalities include the regulations in each zone where a residential care facility is permitted (No. 05-200, Dundas, Glanbrook, and Hamilton).

RELEVANT CONSULTATION

The following Divisions and Departments were consulted:

- Housing Division, Healthy and Safe Communities Department.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As noted in the Historical and Policy Implementation and Legislative Requirements Sections of this Report, the current Zoning By-law regulations for RCFs and group homes in the City's urban area:

- Are different in each of the seven Zoning By-laws which creates inequitable distribution of these facilities in the urban area;
- Need to be updated given the shift away from congregate living into more individual units with the provision of on-site supports;
- Must address the OHRC concern about the use of a radial separation distance for housing forms for special needs groups; and,
- Should review the provision of counselling within RCFs.

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 7 of 12

1.0 Context and Preliminary Recommendations for Changes to the Zoning By-law No. 05-200

A RCF is as form of congregate living that initially developed in the 1970s in response to the Provincial government's direction to house more people in the community provided they had supports and supervision. The capacity of these facilities ranges from three or four up to larger facilities of 50 or more depending on the Zoning By-law.

Many municipalities developed zoning by-law regulations to define what the use was, the number of people that could live in the facility and established a minimum distance between facilities (known as radial separation distance). The way in which these regulations were developed was based on local conditions (urban or rural areas), demand for these facilities, land use impacts and the format of the zoning by-law.

The Discussion Paper titled Residential Care Facilities and Group Homes - Human Rights and the Zoning By-Laws within the Urban Area - March 2019, attached as Appendix "A" to Report PED19091, includes:

- The history of the Council Direction;
- The role and history of OHRC as it relates to RCFs;
- The evolution of planning policy and Zoning By-law regulations in Hamilton for RCFs/group homes;
- Current planning policies and regulations in Hamilton;
- Provincial and Municipal Housing Strategies and Requirements;
- Review of other municipal Zoning By-law regulations; and,
- Options for changes to the Zoning By-law regulations.

1.1 Preliminary recommendations for Proposed Zoning By-law Changes

The Discussion Paper includes different approaches to address the various Zoning By-law regulations that exist, including the:

- Definition of the uses;
- Capacity (minimum and maximum number of residents) of a facility in different geographic (e.g. low, medium, high density residential, institutional) areas;
- Radial separation distance (the distance between one facility and another); and,
- Co-location of counselling services within RCFs.

The Paper also includes preliminary recommendations for new Zoning By-law definition and regulations.

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 8 of 12

1.1.1 Definition

The definition is proposed to be slightly modified in Zoning By-law No. 05-200 to remove the reference to the minimum number of residents and the reason why a person lives in such a facility. These proposed changes address a concern by the OHRC to other municipalities about discrimination as well as make the definition more consistent with other Zoning By-law definitions. The proposed definition is [strikeouts are deletions; italics are additions]:

Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by ~~a minimum of four supervised residents and a maximum number of supervised residents as permitted by the zone,~~ exclusive of staff, residing on the premises ~~because of social, emotional, mental or physical handicaps or personal distress~~ and which residential setting is developed for the well-being of its residents through *the provision of supports/services* ~~of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation~~ or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility ~~shall include a children's residence and group home but~~ shall not include an emergency shelter, lodging house, corrections residence or correctional facility. [cross-out is deletion, italics is addition].

1.1.2 Capacity of the RCF by Zone

The Zoning By-law regulates the capacity of each facility by establishing the minimum and maximum number of residents. The format of Zoning By-law No. 05-200 includes regulations within each individual zone. Although the residential zones have not been developed, zone categories generally are split into low, medium and high density.

One of the key requirements of a RCF is that it must be located in a fully detached residential building. As such, the use would not be permitted in townhouses, duplexes, and multiple dwellings unless it was wholly used for RCF purposes.

Based on the built form within each zone and the comparison of the various zones within the urban area, the following capacities are suggested. Facilities with three residents or less are not considered as RCFs:

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 9 of 12

- Low Density Residential Zones (single/semi-detached dwellings)
 - Minimum capacity: 4 residents
 - Maximum capacity: 6 residents
- Medium Density Residential Zones (multiple dwellings of maximum 8 storeys)
 - Minimum capacity: 4 residents
 - Maximum capacity: 24 residents

Modifications to a maximum capacity of 24 residents in the Community Institutional (I2) Zone, the Transit Oriented Corridor (TOC1) Zone and the Mixed Use Medium Density (C5) Zone are also proposed. The type of development in these zones is similar to medium density.

- High Density Zone
 - Minimum capacity: 15 residents
 - Maximum capacity: none

Modification to delete the maximum capacity of 50 residents in the Mixed Use High Density (C4) Zone is also proposed. This zone allows multiple dwellings of a maximum of 12 storeys on large sites (there are only 4 sites in the City).

It should be noted the setbacks and height regulations will control the built form of any building.

1.1.3 Radial Separation Distance (RSD) and Moratorium Area

The proliferation of RCFs was more pronounced in the 1970s to the 1990s/early 2000s. As noted in the previous 2001 report on zoning and RCFs, the RCF model was beginning to change in favour of more independent living. This shift has continued.

In addition to the radial separation distance in each by-law, Hamilton Zoning By-law No. 6593 has two moratorium areas given the concentration of facilities. They are located between:

- Queen Street South, Hunter Street West, James Street South and Main Street West; and,
- Wellington Street South, Railway tracks, Sherman Avenue South and King Street East.

In 2007, an amendment to Zoning By-law No. 6593 to remove the radial separation distance for retirement homes was passed. The majority of the RCFs would be considered as Retirement Homes. The separation distance for RCFs was maintained.

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 10 of 12

Zoning By-law No. 05-200 does not include a RSD for retirement homes. When the rural zoning was passed in 2015, no RSD was included for retirement homes or RCFs in rural zones, including the Rural Settlement Area Zones.

The preliminary recommendation is to remove both the RSD and the moratorium areas. This approach will address the concerns of the OHRC respecting discrimination of special needs groups, as well as follow practices of several other municipalities to have removed the RSD. If the RSD is removed, then similarly the moratorium areas should also be removed since it represents a similar restriction.

1.1.1.4 Counselling Services

Since the 2001 study, the operation of some RCFs has changed. For financial and/or operational reasons, some facilities are providing counselling services not only for the residents of that dwelling but residents within some of their other facilities.

The Lynwood Charlton Centre emphasized the transition between traditional RCFs to multifunctional supportive living and institutional services that provide support for residents and community members including daily living skills and self-care skills. It should be noted not all residential care facilities provide counselling for its residents. Counselling services that cater to people other than those residents who live in the residential care facility is considered as a social service establishment. There is merit in considering this type of operation. Based on a review of where RCFs and social services establishments are permitted as separate uses, the preliminary recommendation would be to allow a combined RCF and social service establishment in the Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and Mixed Use Medium Density (C5) Zones.

2.0 Public Engagement

Residential care facilities / group homes is one of three major land use issues that merit the preparation of a separate Discussion Paper and public engagement approach. These issues are distinct from many Zoning By-law regulations (i.e. setbacks, height, etc.), and are complex and important community matters that warrant public input prior to completion of the new zones.

Staff are preparing separate Discussion Papers for:

- Secondary units (i.e. accessory apartments and housing adjacent to laneway) in low density residential areas (May 2019); and,
- Parking rates and design in residential areas (June 2019).

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 11 of 12

For a more robust and comprehensive public engagement, staff are proposing to combine the public engagement on secondary units with residential care facilities. The engagement will be held throughout the City in the Spring or Fall 2019. A variety of techniques (i.e. open houses, web presence, etc.) will be used. Targeted stakeholder meetings for residential care facilities only will be held with service providers and other housing groups.

The proposed approach would be for Planning Committee and Council to make a decision on the general regulations for each topic after public consultation and in advance of the new residential zones regulations. Staff used this approach in the development of the Rural and Urban Hamilton Official Plans. It was successful in that it created focussed and topical discussion for the public and Council without being complicated by matters such as setbacks, height, etc.

ALTERNATIVES FOR CONSIDERATION

Option 1: Council could defer proceeding with community consultation until such time as the draft residential zones have been prepared. Under this scenario, public engagement would occur as part of the overall residential zones and not as a separate process.

Option 2: Council could direct staff not to make any changes to the existing Zoning By-law provisions as it relates to Residential Care Facilities. Under this scenario, there would not be a standardization of planning permissions which would be contrary to the general direction to harmonize planning permissions across the City of Hamilton.

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.

Healthy and Safe Communities

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

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: Residential Care Facilities and Group Homes (Urban Area) - Human Rights and the Zoning By-law Discussion Paper (CI 19-B) (PED19091) (City Wide) - Page 12 of 12

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Residential Care Facilities and Group Homes - Human Rights and the Zoning By-Laws within the Urban Area Discussion Paper - March 2019

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.

**RESIDENTIAL CARE
FACILITIES, GROUP HOMES
HUMAN RIGHTS AND THE ZONING
BY-LAWS WITHIN THE URBAN AREA
DISCUSSION PAPER**



Hamilton

TABLE OF CONTENTS

			Page
		Executive summary	i
1.0		Introduction	1
2.0		Purpose and Structure of the Report	1
3.0		Background	2
	3.1	Official Plans/Zoning By-laws in Hamilton	2
	3.2	Council Direction - Lynwood Charlton Centre Ontario Municipal Board (OMB) Decision	3
4.0		Ontario Human Rights Code/Commission And The Charter Of Rights And Freedoms	5
	4.1	Ontario Human Rights Commission and Other Municipalities	6
	4.2	Ontario Human Rights Commission and the City of Hamilton	7
5.0		Evolution Of Land Use Planning Policy And Licencing In Hamilton	7
	5.1	1970s Provincial Policy Direction	7
	5.2	Area Municipal Directions	8
6.0		Provincial and Municipal Housing Strategies	10
	6.1	10-Year Housing and Homelessness Action Plan	10
	6.2	Long Term Affordable Housing Strategy Update	10
	6.3	Residential Care Facilities and the Domiciliary Hostel Program in Hamilton	11

			Page
7.0		Current Land Use Planning Policies	13
	7.1	Provincial Policies	13
	7.2	Municipal Planning Policy	14
	7.3	Hamilton Zoning Definitions and Regulations	15
8.0		Other Municipal Requirements	19
	8.1	City of Hamilton Licensing Requirements	19
	8.2	Ontario Building Code	20
	8.3	Parkland Dedication	20
	8.4	Development Charges	20
9.0		Review Of Other Municipalities Zoning By-Law Regulations And Definitions	20
	9.1	Review of Other Municipalities Referenced by OHRC	20
	9.2	Review of Other Similar Municipalities	21
	9.3	Summary	22
10.0		Analysis Of Issues	22
	10.1	Definitions	23
	10.2	Location and Capacity of RCFs	24
	10.3.	Radial separation distance	27
	10.4	Counselling services	28
	10.5	Planning Summary	30
11.0		Summary and Next Steps	32

Appendices	
A	Ontario Municipal Board Decision – Lynwood Charlton
B	Letter from Barbara Hall Applying a Human Rights lens to zoning, licencing and municipal decision making – February 2015
C	Land Use Planning History for Residential Care Facilities
D	Provincial Policies
E	Hamilton Official Plan Policies
F	Hamilton Zoning Definitions and Regulations
G	Municipal (Outside Hamilton) Zoning By-law Definitions and Regulations for Group Homes
G1	Review of Municipal Approaches to OHRC-Dream Team Concerns on Residential Care Facilities
H	Options for Change - Definitions
H1	Options for Change –Minimum and Maximum Capacities
H2	Options for Change – Radial Separation Distance
H3	Options for Change - Counselling

EXECUTIVE SUMMARY

The purpose of this Discussion Paper is to review the Zoning By-law regulations (e.g. radial separation distance, capacity) and definition of residential care facilities (RCF) within the urban area. Although this review was directed by City Council in response to a specific OMB hearing (Lynwood Charlton) and the Ontario Human Rights Commission (OHRC) concerns respecting Zoning By-law regulations for RCFs, the review will be used as input into the new residential zones for Zoning By-law No. 05-200.

This Report does not address other housing forms such as retirement homes, and emergency shelters, or affordable housing issues, etc.

What is a residential care facility?

A residential care facility (RCF) is a facility which accommodates residents in bedrooms with shared dining and common areas and there is 24 hour on-site support. The minimum capacity can range from 3 or 4 residents to a maximum of 50, depending on the location of the facility and the Zoning By-law in which it is located. This Discussion Paper will also review how counselling services are provided for those facilities which include a counselling use within their building.

Preliminary recommendations

Based on the review of the OHRC concerns, Zoning By-laws of other municipalities and the former City of Hamilton, a series of recommended changes to Zoning By-law No. 05-200 to create harmonized regulations for the urban area are proposed. Preliminary recommendations include:

Zoning By-law	Preliminary Recommendation
Definition	
Highlight - delete text <i>Italics</i> – add text	<p><u>amend the definition as follows:</u></p> <p>Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a</p>

Zoning By-law	Preliminary Recommendation
	<p>minimum of four supervised residents and a maximum number of supervised residents as permitted by the zone, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps or personal distress and which residential setting is developed for the well-being of its residents through <i>the provision of supports/services</i> of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation or if:</p> <ul style="list-style-type: none"> a) The resident was referred to the facility by a hospital, court or government agency; or b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments. <p>A residential care facility shall include a children's residence and group home but shall not include an emergency shelter, lodging house, corrections residence or correctional facility.</p>
Capacity by Zone	
	<p><u>regulate both minimum and maximum capacity by zone as follows:</u></p>
	<p>Low Density Zones (single/semi-detached dwellings)</p> <p>Minimum capacity: 4 residents Maximum capacity: 6 residents</p>
	<p>Medium Density (including the Community Institutional (I2) Zone)</p> <p>Minimum capacity: 4 residents Maximum capacity: 24 residents</p>
	<p>High Density Zone (including the Commercial Mixed Use High Density Zone)</p>

Zoning By-law	Preliminary Recommendation
	Minimum capacity: 15 residents Maximum capacity: none
Radial Separation Distance and Moratorium Area	
	<u>Delete both</u>
Counselling Services	
	Permit counselling services (i.e. social service establishment) in conjunction with a RCF in a Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones.

Consultation on these proposed changes will be undertaken as part of the residential zones public engagement events/processes.

1.0 Introduction

The availability of housing to accommodate the needs of all citizens, regardless of economic, social or physical circumstances, has been a focus of all levels of governments for decades. Municipalities have a role to play to ensure the housing continuum is available throughout the City. Land use planning policy and regulations provide the locational criteria and permissions for different housing forms (e.g. single detached to multiple dwellings) and housing models (e.g. residential care facility, lodging house, emergency shelter, etc.).

In recent years, the Ontario Human Rights Commission (OHRC) has become more aware and involved in reviewing zoning regulations for group homes and residential care facilities (RCFs). In particular, the OHRC is concerned with the definition of these uses and zoning requirements for radial separation distance (RSD) between these uses. Planning decisions and recommendations must consider the impact of the form and function of the land use and not the individuals which occupy the building/structure. The OHRC has provided correspondence to the City of Hamilton on three occasions, since 2012, to explain that a planning decision cannot marginalize or target a protected group under the *Ontario Human Rights Code (the Code)*. Their interest in this issue was piqued by a rezoning application for a residential care facility in 2011.

As a result of this correspondence from OHRC, the ongoing work to harmonize the former municipal Zoning By-laws and the Ontario Municipal Board decision related to the Lynwood Charlton residential care facility in downtown Hamilton, Planning staff were directed to undertake a review of policy and best practices for residential care facilities and provide some options for changes to the Zoning By-laws.

In addition, staff is preparing new Zoning By-law regulations and definitions for the urban residential areas for inclusion in Zoning By-law No. 05-200.

2. Purpose and Structure of the Report

Over the past several decades, housing forms/models to accommodate vulnerable people have expanded and evolved. There are different models that exist today commonly referred to as *housing with supports*. The more common models include:

- residential care facilities that accommodate residents in bedrooms with shared dining and common areas; there is 24 hour on site support; and,
- apartment units with individual kitchens and bathrooms and may have on-site dining facilities. Residents are provided support, on an as needed basis, either through home visits or off site supports.

The purpose of this Report is to address Zoning By-law regulations for and the definition of residential care facilities; in particular, radial separation distances, range of uses within an RCF and facility capacities. It does not review other uses such as emergency shelters, and corrections residences since these regulations/uses have not been raised as an issue.

The structure of the report includes:

- The history of the Council Direction;
- The role and history of OHRC as it relates to RCFs;
- The evolution of planning policy and Zoning By-law regulations in Hamilton for RCFs/group homes;
- Current planning policies and regulations in Hamilton;
- Provincial and Municipal Housing Strategies and Requirements;
- Review of other municipal Zoning By-law regulations; and,
- Options for changes to the Zoning By-law regulations.

This Discussion Paper does not address any financial matters for RCFs (e.g. subsidies), municipal licensing requirements or other housing issues (e.g. accessory apartments). These matters, if and when they are reviewed, would be a separate process.

3.0 Background

3.1 Official Plans/Zoning By-laws in Hamilton

Official Plans and Zoning By-laws have a role in regulating the location and size of RCF's in Hamilton.

The Urban Hamilton and Rural Hamilton Official Plans permit a small scale RCF to locate within many designations subject to the Zoning By-law.

Each of the former municipalities had their own Zoning By-laws which define and regulate RCFs. Zoning By-law No. 05-200 is the new Zoning By-law that implements the Official Plans and will apply to all lands within the City of Hamilton. At the time of writing this Discussion Paper, the definition and regulations for RCFs which are included in 05-200 apply to: Hamilton Downtown, the rural area, lands along the Light Rapid Transit (LRT) Corridor, Commercial Mixed Use areas and Institutional zones. Planning staff are preparing new zones for the residential areas (2020).

Section 6 and associated Appendices of this Paper describes the current planning policies and Zoning By-law regulations.

3.2 Council Direction - Lynwood Charlton Centre Ontario Municipal Board (OMB) Decision

The Lynwood Charlton Centre applied for a rezoning to Zoning By-law No. No. 6593 (File No: ZAR-11-034) to allow the Centre to move and consolidate a RCF with their day treatment centre for young girls (8 beds) at 121 Augusta Street, a building the organization owned. Initially, staff recommended and City Council approved a denial of the application on the basis that it did not meet the radial separation distance and would result in an over-concentration of RCFs in the neighbourhood. Staff were directed to work with the Lynwood Charlton Centre to find an alternate, appropriate location for the use. The criteria established by Lynwood Charlton Centre for finding a suitable location revealed that the intent of the use was beyond what is contemplated by the definition of a RCF in Hamilton Zoning By-law No. 6593. Zoning By-law No. 6593 defines a Residential Care Facility as:

"Residential Care Facility" means a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents, as permitted by the district, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps, or problems or personal distress that is developed for the well-being of its residents through the provision of self-help, guidance, professional care, and supervision not available in the resident's own family, or in an independent living situation or if:

- (i) *The resident was referred to the facility by hospital, court, or government agency; or,*
- (ii) *The facility is licensed, funded, approved, or has a contract or agreement with the federal, provincial, or municipal governments.*

A residential care facility is not considered as an emergency shelter, lodging house, corrections residence, corrections facility, or retirement home."

Staff Report PED12002(a) indicated that the proposal did not meet the criteria that a RCF be "within a fully detached residential building". When combining the residential component of the proposal with social services, provided for both the residents and the community, the proposal should be evaluated as a comprehensive institutional facility and not a RCF. Therefore, the denial was not based on the radial separation distance requirement but the appropriateness of a comprehensive institutional facility within a residential neighbourhood.

Council's decision was appealed by the applicant to the OMB. The OHRC requested status at the OMB to support the Lynwood Charlton Centre, citing the decision was in contravention of *the Code* by targeting a group protected by the Code. The OMB ruled that the Zoning By-law Amendment be approved.

Legal services presented a Report (LS13031) to the September 4, 2013 Planning Committee on the results of the OMB hearing. Following discussion on the matter, Planning Committee approved the following recommendation:

- (b) That staff be directed to report to the Planning Committee with a comprehensive review of residential care facilities in the context of the Provincial Policy, as it relates to special needs, and the Human Rights code. (Item 12.3)

The full OMB decision has been included as Appendix A.

4.0 Ontario Human Rights Code/Commission And The Charter Of Rights And Freedoms

The *Ontario Human Rights Code (Code)* is a Provincial law that gives everybody equal rights and opportunities without discrimination in specific social areas such as jobs, housing, services, facilities, and contracts or agreements.

The *Code's* goal is to prevent discrimination and harassment because of race, sex, disability, and age, to name a few of the 17 grounds. All other Ontario laws must agree with the *Code*.

The OHRC is one part of Ontario's system for human rights, alongside the Human Rights Tribunal of Ontario (HRTO) and the Human Rights Legal Support Centre (HRLSC). They are guided by the *Code* in all their work.

The OHRC plays an important role in preventing discrimination and promoting and advancing human rights in Ontario. The OHRC:

- Develops public policy on human rights;
- Actively promotes a culture of human rights in the province;
- Conducts public inquiries;
- Intervenes in proceedings at the Human Rights Tribunal of Ontario (HRTO);
- Initiates its own applications (formerly called 'complaints');
- Engages in proactive measures to prevent discrimination using public education, policy development, research and analysis; and,
- Brings people and communities together to help resolve issues of "tension and conflict".

In addition, the OHRC has the power to monitor and report on anything related to the state of human rights in the Province of Ontario. This authority includes reviewing legislation and policies for consistency with the intent of the *Code*.

The OHRC is focusing on overcoming discriminatory barriers to housing for vulnerable people who are protected under the grounds of the *Code*. The Commission is concerned with planning decisions that are based on people, instead of on land use and other legitimate planning principles. Municipalities must consider the needs of everyone when enacting a by-law and show sufficient planning analysis has been undertaken to demonstrate that the by-law was established in good faith, was reasonable, and that real and substantial efforts were made to accommodate the needs or persons who were adversely affected.

In addition to the *Code*, the Canadian Charter of Rights and Freedoms addresses discrimination:

Section 15(1) of the Charter:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

4.1 Ontario Human Rights Commission and Other Municipalities

Between 2011 and 2014, the Dream Team, a group of individuals fighting for equality in mental health, lodged complaints with the OHRC over zoning definitions and separation distance regulations in Toronto, Smith's Falls, Sarnia and Kitchener's Zoning By-laws. The intent was to choose four municipalities throughout Ontario to demonstrate the discrimination issue across the Province. Since the complaints were lodged, each of these municipalities have taken steps to review and amend their Zoning By-law requirements to eliminate any form of discrimination and "people zoning" as it relates to RCFs and group homes. In addition, other municipalities (e.g. Markham) have taken steps to amend their zoning to remove descriptive wording and separation requirements in light of these complaints. More information regarding the changes is included in Section 9.0.

4.2 Ontario Human Rights Commission and the City of Hamilton

Barbara Hall, former Chief Commissioner, OHRC, had sent correspondence to the Mayor and Council with respect to the impact of municipal By-laws on groups protected under the *Code*. Two of the letters refer to issues respecting student housing and lodging homes in Oshawa.

The third letter, dated January 24, 2012 notes concern regarding human rights implications of the re-zoning application by the Lynwood Charlton Centre. The letter stems from the Hamilton staff's original recommendation to deny the Lynwood Charlton application based on the separation distance noting that it is creating barriers for people with mental health issues. Hamilton was urged to consider the human rights impacts of the application.

In a letter dated February 2015 (Appendix "B"), OHRC identifies that some municipalities have removed the radial separation distances from their Zoning By-law and encourages other municipalities to do the same.

5.0 History of Land Use Planning

Summarized below is the historical context of this matter. Appendix "C" contains a more detailed description.

5.1 Provincial Directions

In the 1970s, the Province developed an alternative approach for housing and care of people requiring support which could not be provided by a family member. Historically, people who required daily care lived in institutions. The Province believed they would lead more productive lives when they were integrated into neighbourhood setting/housing with appropriate amount of supervision and support. RCFs and group homes were located within communities to provide a residential living environment for small groups of people coupled with supervision, professional counselling, and other support services to help residents meet their educational, employment, and social goals.

5.2 Area Municipal Directions

5.2.1 Hamilton

In 1981, in response to new housing models, the City of Hamilton introduced By-Law No. 81-27, which defined and established zoning regulations for RCFs, short-term care facilities (emergency shelters), and lodging houses. The by-law introduced minimum and maximum capacities of residential care facilities by specific zoning district and a 180 metre distance separation between properties containing a RCF and short term care facility. A RCF accommodated 4 or more residents; any facility that had 3 or less residents was considered as a single detached dwelling which allowed 3 lodgers.

A summary of the current Zoning By-law regulations are described in Appendix "F".

5.2.2 Other Area municipalities

Throughout the 1980s and 1990s, Dundas, Flamborough, Glanbrook and Stoney Creek also defined RCFs but used different terms (i.e. group homes) and established their own separation requirements in their former Zoning By-laws (still in force and effect). Appendix "F" contains a comparison of these regulations .

5.2.3 2000 Review of Residential Care Facilities, Short Term Care Facilities, Long Term Care Facilities and Correctional Facilities (Zoning By-Law No. 6593)

In 2000/2001, Staff reviewed the Zoning By-law regulations in Zoning By-law No. No. 6593 for residential care facilities, short term care facilities, long term care facilities and correctional facilities for the former City of Hamilton. The purpose of the study was:

- To review the social and land use planning history;
- To review the current land use planning policy framework for the City of Hamilton and area municipalities;
- To identify key issues and concerns;
- To identify a number of options to address these concerns; and,
- To identify the Preliminary Recommendations and strategies.

In June 2000, staff presented options to consider changes to the Zoning By-law No. No. 6593 respecting residential care facilities, long term care facilities and correctional facilities. The Committee directed staff to undertake a public participation program to gain input on the proposed recommendations.

Staff met with a number of different groups – service providers, neighbourhood groups, government agencies and the Business Improvement Areas (BIAs) to gauge their reaction and concerns with the proposed recommendations. Following these discussions, a second report was prepared with recommendations on changes to the Zoning By-law No. No. 6593. It was also further expanded to include hostels.

The May 2001 Discussion Paper titled “Residential Care Facilities, Long Term Care Facilities, Correctional Facilities and Hostels Discussion Paper No. 2 (Final Recommendations)” provided information and direction to update the current by-law standards from the 1981 by-law in a manner that balances the provision of a variety of housing types and size, the support for community integration of these facilities, and the impact of these facilities on the community. The Hearings Sub-Committee and City Council supported the following changes to Zoning By-law No. No. 6593:

- Redefine short term care facilities and hostels to emergency shelters and add new definitions for retirement homes, correctional facilities;
- add RCFs to the “B” (Suburban Agriculture and Residential, etc.) District;
- increase the radial separation distance between all facilities from 180m to 300m; and,
- add two moratorium areas (within the area bounded by Queen Street, Hunter Street, James Street and Main Street and Wellington Street East, King Street East, Sherman Avenue South, and the railway tracks). This moratorium recognized areas of high concentrations of RCFs and emergency shelters.

Other municipal zoning by-laws remained as is since these changes were underway prior to amalgamation.

6.0 Provincial and Municipal Housing Strategies

6.1 10-Year Housing and Homelessness Action Plan

Hamilton's 10-Year Housing and Homelessness Action Plan (HHAP), adopted December 2013, guides decision making on how the Hamilton community addresses affordable housing and homelessness issues. Housing with supports, which includes residential care facilities, is one of five outcome areas of the HHAP, indicating that it is a key component of meeting the housing needs of Hamilton's citizens. More specifically, Strategy 3.1 of the HHAP is to expand options for housing with supports. The five-year review of the HHAP is underway with Council approval of the revised plan expected in the fall of 2019.

6.2 Long Term Affordable Housing Strategy Update

On March 14, 2016 the Province released an update of Ontario's Long-Term Affordable Housing Strategy. The updated Strategy is a comprehensive and ambitious plan that recognizes the interconnectedness of the Strategy with other provincial goals and plans such as ending homelessness, poverty reduction, improving mental health and improving addiction services. It has the potential to transform Ontario's housing¹ system, including residential care facilities.

Ontario's housing system includes supportive housing, one aspect of which is residential care facilities. Supportive housing is also referred to as housing with supports. It helps Ontarians with complex needs: seniors, people with physical and/or mental health issues, substance abuse issues, survivors of domestic violence, at-risk youth, and others. It encompasses all housing-related non-financial supports, such as 24 hour on-site supervision, to minimal medical supports provided in the home, encompassing both social services and health services. Residential care facilities are only one of a number of models through which housing supports are provided.

Many Hamilton residents have high supportive housing needs that are not being met in the current system. The support needs for tenants of social

¹ Affordable housing in this context is a broad term that encompasses the whole of the housing continuum from emergency shelters through to affordable home ownership.

housing as well as the need for low end of market housing have increased substantially in the last 20 years. An increase in the need for supports as the population continues to age is expected. To meet their needs, an overhaul of the system and additional investment is needed.

As part of the Long Term Affordable Housing Strategy Update, the Province has committed to transforming the housing with supports system, developing a Supportive Housing Policy Framework to guide provincial and local program improvements, as well as a Best Practice Guide. The goal is an evidence-based, best practice supportive housing system with a focus on supporting independence and recovery. This work has already begun, starting with modernization of the Homes for Special Care Program. Other components are expected to take place within the next two years. Additionally, the Province has committed to new capital funding that will support the construction of up to 1,500 new supportive housing units.

The Supportive Housing Policy Framework will better co-ordinate the current inconsistent supportive housing programs across sectors and ministries. The development of the framework will engage key stakeholders, and prioritize youth, Indigenous peoples, chronic homelessness, and homelessness as a result of transitions from provincially-funded institutions and service systems (i.e. jails and hospitals).

The Province has stated that the changes to the supportive housing system will be transformational, as are many other changes committed to in the Long Term Affordable Housing Strategy. Since the Province has begun to aggressively implement housing system changes, including modernization of the Homes for Special Care Program, it is expected that it will shortly initiate other supportive housing system changes. The Housing Services Division is closely monitoring the provincial work and will implement the provincial changes.

6.3 Residential Care Facilities and the Domiciliary Hostel Program in Hamilton

Many of Hamilton`s residential care facilities participate in the Domiciliary Hostel Program. They provide congregate living, sometimes with private rooms, and sometimes with shared rooms. The Program in Hamilton subsidizes the cost of accommodation, meals, supervision and assistance

with activities of daily living for an average of 765 residents who live in 54 residential care facilities. Residents contribute to the cost of the service according to their ability to pay and the City subsidizes the balance of the cost with the help of provincial funding.

The housing with supports system, including residential care facilities, is facing challenges to meet people`s needs. Many residential care facilities have historically operated under a congregate living and custodial care model, but there is increasing evidence that a more client-centred and empowering model can increase client independence and self-reliance.

One recent example of this approach is Indwell's new Strathearne Suites project. Strathearne Suites provides new permanent supported housing and is also a community hub. It is a collaboration with and receives support from St. Joseph's Healthcare and the Hamilton Niagara Haldimand Brant Local Health Integration Network. Tenants live independently in small studio apartments and can access on-site supports as needed. Supports include a nurse, a counsellor, and food and housing support workers, as well as 24-hour on-call support and a nightly meal. Apartments are small but include bathroom facilities as well as basic kitchens. There is also a community lounge and community kitchen available to tenants.

While there will always be a need for the congregate living model of the traditional residential care facility, new facilities tend to follow a model similar to Strathearne Suites with complete independent apartment units and varying levels of supports provided to tenants as needed, sometimes on-site and sometimes provided by outside agencies. Housing with supports options are needed at varying scales. The new housing supports models are more fluid and variable than the traditional residential care facility. More options for housing with supports are being conceived and developed.

Given the aging population and the consequent increasing need for housing with supports, the move towards aging in place, provincial government policy changes such as deinstitutionalization, and community responses to the increasing need, it is important that the planning system facilitate the provision of housing with supports.

The RCF subsidy program will be undergoing a review.

7.0 Current Land Use Planning Policies

7.1 Provincial Policies

7.1.1 Provincial Policy Statement (2014)

Section 1 of the PPS, 2014 – Building Strong Healthy Communities – states that healthy, liveable and safe communities are sustained by accommodating an appropriate range and mix of residential, institutional, recreation, park and open space, and other uses to meet long-term needs.

More specifically, Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet the social, health and well-being requirements of current and future residents , including special needs (Policy 1.4.3 b) 1.). The PPS also requires municipalities to establish minimum targets for the provision of housing for low and moderate incomes households (Policy 1.4.3 a).

When the Provincial Policy Statement (PPS) was revised in April 2014, a new policy was included in the “Implementation and Interpretation” Section.

Policy 4.6 states: “This Provincial Policy Statement shall be implemented in a manner that is consistent with the Ontario *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.” This statement was added to the PPS as part of the review and update in 2014. The statement helps to solidify the Province’s commitment to the *Human Rights Code* and the *Canadian Charter of Rights and Freedoms* in planning matters.

Further detail on Provincial Policy is contained in Appendix “C”.

7.1.2 Growth Plan for the Greater Golden Horseshoe (Growth Plan)

2017 Growth Plan

The Growth Plan does not specifically address special needs housing. However it contains similar policies to the PPS that requires a municipality, though the completion of a Housing Strategy, to identify affordable housing for current and future populations.

Policy 2.6.6.1 a) i) supports the achievement of the minimum intensification and density targets in this Plan, as well as other policies of this Plan by: identifying a diverse range and mix of housing options and densities, including second units and affordable housing to meet projected need of current and future residents.

Amendment No. 1 to the Growth Plan

On January 2019, the province introduced Amendment No. 1 which proposes to remove the need to complete a Housing Strategy. However, the requirement to identify and plan for a diverse range and mix of housing remains.

7.2 Municipal Planning Policy

Official Plan policies are attached as Appendix "D".

7.2.1 Urban Hamilton Official Plan

The Housing Policies of the Urban Hamilton Official Plan ensure that housing is available for all residents with a wide variety of needs. In order to do so, there must be a sufficient supply of housing with a range of housing types, forms, tenures, densities, affordability levels and housing with support services. Sections 3.2.1 - Urban Housing Goals and 3.2.4 – General Policies for Housing – provide direction for a range of housing to meet the needs of the population, including housing with supports.

Housing with Supports: means public, private or non-profit owned housing with some form of support component, beyond economic support, intended for people who need support services to live independently in the community, where providers receive funding for support services.

The tenure may be long term. Housing with supports includes special needs housing as defined by the Provincial Policy Statement (2005).

In addition, small scale residential care facilities are permitted in the Neighbourhoods, Institutional, and Commercial Mixed Uses designations in accordance with the Zoning By-law (Policy C. 3.2.2.c).

7.3 Hamilton Zoning By-law Definitions and Regulations

There are seven Zoning By-laws in Hamilton and six of which allow these facilities in certain areas. Ancaster’s Zoning By-law does not permit the use. Detailed zoning requirements and definitions from the existing Zoning By-laws are contained in Appendix “F”.

7.3.1 Zoning By-law No. 05-200

Zoning By-law No. 05-200 has been developed over a 13 year period. At each stage of the Zoning By-law (except industrial) residential care facilities have been incorporated into the zones.

The definition, radial separation distance and the capacities for the urban area were based on the completion of the “Residential Care Facilities, Long Term Care Facilities and Correctional Facilities Discussion Paper” in 2000 and 2001 (see Section 5.2.3). This paper and the subsequent changes to Hamilton Zoning By-law No. 6593 were focused on the urban area only.

The following chart identifies the zones in Zoning By-law No. 05-200 which permit a RCF and the associated capacities.

Zone	Capacity
<i>Downtown Zones</i>	
Downtown Mixed Use (D3) Zone	20
Downtown Local Commercial Use (D4) Zone	20
Downtown Residential (D5) Zone	6
Downtown Multiple Residential (D6) Zone	6
<i>Institutional Zones</i>	
Neighbourhood Institutional (I1) Zone	15
Community Institutional (I2) Zone	50
Major Institutional (I3) Zone	50

Zone	Capacity
<i>Commercial and Mixed Use Zones</i>	
Residential Character Commercial (C1) Zone	6
Mixed Use High Density (C4) Zone	50
Mixed Use Medium Density (C5) Zone	50
<i>Transit Oriented Corridor Zones</i>	
<i>Transit Oriented Corridor – Mixed Use Medium Density (TOC1)</i>	20
<i>Transit Oriented Corridor – Multiple Residential (TOC3)</i>	20
<i>Rural Zones</i>	
Agricultural (A1) Zone	10
Rural (A2) Zone	10
Settlement Residential (S1) zone	6

7.3.2 Ancaster, Dundas, Flamborough, Glanbrook, Hamilton and Stoney Creek Zoning By-laws

Each Zoning By-law defines and regulates residential care facilities differently. Appendix “F” provides a comparison of the definitions and regulations.

There are various approaches:

- Various definitions are used to describe the same use: residential care facility (05-200, Hamilton, and Stoney Creek) and group home (Dundas, Flamborough, Glanbrook and Stoney Creek);
- Some municipalities include the minimum capacity within the definition (05-200, Dundas, Hamilton, Stoney Creek, etc.) and other municipalities include both a minimum and maximum capacity within the definitions (Flamborough and Glanbrook); and,
- Some municipalities have a set of regulations for residential care facilities (capacity, radial separation distance, parking) in the general

provisions of the by-law (Flamborough and Stoney Creek) whereas other municipalities include the regulations in each zone where a residential care facility is permitted (05-200, Dundas, Glanbrook and Hamilton).

The Table below identifies, by former municipal Zoning By-law, where the use is permitted and the associated regulations.

<i>Municipality</i>	<i>Definition</i>	<i>Capacity (# of residents)</i>	<i>Radial separation distance between RCF and other uses</i>	<i>Zones permitted</i>	<i>Other restrictions</i>
Dundas	Group Home	No minimum; maximum 6	275 m	Low Density Residential (R4) Zone Residential/ Commercial Conversion (R.C.C.) Zone	Only in a fully detached building
Flamborough	Group Home	Minimum 3 Maximum 10 Included in the definition	350 m	Any zone except industrial	Floor area per resident In a single detached dwelling only
Glanbrook	Group Home	Minimum 3 Maximum 6	1.6 km	Residential Multiple "RM1" Zone	Only in a fully detached building
Hamilton	Residential Care Facility	Minimum 4 Maximum 6-50 depending on the zone	300 m	In all residential and commercial districts	Only in a wholly detached dwelling

<i>Municipality</i>	<i>Definition</i>	<i>Capacity (# of residents)</i>	<i>Radial separation distance between RCF and other uses</i>	<i>Zones permitted</i>	<i>Other restrictions</i>
Stoney Creek	Residential Care Facility Group home	No minimum; maximum 6	800 m	Single Residential "R1 to R4" Zones – Residential Zones "R-5" and "R-6" Multiple Residential "RM-1" Zone	Only in a fully detached building Any residential zones that allows a single detached, semi-detached, duplex or triplex, that residential building could be converted to a residential care facility or group home.

In addition, Zoning By-law Nos. 05-200 and 6593 contain two moratorium areas that prohibit additional RCFs and emergency shelters from locating within these areas. They are:

- Queen Street South, Hunter Street West, James Street South and Main Street West; and,
- Wellington Street South, Railway tracks, Sherman Avenue South and King Street East.

8.0 Other Municipal Requirements

8.1 City of Hamilton Licensing Requirements

In the City of Hamilton, licenses are issued for facilities regulated under Schedule 20, including Residential Care Facilities, by the Licensing Section of the Planning and Economic Development Department. Schedule 20 states that a "residential care facility means a residential complex that is occupied or intended to be occupied by four or more persons for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy, and the term "facility" has a corresponding meaning; .

Schedule 20 includes provisions to:

- require a premises plan to be submitted to the Issuer of Licences;
- clarify enforcement jurisdiction of Public Health/Municipal Law Enforcement;
- provide for a re-inspection fee to encourage compliance;
- provide for a more accessible/formalized complaint process;
- provide for an enhanced physicians assessment;
- require operators to provide locks on bedrooms;
- prohibit secure/locked units to contain tenants who tend to wander;
- require a unit-dose medication dispensing system; and,
- require operators to provide secure storage for each tenant.

Not all RCFs are licenced by the City. Some facilities, for children for example, are regulated by the Province.

Staff have identified that the differences in definition between the applicable Zoning By-laws and Schedule 20 is problematic, mainly because there are multiple definitions. To align the documents, staff will be proposing a future amendment to Schedule 20 to implement the same definition for a Residential Care Facility as established by Zoning By-law No. 05-200.

At the present time, there are 82 City licences; the majority of the facilities are larger than 11 residents. There are 4 pending licences – only one facility is less than 11 residents.

8.2 Ontario Building Code

All facilities are required to meet the Ontario Building Code (OBC) requirements. For smaller facilities in single detached homes, various sections of the OBC would apply.

8.3 Parkland Dedication

RCFs are assessed based on 5% of their land value. Depending on the size of the facility, it is considered as a residential use (e.g. single detached dwelling) or an institutional use. Regardless, the Parkland Dedication would be the same amount as the primary use.

In the last 5 years, the City has processed four parkland dedication applications for three new facilities and one expansion.

8.4 Development Charges (DC) By-law

Under the 2014 DC By-law, depending on the size of the RCF, it would be considered as residential facility or an institutional use.

9.0 REVIEW OF OTHER MUNICIPAL ZONING BY-LAW REGULATIONS AND DEFINITIONS

There are many different definitions and regulations used across municipalities throughout Ontario to describe a *residential care facility*. It is a municipal preference as to what term is used and the regulations are based on the history and experiences of each of the municipalities.

Appendix "G" contains the various definitions and regulations of surveyed municipalities. Appendix "G1" has a more detailed description of the municipalities that were pursued by OHRC.

9.1 Review of Other Municipalities Pursued by OHRC

Between 2011 and 2014, the Dream Team, a group of individuals fighting for equality in mental health, lodged complaints with the OHRC over zoning definitions and separation distance regulations in Toronto, Smith's Falls, Sarnia and Kitchener's Zoning By-laws. The intent was to choose four municipalities throughout Ontario to demonstrate the discriminatory wording and practices across the Province to fight this issue in a ground-breaking case at the Human Rights Tribunal of Ontario. The Dream Team asked the Tribunal to strike down long-standing By-laws that limit the location of

housing for people with disabilities in Toronto, Smith's Falls, Kitchener and Sarnia. The City of Sarnia has responded by removing certain parts of their by-law. The other cities decided to fight the Dream Team at the Tribunal.

In 2014, Toronto and Smiths Falls removed minimum separation distance (MSD) and other zoning restrictions for group homes, as part of human rights settlements with the Dream Team. This change follows similar moves by Sarnia in 2011 and Kitchener in 2012. In each case, there was no planning justification for MSDs.

9.2 Review of Other Similar municipalities

As a result of the OHRC complaints, several municipalities recognized their human rights obligations by preventing or removing zoning, licensing and other barriers to housing and services that are needed by *Code*-identified groups, while other municipalities continue to maintain their separation requirements.

As part of this discussion paper, Staff contacted several other municipalities to gain a better understanding of how they are handling separation distances. A comparison of the municipalities is included in Appendix "F".

A summary of these Zoning By-laws is highlighted below:

9.2.1 City of St Catharines

In December 2013, the City of St. Catharines adopted a new Comprehensive Zoning By-law. The new By-law removed the minimum separation requirement which was previously in place since they determined it was discriminatory based on Ontario Human Rights. The new Zoning By-law also redefined group homes as "Special Needs Housing" which is now permitted in all dwelling types in all zones that permit a residential use.

9.2.2 City of Burlington

The City of Burlington continues to maintain a separation distance of 400m for group homes of 6 or more residents. It was noted by City of Burlington staff that most of the facilities in Burlington have less than 6 residents and therefore they do not need special zoning or regulatory steps.

9.2.3 Town of Milton

The Town of Milton maintains a 500m minimum separation distance for group homes that was implemented in 2002. There are also locational and number of occupant requirements associated with group homes. There is no plan to amend these zoning requirements at this time.

9.2.4 City of Windsor

In September 2016, Windsor removed the minimum distance separation via a housekeeping amendment. There was no discussion on the matter of group homes at the public meeting or at Council. The definitions remain the same.

9.3 Summary

In summary, 6 of the 8 municipalities have determined that minimum separation distances are not appropriate for group homes or residential care facilities with less than 10 residents. Even municipalities that have not received a complaint have taken steps to remove discriminatory language from their zoning by-law. Generally, it appears that facilities with more than 10 residents would be considered an institutional use and permitted within the appropriate institutional zone. In some other municipalities the radial separation distance has remained.

10.0 ANALYSIS OF ISSUES

As noted in previous sections of the Discussion Paper, there is a long planning history related to residential care facilities. Over the past several years, circumstances have arisen that make it necessary for the regulations to be reviewed. The circumstances include the Lynwood Charlton OMB decision and the challenges from the OHRC, the shift away from congregate living to small apartment units with on-site supports and the inconsistent Zoning By-law regulations for RCFs in the former Zoning By-laws.

There are a number of Zoning By-law regulations that have been reviewed. They include:

- The definition of RCF;

- Capacity of RCFs by Zone category;
- Radial separation distance; and,
- External counselling services within an RCF.

Appendices "H" to "H3" include a series of different options for the Zoning By-law requirements. The report contains the preferred approach and the analysis for that choice.

Any changes as a result of this Review will also be incorporated into the existing zones within Zoning By-law No. 05-200.

10.1. Definition

The existing zoning definitions vary between the former municipalities. Most definitions are similar in scope but use different nomenclature (e.g. group homes or RCFs.) Some definitions are more prescriptive (e.g. includes the number of residents permitted, the health concern that may require them to live in an RCF) than others.

The intent of the definition should describe the living arrangement, identify the need for on-site supervision, recognition of funding arrangements and establish a minimum number of residents that would be considered as an RCF.

The definition should also establish the use has to be within a wholly detached building; no other use can be incorporated within or attached to the building (i.e. multiple dwellings, townhouses, semi-detached dwellings, families, etc.).

Three options were considered:

- Option 1: Apply the existing definition in Zoning By-law No. 05-200 to all new residential zones.
- Option 2: Amend the definition in Zoning By-law No. 05-200 to remove references to why someone resides in a facility.
- Option 3: Amend the definition to remove references to the number of residents and to why someone is living in a facility.

The rationale of each option is contained in Appendix "H".

Preliminary Recommendation

The preliminary recommendation is Option 3 which is to amend the definition to remove references to the number of residents, why people live in the facility and to generalize the provision of supports and services.

The proposed definition is:

“Residential Care Facility shall mean a group living arrangement, within a fully detached residential building occupied wholly by supervised residents, exclusive of staff, residing on the premises and which residential setting is developed for the well-being of its residents through the provision of supports/services or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility shall not include an emergency shelter, lodging house, corrections residence or correctional facility.

This proposed definition removes the regulations within the definition and places them within the zone as well as remove any reference to the disability or characteristics of a person living in a facility. It would address the Human Rights issue allowing people to choose where they live without being identified as needing care.”

10.2 Location and Capacity of RCFs

RCF regulations have evolved over a period of 40 years. Five of the six former municipalities have regulations for this use as well as identifying which zones permit the use. (refer to Section 5.3)

Currently Zoning By-law No. 05-200 permits RCFs, with varying maximum capacities per zone. RCFs are permitted in 3 Downtown Zones, 2 Commercial and Mixed Use Zones, 2 Transit Oriented Corridor, 4 Rural Zones and all Institutional Zones. The urban zones have a radial separation distance of 300m and there is no separation distance in the rural zones. These zones apply on a city wide basis. For example, in Ancaster or Stoney Creek, any site that is zoned I1, I2 or I3 permits a residential care facility with a certain capacity and radial separation distance of 300 m.

Over the next several years the residential zoning will be put in place for the entire urban area; RCFs will be permitted throughout and capacity of the facilities will be depending on low, medium and high density areas.

Eight options were considered:

- Option 1: Minimum and Maximum Capacity (By-law format)
 - Option 1a: Establish the minimum and maximum capacities within the definition.
 - Option 1b: Establish the minimum capacity in the definition and the maximum capacities within the individual Zones.
 - Option 1c: Minimum and maximum capacities included within the individual Zones.
- Option 2 – Capacity Included within each zone
 - Option 2a: Allow the use in low density (e.g. single detached, semi-detached) zones with a minimum capacity of 4 and a maximum of 6 residents.
 - Option 2b: Allow residential care facilities in medium density (up to 8 storey multiple dwellings) zones (including the Community Institutional (I2) and Mixed Use Medium Density (C5) zones) with a minimum capacity of residents 4 and a maximum of 24 residents.
 - Option 2c-1: Allow residential care facilities in high density zones with a minimum capacity of 4 residents and a maximum of 50 residents.
 - Option 2c-2: Allow residential care facilities in high density zones with a capacity of minimum 15 residents and a maximum of 50 residents.
 - Option 2c-3: Allow residential care facilities in high density zones with a capacity of 15 residents and no maximum capacity.

The rationale for each option is contained in Appendix "H1".

Preliminary Recommendations

The preliminary recommendations are Options 1c, 2a, 2b and 2c-3.

Minimum and Maximum Capacity

Option 1c: Minimum and Maximum Capacities Included within the Individual Zones. Similar to other Zones, the capacities which are regulations are contained within the Zone for clarity.

Low Density areas

Option 2a: Limit the minimum capacity to 4 and the maximum capacity to 6 residents. Uses within low density zones usually include single detached, semi-detached, duplex, triplexes and some forms of townhouse dwellings. Since this use is to be contained within an entire building, the most likely scenario is the use would locate within a single detached dwelling or a duplex and triplex which could wholly be converted to a RCF. Six people could reasonably live in a single detached dwelling and has been the standard for the majority of zones that permit this use.

Medium Density Areas (including the Community Institutional (I2) Zone)

Option 2b: Limit the minimum capacity to 4 and the maximum capacity to 24 residents. Similar to the discussion above, the most likely scenario is the use would be in a multiple dwelling since it would be wholly contained within a building. In circumstances where a larger number of residents are intended a multi-storey (apartment) building would be required. It should be noted the building form for the facility would be determined on the basis of the regulations for a particular zone (i.e. maximum heights, minimum setbacks, parking, etc.). Medium density areas are generally found on the periphery of neighbourhoods, closer to public transit, shopping areas and other amenities.

It should be noted that a majority of the I2 Zones are located within the interior of neighbourhoods where there is a greater interface with low density residential uses. The Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones are located along major transit routes and arterial roads and therefore should retain their capacity for 50 residents.

High Density Areas (including the Commercial Mixed Use High Density (C4) Zone)

Option 2c-3: Allow a minimum capacity of 15 and no cap on the maximum number of residents. These areas (including the Mixed Use High Density (C4) Zone) would permit multiple dwellings with higher density buildings (generally greater than 8 storeys and 100 units). As such the minimum number of residents is likely to be more than 4 residents. The built form and other regulations (e.g. parking) would apply to the building.

10.3. Radial Separation distance/Moratorium Areas

Radial separation distances of varying distances (e.g. 275 m to 1,600 m), which restrict the location of new residential care facilities throughout the City of Hamilton, have been in place in the City and former municipalities for several decades. In addition, both Zoning By-law Nos. 05-200 and No. 6593 (Hamilton) have a moratorium on the location of new facilities (and emergency shelters) within two areas; one area is bounded by Wellington Street South, King Street East, Sherman Avenue South and the railway tracks; the other area is bounded by Queen Street, Hunter Street, James Street and Main Street. This moratorium was established in 2001 to recognize the large concentration of these facilities within this geographic area.

Over the last 10 years, there have been changes in Zoning By-law No. 05-200, human rights concerns and the shift in accommodation type for certain segments of the vulnerable population which could have an impact on the applicability of the radial separation distance and the moratorium areas.

Four options were considered:

- Option 1: Eliminate the Radial Separation Distance.
- Option 2: Retain the 300 metre radial separation distance for Zoning By-law No. 05-200 and apply this distance separation to future residential zones in the urban area.
- Option 3: Delete the Moratorium Areas (see above).
- Option 4: Retain the Moratorium Areas.

The rationale for each option is contained in Appendix "H2".

Preliminary Recommendations

The Preliminary recommendations are Options 1 and 3 to remove the Radial Separation Distance and delete the moratorium areas. There are a number of reasons for this option. Firstly, the rate of new facilities has slowed down considerably because small apartment units are preferred over the congregate living model. Secondly, as a result of changes to Zoning By-law No. 05-200, retirement homes (which were previously defined as RCFs) do not have a radial separation distance, nor do any facilities in the rural area. A large number of the municipally licenced facilities are retirement homes which are no longer subject to a radial separation

An RCF would not be separated by a specific distance; however, locations within various areas would be based on resident capacity in conjunction with the appropriate residential density and built form.

This moratorium was established in 2001 to recognize the large concentration of these facilities within this geographic area. If the distance separation is eliminated, then this moratorium should also be eliminated since it has the same effect as the radial separation distance which is to restrict the location of facilities.

10.4. Counselling services

Since the 2001 study, the operation of some RCFs has changed. Some facilities are providing services above and beyond that which was normally associated with RCFs. An RCF is intended to be a form of dwelling unit, with some support services for the residents. In the past, the service or support would be offered exclusively for the residents of that dwelling and it was not the intent that professional support workers would provide services to the greater community.

Some organizations are proposing to broaden the services to allow for a greater range in services both for residents and community members. The Lynwood Charlton Centre emphasized the transition between traditional RCFs to multifunctional supportive living and institutional services that provide support for residents and community members including daily living

skills and self-care skills. Further, certain agencies operate multiple RCFs and provide counselling for its residents. For financial or other operational reasons, they would prefer to consolidate counselling services in one location. It should be noted not all residential care facilities provide counselling for its residents. Counselling services that cater to people other than those residents who live in the residential care facility is considered a social service establishment.

Most of these RCFs are located within residential areas and commercial uses such as offices are not permitted. However, the Institutional Zones in Zoning By-law No. 05-200 recognize the difference in intensity and land use between common institutional type uses. The Major Institutional (I3) Zone allows for the most land intensive type uses, including Universities, Colleges, Long Term Care Facilities and RCFs with greater than 50 residents. The I3 Zone implements the Institutional Designation of the UHOP for areas that are greater than 4 ha. The Community Institutional (I2) Zone recognized the significance of institutional uses that serve a community but require significant land area, accessibility and are most appropriate on the boundary of communities. Places of Worship, High Schools, and residential care facilities with a maximum proposed 20 residents would be permitted. Both the I3 Zone and I2 Zone are intended to serve the greater community with institutional services. In addition, social services establishments (e.g. counselling services for non-profit) are also permitted within these zones as separate uses.

Similarly the Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones permit RCF's of up to 50 residents and a social service establishment as separate uses.

Three options were considered:

- Option 1: allow RCFs to operate a social service establishment in conjunction with a residential care facility in a Community Institutional (I2), Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium (TOC1) and the Mixed Use Medium Density (C5) Zones.
- Option 2: same as Option 1 but do not permit the social service establishment in a Community Institutional (I2) Zone.
- Option 3: No changes to the by-law

The rationale for each option is contained in Appendix "H3".

Preliminary Recommendation

The preliminary recommendation is Option 2 to allow these facilities to operate a social service establishment in conjunction with a residential care facility Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium (TOC1) and the Mixed Use Medium Density (C5) Zones. A social service establishment is permitted in those zones and they are generally located on or in close proximity to arterial roads and public transit.

10.5 Planning Summary

Since the review in 2001, a number of factors have changed that warrant a review of the residential care facility regulations and definitions within the City's Zoning By-laws. Changes include the challenges to the Ontario Human Rights tribunal of other municipal Zoning By-law residential care facility regulations, the changing funding and housing arrangements for vulnerable groups and the continual challenges to meet a variety of housing needs.

Residential care facilities have evolved into a use that can integrate well into established neighbourhoods and contribute positively to the community. There are many facilities dispersed throughout both the rural and urban areas. The facilities tend to locate based on the needs of their clientele, availability of services, housing affordability, type and size.

The Table below summarizes the preliminary recommendations to establish a consistent zoning framework for the urban area, address the OHRC concerns and the provide locations for a combined RCF with counselling services.

Zoning By-law	Preliminary Recommendation
Definition	
<p>Highlight-delete text</p> <p><i>Italics</i> – add text</p>	<p><u>amend the definition as follows:</u></p> <p>Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents as</p>

Zoning By-law	Preliminary Recommendation
	<p>permitted by the zone, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps or personal distress and which residential setting is developed for the well-being of its residents through the provision of supports/services of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation or if:</p> <ul style="list-style-type: none"> a) The resident was referred to the facility by a hospital, court or government agency; or b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments. <p>A residential care facility shall include a children's residence and group home but shall not include an emergency shelter, lodging house, corrections residence or correctional facility.</p>
Capacity by Zone	
	<p><u>regulate both minimum and maximum capacity by zone as follows:</u></p>
	<p>Low Density Zones (single/semi-detached dwellings)</p> <p>Minimum capacity: 4 residents Maximum capacity: 6 residents</p>
	<p>Medium Density (including the Community Institutional (I2) Zone)</p> <p>Minimum capacity: 4 residents Maximum capacity: 24 residents</p>
	<p>High Density Zone (including the Mixed Use High Density Zone)</p> <p>Minimum capacity: 15 residents Maximum capacity: none</p>

Zoning By-law	Preliminary Recommendation
Radial Separation Distance and Moratorium Area	
	<u>Delete both</u>
Counselling Services	
	Permit counselling services (i.e. social service establishment) in conjunction within a RCF in a Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones.

11.0 Next steps

RCFs are one form of housing accommodation required in a community. The Zoning By-laws within the City have varying requirements depending on what Zoning By-law is applied. As part of the development of new residential zones, there will be a consistent set of regulations for the entire City.

The proposed approach is to seek public input for any proposed changes. The form of consultation would include:

- Targeted meetings with service providers;
- Public information centres for the general public. RCFs would be coupled with other housing matters such as accessory apartments and lodging homes; and,
- On-line web access.

Appendix "A"

ISSUE DATE:

August 23, 2013



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL120529

Lynwood Charlton Centre has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 6593 of the City of Hamilton to rezone lands respecting 121 Augusta Street from "L-mr-2/S-1345" to permit the development of a residential care facility

OMB File No. PL120529

APPEARANCES:

Parties

Counsel

Lynwood Charlton Centre

S. Snider

City of Hamilton

M. Minkowski

Ontario Human Rights
Commission

R. Dhir and
R. Arbabian (Student-at-law)

DECISION DELIVERED BY R.G.M. MAKUCH AND ORDER OF THE BOARD

[1] Prior to the hearing, the parties filed a number of motions to be heard at the commencement of the hearing as follows:

- 1) Lynwood Charlton Centre ("LCC") motion for an Order to phase the hearing into two phases with Phase I dealing with Issues 1, 2, 3, 4, 6, and 7, referred to as the typical planning issues and Phase II dealing with Issue 5 referred to as the "OHRC" Issues;
- 2) Ontario Human Rights Commission ("OHRC") motion for an Order excluding the proposed evidence of Warren Sorensen; and
- 3) City of Hamilton ("City") motion for:

- a) an Order striking the Witness Statement in whole or in part of Ian Skelton and excluding the proposed evidence of this person and;
- b) an Order striking portions of the Witness Statement of John Gladki and excluding such proposed evidence of this person.

[2] The Board heard the LCC motion first because if successful, there would be no need to hear the other motions until Phase II if, and when, it takes place.

LYNWOOD CHARLTON CENTRE MOTION

[3] The issues list contains seven issues and Counsel for LCC argues that issues 1 to 4 and issue 6 raise matters of a land use planning nature such as PPS and OP conformity that are typically reviewed in a hearing before this Board hearing. Issue 5 however, specifically raises whether refusing the application would be discriminatory and contrary to the Ontario Human Rights Code.

[4] Mr. Snider argues that in total six expert witnesses are proposed to be called by the parties and that of the six, three expressly offer no opinion with respect to the OHRC issue. None of the non-expert witnesses offer any opinion with respect to the OHRC issues. Two of the six experts confine their opinion evidence to only the OHRC issue, Dr. Ian Skelton and Warren Sorensen.

[5] Only the OHRC planner John Gladki provides opinions with respect to both the typical planning issues and the OHRC issue. None of the LCC witnesses address the OHRC issue.

[6] Mr. Snider argues that the eight days scheduled over a two week period around the Easter holidays means that there is little likelihood that the hearing would be completed within the eight days allotted.

[7] He further argues that Issue 5 framed as follows:

Would the denial of re-zoning application amount to discrimination contrary to OHRC?

becomes moot if the appeal is allowed and there is no need to consider the issue of discrimination under the OHRC.

[8] If the Board has doubts after Phase I as to whether the appeal should be granted based on the typical planning issues, then the hearing would proceed to Phase II and the motions by the City and OHRC would be heard at that time.

[9] Mr. Snider argues that Issue 5 only engages if the Board is inclined to dismiss the appeal and deny the rezoning on the basis of typical planning grounds. As such issue 5 is a sufficiently discreet one to be addressed in a separate phase of the hearing.

[10] While the OHRC believes that the discrimination issue (Issue 5) is a proper issue for the Board to consider, it nevertheless supports the Lynwood motion as it does not want to inconvenience the parties and the hearing of this matter.

[11] The City opposes the Lynwood motion on the grounds that it will increase the costs for the City and be prejudicial to it.

[12] The Board does not agree with the City's position and finds that the arguments by counsel for LCC are logical and ought to be adopted by the Board. It is evident that it is unlikely that the hearing will be completed within the eight days allotted and that phasing the hearing is the proper way to proceed.

[13] The Board will therefore allow the LCC motion and orders that the hearing be phased as proposed. The motions by the City and OHRC will be heard at the commencement of Phase II.

INTRODUCTION

[14] Lynwood Hall Child and Family Centre and Charlton Hall Child and Family Centre were both publicly funded, non-profit charitable organizations and accredited children's mental health centres, which operated as separate organizations providing children's mental health services to the Hamilton community for many years. They merged to become Lynwood Charlton Centre ("LCC") in October 2011 and continue to offer the programs previously offered by the separate entities, which includes a spectrum of services to children, youth, families and the community including residential programs for children, young male and young female teens; day treatment programs

servicing both the residential programs and children unable to function effectively in the school system due to behavioural/learning difficulties; and a variety of community-based programs. LCC is licensed by the Ministry for Children and Youth Services under the *Child and Family Services Act*.

[15] Charlton Hall Child and Family Centre operated a residential facility for adolescent girls with mental health challenges at 52-56 Charlton Avenue West in the Durand Neighbourhood in what is generally described as Hamilton's City "core". The facility is known as "Charlton Hall". LCC now operates Charlton Hall and it is home to eight girls who require the specialized care and treatment of the staff of LCC.

[16] While Charlton Hall is operated by LCC, the property and residence are owned by the City of Hamilton. Over the years, Charlton Hall has fallen into disrepair. It is no longer considered a suitable physical environment for the girls who live there for many reasons. A City-initiated facility condition assessment report determined that approximately \$1.5 million of substantial repairs are required. The City and LCC are not prepared to make that investment and as a consequence, the City is considering declaring the property surplus so that it can be sold. The services currently offered at Charlton Hall will eventually have to be moved elsewhere.

[17] LCC recently purchased the subject property, which has a long history of industrial use at 121 Augusta Street approximately eight blocks to the east of Charlton Hall. It is located within the Corktown neighbourhood, also a neighbourhood within the City's core.

[18] More recently, the site has been used for a variety of office uses including a supervised access centre, which provides integrated treatment and educational service for approximately 16 students between the ages of 13 and 17 years. The services are specifically designed for youth whose histories of serious psychiatric and/or emotional challenges have significantly interfered with their ability to function within main stream educational settings.

[19] LCC wishes to relocate the residential use currently housed at Charlton Hall to the second floor of the building at 121 Augusta Street believing it to be far superior to the existing Charlton Hall in providing a safe, home-like, and accessible living space for the girls.

[20] In order to do so, it needs the subject property to be re-zoned from L-mr 2/S-1345 which is described as "Planned Development – Multiple Residential District Modified". It is a rather convoluted "holding" by-law that essentially permits existing uses until a rezoning is approved. The zone contemplates that the rezoning will be one of the City's "E" zones which permit multiple dwellings. However, via a site specific Official Plan amendment (in 1995) and a corresponding site specific zoning by-law amendment (in 1997), the lands were re-designated and rezoned to also permit "general offices, only within the existing building". This paved the way for a variety of office uses noted above including the current COMPASS Day Program operated by LCC.

[21] LCC made application for a re-zoning to permit a residential care facility but was refused by City Council, which relied on a report from its Planning Department recommending refusal of the application on the grounds that the proposed re-zoning would further aggravate the existing over-intensification of residential care facilities within the Central City resulting in this appeal. The re-zoning was required as a result of a restriction in Zoning By-law No. 6593, which limits the location of "residential care facilities" to within a radius of 300 meters of each other. The Planning Department report to Council notes that the subject property is located within 160 metres of another existing Residential Care Facility.

[22] Zoning By-law 6593 defines "Residential Care Facility" ("RCF") as follows:

Residential Care Facility means a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents, as permitted by the district, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps, or problems or personal distress and that is developed for the well-being of its residents through the provision of self-help, guidance, professional care, and supervision not available in the resident's own family, or in an independent living situation or if:

The resident was referred to the facility by hospital, court, or government agency; or,

- i. The facility is licensed, funded, approved, or has a contract or agreement with the federal, provincial, or municipal governments.
- ii. A residential care facility is not considered as an emergency shelter, lodging house, corrections facility, or retirement home.

[23] It is noted that By-law 6593 had been amended by By-law 01-143 to increase the minimum separation distance from 180 metres to 300 metres and that the by-law was

also amended by By-law 07-107 to remove the minimum separation distance requirement for retirement homes.

LYNWOOD CHARLTON CENTRE POSITION (LCC)

[24] LCC asserts that some four months following the filing of the hearing appeal and a full eight months after the initial planning report relied on by Council to deny the application, the Planning Department forwarded a further Staff Report to Council, which purported to oppose the application on completely different grounds unrelated to the issue of residential care facilities within the Central City. The Planning Department was now asserting that:

The proposal, as intended, would entrench an undesirable institutional use in an area of Hamilton intended for residential development and as such, the proposal does not conform to the Hamilton Official Plan and Urban Hamilton Official Plan, and does not represent good planning.

[25] This new position was endorsed by City Council on September 26, 2012.

[26] Mr. Snider on behalf of LCC argues that this subsequent resolution is clearly not a "decision" within the meaning of Section 2.1 of the *Planning Act*, and is not "supporting information and material" that Council considered in making its decision although the City adduced evidence at the hearing to support this new position.

[27] LCC maintains that City Council's decision to refuse this application was based on the negative reaction from the community. Council received letters and petitions alleging that allowing such a use to occur on the subject site would result in increased mischief/damage/graffiti around the community and the destruction of efforts to beautify the local parks and surroundings. There is no evidence before this Board to support any of the concerns expressed to City Council. The only evidence before the Board is that Charlton Hall is an excellent neighbor and there is no history of conflict, damage or disruption connected with the use. It is noted that a number of residents had registered as Participants for this hearing but did not file witness statements or appear at the hearing to express their concerns.

[28] There are already two other residential care facilities within 300 metres of 121 Augusta Street: a small 4-6 bed facility for severely challenged children on Forest

Avenue (also operated by LCC), and a small six bed facility for adults on Catharine Street South. There is no evidence of any community impact arising from those facilities within the Corktown Neighbourhood. Mr. Hardy, who was retained by the City to carry out a social impact assessment respecting this proposal, carried out a survey of individuals in the area including respondents on Catharine Street South and none of the respondents even mentioned the residential care facilities, let alone concerns with those facilities. Ms. Munn one of the current residents at Charlton Hall, who testified, indicated that despite living in the Corktown Neighbourhood for many years, she was unaware that there was a residential care facility on Forest Avenue. LCC alleges that these facilities are essentially "invisible" within the Corktown Neighbourhood.

[29] LCC relies on the evidence of Ed Fothergill, a qualified professional planner with extensive experience in the City of Hamilton. Mr. Fothergill completed the Planning Justification Report that was presented to Council. Among other things, Mr. Fothergill concluded that the intent of the Radial Separation Distance ("RSD") to disperse residential care facilities throughout the City would be furthered by the subject application. He noted that while the proposal did not meet the 300 metre RSD for 121 Augusta Street, Charlton Hall would be relocated from a "moratorium area" to a community with a lower density of residential care facilities. As a result, the number of residential care facilities within Hamilton's downtown area would not increase and this existing facility would be relocated from a moratorium area with an alleged over-intensification of RCFs to the Corktown Neighbourhood which is outside of any moratorium area.

[30] Mr. Fothergill described the RSD restriction as a "blunt planning instrument" for the following reasons:

- (i) It does not distinguish between the size and function of a facility;
- (ii) The distance separation does not vary for different sizes or functions of facilities;
- (iii) The distance separation is not directly related to perceived or measurable impacts on the community; and
- (iv) The by-law provisions do not distinguish between the number of persons being accommodated in one building versus the number of people being located in more than one building within 300 metres of one another.

[31] He further noted that the "E" zone regulations which apply to 121 Augusta Street would permit up to 20 beds within a single RCF. The proposal before the Board would restrict the number of beds for 121 Augusta Street to eight. As a result, there would be approximately 20 beds within the 300 metre radius if the application were approved: eight at 121 Augusta Street, six at 106 Catharine Street South and four to six at 135 Forest Avenue.

[32] Mr. Fothergill examined five criteria: the public interest, appropriateness of location, neighbourhood fit (both in terms of function and in form) potential impacts, and distance separation considerations and concluded that the proposal represented good planning. His planning opinion remained steadfast throughout the planning process and his opinion was not shaken under cross examination.

ONTARIO HUMAN RIGHTS COMMISSION POSITION (OHRC)

[33] The OHRC in Phase I of this hearing supports the position taken by the Appellant LCC. It takes the position that Hamilton City Council's refusal in this case is inconsistent with and in fact contrary to the policies set out in the Provincial Policy Statement 2005 ("PPS"), specifically Paragraph 1.1.1(f) of the PPS, which states as follows:

"Healthy, liveable and safe communities are sustained by:

...

f) Improving accessibility for persons with disabilities and the elderly by removing and/or preventing land use barriers which restrict their full participation in society;"

[34] Furthermore, section 1.4.3 of the PPS also directs municipalities to permit and facilitate "all forms of housing to meet the social, health and well-being requirements of current and future residents, including special needs requirements." The legislation places a positive obligation on municipalities to facilitate housing for people with special needs.

[35] The PPS defines "special needs housing" as any housing including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs including but not limited to needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may

include, but are not limited to, housing for persons with disabilities such as physical, sensory or mental health disabilities and the housing for the elderly. Whether or not the proposed facility at 121 Augusta meets the definition of "residential care facility", it is nonetheless "special needs housing" and the responsibilities of the municipality under the PPS to facilitate such housing are engaged.

[36] The City's after-the-fact attempt to characterize LCC's proposal as an "institutional use in an area of Hamilton intended for residential development" is premised on the fact that LCC's proposal does not meet the technical definition of a "residential care facility" in Hamilton Zoning By-law 6593. This definition requires that the residential care facility be located within a "fully detached residential building occupied wholly by staff and residents". Since the proposed location at 121 Augusta is not "fully detached" and will not be "wholly occupied by staff and residents", the City seeks to characterize it as an institutional use.

[37] LCC's proposal involves moving the eight residents from 52-56 Charlton to the second floor of 121 Augusta. The use proposed for the second floor would be a residential use within a mixed-use building. The ground floor use within the building would remain unchanged. The physical form of the building would also remain unchanged. The only change would be the addition of a residential component to the second floor.

[38] Edward John's evidence was that LCC's proposal amounted to an institutional use because:

The proposed use will provide social services to the broader community, provide overnight accommodation and employ a number of professional staff. As a consequence, it has been determined that impacts of the proposed use extend far beyond the typical considerations given to the assessment of a site for a residential care facility; particularly as governed through a By-law and definition that, in order to facilitate their successful neighbourhood integration, actively mitigates impacts in terms of scale, intensity of use, built form and location [Emphasis added].

[39] Counsel argues that Mr. John's assertions evoke images of a large hospital-like setting bulging with professional staff engaged in the treatment of people with disabilities who are required to stay there overnight. Ms. Deirdre Finlay testified that the stereotypical suggestion that LCC's proposal would re-institutionalize the residents

"shows the profound lack of understanding of the merits of the two facilities, of the experience, skills and intent of the staff at LCC".

[40] It also fails to appreciate that LCC is a home for its residents. The best illustration of how LCC provides "a place to live" for its residents came from Clara Munn, a 17 year old who currently resides in Charlton Hall. Ms. Munn testified that she lives with social anxiety and requires support at times to "ride the bus" or "[be] at the mall". She stated that a typical day for her comprised of breakfast with the residents and the staff, attending school (if she had any anxiety she would call the staff at Charlton Hall), coming home from school and having dinner and talking about her day with residents and staff, doing chores and participating in activities such as skating, "pamper night", board games or movies.

[41] The assistance of staff with certain aspects of daily living for persons with mental disabilities does not detract from the use of the property as residential. In *Aurora (Town) v. Anglican Houses [1990] O.J. No. 451*, the Ontario High Court of Justice (now Superior Court of Justice) held that a group home for up to eight adults with mental health disabilities where residents lived voluntarily and participated in housekeeping, meal preparation and decision-making was "clearly residential" and could not be categorized as an institutional use. The Court further held that the staff in the home enhanced the use of the property as a residence by assisting the residents to integrate into home life and the neighbourhood; and did not detract from the residential quality of the neighbourhood.

[42] Similarly, in *City of Barrie v. Brown Camps Residential and Day Schools*, the Ontario Court of Appeal held that the defendant's home for emotionally disturbed children, which included trained child care workers who would supervise the children, clean the house and do the laundry, was being "used for the care and upbringing of these children in the same manner as if they were being used by parents with special expertise to deal with their children who had similar emotional problems".

[43] The City's denial of LCC's proposal runs contrary to the PPS, the Hamilton Official Plan and the new Urban Hamilton Official Plan, which actively encourage planning authorities to improve accessibility for persons with disabilities by removing and/or preventing land use barriers, and permitting the proposed use.

[44] As noted above, section 1.1.1(f) of the PPS requires municipalities to improve accessibility for persons with disabilities by removing and/or preventing land use barriers, which restrict their full participation in society. Section 1.4.3 of the PPS places a positive obligation on municipalities to permit and facilitate housing for people with special needs.

[45] The Hamilton Official Plan supports positive actions to develop a variety of housing styles, types and densities including encouraging "non-profit and co-operative housing organizations" to provide a range of socially- assisted dwelling units for a variety of client types in all areas of the City. The new Urban Official Plan states that one of the Urban Housing Goals for Hamilton is to "increase Hamilton's stock of housing for those whose needs are inadequately met by existing housing forms or tenure, affordability or support options".

[46] It argues that the LCC application is ultimately an attempt to remove land use barriers to improve accessibility to appropriate and necessary housing for persons with disabilities. These land use barriers are embedded in Hamilton Zoning By-law 6583 whether through minimum separation distance requirements or through an after-the-fact application of a technical definition of residential care facilities.

[47] The City's denial of LCC's proposal by the application of minimum separation distance requirements is contrary to the requirements in sections 1.1.1(f) of the PPS. The application of minimum separation distance requirements creates land use barriers to housing for people with disabilities and limits the available housing options as evidenced by the unsuccessful joint City and LCC search for an alternative location to 121 Augusta St. The City's denial of LCC's proposal is also contrary to the City's obligation to permit and facilitate "all forms of housing to meet the social, health and well-being requirements of current and future residents, including special needs requirements". Finally, the City's denial is inconsistent with the Hamilton Official Plan and new Urban Hamilton Official Plan, which promote housing for persons with special needs.

[48] The City's denial of LCC's application to permit a residence with eight beds providing mental health services and supports in a supervised setting for adolescent females at 121 Augusta St. does not represent good planning because it is contrary to

the considerations in the PPS, Hamilton Official Plan and new Urban Hamilton Official Plan, which City Council must consider in reviewing and assessing applications for a zoning amendment such as this one.

CITY OF HAMILTON POSITION

[49] The City takes the position that the issue before the Board in this appeal is whether the subject property 121 Augusta Street (formerly used for industrial purposes) should be rezoned to permit the subject property to be used as an institutional facility. The property was the subject of an official plan amendment and re-zoning in 1997 to permit office uses with the introduction of Special Policy 69 to the Official Plan which reads as follows:

In addition to the permitted uses set out in Subsection A.2.1 – Residential Uses, for those lands shown on Schedule “B-1” as SPECIAL POLICY AREA 69, and located at 121 August Street, general office uses only within the existing building will be permitted.

[50] The City takes the position that the intent of this amendment was to permit office uses as an interim or temporary use, as indicated by the express qualification that the uses would be allowed “...only within the existing building....”

[51] The City relies on the planning report, which accompanied the official plan amendment and rezoning application in 1995 evidenced the intent that the office use was to be short term only:

The subject lands are designated “Medium Density Apartments” in the approved Corktown Neighbourhood Plan. The proposal does not comply with the approved plan. The long term intent is for this area to be developed for medium density apartments and as such a redesignation is not recommended as the proposed general office use is considered to be an interim use.

[52] The City also takes the position that the subject building is not appropriate for the proposed use in that there is no substantial on-site green space, and that the streetscape of the subject property is that of a converted, repurposed former industrial building. The implementation of the rezoning proposal for the subject property will include renovations to the interior of the building, some improvements to the exterior features, but no site alterations.

[53] The Property is designated "Residential" in the (former) City of Hamilton Official Plan (the "OP"), and it is designated "Medium Density Apartments" in the Corktown Neighbourhood Plan. The OP includes a number of key policies including incorporation of the policies adopted in the various Neighbourhood Plans, which form an integral part of the Hamilton policy framework which must be respected when evaluating a development application. Mr. Minkowski relies on previous Board decisions, which have expressly recognized and relied upon Neighbourhood Plans in the City of Hamilton in adjudicating upon the merits of development applications. He argues that the new Urban Hamilton Official Plan (still under appeal before the OMB) carries the same, consistent policy approach to neighbourhood plans.

[54] The subject property is designated for medium density apartments under the Corktown Neighbourhood Plan. It states that an increase in the residential population in the central area brings a higher level of services to the downtown and that this benefits the Region, the City and Corktown. The City argues that allowing the subject property to be used as proposed will not contribute to the stated goals of increasing the population of Corktown. It must be noted that the Corktown Neighbourhood Plan is not a statutory plan, which has undergone the public scrutiny process under the *Planning Act* and is not an official plan for *Planning Act* purposes.

[55] All three expert planning witnesses (Fothergill, Gladki and John) expressed the opinion that the designation of the Property for medium density apartment under the Neighbourhood Plan is consistent with the PPS, conforms to the Growth Plan, conforms to the Hamilton Official Plan and represents good planning.

[56] The City takes the position that allowing this re-zoning to occur will displace the planned function for the property because LCC will be making a substantial investment in it and intends to operate it for an indefinite period of time. This will result in a permanent change to an institutional use.

[57] In addition, it argues that there was no dispute that the Property is located within a 500 metres radius (approximately 380 m) from a Major Transit Station Area within the meaning and intent of the Growth Plan. Major Transit Station Areas are identified by the Growth Plan as locations for intensification. The Neighbourhood Plan is consistent with the intent of the Growth Plan and was recently reviewed and confirmed as part of

the City's conformity exercise in preparing the new Urban Hamilton Official Plan (currently under appeal before the Board).

[58] In support of its position that the proposed use constitutes an institutional use, the City argues that the nature of the activities currently occurring at Charlton Hall and which are proposed to be transferred to the subject property have all the hallmarks of an institutional use based on the evidence before the Board. It is argued that an "RCF" does not function as a residence in the conventional or typical sense. It is rather a particular type of social service or mental health service treatment activity which is housed within a detached dwelling in furtherance of public policy objectives to place these services within a residential setting, integrated in residential neighbourhoods. It is to be noted that the title for this use is not "residential", but qualified as "residential care facility".

[59] The City further argues that the proposal does not meet three key elements or conditions of the definition for an RCF:

- a) The proposal will not be located within a detached dwelling.
- b) The Property will not be wholly occupied solely by the eight adolescent girls receiving treatment.
- c) There will be non-resident clients who will be attending at the Property on a daily basis to receive mental health services from professional staff.

[60] Edward John, the City's land use planner opined that there was a specific legislative intent which underscored why the definition of RCF includes a specific requirement that the use be located within a detached residential building, and why the use of the facility was intended to be restricted only to occupants. The intent of this provision was to de-institutionalize these facilities and to make these more "family like settings" so they could integrate into the community more easily and that failure to meet these requirements extended far beyond a mere technicality but cuts to the very heart of the legislative intent of an RCF and how planning in Hamilton has intended to implement provincial social policy in regards to this type of use.

FINDINGS

[61] The Board has carefully considered all of the evidence as well as the submissions of counsel and finds that the appeal should be allowed for the reasons that follow.

[62] The Board is satisfied that the proposed development is consistent with the Provincial Policy Statement 2005 and conforms to the Growth Plan for the Greater Golden Horseshoe as well as the City's Official Plan. The proposal is housing for "special needs" within the meaning of the PPS. Policy 1.4.3 (b) requires planning authorities to permit and facilitate housing for special needs, a powerful direction reflecting an important provincial policy interest. Paragraph 1.1.1(f) of the PPS, which states as follows:

"Healthy, live able and safe communities are sustained by:

f) Improving accessibility for persons with disabilities and the elderly by removing and/or preventing land use barriers which restrict their full participation in society;"

[63] The Board is also satisfied that there are no demonstrated impacts from this proposed development. The proposed use will be compatible with the existing uses in the neighbourhood and will not result in any social impacts. The evidence was quite clear and un-contradicted that both Charlton Hall and the existing COMPASS Day Programs at 121 Augusta Street have operated in their current locations without complaint or significant community impact.

[64] The City's argument that the proposed development will frustrate the planned function of the subject property is simply not tenable based on the evidence before the Board. The City argues that the planned function for this property is "residential" more particularly in the form of "Medium Density Apartments". The City's argument ignores that the current office use is part of the planned function of the property as it is permitted under the zoning by-law and conforms to both the existing Official Plan and the new Urban Official Plan, which is still under appeal. The office uses are not intended to be temporary or for the "short term" as there is no temporal limitation in either the in force official plan or the new Urban Hamilton Official Plan. The only limitation is that the office uses are to be confined to the existing building and the evidence showed that this could

go on for a long period of time given the nature of the building. The COMPASS Day Programs can continue to be offered by LCC on the main floor of the building in conformity with the City's Official Plan.

[65] The proposal is to add housing for those with special needs on the second floor of the building, a use permitted under all residential zones. The Board agrees with counsel for LCC's argument that even if a complete description of the planned function for this site was "Residential" and "Medium Density Apartments", this would not prevent the establishment of either a RCF or an institutional use on the subject property. RCF's are permitted in all residential designations within the City whether uptown, downtown or midtown. Institutional uses less than 0.4 hectares in site area are also permitted in all residential designations in the City.

[66] The City's argument simply does not stand up when one considers the existing Charlton Hall which is under the same policy regime as the subject property except for the office component. If one is to accept the City's argument, one would have to agree that the existing use at the current Charlton Hall operates to frustrate the planned function of that site.

[67] With respect to the City's argument that the proposed use is an institutional use, the Board does not accept this argument as sufficient to deny this appeal. Institutional uses are permitted in residential designations provided the size of the site does not exceed 0.4 hectares.

[68] The City spent a significant amount of time arguing that the project does not meet aspects of the definition of an RCF in the City's zoning by-law. This has always been understood by both the Applicant and the City. However, whether characterized as a new RCF in a mixed use building or a "comprehensive institutional facility", the use is permitted and appropriate.

[69] The City points to the attributes of Charlton Hall proposed to be transferred to the subject site as "hallmarks" of an institutional use. The Board fails to understand how this argument can support the City's position that the proposed use on the subject site will be an institutional use. Charlton Hall is a residential care facility which complies fully with the definition of an RCF in the City's zoning by-law. The City's own definition of an RCF includes dimensions that, to some, are "hallmarks of an institutional use". An

RCF is a "group living arrangement" with "supervised residents" who reside on the premises "because of social, emotional, mental or physical handicaps or problems or personal distress" and is developed for the "well-being of its residents through the provision of self-help, guidance, professional care and supervision..."

[70] There will be no change in the character of Charlton Hall when it is relocated to the second floor of 121 Augusta Street. It will be no more or no less "institutional" than it currently is at 52-56 Charlton Avenue West. However, the evidence was clear that the new environment would be superior for the care of the eight adolescent girls. The attributes of Charlton Hall as these exist in its current location, will continue to exist in its new location. The non-residential component of LCC's proposal has nothing to do with the relocation of that facility. Instead, it is tied to the COMPASS Day Programs.

[71] With respect to the City's argument that the proposal would not satisfy that part of the definition of a RCF requiring that such a facility be located "within a fully detached residential building occupied wholly by...", this is not fatal to the appeal. The Board finds, based on the evidence before it, that it was evident from the outset that LCC proposed a site specific zoning amendment which would permit such a facility in a mixed-use building on the subject site. There is no need under the circumstances to amend the definition of RCF in the main by-law. It is sufficient to permit it specifically on the subject property in the amending by-law. Allowing this use in a mixed-use building is appropriate and will not have the effect of "institutionalizing" the residents.

[72] The Board notes that the property at 124 Walnut Street immediately adjacent to the subject lands was approved to permit a RCF in 1992 to accommodate 70 seniors and other uses. The Official Plan and Neighbourhood Plan designations for this site are precisely the same as exist for the subject lands less the permissions for office uses. City Council in 2007 amended the relevant by-law to remove retirement homes from the separation distance requirements that otherwise apply to RFC's.

[73] It is also noted that the zoning by-law enacted by Council permitting RFC's in their current form also established two "Moratorium Areas" within the downtown core in which no additional RFC's may be permitted or expanded. Charlton Hall is located within one of the moratorium areas and the subject property is not within a moratorium area. Allowing this proposal to proceed would mean that a RFC would move from a

moratorium area to a non-moratorium area although the new facility would be located within 300 metres of two other RFC's, the four to six bed facility operated by LCC for severely challenged children at 135 Forest Avenue and the six bed adult RCF at 106 Catherine Street South. There is no evidence before the Board that these facilities have caused any impacts on the neighbourhood or that there would be any interaction between the three.

[74] There is a disagreement between Counsel for the Appellant and Counsel for the City respecting the form of the amending by-law. The City takes the position that in the event the Board allows the appeal, the property should be re-zoned to an institutional use to reflect the actual use of the property. Although the Appellant does not agree or accept that the proposed use is an institutional one, it is prepared to accept the City's proposed amending by-law but is concerned about the lack of recognition for the current permitted use of offices within the existing building because in effect, if the Board were to accept the City's version, this general office use within the existing building would be lost. Mr. Snider argues that there was absolutely no evidence to suggest that the general office use was problematic or caused any significant land use impacts and that accepting the City's version of the amending by-law would amount to a down zoning of the subject property without planning justification. Furthermore, the parties agree that the COMPASS day use programs are permitted as general office uses and were recognized as such in the City's new Urban Official Plan.

[75] Mr. Minkowski on the other hand argues that the office use would not be lost if the City version of the amending by-law was adopted. The definition of "social services establishment" in Zoning By-law 05-200 incorporates the office use. It reads as follows:

Shall mean a building in which non-profit services intended to promote and improve the independence, economic self-sufficiency, social and health development of citizens are provided and shall include but not be limited to clerical, administrative, consulting, counselling, office and recreational functions for a non-profit agency but shall not include facilities in which overnight accommodation is provided.

[76] Mr. Minkowski maintains that it would be redundant and confusing to maintain the separate office use reference in the zoning by-law when the office uses currently permitted would continue to be so under the term "social services establishment" and that therefore there is no need to refer back to the uses permitted under the site specific "L-mr" Zone.

[77] The Board agrees with Mr. Snider in that accepting the City's version would effectively result in a downzoning of the property without proper justification provided during the course of the hearing.

DISPOSITION

[78] Accordingly, the appeal is allowed and Zoning By-law 6593 of the City of Hamilton is hereby amended in accordance with Attachment 1 hereto.

ORDER

[79] It is so Ordered.

"R.G.M. Makuch"

R.G.M. MAKUCH
MEMBER

ATTACHMENT 1

Authority:

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 05-200
Respecting Lands Located at 121 Augusta Street, Hamilton**

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the new Zoning By-law, being By-law 05-200, came into force on May 25, 2005;

AND WHEREAS the Ontario Municipal Board, in adopting Item _____ recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

NOW THEREFORE the City of Hamilton enacts as follows:

1. That Map No. 995 of Schedule "A" to Zoning By-law No 05-200, is amended, by incorporating additional Community Institutional (I2) Zone boundaries, in the form of a Site-Specific Community Institutional (I2, #, H#) Holding Zone for the lands, the extent and boundaries of which are shown on Schedule "A" annexed hereto and forming part of this By-law.

2. That Schedule "C" - Special Exemptions, of By-law No. 05-200, be amended by adding an additional special exception as follows:

" _____ Within the lands zoned Community Institutional (I2-____) Zone, identified on Map 995 of Schedule "A" and described as 121 Augusta Street, shown

on Schedule "A" of this By-law, **in addition to the special provisions of the Special Provision L-mr-2/S-1345**, the following special provisions shall **also** apply:

- i) To permit a social services establishment together with overnight accommodation, subject to the following provisions:
 - (a) Maximum number of residents that can be accommodated - 8
 - (b) Minimum number of parking spaces - 15

3. That Schedule "D" - Holding Provisions, of By-law No. 05-200, be amended by adding additional Holding provisions as follows:

(H#) Notwithstanding Section 2 of this By-law, within lands zoned Community Institutional (I2-#) Zone, on Map 995 of Schedule "A" Zoning Maps, and described as 121 Augusta Street, a holding provision shall prohibit all uses other than those uses existing at the time of this by-law (being ____ 2013) until such time as:

- (i) The owner/applicant has submitted a signed Record of Site Condition (RSC) to the City of Hamilton, and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.

Council may remove the 'H' symbol, and thereby give effect to the Site-Specific Community Institutional (I2-#) Zone provisions by enactment of an amending by-law once the conditions are fulfilled.

4. That this By-law No. ____ shall come into force and effect and be deemed to come into force in accordance with Subsection 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said subsection.

- 22 -

PL120529

PASSED and ENACTED this day of , 2013.

Mayor

Clerk

ZAR-11-034

[05-200 By-law Schedule must be attached]

"R.G.M. Makuch"
R.G.M. MAKUCH
MEMBER

Appendix "B"

Ontario Human
Rights Commission

Office of the Chief Commissioner

180 Dundas Street West, 9th Floor
Toronto ON M7A 2R9
Tel.: (416) 314-4537
Fax.: (416) 314-7752

Commission ontarienne
des droits de la personne

Cabinet de la commissaire en chef

180, rue Dundas ouest, 9^e étage
Toronto ON M7A 2R9
Tél. : (416) 314-4537
Téléf. : (416) 314-7752



VIA Email

February 26, 2015

Dear Colleagues,

Re: Applying a human rights lens in zoning, licensing and municipal decision-making

As new and returning mayors, councillors and elected officials, you play a central role in ensuring that municipal processes and decisions respect the human rights of all community members. The Ontario Human Rights Commission (OHRC) has worked for several years with governments, experts and community partners to increase human rights compliance in housing, land use and licensing. I'm writing to share some positive developments in these areas, and to point out some OHRC resources that can help you make your community more inclusive.

In 2014, Toronto and Smiths Falls removed minimum separation distance (MSD) and other zoning restrictions for group homes, as part of human rights settlements with the Dream Team, a mental health consumer-survivor group. This follows similar moves by Sarnia in 2011 and Kitchener in 2012. In each case, there was no planning justification for MSDs. In fact, Toronto's own external planning expert recommended they be removed because they contravened the *Human Rights Code*.

Over the past few years, several other municipalities have recognized their human rights obligations by preventing or removing zoning, licensing and other barriers to housing and services (such as methadone clinics) that are needed by *Code*-identified groups.

The Ministry of Municipal Affairs and Housing has also reinforced the requirement to meet *Human Rights Code* obligations in municipal work by adding human rights language to two key resources:

- Section 3 of the *Municipal Councillor's Guide 2014* [www.mah.gov.on.ca/AssetFactory.aspx?did=4965] now refers to *Code* protections
- Section 4.6 of the 2014 Provincial Policy Statement under the *Planning Act* [www.mah.gov.on.ca/Page10679.aspx] now states that the PPS shall be implemented in a way that is consistent with the *Code* and the *Charter of Rights and Freedoms*.

Also in 2014, several Ontario planning schools and organizations added human rights content to courses and ongoing professional education. We continue to work with them to ensure that new graduates and practicing planners incorporate human rights principles in their work.

The OHRC provides several tools to help elected officials, staff and advocates improve human rights in housing, planning, licensing and other municipal decisions.

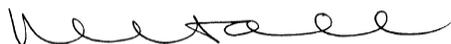
- Our municipal guides, *In the zone: Housing, human rights and municipal planning* [www.ohrc.on.ca/en/zone-housing-human-rights-and-municipal-planning]; and *Room for everyone: human rights and rental housing licensing* [www.ohrc.on.ca/en/room-everyone-human-rights-and-rental-housing-licensing] identify human rights risks and best practices in zoning and licensing.
- Our *Neighbourhood housing tip sheet* [www.ohrc.on.ca/en/neighbourhood-housing-tip-sheet-fact-sheet] offers suggestions for responding to community concerns about affordable supportive and rental housing, including discriminatory opposition that is based on stereotypes, assumptions and misinformation about people or the impact on the neighbourhood.
- Municipalities can also spread the message about human rights in housing by sharing our landlord and tenant brochures, fact sheet on fair rental housing ads, and *Policy on human rights and rental housing* with community members and organizations.

These publications are available in both English and French on our website at www.ohrc.on.ca/en/social_areas/housing. To order printed copies, email us at communications@ohrc.on.ca.

Municipalities are the level of government that is closest to the daily lives of people across Ontario. The decisions you make can have an immediate impact on the human rights of your residents. I challenge you to look at your planning, bylaws and decision-making processes, and to apply a human rights lens to help your neighbourhoods and communities be supportive, welcoming places for everyone to call home.

If you would like more information on human rights, municipal decision-making and housing, please contact Jacquelin Pegg at 416-326-9863 or via email at jacquelin.pegg@ohrc.on.ca.

Yours truly,



Barbara Hall, B.A., LL.B., Ph.D. (hon.)
Chief Commissioner

Appendix "C"

Land Use Planning History for Residential Care Facilities (Hamilton)

1.0 1970's Provincial Policy Direction

The availability of appropriate accommodation for all residents is important for a community's social well-being. In the 1970's, the Province of Ontario developed an alternative approach to the care of people requiring support. While historically, these people lived in institutional settings, the Province believed that they would lead more productive lives when integrated into neighbourhoods with appropriate amount of supervision and support. Residential Care Facilities (RCFs) and group homes were located within communities to provide a residential living environment for small groups of people to fill this need by providing housing options for those who require support beyond what their families can provide. These facilities are designed to provide supervision, professional counselling, and other support services to help residents meet their educational, employment, and social goals.

2.0 Zoning By-law Regulations

1.1 1980's – City of Hamilton Zoning By-law Regulations

In 1981, the former City of Hamilton introduced By-Law No. 81-27, which defined and established zoning regulations for RCFs, short-term care facilities, and lodging houses.

The by-law introduced capacities for residential care facilities by specific zoning district and included the following distance separation regulations:

- (5) Except as provided in subsection 6, every residential care facility shall be situated on a lot having a minimum radial separation distance of 180.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility or a short-term care facility.

(6) Where the radial separation distance from the lot line of an existing residential care facility is less than 180.0 metres to the lot line of any other lot occupied by a residential care facility or short-term care facility, the existing residential care facility may be expanded or redeveloped to accommodate not more than the permitted number of residents."

In Hamilton, many RCFs have historically located in the downtown area. These dense urban neighbourhoods are ideal locations for RCFs due to relatively inexpensive land values and convenient access to community services, transit, among other benefits. The dispersion of RCFs throughout the City, as a whole, is desirable so that the residents in these facilities can live in a residential atmosphere with a mix of housing types rather than an institutionalized environment. In addition, residents may have a choice as to what part of the City they could live in. To address the issue of over-concentration of RCFs in certain areas, the City incorporated radial separation distances in the Zoning By-law that require RCFs to be separated from each other. This distance separation does not affect existing facilities, but ensures any new RCFs will be dispersed throughout the City.

1.1.1 History of Radial Separation Distance

A separation distance requirement is a tool for controlling the number and locational restrictions of certain uses. A Radial Separation Distance (RSD) has been used to separate disruptive uses, to avoid conflict/adverse impacts to both the community and the operation. For example, separation distances could enforce appropriate buffering between industrial uses and more sensitive uses, such as residential.

In the case of RSD and residential care facilities, the former municipalities implemented radial separation distances following the de-institutionalization direction from the Province in the 1980's and 1990's. The RSD was intended to reduce an overconcentration of facilities in certain areas of the City.

Historically, the former City of Hamilton (Wards 1 to 8 and 14) had / have the highest percentage of residential care facilities, but it has been proportional to its share of population of the City (former Region of

Hamilton-Wentworth) as a whole. However, there has always been a disproportionate share of the distribution in the lower City, in particular, Wards 2 and 3. In the late 1970's, the percentage share in the former City of Hamilton was 73% and by the late 1990's it was still 67%. The intent of the radial separation by-law was to encourage the dispersion of new facilities throughout the City, which is what led to the review in 2001.

1.1.2 OHRC Concern

The OHRC has taken the position that RSD does not achieve decentralization, but rather decreases housing options and targets code protected groups. Licencing and locational requirements should only be based on ensuring decent, safe housing and not preventing or limiting housing options for people. The City can evaluate the zoning of a residential care facility / group home in light of the *Code* to determine if there is any undue hardship on the City and its residents.

1.2 Other municipalities within Hamilton

Throughout the 1980's and 1990's, Dundas, Flamborough, Glanbrook and Stoney Creek also defined RCF's but used different terms (i.e. group homes) and established their own separation requirements in their former Zoning By-laws (still in force and effect).

3.0 2000 Review of Residential Care Facilities, Short Term Care Facilities, Long Term Care Facilities and Correctional Facilities (Zoning By-Law No. 6593)

In 2000/2001, Staff reviewed the Zoning By-law regulations in Zoning By-law No. 6593 for residential care facilities, short term care facilities, long term care facilities and correctional facilities for the former City of Hamilton. The purpose of the study was:

- To review the social and land use planning history;

- To review the current land use planning policy framework for the City of Hamilton and area municipalities;
- To identify key issues and concerns;
- To identify a number of options to address these concerns; and,
- To identify the preferred options and strategies.

In June 2000, staff presented a series of options to consider changes to Zoning By-law No. 6593 respecting residential care facilities, long term care facilities and correctional facilities. The Committee directed staff to undertake a public participation program to gain input on the proposed recommendations.

Staff met with a number of different groups – service providers, neighbourhood groups, government agencies and the Business Improvement Areas (BIAs) to gauge their reaction and concerns with the proposed recommendations. Following these discussions, a second report was prepared with recommendations on changes to Zoning By-law No. 6593. It was also further expanded to include hostels.

The May 2001 Discussion Paper titled “Residential Care Facilities, Long Term Care Facilities, Correctional Facilities and Hostels Discussion Paper No. 2 (Final Recommendations)” provided information and direction to update the current by-law standards from the 1981 by-law in a manner that balances the provision of a variety of housing types and size, the support for community integration of these facilities, and the impact of these facilities on the community. The report made a number of recommendations related to zoning definitions and regulations, in particular with regards to permitted uses within the zones and to increase the separation distance from 180 m to 300 m radial separation distance. In addition to the recommended zoning changes, the report provided direction for non-land use planning matters such as a central registry, review of subsidy agreements and a bi-annual report on the effectiveness of changes to the zoning requirements.

On June 26, 2001, the Hearings Sub-Committee considered the “Residential Care Facilities, Long Term Care Facilities, Correctional Facilities and Hostels

Discussion Paper No. 2 (Final Recommendations)". The main recommendations were to:

- Redefine short term care facilities and hostels to emergency shelters and add new definitions for retirement homes, and correctional facilities;
- Add RCFs to the "B" (Suburban Agriculture and Residential, etc.) District; and,
- Increase the radial separation distance between all facilities from 180m to 300m.

These recommendations were approved by Council on June 26, 2001, and, with respect to item (b), By-law No. 01-143 was passed by Council on this date and Hamilton Zoning By-law No. 6593 was amended to reflect the above recommendations. The other municipal zoning by-laws remained as is since these changes were underway prior to amalgamation.

Appendix "D"

Provincial Policies

1.0 Provincial Policy Statement, 2014

"1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

1.1.1 Healthy, liveable and safe communities are sustained by:

- b) accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), 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;
- f) improving accessibility for persons with disabilities and older persons by identifying, preventing and removing land use barriers which restrict their full participation in society;

1.4 Housing

1.4.3 Planning authorities shall 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:

- a) establishing and implementing minimum targets for the provision of housing which is *affordable to low and moderate income households*. However, where planning is conducted by an upper-tier municipality, the upper-tier municipality in consultation with the lower-tier municipalities may identify a higher target(s) which shall represent the minimum target(s) for these lower-tier municipalities;
- 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; and
- e) establishing development standards for *residential intensification, redevelopment* and new residential development which minimize the cost of housing and facilitate compact form, while maintaining appropriate levels of public health and safety."

Special Needs is defined as: "any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may include, but are not limited to, housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for older persons.

4.0 Implementation and Interpretation

4.6 This Provincial Policy Statement shall be implemented in a manner that is consistent with the Ontario *Human Rights Code* and the Canadian *Charter of Rights and Freedoms*.

2.0 Growth Plan for the Greater Golden Horseshoe

2017 Growth Plan

The Growth Plan does not specifically address special needs housing. However it contains similar policies to the PPS that requires a municipality, through the completion of a Housing Strategy, to identify affordable housing for current and future populations.

Policy 2.2.6.1 a) i) requires that a municipality must plan to achieve certain density targets both inside and outside the built boundary. To achieve these targets municipalities must identify a diverse range and mix of housing

options and densities, including second units and affordable housing to meet projected need of current and future residents.

Amendment No. 1 to the Growth Plan

On January 2019, the province introduced Amendment No, 1 which proposes to remove the need to complete a Housing Strategy. However, the requirement to identify and plan for diverse range and mix of housing remains.

Appendix "E"

OFFICIAL PLAN POLICIES

1.0 Urban Hamilton Official Plan

B.3.2 Housing Policies

Housing is fundamental to the economic, social and physical well-being of Hamilton's residents and communities. Housing is a basic human need and is the central place from which people build their lives, nurture their families and themselves, and engage in their communities. Housing needs change and evolve as social, demographic, and economic conditions change. The long term sustainability of communities is based on building a diverse, flexible housing stock today to meet changing needs at both household and community levels. To ensure that housing is available for all residents with a wide variety of needs, there must be a sufficient supply of housing with a range of housing types, forms, tenures, densities, affordability levels, and housing with support services.

"B.3.2.1.6 Increase the mix and range of housing types, forms, tenures, densities, affordability levels, and housing with supports throughout the urban area of the City."

Housing targets for Ownership and Rental are found in Table B.3.2.1.

B.3.2.3 Affordable Housing Policies

"Many households in Hamilton cannot obtain housing that is *affordable* or appropriate to their needs. Households and individuals may be at risk of homelessness because of economic and/or personal circumstances where a level of support is required to live independently. Hamilton's aging and diversifying population has new and unique housing needs that cannot solely be met through current housing options. The City recognizes the importance of *affordable* housing and *housing with supports* in meeting the housing needs of

those without the resources to participate in the private housing market.

B.3.2.3.1 The City shall endeavour to provide a facilitative land use planning process for development applications for affordable housing and housing with supports.

B.3.2.4.3 Housing with supports, including residential care facilities, shall be permitted in the Institutional, Neighbourhoods, Commercial and Mixed Use designations, as shown on Schedule E-1 – Urban Land Use Designations, and shall be subject to zoning regulations where applicable.”

Downtown, Sub-Regional Service Nodes, Community Nodes and Neighbourhood designations all support and encourage housing with supports.

C.3.2 Urban Area General Provisions (Policies)

“C. 3.2.2. The following uses shall be permitted in the Neighbourhoods, Institutional, and Commercial Mixed Uses designations:

- c) A small scale residential care facility shall be as-of-right, provided it complies with all applicable policies and the Zoning By-law.”

2.0 Rural Hamilton Official Plan

The following policies in Chapter B – Communities specifically address the need for support services in the Rural Area:

"B.3.2 Housing Policies

Housing is fundamental to the economic, social and physical well-being of Hamilton's residents and communities. Housing is a basic human need and is the central place from which people build their lives, nurture their families and themselves, and engage in their communities. While the housing needs of the farm community and rural residents are important, rural land is primarily a working landscape for agriculture and non-renewable resources, with strong protections for our vital natural resources. Rural settlement areas are the focus of rural non-agricultural and non-resource uses to protect the rural land base for its primary resource purposes. Additionally, the rural area cannot be serviced by lake-based municipal water and sewer systems. Any municipal water systems existing on the date of adoption of this Plan were developed to address a water quality health emergency. The need for a certain land area to accommodate sustainable private servicing means that multi-dwelling housing forms cannot be permitted in the rural area, and densities must remain low. In accordance with Chapters D and F of this Plan, no additional non-farm housing is contemplated outside of rural settlement areas. Unfortunately, this means the opportunities for affordable housing in the rural area are limited.

3.2.1 Affordable Housing Policies

Many households in Hamilton cannot obtain housing that is *affordable* or appropriate to their needs. Households and individuals may be at risk of homelessness because of economic or personal circumstances where a level of support is required to live independently. The City recognizes the importance of *affordable* housing and *housing with supports* in meeting the housing needs of those without the resources to participate in the private housing market. There are also unique housing needs in the *rural area*, with special challenges in meeting those housing needs. The overlying planning principles are the protection and availability of the agricultural land base and natural

resources, and protection of natural heritage resources. Protection of the land base and the ability to farm that land or extract natural resources necessitates restricting future residential *development* to existing permissions and Rural Settlement Areas. Further, water and sewage servicing constraints, the need for a certain land area to accommodate safe water supply and sewage disposal limits housing forms. For these reasons the potential for additional housing in the rural area is limited.

- 3.2.1.1 The City shall endeavour to provide a facilitative land use planning process for development applications for *affordable housing and housing with supports.*"

In addition, small scale residential care facilities are permitted in the Agriculture, Specialty Crop, Rural and Rural Settlement Area designations in accordance with the Zoning By-law and provided the facility can meeting the sustainable servicing provisions. (Policy C. 3.1.2.c)

3.0 Glossary for OP's:

"Housing with Supports: means public, private or non-profit owned housing with some form of support component, beyond economic support, intended for people who need support services to live independently in the community, where providers receive funding for support services. The tenure may be long term. Housing with supports includes special needs housing as defined by the Provincial Policy Statement (2005)."

Appendix "F"

Zoning By-laws in Hamilton

1.0 Zoning By-law No. 05-200

In 2005, Zoning By-law No. 05-200 established the definitions as well as the regulations for the Downtown area. Since 2005, new zones have incorporated certain uses within various zones that apply on a city wide basis.

1.1 Definitions

“Residential Care Facility: Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents as permitted by the zone, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps or personal distress and which residential setting is developed for the well-being of its residents through the provision of self-help, guidance, professional care and supervision not available within the resident’s own family, or in an independent living situation or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility shall include a children’s residence and group home but shall not include an emergency shelter, lodging house, corrections residence or correctional facility.”

“Corrections Residence Shall mean a group living arrangement in a secure facility, for people who have been placed on probation, who have been released on parole, or who are admitted to the facility for correctional or rehabilitation purposes, and live together with the requirements of its residents and accepted standards for secure detention. A corrections residence is licensed, funded, approved or has a contract or agreement with the Province of Ontario or Federal Government, but shall not include a correctional facility, emergency shelter, or a residential care facility.”

There is only a corrections residence permitted in the City as a special exception.

1.2 Downtown Zones

In 2005, Zoning By-law No. 05-200 was passed which introduced, amongst other matters, definitions and six Downtown Zones. The definition and the regulations for Zoning By-law No. 05-200 were based on the 2001 amendments to the Zoning By-law No. 6593.

These zones allow residential care facilities of varying sizes:

Zone	Capacity
Downtown Mixed Use (D3) Zone	20
Downtown Local Commercial Use (D4) Zone	20
Downtown Residential (D5) Zone	6
Downtown Multiple Residential (D6) Zone	6

A radial separation distance of 300 m between a residential care facility, a corrections residence, a correctional facility or an emergency shelter is included. It also maintains the moratorium on new facilities within the area bounded by Queen Street, James Street, Hunter Street and Main Street.

The Downtown Zones were amended in 2018 but no changes were made to RCFs.

1.3 Institutional Zones

On March 28, 2007, By-law No. 07-101 was passed by Council which introduced three new Institutional Zones to the City of Hamilton Zoning By-law No. No. 05-200. These zones allow residential care facilities of varying sizes as follows:

Zone	Capacity
Neighbourhood Institutional (I1) Zone	15
Community Institutional (I2) Zone	50
Major Institutional (I3) Zone	50

Similar to the Downtown zones, this By-law included a radial separation distance of 300 metres for any new residential care facility or correctional residence throughout the City and the Institutional Zones established the capacity for any residential care facility within the new zones. No new additional work was done in regards to reviewing the separation distances.

Following the completion of the "Residential Care Facilities, Long Term Care Facilities and Correctional Facilities Discussion Paper" in 2000, and as a part of the Comprehensive Zoning By-law No. No. 05-200, the Institutional Zoning process began in 2005. Using the recommendations of the Discussion Paper, the foundation of the Institutional Zones was established.

1.4 Commercial/Mixed Use (CMU) Zones

In November 2017, City Council passed By-law No. 17-240 to include eight new commercial zones within Zoning By-law No. No. 05-200. There are three zones which allow RCFs; the following capacities apply:

Zone	Capacity
Residential Character Commercial (C1) Zone	6
Mixed Use High Density (C4) Zone	50
Mixed Use Medium Density (C5) Zone	50

Radial separation distances were included because no decision had been made about the need for this separation in the urban area.

1.4 Rural Zoning

Residential care facilities are permitted use within the following Zones:

Zone	Capacity
Agricultural (A1) Zone Rural (A2) Zone	10
Settlement Residential (S1) Zone	6

No radial separation distances were included since the location of these facilities, primarily outside the RSA's, were located on lots that were large such that a separation distance was not warranted.

2.0 Dundas Zoning By-law No. 3581-86

A RCF is referred to as a "Group Home" in this By-law and is only permitted in two zones - the Low Density Residential (R4) Zone and Residential and Commercial Conversion (R.C.C.) Zone with a maximum capacity of 6 residents. It is defined as:

"GROUP HOME" means any supervised, community based group living arrangement, located in a fully-detached building occupied wholly for such use, by a maximum number of supervised residents, exclusive of staff, with social, legal, emotional or mental problems, that is developed for the well-being of its occupants through self-help and/or professional care, guidance, and supervision unavailable in the occupant's own family or in an independent situation, provided that:

- i) the occupants of the Group Home are referred to the Group Home by a hospital, court or government agency; or
- ii) such facility is government funded either wholly or in part, other than funding provided solely for capital purposes; or
- iii) the facility is regulated or supervised under any general or special act (Municipal, Provincial or Federal)."

The radial separation distance is 275 metres and the maximum capacity is 6 persons.

3.0 Flamborough Zoning By-Law No. 90-145-Z

Similar to Dundas, a RCF is considered a "Group Home" in this By-law and is subject to the following regulations:

"Group Home" shall mean a household located within a *single detached dwelling* in which 3 to 10 residents, excluding staff or receiving

household, live under responsible supervision consistent with the requirements of its residents and relevant Provincial guidelines. "

Group Home Regulations

A group home shall be permitted in any zone except any industrial zone subject to the following applicable provisions for the urban area:

- (a) the group home is licensed or approved under Provincial Statute;
- (b) the group home is located within a single detached dwelling containing a minimum of 20 square metres of gross floor area per person residing within the said dwelling unit;
- (d) in the Urban Area, no group home shall be located within 350 metres of any other group home;
- (e) when any conflict regarding the required separation distances specified (d) occurs, the more restrictive of the two distances shall be used;
- (f) all group homes shall be listed on a Municipal Register.

4.0 Glanbrook Zoning By-Law No. 464

Similar to Dundas and Flamborough, a RCF is considered a "Group Home" in this By-law and is only permitted within a single detached dwelling in one zone - the Residential Multiple "RM1" Zone. The radial separation distance is 1.6 kilometres, the minimum capacity is 3 persons, the maximum capacity is 6 persons and must be licensed by the appropriate Provincial Ministry having jurisdiction and registered with the Township of Glanbrook in accordance with Section 240 of the Municipal Act, being Chapter M.45 of the Revised Statutes of Ontario, 1990, as amended from time to time. It is defined as follows:

"GROUP HOME" means a licensed single housekeeping unit in a single detached dwelling in which three (3) to six (6) persons,

excluding supervisory staff or the receiving family, live under responsible supervision consistent with both the particular needs of its residents and the relevant Provincial guidelines."

5.0 Hamilton Zoning By-Law No. 6593

This By-law defines a RCF as follows:

"Residential Care Facility" means a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of supervised residents as permitted by the district, exclusive of staff, residing on the premises because of social, emotional, mental or physical handicaps or problems or personal distress and that is developed for the well being of its residents through the provision of self-help, guidance, professional care and supervision not available in the residents own family, or in an independent living situation or if:

- (i) the resident was referred to the facility by hospital, court or government agency; or
- (ii) the facility is licensed, funded, approved or has a contract or agreement with the federal, provincial or municipal governments.

A residential care facility is not considered as an emergency shelter, lodging house, corrections residence, correctional facility or retirement home. "

It is permitted in the "B", "B-1", "B-2", "C", "R-4", "D", "DE", "DE-2" and "DE-3" Districts with a maximum capacity of 6 persons, and the "E", "E-1", "E-2", "E-3", "G", "G-2", "H", "I", "CR-1", "CR-2" and "CR-3" Districts with a maximum capacity of 20 persons, subject to the following radial separation distance requirements:

"8. (5) Except as provided in Subsection 6, every residential care facility

shall be situated on a lot having a minimum radial separation distance of 300.0 metres from the lot line to the lot line of any other lot occupied or as may be occupied by a residential care facility, emergency shelter, corrections residence or correctional facility. (01-143 - Deleted by 06-188) (07-107)

- (6) Where the radial separation distance from the lot line of an existing residential care facility is less than 300.0 metres to the lot line of any other lot occupied by a residential care facility, emergency shelter, corrections residence or correctional facility may be expanded or redeveloped to accommodate not more than the permitted number of residents. (01-143 – Deleted by 06-188) (07-107)“

Finally, there are certain areas of the City where a RCF is prohibited:

- “4. (8) No additional residential care facilities, retirement homes, emergency shelters, corrections residence and correctional facilities or expansions of existing residential care facilities, retirement homes, emergency shelters, corrections residence or correctional facilities shall be permitted in the areas identified on Schedule “O” of Zoning By-Law No. 6593 – Moratorium Areas for Residential Care Facilities, Retirement Homes, Emergency Shelters, Corrections Residence and Correctional Facilities. (01-143) (02-043)
19. (4) Notwithstanding any other provisions of this By-Law, any building or portion thereof existing on the date of the passing of this By-Law, located within Area "A" shown on Schedule "I" of Section 18A, may be converted to a residential use except for a Residential Care Facility or Short-Term Care Facility, provided that the ground floor is maintained for commercial use. (96-034)“ (See Schedules attached in Appendix “A”)

In 2007, Zoning By-law No. 6593 was modified to remove the radial separation distances for retirement homes (By-law 07-107).

6.0 Stoney Creek Zoning By-Law No. 3692-92

This By-law includes a definition of RCF:

“Residential Care Facility Means a housekeeping unit within a detached building in which the maximum number of persons residing in the unit, exclusive of supervisory personnel, employees or their dependents, shall be as specified in the various zoning categories of this By-law. Such a unit shall be a facility that receives funding based on the number of persons residing in the unit, which funding may be from any source, and which funding is not for capital purposes. Such a unit shall be a facility that is supervised by on-site personnel. Such a unit shall not include the following:

- (a) A Community Resource Centre or a Correctional Institution as defined or designated under the Ministry of Correctional Services Act, R.S.O. 1990, c.M.22;
- (b) A place of open custody, a place of open temporary detention, a place of secure custody, a place of secure temporary detention or a place of temporary detention as defined under the Mental Health Act, R.S.O. 1990, c.M.7;
- (c) A Charitable Institution, a Hostel as defined under the Charitable Institutions Act, R.S.O. 1990, c.C.9;
- (d) A Nursing Home as defined under the Nursing Home Act, R.S.O. 1990, c.N.7;
- (e) A Home for the Aged as defined under the Homes for the Aged and Rest Homes Act, R.S.O. 1990, c.H.13;
- (f) A Domiciliary Hostel;
- (g) A Tent, Cabin or Recreational Vehicle;
- (h) A Hotel, Motel or Tourist Home;
- (i) A Foster Home;
- (j) A Group Home; or

(k) A Boarding House."

"Group Home - Means a housekeeping unit within a building, in which the maximum number of persons residing in the unit, exclusive of supervisory personnel, employees or their dependents, shall be as specified in the various zoning categories of this By-law and which unit shall be licenced pursuant to a Provincial Statute. Such a unit shall not include the following:

- (a) A Community Resource Centre or a Correctional Institution as defined or designated under the Ministry of Correctional Services Act, R.S.O. 1990, c.M.22;
- (b) A place of open custody, a place of open temporary detention, a place of secure custody, a place of secure temporary detention or a place of temporary detention as defined under the Mental Health Act, R.S.O. 1990, c.M.7.
- (c) A Charitable Institution or Hostel as defined under the Charitable Institutions Act, R.S.O. 1990, c.C.9;
- (d) A Nursing Home as defined under the Nursing Home Act, R.S.O. 1990, c.N.7;
- (e) A Home for the Aged as defined under the Homes for the Aged and Rest Homes Act, R.S.O. 1990, c.H.13;
- (f) A Residential Care facility;
- (g) A Domiciliary Hostel;
- (h) A Tent, Cabin, Trailer or a Mobile Home;
- (i) A Hotel, Motel or Tourist Home;
- (j) A Foster Home; or
- (k) A Boarding House.

These uses are permitted in any Residential Zones that permit a single detached dwelling, a duplex, a semi-detached dwelling or a triplex dwelling (8 zones permit these uses), subject to the following regulations:

"6.1.5 Residential Care Facilities, Group Homes Or Domiciliary Hostels

Where any residential zone permits a single detached dwelling, a duplex, a semi-detached dwelling or a triplex dwelling, such dwelling may be converted to a Group Home, a Residential Care Facility or a Domiciliary Hostel for a maximum of six (6) residents provided that:

- (a) The entire dwelling is so converted and wholly occupied by such use;
- (b) A lot containing such dwelling shall not be located within 800 metres of any other lot upon which is situated any other Group Home, Residential Care Facility or a Domiciliary Hostel;
- (c) Parking spaces shall be provided in accordance with the provisions of Section 4.10 with a maximum of two (2) parking spaces in the front yard; and
- (d) The dwelling complies with all regulations of the zone in which it is located."

Any single detached, duplex, semi-detached or triplex can be converted into a residential care facility or group home provided the entire building is converted to that single use.

Appendix "G"

1.0 Municipalities challenged on Human Rights

1.1 Toronto

“Group Home means premises used to provide supervised living accommodation, licensed or funded under Province of Ontario or Government of Canada legislation, for up to ten persons, exclusive of staff, living together in a single housekeeping unit because they require a supervised group living arrangement. [By-law: 0550-2014]

Residential Care Home means supervised living accommodation that may include associated support services, and:

- (A) is licensed or funded under Province of Ontario or Government of Canada legislation;
- (B) is for persons requiring semi-independent or supervised group living arrangements;
- (C) is for more than ten persons, exclusive of staff; and,
- (D) an apartment building used for the purpose of supportive housing or social housing is not a residential care home.

(1) Group Home or Residential Care Home - Use Restriction

A group home or a residential care home must occupy the entire building and may not be combined with any other use.

(2) Group Home - Type of Building in the Residential Zone Category

In the Residential Zone category, a group home may be in:

- (A) a building that was originally constructed as a detached house; and

- (B) a building that was originally constructed as a semi-detached house if:
- (i) the building is on a lot in the R zone; and
 - (ii) the group home occupies the entire building."

1.1.2 Smith Falls

"GROUP HOME, TYPE A: Means a single household unit in a dwelling, in which 3 to 10 residents (excluding staff or receiving family) live together under responsible supervision consistent with the requirements of its residents. The definition does not include residences for young offenders, adult offenders or boarding/rooming dwelling houses"

"Type A Group Homes shall be a permitted use in all zones in which a single detached dwelling is permitted as a principle use in accordance with the following provisions.

1. *Type A Group Homes* shall not be permitted in accessory single detached dwelling houses nor in accessory dwelling units.
2. *Type A Group Homes* may be permitted in single-detached dwellings and in both units of semi-detached and duplex dwellings, provided that both units are occupied by one group home operation and that the total number of residents (excluding staff or receiving family) in both units does not exceed ten."

1.1.3 Kitchener

"**Correctional Group Home**" means a residence licensed or funded under a federal or provincial statute for accommodation of three to ten persons, exclusive of staff, supervised by staff on a daily basis for

persons who have been placed on probation, released on parole or admitted for correctional purposes.

"Group Home" means a residence licensed or funded under a federal or provincial statute for the accommodation of three to ten persons, exclusive of staff, living under supervision in a single housekeeping unit and who, ~~by reason of their emotional, mental, social or physical condition or legal status,~~ require a group living arrangement for their well-being and shall not include a correctional group home." (Strikethrough indicates the removed wording)

"Residential Care Facility" means a building or part thereof occupied by three (3) or more persons, exclusive of staff, who are cared for on a temporary or permanent basis in a supervised group setting. This shall include, for example, a group home, correctional group home, crisis care facility, residence for socially disadvantaged persons or nursing home, but shall not include a lodging house, foster care home, hospital or a hospice with 10 patients or less."

1.1.4 Sarnia

The City continues to define Group Home and Residential Care Facility as follows:

"GROUP HOME" shall mean a dwelling unit operated as a single housekeeping unit accommodating, or having the facilities to accommodate, 5 to 10 residents (exclusive of staff) who, by reason of their emotional, mental, social, or physical condition require a group living arrangement under 24 hour responsible supervision consistent with the requirements of its residents, and the group home is either licensed or funded under Provincial or Federal statute. Any counseling or support services provided in the group home shall be limited to those required by the residents."

"RESIDENTIAL CARE FACILITY" means a family home, group care facility, or similar facility for **24** hour non-medical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual."

2.0 Other Municipalities

2.1 City of St. Catharines

In December 2013, the City of St. Catharines adopted a new Comprehensive Zoning By-law. The new By-law removed the minimum separation requirement which was previously in place. The new Zoning By-law also redefined group homes as "Special Needs Housing" which is now permitted in all dwelling types in all zones that permit a residential use.

The City noted that the changes were made because the application of an MDS, together with defining the use as Group Home, was believed to be discriminatory based on Ontario Human Rights.

"Special Needs Housing: means any housing, including dedicated facilities in whole or in part, that is used by people who have specific needs beyond economic needs including, but not limited to, needs such as mobility requirements or support functions required for daily living."

2.2 City of Burlington

The City of Burlington continues to maintain a separation distance of 400m for group homes of 6 or more residents. It was noted by City of Burlington staff that most of the facilities in Burlington have less than 6 residents and therefore they do not need special zoning or regulatory steps.

“Group Home: A single housekeeping unit supervised by staff on a daily basis which provides special care and treatment to persons for physical or mental deficiency, physical handicap or other such cause. A Group Home shall be funded, licensed, approved, or supervised by the Province of Ontario under a general or specific Act, for the accommodation of not less than 6 and not more than 8 residents, exclusive of staff. Where a Group Home is located outside the Urban Improvement Area boundary, the maximum number of residents permitted, exclusive of staff is 10. A Group Home may contain an office provided that the office is used only for the administration of the Group Home in which it is located.”

2.3 Town of Milton

The Town of Milton maintains a 500m minimum separation distance for group homes that was implemented in 2002. There are also locational and number of occupant requirements associated with group homes.

“GROUP HOME TYPE 1

Means a dwelling unit occupied by residents who live as a single housekeeping unit requiring specialized or group care, supervised on a daily basis, and which is licensed, approved or supervised, or funded by the Province of Ontario as:

- Home for Special Care, Homes for Special Care Act;
- Approved Home, Mental Hospitals Act;
- Children’s Residence, Child and Family Services Act;
- Approved Home, Developmental Services Act;
- A Facility, Developmental Services Act;
- Charitable Home for the Aged, Charitable Institutions Act; or,
- Home for the Aged, Homes for the Aged and Rest Homes Act.”

"GROUP HOME TYPE 2

Means a dwelling unit occupied by residents who live as a single housekeeping unit requiring specialized or group care, supervised on a daily basis, and which is licensed, approved or supervised, or funded by the Province of Ontario under any general or specialized Act and which shall be maintained and operated primarily for:

- Persons who require temporary care and transient or homeless persons; or
- Persons requiring treatment and rehabilitation for addiction to drugs or alcohol."

1.4 City of Windsor

When staff originally contacted the City of Windsor in early 2016, the City had a minimum separation distance requirement of 240 metres for group homes and residential care facilities. However, in light of the changes to the *Planning Act* and Provincial Policy Statement and the recent challenges made by the Human Rights Commission in other municipalities, the City of Windsor commenced a City initiated amendment to remove minimum distance separation requirements.

The minimum distance separation between Group homes was removed in September, 2016 via a housekeeping amendment. There was no discussion on the matter of group homes at the public meeting or at Council. The definitions remain the same.

The City's zoning definitions are below:

"Group Home" means a dwelling that is:

1. For the accommodation of six to ten persons, exclusive of staff;

2. For persons living under supervision in a single housekeeping unit and who require a group living arrangement for their well-being; and
3. Licensed or funded by the Federal, Provincial or Municipal government.

A lodging house or a residential care facility is not a group home.

"Residential Care Facility" means a dwelling that is:

1. For the accommodation of eleven or more persons, exclusive of staff;
2. For persons requiring supervised or assisted living arrangements; and
3. Licensed or funded by the Federal, Provincial or Municipal government.

A group home or a lodging house is not a residential care facility."

Appendix "G1"

Review of Municipal Approaches to OHRC-Dream Team Concerns on Residential Care Facilities

Below is a summary of the experience of the 4 municipalities targeted by the Dream Team.

1.0 City of Toronto

The City of Toronto investigated the human rights implications identified by a complaint lodged by the Dream Team prior to initiating amendments to its Zoning requirements. The complaint alleged that the separation distance requirement discriminates against persons with disabilities contrary to the Code. In response to the legal challenge, the City of Toronto retained a land use planning expert to study the appropriateness of Toronto's group home regulations. According to the City of Toronto's expert report¹, separation distances need to be appropriately rationalized based on the findings of a thorough study of the land use component of facilities, activities and functions associated with the specified land use and their impacts along with public consultation. Therefore, the municipality's zoning requirements should focus on the use and function of the building on the land and not on the persons using the building. Furthermore, the Supreme Court of Canada states that planning requirements must be based on legitimate goals, adopted in good faith, necessary to meet the goals, inclusive and accommodate differences to the point of undue hardship.

This review determined there was no planning rationale to justify the required minimum separation distance between group homes and recommended, among other things, that the separation distance requirement be removed.

In June, 2014 the City of Toronto amended its Zoning By-law to amend its definitions and to remove separation distances for group homes. The By-law

¹ Agrawal, Sandeep K., *Opinion of the provisions of Group Homes in the City-wide Zoning By-law of the City of Toronto*, attached to Report on Human Rights Challenges to Group Home Zoning regulations to the Planning and Growth Management Committee (Toronto) (February 28, 2013).

was approved without appeal. The Dream Team agreed to drop its human rights complaint against the City now that the amendments have been made.

2.0 Smiths Falls

Prior to the challenge by the Dream Team in 2010, Smiths Falls Zoning By-law restricted the total number of mentally handicapped residents to a maximum of 36 residents in all such Type A Group Homes in the community. In addition, a minimum distance separation of 300 metres between two Type A Group Homes was required.

After negotiations with the OHRC and the Dream Team, the Town agreed to amend their Zoning definition and requirements in October, 2014. Section 4.12, Group Homes, of By-law 6080-94, was amended to remove provisions for minimum separation distances. The definition does not contain any references (social, emotional or physically challenged) for group living arrangement.

3.0 City of Kitchener

The City of Kitchener put forward a recommendation to its Community and Infrastructure Services Committee to commence a City-Initiated Zone Change for the minimum distance separation regulation and definitions for group homes in June of 2012. The report outlined the mediation with the Dream Team and the Human Rights Legal Support Centre and the general agreement struck to initiate the process to amend the Zoning By-law. The June report was seeking direction from City Council to commence this process and undertake the necessary public consultation.

In summary, the following zoning by-law amendments were reviewed:

- add a definition of "correctional group home";
- replace section 5.17 (general provisions) with a similar minimum distance separation applying to correctional group homes only;
- permit group homes in the R-1 and M-1 zones; and,

- amend the definition of "group home" to eliminate references to protected groups.

Following the proper planning review and public consultation process, the City of Kitchener amended their Zoning By-law definition to remove any language deemed discriminatory in the definition. A definition of 'correctional group home' was added to the Zoning By-law to differentiate between the group homes. "Group homes" were added to the permitted uses of the R-1 and M-1 zones where residential uses were permitted but did not explicitly state residential care facilities. Group homes are no longer subject to a minimum separation distance. Correctional Group Homes are required to meet the 400m separation distance.

The amendments were approved by Council in September, 2012.

4.0 City of Sarnia

The City of Sarnia initiated a review of group homes in December 2009, prior to the complaint lodged by the Dream Team in February 2010. Based on information from the Sarnia staff report, the advocacy group felt that the regulations for group homes in Sarnia were discriminatory because they restrict the location of group homes to arterial and collector streets, group homes must be separated from other group homes by 200m (4km in Rural areas), and group homes are not permitted as-of-right in any area of the City.

Through a thorough review and investigation of the zoning requirements, it was determined that groups homes should be considered as residential uses and therefore should be treated as such. The rationale in the staff report indicates that the group home provider is the best person to determine the locational needs and that separation distances have no degree of certainty as the City does not maintain a record of group homes. For higher density, more intensive uses such as shelters, nursing homes and residential care facilities, it was recommended to keep the locational and separation requirements.

The City of Sarnia amended their Official Plan and Zoning By-law to remove the separation distance requirements for group homes. In addition, it was determined group homes were not required to be in a single detached dwelling and could be located in any dwelling unit where dwellings are permitted subject to the zone requirements. The findings also recommended that special parking requirements and locational requirements should not be applied to group homes as they function as residential uses.

For higher density and more intensive special residential uses that are more appropriately characterized as public service facilities such as shelters or nursing homes, it was recommended that the official plan policies which deal with locating on collector or arterial streets and minimum separation distances, be maintained.

The City amended its Zoning By-law in 2010 to remove the minimum separation distance; however, descriptive wording of persons requiring the facilities remains in the definition. In recent correspondence with the City, it was noted that the definition will be reviewed and potentially amended through the next comprehensive review of the Zoning By-law.

Appendix "H"

Options for Change - Definitions

The purpose of a definition is to describe a specific use and to permit it in certain areas of the City. Generally, a definition does not include regulations unless it is necessary to differentiate it from a similar use.

Option 1: Apply the existing definition in Zoning By-law No. No. 05-200 to all new residential zones.

The former municipal Zoning By-laws and Zoning By-law No. 05-200 use different nomenclature and descriptions to identify the same use. Residential care facility is the preferred definition in that it also correlates to the City's licencing by-law.

Advantages	Disadvantages
It creates consistent terminology and understanding of the use throughout the City.	It does not address the Human Rights issue allowing people to choose where they live without being identified as needing care.
This definition has been in place for many years and does not result in interpretation issues as to the use.	

Option 2: Amend the definition in Zoning By-law No. 05-200 to remove references to why someone resides in a facility.

The definition is modified by deleting (strikeouts) and adding new words (italics).

Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of

supervised residents as permitted by the zone, exclusive of staff, residing on the premises ~~because of social, emotional, mental or physical handicaps or personal distress~~ and which residential setting is developed for the well-being of its residents through *the provision of supports/services* ~~of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation~~ or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility ~~shall include a children's residence and group home but~~ shall not include an emergency shelter, lodging house, corrections residence or correctional facility.

Advantages	Disadvantages
It creates a consistent terminology and understanding of the use.	It maintains the capacity in the definition opposed to the Zone.
It does not change the intent of the land use to allow for group living arrangements with supervision.	
Removes references to any disability or characteristics of the residents ('people zoning') and deals with the land use. This concern was raised by ORHC in other municipalities.	

Proposed definition: **Residential Care Facility** Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a minimum of four supervised residents and a maximum number of

supervised residents as permitted by the zone, exclusive of staff, residing on the premises and which residential setting is developed for the well-being of its residents through *the provision of supports/services* or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility shall not include an emergency shelter, lodging house, corrections residence or correctional facility.

Option 3: Amend the definition to remove references to the number of residents, why people live in the facility and to generalize the provision of supports and services .

The definition is modified by deleting (strikeouts) and adding new words (italics).

Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by a ~~minimum of four supervised residents, and a maximum number of supervised residents as permitted by the zone,~~ exclusive of staff, residing on the premises ~~because of social, emotional, mental or physical handicaps or personal distress~~ and which residential setting is developed for the well-being of its residents through *the provision of supports/services* ~~of self-help, guidance, professional care and supervision not available within the resident's own family, or in an independent living situation~~ or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility ~~shall include a children's residence and group home but~~ shall not include an emergency shelter, lodging house, corrections residence or correctional facility.

Advantages	Disadvantages
It removes all regulations and places the regulations (i.e. capacity) within the zone itself. The maximum capacity per zone is established in each zone, where individual zones have a range.	City staff and the public have become accustomed to understanding the definition includes a minimum number of residents.
Definitions should not include regulations but only define the use.	
Removes references to any disability or characteristics of the residents ('people zoning') and deals with the land use. This concern was raised by OHRC in other municipalities.	

Proposed definition: **Residential Care Facility** Shall mean a group living arrangement, within a fully detached residential building occupied wholly by supervised residents, exclusive of staff, residing on the premises and which residential setting is developed for the well-being of its residents through *the provision of supports/services* or if:

- a) The resident was referred to the facility by a hospital, court or government agency; or
- b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments.

A residential care facility shall not include an emergency shelter, lodging house, corrections residence or correctional facility.

Preliminary Recommendations

Based on the review of the various options, including the advantages and disadvantages, the preferred approach is:

Proposed Regulations	Option(s)
<p>Residential Care Facility Shall mean a group living arrangement, within a fully detached residential building occupied wholly by supervised residents exclusive of staff, residing on the premises and which residential setting is developed for the well-being of its residents through <i>the provision of supports/services</i> or if:</p> <ul style="list-style-type: none"> a) The resident was referred to the facility by a hospital, court or government agency; or b) The facility is licensed, funded, approved by a contract or agreement with the Federal, Provincial or Municipal Governments. <p>A residential care facility shall not include an emergency shelter, lodging house, corrections residence or correctional facility.</p>	<p>3</p>

This proposed definition removes the regulations within the definition and places them within the zone as well as removes any reference to the disability or characteristics of a person living in a facility.

Appendix "H1"

Options for Change: Minimum and Maximum Capacities

There are three different approaches to regulate capacity (number of residents) within the Zoning By-law:

- The minimum and maximum capacities are included within the definition; or,
- The minimum capacity is contained within the definition and the maximum capacity in an individual zone; or,
- Minimum and maximum capacities are included in the Zone.

Assuming maximum capacities are included within individual zones, then options should be considered for regulating the size of a residential care facility based on the intensity of the residential zone.

1.0 Minimum and/or Maximum Capacity (By-law Format)

Option 1a: Establish the Minimum and Maximum Capacities within the Definition

Advantages	Disadvantages
Without reading the Zoning By-law regulations, it would be easy to determine how small or large a facility can be.	It establishes a maximum number of residents by zone without considering the type of residential development in the surrounding area.
	It is an inconsistent approach and it is not a good Zoning By-law practice to establish regulations within a definition.
	This approach does not allow for a maximum to vary by zone.

Option 1b: Establish the Minimum Capacity in the Definition and the Maximum Capacities within the Individual Zones

Advantages	Disadvantages
It allows for the capacities to vary by zone.	The definition and zone regulations would have to be read to determine how small or large a facility can be.
Many of the current by-laws establish a minimum capacity in the definition.	Definitions describe the use and no regulations should be contained within it. For consistency in by-law format all regulations should be included in the zone or general provisions section.
	The format is inconsistent when the minimum is established in the definition and the maximum is within the zone. In reading the by-law it may be interpreted as a zone having no maximum.

Option 1c: Minimum and Maximum Capacities Included within the Individual Zones

Advantages	Disadvantages
Definitions describe the use and no regulations should be contained within it. For consistency in by-law format, all regulations should be included in the zone or general	The zone regulations would have to be read to determine how small or large a facility can be.

Advantages	Disadvantages
provisions section.	
It allows for the capacities to vary by zone.	Modifications to all zones will be required in Zoning By-law No. 05-200.

2.0 Capacity Included within each Zone

As noted in Appendix "F1", Zoning By-law No. 05-200 and the other former municipal Zoning By-laws establish different regulations as well as the type of residential zones in which the use is permitted.

Option 2a – Allow the Use in Low Density Zones with a Capacity of Minimum 4 and a Maximum of 6 residents

Uses within low density zones usually include single detached, semi-detached, duplex, triplexes and some forms of townhouse dwellings. Since this use is to be contained within an entire building, the most likely scenario is the use would locate within a single detached dwelling or a duplex and triplex which could wholly be converted to a RCF.

Advantages	Disadvantages
The Urban Hamilton Official Plan policies allow residential care facilities to locate in any neighbourhood (residential) designation, subject to the Zoning By-law requirements.	There may be some buildings that can physically accommodate more than 6 residents.
6 people could reasonably live in a single detached dwelling.	
6 residents has been the standard for the majority of zones that permit this use.	

Option 2b – Allow Residential Care Facilities in Medium Density Zones (including the Community Institutional (I2) Zone) with a Minimum Capacity of 4 residents and a Maximum of 24 Residents

As noted above, this use must be wholly contained within a building. In circumstances where a larger number of residents are intended, a multi storey building would be required. The building form for the facility would be determined on the basis of the regulations for a particular zone (i.e. maximum heights, minimum setbacks, parking, etc.).

It should be noted that several (I2) zoned sites are located within the interior of neighbourhoods where there is a greater interface with low density residential uses. The Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Commercial and Mixed Use Medium Density (C5) Zones are located along major transit routes and arterial roads and therefore should retain their capacity for 50 residents.

Advantages	Disadvantages
The Urban Hamilton Official Plan policies allow residential care facilities to locate in any neighbourhood (residential) designation, subject to the Zoning By-law requirements.	There may be some sites/buildings that can physically accommodate more than 20 or 50 residents.
It provides opportunities for different areas of the city to accommodate RCF's.	
A capacity of 24 aligns with the residential care facility by-law (Schedule 20).	
The built form in medium density areas includes multi-storey dwellings. A residential care facility of up to 24 residents could be	

Advantages	Disadvantages
<p>accommodated in a built form similar to the other residential development.</p>	
<p>The Community Institutional (I2) Zone has a current capacity of 50 residents. However, the majority of the sites are located within the interior of the neighbourhood. These sites can only be redeveloped for single and semi-detached dwellings. Therefore a lower built form may be more appropriate.</p>	
<p>Depending on the built form and densities within different medium density zones, a capacity of either 20 or 50 residents may be appropriate.</p> <p>The Transit Oriented Corridor (TOC1) and the Mixed Use Medium Density Zones allow for a residential care facility of 50 residents while the Transit Oriented Corridor (TOC3) Zone allows 20 residents. These capacities were based on the potential built form in the area.</p>	

Option 2c-1 – Allow Residential Care Facilities in High Density Zones with a Minimum Capacity of 4 Residents and a Maximum of 50 Residents

Advantages	Disadvantages
<p>The Urban Hamilton Official Plan policies allow residential care facilities to locate in any neighbourhood (residential) designation, subject to the Zoning By-law requirements.</p>	<p>There may be some buildings that can physically accommodate more than 50 residents or less than 4 residents.</p>
<p>The built form in higher density areas includes multi-storey dwellings. A residential care facility of up to 50 residents could be accommodated in a built form similar to the permitted uses.</p>	
<p>High density buildings are generally located along arterials roads which are more accessible to public transit, shopping and other amenities.</p>	
<p>It provides opportunities for different areas of the city to accommodate RCFs.</p>	
<p>Establishing a higher minimum number of residents will allow for a built form that is similar to other residential developments in high density zones.</p>	

Option 2c-2 – Allow Residential Care Facilities in High Density Zones with a Capacity of Minimum 15 residents and a Maximum of 50 residents

Advantages	Disadvantages
<p>The Urban Hamilton Official Plan policies allow residential care facilities to locate in any neighbourhood (residential) designation, subject to the Zoning By-law requirements.</p>	<p>There may be some buildings that can physically accommodate more than 50 residents or less than 15 residents.</p>
<p>The built form and higher density areas includes multi-storey dwellings. Residential buildings will generally be greater than 8 storeys and 100 units. If the units were bedrooms that would equate to 100 persons. A residential care facility of up to 50 residents could be accommodated in a built form similar to the permitted uses.</p>	<p>A higher minimum capacity may be redundant as the built form requires multiple dwellings.</p>
<p>It provides opportunities for different areas of the city to accommodate RCF's.</p>	
<p>Establishing a higher minimum number of residents will allow for a built form that is similar to other residential developments in high density zones.</p>	

Option 2c-3 – Allow Residential Care Facilities in High Density Zones (including the Mixed Use High Density (C4) Zone) with a capacity of Minimum 15 residents and No Maximum Capacity

Advantages	Disadvantages
<p>The Urban Hamilton Official Plan policies allow residential care facilities to locate in any neighbourhood (residential) designation, subject to the Zoning By-law requirements.</p>	<p>Based on built form, there may be some buildings that can physically accommodate less than 15 residents.</p>
<p>The built form in higher density areas includes multi-storey dwellings. A residential care facility with no fixed capacity could be accommodated in a built form similar to the permitted uses.</p>	<p>A higher minimum capacity may not be necessary as the built form requires multiple dwellings.</p>
<p>High density buildings are generally located along arterial roads which generally are more accessible to public transit, shopping and other amenities.</p>	
<p>It provides opportunities for different areas of the city to accommodate RCFs.</p>	
<p>By establishing a higher minimum number of residents will allow for a built form that is similar to other residential developments in high density zones.</p>	
<p>It allows greater flexibility if the building can accommodate more than 50 residents without the need</p>	

Advantages	Disadvantages
for a variance.	
The Mixed Use High Density (C4) Zone allows for up to 12 storeys so such a large building could accommodate more than 50 residents.	

3.0 Preliminary Recommendations

Based on the review of the various options, including the advantages and disadvantages, the preferred approach is:

Proposed Regulations	Option(s)
Low Density Zones Minimum capacity 4 residents Maximum capacity 6 residents	1c and 2a
Medium Density Zones Minimum capacity 4 residents Maximum capacity 24 residents, depending on the density and built form within the zone	1c and 2b
High Density Zones Minimum capacity 15 residents Maximum capacity no maximum	1c and 2c3

Appendix "H2"

Options for Change: Radial Separation Distance

The radial separation distance refers to the requirement in the Zoning By-law that requires certain housing types (i.e. residential care facilities) to be separated a distance (i.e. 300 m) from each other.

Option 1: Eliminate Radial Separation Distance

Advantages	Disadvantages
It removes barriers for housing options.	It may create a strain on availability of community services because of concentration in one specific area.
It creates the opportunity for residents requiring supports to choose the community they prefer to live in.	It reduces the potential for dispersion of these facilities throughout the City.
It will provide for a consistent approach within Zoning By-law No. 05-200 since the rural zones have no separation distances.	It may create concerns regarding concentrations in neighbourhoods.
It follows a similar approach of other municipalities (i.e. Toronto, Smith Falls, Kitchener, Sarnia, St. Catherines, and Windsor) that have removed the radial separation distance.	Maintaining an accurate listing of residential care facilities is difficult since not all facilities require a municipal licence nor a building permit.
It addresses the concerns expressed by OHRC.	
Potential land use impacts, such as parking; size of a	

Advantages	Disadvantages
facility, are addressed in the Zoning By-law.	
The number of new RCFs is small because the housing with supports model is shifting to small independent apartments, with on-site supports (i.e. counselling, nurse, 24 on-call services) rather than congregate living. A recent example is Indwells' Stratherne suites.	

Option 2: Retain the 300 metre Radial Separation Distance for Zoning By-law No. 05-200 and Apply this Distance Separation to Future Residential Zones in the Urban Area

Many of the former Zoning By-laws and Zoning By-law No. 05-200 have radial separation distance requirements ranging from 275 m to 1,600m. The 300 m radial separation distance has been established in 05-200, except for the rural area, where no radial separation distance applies.

Advantages	Disadvantages
It eliminates the possibility of adding a new facility in areas of higher concentration (without a <i>Planning Act</i> change).	It will result in an inconsistent approach in Zoning By-law 05-200 since there are no separation distances for RCFs for the rural zones.
It requires the dispersion of any new facilities throughout the City.	It does not remove barriers for housing options nor does it address the concerns of the OHRC.

Advantages	Disadvantages
	Accurate lists of residential care facilities are difficult to maintain since not all facilities require a municipal licence.

Option 3: Delete the Moratorium Areas

The two moratorium areas are located:

- Queen Street South, Hunter Street West, James Street South and Main Street West; and,
- Wellington Street South, Railway tracks, Sherman Avenue South and King Street East.

Advantages	Disadvantages
It removes barriers for housing options.	It may create a strain on availability of community services because of concentration in one specific area.
It creates the opportunity for residents requiring supports to choose the community they prefer to live in.	It removes the potential for dispersion of these facilities throughout the City.
Potential land use impacts such parking, size of a facility, is addressed in the Zoning By-law.	It may create concerns regarding concentrations in neighbourhoods.
The number of new RCFs is small because the housing with supports model is shifting to small independent apartments, with on-site supports (i.e.	

Advantages	Disadvantages
counselling, nurse, 24 on-call services) rather than congregate living. A recent example is Indwells' Stratherne suites.	
It addresses the concerns expressed by OHRC.	

Option 4: Retain the Moratorium Areas

Advantages	Disadvantages
It requires the dispersion of these facilities throughout the City.	It may create a strain on availability of community services because of concentration in one specific area.
It eliminates the possibility of adding a new facility in areas of higher concentration (without a <i>Planning Act</i> change).	It does not remove barriers for housing options nor does it address the concern of the OHRC.

Preliminary Recommendations

Based on the review of the various options, including the advantages and disadvantages, the Preliminary approach is:

Proposed Regulations	Option(s)
Delete the radial separation distance from 05-200	1
Delete Moratorium areas	3

Appendix "H3"

Options for Change: Counselling Services

Certain agencies operate multiple RCF's and provide counselling for its residents. For financial or other operational reasons, they would prefer to consolidate the counselling in one location. RCF's are only permitted to provide counselling for their residents. It should be noted that not all residential care facilities provide counselling for its residents.

Counselling services that cater to people who live outside the residential care facility is considered as a social service establishment; a counselling service for residents within the building is considered as an accessory use.

Option 1: Allow RCF's to Operate a Social Service Establishment in conjunction with a Residential Care Facility in a Community Institutional (I2), Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones.

Advantages	Disadvantages
A Social Service Establishment is a permitted use in the (I2), (I3), (TOC 1) and (C5) zones as separate uses.	Clients within the facility may be uncomfortable with additional people coming to the facility.
Restricting the zones where this use can locate addresses the difference in the intensity of the land use.	
It allows agencies to have integrated services in appropriate locations for these services.	
The (I2) and (I3) zones are generally located in close proximity to collector and arterial roads and public transit. However, there are many (I2) sites located within the interior of the neighbourhood.	

Advantages	Disadvantages
It provides direction to a provider/agency when they wish to develop an integrated model of service.	

Option 2: Allow RCF's to Operate a Social Service Establishment in conjunction with a Residential Care Facility in a Major Institutional (I3), Transit Oriented Corridor-Mixed Use Medium Zone (TOC1) and the Mixed Use Medium Density (C5) Zones.

Advantages	Disadvantages
A Social Service Establishment is a permitted use in the (I2), (I3), (TOC 1) and (C5) zones as separate uses.	Clients within the facility may be uncomfortable with additional people coming to the facility.
By restricting the zones in which this use can locate, it addresses the difference in the intensity of the land use.	The (I2) zone is proposed to have a lower maximum capacity than the (I3), (TOC1) and (C5) Zones since they are more likely to be located in the interior of neighbourhoods.
It allows agencies to have integrated services in appropriate locations for these services.	
The (I3) zone is generally located in close proximity to collector and arterial roads and public transit	
It provides direction to a provider/agency when they wish to develop an integrated model of service.	

Option 3: No changes to the by-law

Advantages	Disadvantages
The request for an integrated model is not common.	Applications to amend the zoning by-law will be required should a provider wish to have counselling services
	It does not provide direction to a provider/agency when they wish to develop an integrated model of service.

Preliminary Recommendation

Based on the review of the various options, including the advantages and disadvantages, the preferred approach is Option 2.



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Amendments to Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 to Include Tree Requirements (PED19088) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That the procedural and housekeeping changes to the City of Hamilton Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 regarding the maintenance requirements for trees and the definition of Directors described in Report PED19088, detailed in the proposed amending by-law attached as Appendix "A" be approved;
- (b) That the amending by-law attached as Appendix "A" to Report PED19088, which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

EXECUTIVE SUMMARY

By-law amendments are occasionally required to improve enforcement activities and update various by-laws as part of continuous improvement efforts for the most efficient and effective by-laws. Report PED19088 recommends amending the City of Hamilton Property Standards By-law 10-211 (Property Standards By-law) and Yard Maintenance By-law 10-118 (Yard Maintenance By-law) to:

- shift the minor maintenance requirements for trees (limbs and branches) from the Property Standards By-law to the Yard Maintenance By-law; and,
- update the Director's title change.

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: Amendments to Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 to Include Tree Requirements (PED19088) (City Wide) - Page 2 of 4

The changes recommended in this Report are minor in nature, and do not depart from the general intent and purpose of Council as originally approved.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

N/A

HISTORICAL BACKGROUND

On May 28, 2010, City Council enacted the City of Hamilton Yard Maintenance By-law 10-118 to regulate the outdoor maintenance of private property and repeal By-law 03-118. Since its passing, three amendments to the Yard Maintenance By-law were enacted for technical amendments as a matter of housekeeping.

On September 15, 2010, City Council enacted the City of Hamilton Property Maintenance By-law to prescribe the standards for the maintenance and occupancy of property within the municipality and repeal By-law 03-117. Since its enactment, seven amendments to the Property Standards By-law were passed as a matter of housekeeping or to address specific municipal needs.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Building Code Act* allows municipalities to pass a by-law to prescribe standards for the maintenance and occupancy of property.

The *Municipal Act, 2001* authorizes municipalities to pass by-laws respecting the natural environment, protection of persons and property, and well-being of the inhabitants, and also authorizes municipalities to require the owner or occupant of land to clean and clear of land, not including buildings, and to clear refuse or debris from the land.

RELEVANT CONSULTATION

Legal Services was consulted in the preparation of this Report and the draft amending by-law attached as Appendix “A” to Report PED19088.

Excerpts of the current Property Standards By-law and Yard Maintenance By-law, noting the proposed amendments, are attached as Appendix “B” to Report PED19088.

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: Amendments to Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 to Include Tree Requirements (PED19088) (City Wide) - Page 3 of 4

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As part of continuous improvement efforts, staff work to improve enforcement activities, including updating various by-laws to address specific municipal needs identified by Council, committees, staff, public and the courts. In addition to continuous improvement efforts, by-laws require changes over time to align with changes to legislation, improve processes and to correct obsolete or imprecise language while maintaining the by-laws' original intent and effectiveness.

Trees:

The issuance of an Order under the Property Standard By-law, with the associated procedures and rights of appeal, is the current method to have dead or damaged trees maintained or removed. Amendments to use the less formal method of Municipal Orders under the Yard Maintenance By-law for the minor maintenance of trees, while continuing to apply Property Standards Orders under the Property Standards By-law for trees that may be hazardous or requiring more involved work or removal, provides an efficient and expedient response to public complaint.

Staff propose amending the Yard Maintenance By-law by adding a provision which would require property owners to keep trees free from dead, decayed or damaged limbs or branches. This same approach has been successful for the maintenance of yards with overgrown vegetation. The ability to apply the Yard Maintenance By-law for the removing/trimming of damaged branches or tree limbs is a quick and expedient method for the minor maintenance of trees that does not include the lengthy process and rights of appeal found in the Property Standards By-law.

Director:

The definition of Director in the current Property Standards By-law and Yard Maintenance By-law and corresponding sections are out-of-date and requires amendments to reflect the change of the City Director of Parking and By-law Services, now the Director of Licensing and By-law Services.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

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

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: Amendments to Property Standards By-law 10-221 and Yard Maintenance By-law 10-118 to Include Tree Requirements (PED19088) (City Wide) - Page 4 of 4

APPENDICES AND SCHEDULES ATTACHED

Appendix "A": Draft amendment to the Property Standards By-law 10-211 and Yard Maintenance By-law 10-118

Appendix "B": Excerpts (proposed amendments noted) of the current Property Standards By-law 10-221 and Yard Maintenance By-law 10-118

KL:RU:st

Appendix “A” to Report PED19088

Page 1 of 2

Authority: Item ,
Report
CM:
Ward: City Wide

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend City of Hamilton By-law No. 10-221, as amended, being a By-law to Prescribe Standards for the Maintenance and Occupancy of Property; City of Hamilton By-law No.10-118, as amended, being a By-law to Regulate Exterior Property Maintenance including Vegetation, Waste and Graffiti

WHEREAS Council enacted a by-law to prescribe standards for the maintenance and occupancy of property, being City of Hamilton By-law No.10-221; and

WHEREAS Council enacted a by-law to regulate exterior property maintenance being City of Hamilton By-law No.10-118; and

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

1. The amendments in this By-law include any necessary grammatical, numbering and lettering changes.

By-law No. 10-221, City of Hamilton Property Standards By-law:

2. Subsection 2(1) is amended by repealing the definition of Director and substituting the following:

“**Director**” means the City’s Director of Licensing and By-law Services and their designate or successor;

3. Subsection 20(2) is repealed and the following substituted:

20(2) A tree that is dead, or part of a tree that is dead, or in a decayed or damaged condition and that may be hazardous to persons or property, shall be removed.

By-law No. 2010-118, City of Hamilton Yard Maintenance By-law:

4. Subsection 2(1) is amended by repealing the definition of Director and substituting the following:

“**Director**” means the City’s Director of Licensing and By-law Services and their designate or successor;

Appendix "A" to Report PED19088

Page 2 of 2

5. Subsection 2(1) is amended by repealing the definition of "Officer" and substituting the following:

"officer" means a person appointed by the City of Hamilton or assigned by the Director to enforce this By-law;

6. Section 3 is amended by adding the following subsection:

3(2) Every owner or occupant of property located within the urban boundary, shall keep trees in the yard of their property free from dead, decayed or damaged limbs or branches.

7. Subsection 10(1) is repealed and the following substituted:

10(1) The Director is assigned the responsibility of administering or enforcing this By-law and may so assign duties to such persons as necessary to carry out the provisions of this By-law.

PASSED this day of 2019.

F. Eisenberger
Mayor

J. Pilon
City Clerk

PROPERTY STANDARDS BY-LAW 10-221

Director

2(1) In this By-law:

“**Director**” means the City’s Director of Municipal Law Enforcement and his or her designate or successor;

Repealed and replaced with:

“**Director**” means the City’s Director of Licensing and By-law Services and their designate or successor;

Trees

20(2) A tree or part of a tree that is dead or damaged shall be:

- (a) removed; or
- (b) maintained in a condition which is not hazardous to persons or property.

Repealed and replaced with:

20(2) A tree, or part of a tree, that is dead, decayed or damaged and that may be hazardous to persons or property shall be removed.

YARD MAINTENANCE BY-LAW 10- 118

Director (and relevant sections)

2(1) In this By-law:

“**Director**” means the City’s Director of Parking and By-law Services and his or her designate or successor;

“**officer**” means a person appointed by the City of Hamilton or assigned by the Senior Director to enforce this By-law;

10(1) The Senior Director is assigned the responsibility of administering and enforcing this By-law and may so assign duties to such persons as necessary to carry out the provisions of this By-law.

Repealed and replaced with:

“**Director**” means the City’s Director of Licensing and By-law Services and their designate or successor;

“**officer**” means a person appointed by the City of Hamilton or assigned by the Director to enforce this By-law;

10(1) The Director is assigned the responsibility of administering or enforcing this By-law and may so assign duties to such persons as necessary to carry out the provisions of this By-law.

Trees

Adding to Section 3:

3(2) Every owner or occupant of property located within the urban boundary, shall keep trees in the yard of their property free from dead, decayed or damaged limbs or branches.



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	April 30, 2019
SUBJECT/REPORT NO:	Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Luis Ferreira 905-546-2424 Ext. 3087
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Council adopt this Report and direct staff to draft a new licensing schedule (Tree Service Company) within the Business Licensing By-law 07-170 and bring it back in a form satisfactory to the City Solicitor for enactment;
- (b) That the item respecting the feasibility of implementing a By-law that will ensure that any commercial company that is contracted to remove trees within the City of Hamilton has a City Business Licence, be identified as complete and removed from the Planning Committee Outstanding Business List.

EXECUTIVE SUMMARY

This Report outlines the feasibility of licensing all commercial businesses that are contracted to remove or cut trees within the City of Hamilton to ensure our Tree Protection By-laws are being adhered to and to ensure consumer protection, public safety and nuisance control.

There have been recent incidents of landowners hiring a Tree Removal or Cutting Business that either clear cut or remove trees on their property prior to proper site approval or contrary to the City's Tree Protection By-laws. Other municipal jurisdictions have also experienced similar activities and have put into place a licensing schedule to ensure these businesses have the proper skill sets, insurance and understanding of municipal By-laws, therefore strengthening public safety, consumer protection and nuisance control.

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: Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) - Page 2 of 5

This Report reviews best practices and outlines stakeholder feedback that supports the need for licensing these businesses and to give the City more control of non-compliant businesses that do not follow best practices and the City's Tree Protection By-laws.

The *Municipal Act, 2001* provides Council with the authority to license, regulate and govern any business, wholly or partly, carried out within its jurisdiction.

Alternatives for Consideration – Not Applicable**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The Tree Service Company will be required to pay a licensing fee, which is based on full cost recovery.

Staffing: The impact of the licensing schedule and enforcement activities will be absorbed within the existing complement.

Legal: Pursuant to Subsection 10(2) of the *Municipal Act, 2001* (the "Act") the City has the legal authority to pass by-laws respecting business licensing.

HISTORICAL BACKGROUND

At its meeting of March 29, 2017, Council approved Item 7.7, directing staff to bring a report back to the Planning Committee which investigates the feasibility of implementing a by-law that will ensure that any commercial company that is contracted to remove trees within the City of Hamilton has a City Business Licence.

The motion was brought forward after hundreds of trees in a woodland area were destroyed and cut down in contravention of regulations contained within By-law 14-212, being a By-law to Promote the Conservation and Sustainable Use of Woodlands on Private Property within the Urban Boundary of the City.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

NA

RELEVANT CONSULTATION

Legal Services and Industry Stakeholders were consulted in the preparation of this Report.

SUBJECT: Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) - Page 3 of 5

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

The City of Hamilton plays a role in the protection of urban forests through education and implementation of green space enhancements, assessments and protection initiatives. The City promotes healthy urban forests and protects trees from harm by using existing by-laws.

There have been recent incidents of landowners hiring a Tree Removal or Cutting Business to remove or cut trees to improve or streamline their development project prior to seeking site plan approval from the City or establishing a tree protection plan. This type of activity has threatened the tree canopy of the City which may have negative effects on our environment.

In preparation of this Report, staff found that other municipalities license tree service companies:

- 1) Barrie, ON
- 2) Burnaby, BC
- 3) Calgary, AB
- 4) Edmonton, AB
- 5) New Westminster, BC
- 6) Oakville, ON

Researching this industry revealed regulations for the professional designation of Arborist and additional information on certification programs and training opportunities for individual workers in this industry. The International Society of Arboriculture and the Infrastructure Health and Safety Association (IHSA) provide certificate exams, training options and funding sources for chainsaw operators, tree climbers, working near energized high-voltage power systems, operating machinery safely, transporting dangerous goods, working on suspended access equipment and utility clearing.

Although there is training available to individuals in this industry (including certifications from Provincial and Health and Safety bodies), there is no single regulatory body to ensure compliance with standards nor is it mandatory. Therefore, anyone can advertise and perform this type of work with no oversight or accountability.

On October 30, 2018, Licensing and By-law Services' staff hosted an Industry Stakeholders meeting. Individuals, representing seven different tree service companies and one sole proprietor attended. The group all supported licensing their industry and welcomed the requirement of a Certified Arborist to be on staff to ensure good practices as related to tree health and adherence to by-law regulations. A Certified Arborist would also direct and supervise workers at the work site to ensure health and safety standards are maintained and adhered to.

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: Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) - Page 4 of 5

Having an Arborist on staff provides a level of expertise when addressing tree issues and a valuable teaching resource for tree service workers. The individuals who attended the meeting were in support of an annual licensing fee but added that without proper enforcement, both proactive and reactive, there would be no benefit as unlicensed companies would continue to operate under the radar.

During the meeting staff were told of companies within the tree service industry who operate without liability insurance, have no education or training in safe tree removal practices and who use poor or inappropriate equipment to do the work putting people at risk and damaging property. The tree service companies indicated that in some cases money was taken in advance and the work originally hired to do was sub-standard or never performed, leaving the customer out of pocket, unsatisfied and with little to no ability to go after the company for re-imburement or compensation. Given this information, it is staff's opinion that there is a municipal purpose to licence companies who provide tree services within the City's jurisdiction.

Introducing the requirement of a licence will provide enforcement staff the ability to properly vet these companies by requiring comprehensive insurance coverage, corporate documents and/or sole proprietorship information and the requirement to have a Certified Arborist on staff to ensure adherence to industry best practices as it relates to the care and maintenance and when necessary the safe removal of trees. It would also require licensed tree service companies to provide contracts which identify work to be performed and for whom, cost of the work and completion date before commencement of any work. This critical enforcement strategy through licensing will ensure consumer protection, public safety and nuisance control.

In summary, the proposed Business Licensing Schedule would address the need for a Certified Arborist, proper liability insurance, contracts, promote safe operations and removal and ensure the adherence to current Tree Protection By-laws. This Business Licensing Schedule will provide the mechanism for the City to regulate and enforce where there are contraventions of the By-law.

ALTERNATIVES FOR CONSIDERATION

N/A

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.

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: Tree Service Company Licensing Feasibility Report (PED19008) (City Wide) - Page 5 of 5

Healthy and Safe Communities

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

APPENDICES AND SCHEDULES ATTACHED

N/A

KL:LF:st