



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

**Meeting #:** 19-011  
**Date:** July 9, 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

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	<b>Pages</b>
<b>1. CEREMONIAL ACTIVITIES</b>	
<b>2. APPROVAL OF AGENDA</b> (Added Items, if applicable, will be noted with *)	
<b>3. DECLARATIONS OF INTEREST</b>	
<b>4. APPROVAL OF MINUTES OF PREVIOUS MEETING</b>	
4.1 June 18, 2019	4
<b>5. COMMUNICATIONS</b>	
<b>6. DELEGATION REQUESTS</b>	
6.1 Lorraine Appleyard respecting an Order to Remove Ducks and Changes to the By-law (for today's meeting)	28
6.2 Jennifer Smith respecting Backyard Ducks (For today's meeting)	29
6.3 Barbara Davis respecting Backyard Ducks (For today's meeting)	30
6.4 Amber Lindsay, UrbanSolutions, respecting a Request to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough (Deferred from the June 18th meeting) (For today's meeting)	31

## **7. CONSENT ITEMS**

- |     |  |    |
|-----|--|----|
| 7.1 | Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) | 36 |
| 7.2 | Hearing Officer Appointment By-law for Administrative Penalty System (PED19122) (City Wide)  | 44 |
| 7.3 | Amendments to Yard Maintenance By-law 10-118 to Include Inoperative Vehicles (PED19144) (City Wide)  | 49 |
| 7.4 | Hamilton Municipal Heritage Committee Report 19-004  | 54 |

## **8. PUBLIC HEARINGS / DELEGATIONS**

- |     |  |    |
|-----|--|----|
| 8.1 | James Lafferty respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping (Approved at the June 18th meeting) (no copy) |    |
| 8.2 | Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12)                                       | 61 |
| 8.3 | Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13)                    | 95 |

## **9. STAFF PRESENTATIONS**

## **10. DISCUSSION ITEMS**

- |      |   |     |
|------|---|-----|
| 10.1 | Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) | 160 |
|------|---|-----|

## **11. MOTIONS**

- |      |   |     |
|------|---|-----|
| 11.1 | Authorization for 100 Hamilton Street GP Inc. to apply for Variances to a By-law for Lands Located at 100 Hamilton Street North (Flamborough) | 170 |
|------|---|-----|

## **12. NOTICES OF MOTION**

## **13. GENERAL INFORMATION / OTHER BUSINESS**

**14. PRIVATE AND CONFIDENTIAL**

14.1 Closed Session Minutes - June 18, 2019 (Distributed under separate cover)

Pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 18-270, and Section 239, Sub-sections (e) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matter pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and, the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose

**15. ADJOURNMENT**



## **PLANNING COMMITTEE MINUTES**

**19-010**

**June 18, 2019**

**9:30 a.m.**

**Council Chambers, Hamilton City Hall  
71 Main Street West**

**Present:** Councillors M. Pearson (Chair), J. Farr (1<sup>st</sup> Vice Chair),  
C. Collins, B. Johnson (2<sup>nd</sup> Vice Chair), B. Clark, M. Wilson,  
J.P. Danko, J. Partridge

**Absent with Regrets:** Councillor T. Whitehead – Personal

**Also Present:** Councillor L. Ferguson

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

- 1. To Rename Highway No. 5 East to Dundas Street East from Highway No. 6 to the Municipal Boundary with the City of Burlington / Halton Region (Flamborough) (PED19096) (Ward 15) (Item 7.1)**

**(Partridge/Johnson)**

That Highway No. 5 East, between Highway No. 6 and the municipal boundary with the City of Burlington, be renamed Dundas Street East, as identified on Appendix "A" to Report PED19096, and that the draft By-law, attached as Appendix "B" to Report PED19096, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

**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

- 2. To Rename a Portion of North Service Road (Commonly Known as Drakes Drive) to Parkedge Drive Within the Former City of Stoney Creek (PED19097) (Ward 10) (Item 7.2)**

**(Danko/Wilson)**

That the portion of North Service Road (commonly known as Drakes Drive) between Frances Avenue and North Service Road, in the former City of Stoney Creek, be renamed Parkedge Drive as identified on Appendix "A", to Report PED19097, in accordance with the draft By-law, attached as Appendix "B" to Report PED19097, which has been prepared in a form satisfactory to the City Solicitor, to be enacted by City Council.

**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

- 3. Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED19072) (City Wide) (Item 7.3)**

**(Danko/Partridge)**

That Report PED19072 respecting Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications, be received.

**CARRIED**

- 4. Hamilton Community Cat Network (HCCN) (PED19123) (City Wide) (Item 7.4)**

**(Johnson/Collins)**

That Report PED19123 respecting Hamilton Community Cat Network (HCCN), be received.

**CARRIED**

- 5. Expanding Administrative Penalty System (APS) to Include the Lottery Licensing By-law 15-051 (PED19102) (City Wide) (Item 7.5)**

**(Johnson/Wilson)**

That the Administrative Penalty System By-law 17-225 (APS) be amended to include regulations contained within the Lottery Licensing By-law 15-051 as Table

18 to Schedule A, in accordance with the amending by-law attached as Appendix "A" to Report PED19102 to be enacted by Council.

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

YES - Councillor Maureen Wilson  
 NOT PRESENT - Councillor Jason Farr  
 YES - 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. Expanding Administrative Penalty System (APS) to Include the Streets By-law 86-077 (PED19095) (City Wide) (Item 7.6)**

**(Partridge/Clark)**

That the Administrative Penalty System By-law 17-225 (APS) be amended to include various regulations contained within the Streets By-law 86-077 as Table 17 to Schedule A, in accordance with the amending by-law attached as Appendix "A" to Report PED19095 to be enacted by Council.

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

YES - Councillor Maureen Wilson  
 NOT PRESENT - Councillor Jason Farr  
 YES - 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. Amendments to the 2012 Ontario Building Code (PED19126) (City Wide) (Item 7.7)**

**(Danko/Clark)**

That Report PED19126 respecting Amendments to the 2012 Ontario Building Code, be received.

**CARRIED**

**8. Update on Staffing Vacancies within the Planning Division (PED19127) (City Wide) (Item 7.8)**

**(Clark/Partridge)**

That Report PED19127 respecting Update on Staffing Vacancies within the Planning Division, be received.

**CARRIED**

**9. Agriculture and Rural Affairs Advisory Committee (Item 7.9)**

**(a) March 18, 2019 - Report 19-001 (Item 7.9(a))**

**(Johnson/Clark)**

That the following recommendations be approved:

**(i) Appointment of Chair and Vice-Chair**

1. That A. Spoelstra be appointed as Chair of the Agriculture and Rural Affairs Advisory Committee for the 2018-2022 Term of Council; and,
2. That D. Smith be appointed as Vice-Chair of the Agriculture and Rural Affairs Advisory Committee for the 2018-2022 Term of Council.

**(ii) Hamilton Agriculture Profile Update (PED19075) (City Wide) (Item 7.1)**

That Report PED19075, respecting Hamilton Agriculture Profile Update, be received.

**(iii) Development Charges By-law Policy - 2019 Development Charges Proposed Amendments to Agriculture (FCS18062(c)) (City Wide) (Item 9.1)**

That Report FCS18062(c), respecting Development Charges By-law Policy – 2019 Development Charges Proposed Amendments to Agriculture, be received.

**(iv) Planning and Engineering Development Application Fees Review Project Update Regarding Agricultural Development Proposals (Item 10.1)**

That the Memorandum, respecting Planning and Engineering Development Application Fees Review Project Update Regarding Agricultural Development Proposals, be received.

**(v) Review of Terms of Reference (Item 10.2)**

That the Terms of Reference for the Agriculture & Rural Affairs Advisory Committee, be amended as follows:

- (i) That subsection 4 of the Mandate be deleted in its entirety and the balance of the subsections be re-numbered accordingly:

- ~~4. To serve as the Tree Committee, as set forth in the Hamilton-Wentworth Woodland Conservation By-law, to make recommendations to Council on Minor Exception tree cutting applications.~~
4. To serve as an advisory committee on nutrient management issues.
5. At the request of Council, to provide a forum for the review and resolution of rural land use and farm management disputes.
6. At the request of Council, to provide input and assistance to rural land stewardship programs or projects which are proposed by the City, other agencies and community groups.
2. That the Membership & Terms section be amended to read as follows:

The Agricultural Advisory Committee shall be composed of:

- Three (3) members appointed by the Hamilton-Wentworth Federation of Agriculture;
- One (1) member appointed by the Brant Wentworth Christian Farmers Association;
- One (1) member appointed by the Hamilton-Wentworth Women's Institute;
- One (1) member appointed by the Agricultural Societies (Rockton, Binbrook and Ancaster);
- Two (2) Members appointed by the Wentworth Soil and Crop Improvement Association;
- Four (4) "At Large" members appointed by Council
- *Minimum of two (2) councillors (non-voting) appointed by Council from Wards 11, 12, 13 14 or 15*

~~The terms shall **of membership** be for four years **the current Term of Council** or until a successor has been appointed by Council. ~~No member of the Agricultural Advisory Committee shall be re-appointed for a continuous term that exceeds Nine (9) years.~~~~

(vi) **Andrea Sinclair – Resignation from the Agriculture and Rural Affairs Advisory Committee (Item 11.1)**

That the resignation from Andrea Sinclair from the Agriculture and Rural Affairs Advisory Committee, be received.



**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

**10. Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 305 and 311 Garner Road West (Ancaster) (PED19104) (Ward 12) (Item 8.4)**

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

**(Partridge/Collins)**

- (a) That Amended Urban Hamilton Official Plan Amendment Application UHOPA-17-025, by LIV Developments Ltd. (Owner) to re-designate a portion of the subject lands from Open Space to Neighbourhoods in Volume 1 of the Urban Hamilton Official Plan and from Medium Density Residential 2a, Site Specific Policy – Area B and Natural Open Space to Low Density Residential 3a in Volume 2 (Secondary Plans) of the Urban Hamilton Official Plan in order to permit the development of 40 maisonette dwelling units and 78 townhouse dwellings for a total of 118 units at 305 and 311 Garner Road West, as shown on Appendix “A” to Report PED19104, be APPROVED, on the following basis:
- (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED19104, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed Amendment is consistent with the Provincial Policy Statement (2014) and conforms to the Growth Plan for the Greater Golden Horseshoe (2019).
- (b) That Amended Zoning By-law Amendment Application ZAC-17-058 by LIV Developments Ltd., (Owner) for changes in zoning from Agricultural

(Holding) “H-A-496” Zone, Modified, Agricultural “A-216” Zone, Modified and Rural Industrial “M5-262” Zone, Modified to Residential Multiple “RM4-700” Zone, Modified (Block 1); from Agricultural “A-216” Zone, Modified and Rural Industrial “M5-262” Zone, Modified to the Residential Multiple “RM4-701” Zone, Modified (Block 2); from Agricultural (Holding) “H-A-496” Zone, Modified to the Residential Multiple “RM4-702” Zone, Modified (Block 3); from Agricultural (Holding) “H-A-496” Zone, Modified and Rural Industrial “M5-262” Zone, Modified to the Residential Multiple “RM4-703” Zone, Modified (Block 4) and from Agricultural (Holding) “H-A-496” Zone, Modified to the Residential Multiple “RM4-704” Zone, Modified (Block 5) within the Town of Ancaster Zoning By-law No. 87-57, in order to permit the development of 40 maisonette dwelling units and 78 townhouse dwellings for a total of 118 units at 305 and 311 Garner Road West, as shown on Appendix “A” to Report PED19104, be APPROVED on the following basis:

- (i) That the draft By-law, attached as Appendix “C” to Report PED19104, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2019), and will comply with the Urban Hamilton Official Plan, upon finalization of UHOPA No. .
- (c) That Amended Zoning By-law Amendment Application ZAC-17-058 by LIV Developments Ltd., (Owner) for a change in zoning from the Agricultural (Holding) “H-A-496” Zone, Modified within Zoning By-law No. 87-57 to the Conservation / Hazard Land (P5, 719) Zone within Zoning By-law No. 05-200 to permit a stormwater management pond, natural open space and vegetation protection zone for lands located at 305 and 311 Garner Road West, as shown on Appendix “A” to Report PED19104, be APPROVED on the following basis:
- (i) That the draft By-law, attached as Appendix “D” to Report PED19104, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
  - (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Growth Plan for the Greater Golden Horseshoe (2019), and will comply with the Urban Hamilton Official Plan, upon finalization of UHOPA No. .

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

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

YES - Councillor Maureen Wilson  
NOT PRESENT - Councillor Jason Farr

YES - 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

**11. 23-25 King Street East, Stoney Creek (Hamilton Municipal Heritage Report 19-003, Item 1 (b)(3)) (Deferred from the June 4th meeting) (Item 10.1)**

**(Collins/Farr)**

That the property at 23-25 King Street East, Stoney Creek, be added to the City Register of Non-designated Properties of Cultural Value or Interest, and to the staff work plan.

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

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

**12. Official Plan Amendment - Urban Boundary Expansion: Studies and Fees (PED19146) (Item 10.2)**

**(Collins/Danko)**

- (a) That staff be directed to provide public notice, in accordance with the City's Public Notice By-law No. 07-351, of a proposal to amend the 2019 Tariff of Fees By-law to establish a new fee for an Official, Plan Amendment - Urban Boundary Expansion in the amount of \$67,875, to be broken into two phases (Phase 1 being \$56,204 and Phase 2 being \$11,671);
- (b) That staff be directed to prepare a Peer Review Protocol, including a Peer Review Cost Acknowledgement Agreement, to outline the process for the completion of peer reviews of studies required in the review of an Official Plan Amendment - Urban Boundary Expansion application, with the cost of the peer reviews to be borne by the applicant;
- (c) That staff, in conjunction with Procurement Division, Corporate Services, be directed to:

- (i) Hire CN Watson and Associates to peer review Financial Impact Assessments submitted as part of Official Plan Amendment(s) for Urban Boundary Expansions, with an upset limit of \$150,000 for a period of 12 months;
- (ii) Investigate and, if feasible, undertake a competitive Request for Proposal (RFP) to establish a roster of consultants for Financial Impact Assessments similar to the Professional and Consultant Services Roster 2019-2020 (C-12-06-18); and,
- (iii) Expand the scope of work in Category 25 - Land use Planning Services - Policy, Zoning and Urban Design from the Professional and Consultant Services Roster 2019-2020 to include agricultural related planning matters.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

**13. Corporate Policy for Official Planning Notification During Mail Strikes (Item 11.1)**

**(Collins/Farr)**

WHEREAS, the Planning Act prescribes the options the City of Hamilton can use for giving notice of an application to the Committee of Adjustment for a minor variance or severance;

WHEREAS, the two statutory options available to the City of Hamilton are to give notice by placing an advertisement in the newspaper or by first class mail to property owners combined with posting a sign on the property;

WHEREAS, as a result of the most recent mail disruption at Canada Post which required the City of Hamilton to give notice by placing an advertisement in the newspaper; and,

WHEREAS, not all affected residents read the newspaper or what appear to be technical notices placed in the newspaper and residents miss the opportunity to participate in the Committee of Adjustment decision making process;

THEREFORE BE IT RESOLVED:

That Planning staff report back to Planning Committee on a strategy for informing residents that goes beyond the traditional newspaper advertisement in the event of future disruptions in mail delivery service.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

**14. 1 Main Street North, Waterdown (The Royal Coachman) - Register of Property of Cultural Heritage Value or Interest (Item 11.2)**

**(Partridge/Johnson)**

WHEREAS, the owner of the lands located at 1 Main Street North, Waterdown, is considering selling the property for redevelopment;

WHEREAS, 1 Main Street North, Waterdown, known as the Royal Coachman property, is listed on the *Inventory of Building of Architectural and/or Historic Interest*, but is not currently recognized through registration or protected through designation under the *Ontario Heritage Act*;

WHEREAS, based on a preliminary evaluation of Cultural Heritage Value or Interest conducted as part the Waterdown Village Built Heritage Inventory, 1 Main Street North, Waterdown meet the criteria specified in Ontario Regulation 9/06 including, but not limited to:

- Historical associations with early transportation and lodging in the village. The property has a direct association with the Kirk family, who built and operated the Kirk House Hotel (now the Royal Coachman) for approximately 80 years (1880's-1960's). Additionally, the property has the potential to yield information that contributes to the understanding of the community through additional research.
- Physical and architectural design value as the property is a representative style of the Queen Anne Revival style, which was popular in Ontario between 1870 and 1910. The property displays a high degree of craftsmanship, including but not limited to the projecting bay with wood paneling and decorated barge board on the primary elevation.

- Contextual associations as it is important in defining the historical character of the area, is physically, functionally and historically linked to its surroundings, and is considered to be a local landmark.

THEREFORE BE IT RESOLVED:

- That Council add the property located at 1 Main Street North, Waterdown, to the City's *Register of Property of Cultural Heritage Value or Interest* as a non-designated property, providing 60-days of interim protection from demolition; and,
- That Council direct staff to add 1 Main Street North (the Royal Coachman), Waterdown, to staff's designation work plan and be assigned immediate priority for Heritage Designation in Q4.

**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

**15. Demolition Permit for 175 Margaret Avenue (Stoney Creek) (Item 11.3)**

**(Pearson/Johnson)**

That the Chief Building Official be authorized and directed to issue a demolition permit for 175 Margaret Avenue (Stoney Creek) in accordance with By-Law 09-208, as amended by By-law 13-185, pursuant to Section 33 of the Planning Act, subject to the following conditions:

- That if a replacement building is not erected on this property within three years of the demolition of the existing building, the City be paid the sum of \$20,000.00 which sum:
  - The City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes;
  - Is a lien or charge on the property until paid; and
- That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and City Solicitor.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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  
 NOT PRESENT - Councillor Brad Clark

**16. Demolition Permit for 176 Millen Road (Stoney Creek) (Item 11.4)**

**(Pearson/Johnson)**

That the Chief Building Official be authorized and directed to issue a demolition permit for 176 Millen Road (Stoney Creek) in accordance with By-Law 09-208, as amended by By-law 13-185, pursuant to Section 33 of the Planning Act, subject to the following conditions:

- (a) That if a replacement building is not erected on this property within three years of the demolition of the existing building, the City be paid the sum of \$20,000.00 which sum:
  - (i) The City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes;
  - (ii) Is a lien or charge on the property until paid; and
- (b) That the applicant be required to register on title to the subject property (prior to issuance of the said demolition permit), notice of these conditions in a form satisfactory to the Chief Building Official and City Solicitor.

**Result: Motion CARRIED by a vote of 8 to 0, as follows:**

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

17. **Appeal to the Local Planning Appeal Tribunal on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the City of Hamilton Zoning By-law No. 6593 and Draft Plan of Condominium 25-CDM-201705 for the lands located at 575 Woodward Avenue (Hamilton) (LS19027 / PED18055(a)) (Ward 4) (Item 14.2)**

**(Collins/Farr)**

- (a) That the direction provided to staff respecting Report LS19027/PED18055(a) be approved; and,
- (b) That Report LS19027/PED18055(a), its recommendations and Appendices remain confidential.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

18. **Update regarding Local Planning Appeal Tribunal Appeal by Medallion Developments of rezoning application at 195 Wellington Street South (PL171389) (LS19025) (Ward 2) (Item 14.3)**

**(Farr/Collins)**

- (a) That the direction provided to staff respecting Report LS19025 be approved; and,
- (b) That Report LS19025, its recommendations and Appendices remain confidential.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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 INFORMATION:****(a) APPROVAL OF AGENDA (Item 2)**

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

**1. COMMUNICATIONS (Item 5)**

5.1 Added Correspondence respecting the Renaming of a Portion of North Service Road (Commonly known as Drakes Drive):

- (d) Leslie and Walter Born
- (e) Claudia Guerrero
- (f) Stan Kurak
- (g) Sharon Williams
- (h) Renee Kurak
- (i) Sherry Hayes
- (j) Debbie Martin
- (k) Jerry Andreatta

**2. DELEGATION REQUESTS (Item 6)**

6.2 Lakewood Beach Community Council has Withdrawn their Delegation Request respecting Renaming a Portion of North Service Road (Commonly known as Drakes Drive) and their Correspondence is being referred to the consideration of Item 7.2

**3. PUBLIC HEARINGS/DELEGATIONS (Item 8)**

8.3 WITHDRAWN - Delegation from Axel Binneboese respecting a Community, Wellness and Tourism Oriented Business Proposal

**4. MOTIONS (Item 11)**

11.1 Change of Title from "Official" to "Statutory" – Corporate Policy for Statutory Planning Notification During Mail Strikes

11.2 1 Main Street North, Waterdown (The Royal Coachman) – Register of Property of Cultural Heritage Value or Interest - Motion is being moved up in the agenda to be considered after Communications

**5. PRIVATE AND CONFIDENTIAL (Item 14)**

14.2 Title revised to include the address of the property which is 575 Woodward Avenue, Hamilton - Appeal to the Local Planning Appeal Tribunal on the City of Hamilton's Refusal or Neglect to Adopt an

Amendment to the City of Hamilton Zoning By-law No. 6593 and Draft Plan of Condominium 25-CDM-201705 for the lands located at 575 Woodward Avenue (Hamilton) (LS19027 / PED18055(a)) (Ward 4) (Item 14.2)

- 14.3 Title revised to include the applicant's name which is Medallion Developments - Update regarding Local Planning Appeal Tribunal Appeal by Medallion Developments of rezoning application at 195 Wellington Street South (PL171389) (LS19025) (Ward 2) (Item 14.3)

**(Clark/Johnson)**

That the agenda for the June 18, 2019 meeting be approved, as amended.

**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

**(b) DECLARATIONS OF INTEREST (Item 3)**

None declared.

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

**(i) June 4, 2019 (Item 4.1)**

**(Partridge/Danko)**

That the Minutes of the June 4, 2019 meeting be approved, as presented.

**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

**(d) COMMUNICATIONS (Item 5)**

- (i) Correspondence respecting the Renaming of a Portion of North Service Road (Commonly known as Drakes Drive) (Item 7.2 on this agenda) (Item 5.1)**

**(Wilson/Danko)**

That the following correspondence be received and referred to the consideration of Item 7.2:

- (a) George McCowan
- (b) T. McClelland
- (c) Judith Duncan
- (d) Leslie and Walter Born
- (e) Claudia Guerrero
- (f) Stan Kurak
- (g) Sharon Williams
- (h) Renee Kurak
- (i) Sherry Hayes
- (j) Debbie Martin
- (k) Jerry Andreatta

**CARRIED**

**(e) DELEGATION REQUESTS (Item 6)**

- (i) James Lafferty respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping (For the July 9th meeting) (Item 6.1)**

**(Johnson/Clark)**

That the Delegation Request from James Lafferty respecting Concerns with Southbrook Golf Club regarding Ongoing Issues, Zoning, Permits and Dumping, be approved for the July 9th 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

**(f) CONSENT ITEMS (Item 7)**

- (i) To Rename a Portion of North Service Road (Commonly Known as Drakes Drive) to Parkedge Drive Within the Former City of Stoney Creek (PED19097) (Ward 10) (Item 7.2)**

**(Partridge/Johnson)**

That the correspondence from Lakewood Beach Community Council (Item 6.2), be received.

**CARRIED**

For disposition of this matter, refer to Item 2.

- (ii) Agriculture and Rural Affairs Advisory Committee Reports/Minutes (Item 7.9)**

- (b) May 13, 2019 - Minutes 19-002 (Item 7.9 (b))**

**(Johnson/Clark)**

That the Minutes of the Agriculture and Rural Affairs Advisory Committee dated May 13, 2019 be received.

**CARRIED**

**(g) PUBLIC HEARINGS / DELEGATIONS (Item 8)**

- (i) David Braden respecting Potential and Positive Consequences of Reducing Planning Restrictions (approved at the June 4th meeting) (Item 8.1)**

David Braden addressed the Committee respecting Potential and Positive Consequences of Reducing Planning Restrictions.

**(Partridge/Johnson)**

That the Delegation from David Braden respecting Potential and Positive Consequences of Reducing Planning Restrictions, be received.

**CARRIED**

- (ii) Amber Lindsay, UrbanSolutions, respecting an Exemption to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough (approved at the June 4th meeting) (Item 8.2)**

Amber Lindsay, UrbanSolutions, addressed the Committee respecting an Exemption to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough with the aid of a PowerPoint presentation.

A copy of the presentation is available online at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

**(Partridge/Clark)**

That the Delegation from Amber Lindsay, UrbanSolutions, respecting an Exemption to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough, be received.

**CARRIED****(Partridge/Johnson)**

That the item respecting an Exemption to Apply for a Minor Variance at 100 Hamilton Street North, Flamborough, be deferred to the July 9th Planning Committee meeting.

**CARRIED****(iii) Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 305 and 311 Garner Road West (Ancaster) (PED19104) (Ward 12) (Item 8.4)**

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

No members of the public came forward.

**(Partridge/Johnson)**

That the public meeting be closed.

**CARRIED**

George Zajac, Senior Project Manager, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available online at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

**(Partridge/Danko)**

That the staff presentation be received.

**CARRIED**

Oz Kemal, MHBC, agent, indicated they are in support of the staff report and addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available online at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

**(Danko/Clark)**

That the presentation from Oz Kemal, be received.

**CARRIED**

**(Collins/Johnson)**

That the Committee reconsider the closing of the Public meeting, to re-open the public meeting to allow a member of the public to Delegate.

**Result: Motion CARRIED by a 2/3's majority vote of 7 to 0, as follows:**

YES - Councillor Maureen Wilson  
 NOT PRESENT - Councillor Jason Farr  
 YES - 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

**Delegations:**

1. Lilianna Figueredo addressed the Committee and expressed concerns with the proposed development.

**(Johnson/Partridge)**

That the Delegation from Lilianna Figueredo be received.

**CARRIED**

**(Partridge/Collins)**

That the public meeting be closed.

**CARRIED**

**(Clark/Partridge)**

- (a) That the dry pond on the property (305 and 311 Garner Road West, Ancaster) be designated as Open Green Space available to the public and be maintained/manicured by the Condominium Board; and,
- (b) That the Ward Councillor be included in site plan discussions.

**Result: Motion CARRIED by a vote of 5 to 2, as follows:**

NO - Councillor Maureen Wilson  
 NOT PRESENT - Councillor Jason Farr  
 YES - Councillor Chad Collins  
 NO - 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

**(Partridge/Collins)**

That the recommendations be amended by adding sub-section (d) to read as follows:

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

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

YES - Councillor Maureen Wilson  
 NOT PRESENT - Councillor Jason Farr  
 YES - 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 10.

**(iv) Application for Zoning By-law Amendment for Lands Located at 116 and 120 Barnesdale Avenue North (PED19117) (Ward 3) (Item 8.5)**

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

Daniel Barnett, Planning Technician I, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available online at [www.hamilton.ca](http://www.hamilton.ca) or through the Office of the City Clerk.

**(Danko/Partridge)**

That the staff presentation be received.

**CARRIED**

John Ariens, IBI Group, agent, indicated they are not in support of the staff report and addressed the Committee.

**(Johnson/Clark)**

That the presentation from John Ariens, be received.

**CARRIED**

**Delegations:**

1. Jacinta Ribeiro addressed the Committee and expressed support with the proposal.

**(Farr/Wilson)**

That the Delegation be received.

**CARRIED**

**(Clark/Farr)**

- (a) That the Planning Committee defer their decision on Report PED19117 for 90 days;
- (b) That the Applicant provide a letter before the next Council meeting indicating their agreement not to appeal for a non-decision during the 90 days prior to the matter coming back to the Planning Committee; and,
- (c) That the Applicant provide a search of property titles to ensure there are no encumbrances on the alleyway.

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

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

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

**(i) Outstanding Business List (Item 13.1)**

**(Farr/Danko)**

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



**Planning Committee  
Minutes 19-010****June 18, 2019  
Page 22 of 24**

12A - Regulation of Rental Housing  
Current Due Date: May 14, 2019  
Proposed New Due Date: September 17, 2019

17E - Family Friendly Housing  
Current Due Date: January 15, 2019  
Proposed New Due Date: February 2020

18D - Framework for Inclusionary Zoning  
Current Due Date: TBD  
Proposed New Due Date: November 19, 2019

18G - 8475 English Church Road Planning Applications  
Current Due Date: April 16, 2019  
Proposed New Due Date: September 3, 2019

18I - Designation of 3789 Main St. East, Hamilton  
Current Due Date: June 18, 2019  
Proposed New Due Date: November 5, 2019

18K - Using Pier 7 as a "People Place"  
Current Due Date: TBD  
Proposed New Due Date: August 13, 2019

18M - Designation of 828 Sanitorium Road, Hamilton  
Current Due Date: June 18, 2019  
Proposed New Due Date: November 5, 2019

19B - Updates to Zoning By-law 05-200  
1. Self Storage Facilities Locations  
Current Due Date: TBD  
Proposed New Due Date: October 15, 2019

2. Site Specific Zoning at 336-338 King St., Dundas  
Current Due Date: TBD  
Proposed New Due Date: August 13, 2019

19J - Zoning By-law Amendment for 1400 Baseline Road  
Current Due Date: TBD  
Proposed New Due Date: November 19, 2019

**Items to be Removed:**

19I - Ways to Better Protect Hamilton Trees on Private Property  
(Item 10.3 on the June 4 agenda)

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

**(i) PRIVATE AND CONFIDENTIAL (Item 14)**

**(i) Closed Session Minutes - June 4, 2019 (Item 14.1)**

**(Collins/Clark)**

That the Closed Session Minutes of June 4, 2019 be approved, as presented, and remain confidential.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

**(Johnson/Farr)**

That the Committee move into Closed Session respecting Items 14.2 and 14.3 pursuant to Section 8.1, Sub-sections (e) and (f) of the City's Procedural By-law 18-270, and Section 239(2), Sub-sections (e) and (f) of the *Ontario Municipal Act*, 2001, as amended, as the subject matters pertain to litigation or potential litigation, including matters before administrative tribunals, affecting the City; and, the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

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

YES - Councillor Maureen Wilson  
 YES - Councillor Jason Farr  
 YES - 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

- (ii) Appeal to the Local Planning Appeal Tribunal on the City of Hamilton's Refusal or Neglect to Adopt an Amendment to the City of Hamilton Zoning By-law No. 6593 and Draft Plan of Condominium 25-CDM-201705 for the lands located at 575 Woodward Avenue (Hamilton) (LS19027 / PED18055(a)) (Ward 4) (Item 14.2)**

Staff were provided with direction in Closed Session.

For further disposition of this matter, refer to Item 17.

- (iii) Update regarding Local Planning Appeal Tribunal Appeal by Medallion Developments of rezoning application at 195 Wellington Street South (PL171389) (LS19025) (Ward 2) (Item 14.3)**

Staff were provided with direction in Closed Session.

For further disposition of this matter, refer to Item 18.

- (j) ADJOURNMENT (Item 15)**

**(Wilson/Danko)**

That there being no further business, the Planning Committee be adjourned at 1:14 p.m.

**CARRIED**

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Councillor Maria Pearson  
Chair, Planning Committee

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Lisa Chamberlain  
Legislative Coordinator  
Office of the City Clerk

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

Submitted on Monday, June 17, 2019 - 12:51 pm

==Committee Requested==

**Committee:** Planning Committee

==Requestor Information==

**Name of Individual:** Lorraine Appleyard

**Name of Organization:**

**Contact Number:**

**Email Address:**

**Mailing Address:**

Hamilton, Ontario

**Reason(s) for delegation request:** Was Issued an Order of Removal for her ducks (this has been complied with). Want to speak to see if these By-laws can be changed.

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

**Will you be submitting a formal presentation?** No

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

Submitted on Tuesday, June 25, 2019 - 2:55 pm

==Committee Requested==

**Committee:** Planning Committee

==Requestor Information==

**Name of Individual:** Jennifer Smith

**Name of Organization:**

**Contact Number:**

**Email Address:**

**Mailing Address:**

Hamilton Ontario

**Reason(s) for delegation request:** To speak in regards to Lorraine Appleyard's presentation.

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

**Will you be submitting a formal presentation?** No

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

Submitted on Tuesday, June 25, 2019 - 2:57 pm

==Committee Requested==

**Committee:** Planning Committee

==Requestor Information==

**Name of Individual:** Barbara Davis

**Name of Organization:**

**Contact Number:**

**Email Address:**

**Mailing Address:**

Hamilton Ontario

**Reason(s) for delegation request:** To speak in regards to Lorraine Appleyard's presentation.

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

**Will you be submitting a formal presentation?** No

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

Submitted on Monday, June 24, 2019 - 2:50 pm

==Committee Requested==

**Committee:** Planning Committee

==Requestor Information==

**Name of Individual:** Amber Lindsay

**Name of Organization:** UrbanSolutions Planning & Land  
Development Consultants Inc.

**Contact Number:**

**Email Address:**

**Mailing Address:**

Hamilton, ON

**Reason(s) for delegation request:** Request to Apply for a  
Minor Variance at 100 Hamilton Street North, Flamborough  
(deferred at the June 18th meeting).

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

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



# PLANNING COMMITTEE

Request for Exemption from *Planning Act* Section 45(1.3) for  
By-law No. 17-193 respecting 100 Hamilton St N

July 9, 2019





# BACKGROUND

- By-law No. 17-193 approved September 13, 2017.
- Site Plan conditionally approved on July 24, 2018 for an apartment building with 69 units.
- Current owners proposing Retirement Home use with 143 units.

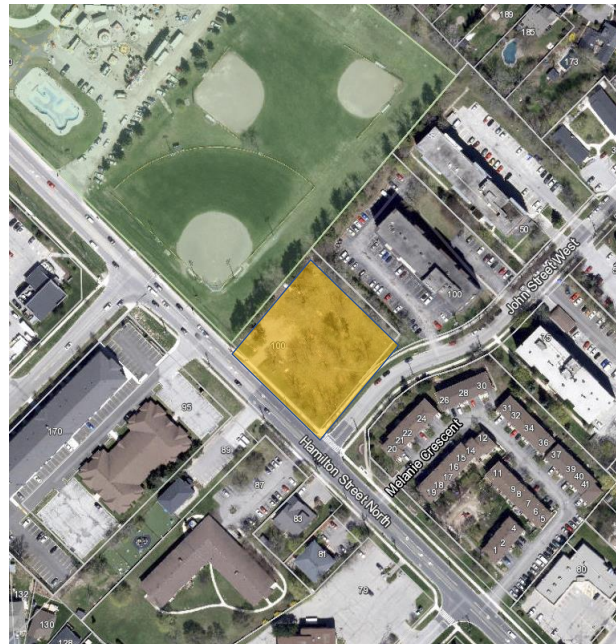


Figure 1. Subject Lands



Figure 2. Proposed Development



# REQUIRED VARIANCES

Minor Variance to the site specific by-law is required as follows:

1. To permit kitchenettes in the dwelling units.
2. To reduce the number of loading spaces required.

## Typical Floor Plan

Scale: 1:1000

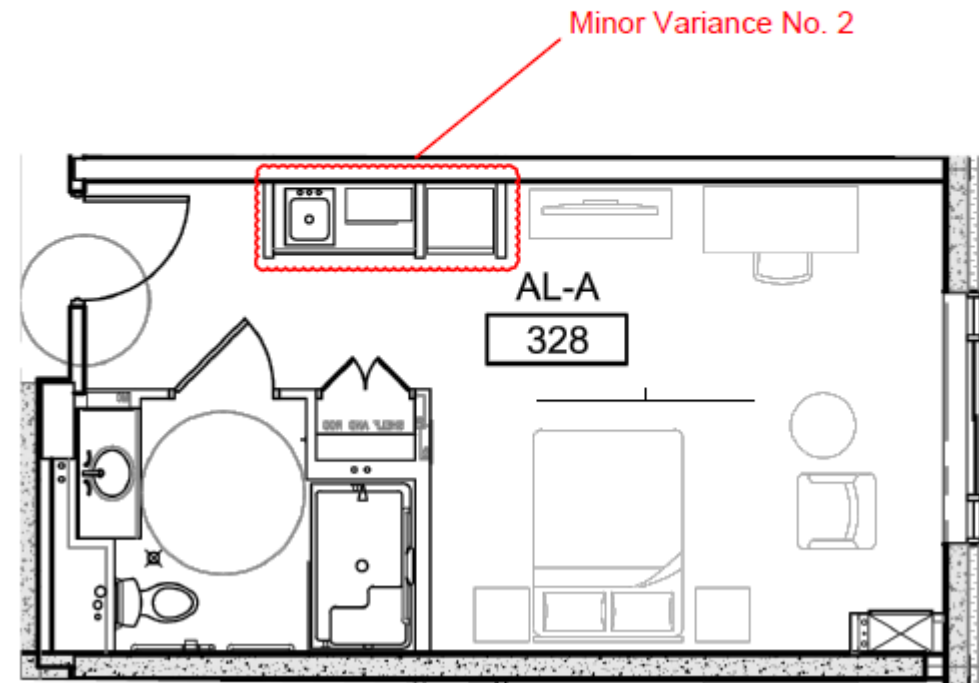
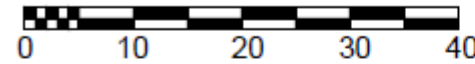


Figure 3. Minor Variance No. 2



# REQUEST TO COMMITTEE

- Section 45(1.3) of the *Planning Act* prevents the amendment of a site-specific Zoning By-law for two years.
- We respectfully request that Committee and Council permit the application for a Minor Variance, in keeping with Section 45(1.4) of the *Act*.

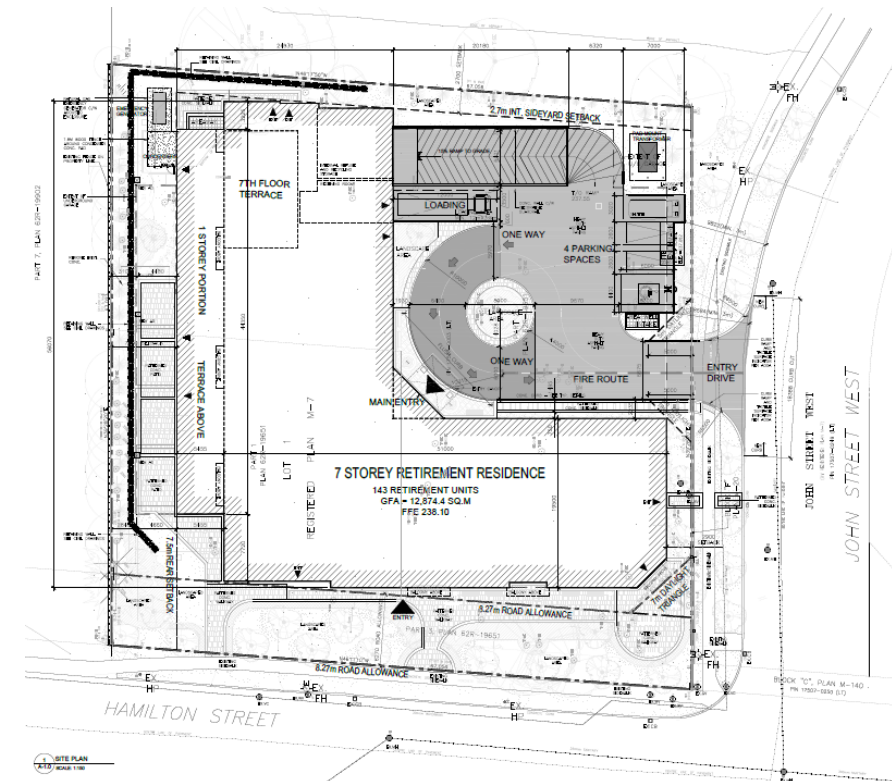


Figure 4. Revised Site Plan for DA-17-230



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Licensing and By-law Services Division**  
**and**  
**Transportation Planning and Parking Division**

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5)
<b>WARD(S) AFFECTED:</b>	Wards 4 and 5
<b>PREPARED BY:</b>	Luis Ferreira (905) 546-2424 Ext. 3087
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department

**RECOMMENDATION(S)**

- (a) That the amending By-law attached as Appendix "A" to Report PED17179(c), being a By-law to amend By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas be enacted by Council;
- (b) That the Administrative Penalty System (APS) By-law 17-225 be amended to include By-law 18-199 as Table 19 to Schedule A as shown in Appendix "B" to Report PED17179(c) be enacted by Council.

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

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

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

**SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 2 of 4**

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## **EXECUTIVE SUMMARY**

Since the passing of By-law 18-199, the By-law to prohibit driving school instructing in the restricted areas, staff have reviewed the current map and wish to repeal and replace it with a more detailed and accurate one. In addition to the more detailed map, staff is also requesting that the APS By-law 17-225 be amended to include contraventions of By-law 18-199 as Table 19 to Schedule A.

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

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

**Financial:** The set penalties are consistent to the guiding principles of the APS which is not meant to be punitive in nature but rather encourage compliance and cost recovery.

**Staffing:** Enforcement of the prohibited area can be accomplished with existing staff.

**Legal:** Pursuant to subsection 27(1) of the *Municipal Act, 2001*, the City has authority to pass by-laws in respect of a highway where it has jurisdiction over the highway.

Pursuant to section 8, 9 and 10 of the *Municipal Act, 2001*, the City of Hamilton is authorized to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 6 and 8 of subsection 10(2) authorize by-laws respecting the health, safety and well-being of persons and the protection of persons and property.

## **HISTORICAL BACKGROUND**

On July 13, 2018, Council enacted By-law 18-199 which was created to prohibit driving school instructing on the same streets that have been designated and approved as DriveTest exam routes by the Ministry of Transportation.

At its meeting of September 27, 2017, Council approved Planning Committee Report 17-015 directing staff to implement APS to by-laws enforced by Animal Services, Licensing and all other applicable municipal by-laws.

**SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 3 of 4**

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## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The APS By-law 17-225 will be amended to include the Driving School Instructing in Restricted Areas By-law 18-199 as Table 19 in Schedule A

## **RELEVANT CONSULTATION**

N/A

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

### Recommendation (a)

Since the passing of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas, staff have reviewed Appendix "1" (restricted areas map) and wish to repeal and replace it with a more accurate and complete map as prescribed in Appendix "A" of Report PED17179(c). The new map identifies the nine subdivisions inclusive of all streets, identified in Appendix "2" of By-law 18-199, used by the DriveTest Centre to conduct Ministry approved road exams. This map is superior to the previous one and will aid staff with enforcement, the Driving School Operators and Instructors with clear depictions of prohibited zones to avoid contraventions and citizens who wish to educate and report violations.

### Recommendation (b)

The APS By-law was first introduced in 2015 and currently holds 18 schedules. These schedules address vehicular parking violations, by-laws enforced by Animal Services, Licensing and By-law Services. Staff are now ready to include By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas as Table 19 to Schedule A of the APS By-law 17-225.

Applying an Administrative Penalty Notice (APN) to contraventions of By-law 18-199 will provide enforcement staff the tool necessary to address minor violations and encourage compliance in a form that is reasonable and non-punitive in nature. More serious offences will still be addressed through the issuance of a Part III summons and disputed through the Provincial Courts.

APS provides a better customer experience with regards to the dispute resolution process of APNs through a quasi-judicial proceeding with a Hearing Officer having final and binding authority over the matter and not subject to judicial review.

**SUBJECT: Amend Appendix 1 of By-law 18-199, a By-law to Prohibit Driving School Instructing in the Restricted Areas and Expand Schedule A of the Administrative Penalty System (APS) By-law 17-225 to Include Contraventions of By-law 18-199 (PED17179(c)) (Wards 4 and 5) - Page 4 of 4**

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The *Municipal Act, 2001*, authorizes the use of APS for designated by-laws. The City of Hamilton's APS By-law has been written as such to allow for inclusion of other Municipal By-laws. Staff is seeking approval to include By-law 18-199 as Table 19 to Schedule A of the APS By-law.

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.

**Our People and Performance**

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

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Amending By-law to Appendix "1" of By-law 18-199, being the By-law to prohibit Driving School Instructing in Restricted Areas

Appendix "B": Amending By-law adding Table 19 to Schedule A of By-law 17-225, being a By-law to Establish a System of Administrative Penalties

KL:BH:st

**Appendix "A" to Report PED 17179(c)**

**Page 1 of 3**

**Authority:** Item ,  
Report  
CM:  
Wards: 4 and 5

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO.**

**A By-law to amend By-law 18-199, being a By-law to Prohibit Driving School  
Instructing in the Restricted Areas**

**WHEREAS** ; pursuant to subsection 8.(1) of the Municipal Act, 2001, the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

**WHEREAS** ; Council for the City of Hamilton considers it desirable to regulate and govern the training of persons by a Driving School Instructor in designated restricted areas;

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

1. Appendix "1" is hereby deleted and substituted with Appendix "1" as attached hereto.

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_ , 2019

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F. Eisenberger  
Mayor

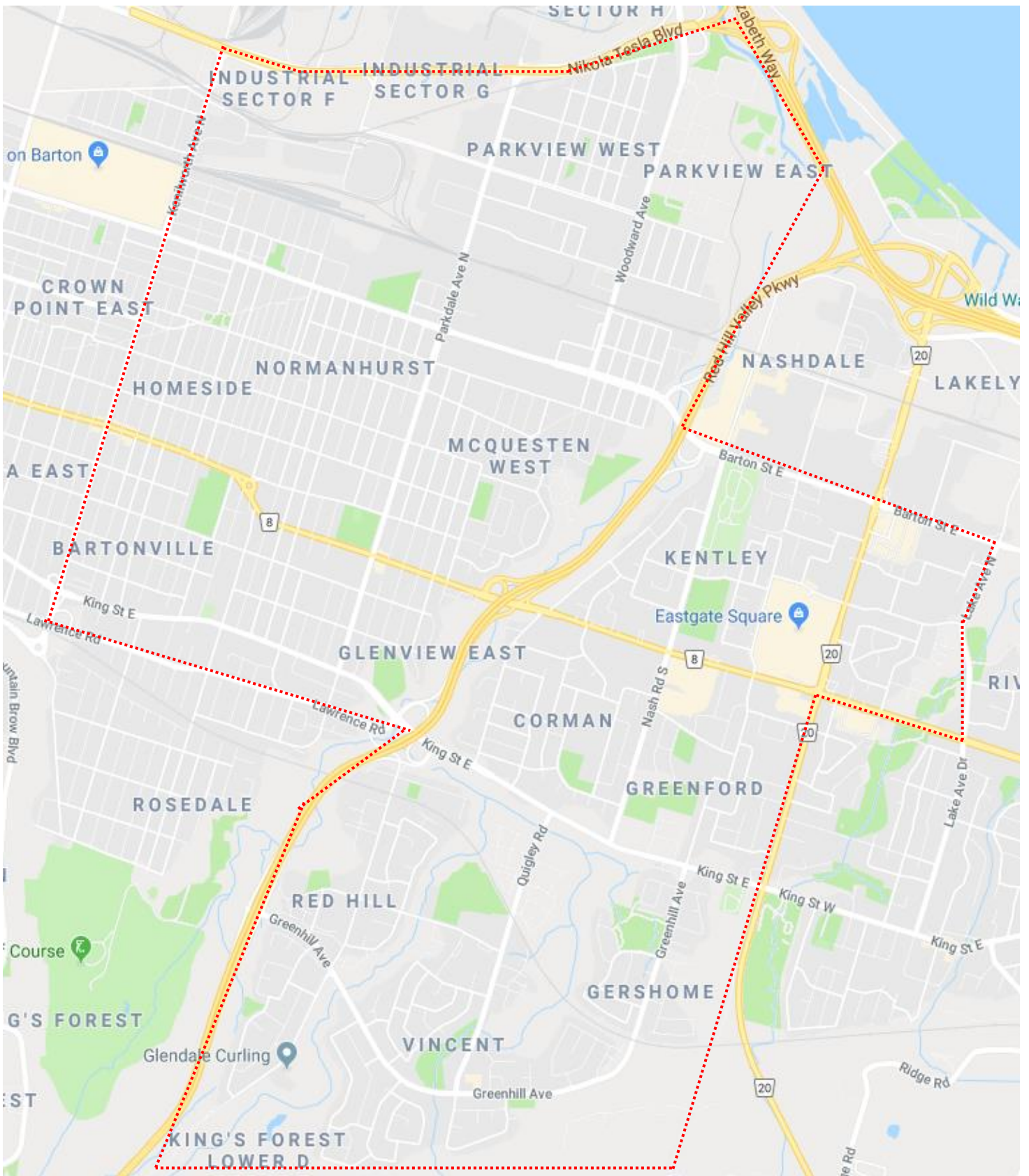
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J. Pilon  
Acting City Clerk



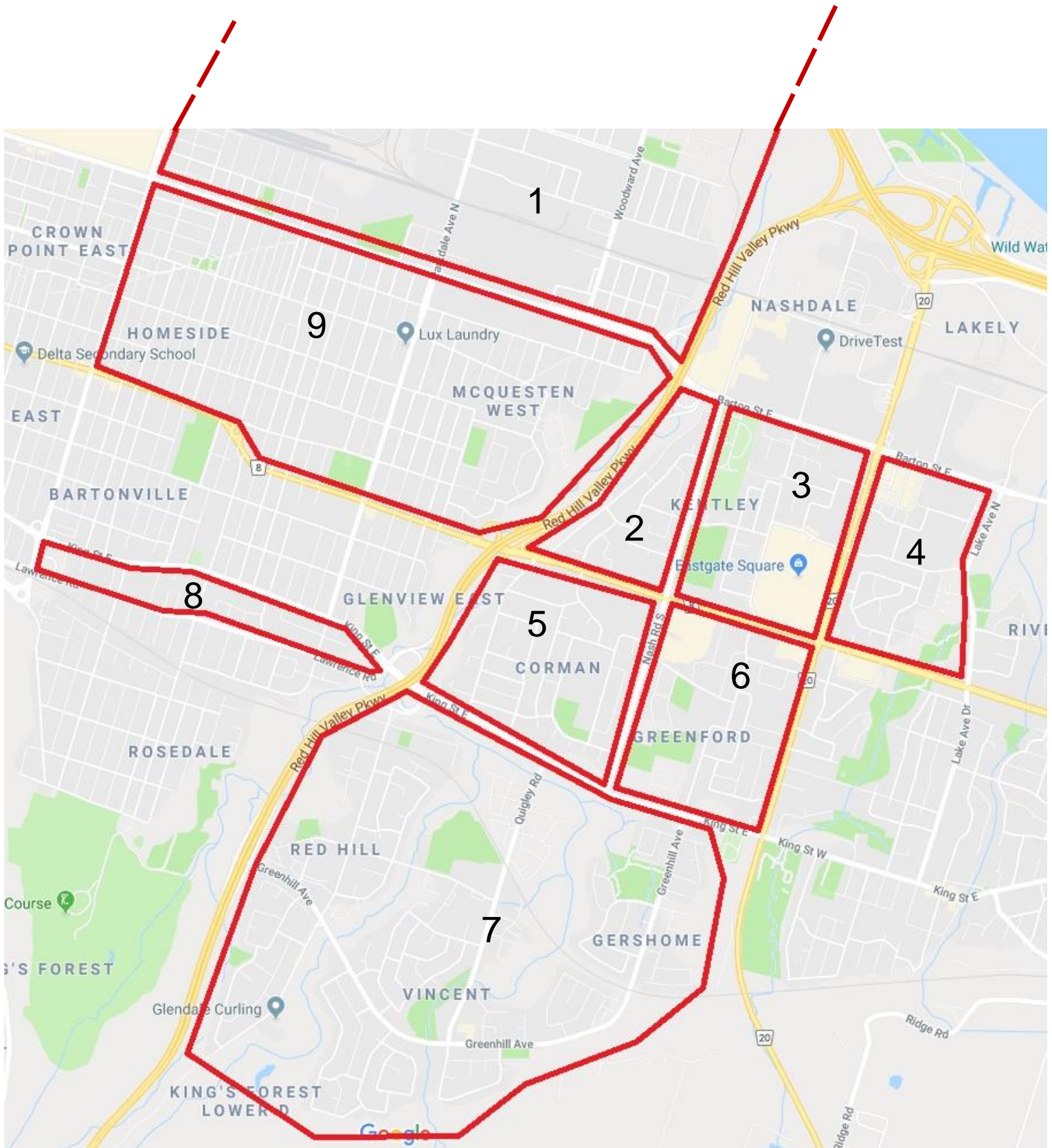
Wards 4 and 5 Restricted Areas

Appendix "1"



Wards 4 and 5 Restricted Areas

Appendix "1"



## Appendix "B" to Report PED17197(c)

Page 1 of 1

**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 19, titled BY-LAW NO.18-199, being the By-law to Prohibit Driving School Instructing in the Restricted Areas.

<b>Table 19: By-law 18-199 - Prohibit Driving School Instructing in the Restricted Areas</b>				
<b>ITEM</b>	<b>COLUMN 1 DESIGNATED BY-LAW &amp; SECTION</b>		<b>COLUMN 2 SHORT FORM WORDING</b>	<b>PENALTY AMOUNT Box 1</b>
1	18-199	2.(1)	Driving School Instructor permit/providing lessons within restricted area	\$200.00
2	18-199	2.(2)	Driving School Operator cause/permit driving lessons within restricted areas	\$300.00
3	18-199	2.(3)(c)	Driving School Instructor fail to use most direct route in and out of restricted area	\$200.00

**PASSED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
F. Eisenberger  
Mayor

\_\_\_\_\_  
J. Pilon  
Acting City Clerk



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Hearing Officer Appointment By-law for Administrative Penalty System (PED19122) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	James Buffett (905) 546-2424 Ext. 3177
<b>SUBMITTED BY:</b>	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

That the Hearing Officer By-law, being a by-law to appoint Hearing Officers in accordance with the Administrative Penalty By-law No. 17-225, attached as Appendix "A" to Report PED19122, which has been prepared in a form satisfactory to the City Solicitor, be approved.

### EXECUTIVE SUMMARY

An Administrative Penalty System (APS) for enforcement of various municipal By-laws has been implemented as per approved By-law No. 17-225. One requirement of APS is that Council appoint, by by-law, independent Hearing Officers to hear final appeals of parking penalty notices.

### Alternatives for Consideration – Not Applicable

### FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The estimated cost for Hearing Officers is \$6,000 annually, which will be offset by the administrative fees approved as part of the APS and included in the City's User Fees and Charges By-law.

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**SUBJECT: Hearing Officer Appointment By-law for Administrative Penalty System (PED19122) (City Wide) - Page 2 of 3**

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**Staffing:** Hearing Officers are appointed by Council, for the duration of Council term, and are not City of Hamilton employees. It is recommended that at least three Hearing Officers be appointed per term, in order to ensure coverage.

**Legal:** Hearing Officers are required as part of the APS (City of Hamilton By-law No.17-225) which is governed by *Ontario Regulation 333/07* of the *Municipal Act*.

## **HISTORICAL BACKGROUND**

At its meeting of May 27, 2015, Council approved the implementation of an APS. Following this approval, on December 9, 2015, Council approved By-law No. 15-278 to appoint Hearing Officers for the past council term. At its meeting of November 8, 2017, Council approved the expansion of APS to include other Municipal By-laws, and By-law No. 17-225 came into force.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

- *Municipal Act*, Section 102.1;
- *Ontario Regulation 333/07* (Administrative Penalties); and,
- Administrative Penalty By-law No. 17-225.

## **RELEVANT CONSULTATION**

Legal Services and Human Resources were consulted in preparation of this Report.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The City of Hamilton APS was developed as a more effective and efficient alternative to disputing Municipal By-law penalties in the Provincial Offences Court. APS eliminates the need for Court time, as the final appeal for those disputing a penalty notice is a review by a Council-appointed Hearing Officer, at a City-owned facility.

Hearing Officers will be paid \$500 per full day and \$300 per half day for their services. These amounts were developed based on a review from the previous appointment term. The costs will be offset by the administrative fees approved as part of the APS (included in the User Fees and Charges By-law).

Based on historical data from the past appointment term, it is expected that hearings will continue to be held monthly. Staff have the ability to increase or decrease the number of Hearing days based on demand. Modifications to the schedule will be made, as required, to ensure the most efficient and cost-effective operation. Hearing Officers will be

**SUBJECT: Hearing Officer Appointment By-law for Administrative Penalty System (PED19122) (City Wide) - Page 3 of 3**

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scheduled on a rotating basis, based on their availability. Hearings are currently held at 77 James Street North, Suite 250A.

**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.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Hearing Officer By-law

JB:cr

**Appendix "A" to Report PED19122**

**Page 1 of 2**

**Authority:** Item ,  
Report:  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO.**

**Being a By-law to Appoint Hearing Officers pursuant to the Administrative Penalty By-law No. 17-225 and to repeal By-law No. 15-278**

**WHEREAS** the City of Hamilton is authorized under the *Municipal Act, 2001* to establish a system of administrative penalties for contraventions of City of Hamilton By-laws;

**WHEREAS** the Council of the City of Hamilton ("Council") passed the Administrative Penalty By-law No. 17-225 at its meeting held on November 8, 2017; and

**WHEREAS** Council wishes to appoint certain persons as Hearing Officers pursuant to the Administrative Penalty By-law No. 17-225;

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

1. The persons listed in Schedule "A" are appointed as Hearing Officers pursuant to Administrative Penalty By-law No. 17-225 from the date that the Hearing Officer's appointment is approved by Council:
  - a) until the term of that Council ends; or
  - b) if the term of that Council ends with no successor having been appointed, until the Hearing Officer's successor has been appointed.
2. Schedule "A" forms part of this By-law.
3. By-law No. 15-278 is hereby repealed.
4. This By-law comes into force on July 12<sup>th</sup>, 2019.

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

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F. Eisenberger  
Mayor

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J. Pilon  
Acting City Clerk

**Appendix "A" to Report PED19122**  
**Page 2 of 2**

**SCHEDULE "A"**

**HEARING OFFICERS**

<b>HEARING OFFICERS NAME</b>	<b>APPOINTMENT DATE</b>
Robert Craig	July 12 <sup>th</sup> , 2019
Jagger Benham	July 12 <sup>th</sup> , 2019
Diane Hall	July 12 <sup>th</sup> , 2019





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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Amendments to Yard Maintenance By-law 10-118 to Include Inoperative Vehicles (PED19144) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Robert Ustrzycki (905) 546-2424 Ext. 4721
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That the housekeeping changes to the City of Hamilton Yard Maintenance By-law 10-118 regarding the definitions for inoperative motor vehicles and urban boundary as described in Report PED19144, 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 PED19144 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 PED19144 recommends amending the City of Hamilton Yard Maintenance By-law 10-118 (Yard Maintenance By-law) to:

- revise and improve the definition of inoperative vehicle; and,
- provide clarity to the meaning of "Urban Boundary";

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.

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**SUBJECT: Amendments to Yard Maintenance By-law 10-118 to Include Inoperative Vehicles (PED19144) (City Wide) - Page 2 of 3**

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**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 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.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

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.

**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, improved processes and to correct obsolete or imprecise language while maintaining the by-laws' original intent and their effectiveness.

**Inoperative Vehicle**

The definition of 'inoperative vehicle' in the current Yard Maintenance By-law is outdated and obsolete to the vehicle/permit holder regime under the Highway Traffic Act. The intent of the 'inoperative vehicle' provisions is to apply to all vehicles that are dismantled, broken or incomplete, decayed or dilapidated, whether or not they have a number plate with current validation. Staff propose the following amendment to the definition section that properly reflects the intended meaning of inoperative vehicles, and that includes a motorized snow vehicle which is not in the current by-law.

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**SUBJECT: Amendments to Yard Maintenance By-law 10-118 to Include Inoperative Vehicles (PED19144) (City Wide) - Page 3 of 3**

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**Urban Boundary**

Section 3 of the City of Hamilton Yard Maintenance By-law requires property owners within the urban boundary to maintain overgrown vegetation in their yards. Subsection 2(1) of the By-law defines urban boundary to mean the urban boundary of the City as defined in the Official Plan(s) for the City. Although Rural Settlement Areas (RSA) are identified and delineated in the City's Rural Official Plan, the Yard Maintenance By-law does not precisely speak of the RSA in the definition of urban boundary, complicating public interpretation. Staff propose adding the term "Rural Settlement Areas" to the definition of urban boundary to clarify Council's intention that the RSA are included as being within the City's urban boundary.

**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.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Draft amendment to Yard Maintenance By-law 10-118

Appendix "B": Excerpts (proposed amendments noted) of the current Yard Maintenance By-law 10-118

KL:RU:st

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**Appendix “A” to Report PED19144**

**Page 1 of 1**

**Authority:** Item ,  
Report  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO.**

**To Amend 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 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.
2. Subsection 2(1) is amended by repealing the definition of “inoperative vehicle” and substituting the following:

**“inoperative vehicle”** means a vehicle and a motorized snow vehicle, as those terms are defined in the Highway Traffic Act, that may not be lawfully operated on a highway for any of the following reasons:

- (i) it has missing, broken, incomplete, decayed, or damaged parts or components; or
- (ii) it is in a derelict condition;

3. Subsection 2(1) is amended by repealing the definition of “urban boundary” and substituting the following:

**“urban boundary”** means the urban boundary as defined in the City’s Urban Official Plan and the settlement area boundaries of the Rural Settlement Areas of the City as defined in the City’s Rural Official Plan;

**PASSED** this        day of        2019.

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F. Eisenberger  
Mayor

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J. Pilon  
City Clerk

## YARD MAINTENANCE BY-LAW 10- 118

Inoperative Motor Vehicle and Urban Boundary

2(1) In this By-law:

**"inoperative vehicle"** includes but is not limited to a motor vehicle that:

- (i) is unable to be operated as a result of being dismantled, broken or incomplete, decayed or dilapidated, in particular with missing wheels, tires, body components or windows; or
- (ii) does not have affixed to it a number plate with a current permit validation as required under the Highway Traffic Act;

**"urban boundary"** means the urban boundary of the City as defined in the Official Plan or Official Plans for the City;

*Repealed and replaced with:*

**"inoperative vehicle"** means a vehicle and a motorized snow vehicle, as those terms are defined in the Highway Traffic Act, that may not be lawfully operated on a highway for any of the following reasons:

- (i) it has missing, broken, incomplete, decayed, or damaged parts or components;  
or
- (ii) it is in a derelict condition;

**"urban boundary"** means the urban boundary as defined in the City's Urban Official Plan and the settlement area boundaries of the Rural Settlement Areas of the City as defined in the City's Rural Official Plan;



## Hamilton

### **HAMILTON MUNICIPAL HERITAGE COMMITTEE**

#### **REPORT 19-004**

**12:00 p.m.**

**June 20, 2019**

**Room 264, 2<sup>nd</sup> Floor**

**Hamilton City Hall**

**71 Main Street West**

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**Present:** Councillor M. Pearson  
D. Beland, J. Brown, K. Burke, G. Carroll, A. Denham-Robinson  
(Chair), C. Dmitry (Vice-Chair), B. Janssen, R. McKee, R. Ritchie,  
W. Rosart

**Absent with  
Regrets:** L. Lunsted

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### **THE HAMILTON MUNICIPAL HERITAGE COMMITTEE PRESENTS REPORT 19-004 AND RESPECTFULLY RECOMMENDS:**

- 1. Appointment of Chair and Vice Chair (Item 1)**
  - (a) That A. Denham-Robinson be appointed Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term; and
  - (b) That C. Dmitry be appointed Vice-Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term.
  
- 2. Bill 108 - Proposed Changes to the Ontario Heritage Act (PED19140) (City Wide) (Item 10.2)**

That Report PED19140 respecting Bill 108 - Proposed Changes to the Ontario Heritage Act, be received.

**FOR INFORMATION:**

**(a) APPOINTMENT OF CHAIR AND VICE CHAIR (Item 1)**

A. Denham-Robinson was nominated as Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term.

C. Dmitry was nominated as Vice-Chair of the Hamilton Municipal Heritage Committee for the 2018-2022 term.

For further disposition of this matter, refer to Item 1.

**(b) CHANGES TO THE AGENDA (Item 2)**

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

**5. COMMUNICATIONS**

5.1 Correspondence from Environment and Land Tribunals Ontario, Local Planning Appeal Tribunal, respecting the Withdrawal of an appeal by St. James No. 1 Inc.

Recommendation: Be received.

**6. DELEGATION REQUESTS**

6.2 Susan O'Rourke, respecting 745 Crooks Hollow Road, Dundas (for a future meeting)

**10. DISCUSSION ITEMS**

10.3 Review of Terms of Reference for the Hamilton Municipal Heritage Committee

Staff have withdrawn this item, as they have been advised that the audio quality of the livestreaming of meetings in Room 264 is at an acceptable level.

The Agenda for the June 20, 2019 Hamilton Municipal Heritage Committee was approved, as amended.

**(c) DECLARATIONS OF INTEREST (Item 3)**

There were no Declarations of Interest.

**(d) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 4)**

**(i) April 21, 2019 (Item 4.1)**

The Minutes of the April 21, 2019 meeting of the Hamilton Municipal Heritage Committee were approved, as presented.

**(e) COMMUNICATIONS (Item 5)**

**(i) Correspondence from Environment and Land Tribunals Ontario, Local Planning Appeal Tribunal, respecting the Withdrawal of an appeal by St. James No. 1 Inc. (Added Item 5.1)**

The Correspondence from Environment and Land Tribunals Ontario, Local Planning Appeal Tribunal, respecting the Withdrawal of an appeal by St. James No. 1 Inc., was received.

**(f) DELEGATION REQUESTS (Item 6)**

**(i) Marc Bader, respecting the Ancaster High School building and grounds (for a future meeting) (Item 6.1)**

The delegation request from Marc Bader, respecting the Ancaster High School building and grounds, was approved, for a future meeting.

**(ii) Susan O'Rourke, respecting 745 Crooks Hollow Road, Dundas (for a future meeting) (Added Item 6.2)**

The delegation request from Susan O'Rourke respecting 745 Crooks Hollow Road, Dundas, was approved, for a future meeting.

**(g) CONSENT ITEMS (Item 7)**

**(i) Inventory and Research Working Group Meeting Notes – May 6, 2019 (Item 7.1)**

The Inventory and Research Working Group Meeting Notes – May 6, 2019, were received.



**(h) PRESENTATIONS (Item 9)**

**(i) Orientation to New Members of the Hamilton Municipal Heritage Committee (Item 9.1)**

Loren Kolar, Legislative Coordinator, addressed the Committee with an Orientation Video for new members.

David Addington and Miranda Brunton, Cultural Heritage Planners, addressed the Committee with a presentation outlining Heritage Processes at the City of Hamilton, with the aid of a PowerPoint presentation.

The Orientation to New Members of the Hamilton Municipal Heritage Committee, was received.

The presentation is available at [www.hamilton.ca](http://www.hamilton.ca), and through the Office of the City Clerk.

**(i) DISCUSSION ITEMS (Item 10)**

**(i) Establishment of Working Group Memberships (Item 10.1)**

Approval of the Establishment of Working Group Memberships, was deferred to the July 25, 2019 meeting.

**(ii) Bill 108 - Proposed Changes to the Ontario Heritage Act (PED19140) (City Wide) (Item 10.2)**

Anita Fabac, Manager of Development Planning, Heritage & Design, addressed the Committee respecting Bill 108 - Proposed Changes to the Ontario Heritage Act (PED19140), with the aid of a PowerPoint presentation.

The presentation respecting Bill 108 - Proposed Changes to the Ontario Heritage Act (PED19140), was received.

For further disposition of this matter, refer to Item 2.

The presentation is available at [www.hamilton.ca](http://www.hamilton.ca), and through the Office of the City Clerk.

**(j) GENERAL INFORMATION/OTHER BUSINESS (Item 13)**

**(i) Buildings and Landscapes (Item 13.1)**

The St. Clair Avenue Conservation District was added to the List of Buildings and Landscapes of Interest (YELLOW).

The following members were assigned to properties on the List of Buildings and Landscapes, for future reports to Committee:

**(a) Endangered Buildings and Landscapes (RED):  
(Red = Properties where there is a perceived immediate threat to heritage resources through: demolition; neglect; vacancy; alterations, and/or, redevelopment)**

- (i) Tivoli, 108 James Street North, Hamilton (D) – T. Ritchie
- (ii) Andrew Sloss House, 372 Butter Road West, Ancaster (D) – C. Dmitry
- (iii) Century Manor, 100 West 5th Street, Hamilton (D) – G. Carroll
- (iv) Beach Canal Lighthouse and Cottage (D) – R. McKee
- (v) 18-22 King Street East, Hamilton (R)(NOI) – W. Rosart
- (vi) 24-28 King Street East, Hamilton (R)(NOI) – W. Rosart
- (vii) 2 Hatt Street, Dundas (R) – K. Burke
- (viii) James Street Baptist Church, 96 James Street South, Hamilton (D) – J. Brown

**(b) Buildings and Landscapes of Interest (YELLOW):  
(Yellow = Properties that are undergoing some type of change, such as a change in ownership or use, but are not perceived as being immediately threatened)**

- (i) Delta High School, 1284 Main Street East, Hamilton (D) – D. Beland
- (ii) 2251 Rymal Road East, Stoney Creek (R) – B. Janssen
- (iii) Former Valley City Manufacturing, 64 Hatt Street, Dundas – K. Burke
- (iv) St. Joseph's Motherhouse, 574 Northcliffe Avenue, Dundas (R) (ND) – W. Rosart

- (v) Copley Building, 104 King Street West; 56 York Blvd., and 63-76 MacNab Street North (NOI) – G. Carroll
- (vi) 1021 Garner Road East, Ancaster (Lampman House) (NOI) – C. Dimitry
- (vii) Dunnington-Grubb Gardens, 1000 Main Street East (within Gage Park) – D. Beland
- (viii) 1 St. James Place, Hamilton (D) – J. Brown

**(c) Heritage Properties Update (GREEN):  
(Green = Properties whose status is stable)**

- (i) The Royal Connaught Hotel, 112 King Street East, Hamilton (R) – T. Ritchie
- (ii) Auchmar, 88 Fennell Avenue West, Hamilton (D) – R. McKee
- (iii) Treble Hall, 4-12 John Street North, Hamilton (R) – T. Ritchie
- (iv) 104 King Street West, Dundas (Former Post Office) – K. Burke
- (v) 45 Forest Avenue, Hamilton – G. Carroll

**(d) Heritage Properties Update (black):**

**(Black = Properties that HMHC have no control over and may be demolished)**

- (i) Auchmar Gate House, Claremont Lodge 71 Claremont Drive (R) – R. McKee

**(k) ADJOURNMENT (Item 15)**

There being no further business, the Hamilton Municipal Heritage Committee adjourned at 2:11 p.m.

Respectfully submitted,

Alissa Denham-Robinson, Chair  
Hamilton Municipal Heritage Committee

Loren Kolar  
Legislative Coordinator  
Office of the City Clerk



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Melanie Schneider (905) 546-2424 Ext. 1224
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION(S)**

That **Draft Plan of Condominium Application 25CDM-201816, by Wellings Planning Consultants Inc., on Behalf of Sonoma Homes Inc. (Michael Chiaravalle), owner** to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units on lands located at 121 Fiddler's Green Road (Ancaster), as shown on Appendix "A", attached to Report PED19131, be **APPROVED** subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Vacant Land) application 25CDM-201816 applies to the plan prepared by A.T. McLaren Limited, certified by S.D. McLaren, and dated April 10, 2019, consisting of a private road, landscaped areas, and five units for a total of five single detached dwellings, attached as Appendix "B" to Report PED19131;
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201816, attached as Appendix "C" to Report PED19131, be received and endorsed by City Council.

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**SUBJECT: Application for Draft Plan of Condominium (Vacant Land) for Lands Located at 121 Fiddler's Green Road (PED19131) (Ward 12) - Page 2 of 12**

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**EXECUTIVE SUMMARY**

The purpose of the application is to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units for a total of five single detached dwellings. The proposed development is conditionally approved under Site Plan Control application DA-18-207. The private road will access onto Fiddler's Green Road. The proposed Draft Plan of Condominium conforms to the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181.

The proposed Draft Plan of Condominium has merit and can be supported as it is consistent with the Provincial Policy Statement (PPS), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan (UHOP).

**Alternatives for Consideration – See Page 12**

**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 a Draft Plan of Condominium (Vacant Land).

**HISTORICAL BACKGROUND**

**Proposal:**

The purpose of the application is to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas, and five units for a total of five single detached dwellings to be developed on the subject lands in accordance with conditionally approved Site Plan Control application DA-18-207, attached as Appendix "D" to Report PED19131. The private road will provide access to Fiddler's Green Road.

**By-law No. 05-535**

In 2005, Council passed By-law No. 05-535 rezoning the subject lands from Residential Multiple "RM3-459" Zone to the Existing Residential "ER-538", "ER-539", and "ER-540" Zones. The effect of this by-law was to allow for the development of two additional single detached dwellings on proposed flag shaped lots, in addition to the existing dwelling on the subject lands.

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Ontario Municipal Board (OMB) Decision)

On March 24, 2016 the OMB issued a Decision and Order that dealt with the Site-Specific appeals for the subject lands, pertaining to the Ancaster Wilson Street Secondary Plan. The Board found that the subject lands were located within a stable residential neighbourhood comprised of single detached dwellings. Also, the development goals of Ancaster Wilson Street Secondary Plan apply to the secondary plan area as a whole, and are not necessarily intended to be met on the subject lands.

The Board found that a “modest amount of intensification” of up to six units on the subject lands was consistent with the Provincial Policy Statement (2014) as this amount of intensification can be accommodated on the subject lands while maintaining the character of the area.

By-law No. 17-181

On August 15, 2017, Planning Committee approved Zoning By-law Amendment application ZAR-17-011 for the development of five single detached dwellings. The application was appealed to the OMB (now Local Planning Appeal Tribunal) by a third party. The OMB issued a Decision and Order which approved the Zoning By-law Amendment and By-law No. 17-181, allowing for a change in zoning from the Existing Residential “ER-538”, “ER-539”, and “ER-540” Zones to the Residential Multiple “R5-688” Zone for the development of five single detached dwellings on the subject lands, in accordance with the Ancaster Wilson Street Secondary Plan.

Site Plan Control Application DA-18-207

On December 17, 2018, Site Plan Control application DA-18-207 was conditionally approved by the Manager of Development, Heritage and Design. This Site Plan Control application implemented the proposal reviewed under Zoning By-law Amendment application ZAR-17-011 for the development of five single detached dwellings accessed from a condominium road.

**Chronology:**

- October 30, 2018: Condominium Application 25CDM-201816 received.
- November 15, 2018: Condominium Application 25CDM-201816 is deemed complete.
- December 6, 2018: Circulation of Notice of Complete Application and Preliminary Circulation for Condominium Application 25CDM-201816 sent to 187 property owners within 120 m of the subject lands.

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December 14, 2018: Public Notice Sign placed on the subject lands.

June 12, 2019: Public Notice Sign updated to indicate Public Meeting date.

June 21, 2019: Notice of Public Meeting circulated to 187 property owners within 120 m of the subject lands.

**Details of Submitted Application:**

**Location:** 121 Fiddler's Green Road (Ancaster)  
(See Location Map attached as Appendix "A" to Report PED19131)

**Owner / Applicant:** Sonoma Homes Inc.

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

**Property Description:**

<u>Lot Frontage:</u>	30 m
<u>Lot Depth:</u>	102 m
<u>Lot Area:</u>	3,048 sq m

**Servicing:** Full Municipal Services

**EXISTING LAND USE AND ZONING**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Single detached dwelling (to be demolished)	Residential "R5-688" Zone, Modified
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Single Detached Dwellings, Multiple Residential Housing for Senior Citizens	Existing Residential "ER" Zone, Residential Multiple "RM6-217" Zone, Modified
<b>South</b>	Single Detached Dwelling	Existing Residential "ER" Zone
<b>East</b>	Single Detached Dwellings	Existing Residential "ER" Zone

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**West**

Single detached dwellings

Existing Residential "ER"  
Zone

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS 2014):**

The Provincial planning policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS 2014). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS and conform to the Growth Plan for the Greater Golden Horseshoe (A Place to Grow 2019).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Ontario Municipal Board approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework.

As the application for a Draft Plan of Condominium complies with the UHOP, it is staff's opinion that the application is:

- consistent with Section 3 of the *Planning Act*;
- consistent with the Provincial Policy Statement (2014); and,
- conforms to A Place to Grow (2019).

**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 in the UHOP, and, "Low Density Residential 1" in the Ancaster Wilson Street Secondary Plan of Volume 2. The following policies, amongst others, are applicable to the subject application.

**Noise**

The UHOP contains relevant policies with respect to noise. Section B.3.6.3 indicates:

- "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."

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In regard to the above applicable policies, dBA Acoustical Consultants Ltd. has prepared an Environmental Noise Feasibility Study, dated January 2019, to mitigate the noise generated from Fiddler's Green Road (a Minor Arterial). Specific building materials, a 1.83m high noise barrier and noise warning clauses are required to protect the rear yard of Unit 1. The noise warning clauses must be provided in future purchase of sale and lease agreements for Unit 1 (see Condition No. 9 of Appendix "C" to Report PED19131).

Natural Heritage

Trees have been observed on the subject property. The City recognizes the importance of trees to the health and quality of life in the community and encourages the protection and restoration of trees.

"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."

In addition, a Private Tree Protection By-law (2000-118) is in place for the Town of Ancaster, which regulates the removal of individual trees that are 45 cm diameter-at-breast-height (DBH) or greater.

A Tree Protection Plan (TPP) and a Landscape Plan are under review with the associated Site Plan Control application DA-18-207 and will need to be approved by staff prior to final Site Plan approval.

Ancaster Wilson Street Secondary Plan:

The subject lands are designated as "Low Density Residential 1" on Map B.2.8-1 – Ancaster Wilson Street Secondary Plan Land Use Plan.

The proposed development consists of five single detached units, each having a minimum unit area of 375 square metres, and a minimum frontage of 18.0 metres, with access from a private condominium road, all of which comply with the policies of the Secondary Plan.

"B.2.8.7.2 In addition to Sections B.3.2 - Housing Policies, C.3.2 - Urban Area General Provisions, and E.3.0 - Neighbourhood Designations of Volume 1, the following policies apply to all residential land use designations identified on Map B.2.8-1-Ancaster Wilson Street Secondary Plan: Land Use Plan:

- d) Direct access to individual dwelling units from Wilson Street and Fiddlers Green Road shall be discouraged. Alternative forms of access, such as use of shared or common access points and rear lane arrangements, shall be encouraged."

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As the form of development will be a Condominium, the proposed individual units will not be directly accessed from Fiddler's Green Road but rather by a private road. As such, the proposal complies with the above policy.

**"B.2.8.7.3 Low Density Residential Designations**

- a) In addition to Section E.3.4 – Low Density Residential of Volume 1, for lands designated Low Density Residential 1 on Map B.2.8-1 - Ancaster Wilson Street Secondary Plan: Land Use Plan, the following policies shall apply:
  - i) Notwithstanding Policy E.3.4.3 of Volume 1, the permitted uses shall be limited to single detached dwellings and semi-detached dwellings.
  - iii) Notwithstanding Policy E.3.4.4 of Volume 1, the net residential density range shall be 1 - 20 units per hectare.
  - iv) Notwithstanding Policy E.3.4.5 of Volume 1, the maximum building height shall be 2.5 storeys."

The "Low Density Residential 1" designation in the Secondary Plan identifies a maximum density of 20 units per net residential hectare (uph), which permits single detached and semi-detached dwellings. In regard to this development, the proposed Draft Plan of Condominium complies with the above noted policies by establishing tenure for single detached dwellings having a density of 16 units per hectare.

Therefore, the proposal complies with the policies of the Ancaster Wilson Street Secondary Plan.

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

The subject lands are zoned Residential "R5-688" Zone, Modified in the Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181. The "R5-688" Zone, Modified permits the proposed form of development, being five single detached dwellings on one lot. Since the proposal is to establish a Vacant Land Condominium, comprised of five units for five single detached dwellings having access onto a private condominium road, the proposal conforms to the Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181. Condition No. 1 of Appendix "C" to Report PED19131 has been included to ensure the proposal is developed in accordance with the Zoning By-law.

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**Site Plan Control Application DA-18-207**

Site Plan Control application DA-18-207 received conditional approval from the Manager of Development Planning, Heritage and Design on December 17, 2018. The proposed Draft Plan of Condominium will be required to comply with the final approved Site Plan (see Condition No. 2 of Appendix "C" to Report PED19131).

**RELEVANT CONSULTATION**

The following Departments / Agencies have no comments or objections:

- Hydro One Networks Inc; and,
- Transportation Planning Division.

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

**Canada Post Corporation** has identified that the site will be serviced by a centralized mailbox. The applicant will need to locate the mailbox on site per standard requirements. Associated warning clauses regarding this requirement have been included as Condition Nos. 3(ii) and 4 to 8 in Appendix "C" to Report PED19131.

**Hamilton Street Rail (HSR)** has noted that the lands are serviced along Fiddler's Green Road by existing transit. Direct pedestrian connections should be provided to the public pedestrian network as a result. This comment is being addressed through the Site Plan Control application DA-18-207.

**Healthy Environments Division, Healthy and Safe Communities Department** have requested a Pest Control Plan focusing on rats and mice during the demolition and construction phase of the development proposal. This is being implemented through the Site Plan Control application DA-18-207.

**Recycling and Waste Disposal Section, Public Works Department** has reviewed the development and noted that the site is eligible for municipal waste collection. Prior to Occupancy, the future residents will be required to enter into an Agreement for On-Site Collection of Municipal Solid Waste in order to begin waste collection on private property.

**Union Gas Ltd.** requires that the applicant provide necessary easements and/or agreements for the provision of gas services for this project. This has been included as Condition No. 11 in Appendix "C" to Report PED19131.

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**Public Consultation**

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 187 property owners within 120 m of the subject property on December 6, 2018.

To date, two submissions have been received from the public through this circulation. These submissions are attached as Appendix "E" to Report PED19131, are summarized in the Analysis and Rationale for Recommendation section of this Report and a staff response is provided in response to the issued concerns and comments submitted.

A Public Notice Sign was posted on the property on December 14, 2018 and updated on June 12, 2019 with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on June 21, 2019.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe;
  - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
  - (iii) The proposal establishes condominium tenure for a form of development permitted under the Town of Ancaster Zoning By-law No. 87-57 as amended by By-law No 17-181. It will implement the conditionally approved Site Plan Control Application DA-18-207, which provides for a form of development that is compatible with surrounding land uses.
  
2. The proposed Draft Plan of Condominium (Vacant Land) is comprised of the following common elements: a private condominium road, landscaped areas, and five units for single detached dwellings, as shown on the attached plan, marked as Appendix "B" to Report PED19131. The private condominium road will provide access to Fiddler's Green Road. All five units will be accessed from the private condominium road.
  
3. The applicant must ensure that Site Plan Control Application DA-18-207, conditionally approved on December 17, 2018, receives final approval and that the Final Plan of Condominium complies with the final approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner (Condition No. 2 of Appendix "C" to Report PED19131).

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4. The proposed condominium road will be privately owned and maintained. As a condition of approval, the applicant must include warning clauses in all purchase and sale agreements and rental or lease agreements to advise perspective purchasers that the City of Hamilton will not provide maintenance or snow removal and that the provided garages are for parking (including that on-street, overflow parking may not be available and cannot be guaranteed in perpetuity) (Condition No. 3 (i) and (iii) of Appendix "C" to Report PED19131).
5. Development Engineering has advised that the stormwater management and site servicing for this site contains infrastructure that requires specific maintenance. Warning clauses relating to this maintenance must be provided in all purchase and sale and rental or lease agreements for units and have been included as Condition No. 10 of Appendix "C" to Report PED19131.
6. Growth Management staff have advised that the following standard note be added to the Draft Plan of Condominium Conditions as Note 1 (see Appendix "C" to Report PED19131):
 

**"NOTE:** Pursuant to Section 51(32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received before the draft approval lapses."
7. The owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton (Condition No. 12 in Appendix "C" to Report PED19131).
8. The circulation of the application for Draft Plan of Condominium has resulted in the submission of correspondence from two nearby property owners (see Appendix "E" to Report PED19131). The concerns raised by the property owners are summarized as follows.

Zoning By-law Amendment Activity

The submissions note that the subject lands have been reviewed under several Zoning By-law Amendment applications over the years and opine that each proposal has not been in character with the surrounding neighbourhood. Further, the second submission objects to any condominium road being constructed. The submission also outlines concerns with the zoning requirements including lot coverage, lot size, and density. Staff note that the lands have been reviewed against the residential intensification policies through Report PED17152, which noted that the Residential "R5-688" Zone, Modified, is compatible with the surrounding lands. Further, the modified "R5-688" Zone was adopted by Council on August 18, 2017 and further approved by the Ontario Municipal Board (now Local Planning Appeal Tribunal) on March 26, 2018. As the Draft Plan of

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Condominium application is meant to establish tenure for the development, these concerns have been previously addressed and are outside of the parameters of this application.

Existing Dwelling on Site

One of the submissions noted that the lands are not vacant and that the existing single detached dwelling is still habitable. Staff note that the Vacant Land Condominium refers to the type of Condominium tenure defined under the *Condominium Act* and is not a reflection of what exists on the lands today. Further, the existing dwelling on site is not protected under the *Ontario Heritage Act*. Accordingly, there is no requirement to maintain the existing dwelling which is intended to be demolished in order to facilitate the proposed development.

Location of Driveway Access

One of the submissions has requested that the driveway location be shifted to be adjacent to the northerly side property line. Due to the Zoning By-law setback requirements, the location of the driveway is set to be adjacent to the southerly side yard. Further, the location of the driveway was set in its current position to address previous feedback from the public as discussed in Report PED17152.

Location of Unit #5

One of the submissions has suggested to shift Unit #5 to avoid impacts on mature trees on site. Unit 5 shown on the Draft Plan of Condominium refers to the area on which a single detached dwelling can be placed within, as required for a Vacant Land Condominium. The retention of mature trees is being reviewed under the required Tree Protection Plan as part of the Site Plan Control application DA-18-207.

Stormwater Management and Grading

Concerns were raised with potential conflicts with stormwater management, increased lot coverage, intensive grading and increase in flooding events. Staff note that stormwater management and grading is reviewed through the Site Plan Control application DA-18-207. The lot coverage was reviewed through the previous Zoning By-law Amendment application and is not under the purview of this application.

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Details of Development Design

The submission raised concerns with how and where snow will be removed and stored and the placement of fencing on site for security purposes. These items are not regulated under the Zoning By-law, but are under the purview of the Site Plan Control application. A warning clause for snow removal has been included as Condition No. 3 (i) in Appendix "C" to Report PED19131.

Coordination of Underground Works during Construction

The submission identified that any works within the municipal right of way should be coordinated at the same time as any above ground works as part of the construction process. This is dealt with during the construction process and is beyond the scope of the Draft Plan of Condominium review.

**ALTERNATIVES FOR CONSIDERATION**

Should the proposed Plan of Condominium (Vacant Land) not be approved, the applicant / owner could develop the lands as a rental development. No additional approvals would be required to facilitate this alternative.

**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.

**Our People and Performance**

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

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A" – Location Map
- Appendix "B" – Draft Plan of Condominium
- Appendix "C" – Draft Plan Conditions
- Appendix "D" – Site Plan
- Appendix "E" – Public Submissions

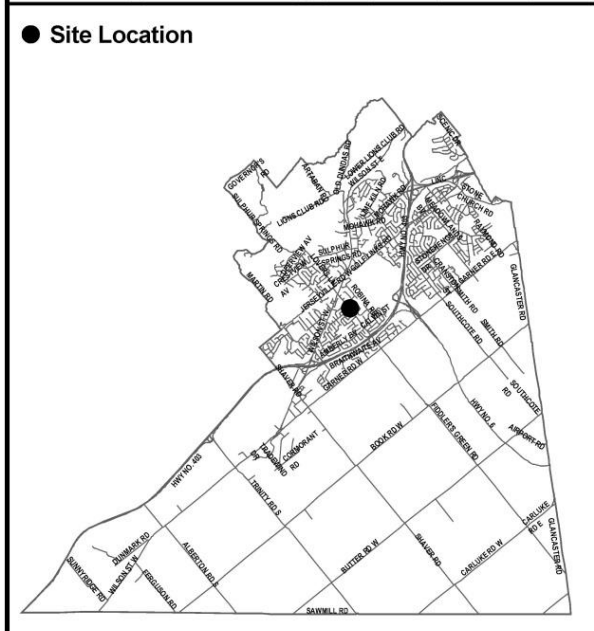
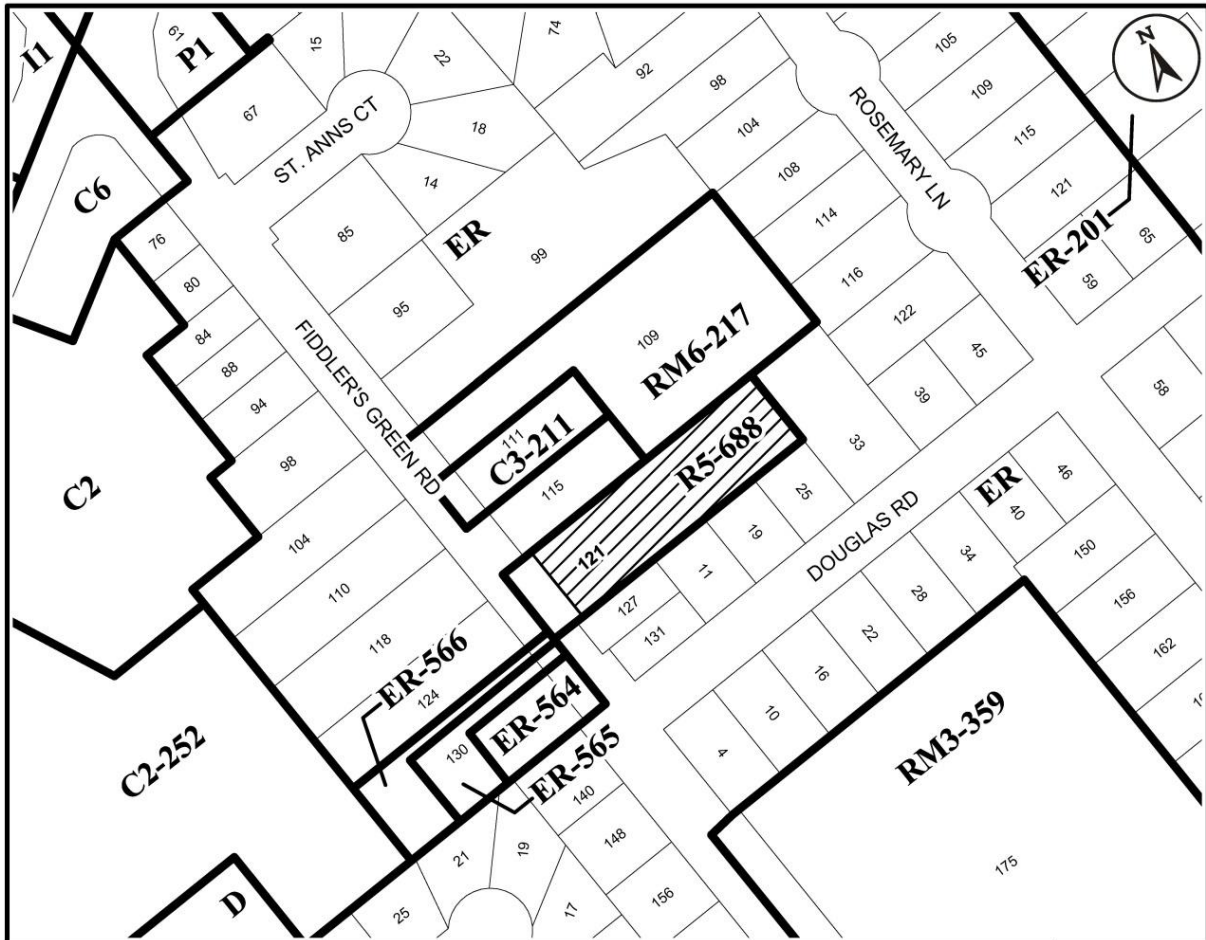
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Key Map - Ward 12

N.T.S.



## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
25CDM-201816

Date:  
November 14, 2018

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
JA/AL

### Subject Property



121 Fiddler's Green Road



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

That this approval for the **Draft Plan of Condominium Application 25CDM-201816, by Wellings Planning Consultants Inc., on behalf of Sonoma Homes Inc. (Michael Chiaravalle), Owner**, to establish a Draft Plan of Condominium (Vacant Land) to create a private road, landscaped areas and five units, on lands located at 121 Fiddler's Green Road (Ancaster), be received and endorsed by City Council with the following special conditions:

1. That the final Plan of Condominium shall comply with all of the applicable provisions of the Town of Ancaster Zoning By-law No. 87-57, as amended by By-law No. 17-181, or in the event the City of Hamilton has repealed and replaced the Town of Ancaster Zoning By-law No. 87-57 with By-law No. 05-200, the final Plan of Condominium shall comply with all of the applicable provisions of the Zoning By-law in force and effect at the time of registration of the Draft Plan of Condominium.
2. That Site Plan Application DA-18-207 receive final approval and that the final Plan of Condominium complies with the final approved Site Plan, to the satisfaction of the Director of Planning and Chief Planner.
3. That the owner shall agree to include the following in all Purchase and Sale Agreements and Rental or Lease Agreements, to the satisfaction of the Senior Director of Growth Management:
  - (i) Purchasers are advised that the City of Hamilton will not be providing maintenance or snow removal service for the private condominium road.
  - (ii) The home mail delivery will be from a Community Mail Box.
  - (iii) Garages are provided for the purpose of parking a vehicle. It is the responsibility of the owner / tenant to ensure that their parking needs (including those of visitors) can be accommodated onsite. On-street, overflow parking may not be available and cannot be guaranteed in perpetuity.
4. That the owner will be responsible for officially notifying the purchasers of the exact Community Mail Box locations, to the satisfaction of Senior Director of Growth Management and Canada Post prior to the closing of any home sales.
5. That the owner work with Canada Post to determine and provide temporary suitable Community 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, to the satisfaction of the Senior Director of Growth Management.
6. That the owner install a concrete pad in accordance with the requirements of, and in locations to be approved by the Senior Director of Growth Management and Canada Post, to facilitate the placement of Community Mail Boxes.

7. That the owner identify the concrete pads for the Community Mail Boxes on the engineering / servicing drawings. Said pads are to be poured at the time of the sidewalk and / or curb installation within each phase, to the satisfaction of the Senior Director of Growth Management.
8. That the owner determine the location of all mail receiving facilities in co-operation with the Senior Director of Growth Management and Canada Post, and to indicate the location of mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s), showing specific mail facility locations.
9. That the owner shall agree to include the following in all Purchase and Sale Agreements and Rental or Lease Agreements and in the Condominium Declaration, as described in the report titled "121 Fiddler's Green Road Development, City of Ancaster, now City of Hamilton", dated January 2019, to the satisfaction of the Director of Planning and Chief Planning:
  - (i) Unit 1:

Warning Clause "A":

Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the sound level limits of the City of Hamilton and the Ministry of the Environment, Conservation and Parks.

Warning Clause "C":

This dwelling unit has been fitted with a forced air heating system and the ducting etc., was sized to accommodate central air condition. Installation of central air conditions will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the Municipality's and the Ministry of the Environment, Conservation and Park's noise criteria. (Note: the location and installation of the outdoor air conditioning device should be done so as to minimum the noise impacts and comply with the criteria of MECP publication NPC-216 Residential Air Conditioning Devices and thus minimize the noise impacts both on and in the immediate vicinity of the subject property.)
10. That the owner shall agree to include the following in all Purchase and Sale Agreements and Rental or Lease Agreements and in the Condominium Declaration, to the satisfaction of the Manager of Development Engineering Approvals:

**NOTICE REGARDING MAINTENANCE OF THE PERFORATED PIPE SYSTEM**

There is a private perforated pipe system shown on the approved servicing drawing prepared by S. Llewellyn & Associates Limited Consulting Engineers. The Owner must ensure that the system is operating optimally at all times.

**NOTICE REGARDING MAINTENANCE OF THE HYDROGUARD SYSTEM**

The private "Hydroguard" system is depicted as storm manhole MH2 on the approved servicing drawing prepared by S. Llewellyn & Associates Limited Consulting Engineers. The maintenance requirements for the Hydroguard unit are documented at [concastpipe.com](http://concastpipe.com). The unit should be inspected once per year. Maintenance intervals will be required depending on individual site conditions (traffic use, stabilization, storage piles, etc.). The long-term maintenance frequency can be established based on the maintenance requirements during the first several years of operation if site conditions do not change. The Hydroworks HG unit is typically maintained using a "vactor" truck or "clam shell bucket". There are numerous companies that can maintain this unit. The HG separator must be maintained if there is an appreciable depth of oil in the unit (more than a sheen) or if floatables other than oil cover over 50% of the open water surface on the inlet side of the outlet baffle wall. It should also be maintained once the accumulated TSS/sediment depths are greater than 14" (350 mm) in the inner chamber.

11. That the owner / developer provide to Union Gas the necessary easements and / or agreements required by Union Gas for the provision of gas services, in a form satisfactory to Union Gas.
12. That the owner shall satisfy all conditions, financial or otherwise, of the City of Hamilton.

**NOTES TO DRAFT PLAN APPROVAL**

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



**Schneider, Melanie**

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**From:** Frank Van Hullenaar <vanhullenaar@gmail.com>  
**Sent:** December 31, 2018 3:33 PM  
**To:** Schneider, Melanie; McPhail, Delia; Parsons, Catherine; Stephen.Robichaud@hamilton.ca; VanderWindt, Ed  
**Cc:** Ferguson, Lloyd; Tom St Michael  
**Subject:** RE: Draft Plan of Vacant Land Condominium (File # 25CDM-201816) & Planning Act for Site Plan Application DA-18-207

Dear City Planners,

I wish to be notified of all of the proposed Draft Plan of Condominium in regards to the Property @ 121 Fiddlers Green Road in the town of Ancaster due to the following:

- This property has been under constant zoning amendment for over 25 years and every time a developer wants MORE!
- This property was originally Zoned ER1
- This lot is currently not Vacant Land but has an existing home on the property that could be habitable.
- The property is outside the Transition Zone.
- THE DIFFERENCES BETWEEN THE OMB DECISION RM3, AND THE PROPOSALS' RM5, ARE SUBSTANTIAL.
  1. THE INCREASE IN DENSITY GOES FROM 22 UNITS / HECTARE (RM3) TO 50 UNITS / HECTARE (RM5)
  2. LOT COVERAGE OF IMPERVIOUS MATERIAL GOES FROM (RM3) 25% TO (RM5)35%
  3. SETBACK REQUIREMENTS ARE BEING EITHER BEING ADJUSTED OR IGNORED IN ORDER TO SHOEHORN IN THESE 5 PROPOSED 375 SQ. M. APPROX 3800 SQ.FT UNITS. ACCORDING TO THE PROPOSALS OWN DIAGRAM THE LOT COVERAGE IS IN APPROX. 52% OR 1724.92 SQ. M. THIS IS APPROX 20% IN EXCESS OF THE RM 5 ZONING AND 30% IN EXCESS OF THE RM3 ZONING REQUIREMENTS. HOUSE – 781.4 SQ. M. DRIVEWAYS- 193.5 SQ. M. ROADWAY- 644.672 SQ. M. BULLNOSE 104.72 SQ. M. TOTAL LOT COVERAGE- 1724.92 SQ. M. LOT AREA- 3149.52 SQ. M. COVERAGE @ 55% - 1732.23 SQ. M.
- I request that the Access roadway be moved to the North side of the Property as to facilitate the rear yards of the development face the rear yards of the properties on Douglas Road to the South.
- I also request that the Unit #5 be rotated 90 degrees as not to encroach on the tree line on the East side of the property, having the building that close to the mature trees will kill the trees within a few years....Please Have a Look!

The Storm water drainage could be a problem:

the guiding principle of the Storm water Master Plan is to "Treat rainwater as a resource to be protected and managed rather than a waste product to be quickly moved from where it falls."

While the Water/Wastewater and Stormwater Master Plans are key components of Hamilton's long-term flood prevention strategies, they are not a direct or complete response to increased storm activity and flooding. In hindsight, City staff has acknowledged that in light of the current issues, the Master Plan process may have been too focused on new facilities and future development, not giving enough attention to the holistic performance of the current system with potential retrofit and source control and damage mitigation practices in extreme events. It needs to be recognized that severe storms can frequently exceed design standards and cannot be addressed with capacity improvements alone. The rainfalls in the summer of 2005 were a strong reminder of this.

THE ALLOWABLE COVERAGE UNDER RM3 IS 25% OR 787.4 SQ. M., THE PROJECT LOT COVERAGE IS IN EXCESS OF THIS AMOUNT BY 120% OR 944.83 SQ.M. FURTHER THE ALLOWABLE COVERAGE UNDER RM5 IS 35% OR 1102.34 SQ M., THE PROJECT LOT COVERAGE IN IS EXCESS OF THIS AMOUNT BY 57% OR 629.89 SQ.M

- THE ABILITY OF THE CURRENT SEEMINGLY OUTDATED INFRASTRUCTURE STANDARDS (FROM 1999), TO BE THE GUAGE TO ADEQUITLY CONTROL THE DRAINAGE OF THIS PROPERTY WITH ONLY 25% COVERAGE IN ITSELF A MAJOR UNDERTAKING LET ALONE INCREASING THE LOT COVERAGE TO APPROX. 52%. THERE IS NO CURRENT STORM SEWER DRAINAGE AVAILABLE AT THE PROPERTY. THE

## Appendix "E" to Report PED19131

Page 2 of 5

PROMISE OF ADEQUATE DRAINAGE CONTROL IS VAGUE, ARBITRARY, AND SUBJECT TO INTERPRETATION. FURTHER IT SEEMS THAT WITH THE CURRENT CLIMATE CHANGES THAT THE CITY MAY HAVE A LARGER DRAINAGE PROBLEM THAN IT HAS BEEN PLANNING FOR. THE SYSTEM MAY BE AT LEAST INSUFFICIENT OR AT MOST ANTIQUATED BY USING DATED STANDARDS THAT MAY NOT BE GOOD BASELINES.

HAMILTON OFFERS A COMPASSIONATE GRANT OF UP TO \$1000.00 TO FLOODED PROPERTY OWNERS. SPENDING FROM THIS FUND HAS EXCEEDED 5M AND IS BEING TAPPED AGAIN AFTER THE DUNDAS FLOODING EARLIER.

WINDSOR WAS HOPING FOR DISASTER MONIES JUST AS HAMILTON UNSUCCESSFULLY DID IN 2009 AFTER THE EAST END FLOODING OF 7000 HOMES AND THE RED HILL VALLEY PARKWAY. THE 30M HIT TO THE MUNICIPAL INFRASTRUCTURE ENDED UP BEING CARRIED BY LOCAL TAXPAYERS AND INDIVIDUALS WHOSE HOMES WERE FLOODED. SINCE THEN THE CITY HAS POURED MILLIONS INTO SEWER UPGRADES.

FURTHER TO THE WINDSOR INCIDENT, THEY RECEIVED 250MM OF RAIN IN 2 DAYS. THOUSANDS OF HOMES WERE SWAMPED DISPIE THE CITY SPENDING 25MYR FOR THE LAST DECADE TO UPGRADE STORM SEWER SYSTEMS.

- WE HAVE RECENTLY WITNESSED THE DISTRUCTION AND FLOODING IN DUNDAS ON, AND WINDSOR ON, AS WELL AS THE 2009 FLOODING OF THE RED HILL PARKWAY, GREENHILL AVE., AND PAST FLOODING OF LOCKE STREET, CHEDOKE / ABERDEEN AREAS AND NUMEROUS ANCASTER SURVEYS (PERTH PARK, CLEARVIEW ESTATES ) WITH DRAINAGE PROBLEMS
- 
- THE MANDATE FOR INTENSIFICATION DOES NOT NECESSARILY RESULT IN MORE DWELLING UNITS EVERYWHERE. RATHER, WHERE ADDITIONAL DENSITY CAN BE MANAGED APPROPRIATELY WHILE MAINTAINING THE CHARACTER OF THE EXISTING NEIGHBOURHOOD. INFILL DEVELOPMENT IS A FORM OF INTENSIFICATION AND CAN IMPACT THE CHARACTER OF AN EXISTING NEIGHBOURHOOD IF REDEVELOPMENT IS NOT SYMPATHETIC TO THE EXISTING BUILT FORM. THE RESIDENTIAL ZONES WILL CREATE OPPORTUNITIES FOR INTENSIFICATION, BY ZONING FOR ADDITIONAL DENSITY AND CREATING INFILL OPPORTUNITIES, WHERE APPROPRIATE. ZONING REGULATIONS WILL ALSO PROTECT AREAS WHERE ADDITIONAL DEVELOPMENT WOULD DISRUPT THE CHARACTER AND FORM OF THE EXISTING NEIGHBOURHOOD.
- 
- THESE ARE THE RULES, REQUIRMENTS AND GUIDELINES THAT WERE IN PLACE LONG BEFORE THE DEVELOPER PURCHASED THE PROPERTY, AND THE SURROUNDING RESIDENTS AND COMMUNITY HAD PURCHASED THEIRS.
- ADDITIONAL CONCERNS ARE: THE EXTENSIVE GRADING REQUIRED AND ADDITIONAL RUNOFF, SNOW REMOVAL, SNOW STORAGE AND SPRING THAW RUNOFF. THE LACK OF A COMPREHENSIVE TREE STUDY (SHOWS THE REMOVAL OF 42 TREES), PLAN TO PROTECT EXISTING / BOARDING TREES (MOSTLY CLEARCUTTING), NO BOARDING FENCES, (TRESSPASSING, VANDALISM, & SECURITY) AND APPROX 2 YEARS OF CONSTRUCTION. THESE ITEMS ALL SEEM TO BE DEFERRED TO SITE PLAN STAGE RATHER THAN FITTING THE CURRENT ZONING REQUIRMENTS. IN OTHER WORDS WE WILL FIT THE ZONING TO THE PROJECT INSTEAD OF FITTING THE PROJECT TO THE ZONING.
- 
- Street Master Plans are carried out with the intention of coordinating with infrastructure projects such as underground work. Above-ground changes to the streetscape, such as lane re-configurations, bike lanes, widening of sidewalks and other changes to the right-of-way impact the below grade infrastructure. Therefore, the coordination of above and below ground works assist in reducing unnecessary disruptions to adjacent property owners, businesses, vehicular traffic and pedestrians.

I ask that you take into consideration these issues in your decision to permit a Condominium on the Postage stamp property.

Regards, Frank Van Hullenaar .

33 Douglas Road, Ancaster. L9G 2E2  
905-648-1332

--

**Frank Van Hullenaar**  
**TGC Mechanical Services Inc.**  
**Rotating Equipment Specialist**



**Schneider, Melanie**

---

**From:** TOM ST. MICHAEL <tstmichael@cogeco.ca>  
**Sent:** January 7, 2019 2:20 PM  
**To:** Schneider, Melanie  
**Cc:** tstmichael@cogeco.ca; Frank Hullenaar; Ferguson, Lloyd  
**Subject:** RE: condominium application (25CDM-201816)

Hi Melanie,

We are opposed to the term "vacant and land" considering the fact there is a house on the property at #121 Fiddlers Green Rd.

We have vehemently opposed the construction of a condominium road since the outset of the project by the previous owner.

We appealed the City of Hamilton decision to grant approval for rezoning of the property to the Ontario Municipal Board (Mar 05/2018).

We feel now, as we did then, that mature neighbourhoods need not to be protected from infilling and over intensification. The subject property is part of the "ER" (existing residential) zoning of the survey known as "Greenside Acres" as designated in the Ancaster Wilson Street Secondary Plan.

There are NO condominium roads in any mature neighbourhoods in Ancaster.

All single family homes have their backyards backing on to another backyard. That is the character of existing residential neighbourhoods.

We, and other neighbours on Douglas Rd., have requested from the beginning of this project that any road that is built on the subject property should be located on the north side, not the southside, to be compatible with existing character.

Please keep us informed of the Public Meeting regarding the staff report that will be available to the residents.

Respectfully,

Tom and Teresa St. Michael

On 01/07/19, "**Schneider, Melanie**" <Melanie.Schneider@hamilton.ca> wrote:

Hi Tom and Teresa,

Thank you for your email regarding the above noted application. Please note that we have yet to schedule a date for the Planning Committee meeting. I kindly request that you provide some of your concerns in writing, such as in response to this email, so that your concerns can be included in the associated staff report. The report itself needs to be prepared prior to the Planning Committee meeting so it would be appreciated if we could review and potentially address your concerns as soon as possible.

Regards,

Melanie Schneider

Planner II

Development Planning, Heritage & Design, Suburban Team

Planning & Economic Development Department

City of Hamilton

71 Main Street West, 5<sup>th</sup> Floor

Hamilton ON L8P 4Y5

p. 905.546.2424 ext. 1224

f. 905.546.4202

e. [Melanie.Schneider@hamilton.ca](mailto:Melanie.Schneider@hamilton.ca)

**From:** TOM ST. MICHAEL <tstmichael@cogeco.ca>

**Sent:** December 20, 2018 4:08 PM

**To:** Schneider, Melanie <Melanie.Schneider@hamilton.ca>

**Cc:** tstmichael@cogeco.ca; Frank Hullenaar <vanhullenaar@gmail.com>; Ferguson, Lloyd <Lloyd.Ferguson@hamilton.ca>

**Subject:** condominium application (25CDM-201816)

Tom and Teresa St. Michael

25 Douglas Rd.

Ancaster, ONT

L9G 2E2

(905)648-1659

Dear Ms Schneider,

We received the notice of the application for Draft Plan of Condominium Lands at #121 Fiddlers Green Rd.

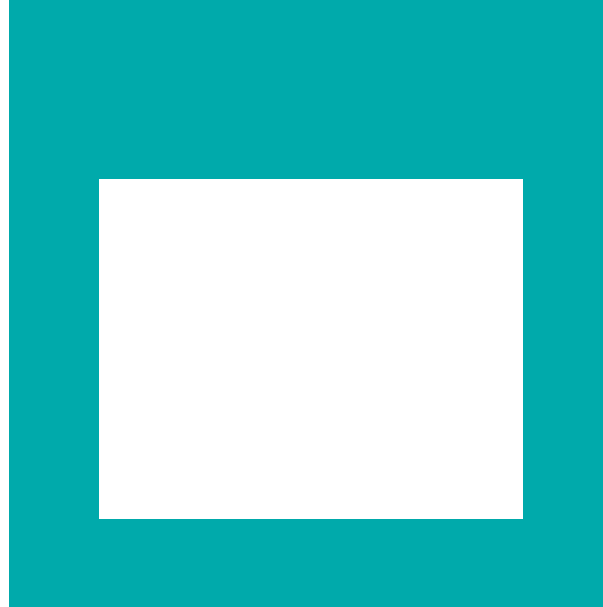
We will definitely be attending the Public Meeting to inspect the staff report.

And we will be making an oral submission on the application at that time. Which will be followed by a written submission.

We are also asking to be notified of the decision by the City of Hamilton with respect to the Draft Plan of Condominium, and also any decision made with regards to the Site Plan Application DA-18-207.

Respectfully,

Tom and Teresa St. Michael



WELCOME TO THE CITY OF HAMILTON

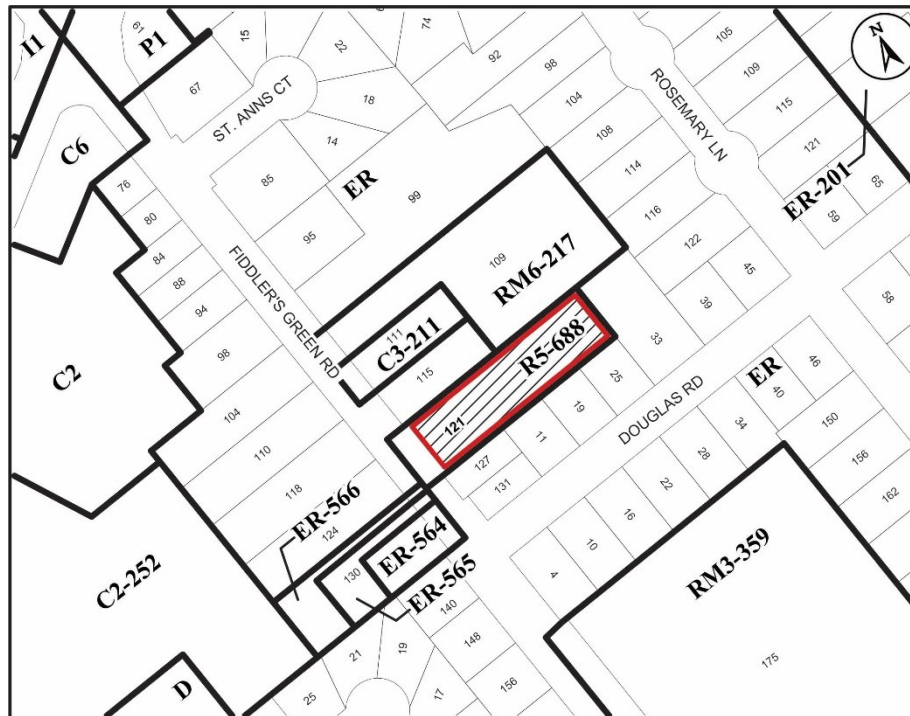
# PLANNING COMMITTEE

July 9, 2019

# PED19131 – (25CDM-201816)

Application for Draft Plan of Condominium (Vacant Land) for  
Lands Located at 121 Fiddler's Green Road, Ancaster.

Presented by: Melanie Schneider



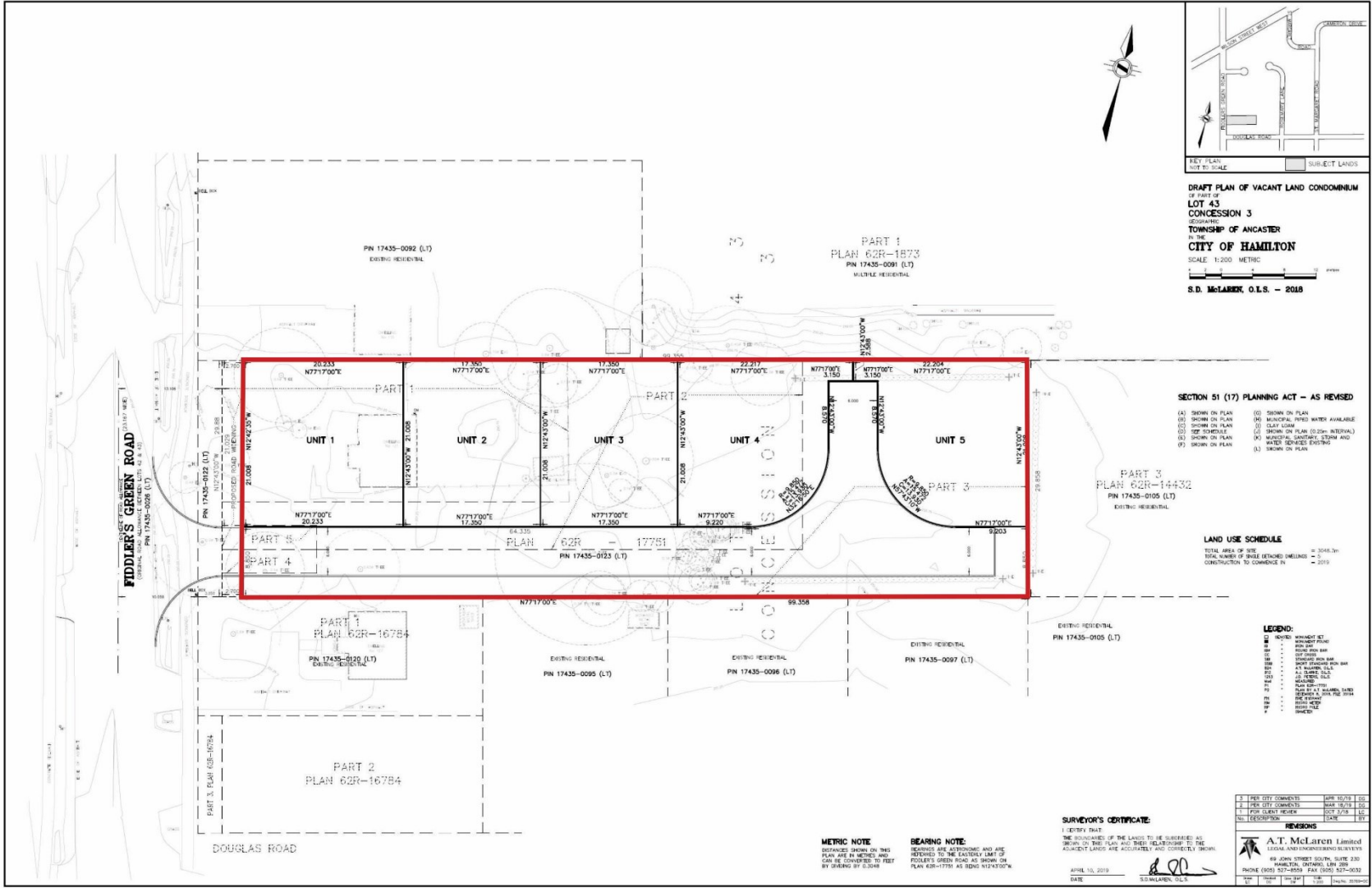
<p>● Site Location</p> <p>Key Map - Ward 12</p>	<p><b>Location Map</b></p> <p>Hamilton</p>	
	<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>	
<p>File Name/Number: 25CDM-201816</p>	<p>Date: November 14, 2018</p>	
<p>Appendix "A"</p>	<p>Scale: N.T.S.</p>	<p>Planner/Technician: JA/AL</p>
<p><b>Subject Property</b></p> <p> 121 Fiddler's Green Road</p>		
<p>Key Map - Ward 12</p>		<p>N.T.S. </p>



**SUBJECT PROPERTY**



**121 Fiddler's Green Road, Hamilton**



**DRAFT PLAN OF VACANT LAND CONDOMINIUM**  
 25 PARTS OF  
**LOT 43**  
**CONCESSION 3**  
 (INCORPORATING)  
**TOWNSHIP OF ANCASTER**  
 IN THE  
**CITY OF HAMILTON**  
 SCALE 1:200 METRIC  
 S.D. McLaren, O.L.S. - 2018

**SECTION 51 (17) PLANNING ACT - AS REVISED**  
 (A) SHOWN ON PLAN (C) SHOWN ON PLAN (M) SHOWN, PRICE NOT AVAILABLE  
 (B) SHOWN ON PLAN (D) SHOWN ON PLAN (N) CLAY LEAM (O) SHOWN ON PLAN (S) 25M INTERVAL  
 (E) SHOWN ON PLAN (F) SHOWN ON PLAN (P) MULTIPLE SOUTHERLY STRM AND  
 (G) SHOWN ON PLAN (H) SHOWN ON PLAN (Q) WOODS (R) SHOWN ON PLAN (T) SHOWN ON PLAN  
 (I) SHOWN ON PLAN (J) SHOWN ON PLAN (L) SHOWN ON PLAN

**LAND USE SCHEDULE**  
 TOTAL AREA OF SITE = 2085.7M<sup>2</sup>  
 TOTAL NUMBER OF UNITS (BETWEEN 0-10) = 5  
 CONSTRUCTION TO COMMENCE IN = 2019

**LEGEND:**  
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**SURVEYOR'S CERTIFICATE:**  
 I CERTIFY THAT  
 THE REQUIREMENTS OF THE LANDS TO BE SUBMITTED AS  
 BEING ON THIS PLAN AND BEING RELYING UPON THE  
 ACCURACY OF THE SURVEY AND CORRECTLY BEING:  
 APRIL 10, 2019  
 S.D. McLaren, O.L.S.

**REVISIONS**  

NO.	DESCRIPTION	DATE	BY
1	PER CITY COMMENTS	MAR 10/18	GD
2	PER CITY COMMENTS	MAR 19/18	GD
3	FOR CLERK REVIEW	FEB 25/18	GD

**A.T. McLaren Limited**  
 LEGAL AND ENGINEERING SERVICES  
 48 JOHN STREET SOUTH, SUITE 210  
 HAMILTON, ONTARIO, L8N 2B8  
 PHONE (905) 527-8559 FAX (905) 527-0532  
 www.atmclaren.com

**METRIC NOTE:**  
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY MULTIPLYING BY 3.2808

**BEARING NOTE:**  
 BEARINGS SHOWN ON THIS PLAN ARE IN DECIMAL DEGREES AND ARE REFERRED TO THE EASTERLY LIMIT OF FIDDLERS GREEN ROAD AS SHOWN ON PLAN 62R-17771 AS BEING N1243100"W







Subject Lands



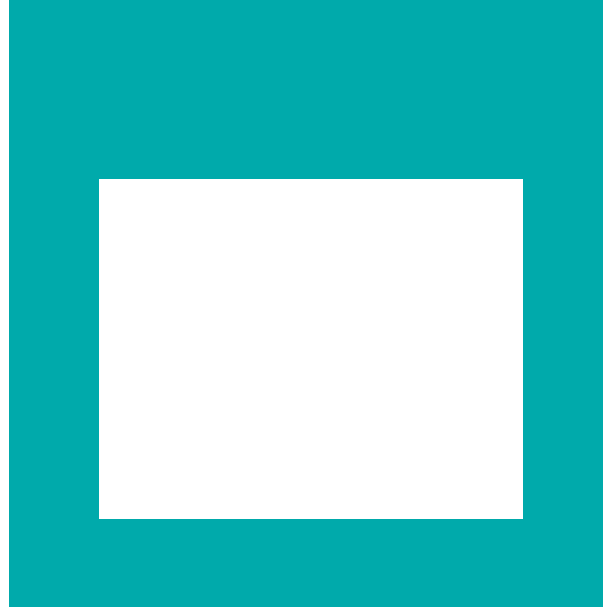
Lands to the north including commercial lands



Lands to the south



Single Detached Dwellings to the west



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13)
<b>WARD AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Ryan Ferrari (905) 546-2424 Ext. 5865
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-19-013, by Sisters of St. Joseph, (Owner)**, to establish a Temporary Use By-law to permit a dormitory for 96 students with an additional 42 students subject to servicing upgrades for a total of 138 students as a temporary use within Building 'B', for a maximum period of three years, for the lands located at 574 Northcliffe Avenue, Dundas, as shown on Appendix "A" to Report PED19132, be **APPROVED** on the following basis:

- (i) That the draft Temporary Use By-law, attached as Appendix "B" to Report PED19132, be approved by City Council;
- (ii) That a Holding Symbol (H) pursuant to Section 36 of The Planning Act, R.S.O. 1990, c.P. 13 and Subsection 4.9 of By-Law No. 3581-86 is hereby applied to the PPS Zone category as it applies to 574 Northcliffe Avenue (Building 'B'). For such time as the Holding Symbol (H) applies to the subject lands, temporary dormitory shall be limited to a maximum capacity of 96 students. Council shall remove the Holding Symbol (H) by by-law amendment upon all of the following requirements having been addressed to its satisfaction:

---

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 to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 2 of 22**

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- (1) The applicant / proponent shall demonstrate and have attained all of the necessary approvals to provide adequate services to increase the capacity beyond 96 students to accommodate a dormitory having a maximum capacity of 138 occupants to the satisfaction of the Niagara Escarpment Commission, Director, Development Planning and Ministry of Environment, Conservation and Parks.
- (2) That upon such time as the Holding Symbol (H) is lifted, the temporary dormitory shall have a maximum occupancy of 138 persons.
- (iii) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to the Niagara Escarpment Plan, Greenbelt Plan, and Parkway Belt West Plan and complies with the Region of Hamilton-Wentworth Official Plan and Town of Dundas Official Plan.

### **EXECUTIVE SUMMARY**

The subject lands are situated in the former Town of Dundas, northwest of the interchange of Highway No. 6 and Highway No. 403. The subject lands are approximately 19.4 ha (47.93 ac) in size with two existing buildings on site. Building 'A' is known as 154 Northcliffe Avenue and Building 'B' is known as 574 Northcliffe Avenue, as shown on Appendix "A" to Report PED19132. Building 'A' is situated on the northern part of the property and houses a convent, the Sisters of the Precious Blood. No changes are proposed to this building. Building 'B' has been occupied since 1950 by the Sisters of St. Joseph, a separate convent. Building 'B' is subject to the proposed Temporary Use By-law. There are no proposed changes to the exterior of Building 'B' and only minor interior construction is required to the dorm rooms.

In December, 2018, the applicant, Columbia International College, applied for a Zoning By-law Amendment to establish a Temporary Use By-law to permit a student dormitory within Building 'B'. The effect of the Temporary Use By-law will be to permit a student dormitory having a maximum capacity of 96 students. The applicant also requested that the dormitory have a maximum capacity of 138 students subject to a Holding Provision on the subject lands. Currently, the existing septic system capacity can only accommodate 96 students. To remove the Holding Provision and increase the capacity to 138 students, the applicant must apply for and receive an Environmental Compliance Approval from the Ministry of Environment, Conservation and Parks and satisfy the City of Hamilton and Niagara Escarpment Commission to permit an increase in septic system capacity. As such, staff are supportive of the additional permission and it has been included in the amending By-law.



**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 3 of 22**

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Pursuant to Section 39 (1) of the *Planning Act*, a Council of a local municipality may pass a by-law to authorize the temporary use of land, buildings or structures for a period not exceeding three years. Further, any temporary use that is authorized does not become a legal non-conforming use after the By-law expires. The applicant is requesting that the Temporary Use By-law be in effect for a period of three years from the date of passing and regardless of whether the applicant removes the Holding Provision on the subject lands, the entirety of the By-law would expire three years after the date of passing. Alternatively, the applicant can apply for an extension to the Temporary Use By-law for a further time period.

The application has merit and can be supported as the proposal conforms to the Niagara Escarpment Plan, Greenbelt Plan and Parkway Belt West Plan and complies with the Hamilton-Wentworth Official Plan and Town of Dundas Official Plan. The proposal is compatible with the surrounding neighbourhood and does not impact the surrounding natural features. The proposal represents an adaptive reuse of an existing built heritage resource listed on the City's Register of Property of Cultural Heritage Value or Interest. There is adequate servicing to initially accommodate 96 students with a Holding Provision until the applicant expands their septic system to accommodate up to 138 students.

**Alternatives for Consideration – See Page 21**

**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 prior to considering an application to amend the Zoning By-law.

**HISTORICAL BACKGROUND**

The subject lands continue to be subject to the Hamilton-Wentworth Official Plan and Dundas Official Plan because at the time of preparation of the Rural Official Plan there were discussions about removing the Pleasantview area from the Parkway Belt West Plan and incorporating the Pleasantview Area into the Niagara Escarpment Plan. Staff have included a brief history of the Pleasantview area in Appendix "G" to Report PED19132.

In 2011, on behalf of the property owners, Columbia International College applied for a Minor Variance application (DN/A-11:08) to permit the establishment of a student

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 4 of 22**

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dormitory and teaching facilities within Building 'B' in addition to the convent and accessory place of worship (refer to Appendix "A" to Report PED19132). The Committee of Adjustment approved the application, but it was appealed to the Ontario Municipal Board (now Local Planning Appeal Tribunal) by the City of Hamilton. The basis for the appeal was due to the uses being permitted in perpetuity within Building 'B'. The appeal was settled on the basis that the capacity of the student dormitory would not exceed 36 students and that the classroom facilities were to be utilized for a temporary period until December 31, 2011. The convent continued on the subject property while the dormitory and classroom facilities ceased.

In June, 2013, Columbia International College again leased space from the Sisters of St. Joseph, which required another Minor Variance application (DN/A-13:110). The 2013 Minor Variance application requested a student dormitory having a maximum capacity of 36 students as well as a group home having a capacity of 35 persons to be permitted within Building 'B'. These uses were in addition to the existing convent and accessory place of worship. The application was approved by the Committee of Adjustment.

In 2013, the Niagara Escarpment Commission undertook a Niagara Escarpment Plan Amendment which amended the boundaries of the Niagara Escarpment Plan to include the Pleasantview area (NEPA 179). Through that process, Building 'B' at 574 Northcliffe Avenue received a site specific permission within the NEP. The site specific permission recognized the following permitted uses:

- Convent;
- Place of Worship; and,
- Student dormitory having a maximum capacity of 36 students as well as a group home having a capacity of 35 persons in conjunction with the sisters of St. Joseph convent.

The existing uses inside Building 'B' at 574 Northcliffe Avenue are a convent and an accessory place of worship.

### **Description of the Subject Lands**

The subject property is located in the former Town of Dundas, northwest of the interchange of Highway No. 6 and Highway No. 403. Generally, the subject property is bounded by environmental features to the south, east and west and to the north of the subject lands is a small neighbourhood consisting of approximately 30 single detached dwellings.

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 5 of 22**

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The subject lands are zoned Public and Private Zone (PPS/S-56), Modified, Utility Zone (U/S-57), Modified and Open Space - Conservation Zone (OS) as shown on the Location Map attached as Appendix "A" to Report PED19132. Two buildings exist on the property:

- Building 'A' (514 Northcliffe Avenue) – Convent for Sisters of the Precious Blood and accessory place of worship; and,
- Building 'B' (574 Northcliffe Avenue) – Convent for Sisters of St. Joseph and accessory place of worship.

**Proposal**

The purpose of Zoning By-law Amendment application ZAR-19-013 is to establish a Temporary Use By-law for a student dormitory within the existing building (Building 'B') to initially accommodate 96 students for a temporary period of three years for the lands known as 574 Northcliffe Avenue. The proposed capacity of 96 students is due to the servicing capacity of the existing septic system.

In addition to the Temporary Use By-law, the applicant has applied to place a Holding Provision on the subject lands to allow for a maximum capacity of 138 students, subject to receiving MOECP approval for an increase in septic capacity. To remove the Holding Provision, the applicant must satisfy the City of Hamilton, Niagara Escarpment Commission and Ministry of Environment, Conservation and Parks that the private servicing is adequate to facilitate the increase in capacity.

Should the Zoning By-law Amendment be approved, the applicant has advised that the remaining Sisters that live at the convent will be relocating to other facilities and the Sisters of St. Joseph will retain a small number of administrative staff on-site. The breakdown of the occupancy of Building 'B' is proposed to be as follows:

<b>Occupant Type</b>	<b>Number of Occupants</b>
Student Residents	96 (138 after Holding Provision is lifted)
House Parents (Scheduled in morning and night shifts)	5
Security (Scheduled in morning and night shifts)	2
Kitchen Staff (Part time staff for evenings and weekends)	6

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**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 6 of 22**

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Sisters of St. Joseph administrative staff	6
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Only the students will reside on a permanent basis. The on-site staff are scheduled in shifts either in the morning or evenings, depending on the needs of the dormitory. To facilitate the proposal, some minor interior construction is required to configure the dorm rooms. The construction will take place inside the building and no changes are required to the outside of the building.

### **Chronology**

- January 31, 2019: Submission of Zoning By-law Amendment application ZAC-19-013.
- February 21, 2019: Zoning By-law Amendment application ZAC-19-013 deemed complete.
- February 28, 2019: Notice of Complete Application and Preliminary Circulation was circulated to 29 property owners within 120 m of the subject lands.
- March 7, 2019: Public Notice sign installed on the subject lands.
- April 30, 2019: Public Open House hosted by the applicant at 574 Northcliffe Avenue with 24 attendees.
- June 12, 2019: Public Notice Sign updated to reflect date of Public Meeting.
- June 21, 2019: Circulation of Notice of Public Meeting to 29 property owners within 120 m of the subject lands.
- June 24, 2019: Second Public Open House hosted by the applicant at 574 Northcliffe Avenue.

### **Details of Submitted Application**

**Applicant / Owner:** Sisters of St. Joseph

**Location:** 574 Northcliffe Avenue (see Appendix "A" to Report PED19132)

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 7 of 22**

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**Servicing:** Municipal Water  
Private Septic (ECA Approval from MOECP)

**Property Description:** Total Lot Area: 19.71 ha (48.70 ac)  
Total Lot Frontage: ± 176 m  
Lot Depth: ± 615 m (Irregular)

**Existing Land Use and Zoning**

**Subject Lands:**

**Existing Land Use**

Convent and Accessory  
Place of Worship  
(Sisters of  
the Precious Blood)

Convent and Accessory  
Place of Worship (Sisters of  
St. Joseph)

Hydro One Utility Corridor

**Existing Zoning**

Public and Private Service Zone  
(PPS/S-56), Modified

Public Utilities Zone (U/S-57),  
Modified

Open Space - Conservation Zone  
(OS)

**Surrounding Lands:**

<b>North</b>	Single detached dwellings and Open Space	Rural Zone (RU/S-58), Modified, and Open Space – Conservation Zone (OS)
<b>South</b>	Highway No. 403 and Open Space	Special Policy Area 2 – Parkway Belt West Plan Zone (SP2), and Open Space – Conservation Zone (OS)
<b>East</b>	Highway No. 6 and Open Space	Public Utilities Zone (U/S-57), Modified, and Open Space – Conservation Zone (OS)
<b>West</b>	Open Space and Hydro One Utility Corridor	Open Space – Conservation Zone (OS), and Public Utilities Zone (U/S-57), Modified

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**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 8 of 22**

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**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

**Provincial Policy Statement (PPS)**

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

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
  
- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.”

574 Northcliffe Avenue is a non-designated property, that is included on the City’s Register of Property of Cultural Heritage Value or Interest. The proposal is consistent with these policies since the proposal is for an adaptive reuse of the existing convent. No changes are proposed to the exterior of the building and therefore its heritage attributes will be conserved.

Based on the foregoing, the subject proposal is consistent with the PPS.

**Greenbelt Plan**

The subject lands are within the “Protected Countryside” of the Greenbelt Plan. As the Parkway Belt West Plan and Greenbelt Plan overlap, the following policies of the Greenbelt Plan are applicable:

- “2.3 The requirements of the Parkway Belt West Plan, deemed to be a development plan under the *Ontario Planning and Development Act, 1994*, continue to apply to lands within the Parkway Belt West Plan Area and the Protected Countryside policies do not apply, with the exception of sections 3.2 and 3.3.
  
- 3.2.2.3 New development or site alteration in the Natural Heritage System (as permitted by the policies of this Plan) shall demonstrate that:

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 9 of 22**

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- a) There will be no negative impacts on key natural heritage features or key hydrologic features or their functions;
- b) Connectivity along the system and between key natural heritage features and key hydrologic features located within 240 metres of each other will be maintained or, where possible, enhanced for the movement of native plants and animals across the landscape;
- c) The removal of other natural features not identified as key natural heritage features and key hydrologic features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible.”

Prior to the submission of the Zoning By-law Amendment to establish a Temporary Use By-law, an Environmental Impact Statement (EIS) was requested to be submitted to the City. Both Conservation Halton and Natural Heritage staff have reviewed the submitted EIS and have no concerns. Construction is only proposed to occur within the existing Building ‘B’ as shown on Appendix ‘A’ to Report PED19132 and there are no negative impacts on the surrounding natural features. Therefore, the proposal conforms to the Greenbelt Plan.

**Parkway Belt West Plan (PWBP)**

The subject lands are designated “Special Complimentary Use Area” in the PWBP. The following policies, amongst others, are applicable:

“5.5 Complementary Use Area

The Complementary Use Area comprises areas that will be predominantly used for private uses that are compatible with and assist in the attainment of the provisions of the Plan. The Complementary Use Area consists of the General Complementary Use Area and the Special Complementary Use area. The provisions of Section 5.5 apply to all links.”

The PWBP was implemented by the Province to act as an urban separator, to protect hydro corridors and to link natural features. Today, the goals of the plan have largely been met. However, various areas under private ownership exist that are within the PWBP corridor. The existing convent was constructed prior to the enactment of the

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 10 of 22**

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PWBP, and it is considered an existing use and is compatible with the existing environment.

“5.5.2 Uses in Special Complementary Use Area

Subject to 5.5.3, uses permitted in the Special Complementary Use Area are:

1. Existing Uses

All legally existing uses of land, buildings, and structures, subject to the provisions of the Planning Act, R.S.O. 1970, c. 349 respecting legal non-conforming uses.

d) Change of Uses

Change of uses of land, buildings, and structures, subject to the following conditions:

- i) New uses are as compatible with the provisions of the Plan as existing uses, or more compatible.
- ii) All natural features are preserved to the maximum possible degree.
- iii) Any other conditions required to secure the provisions of this Plan are satisfied.”

Staff evaluated the application in the context of the PWBP. The proposed temporary student dormitory is not substantially different from the historical use of the subject lands as an institutional use providing on-site accommodation relating to the primary use.

No changes to the exterior of the existing building are proposed and as such, it conforms to the provisions of the PWBP that refer to preserving the natural environment. Since no exterior construction is required to facilitate the temporary use, staff do not anticipate impacts to the natural features surrounding the subject property. Moreover, an EIS was submitted in support of the application confirming no negative impact on the surrounding natural features.

Based on the above, staff are of the opinion that the proposal conforms to the PWBP.



**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 11 of 22**

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**Niagara Escarpment Plan (NEP)**

The subject lands are designated “Escarpment Rural Area” and “Escarpment Natural Area” in the NEP. Additionally, the lands are designated “Special Policy Area – Pleasant View.” The property is not subject to Niagara Escarpment Development Control.

The following policies, amongst others, are applicable:

“2.2.21. The Pleasant View Survey Lands consisting of Part of Lots 23, 24, 25, 26, 27 and 28, Concession 1 and Part of Lots 22, 23, 24, 25, 26, 27, 28 and 29, Concession 2, City of Hamilton (former Town of Dundas), as identified on Schedule A of Amendment 179 to this Plan, are subject to the following additional special provisions:

- f) the existing institutional building on lands located at No. 574 Northcliffe Avenue (Sisters of St. Joseph) may be used for the following institutionally related uses provided the uses are contained within the existing building only:
  - i. a Place of Worship;
  - ii. a Convent;
  - iii. a residential care facility for a maximum of 35 residents; and
  - iv. a dormitory with a maximum of 36 students and accessory uses for an educational establishment provided it is located in conjunction with the convent of the Sisters of St. Joseph.

1.5.1 Escarpment Rural Area Objectives

1. To maintain the scenic resources of lands in the vicinity of the Escarpment and the open landscape character of the Escarpment.
2. To conserve cultural heritage resources, including features of interest to First Nation and Métis communities.
3. To encourage forest management and recreation.
4. To provide for compatible rural land uses.

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 12 of 22**

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6. To provide a buffer for ecologically sensitive areas of the Escarpment.

### 2.3 Existing Uses

1. An existing use may change to a similar or a more compatible use only if it can be sufficiently demonstrated that the objectives of the applicable designation of the Plan are met.

### 2.10 Cultural Heritage

1. Development shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources are conserved.”

Staff circulated the Zoning By-law Amendment application to the Niagara Escarpment Commission to review the application in the context of the Niagara Escarpment Plan. The Commission is responsible for developing, interpreting and applying the policies of the Niagara Escarpment Plan to ensure that the objectives of the Niagara Escarpment Plan are met. NEC staff reviewed the proposal for conformity with the Niagara Escarpment Plan and compiled a report that was presented to the Niagara Escarpment Commission. The report has been included as Appendix “F” to Report PED19132.

NEC Staff identified the subject property as “Escarpment Natural Area” and “Escarpment Rural Area”. 574 Northcliffe Avenue (Building ‘B’) is subject to the proposed Temporary Use By-law and is located entirely within the “Escarpment Rural Area”. NEC staff identified that the use of the property for a dormitory for students meets the definition of an Existing Use in the Niagara Escarpment Plan. NEC staff noted in their report that the temporary use of 574 Northcliffe Avenue (Building ‘B’) for a dormitory is consistent with the existing use of the property and is limited by the capacity of the existing services.

The NEC adopted the staff recommendation to support the proposal as the proposal does not conflict with the Niagara Escarpment Plan. Based on the foregoing, the proposal does not conflict with the NEP.

### **Region of Hamilton-Wentworth Official Plan (HWOP)**

The subject lands are designated “Parkway Belt West” in the HWOP. The HWOP continues to apply as the lands have not been brought forward into the Rural Hamilton

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**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 13 of 22**

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Official Plan (refer to Appendix “G” to Report PED19132). The following policy is applicable:

- “1.6 The Parkway Belt West Plan provides a system of linked natural areas and protected utility corridors which originates in Dundas and runs through the Regions of Halton, Peel and York. To protect the lands in Hamilton-Wentworth which form part of this system, the Region will:
  - 1.6.1 Apply the provisions of the Parkway Belt West Plan to development of lands that are identified on Map No. 2. In the case of discrepancy between the Parkway Belt West Plan and this Plan, the Parkway Belt West Plan, as may be amended from time to time, will prevail.”

The HWOP refers the subject lands to the Parkway Belt West Plan. Conformity with the Parkway Belt West Plan has been evaluated in the context of the proposal. As the proposal conforms to the PWBP, staff are of the opinion that the Zoning By-law Amendment complies with the HWOP.

**Dundas Official Plan (DOP)**

The subject lands are designated “Rural Area” on Schedule – A in the Town of Dundas Official Plan. The DOP continues to apply as the lands have not been brought forward into the Rural Hamilton Official Plan (refer to Appendix “G” to Report PED19132). The following policies are applicable:

- “2.4 Historical and Architectural Resources
  - 2.4.2.1 To promote the preservation, restoration or appropriate re-use of historic and architecturally significant landmarks, buildings, and districts throughout the Town.
  - 2.4.3.4 Where a structure is on the heritage inventory and is located within a development proposal, Council shall ensure that the structure is protected and incorporated into the overall development to every extent possible.”

As previously discussed, 574 Northcliffe Avenue is listed as a non-designated property, that is included on the City’s Register of Property of Cultural Heritage Value or Interest. Staff are of the opinion that the proposal represents an appropriate adaptive reuse of the convent. There are no exterior alterations proposed to the structure to facilities the

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 14 of 22**

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change in use. The application complies with the Dundas Official Plan with the policies that speak to preserving existing built heritage resources.

“3.11.5 Rural Area

The lands shown on Schedule “A” as RURAL AREA are currently part of the Parkway Belt West Plan, and all new land uses within this area must conform to the policies and provisions of that Plan and the Ontario Land Use Regulation 484/73 and 486/73, as applicable.

5.4.1 Conformity with the Niagara Escarpment Plan

It is the objective of this Plan, and subsequent amendments and by-laws, will conform with the Niagara Escarpment Plan where it applies. In the case of discrepancy between the Niagara Escarpment Plan and this Plan, the provisions of the Niagara Escarpment Plan shall prevail unless the Official Plan requirements are more stringent.

5.4.2 Council will not approve amendments to this Plan or Zoning By-law which do not confirm to the Niagara Escarpment Plan.

5.11.1 Temporary Use By-laws

In accordance with the Planning Act, Temporary Use By-laws may be used to permit the use of land, building or structures for any purpose set out, provided the proposed temporary use is consistent with the following:

- 5.11.1.1 The use is clearly transitory and the proposed development or redevelopment must only contain buildings or structures that can easily be removed after the expiry date of the temporary use by-law;
- 5.11.1.4 Alterations to the terrain shall be limited so that it is possible and viable to revert back to the previous use and/or uses for which the property is zoned or designated;
- 5.11.1.5 The proposed temporary use shall not impact the compatibility of uses and nearby properties;
- 5.11.1.6 The proposed temporary use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature; and,

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**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 15 of 22**

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- 5.11.1.7 Services such as roads, stormwater drainage, water supply and sanitary sewers shall be sufficient to accommodate the proposed temporary use.”

The Dundas Official Plan sets out provisions for evaluating the desirability of a Temporary Use By-law. Staff note that the use is clearly transitory in nature as the existing Building ‘B’ is already configured for dormitory style living and the use can revert back to a convent upon expiry of the By-law without any demolition. Site alteration is not required to implement the use.

The proposed dormitory does not impact the surrounding properties as the existing Building ‘B’ is situated away from Northcliffe Avenue in a campus like setting. The dormitory is compatible with the neighbourhood as it is similar to the historical use of the convent which has existed since 1950. The use is not hazardous in nature and does not constitute a danger to surrounding uses. MOECP staff have evaluated the proposal and have indicated that the existing septic system can accommodate 96 students and Public Works staff have identified that the existing municipal water service can accommodate the proposed temporary use.

“5.7 Holding Symbol

5.7.3 A Holding Symbol may be applied on the basis of the following considerations:

5.7.3.1 where development is contingent upon other related matters occurring first, such as (but not limited to) complete of required site studies, consolidation of land ownership to ensure orderly development and phase of development and to secure funding agreements on necessary infrastructure or services.”

The existing septic system must be upgraded to accommodate 138 students. As such, it is appropriate to apply the Holding Provision over the subject property to require the applicant to demonstrate adequacy of services to the satisfaction of the City of Hamilton, Niagara Escarpment Commission and the Ministry of Environment Conservation and Parks. This can be achieved by the applicant obtaining a revised Environmental Compliance Approval for an expanded septic system.

Further, the Dundas Official Plan notes that By-laws that are passed must be in conformity with the Niagara Escarpment Plan and that the Niagara Escarpment Plan prevails should there be a discrepancy between the Dundas Official Plan and Niagara Escarpment Plan unless the Official Plan requirements are more stringent. The NEC has indicated their support for the Zoning By-law Amendment application (refer to

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**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 16 of 22**

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Appendix “F” to Report 19132) for a temporary dormitory initially accommodating 96 students and future expansion to 138 students, subject to the removal of a Holding Provision.

The Dundas Official Plan also refers the subject lands to the PBWP. Conformity with the PBWP has been evaluated in the context of the proposal. As the proposal conforms to the PWBP, staff are of the opinion that the Temporary Use By-law complies with the Dundas Official Plan.

**Town of Dundas Zoning By-law 3581-86**

Currently, the subject lands are zoned Public and Private Service Zone (PPS/S-56), Modified, Public Utilities Zone (U/S-57), Modified and Open Space - Conservation Zone (OS). The proposal only affects the land zoned Public and Private Service Zone (PPS/S-56) (refer to Appendix “A” to Report PED19132). The Permitted Uses are as follows:

**“Public and Private Service “PPS/S-56” Zone**

Notwithstanding Clause 27.1 - PERMITTED USES, only those uses existing at the date of the passing of the by-law and those determined by the Committee of Adjustment to be similar to the purpose for which the land, building or structure was used on the day the by-law was passed, shall be permitted.”

The proposal is to establish a temporary use to permit a dormitory having an initial capacity of 96 students with the option to expand the capacity to 138 students upon removal of the Holding Provision for a maximum of three years. The proposed modifications to the Zoning By-law will add an additional use to permit the dormitory use for three years and only within Building ‘B’ (574 Northcliffe Avenue). Another modification has been included to limit the capacity to 96 students until the Holding Provision is removed, whereby the capacity may be increase to 138 students. An additional modification is required to permit the dormitory use to be accessed using the existing driveway through the Utility (U-S/57) Zone, Modified. A detailed list of the proposed zoning modifications are included in Appendix “C” to Report PED19132.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections to the application:

- Landscape Architectural Services, Public Works;
- Forestry and Horticulture, Public Works Department;

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 17 of 22**

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- Transportation Planning, Planning and Economic Development Department; and,
- Conservation Halton.

The following Departments and Agencies have provided comments on the applications:

**Niagara Escarpment Commission (NEC)** were circulated the Zoning By-law Amendment application. NEC staff submitted a recommendation report to the Commission that was heard on March 21, 2019. As previously discussed, the NEC advised that the Commission accepted the staff recommendation to not object to the proposed Zoning By-law Amendment. A copy of the NEC Staff report is provided as Appendix "F" to Report PED19132.

**Hamilton Water, Public Works** did not have any comments with relation to grading, servicing or storm water management. Hamilton Water's Sourcewater Protection Group indicated that the existing septic system is under the jurisdiction of the MOECP because the daily flow is greater than 10,000 L/day.

**Ministry of Environment, Conservation and Parks (MOECP)** reviewed the materials submitted with the application and note that there is an existing Environmental Compliance Approval (ECA 2829-5M9F4V) for the existing septic system on the subject lands having a maximum capacity of 30,000 L/day. The MOECP agrees with the submitted wastewater brief as the capacity of the existing septic system can accommodate for a maximum of 96 students and associated staff on the subject property.

**Environmental Services Division, Public Works Department** have indicated that the subject lands are not eligible for municipal garbage collection and therefore the owner will have to contract garbage collection through a private waste hauler.

**Ministry of Transportation Ontario (MTO)** have advised the applicant that an MTO land use permit is required to facilitate the development. Further, the applicant provided a Traffic Impact Brief to the Ministry who have reviewed and indicated that the brief is satisfactory. MTO have no objections to the application as submitted. The applicant will be required to apply for and obtain the required land use permit prior to submitting for a building permit for the change in use and undertaking construction as the MTO Permit is applicable law under the Ontario Building Code.

## **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 29 property owners within 120 m of the subject property on February 28, 2019. A

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 18 of 22**

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Public Notice sign was posted on the property on March 7, 2019 and updated on June 12, 2019 with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on June 21, 2019. The applicant has scheduled an additional open house for June 24, 2019. To date, staff has received three letters of correspondence from the public, including a letter containing 14 signatures expressing concerns with the application (refer to Appendix “D” of Report PED19132). These concerns are summarized in the Analysis and Rationale for Recommendation section of this report.

**Public Consultation Strategy**

The Applicant submitted a Public Consultation Strategy which outlined that an Open House at the Sisters of St. Joseph Convent would be conducted prior to the application being considered by Planning Committee. The Public Consultation Strategy proposed to notify the neighbours within 120m of the subject lands of the date and time of the Open House.

The applicant hosted the Open House event at the Sisters of St. Joseph convent on April 30, 2019. Approximately 20 residents attended as well as the Ward Councillor. A presentation was made to the residents and the appropriate staff from Columbia International College and IBI Group were available to answer questions regarding the proposal.

A second Open House has been scheduled for June 24, 2019 for the purposes of following up with resident concerns. A traffic study as well as a litter management plan is the focus for the June 24, 2019 Open House in response to concerns raised by residents.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The Temporary Use By-law has merit and can be supported for the following reasons:
  - (i) The application is consistent with the PPS and conforms to the Greenbelt Plan, Parkway Belt West Plan and Niagara Escarpment Plan;
  - (ii) The proposal complies with the Region of Hamilton-Wentworth Official Plan and Dundas Official Plan;
  - (iii) The By-law is temporary and will expire three years after the date of passing;



**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located at 574 Northcliffe Avenue, Dundas (PED19132) (Ward 13) - Page 19 of 22**

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- (iv) It is compatible with the neighbourhood, transitory in nature and does not constitute a danger to surrounding uses; and,
  - (v) The existing septic system can accommodate for 96 students and a Holding Provision has been placed on the property to limit the capacity while the applicant pursues the approvals necessary to increase the septic capacity for 138 students.
2. A change in zoning from the Public and Private Service Zone (PPS/S-56), Modified to the Public and Private Service Zone (PPS/S-56a), Modified in the Town of Dundas Zoning By-law No. 3581-86 is required to permit a dormitory on the subject property for 96 students for a temporary period of three years and to permit an existing driveway to be utilized as access to the dormitory.

Staff support the establishment of the temporary use as the dormitory conforms to the NEP and PWBP and complies with the Hamilton-Wentworth Regional Official Plan and Dundas Official Plan. It is compatible with the neighbourhood and will be contained with the existing building with no site alterations required. The existing services are sufficient to support 96 students.

Staff also support the placement of a Holding Provision over the subject lands until the applicant obtains a revised ECA from the MOECP to increase the septic capacity so that the site can accommodate for 138 students.

The existing driveway is not being altered, however, as the driveway transverses the Utility (U-S/57) Zone, Modified, it is recognized in the By-law as being able to access the dormitory, therefore staff support the establishment of the temporary use.

3. In response to the circulation of the application, correspondence has been received from three members of the public as well as a letter containing 14 signatures expressing concerns. A summary of the concerns expressed are provided below:

Traffic

Due to the increase in capacity in Building “B”, concerns have been expressed regarding increased traffic in the neighbourhood. Staff note that the applicant submitted a Traffic Impact Brief that was reviewed by both the MTO and Transportation Planning staff. Both MTO and staff were satisfied that the existing road conditions could accommodate for anticipated traffic generated from the site.

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 20 of 22**

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The Traffic Impact Brief further identifies that the transportation needs for up to 138 students is accommodated by a total of three school buses. Though traffic is increasing, it is not substantially different from the general day to day traffic that the neighbourhood experiences. In addition to the school buses, the applicant has advised that a total of 19 staff are required to facilitate the daily operational needs of the dormitory. The staff members are scheduled in shifts and arrive at various points either during the day or evening. Staff do not anticipate that this will cause a significant impact to traffic in the neighbourhood as the current operation of the convent sees a similar number of vehicles and the replacement of these vehicles associated with the change in use represents a like for like replacement in traffic numbers.

Staff have been advised the buses will be taking the shortest route to Columbia International College located in Hamilton which is Highway No. 6 to Highway No. 403 to the Longwood Road exit. The applicant has advised that due to flexible class times, the buses are intended to travel to and from the site during off peak periods.

#### Lack of Amenities, Public Transit

One letter submitted had concerns with the lack of public transit as well as amenities. Regarding outdoor amenity, the property contains approximately 7 ha. (17.6 ac) of existing manicured area. The applicant also intends to place a basketball net within one of the parking areas and install goal posts for an informal soccer field within the manicured area.

Regarding indoor amenity, the existing building was constructed for dormitory style living and will have communal washrooms, a snack bar, shared kitchen and lounges which will satisfy the daily needs of the students. In addition, the students will be bused daily to and from the site to the main Columbia International College campus and the students will primarily use the dormitory on the evenings and weekends for boarding purposes.

There is no public transit available to serve the site. Columbia International College is marketed as a "Total Care" institution. As part of this, the school regularly organizes evening shuttle bus excursions for students.

#### Servicing

Concerns have been raised regarding water service capacity as well as the impact on drainage to the surrounding neighbourhood. Engineering Approvals reviewed the application and as there are only internal renovations proposed for

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

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

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

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 21 of 22**

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Building “B” there would be no impact on the surrounding area with regards to drainage. Further, the site has access to municipal water and Hamilton Water has determined that there is sufficient water capacity to accommodate a dormitory having a maximum capacity of 138 students.

Litter

A resident expressed concerns that the proposal would increase the amount of litter in the neighbourhood. The applicant submitted an EIS which recommended various mitigation measures. A stewardship brochure will be given to residents to discourage dumping garbage onto the Escarpment slope. Further, the existing private garbage pickup will remain status quo for the property and be picked up by a private waste hauler. As previously noted, the applicant produced a litter management plan.

4. The proposed student dormitory is temporary and further review and approvals would be required should the applicant wish to extend the use beyond the current term of three years. The *Planning Act* permits the establishment of a temporary use for a maximum period of three years. Should the applicant wish to extend this period, another Zoning By-law Amendment application will be required to extend the temporary use. Council may only grant extensions to a temporary use for a period not exceeding three years.
5. Should the applicant wish to increase the dormitory capacity from 96 to 138 students, staff would require confirmation that the applicant received a revised ECA from the MOECP to increase onsite septic capacity. In addition, the Holding Provision must be removed before the capacity can be increased. This will be conditional upon the applicant demonstrating to the satisfaction of the City of Hamilton, Ministry of Environment, Conservation and Parks and Niagara Escarpment Commission that the services are adequate to support a dormitory with a capacity of 138 students.

**ALTERNATIVES FOR CONSIDERATION**

Should the Zoning By-law Amendment application ZAR-19-013 be refused, the subject lands would continue to be utilized for the Public and Private Service Zone (PPS/S-56), Modified, which permits existing uses. The applicant would not be able to establish a temporary dormitory on the subject property.

**SUBJECT: Application to Amend Town of Dundas Zoning By-law No. 3581-86  
Respecting Lands Located at 574 Northcliffe Avenue, Dundas  
(PED19132) (Ward 13) - Page 22 of 22**

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

**Community Engagement and Participation**

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

**Culture and Diversity**

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

**Our People and Performance**

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

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Zoning By-law Amendment

Appendix “C” – Zoning Modification Table

Appendix “D” – Existing Conditions

Appendix “E” – Public Comments

Appendix “F” – NEC Staff Report

Appendix “G” – Background History of Pleasantview

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

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

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



● Site Location

# Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-19-013

Date:  
May 17, 2019

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
RF/NB

### Subject Property



Building "A" - 154 Northcliffe Avenue

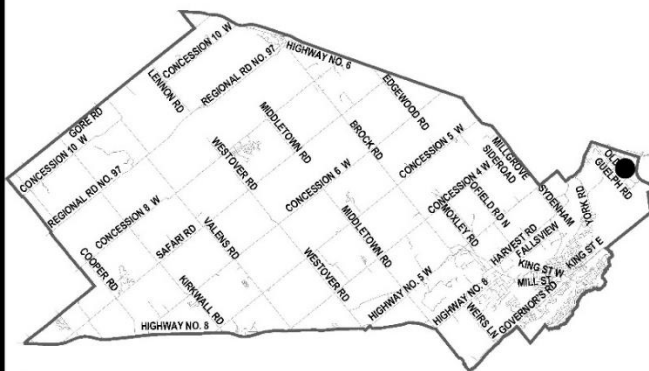


Building "B" - 574 Northcliffe Avenue  
(Subject to the "Temporary Use By-law")



Other Lands Owned by the Applicant

Change in Zoning from the Public and Private Service "PPS/S-56" Zone, Modified to the Public and Private Service "PPS/S-56a" Zone, Modified



Key Map - Ward 13

N.T.S.



**Authority:** Item ,  
Report (PED19XXX)  
CM:  
Ward: 13

**Bill No.**

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

**To Amend Town of Dundas Zoning By-law No. 3581-86 Respecting Lands Located  
at 574 Northcliffe Avenue, Dundas**

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

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

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

**WHEREAS**; Zoning By-law No. 3581-86 (Dundas) was enacted on the 22<sup>nd</sup> day of May, 1986, and approved by the Ontario Municipal Board on the 10<sup>th</sup> day of May, 1988; and,

**WHEREAS**; the Council of the City of Hamilton, in adopting item \_\_\_\_\_ of Report PED19-\_\_\_\_\_ of the Planning Committee, at its meeting held on the 9<sup>th</sup> day of July, 2019, recommended that Zoning By-law No. 3581-86 (Dundas) be amended as hereinafter provided; and,

**WHEREAS** this By-law is in conformity with the Dundas Official Plan.

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

1. That Schedule "F-1" (Guelph) of Zoning By-law No. 3581-86 (Dundas), as amended by By-law No. 4066-93, is hereby further amended by adding the Public and Private Service "H-PPS/S-56a" Zone, Modified, to the lands the extent and boundaries of which are shown on Schedule "A" which forms part of this By-law.

2. That Section 32: "EXCEPTIONS" of Zoning By-law No. 3581-86 (Dundas), as amended by By-law No. 4066-93, is hereby further amended by adding the following exception:

"S-56a"

- i) As permitted under the temporary use provisions of Section 39 of the Planning Act (R.S.O. 1990) for a maximum three year period commencing on the day of the passing of this amending By-law, being the DATE and expiring on the DATE, on the land shown as "H-PPS/S-056a" on Schedule "F-1" attached hereto, the following use shall be permitted:
- a) Within the existing building municipally known as 574 Northcliffe Avenue (Building 'B'), a dormitory having a maximum capacity of 138 occupants shall be permitted temporarily and only within the building existing on the date of passing of this By-law.
  - b) A Holding Symbol (H) pursuant to Section 36 of the *Planning Act*, R.S.O. 1990, c.P 13 and Subsection 4.9 of By-law No. 3581-86 is applied to the PPS Zone category as it applies to 574 Northcliffe Avenue (Building 'B'). The permitted use in clause a) shall be limited to a maximum capacity of 96 occupants for such time as the Holding Symbol (H) is applicable to 574 Northcliffe Avenue (Building 'B').
  - c) Condition for Holding Provision Removal
    - i) The applicant / proponent shall demonstrate and have attained all of the necessary approvals to provide adequate services to increase the capacity beyond 96 students to accommodate a dormitory having a maximum capacity of 138 occupants to the satisfaction of the Niagara Escarpment Commission, Director, Development Planning and Ministry of Environment, Conservation and Parks.
  - d) Notwithstanding Clause 7.3.1 – ACCESS of SECTION 7 – OFF STREET PARKING AND LOADING an existing driveway located on lands zoned PPS/S-56 and U/S-57 shall be permitted to be used for access to 574 Northcliffe Avenue (Building 'B').
3. This by-law shall expire and cease to be of any force or effect on DATE.
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

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

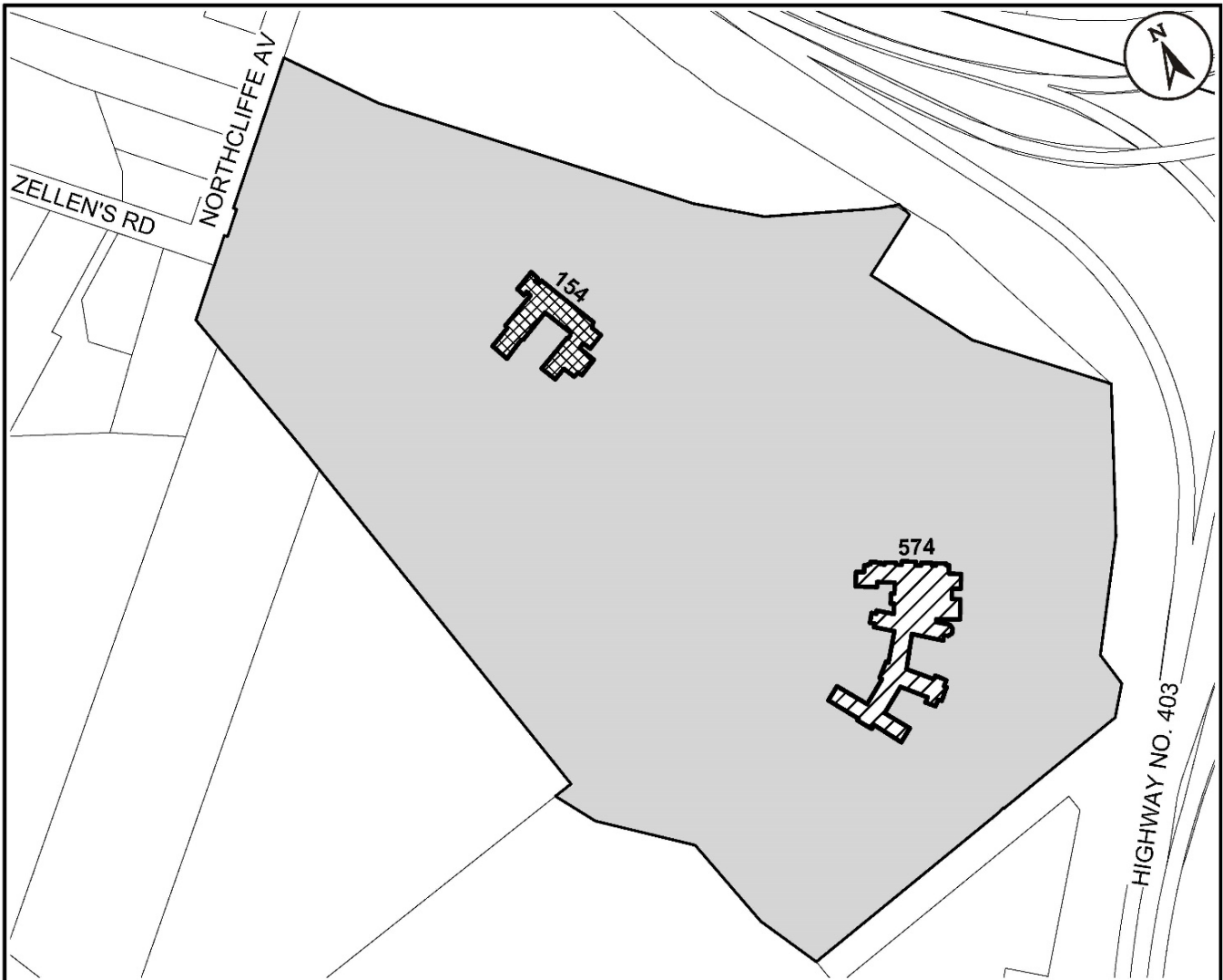
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F. Eisenberger  
Mayor

---

J. Pilon  
Acting City Clerk





This is Schedule "A" to By-law No. 19-

Passed the ..... day of ....., 2019

-----  
Mayor

-----  
Clerk

## Schedule "A"

Map Forming Part of  
By-law No. 19-\_\_\_\_\_

to Amend By-law No. 3581-86

### Subject Property



Building "A" - 154 Northcliffe Avenue



Building "B" - 574 Northcliffe Avenue  
(Subject to the "Temporary Use By-law")

Change in Zoning from the Public and Private Service "PPS/S-56" Zone, Modified to the Public and Private Service "H-PPS/S-56a" Zone, Modified



Other Lands Owned by the Applicant

Scale:  
N.T.S.

File Name/Number:  
ZAR-19-013

Date:  
May 17, 2019

Planner/Technician:  
RF/NB



Hamilton

**Further Modification to the PPS/S-56 Zone**

<b>Regulation</b>	<b>Required</b>	<b>Modification</b>	<b>Analysis</b>
Permitted Use	N / A	Permit a Dormitory having a maximum capacity of 96 students for a temporary period of three years.	<p>The proposed By-law will give effect to the intended use, being the dormitory. Additional clauses are required to limit the occupancy of the building in accordance with available servicing.</p> <p>Further, the By-law stipulates that the dormitory use may only be permitted within the existing building at 574 Northcliffe Avenue (Building “B”). The expiry date is also stipulated to ensure that the use expires three years from the ratification date of the By-law by Council.</p> <p>As the provisions are added as an addendum to the existing Exception S-56 provisions for 574 Northcliffe Avenue, upon expiration of the Temporary Use By-law, the permitted uses will revert to the use that existed prior to the passing of the By-law, being a convent.</p> <p>Therefore, staff support the modification.</p>
Holding Symbol (H) for maximum occupancy	N / A	The applicant may remove the Holding Symbol upon such time as the applicant demonstrates adequate services to support a maximum occupancy of 138 students.	<p>The amending By-law limits the initial occupancy of the temporary dormitory to 96 students which reflects the capacity of the existing septic system. The applicant intends to apply to the MOECP for a revised ECA to allow for the increase in capacity. No changes to the building are required to facilitate the maximum capacity of 138 students.</p> <p>The applicant is required to satisfy the City of Hamilton, Niagara Escarpment Commission and Ministry of</p>

Regulation	Required	Modification	Analysis
		<p>Upon removal of the Holding Symbol (H), the maximum capacity of the temporary dormitory may be increased up to 138 occupants.</p>	<p>Environment, Conservation and Parks prior to applying to remove the Holding Provision and the permission to increase the capacity is limited to the three year timeframe for the Temporary Use By-law.</p> <p>Staff do not anticipate a negative impact on traffic or natural heritage should the applicant wish to pursue the increase the occupancy of the building. The building occupancy is limited by the existing building and the additional student accommodation would be achieved by converting single dorm rooms to double dorm rooms.</p>
7.3.1 Access	<p>All required parking space and manoeuvring space shall have access by means of:</p> <p>i) one or more access driveways located on the lot; or</p> <p>ii) one or more access driveways located partly on the lot in the case of a mutual driveway; or</p>	<p>Notwithstanding Clause 7.3.1 – <u>ACCESS of SECTION 7 – OFF STREET PARKING AND LOADING</u> the existing driveway may be utilized for access to the dormitory at 574 Northcliffe Avenue (Building 'B').</p>	<p>The variance to the Zoning By-law is required to recognize an existing condition affecting the subject property. The existing driveway provides access to and from the site onto Northcliffe Avenue and has done so since the time of original construction. No changes are proposed to the existing access driveway, however due to the new use temporarily being introduced to the subject property, the provision is included to recognize that the existing driveway transverses the (U/S-57) Zone which is not permitted.</p> <p>The driveway has been used to access the site since original construction and there are no issues with the functionality of the driveway, so it is appropriate to recognize the existing condition in this instance.</p> <p>Therefore, staff support the modification.</p>

Regulation	Required	Modification	Analysis
	iii) a legally established right-of-way.		



**Ferrari, Ryan**

---

**From:** [REDACTED]  
**Sent:** March-11-19 4:46 PM  
**To:** Ferrari, Ryan  
**Cc:** [REDACTED]  
**Subject:** re: file #ZAR-19-013

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Good afternoon Ryan

My wife and I live at 55 Atkinson Blvd., Dundas.

We would like to be added to the circulation list in regards to the proposed bylaw amendment that has been put forth affecting 574 Nothcliffe Avenue, Dundas.

In addition, we would like to made aware of the date for the upcoming public information meeting so that we may be in attendance.

We share the concerns of several neighbours as it relates to this matter and would appreciate the opportunity to share them with the committee.

Thank you.

Regards,

[REDACTED]

**Ferrari, Ryan**

---

**From:** [REDACTED]  
**Sent:** March-23-19 12:45 PM  
**To:** Ferrari, Ryan  
**Subject:** Columbia college for zoning bylaw amendment for lands located at 574 northcliff avenue (ward 13)

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Good morning. I am sorry for this late letter as we have just arrived home. Before any decision gets made we would like to address some concerns. #1 is this going to be strictly residential, teaching or both. #2 This convent was used for retired nuns and if I am not correct has rooms to accommodate 120 residents not 138 proposed students. #3 All residents both on Zellens Road but neighbouring roads Atkinson and Northcliff should be notified of any proposed changes as we have only one way in and out of this neighbourhood and we have already had to make concessions for MTO and #6 highway. Getting in and out is a hassle. We need to see more of the plan. We do not have the infrastructure to accommodate more traffic! None do we need more. Again I think it highly advisable no plans be approved at this time until we see everything at the table. I for one do not need more traffic in our area. Please feel free to call me at [REDACTED] or e-mail at [REDACTED]

[REDACTED] Thankyou Sincerely [REDACTED] Dundas L9h-7a9

File: ZAR-19-013

March 12, 2019

Dear Ryan Ferrari

This letter is to confirm as to our conversation on March 11 2019 that we have many concerns with the proposed "Zoning By-law Amendment" to the property located at 574 Northcliffe Ave.

First I would like to thank you for your help and input to my questions and concerns and my request to be put on the circulation list.

I will list our concerns without great detail and request that our personal information be removed from the City's Website.

#### List of concerns:

- ① Impact on traffic a) congestion from 4 way stop at York + Old Guelph Rd. that backs up to Hwy. 6 in front of Newman Rd, - our only entrance and exit. b) two blind spots (dips) on York Rd, metres from Newman - east bound. c) Speeding on York Rd.
- ② No public transit service
- ③ Environmental issues
- ④ No sewers - a) open ditches b) no sidewalks
- ⑤ Municipal Water (pressure)
- ⑥ Litter - proven by the fact that approximately 60 students lived there a few years ago and the litter increased dramatically.







Niagara Escarpment Commission    Commission de l'escarpement du Niagara

232 Guelph St.  
Georgetown, ON L7G 4B1  
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Fax: 905-873-7452  
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Georgetown ON L7G 4B1  
No de tel. 905-877-5191  
Télécopieur 905-873-7452  
www.escarpment.org

March 21, 2019

**STAFF REPORT**

**RE: Request for Comments by City of Hamilton  
Columbia International College  
Proposed Temporary Use By-law, 574 Northcliffe Avenue, Dundas**

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**RECOMMENDATION:** That the Niagara Escarpment Commission (NEC) advise the City of Hamilton that it does not object to the proposed temporary use by-law and Holding Zone for 574 Northcliffe Avenue, under the following conditions:

- 1) That the temporary use of the existing Motherhouse on the subject lands as a dormitory for 96 students of Columbia International College be allowed for a maximum of three (3) years with no opportunity for renewal;
- 2) At the end of the 3 years, if the applicant has not been able to obtain the required Niagara Escarpment Plan Amendment to permit the conversion of the Motherhouse to a private school, the temporary use will cease; and,
- 3) That the City of Hamilton provide the NEC with a copy of its Notice of Decision with respect to the proposed Temporary Use By-law.

**BACKGROUND:** The subject property contains the Sisters of St. Joseph Convent and a Motherhouse containing a dormitory and long-term care centre for elderly nuns and administrative functions for the Order. In the spring of 2018, NEC staff was contacted by the planning consultant for Columbia International School, (CIS) a private school for international students. Staff was advised that CIS was interested in expanding its use of 574 Northcliffe Avenue as not only a dormitory for students but also as a private school for its Grade 12 students. Following a meeting, NEC staff provided the opinion to the consultant that a Niagara Escarpment Plan Amendment would be required to permit the change of use.

In August 2018, NEC staff attended a pre-consultation meeting at the City of Hamilton to hear details regarding the Official Plan and Zoning By-law amendment applications that the City would require.

On March 12, 2019, the City of Hamilton requested comments from the NEC regarding a proposed temporary use by-law and holding provision to permit between 96 and 138 students to reside at the Sisters of St. Joseph Motherhouse depending on the ability of the septic system to accommodate the increased number of residents. The Sisters would maintain some administrative offices in the Motherhouse, but the long-term care function would be relocated elsewhere. Due to the capacity of the existing septic system, 96 students and 16 staff could be accommodated, according to the engineering

consultant for CIS. A Holding Provision in the proposed By-law could be lifted if additional septic system capacity could be achieved to increase the number of students. Technical reports regarding the application were received on March 15. To meet the City's comment deadline, this report is being brought to the March meeting of the NEC.

## **DISCUSSION:**

### Niagara Escarpment Plan Amendment No. 179 (Pleasant View)

When Niagara Escarpment Plan Amendment No. 179 (Pleasant View) was approved in October 2013, it included a site-specific policy to permit the use of the subject lands for a residential care facility for 35 residents and a dormitory for 36 students for an educational establishment provided it is located in conjunction with the convent of the Sisters of St. Joseph. This recognized a decision of the Ontario Municipal Board to grant a minor variance to permit the use on a temporary basis.

Although the subject property is in the Niagara Escarpment Plan Area, having been added by the Pleasant View Amendment, it is outside the Area of Development Control and is subject to municipal zoning.

### Niagara Escarpment Plan 2017

The subject property is designated Escarpment Natural Area and Escarpment Rural Area. The use of the property as a residential care facility and dormitory for students meets the definition of an Existing Use in the Niagara Escarpment Plan. The proposed long-term change of use from residential care facility to private school is a significant change and requires a Plan Amendment.

The planning consultant for CIS has advised that they are completing additional technical reports and submitting a Niagara Escarpment Plan Amendment (NEPA) application to permit the permanent conversion of the Motherhouse to a private school with associated recreational facilities. However, to meet an immediate short term need for student accommodation, CIS has applied for a temporary use by-law until a decision on the Plan Amendment is received.

NEC staff is of the opinion the temporary use of the Motherhouse for additional student accommodation is consistent with the existing use of the property and will be limited by the capacity of the available servicing. The permanent conversion to a private school will require justification in accordance with the Niagara Escarpment Plan, Part 1.2.1 to demonstrate how the impact of the change in use will not adversely impact the Purpose and Objectives of the Plan and the applicable Development Criteria and be consistent with other relevant Provincial policies. The Plan amendment process will also provide the opportunity for public and agency consultation.

**CONCLUSION:**

NEC staff recommend that the NEC do not object to the proposed temporary use by-law to permit 96 students to reside in the Motherhouse on the subject lands, for a total of 3 years only, while the NEPA application is being reviewed, as set out in the Recommendation on page 1 of this report.

There are two stages in the planning process for the proposed uses of the subject property. The temporary use by-law relates to the proposal to provide student accommodation in the existing building. The NEC is a commenting agency on the by-law under the *Planning Act*. In the second stage of the planning process, the NEC will be considering a NEPA under the *Niagara Escarpment Planning and Development Act* for the proposed change of use of the Motherhouse from the existing residential use to a private school.

The position the Commission takes on the temporary use by-law, which is the subject of this report, is not in any way pre-determinative of the Commission's position on the future Plan Amendment application.

**Prepared by:**

---

Nancy Mott, MCIP, RPP  
Senior Strategic Advisor

**Approved by:**

---

Debbie Ramsay, MCIP, RPP  
Manager

---

David Ayotte  
Director

## **A Brief History of Pleasantview**

The Pleasantview Survey is situated on the brow of the Niagara Escarpment west of Highway No. 6 and North of the 403. The original survey was laid out in 1914 and began to spur some residential development in this area of Dundas, however, key aspects of the layout were not feasible to construct due to the existing topography, natural features and lack of services. The survey was laid out prior to the modern planning approvals system. As a result, many of the roads that were laid out were never built and some lots remain in private ownership and landlocked. The survey was deregistered in the 1970's but what remains are various clusters of residential neighbourhoods, city owned road allowances as well as various legal non-conforming uses.

Between 1914 and 1952, five other surveys were laid out in the immediate area, many of which were only partially implemented due to the various factors listed above. However, the surveys laid out in those 38 years make up most of the existing neighbourhood that is visible today.

In 1973, the Province of Ontario enacted a Minister's Zoning Order to freeze development in Pleasantview while they began to conduct background studies on what would become the Parkway Belt West Plan (PBWP) in 1978. Since that time, Pleasantview has been subject to the PBWP.

In 1986 and in response to the adopted PBWP, Dundas adopted an amendment to Dundas Official Plan (OPA 13) to achieve conformity with the PBWP. OPA 13 created a special policy area for the Pleasantview neighbourhood, which permitted limited residential development on 0.4 ha (1 ac.) lots.

In 1988, the Region of Hamilton-Wentworth extended piped water to the existing dwellings within the Pleasantview neighbourhood to alleviate well contamination.

In 1994, Dundas adopted a new Official Plan Amendment for the Neighbourhood (OPA 23) and implementing zoning by-law amendments. The proposed OPA and zoning:

- Increased the lot size from 0.4 ha to 0.8 ha for single detached dwellings;
- permitted "cluster form development" for certain lands designated Rural; and, adjusted the open space designations as a result of more accurate information received as part of the Zoning By-law amendments.

At the same time, *Planning Act* applications were received for various forms of residential development. OPA 23, the zoning by-law amendments and the *Planning Act* applications were appealed to the Ontario Municipal Board (OMB) by several groups.

The outcome of the OMB hearing modified OPA 23 in the following ways:

- No new single detached dwellings were permitted to be constructed after August 1993;

- "Cluster form development" was prohibited; this resulted in the refusal of several subdivisions that were seeking planning approvals in Pleasantview, and;
- The minimum lot size for new dwellings was increased from 0.8 ha to 10 ha.

In 1998 the Zoning By-law (4066-93) was amended to implement the minimum 10 ha. requirement for new single detached dwelling lots. Dundas Town Council passed the Zoning By-law in conformity with the OMB decision.

Since this OMB decision, minimal development has occurred in Pleasantview.

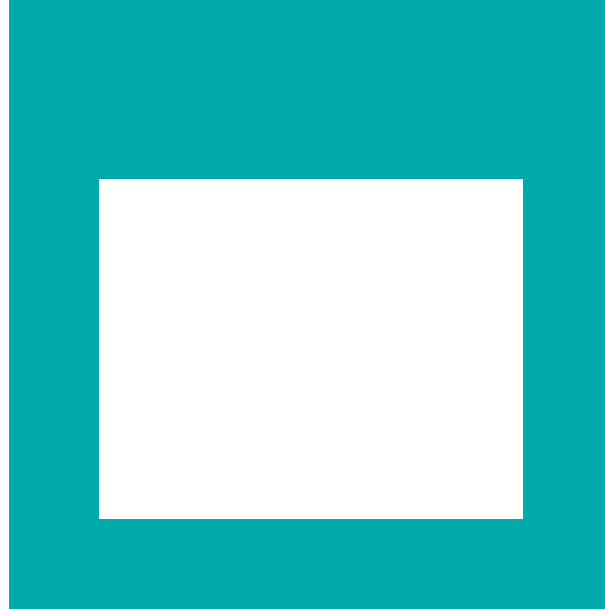
In 2013, through Niagara Escarpment Plan Amendment (NEPA) No. 179 the NEC included the area within the Niagara Escarpment Plan and designated the various lands as Escarpment Rural, Natural and Protection. In addition, the NEPA included a Special Policy Area (Policy 2.2.21) which reflects the planning framework from 1995 OMB decision. No new dwellings were permitted on the remaining undeveloped lots and site-specific policies were put into place to recognize existing uses.

The lands continue to be under the jurisdiction of the NEP, PWBP and Former Town of Dundas Official Plan. The Rural Hamilton Official Plan contains reference to the Pleasantview neighbourhood through a special policy which states the following:

"The subject lands are designated "Special Policy Area A – Pleasantview" on Map A – Special Policy Areas. The following policy is applicable:

- A.1.1 Notwithstanding Section C.1.3.1 or any other applicable policies in Volume 1 of this Plan, the lands identified as Special Policy Area A on Map A - Special Policy Areas, remain subject to provisions of the Official Plan of the former Town of Dundas as set out by the Ontario Municipal Board Decision (dated June 28, 1995). Following completion of a comprehensive growth management study known as GRIDS (Growth Related Integrated Development Strategy), Council has approved SPA A to remain as a part of the Rural Area. To reflect the unique circumstances of these lands and permanently resolve their status under the Provincial Parkway Belt West Plan and ensure Greenbelt Plan conformity, the City shall conduct future studies, prepare Secondary Plan policies and undertake community consultation to adopt a future amendment to this Plan for SPA A in conformity with applicable provincial plans and policies."

Dundas Zoning By-law No. 3581-86 applies to all lands within Pleasantview.

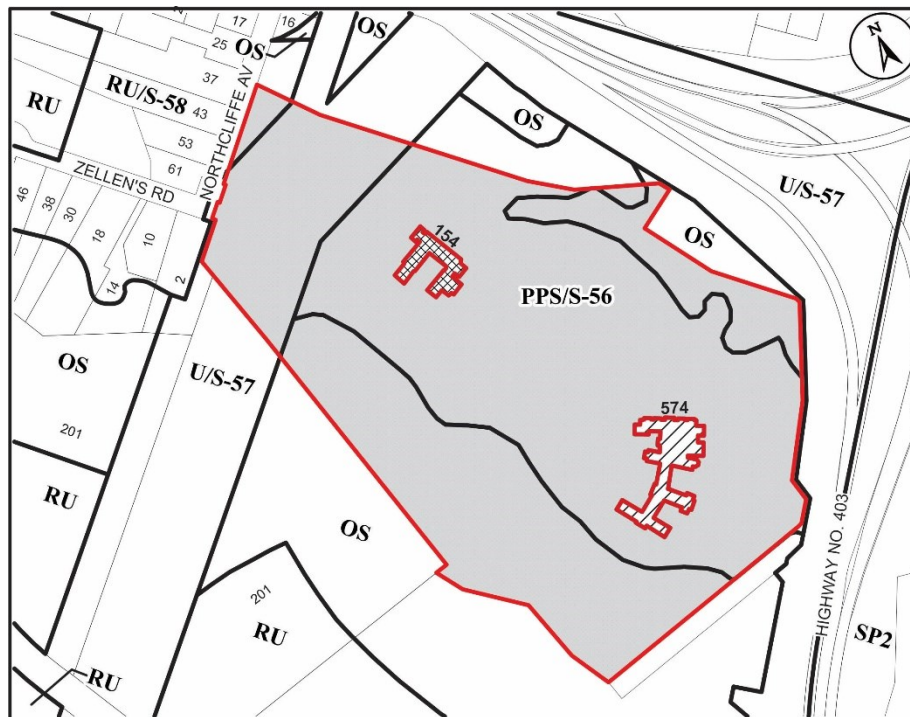


WELCOME TO THE CITY OF HAMILTON

# PLANNING COMMITTEE

July 9, 2019





● Site Location



Key Map - Ward 13

N.T.S.

### Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAR-19-013




Date:  
May 17, 2019

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
RF/NB

#### Subject Property

-  Building "A" - 154 Northcliffe Avenue
-  Building "B" - 574 Northcliffe Avenue  
(Subject to the "Temporary Use By-law")
- Change in Zoning from the Public and Private Service "PPS/S-56" Zone, Modified to the Public and Private Service "H-PPS/S-56a" Zone, Modified
-  Other Lands Owned by the Applicant



**SUBJECT PROPERTY**



**574 Northcliffe Avenue, Dundas**



574 Northcliffe Avenue

## Temporary Use By-law

- To permit a dormitory having a maximum capacity of 96 students for a maximum period of 3 years and only within Building 'B'
- After 3 years the By-law expires and the use does not become legal-non conforming as a result

## Holding Provision

- Will limit the occupancy to 96 until such time as the septic system is upgraded
- Upon removal of the Holding Provision the maximum capacity will be 138 students

as and approved this 29<sup>th</sup> day of May 2018  
*H. Chivali*  
 SECRETARY - ONTARIO R.V. & M.V. BOARD

604

PROVINCE OF ONTARIO  
 TO WIT -

I, *John C. McPherson*, Mayor of the City of Hamilton & the County of Westflamborough, do hereby make oath and swear that I was personally present and did see the within regularly copied or duplicate of the said plan & second that the said plan and duplicate were agreed in the City of Hamilton by the said parties, Towns that I know the said parties, Towns that I am a subscribing witness to the said plan and duplicate of the said plan and duplicate.

Sworn before me at the City of Hamilton this 29<sup>th</sup> day of May 2018  
*John C. McPherson*  
 A COMMISSIONER

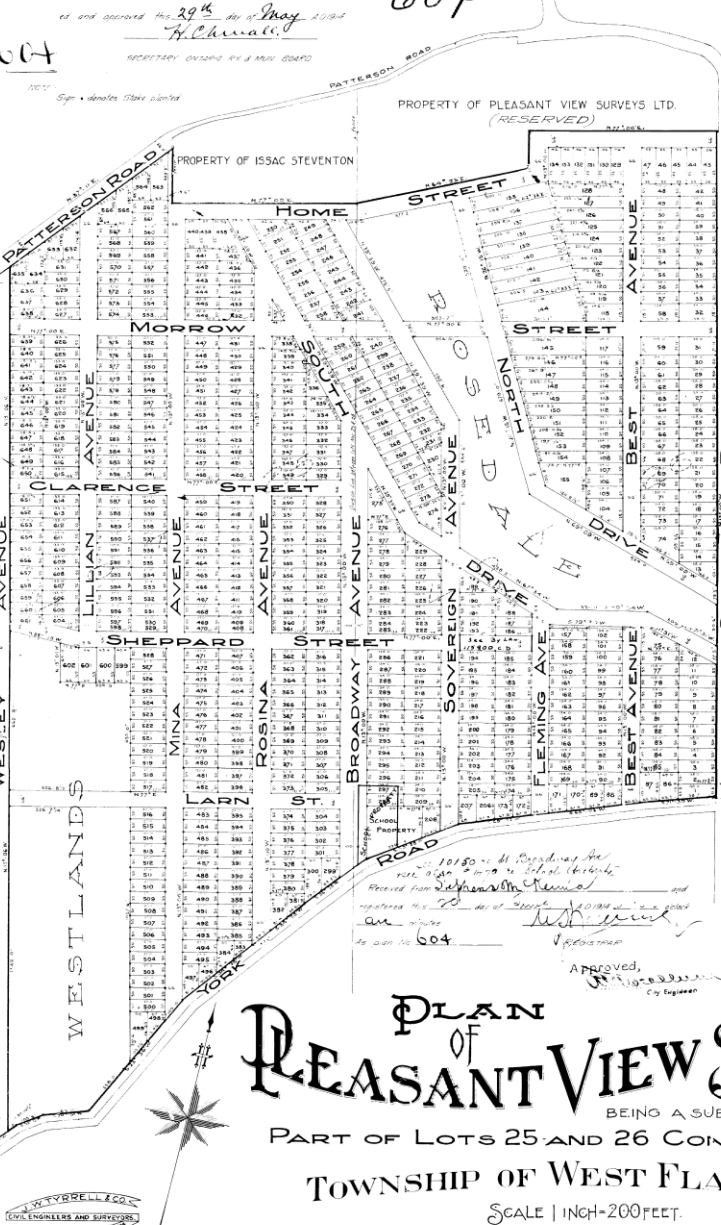
I hereby certify that this plan accurately shows the manner in which the land included within the 604 lines has been surveyed and subdivided by me, and also shows all of the lands owned by Pleasant View Surveys Limited, and that this plan has been prepared in accordance with the provisions of the Property Act and that there are no other persons claiming an interest in the land.  
*John C. McPherson*  
 ONTARIO LAND SURVEYOR

This plan has been prepared under our instructions and with our approval for Registry  
*Pleasant View Surveys Ltd.*  
*John C. McPherson* PRESIDENT  
*John C. McPherson* SEC. TREASURER  
 WITNESSES

We hereby consent to the registration of this plan  
*John C. McPherson* PRESIDENT  
*John C. McPherson* SEC. TREASURER  
 WITNESSES

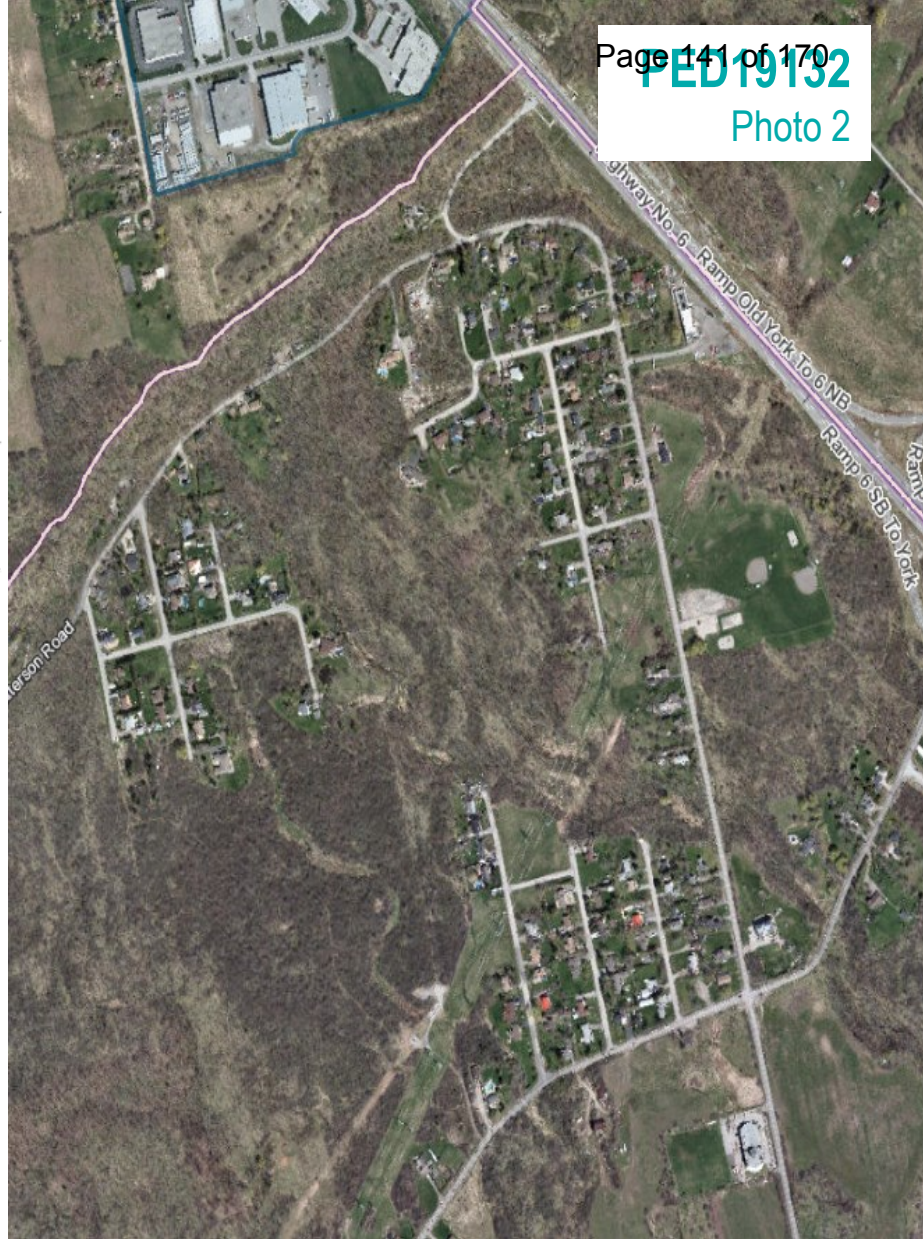
The Municipal Council of the Township of West Flamborough doth hereby approve of this plan  
*John C. McPherson* PRESIDENT  
 WITNESSES

The Municipal Council of the City of Hamilton doth hereby approve of this plan  
*John C. McPherson* PRESIDENT  
 WITNESSES



PLAN OF PLEASANT VIEW SURVEY  
 BEING A SUBDIVISION OF  
 PART OF LOTS 25 AND 26 CONCESSION 2.  
 TOWNSHIP OF WEST FLAMBORO.  
 SCALE 1 INCH = 200 FEET.

Page 141 of 170  
**FED 19132**  
 Photo 2



574 Northcliffe Avenue



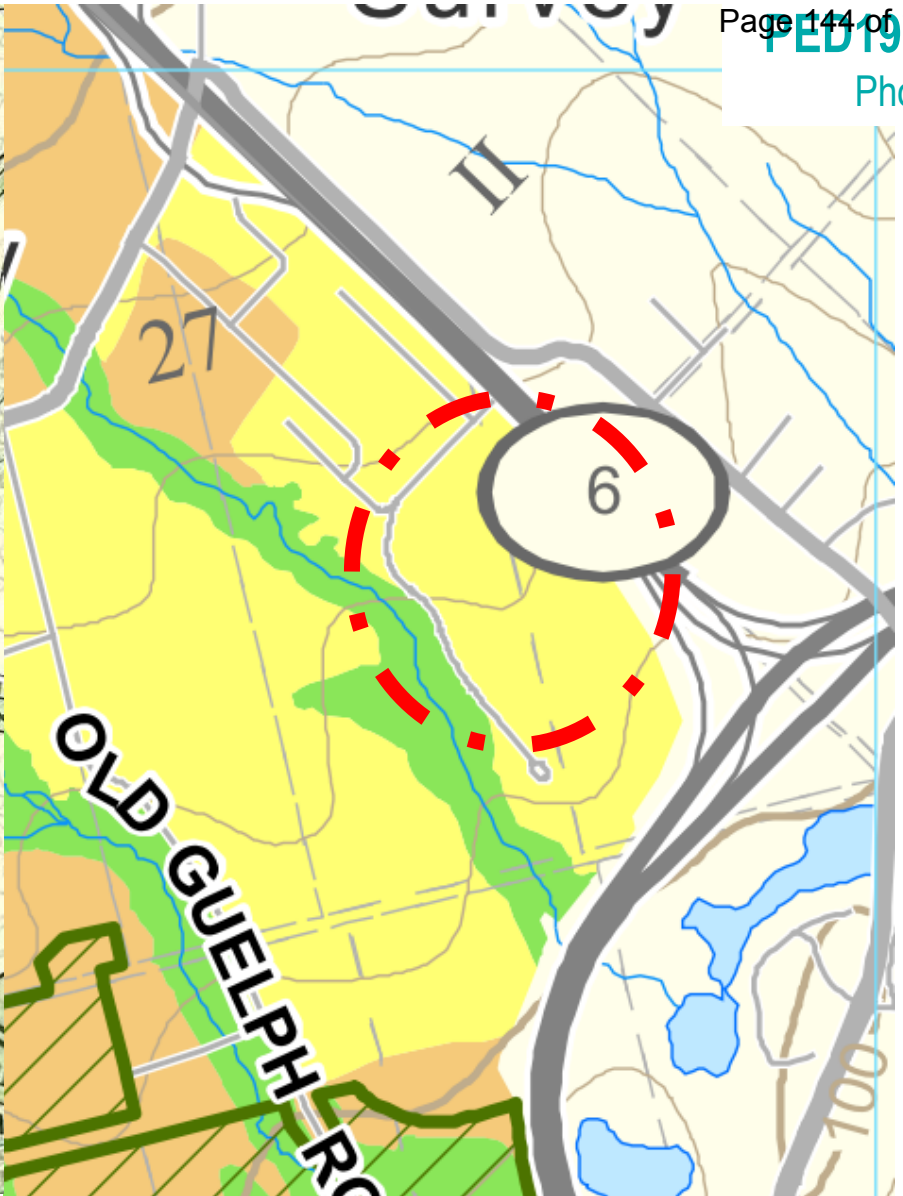
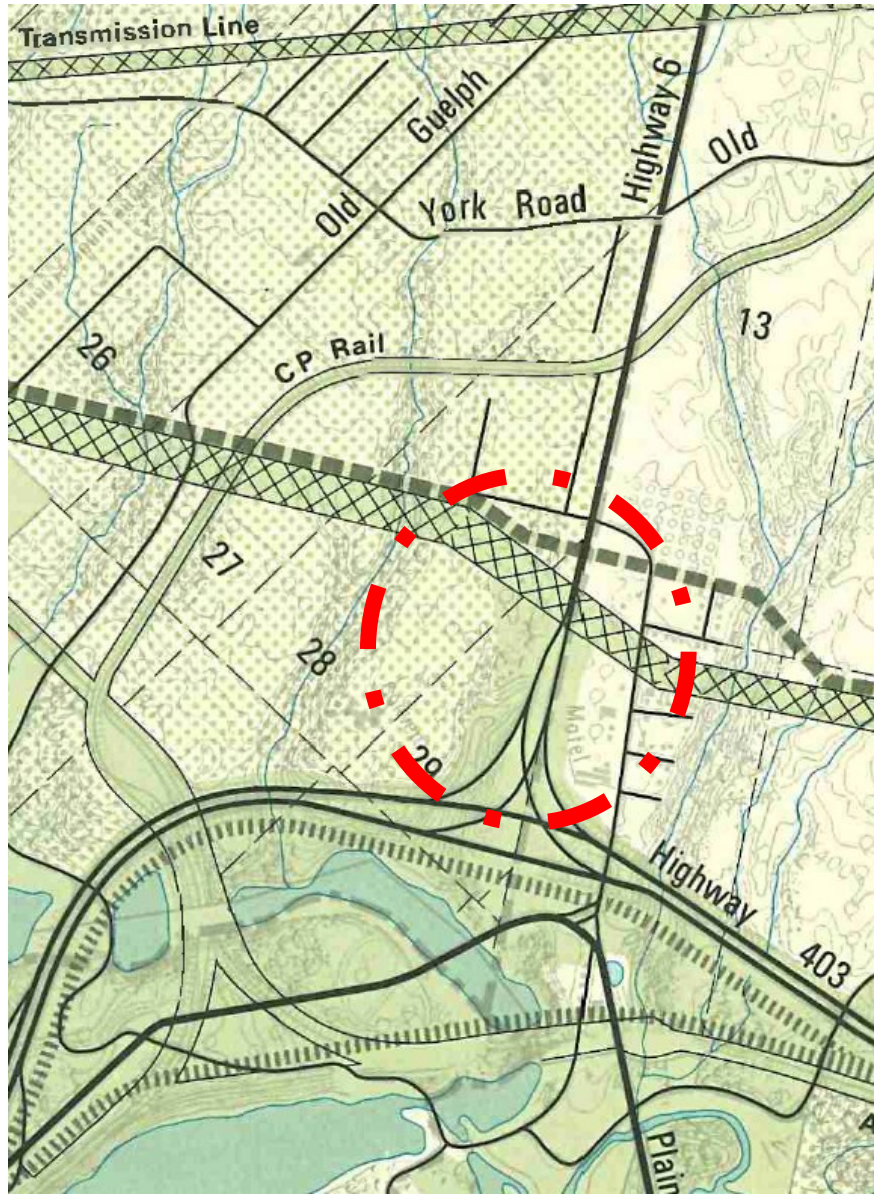
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

# History of Pleasantview

- 1973; Ministers Zoning Order
- 1978; Parkway Belt West Plan is approved
- 1986; Town of Dundas amended OP for conformity with PWBWP
- 1988; Region of Hamilton-Wentworth Extends Municipal Water to the Area
- 1994; Town of Dundas adopted another Official Plan Amendment, OPA 23 which was appealed to the OMB

# History of Pleasantview

- 1995; OMB issues a decision which amended OPA 23 to limit new development possibilities in Pleasantview
- In 2011 and 2013; Committee of Adjustment allows minor variances to permit a dormitory for 36 students within Building 'B' (Convent)
- 2013; Niagara Escarpment Plan is amended to add Pleasantview to the NEP



574 Northcliffe Avenue





574 Northcliffe Avenue



574 Northcliffe Avenue



574 Northcliffe Avenue



574 Northcliffe Avenue



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574 Northcliffe Avenue



574 Northcliffe Avenue



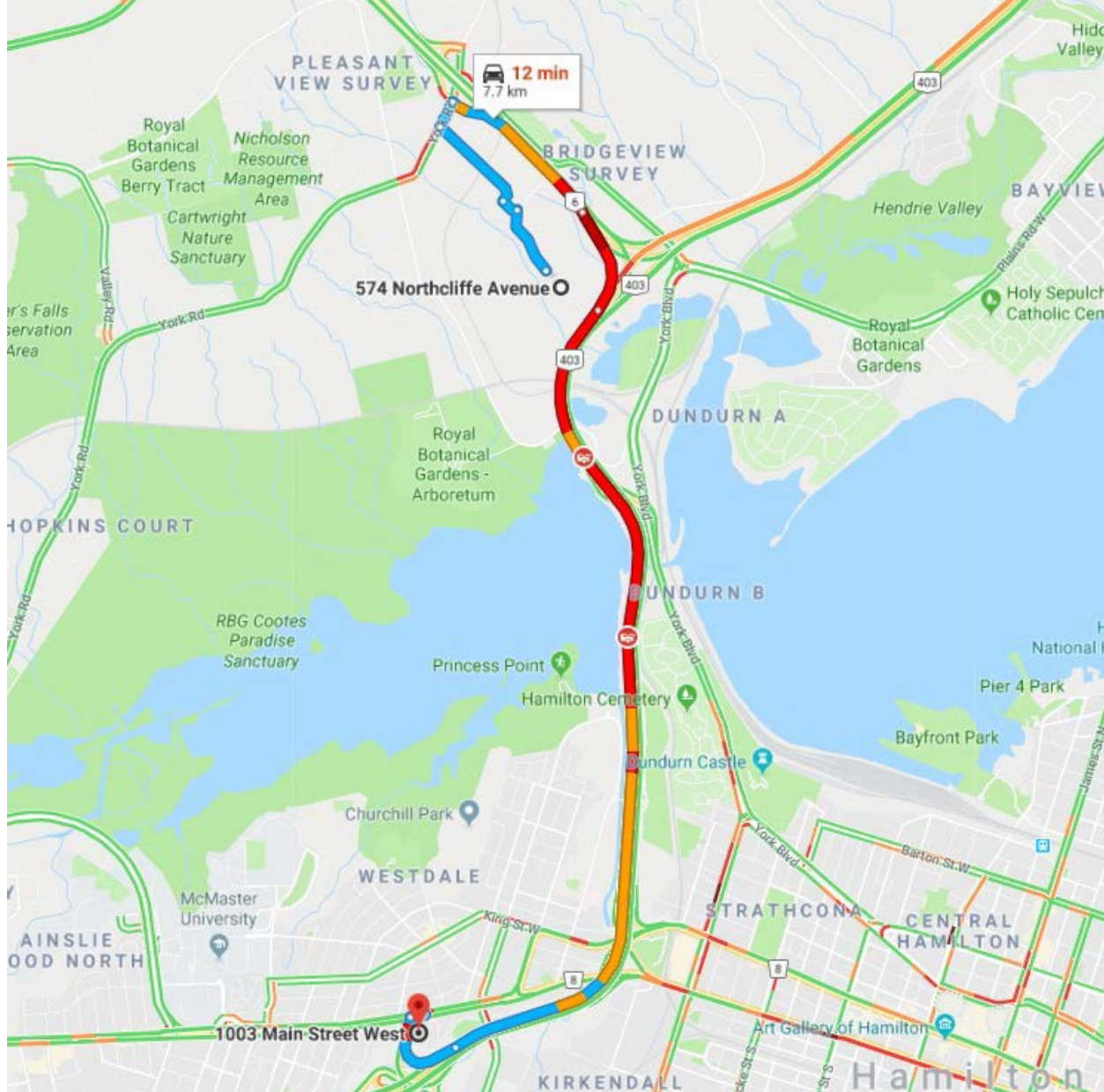


574 Northcliffe Avenue



574 Northcliffe Avenue



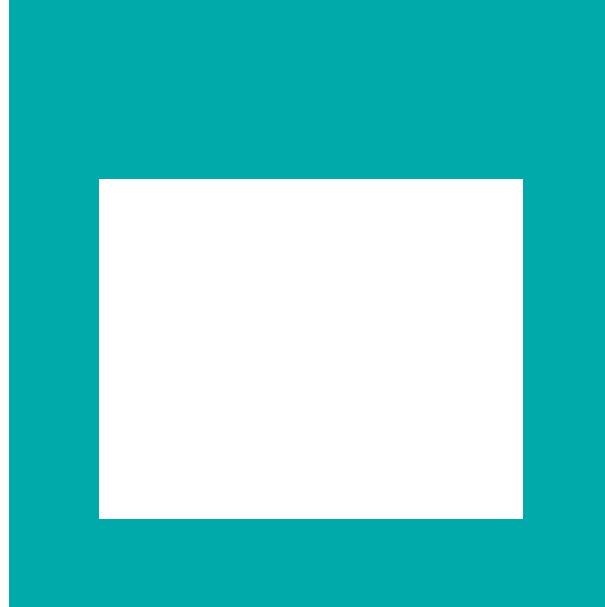


574 Northcliffe Avenue

- Consistent with Provincial Policy Statement
- Conforms to Parkway Belt West Plan and Niagara Escarpment Plan
- Complies with Region of Hamilton Wentworth Official Plan and Dundas Official Plan
- Use is Temporary for a period of three years
- Adaptive Re-use of a Heritage Building



574 Northcliffe Avenue



# THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 9, 2019
<b>SUBJECT/REPORT NO:</b>	Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Luis Ferreira (905) 546-2424 Ext. 3087 Dawn Johnson (905) 546-2424 Ext.5809
<b>SUBMITTED BY:</b>	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
<b>SIGNATURE:</b>	

### RECOMMENDATION(S)

- (a) That Report PED19008(a) respecting amending the Business Licensing By-law No. 07-170 to include Tree Cutting Services as a schedule be received;
- (b) That the draft By-law, attached as Appendix "A" to Report PED19008(a) which amends Business Licensing By-law No. 07-170 to include Tree Cutting Services as a schedule be enacted by Council;
- (c) That a new licensing fee of \$270 for Tree Cutting Services be approved, and that the User Fees and Charges By-law be amended accordingly.

### EXECUTIVE SUMMARY

Responding to a motion introduced by Council and acting to address emerging issues as outlined in the feasibility Report PED19008, staff is proposing to amend the Licensing By-law 07-170 to license all Tree Cutting Services that engage in the removal of trees within the City of Hamilton.

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

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

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



**SUBJECT: Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) - Page 2 of 5**

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This Report proposes a by-law to amend the Business Licensing By-law No. 07-170 to add Tree Cutting Services as a licensed business, as Schedule 14. The development of the Tree Cutting Services Schedule is founded on the City's regulatory purpose of public safety and consumer protection. The proposed amending By-law introduces Tree Cutting Services and addresses some minor housekeeping items to the General Provisions.

Staff is also seeking approval for a \$270 licensing fee for 2019 and amend the Fees and Charges By-law to reflect this new licensing category going forward.

**Alternatives for Consideration – Not Applicable**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** To obtain a licence each Tree Cutting Service will be required to pay \$270 for the 2019 licensing year, which is based on full cost recovery. Thereafter, annual fees will be as outlined in the City's User Fees and Charges By-Law. Based on market analysis, there are approximately 30 Tree Cutting Services, which will generate approximate annual revenue of \$8,100.

**Staffing:** The impact of the work is equivalent to 0.08 FTE and will be absorbed within the existing complement.

**Legal:** Pursuant to Subsection 10(2) of the *Municipal Act, 2001* the City has the legal authority to pass by-laws respecting business licensing.

Subsection 391(1) of the *Municipal Act, 2001* authorizes the City to impose fees and charges on persons for services or activities provided or done by or on behalf of it.

Schedule 14 of the Business Licensing By-law 07-170 will contain regulations for Tree Cutting Services.

**HISTORICAL BACKGROUND**

At its meeting of March 29, 2017, Council approved Item 7.7 being a motion 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.

At its meeting of May 8, 2019, Council approved Item 10 of Planning Committee Report 19-007 directing staff to draft a new licensing schedule (Tree Cutting Service) within the

**SUBJECT: Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) - Page 3 of 5**

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Business Licensing By-law 07-170 and bring back to the Planning Committee in a form satisfactory to the City Solicitor for enactment.

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

N/A

**RELEVANT CONSULTATION**

Legal Services and Industry Stakeholders were consulted in the preparation of this Report.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

Hamilton is fortunate to hold significant tracts of forest and natural areas within its boundary. Combine these areas with Hamilton's tree-lined streets, parks and trees on private property constitutes an 'urban forest'.

The urban forest is part of Hamilton's charm and used for recreation, fitness, solitude, and connecting to nature. Urban forests and woodlands in rural areas are valued for shade, privacy, air quality improvements and noise buffering.

The City of Hamilton has played a role in the protection of urban and rural forests through education and the implementation of green space enhancement, assessment and protection initiatives. The City promotes healthy forests and protects trees from harm through the enforcement of the following By-laws:

- By-law No. 15-125, being a by-law to Regulate Trees on or Affecting Public Property;
- By-law No. 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 of Hamilton;
- By-law No. 2000-118, being a by-law to Prohibit the Injury or Destruction of Specified Classes of Trees on Public and Private Property in the Town of Ancaster;
- By-law No. 4513-99, being a by-law to Prohibit or Regulate the Injury or Destruction of Trees in Areas of the Town of Dundas; and,
- By-law No. 4401-96, being a by-law to Prohibit or Regulate the Injury or Destruction of Trees in Areas of the City of Stoney Creek.

**SUBJECT: Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) - Page 4 of 5**

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The passing of the above by-laws demonstrates the City's commitment to protecting our forests. Many amendments throughout the years have kept them current and relevant. The last amending By-law was passed in Council on May 24, 2017 for By-laws 2000-118, 4401-96 and 4513-99.

However, several events have come to the attention of staff where landowners have hired Tree Cutting Services to remove large numbers of trees (woodlands) on private property prior to proper site approval or in contrary to the City's Tree Protection By-laws.

Other municipalities have also experienced similar situations and have implemented a licensing category to ensure these businesses understand municipal by-laws, carry adequate insurance and employ skilled workers while addressing public safety, consumer protection and nuisance issues.

A review of municipal best practices, identified several municipalities who license Tree Cutting/Removal Services: Barrie, Burnaby BC, Calgary AB, Edmonton AB, New Westminster BC and Oakville. Following Council's direction, staff recommends adding a new Licensing Category to By-law 07-170, as Schedule 14 (Tree Cutting Service). Schedule 14 will enhance the City's commitment to promoting and protecting trees and forests while ensuring consumer protection, health and safety.

Introducing the requirement of a licence will provide enforcement staff the ability to properly vet these companies. Requiring comprehensive insurance coverage, corporate documents and/or sole proprietor information and adherence to industry best practices. It would also require licenced Tree Cutting Services to provide contracts which identify work to be performed and for whom, cost of the work and completion date. Staff anticipates that having authority to obtain this information will assist with the enforcement of the City's Tree Protection By-laws.

The proposed draft Schedule 14 requires licensed tree cutting services to comply with the City's tree by-laws, and to ensure a permit is obtained (if required) or ensure that cutting is done in accordance with an approved tree protection plan, which may be prepared by an arborist among other professionals.

On October 30, 2018, Licensing staff hosted an Industry Stakeholders meeting where seven individuals, representing six different tree cutting companies attended. They supported licensing and the proposed licensing fee but added that without proper enforcement of unlicensed companies, there would be no benefit.

### **Minor Administrative and Technical Amendments**

The proposed By-law also contains minor administrative amendments as identified in Appendix "A".

**SUBJECT: Amend Business Licensing By-law 07-170 to Include a New Licence Category for Tree Cutting Services as Schedule 14 (PED19008(a)) (City Wide) - Page 5 of 5**

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### **Conclusion**

The City, as the regulator, is solely charged with establishing regulations that meet the public's reasonable expectation of consumer protection and public safety. The objective of Schedule 14 is to create a category that is user friendly and easy to follow for those who need to comply, and easy to enforce.

The proposed Tree Cutting Services Schedule also responds to the City's need to address emerging issues by licensing all Tree Cutting Services who engage in the removal of trees in the City of Hamilton. This will provide an opportunity for the Licensing Section to regulate as part of the licensing application/renewal process 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.

#### **Healthy and Safe Communities**

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

### **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A": Amending By-law to Business Licensing By-law 07-170

KL:st

**Appendix “A” to Report PED19008(a)  
Page 1 of 5**

**Authority:** Item ,  
Report (PED19008(a))  
CM:  
Ward: City Wide

**Bill No.**

**CITY OF HAMILTON**

**BY-LAW NO.**

**To Amend By-law No. 07-170, a By-law to License and Regulate Various  
Businesses**

**WHEREAS** Council enacted a by-law to licence and regulate various businesses being City of Hamilton By-law No. 07-170; and

**WHEREAS** this By-law amends the General Provisions of By-law No. 07-170 and provides for the addition of Schedule 14 to licence Tree Cutting Services.

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

1. Subsection 2(a) of the General Provisions of By-law No. 07-170 is deleted and the following substituted:
  - (a) Administration of this By-law shall be by the staff of Licencing and By-law Services Division of the Planning and Economic Development Department of the City.
2. Subclause (6)(1)(e)(i) of the General Provisions of By-law No. 07-170 is amended by deleting “(Reserved)” after “Schedule 14” and substituting “Tree Cutting Services”.
3. Section 30 of the General Provisions of By-law No. 07-170 is amended by deleting the word “(Reserved)” after “Schedule 14” and substituting “Tree Cutting Services”.
4. By-law No. 07-170 is amended by adding the new Schedule 14, entitled “Tree Cutting Services” as follows:

**SCHEDULE 14**

**TREE CUTTING SERVICES**

**Definitions**

- 1 In this Schedule,

**Appendix “A” to Report PED19008(a)**  
**Page 2 of 5**

**"tree"** means a self-supporting woody perennial plant which has reached or can reach a height of at least 3 metres at physiological maturity;

**"tree cutting service"** means a person engaged in the business of assessing the health and structural integrity of trees, removing trees, pruning tree branches or roots, removing stumps, or transplanting trees, including climbing aloft and using rigging equipment for any such purpose.

### **Requirement for Licence**

2 No person shall carry on the business, trade or occupation of a tree cutting service without a licence.

### **General Operating Conditions**

3 Every tree cutting service shall:

- (a) ensure that a policy of commercial general liability insurance, including coverage for bodily injury and property damage resulting from any work performed, with an inclusive limit of at least two million dollars (\$2,000,000) per claim or occurrence, is in force at all times during the currency of the licence and includes coverage for all the tradespersons and labourers employed or retained by the tree cutting service;
- (b) provide a written contract to the person for whom the work is being completed, which contract shall be signed by the licensee and shall contain:
  - (i) the name and address of the licensee and the person for whom the work is being done;
  - (ii) the address where the work is to be done;
  - (iii) a description of the work to be completed and price; and
  - (iv) the estimated date of completion;
- (c) not permit the operation of any equipment used in the course of the tree cutting service between the hours of 7:00 p.m. and 7:00 a.m. of the following day that is likely to disturb those inhabiting neighbouring properties;

**Appendix "A" to Report PED19008(a)****Page 3 of 5**

- (d) ensure that no vehicle used in the performance of work obstructs the municipal right of way;
- (e) ensure that all debris, mud, garbage or stone tracked onto a municipal right of way is removed at the end of each working day;
- (f) ensure that no work performed creates a public safety concern;
- (g) ensure that no work performed interferes with any property's drainage or creates any flooding or ponding on any property including a municipal right of way;
- (h) not permit the emission of dust or airborne particulate matter to reduce the enjoyment of a neighbouring property;
- (i) replace any damaged sod, ground cover, pavement, or other property of the City within 48 hours of the completion of the work; and
- (j) obtain proper permits (if required) to ensure that cutting is done in accordance with approved tree protection plan which may be prepared by an arborist among other professionals.

**Compliance with Tree By-laws**

4 (1) Every tree cutting service shall comply with all applicable by-laws relating to trees, which may include:

- (a) Public Tree Protection By-law No. 15-125;
- (b) Urban Woodland By-law No. 14-212;
- (c) Former Regional Municipality of Hamilton-Wentworth Woodland Conservation By-law No. R00-054;
- (d) Former Town of Dundas Tree Protection By-law No. 4513-99;
- (e) Former City of Stoney Creek Tree By-law No. 4401-96; and
- (f) Former Town of Ancaster Tree Protection By-law No. 2000-118.

**Appendix "A" to Report PED19008(a)**  
**Page 4 of 5**

- (2) Prior to injuring or destroying any tree, every tree cutting service shall ensure:
- (a) that a permit has been obtained to injure or destroy trees, if required by by-law;  
or
  - (b) if no permit is required by by-law, that the injury or destruction of trees is performed in accordance with any applicable restrictions or conditions on the injury or destruction of trees such as an approved tree protection plan imposed as a condition of development approval.

**Penalties**

5 (1) Despite subsection 27(2) of the General Provisions of this By-law, every person other than a corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$10,000 or \$1,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$25,000 or \$2,500 per tree injured or destroyed, whichever is greater.

(2) Subsection (1) applies to any officer or director who knowingly concurs in a contravention of this Schedule or an order made under this By-law relating to this Schedule.

(3) Despite subsection 27(3) of the General Provisions of this By-law, every corporation who contravenes any provision of this Schedule or an order made under this By-law relating to this Schedule is guilty of an offence and on conviction is liable to a maximum fine of:

- (a) for first offence, \$50,000 or \$5,000 per tree injured or destroyed, whichever is greater; or
- (b) for a subsequent offence, \$100,000 or \$10,000 per tree injured or destroyed, whichever is greater.



**Appendix "A" to Report PED19008(a)**

**Page 5 of 5**

(4) In addition, if any person convicted of an offence under this Schedule has gained economic advantage from the contravention of the Schedule, they are liable to a special fine, which may exceed \$100,000 equal to the economic advantage gained.

6 This By-law comes into force on the day it is passed.

**PASSED** this     day of     , 2019.

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F. Eisenberger  
Mayor

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J. Pilon  
Acting City Clerk

# CITY OF HAMILTON

## MOTION

**PLANNING COMMITTEE DATE: July 9, 2019**

**MOVED BY COUNCILLOR J. Partridge.....**

**SECONDED BY COUNCILLOR.....**

**Authorization for 100 Hamilton Street GP Inc. to apply for Variances to a By-law for Lands Located at 100 Hamilton Street North.**

WHEREAS Bill 73, *Smart Growth for our Communities Act*, 2015 placed a moratorium for minor variance applications within 2 years of passing a site specific zoning by-law amendment;

WHEREAS the application as presented in Report PED17157 for 100 Hamilton Street North was approved on October 18, 2017 and is within the 2 year moratorium;

WHEREAS Council may waive this moratorium on a site specific basis, to allow the applicant to make an application to the Committee of Adjustment;

WHEREAS it would then be within the authority of the Committee of Adjustment to assess the merits of the application and to make a decision; and,

WHEREAS the applicant is interested in seeking a minor variance to address matters related to loading spaces and the definition of retirement home;

**THEREFORE BE IT RESOLVED:**

That 100 Hamilton Street GP Inc. be authorized to apply for variances to a by-law for lands located at 100 Hamilton Street North.