



City of Hamilton
PLANNING COMMITTEE REVISED

Meeting #: 20-002
Date: February 4, 2020
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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1. CEREMONIAL ACTIVITIES	
2. APPROVAL OF AGENDA (Added Items, if applicable, will be noted with *)	
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| | (ii) Zen Masniak | |
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12. NOTICES OF MOTION

13. GENERAL INFORMATION / OTHER BUSINESS

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| 13.1 | Outstanding Business List | |
| 13.1.a | Items to be Removed: | |
| | 19BB - Parking Fee Review | |
| | (Addressed as Item 7.2 on this agenda) | |

- 13.1.b Items Requiring New Due Dates:
- 17C - Change to the Subdivision Plan for Vienna Orchard
Current Due Date: September 17, 2019
Proposed New Due Date: June 2020

 - 18E - 2018 Development Fee Review
Current Due Date: October 15, 2019
Proposed New Due Date: March 24, 2020

 - 18N - Dedicated Mohawk College Parking Enforcement
Current Due Date: December 3, 2019
Proposed New Due Date: February 18, 2020

 - 18K - Effect of Heritage Designations on Property Values in Hamilton
Current Due Date: December 3, 2019
Proposed New Due Date: February 18, 2020

 - 19M - Amendment to Nuisance By-law No. 09-110 respecting Cannabis Growing Operations
Current Due Date: October 15, 2019
Proposed New Due Date: February 4, 2020

 - 19T - EV Chargers in Hamilton Municipal Parking System Lots
Current Due Date: None
Proposed New Due Date: March 24, 2020

 - 19W - Electric Vehicle Charging Stations in New Developments
Current Due Date: None
Proposed New Due Date: March 24, 2020

 - 19Y - Construction Hoarding
Current Due Date: None
Proposed New Due Date: June 16, 2020

 - 19AA - Fencing By-law Appeal Process
Current Due Date: None
Proposed New Due Date: May 5, 2020

14. PRIVATE AND CONFIDENTIAL

14.1 Closed Session Minutes - January 14, 2020

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

20-001

January 14, 2020

9:30 a.m.

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

Present: Councillors J. Farr (Chair), B. Clark (1st Vice Chair),
C. Collins, J.P. Danko, B. Johnson (2nd Vice Chair), J.
Partridge, M. Pearson, T. Whitehead and M. Wilson

Also in Attendance: Councillor L. Ferguson

THE FOLLOWING ITEMS WERE REFERRED TO COUNCIL FOR CONSIDERATION:

- 1. Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED20007) (City Wide) (Item 7.1)**

(Pearson/Danko)

That Report PED20007 respecting Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications, be received.

CARRIED

- 2. Payday Loan Licences (PED20010) (City Wide) (Item 7.2)**

(Partridge/Whitehead)

That Report PED20010 respecting Payday Loan Licences, be received.

CARRIED

- 3. Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Zoning By-law Amendment Application ZAA-18-053 for Lands Located at 2282 Westbrook Road (PED20002) (Glanbrook) (Ward 11) (Item 7.3)**

(Johnson/Pearson)

That Report PED20002 respecting Appeal to the Local Planning Appeal Tribunal (LPAT) for Lack of Decision on Zoning By-law Amendment Application ZAA-18-053 for Lands Located at 2282 Westbrook Road (PED20002) (Glanbrook) (Ward 11), be received.

CARRIED

4. Agriculture and Rural Affairs Advisory Committee Minutes 19-003 (Item 7.4)**(Partridge/Pearson)**

That the Agriculture and Rural Affairs Advisory Committee Minutes 19-003, be received.

CARRIED**5. Roof Top Amenity Area for 600 North Service Road, Stoney Creek (PED20037) (Ward 10) (Item 7.5)****(Pearson/Whitehead)**

That Report PED20037 respecting Roof Top Amenity Area for 600 North Service Road, Stoney Creek, be received.

CARRIED**6. Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 185 Bedrock Drive, Stoney Creek (PED20001) (Ward 9) (Item 8.1)****(Clark/Pearson)**

That Draft Plan of Condominium Application 25CDM-201905, by Armstrong Planning & Project Management on behalf of Empire (Red Hill) Ltd., owner to establish a Draft Plan of Condominium (Common Element) to create a private road, sidewalks, landscaped areas and visitor parking for 83 townhouse units on lands located at 185 Bedrock Drive (Stoney Creek), as shown on Appendix "A", attached to Report PED20001, be APPROVED subject to the following conditions:

- (a) That the approval for Draft Plan of Condominium (Common Element) application 25CDM-201905 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, sidewalks, landscaped areas and visitor parking for 83 townhouse units, attached as Appendix "B" to Report PED20001;
- (b) That the conditions of Draft Plan of Condominium Approval 25CDM-201905, attached as Appendix "C" to Report PED20001, be received and endorsed by City Council;
- (c) ***That a warning clause be added to any sale, lease or rental agreement that the property is within 500 metres of an operational industrial, commercial, institutional landfill; and,***
- (d) ***That there were no public submissions received regarding this matter.***

Result: Main Motion, As Amended, CARRIED by a vote of 8 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

7. Applications for Official Plan Amendment and Zoning By-law Amendment for Lands Located at 125 and 129 Robert Street, Hamilton (PED20015) (Ward 2) (Item 8.2)

(Farr/Wilson)

- (a) That Official Plan Amendment Application UHOPA-17-033 by Vision Hamilton Inc, Owner, for a change in designation on Schedule “M-2” of the West Harbour (Setting Sail) Secondary Plan in the former City of Hamilton Official Plan to add a Site Specific Policy Area to permit the development of a six unit, three storey multiple dwelling with a maximum residential density of 143.0 units per gross hectare, for lands located at 125 and 129 Robert Street, as shown on Appendix “A” to Report PED20015, be **APPROVED**;
- (b) That Zoning By-law Amendment Application ZAC-17-073 by Vision Hamilton Inc., Owner, for a change in zoning from the “D/S-378” (Urban Protected Residential – One and Two Family Dwellings) District, Modified to a site specific “DE-2” (Low Density Multiple Dwellings) District, Modified to permit a six unit, three storey multiple dwelling with no on-site parking on lands located at 125 and 129 Robert Street, Hamilton, as shown on Appendix “A” to Report PED20015, be **APPROVED**;
- (c) ***That staff be directed to prepare the Official Plan Amendment and Zoning By-law Amendment consistent with the concept plans presented at Planning Committee on this day (January 14, 2020), and ensure implementation through the future site plan application, and any other necessary agreements to implement Council’s direction, with a warning clause in purchase or rental agreements that owners/tenants are not eligible for on street parking permits, and owners/tenants cannot petition the City for changes to on-street parking; and,***
- (d) ***That the public submissions received on this matter did not affect the decision.***

Result: Main Motion, As Amended, CARRIED by a vote of 8 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

8. Application for a Zoning By-law Amendment for Lands Located at 179, 183 and 187 Wilson Street West (Ancaster) (PED20022) (Ward 12) (Item 8.3)

(Collins/Clark)

(a) That Zoning By-law Amendment Application ZAC-19-040 by T. Johns Consulting Group on behalf of Sunrise Senior Living, Owner, for a change in zoning from the Residential "R2" Zone in Town of Ancaster Zoning By-law No. 87-57, to the Community Institutional (I2, 694) Zone, in the City of Hamilton Zoning By-law No. 05-200, to permit a three storey retirement home for lands located at 179, 183, and 187 Wilson Street West (Ancaster), as shown on Appendix "A" to Report PED20022 be APPROVED, on the following basis:

- (i) That the draft By-law, attached as Appendix "B" to Report PED20022, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS) and conforms to A Place to Grow (2019);
- (iii) That the proposed change in zoning complies with the Urban Hamilton Official Plan and the Ancaster Wilson Street Secondary Plan.

(b) That the following conditions apply:

- 1. That on weekends and special occasions, the applicant provide a shuttle service for visitors and staff to avoid on street parking.**
- 2. That all construction activity be limited to between 7:00 a.m. and 5:30 p.m. from Monday to Friday.**

3. ***That no closure of a lane on Wilson Street will be permitted during rush hours.***
 4. ***That a pre-construction survey be completed by the applicant.***
- (c) ***That the public submissions received on this matter did not affect the decision.***

Result: Main Motion, As Amended, CARRIED by a vote of 8 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

9. Accessible Taxicab Financial Incentive Program (PED18082(a)) (City Wide) (Item 10.1)

(Collins/Clark)

- (a) That the Accessible Taxicab Financial Incentive Pilot Program be extended for an additional 16 months to the end of April 2021 and that the program be funded through the Working Funds - General Reserve 112400 at an estimated net cost of \$80,000 or \$5,000 per month; and,
- (b) That funding for a permanent Accessible Taxicab Financial Incentive Program be considered during the 2021 budget deliberations.

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 NOT PRESENT - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

10. Release of Standard Taxi Plates – Priority List (PED20011) (City Wide) (Item 10.2)

(Collins/Partridge)

That staff be authorized to issue three standard taxicab plates in January 2020 and an additional three standard taxicab plates per year until the Standard Taxicab Priority List expires.

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 NOT PRESENT - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

11. Advertising on Taxicabs (PED20014) (City Wide) (Item 10.3)

(Clark/Collins)

That Report PED20014 respecting Advertising on Taxicabs, be received.

CARRIED

12. Property Standards By-law – Rental Properties and Apartments (Item 11.1)

(Whitehead/Farr)

WHEREAS, the Building Code Act, 1992, authorized the City of Hamilton to pass a bylaw prescribing standards for the maintenance and occupancy of property;

WHEREAS, the City of Hamilton Consolidated By-law 10-221, being a By-law to prescribe standards of the maintenance and occupancy of property was passed by Council in 2010;

WHEREAS, as part of continuous improvement, by-laws require changes over time to align with changes in legislation, improve processes and to maintain the by-law to the original intent and effectiveness;

WHEREAS, since the adoption of the Property Standards By-law, there have been eight (8) incorporated amendments to improve the By-law; and,

WHEREAS, there have been concerns of the health and safety of rental house and apartments within the City.

THEREFORE BE IT RESOLVED:

- (a) That staff be directed to meet with Internal and external stakeholders concerning possible improvements to the Property Standards By-law involving rental properties, apartments and tenant living areas; and,
- (b) That staff be directed to review and compare our current Property Standards Bylaw against other municipalities to determine best practices and improvement to our current legislation.

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 14 Councillor Terry Whitehead
 NOT PRESENT - Ward 11 Councillor Brenda Johnson
 CONFLICT - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

13. Authorization for LJM Developments Inc. to apply for a Variance to a By-law for Lands Located at 2782 Barton Street East (Item 11.2)

(Collins/Partridge)

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 PED19170 for lands including 2782 Barton Street East was approved September 3, 2019 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 the application as presented in Report PED19170 was approved at a maximum density of 441 units per hectare (or 244 units), and any proposed height increases cannot increase the maximum density established without an amendment to the Urban Hamilton Official Plan;

THEREFORE BE IT RESOLVED:

That Council of the City of Hamilton provide authorization to LJM Developments Inc. to apply for minor variances to a by-law for lands located at 2782 Barton

Street East in order to vary building height, among other variances, of a site specific by-law approved within the last 2 years.

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 NOT PRESENT - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

**14. Roof Top Amenity Area for 600 North Service Road, Stoney Creek
(Added Item 11.3)**

(Pearson/Clark)

WHEREAS, conditional site plan approval was issued for Site Plan Control application DA-19-053 which included a condition which required the completion of a detailed noise study; and,

WHEREAS, a noise study, dated September 9, 2019, prepared by Valcoustics Canada Ltd. was submitted with the Site Plan Control application which identified that at the common outdoor amenity areas, the unmitigated daytime sound levels are predicted to be 70 dbA at the rooftop terrace and that a 4.4 m high sound barrier would be required around the south, east and west sides of the terrace to mitigate the sound levels to the MECP guidelines;

THEREFORE BE IT RESOLVED:

That staff be directed to waive the requirement for noise mitigation for the rooftop terrace and require the inclusion of noise warning clauses in all offers of purchase and sale and/or lease agreements advising that noise levels will be exceeding MECP guidelines, to be implemented through both the Site Plan Control application and future Plan of Condominium.

Result: Motion CARRIED by a vote of 7 to 2, as follows:

NO - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 NO - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson

YES - Ward 10 Councillor Maria Pearson
YES - Vice Chair - Ward 9 Councillor Brad Clark

15. Site Alteration Permit (PED20029) (Ward 11) (Item 14.1)

(Johnson/Clark)

That the direction provided to staff in Closed Session be approved and remain confidential.

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

YES - Ward 1 Councillor Maureen Wilson
NOT PRESENT - Ward 5 Councillor Chad Collins
YES - Ward 8 Councillor John-Paul Danko
YES - Chair - Ward 2 Councillor Jason Farr
YES - Ward 15 Councillor Judi Partridge
NOT PRESENT - Ward 14 Councillor Terry Whitehead
YES - Ward 11 Councillor Brenda Johnson
NOT PRESENT - Ward 10 Councillor Maria Pearson
YES - Vice Chair - Ward 9 Councillor Brad Clark

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

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

1. DELEGATION REQUESTS (Item 6)

- 6.2 Nicole Smith, Kumon Hamilton West End, respecting Property Standards By-law – Rental Properties and Apartments (Item 11.1) - WITHDRAWN
- 6.3 John Ariens respecting Roof Top Amenity Area for 600 North Service Road, Stoney Creek (PED20037) (Item 7.5) (For today's meeting) - WITHDRAWN
- 6.4 Mike Wood, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1) (For the January 14, 2020 meeting)
- 6.5 Dayna Sparks, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1) (For the January 14, 2020 meeting)
- 6.6 Brenda Mills, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1) - WITHDRAWN

- 6.7 Veronica Gonzalez, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1) (For the January 14, 2020 meeting)
- 6.8 Sarah Jama, Disability Justice Network of Ontario, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1) - WITHDRAWN

2. CHANGE TO THE ORDER OF ITEMS

- 11.1 Motion respecting Property Standards By-law - Rental Properties and Apartments be moved up in the agenda to be heard after the Delegations

(Partridge/Whitehead)

That the agenda for the January 14, 2020 meeting be approved, as amended.

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

YES - Ward 1 Councillor Maureen Wilson
 NOT PRESENT - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(b) DECLARATIONS OF INTEREST (Item 3)

Councillor Pearson advised she has a conflict with Item 11.1, Property Standards By-law – Rental Properties and Apartments, as she is a landlord of rental properties.

Councillor Clark advised, that on the advice of the Ombudsman, he no longer has a conflict with Item 11.1, Property Standards By-law – Rental Properties and Apartments, as he had a former professional relationship with the Hamilton and District Apartment Association, and the Ombudsman advised that the relevance of that relationship on Councillor Clark’s Council related matters has expired.

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

(i) December 3, 2019 (Item 4.1)

(Clark/Pearson)

That the Minutes of the December 3, 2019 meeting be approved, as presented.

Result: Motion CARRIED by a vote of 9 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(d) DELEGATION REQUESTS (Item 6)

(i) Various Delegation Requests (Items 6.1 – 6.8)

(Clark/Whitehead)

That the following Delegation Requests, be approved for today's meeting:

- 6.1 Denise Harvey, respecting Violation of the Site Alteration By-law on Lynden Road, to be heard before the Public Meetings.
- 6.4 Mike Wood, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1), to be heard before the Public Meetings.
- 6.5 Dayna Sparks, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1), to be heard before the Public Meetings.
- 6.7 Veronica Gonzalez, Hamilton ACORN, respecting Property Standards By-law - Rental Properties and Apartments (Item 11.1), to be heard before the Public Meetings.

Result: Motion CARRIED by a vote of 9 to 0, as follows:

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko

YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 YES - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(e) PUBLIC HEARINGS/DELEGATIONS (Item 8)

(i) Denise Harvey, respecting Violation of the Site Alteration By-law on Lynden Road (Item 6.1)

Denise Harvey addressed the Committee respecting Violation of the Site Alteration By-law on Lynden Road.

(Pearson/Partridge)

That the Delegation from Denise Harvey, respecting Violation of the Site Alteration By-law on Lynden Road, be received.

CARRIED

(ii) Various Delegations respecting Property Standards By-law – Rental Properties and Apartments (Item 11.1) (Added Items 6.4, 6.5 and 6.7)

The following Delegations addressed Committee respecting Property Standards By-law – Rental Properties and Apartments:

1. Mike Wood, Hamilton ACORN (Added Item 6.4)
2. Dayna Sparks, Hamilton ACORN (Added Item 6.5)
3. Veronica Gonzalez, Hamilton ACORN (Added Item 6.7)

(Clark/Partridge)

That the Delegations, Added Items 6.4, 6.5 and 6.7, respecting Property Standards By-law – Rental Properties and Apartments, be received.

CARRIED

For disposition of the matter, refer to Item 12.

(iii) Application for Approval of a Draft Plan of Condominium (Common Element) for Lands Located at 185 Bedrock Drive, Stoney Creek (PED20001) (Ward 9) (Item 8.1)

In accordance with the provisions of the *Planning Act*, Chair Farr advised 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 Draft Plan of Condominium

(Common Element) 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.

(Clark/Collins)

That the public meeting be closed.

CARRIED

(Clark/Pearson)

That the staff presentation be waived.

CARRIED

Maria Jones, Armstrong Planning and Project Management, was in attendance and indicated support for the staff report.

(Clark/Pearson)

That the recommendations in Report PED20001 be amended by adding the following sub-section (c):

- (c) *That a warning clause be added to any sale, lease or rental agreement that the property is within 500 metres of an operational industrial, commercial, institutional landfill.***

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(Clark/Pearson)

That the recommendations in Report PED20001 be amended by adding the following sub-section (d):

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

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

For disposition of this matter, refer to Item 6.

(iv) Applications for Official Plan Amendment and Zoning By-law Amendment for Lands Located at 125 and 129 Robert Street, Hamilton (PED20015) (Ward 2) (Item 8.2)

In accordance with the provisions of the *Planning Act*, Chair Farr advised 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.

Councillor Farr relinquished the Chair to Councillor Clark.

No members of the public came forward.

(Pearson/Partridge)

That the public meeting be closed.

CARRIED

Andrea Dear, Senior Planner, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available through the Office of the City Clerk and online at www.hamilton.ca.

(Pearson/Collins)

That the staff presentation be received.

CARRIED

John Ariens, IBI Group, was in attendance and indicated support for the staff report, and addressed the Committee with the aid of a PowerPoint

presentation. A copy of the presentation is available through the Office of the City Clerk and online at www.hamilton.ca.

(Pearson/Partridge)

That the presentation from John Ariens, IBI Group, be received.

CARRIED

Written Submissions:

- (i) Beasley Neighbourhood Association (8.2 (a)(i))

(Pearson/Danko)

That the written submissions be received.

CARRIED

(Farr/Wilson)

That recommendations (a) and (b) in Report PED20015 be amended, and a new sub-section (c) be added, as follows:

- (a) That Official Plan Amendment Application UHOPA-17-033 by Vision Hamilton Inc, Owner, for a change in designation on Schedule “M-2” of the West Harbour (Setting Sail) Secondary Plan in the former City of Hamilton Official Plan to add a Site Specific Policy Area to permit the development of a six unit, three storey multiple dwelling with a maximum residential density of 143.0 units per gross hectare, for lands located at 125 and 129 Robert Street, as shown on Appendix “A” to Report PED20015, be **APPROVED**;
- (b) That Zoning By-law Amendment Application ZAC-17-073 by Vision Hamilton Inc., Owner, for a change in zoning from the “D/S-378” (Urban Protected Residential – One and Two Family Dwellings) District, Modified to a site specific “DE-2” (Low Density Multiple Dwellings) District, Modified to permit a six unit, three storey multiple dwelling with no on-site parking on lands located at 125 and 129 Robert Street, Hamilton, as shown on Appendix “A” to Report PED20015, be **APPROVED**;
- (c) ***That staff be directed to prepare the Official Plan Amendment and Zoning By-law Amendment consistent with the concept plans presented at Planning Committee on this day (January 14, 2020), and ensure implementation through the future site plan application, and any other necessary agreements to implement Council’s direction, with a warning clause in purchase or rental agreements that owners/tenants are not eligible for on street parking permits, and owners/tenants cannot petition the City for changes to on-street parking; and,***

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

YES - Ward 1 Councillor Maureen Wilson
 YES- Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(Pearson/Farr)

That the recommendations in Report PED20015 be amended by adding the following sub-section (d):

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

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

YES - Ward 1 Councillor Maureen Wilson
 YES- Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

For disposition of this matter, refer to Item 7.

Councillor Farr resumed the Chair.

(v) Application for a Zoning By-law Amendment for Lands Located at 179, 183 and 187 Wilson Street West (Ancaster) (PED20022) (Ward 12) (Item 8.3)

In accordance with the provisions of the *Planning Act*, Chair Farr advised 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.

James Van Rooi, Planner I, addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available through the Office of the City Clerk and online at www.hamilton.ca.

(Pearson/Collins)

That the staff presentation be received.

CARRIED

Terri Johns, T. Johns Consulting Group, was in attendance and indicated support for the staff report, and addressed the Committee with the aid of a PowerPoint presentation. A copy of the presentation is available through the Office of the City Clerk and online at www.hamilton.ca.

(Pearson/Wilson)

That the presentation from Terri Johns, T. Johns Consulting Group, be received.

CARRIED

Registered Speakers:

- (i) Barry Coe, Condo Association WVLCA#49 (8.3 (b)(i))

(Pearson/Clark)

That the delegation from Barry Coe, Condo Association WVLCA#49, be received.

CARRIED

Written Submissions:

- (i) Joanne and Frank Otterspoor (8.3 (a)(i))

(Pearson/Collins)

That the written submissions be received.

CARRIED

(Clark/Pearson)

That the public meeting be closed.

CARRIED

(Collins/Clark)

That the recommendations in Report PED20022 be amended by adding the following sub-section (b):

- (b) *That the following conditions apply:***

1. ***That on weekends and special occasions, the applicant provide a shuttle service for visitors and staff to avoid on street parking.***
2. ***That all construction activity be limited to between 7:00 a.m. and 5:30 p.m. from Monday to Friday.***
3. ***That no closure of a lane on Wilson Street will be permitted during rush hours.***
4. ***That a pre-construction survey be completed by the applicant.***

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(Collins/Clark)

That the recommendations in Report PED20022 be amended by adding the following sub-section (c):

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

Result: Amendment CARRIED by a vote of 6 to 2, as follows:

NO - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 NO - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 YES - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

For disposition of this matter, refer to Item 8.

(f) PRIVATE AND CONFIDENTIAL (Item 14)

(Johnson/Partridge)

That Committee move into Closed Session respecting Item 14.1, 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 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.

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

YES - Ward 1 Councillor Maureen Wilson
 YES - Ward 5 Councillor Chad Collins
 YES - Ward 8 Councillor John-Paul Danko
 YES - Chair - Ward 2 Councillor Jason Farr
 YES - Ward 15 Councillor Judi Partridge
 NOT PRESENT - Ward 14 Councillor Terry Whitehead
 YES - Ward 11 Councillor Brenda Johnson
 NOT PRESENT - Ward 10 Councillor Maria Pearson
 YES - Vice Chair - Ward 9 Councillor Brad Clark

(i) Site Alteration Permit (PED20029) (Ward 11) (Item 14.1)

For further disposition of this matter, refer to Item 15.

(g) ADJOURNMENT (Item 15)

(Partridge/Wilson)

That there being no further business, the Planning Committee be adjourned at 2:09 p.m.

CARRIED

 Councillor Jason Farr
 Chair, Planning Committee

 Lisa Chamberlain
 Legislative Coordinator



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED20023) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Joe Gravina (905) 546-2424 Ext. 1284
SUBMITTED BY:	Steve Robichaud Director of Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

Council Direction:

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

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

Background:

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

Commencing February 28, 2017, similar Information Reports were forwarded to the Planning Committee on a monthly basis in accordance with the process outlined in

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SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED20023) (City Wide) - Page 2 of 4

Information Report (PED16096). An analysis of the information was also included in the year-end reports of December 5, 2017 (PED17208), September 18, 2018 (PED18192) and December 11, 2018 (PED18231).

Policy Implications and Legislative Requirements – Pre Bill 108

In accordance with the *Planning Act*, prior to September 3, 2019, an applicant had the right to appeal an Official Plan Amendment application after 210 days (subsection 17 (40)), Zoning By-law Amendment application after 150 days (subsection 34 (11)) and a Plan of Subdivision after 180 days (subsection 51 (34)).

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

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

Policy Implications and Legislative Requirements – Post Bill 108

On June 6, 2019, Bill 108 received Royal Assent, which reduced the statutory timeframes for non-decision appeals outlined in the *Planning Act* for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivision. The changes are applicable to complete applications received after September 3, 2019.

In accordance with the *Planning Act*, an applicant may appeal an Official Plan Amendment application after 120 days (Subsection (40)), a Zoning By-law Amendment application after 90 days (Subsection 34 (11)) and a Plan of Subdivision after 120 days (Subsection 51 (34)). However, Zoning By-law Amendment applications that are submitted together with a required Official Plan Amendment application are also subject to the statutory timeframe of 120 days. The 90-day extension previously prescribed in Bills 73 and 139 is no longer applicable.

Information:

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

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SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED20023) (City Wide) - Page 3 of 4

tool would be used to track the status of all active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications.

For the purposes of this Report, the status of active Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision applications have been divided, relative to the statutory timeframe provisions of the *Planning Act*, that were in effect pursuant to statutory timeframes prescribed in Bill 73 and Bill 139 and new statutory timeframes prescribed in Bill 108.

Applications Deemed Complete Prior to Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “A” to Report PED20023 is a table outlining the active applications received prior to December 12, 2017 sorted by Ward, from oldest application to newest. As of December 9, 2019, there were:

- 11 active Official Plan Amendment applications, all of which were submitted after July 1, 2016, and therefore subject to the 90 day extension to the statutory timeframe from 180 days to 270 days;
- 19 active Zoning By-law Amendment applications; and,
- 8 active Plan of Subdivision applications.

Within 60 to 90 days of February 4, 2020, all 19 development proposals have passed the 120, 180 and 270 day statutory timeframes.

Applications Deemed Complete After Royal Assent of Bill 139 (December 12, 2017)

Attached as Appendix “B” to Report PED20023 is a table outlining the active applications received after December 12, 2017, but before Royal Assent of Bill 108, sorted by Ward, from oldest application to newest. As of December 9, 2019, there were:

- 24 active Official Plan Amendment applications, all of which were submitted after December 12, 2017, and therefore subject to the 90 day extension to the statutory timeframe from 210 days to 300 days;
- 38 active Zoning By-law Amendment applications; and,
- 10 active Plan of Subdivision applications.

Within 60 to 90 days of February 4, 2020, 5 development proposals will be approaching the 150, 180 or the 300 day statutory timeframe and will be eligible for appeal. Thirty-

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SUBJECT: Active Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications (PED20023) (City Wide) - Page 4 of 4

three development proposals have passed the 150, 180 and 300 day statutory timeframe.

Applications Deemed Complete After Royal Assent of Bill 108 (September 3, 2019)

Attached as Appendix “C” to Report PED20023 is a table outlining the active applications received after September 3, 2019, and subject to the new statutory timeframes, sorted by Ward, from oldest application to newest. As of December 9, 2019, there was:

- Two active Official Plan Amendment applications;
- Two active Zoning By-law Amendment applications; and,
- Two active Plan of Subdivision applications.

Within 60 to 90 days of February 4, 2020, 4 development proposals are approaching the 90 or 120 day statutory timeframe and will be eligible for appeal. One development proposal has passed the 90 or 120 day statutory timeframe.

Combined to reflect property addresses, there are 67 active development proposals. Twenty-eight proposals are 2019 files, while 20 proposals are 2018 files and 19 proposals are pre-2018 files.

Staff are currently working with the AMANDA Implementation Team to add enhancements that will allow for the creation of more detailed reporting. As a result, future tables will include a qualitative analysis of the status of active applications. It is anticipated that these enhancements will be available in 2021 and this information will be incorporated into the monthly report to Council. Furthermore, the long-term goal of the Planning Division is to make this information available on an interactive map accessed through the City of Hamilton website.

Appendices and Schedules Attached:

- Appendix “A” – List of Active Development Applications (prior to December 12, 2017)
- Appendix “B” – List of Active Development Applications (after December 12, 2017)
- Appendix “C” - List of Active Development Applications (after September 3, 2019)

JG:mo

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of February 4, 2020
Ward 1									
UHOPA-17-18 ZAC-17-036	644 Main St. W., Hamilton	31-Mar-17	n/a	28-Apr-17	29-Jul-17	n/a	26-Dec-17	Urban Solutions Planning & Land Development	1040
Ward 2									
ZAC-17-008	117 Forest Ave. & 175 Catharine St. S., Hamilton	23-Dec-16	n/a	05-Jan-17	22-Apr-17	n/a	n/a	Urban Solutions Planning & Land Development	1138
UHOPA-17-33 ZAC-17-073	125 - 129 Robert St., Hamilton	06-Oct-17	30-Oct-17	14-Nov-17	03-Feb-18	n/a	11-Aug-18	IBI Group	812
Ward 7									
UHOPA-17-31 ZAC-17-071	1625 - 1655 Upper James St., Hamilton	27-Sep-17	n/a	02-Oct-17	25-Jan-18	n/a	24-Jun-18	MB1 Development Consulting Inc.	860
ZAC-17-089	1351 Upper James St., Hamilton	28-Nov-17	n/a	05-Dec-17	28-Mar-18	n/a	n/a	Patrick Slattery	798

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of February 4, 2020
Ward 9									
UHOPA-16-26 ZAC-16-065 25T-201611	478 & 490 First Rd. W., Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17	09-Jul-17	T. Johns Consultants Inc.	1210
UHOPA-16-27 ZAC-16-066 25T-201612	464 First Rd. W., Stoney Creek	12-Oct-16	n/a	02-Nov-16	09-Feb-17	10-Apr-17	09-Jul-17	T. Johns Consultants Inc.	1210
UHOPA-17-01 ZAC-17-001 25T-201701	15 Ridgeview Dr., Stoney Creek	02-Dec-16	n/a	16-Dec-16	01-Apr-17	31-May-17	29-Aug-17	A.J. Clarke & Associates Ltd.	1159
UHOPA-16-21 ZAC-16-057 25T-201608	56 Highland Rd. W., Stoney Creek	31-Aug-16	29-Sep-16	27-Mar-17	29-Dec-16	27-Feb-17	22-Dec-17	Metropolitan Consulting Inc.	1044
Ward 10									
ZAC-15-040	9 Glencrest Ave., Stoney Creek	02-Jul-15	n/a	10-Aug-15	30-Oct-15	n/a	n/a	WEBB Planning Consultants Inc.	1678

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of February 4, 2020
Ward 10 cont'd									
UHOPA-17-36 ZAC-17-079	514 Barton St., Stoney Creek	27-Oct-17	n/a	23-Nov-17	24-Feb-18	n/a	24-Jul-18	GSP Group	830
ZAC-16-016	1313 Baseline Rd., Stoney Creek	15-Jan-16	n/a	15-Feb-16	14-May-16	n/a	n/a	A.J. Clarke & Associates Ltd.	1481
UHOPA-17-05 ZAC-17-015 25T-201703	1, 19, 20, 21, 23, 27 & 30 Lakeside Dr. & 81 Waterford Cres., Stoney Creek	23-Dec-16	n/a	17-Jan-17	22-Apr-17	21-Jun-17	19-Sep-17	IBI Group	1138
ZAC-17-076 25T-201711	1216, 1218 and 1226 Barton St. E. and 1219 Hwy. 8, Stoney Creek	30-Oct-17	n/a	2+-4-Nov-17	27-Feb-18	28-Apr-18	n/a	Glen Schnarr & Associates Inc.	827
Ward 12									
ZAC-16-006 25T-201602	285, 293 Fiddlers Green Rd., Ancaster	23-Dec-15	n/a	06-Jan-16	21-Apr-16	20-Jun-16	n/a	Liam Doherty	1504

**Active Development Applications
Deemed Complete Prior to December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	120 day cut off (Rezoning)	180 day cut off (Plan of Sub)	270 day cut off OPA*	Applicant/ Agent	Days Since Received and/or Deemed Complete as of February 4, 2020
Ward 12 cont'd									
ZAC-17-062	45 Secinaro Ave., Ancaster	28-Jul-17	n/a	01-Aug-17	25-Nov-17	n/a	n/a	T. Johns Consultants Inc.	921
UHOPA-17-32 ZAC-17-072	35 Londonderry Dr., Ancaster	06-Oct-17	n/a	01-Nov-17	03-Feb-18	n/a	03-Jul-18	A.J. Clarke & Associates Ltd.	851
Ward 13									
ZAC-17-064 25T-201710	655 Cramer Rd., Flamborough	09-Aug-17	n/a	17-Aug-17	07-Dec-17	05-Feb-18	n/a	A.J. Clarke & Associates Ltd.	909
Ward 15									
UHOPA-17-06 ZAC-17-016	157 Parkside Dr., Flamborough	23-Dec-16	n/a	17-Jan-17	22-Apr-17	n/a	19-Sep-17	MHBC Planning Limited	1138

Active Development Applications

- When an application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 120, 180 & 270 day timeframe commences on the date the new materials were submitted. In all other situations, the 120, 180 & 270 day timeframe commences the day the application was received.
- * In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment applications by 90 days from 180 days to 270 days. However, applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 180 statutory timeframe.

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 1									
UHOPA-18-005* ZAC-18-012	235 Main St. W., Hamilton	22-Dec-17	n/a	19-Jan-18	n/a	n/a	18-Oct-18*	Urban Solutions Planning & Land Development	774
UHOPA-18-015* ZAC-18-035	69 Sanders Blvd. & 1630 Main St. W., Hamilton	18-Jun-18	n/a	13-Jul-18	n/a	n/a	14-Apr-19*	Urban Solutions Planning & Land Development	596
UHOPA-19-004* ZAC-19-009	804-816 King St. W., Hamilton	21-Dec-19	n/a	18-Jan-19	n/a	n/a	17-Oct-19*	Urban Solutions Planning & Land Development	410
UHOPA-19-006* ZAC-19-023	196 George St., Hamilton	20-Mar-19	n/a	16-Apr-19	n/a	n/a	14-Jan-20*	GSP Group	321
Ward 2									
UHOPA-18-004* ZAC-18-009	299 - 307 John St. S., Hamilton	22-Dec-17	n/a	19-Jan-18	n/a	n/a	18-Oct-18*	Urban Solutions Planning & Land Development	774

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 2 cont'd									
UHOPA-18-017* ZAC-18-041	225 John St. S., Hamilton	13-Jul-18	n/a	16-Aug-18	n/a	n/a	09-May-19*	GSP Group	571
UHOPA-18-021* ZAC-18-047	184 and 186 Markland St., Hamilton	22-Aug-18	20-Dec-18	21-Dec-18	n/a	n/a	17-Oct-19*	T. Johns Consulting Group	410
UHOPA-18-023* ZAR-18-057	130 Wellington St. S., Hamilton	07-Nov-18	06-Dec-18	24-Dec-18	n/a	n/a	20-Oct-19*	MBI Development Consulting INC.	407
ZAR-19-008	124 Walnut St. S., Hamilton	21-Dec-18	n/a	18-Jan-19	20-May-19	n/a	n/a	IBI Group	410
Ward 3									
ZAR-19-016	11 Grosvenor's Ave. S., Hamilton	28-Feb-19	n/a	28-Mar-19	28-Jul-19	n/a	n/a	T. Johns Consulting Group	341
Ward 6									
ZAC-19-035	694 Pritchard Rd., Stoney Creek	08-May-19	n/a	21-May-19	05-Oct-19	n/a	n/a	Urban in Mind Planning Consultants	272

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 7									
ZAR-19-026	18 Miles Rd. Hamilton	01-Apr-19	n/a	18-Apr-19	29-Aug-19	n/a	n/a	A.J. Clarke & Associates Ltd.	309
ZAC-19-031	323 Rymal Rd. E., Hamilton	26-Apr-19	n/a	01-May-19	23-Sep-19	n/a	n/a	IBI Group	284
Ward 8									
UHOPA-18-010* ZAC-18-025 25T-201803	221 Genoa Dr. and 1477 Upper James St., Hamilton	12-Apr-18	n/a	10-May-18	09-Sep-18	09-Oct-18	06-Feb-19*	MHBC Planning Limited	663
ZAC-19-017	1020 Upper James St., Hamilton	28-Feb-19	n/a	11-Mar-19	28-Jul-19	n/a	n/a	Wellings Planning Consultants Inc.	341
Ward 8 cont'd									
UHOPA-19-008* ZAC-19-029	83, 89 Stone Church Rd. W. and 1021, 1029 West 5th St., Hamilton	23-Apr-19	n/a	23-May-19	n/a	n/a	17-Feb-19*	Urban Solutions Planning & Land Development	287

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 9									
25T-200803R (2018 File)	22 Green Mountain Rd. Stoney Creek	10-Aug-18	n/a	15-Oct-18	n/a	19-Feb-19	n/a	Armstrong Planning	533
UHOPA-18-011* ZAC-18-029	1912 Rymal Rd. E., Glanbrook	04-May-18	n/a	22-May-18	n/a	n/a	28-Feb-19*	Wellings Planning Consultants Inc.	641
25T-2019003	15 Picardy Dr., Stoney Creek	25-Apr-19	n/a	29-May-19	n/a	22-Oct-19	n/a	IBI Group	285
Ward 10									
ZAC-18-005	42, 44, 48, 52 and 54 Lakeshore Dr., Stoney Creek	15-Dec-17	n/a	16-Jan-18	14-May-18	n/a	n/a	A.J. Clarke & Associates Ltd.	781
UHOPA-18-013* ZAC-18-034	461 Green Road, Stoney Creek	8-Jun-18	n/a	18-Jul-18	n/a	n/a	04-Apr-19*	IBI Group	606
ZAC-18-049	860 and 884 Barton St., Stoney Creek	01-Oct-18	n/a	11-Oct-18	28-Feb-19	n/a	n/a	MHBC Planning Limited	491

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 10 cont'd									
UHOPA-18-025* ZAC-18-059	466-490 Highway No. 8, Stoney Creek	23-Nov-18	n/a	06-Dec-18	n/a	n/a	19-Sep-19*	SvN Architects + Planners	438
UHOPA-19-003* ZAC-19-007 25T-2019001	238 Barton St., Stoney Creek	19-Dec-18	n/a	02-Jan-19	n/a	17-Jun-19	15-Oct-19*	A.J. Clarke & Associates Ltd.	412
25T-2019004	1288 Baseline Rd., Stoney Creek	06-May-19	n/a	09-May-19	n/a	02-Nov-19	n/a	IBI Group	274
UHOPA-19-009*	339, 347 Fifty Rd. and 1317, 1329 Barton St., Stoney Creek	03-May-19	n/a	16-May-19	n/a	n/a	27-Feb-20*	MHBC Planning Limited	277
UHOPA-18-016* ZAC-18-040 25T-2018007	9511 Twenty Rd. W., Glanbrook	10-Jul-18	n/a	15-Aug-18	n/a	06-Jan-19	06-May-19*	Corbett Land Strategies	574

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 12									
ZAC-18-048 25T-2018009	387, 397, 405 and 409 Hamilton Dr., Ancaster	09-Sep-18	n/a	28-Sep-18	06-Feb-19	08-Mar-19	n/a	Fothergill Planning & Development Inc.	513
ZAR-18-050	2004 Glancaster Rd., Ancaster	20-Sep-18	19-Oct-18	22-May-19	19-Oct-19	n/a	n/a	Fothergill Planning & Development Inc.	258
25T-2018006	140 Glancaster Rd., Glanbrook	05-Jul-18	n/a	08-Nov-18	n/a	01-Jan-19	n/a	MHBC Planning Limited	453
UHOPA-18-022* ZAC-18-056 25T-2018010	26 Southcote Rd., Ancaster	05-Nov-18	n/a	15-Nov-18	n/a	04-May-19	01-Sep-19*	A.J. Clarke & Associates Ltd.	456
UHOPA-18-024* ZAC-18-058	154 Wilson St. E., Ancaster	28-Nov-18	n/a	10-Dec-18	n/a	n/a	24-Sep-19*	Urban Solutions Planning & Land Development	433

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 12 cont'd									
UHOPA-19-002* ZAC-19-002	1173 and 1203 Old Golf Links Rd., Ancaster	03-Dec-18	n/a	01-Dec-18	n/a	n/a	29-Sep-19*	A.J. Clarke & Associates Ltd.	428
UHOPA-19-014 ZAC-19-010	527 and 629 Shaver Rd., Ancaster	21Dec-18	n/a	10-Jan-19	20-May19	n/a	n/a	Urban Solutions Planning & Land Development	410
ZAA-19-034	378 Harmony Hall Rd., Ancaster	08-May-19	n/a	20-Jun-19	06-Aug-19	n/a	n/a	T. Johns Consulting Group	272
UHOPA-19-011* ZAC-19-040	187 Wilson Street	17-May-19	n/a	17-Jun-19	n/a	n/a	12-Mar-20*	T. Johns Consulting Group	263
Ward 14									
ZAR-19-003	630 Stone Church Rd. W., Hamilton	07-Dec-18	n/a	07-Jan-19	06-May-19	n/a	n/a	IBI Group	424

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 14 cont'd									
ZAR-19-006	1269 Mohawk Rd., Ancaster	14-Dec-18	n/a	11-Jan-19	13-May-19	n/a	n/a	MBI Development Consulting INC.	417
ZAC-19-011	1933 Old Mohawk Rd., Ancaster	12-Dec-18	n/a	10-Jan-19	11-May-19	n/a	n/a	Urban Solutions Planning & Land Development	419
ZAC-19-021	974, 980 Upper Paradise Rd., Hamilton	18-Mar-19	n/a	22-Mar-19	15-Aug-19	n/a	n/a	T. Johns Consulting Group	323
Ward 15									
RHOPA-18-020* ZAC-18-045	173 & 177 Dundas St. E., Flamborough	23-Jul-18	n/a	15-Aug-18	n/a	n/a	19-May-19*	MHBC Planning Limited	561
RHOPA-19-102* ZAC-19-044 25T-201905	30, 36 & 42 Dundas St. E. & 522 Highway 6, Flamborough	10-Jun-19	n/a	08-Jul-19	n/a	08-Oct-19	05-Apr-20*	MHBC Planning Limited	239

**Active Development Applications
Deemed Complete After December 12, 2017
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	150 day cut off (Rezoning)	180 day cut off (Plan of Sub.)	300 day cut off (OPA)	Applicant/ Agent	Days since Received and/or Deemed Complete as of February 4, 2020
Ward 15 cont'd									
UHOPA-19-013* ZAC-19-046	10 Mallard Trail, Flamborough	24-Jun-19	n/a	26-Jun-19	n/a	22-Oct-19	19-Apr-20*	GSP Group	225

Active Development Applications

1. When an application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 150, 180, 210 & 300 day timeframe commences on the date the new materials were submitted. In all other situations, the 150, 180, 210 & 300 day timeframe commences the day the application was received.
- * In accordance with Section 34 (11.0.0.0.1), of the *Planning Act*, the approval period for Zoning By-law Amendment applications submitted concurrently with an Official Plan Amendments, will be extended to 210 days.
- * In accordance with Section 17 (40.1) of the *Planning Act*, the City of Hamilton has extended the approval period of Official Plan Amendment applications by 90 days from 210 days to 300 days. However, applicants can terminate the 90 day extension if written notice to the Municipality is received prior to the expiration of the 210 statutory timeframe.

**Active Development Applications
Deemed Complete After September 3, 2019
(Effective December 9, 2019)**

File	Address	Date Received	Date ¹ Deemed Incomplete	Date ¹ Deemed Complete	90 day cut off (Rezoning)	120 day cut off (OPA or Plan of Sub)	Applicant/ Agent	Days Since Received and/or Deemed Complete as of February 4, 2020
Ward 3								
ZAR-19-054	95-97 Fairholt Rd. S. Hamilton	30-Oct-19	n/a	29-Nov-19	27-Feb-20	n/a	MHBC Planning	67
Ward 9								
25T-2019-003	15 Picardy Dr., Stoney Creek	25-Apr-19	n/a	25-May-19	n/a	23-Aug-19	IBI Group	251
Ward 11								
RHOPA-19-007 ZAC-19-028	3355 Golf Club Rd., Glanbrook	18-Apr-19	16-May-19	21-Oct-19	n/a	20-Feb-20	Corbett Land Strategies Inc.	106
RHOPA-19-015	2187 Regional Rd. 56, Glanbrook	11-oct-19	n/a	21-Nov-19	n/a	08-Feb-20	Corbett Land Strategies Inc.	75
Ward 12								
25T-200720R (2019 File)	1020 Osprey Dr., Ancaster	15-Apr-19	30-Aug-19	11-Dec-19	n/a	02-Apr-20	Coltara Development / 1892757 ONTARTO INC.	62

Active Development Applications

1. When an application is deemed incomplete, the new deemed complete date is the day the new materials are submitted. In these situations, the 90 and 120 day timeframe commences on the date the new materials were submitted. In all other situations, the 90 and 120 day timeframe commences the day the application was received.



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Parking Fee Review (PED19238(a)) (City Wide) (Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Allister McLveen (905) 546-2424 Ext. 5958
SUBMITTED BY:	Brian Hollingworth Director, Transportation Planning and Parking Planning and Economic Development Department
SIGNATURE:	

COUNCIL DIRECTION

At the November 19, 2019, Planning Committee, staff were directed to report back to Planning Committee on the following:

- (a) That the options of a \$0.25 and \$0.50 increase for on-street metered parking be referred to local Business Improvement Areas for feedback;
- (b) That staff report back to the Planning Committee with additional information related to increasing parking penalties to a level equal to comparator municipalities;
- (c) That staff report back to the Planning Committee with the net budget revenues associated with the increasing parking permit fees by \$5.00 and \$10.00 per month;
- (d) That staff report back to the Planning Committee following consultation with Hamilton schools and school boards regarding issues related to parking and stopping in front of schools; and,
- (e) That staff report back to the Planning Committee with information related to increasing Special Event Rates in line with privately operated lots.

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: Parking Fee Review (PED19238(a)) (City Wide) - Page 2 of 4**INFORMATION****On-Street Parking Meter Increase**

As presented in Report PED19238, in 2018, parking meters in Hamilton generated approximately \$2.4 M in gross revenue. It is estimated that a \$0.25 cent increase in hourly meter rates would result in a net increase in revenue of \$280 K per year, after accounting for a potential reduction in demand due to the price increase. A \$0.50 cent increase could generate additional revenues of \$560 K.

Staff met with the Business Improvement Areas' (BIA) representatives at their regularly scheduled meeting of December 10, 2019 to discuss the direction from Planning Committee to refer the options of a \$0.25 and \$0.50 increase for on-street metered parking to the local BIA for feedback. The consensus from the BIA representatives was that they were not in support of an increase at this time in on-street parking meter rates but would consider an increase in conjunction with the implementation of the mobile app for Pay-by-Phone parking (scheduled for June-July 2020). At the writing of this Report, staff has received three written responses upon their request for formal feedback. The BIA written responses to date are outlined in Appendix "A" attached to this Report.

Increasing Parking Penalties to a Level Equal to Comparator Municipalities

Parking penalties are used to encourage compliance and increases in penalties can lead to greater compliance.

Staff previously indicated that in applying an average increase in parking fines of \$1.00, the incremental revenue impacts were estimated at \$161 K annually. As outlined in Table 1, Parking Violations, an increase in the most common parking penalties to a level equal to comparator municipalities, ranging from \$1.00 to \$5.00, generates a revised increase in the estimated annual revenue to \$383,633.

Table 1 - Parking Violations

EXISTING FINE	PROPOSED FINE	MUNICIPAL AVERAGE	COMMON VIOLATION TYPES	ESTIMATED ADDITIONAL REVENUE
\$24.00	\$25.00	\$27.00	Expired Meter	\$28,629
\$29.00	\$30.00	\$30.00	Exceeding Time Limit	\$19,250
\$33.00	\$35.00	\$37.00/\$43.00	Signed No Parking Area, Alternate Side Parking	\$79,244
\$50.00	\$55.00	\$42.00	Unauthorized Parking Private/Municipal Property	\$134,080
\$75.00	\$80.00	\$65.00	Signed No Stopping Area	\$122,430
TOTAL POTENTIAL NEW REVENUE				\$383,633

SUBJECT: Parking Fee Review (PED19238(a)) (City Wide) - Page 3 of 4

At the Planning Committee meeting of November 19, 2019 questions were raised regarding the misuse of Accessibility Parking Permits (APP). The permits are issued by the Province and enforced by the Municipality. Clarity on eligibility requirements and rules for APP usage is outlined in Appendix "B" attached to this Report.

Hamilton's current fine for illegally parking in an accessible space is \$350. However, fraudulent use of an accessible parking permit, whether it is forged, altered, expired or somebody else's, is a separate provincial offence, and if found to be the case, Enforcement Officers can take away the permit and charge the driver with a fine up to \$5,000 and the person who the permit was issued to will no longer have access to his/her permit.

Increasing Parking Permit fees by \$5.00 and \$10.00 per Month

As indicated in Report PED19238, an increase in all monthly permit fees by \$10 per month, is estimated to generate a net annual increase in revenue of \$306 K based on monthly permits issued. An increase of \$5.00 per month is estimated to generate a net annual increase of \$153 K.

The estimated financial impact to City Departments whose employees qualify for permit parking and for City-owned vehicles for a \$5.00 and \$10.00 increase is \$24,180 and \$48,360 respectively. Table 2 – Monthly Permits, is a high-level summary of existing monthly permit holders.

Table 2 – Monthly Permits

Type of Permit	TOTAL
City Department Paid	403
City Employees (self-paid)	575
Police Subsidized	19
General Public	1052
Companies	324
TOTAL	2373

Parking and Stopping in Front of Schools

The current City of Hamilton Parking Bylaw No. 01-218, being a bylaw to regulate on-street parking does not make any differences in the penalty amounts for stopping and parking violations that typically occur near schools, creating localized traffic congestion and safety concerns for parents and students.

Staff have requested to be put on the agendas for the Hamilton-Wentworth District School Board (HWDSB) Liaison Committee and the Hamilton-Wentworth Catholic District School Board (HWCDSB) Liaison Committee in early 2020 to discuss parking

SUBJECT: Parking Fee Review (PED19238(a)) (City Wide) - Page 4 of 4

and stopping issues adjacent to schools, and possible solutions, including an increase in penalty amounts for stopping and parking violations.

Special Event Rates

Special event parking rates in City of Hamilton municipal lots are adjusted by staff based on the reservation of space, and not per regular operational hours and fees. With few exceptions, a special event fee of \$10.00 is utilized.

For the most part, private parking facility owners utilize their established day, weekend or evening rates and do not adjust based upon most typical special events occurring in the downtown areas. A review, of a number, of comparable municipalities provided a range of special event fees from \$5.50 to \$10.00 per event. The City of Niagara Falls implements a \$25.00 parking fee for their New Year's Eve special event activities.

As this Report addresses the issue of increasing parking fees, on the Planning Committee Outstanding Business List, it is appropriate to be identified as complete and can be removed from the list.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" - Written Feedback from the BIAs

Appendix "B" - Eligibility Requirements and Rules for Accessibility Parking Permits Usage

AM:BH:cr

Written Feedback from BIAs

International Village:

Our board met this morning and we are not in support of an increase to parking rates Unless the parking app is unveiled at the same time. It's hard enough getting people down to our BIAs to shop when they have to pay for parking, especially when the convenience of paying for that parking is non-existent.

Dundas Board of Management:

- We suggest peer municipalities in our area for comparison, other areas where our customers shop, within southern Ontario, remove out of province municipalities from the peer group comparison to give those reviewing a clearer overview;
- As small business owners we are in constant competition with big box and malls that have free parking;
- We request a preferred rate at BIA parking meters to encourage shoppers to stay longer in BIA areas;
- Removing cities from outside of Ontario lowers the parking average below \$1.50;
- A \$0.25 cent increase is higher than the rate of inflation over the past three years, may we have an explanation as to why the City wants to drive business out of the downtown cores into the suburbs;
- \$0.25 cents is approximately a 15% increase, \$0.50 cents is a 30% increase in parking, what is the justification in these increase amounts?;
- Neither increase is beneficial to us or to the people shopping in our communities;
- Keep the hours of enforcement in Dundas as they currently exist, Monday to Friday 9 a.m. to 6 p.m. free parking on Saturday and Sunday; and,
- The Dundas BIA is not in favour of raising parking fines.

Concession Street BIA:

- Parking rates were already adjusted on June 1, 2017 from \$1.00 to \$1.50/hour;
- As small business owners, we are in constant competition with big box, strip malls and large shopping centres that offer free parking;
- Neither the \$0.25 cent or \$0.50 cent increase is beneficial to the Concession BIA or to the people shopping in our area. To date, we have seen no changes or improvements with pay by app or pay by credit card implemented by the City in our BIA to justify this rate increase;
- We request a preferred rate for BIA parking meters so we can offer an advantage/perceived value to our shopping corridors. This will act not only to encourage shoppers to stay longer in BIA areas but will also attract potential new businesses to set up shop on our areas; and,
- The Concession BIA is not in favour of raising parking rates at this time without any changes to our current model or methods for customers to pay for meter parking.

Eligibility Requirements and Rules for Accessibility Parking Permits Usage

Eligibility

To qualify for Accessibility Parking Permits (APP), the individual must be certified by an APP program recognized health practitioner as having one or more of the following conditions:

- Cannot walk without assistance of another person or a brace, cane, crutch, a lower limb prosthetic device or similar assistive device or who requires the assistance of a wheelchair;
- Suffers from lung disease to such an extent that forced expiratory volume in one second is less than one litre;
- Portable oxygen is a medical necessity;
- Cardiovascular disease impairment classified as Class III or Class IV to standards accepted by the American Heart Association or Class III or IV according to the Canadian Cardiovascular Standard;
- Severely limited in the ability to walk due to an arthritic, neurological, musculoskeletal or orthopaedic condition;
- Visual acuity is 20/200 or poorer in the better eye with or without corrective lenses or whose greatest diameter of the field of vision in both eyes is 20 degrees or less;
- Condition(s) or functional impairment that severely limits his or her mobility; and,
- Licensed physician, chiropractor, nurse practitioner (extended class), physiotherapist or occupational therapist must certify the applicant's condition on the permit application.

A licensed physician, chiropractor, registered nurse practitioner (extended class), physiotherapist or occupational therapist, chiropodist or podiatrist must certify the applicant's condition on the permit application.

Permanent permit is valid for five years; temporary permits are issued when the disability is expected to last more than two months to a maximum of 12 months.

Permit Holder Rules

Permit must be displayed on the dashboard or sun visor of the car you are travelling in so the permit number and expiry date is clearly visible.

(P) means that the person who is the permit holder can be a passenger only.

(P/D) means that the person who is the permit holder can be a passenger or driver.

Only the person named on the permit can use it to park in an accessible parking space. The permit must be returned to a ServiceOntario centre when the person named on the permit is either deceased, the holder is no longer a person with an eligible health condition, the permit contains incorrect information, or the permit is cancelled. If another person uses the permit, it can result in fines of up to \$5,000 and the permit may be seized.



Hamilton

HAMILTON MUNICIPAL HERITAGE COMMITTEE

REPORT 20-001

12:00 p.m.

January 16, 2020

Room 264, 2nd Floor

Hamilton City Hall

71 Main Street West

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

THE HAMILTON MUNICIPAL HERITAGE COMMITTEE PRESENTS REPORT 20-001 AND RESPECTFULLY RECOMMENDS:

1. APPOINTMENT OF 2020 CHAIR AND VICE CHAIR (Item 1)

- (a) That A. Denham-Robinson be appointed Chair of the Hamilton Municipal Heritage Committee for 2020; and
- (b) That C. Dmitry be appointed Vice-Chair of the Hamilton Municipal Heritage Committee for 2020.

2. Education & Communication Working Group Meeting Notes - September 4, 2019 (Item 10.1)

(a) Education and Promotional use for Existing Hamilton Municipal Heritage Committee “Doors of Hamilton” Posters (Size: Small)

That the “Doors of Hamilton” posters be used as complimentary (“give-away”) promotional items for outreach and education, as there is a large quantity of existing posters (size: small, condition: very good to excellent) that remain unsold since pre-amalgamation.

FOR INFORMATION:

(a) CHANGES TO THE AGENDA (Item 2)

The Clerk advised the Committee of the following changes:

7. CONSENT ITEMS

- 7.2 Education & Communication Working Group Meeting Notes -
October 2, 2019

9. STAFF PRESENTATIONS

- 9.1 Notice of Intention to Demolish Structures located at 23-25 King
Street East, Stoney Creek (PED20042) (Ward 5)

10. DISCUSSION ITEMS

- 10.1 Education & Communication Working Group Meeting Notes -
September 4, 2019

13. GENERAL INFORMATION / OTHER BUSINESS

- 13.2 Current Heritage-Related Events (no copy)

- (a) Workshop by Alan Stacey "Preserving Built Heritage"
February 19, 2020
- (b) City of Hamilton Heritage Day Event, February 22, 2020
- (c) Hamilton Municipal Heritage Committee's Heritage
Recognition Awards Celebration 2019-20, June 18, 2020

The Agenda for the January 16, 2020 Hamilton Municipal Heritage Committee
was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations.

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

(i) December 19, 2019 (Item 4.1)

The Minutes of the December 19, 2019 meeting of the Hamilton Municipal
Heritage Committee were approved, as presented.

(d) CONSENT ITEMS (Item 7)

(i) Policy and Design Working Group Meeting Notes (Item 7.1)

The following Policy and Design Working Group Meeting Notes, were received:

- (a) July 15, 2019
- (b) October 21, 2019
- (c) November 18, 2019

(ii) Education & Communication Working Group Meeting Notes - October 2, 2019 (Item 7.2)

The Education & Communication Working Group Meeting Notes of October 2, 2019, were received.

(e) STAFF PRESENTATIONS (Item 9)

(i) Notice of Intention to Demolish Structures located at 23-25 King Street East, Stoney Creek (PED20042) (Ward 5) (Item 9.1)

Miranda Brunton, Cultural Heritage Planner, addressed the Committee respecting the Notice of Intention to Demolish Structures located at 23-25 King Street East, Stoney Creek (PED20042), with the aid of a PowerPoint presentation.

The presentation respecting the Notice of Intention to Demolish Structures located at 23-25 King Street East, Stoney Creek (PED20042), was received.

A copy of the presentation is available at www.hamilton.ca and through the Clerk's Office.

The following recommendation, as amended, was proposed for consideration at the January 22, 2020 Council meeting.

- (a) That no action be taken in response to the Notice of Intention to Demolish the two existing commercial buildings located at 23 and 25 King Street East, Stoney Creek, a property included in the City's Register of Property of Cultural Heritage Value or Interest; ~~and~~
- (b) That the property located 23 and 25 King Street East, Stoney Creek, be removed from the Register and the City's Workplan for designation;
- (c) ***That staff be directed to provide a plan for documentation and salvage for the two existing commercial buildings located at 23 and 25 King Street East, Stoney Creek; and***

- (d) *That Report PED20042 respecting a Notice of Intention to Demolish Structures located at 23-25 King Street East, Stoney Creek, be referred to Council for consideration at the January 22, 2020 meeting.*

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

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

The following updates were received:

(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, 98 James Street South, Hamilton (D) – J. Brown

Staff advise that the site plan for this property has not yet been approved.

- (ix) 828 Sanatorium Road – G. Carroll
- (x) 120 Park Street, Hamilton – R. McKee
- (xi) 398 Wilson Street, Hamilton – C. Dimitry

(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

New tarps have been installed on the roof of the property.

- (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) Dunington-Grubb Gardens, 1000 Main Street East (within Gage Park) – D. Beland
- (viii) 1 St. James Place, Hamilton (D) – J. Brown
- (ix) St. Clair Blvd. Conservation District – D. Beland
- (x) 51 Herkimer Street, Hamilton – J. Brown
- (xi) 52 Charlton Avenue West, Hamilton – J. Brown
- (xii) 292 Dundas Street, Waterdown – L. Lunsted

**(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
- (vi) 125 King Street East, Hamilton – T. Ritchie

(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
- (ii) 80 and 92 Barton Street East (Hanrahan Hotel) – T. Ritchie

The developer may restore the building as part of development.

A. Denham-Robinson relinquished the Chair to discuss the following item.

(ii) Current Heritage-Related Events (Added Item 13.2)

(a) Workshop by Alan Stacey "Preserving Built Heritage" Wednesday February 19, 2020

Members were advised to mark the date on their calendars for this event.

The information respecting Workshop by Alan Stacey "Preserving Built Heritage" Wednesday, February 19, 2020, was received.

(b) City of Hamilton Heritage Day Event, February 22, 2020

Members were advised to mark the date on their calendars for this event.

The information respecting City of Hamilton Heritage Day Event, February 22, 2020, was received.

(c) Hamilton Municipal Heritage Committee's Heritage Recognition Awards Celebration 2019-20, June 18, 2020

Members were advised to mark the date on their calendars for this event, and to make submissions via the City's website.

The information respecting the Hamilton Municipal Heritage Committee's Heritage Recognition Awards Celebration 2019-20, June 18, 2020, was received.

A. Denham-Robinson assumed the Chair.

(iii) Hamilton Municipal Heritage Committee Word Puzzles (Added Item 13.3)

- (a) Staff were directed to work with the Hamilton Municipal Heritage Committee to publish heritage-related word puzzles internally; and,
- (b) The use of the Hamilton Municipal Heritage Committee logo for inclusion on the page format for the word search puzzles, was approved.

(g) ADJOURNMENT (Item 15)

There being no further business, the Hamilton Municipal Heritage Committee adjourned at 1:15 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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 184 and 186 Markland Street, Hamilton (PED20016) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Daniel Barnett (905) 546-2424 Ext. 4445
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That **Revised Zoning By-law Amendment Application ZAC-18-047 by Robert and Michelle Edmonds, Owner**, for a change in zoning from the “D” (Urban Protected Residential - One and Two Family Dwelling, Etc.) District to “DE-3/S-1796-‘H’” (Multiple Dwellings) District, Modified, Holding, to permit six units within the existing building for lands located at 184 and 186 Markland Street, Hamilton, as shown on Appendix “A” to Report PED20016, be **APPROVED** on the following basis:
- (i) That the draft By-law, attached as Appendix “B” to Report PED20016, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
 - (ii) That the amending By-law attached as Appendix “B” to Report PED20016, be added to District Map No. W6 of Zoning By-law No. 6593;
 - (iii) That the amending By-law apply the Holding Provision of section 36(1) of the *Planning Act*, R.S.O. 1990 to the subject lands by introducing the Holding symbol ‘H’ as a suffix to the proposed zoning;

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The Holding Provision “DE-3/S-1796-‘H’” (Multiple Dwellings) District, Holding, Modified, be removed conditional upon:

- 1) That the Owner merge the properties municipally known as 184 and 186 Markland Street on title, to the satisfaction of the Manager of Development Planning, Heritage and Design;
 - 2) That the Owner applies for and receives Conditional Site Plan Approval, to the satisfaction of the Manager of Development Planning, Heritage and Design; and,
 - 3) That the Owner apply for a Building Permit to legalize a multiple dwelling with a maximum of six units, to the satisfaction of the Chief Building Official, Building Division.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (2014), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019), and complies with the Urban Hamilton Official Plan;
- (b) That upon finalization of the amending By-law, the subject lands be re-designated from “Single & Double” to “Medium Density Apartments” in the Durand Neighbourhood Plan.

EXECUTIVE SUMMARY

The subject property is municipally known as 184 and 186 Markland Street, Hamilton. The Owner has applied for an amendment to the City of Hamilton Zoning By-law No. 6593 to recognize:

- the illegal conversion of a semi detached dwelling containing a total of two units at 184 Markland Street and a semi detached dwelling containing a total of one unit at 186 Markland Street, to a multiple dwelling with six units and to merge the lands on title.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2014) (PPS);
- It conforms to the Growth Plan for the Greater Golden Horseshoe (2019) (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the

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development of a complete community, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

Alternatives for Consideration – See Page 23

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law.

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	Robert and Michelle Edmonds
File Number:	ZAC-18-047
Type of Application:	Zoning By-law Amendment
Proposal:	<p>The applicant initially applied to legalize the conversion of a semi detached dwelling containing two units at 184 Markland Street and one unit at 186 Markland Street, to a four unit multiple dwelling on each lot, for a total of eight units, within an existing two and a half storey building that was established without a building permit. The applicant was also seeking to provide a total of seven parking spaces. Finally the applicant was seeking to maintain 184 and 186 Markland Street as separate lots of record.</p> <p>The applicant subsequently revised the application to legalize the conversion of a semi detached dwelling containing two units at 184 Markland Street and one unit at 186 Markland Street, to a six unit multiple dwelling within an existing two and a half storey building. The applicant is proposing a total of seven parking spaces. The applicant has agreed to merge 184 and</p>

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	186 Markland Street into a single lot due to the fact that the proposal functions as one lot in respect to parking, pedestrian access, and amenity space.
Property Details	
Municipal Address:	184 and 186 Markland Street, Hamilton
Lot Area:	546.4 square metres
Servicing:	Existing Full Municipal Services.
Existing Use:	A legally recognized semi detached dwelling containing a total of two units at 184 Markland Street and a semi detached dwelling containing a total of one unit at 186 Markland Street. The building has been illegally converted to contain a total of four units at 184 Markland Street and four units at 186 Markland Street.
Documents	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods Designation
Official Plan Proposed:	No amendment required, subject to a change in designation from "Single & Double" to "Medium Density Apartments" in the Durand Neighbourhood Plan.
Zoning Existing:	"D" (Urban Protected Residential – One and Two Family Dwelling, Etc.) District
Zoning Proposed:	"DE-3/S-1796-'H'" (Multiple Dwelling) District, Modified, Holding.
Modifications Proposed:	Staff Proposed: <ul style="list-style-type: none"> • Restriction on number of dwelling units (six units); and, • Prohibit an emergency shelter or long term care facility.

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	<p>Applicant Requested:</p> <ul style="list-style-type: none"> • Recognize existing front and side yard setbacks; • Reduction in lot width and lot area; • Eliminate maximum floor area ratio; • Recognize existing eave, gutter, porch and stair encroachments; • Reduce the side yard setback for an existing air conditioner; • Eliminate requirement for an on-site loading space; • Reduce the required manoeuvring space; • Reduce the required setback of a parking area from an adjacent residential district; • Eliminate requirement for planting strip between a parking area and an adjacent residential district; • Eliminate requirement for a visual barrier along the north and west lot lines; and, • Permit access by way of alleyway.
Processing Details	
Received:	August 22, 2018
Deemed Incomplete:	September 20, 2018
Deemed Complete:	December 21, 2018
Notice of Complete Application:	Sent to 349 property owners within 120 metres of the subject property on January 11, 2019.
Public Notice Sign:	Posted January 25, 2019 and updated on January 8, 2020.
Notice of Public Meeting:	Sent to 153 property owners within 120 metres of the subject property on January 17, 2020.
Public Consultation:	Letter sent out by agent / applicant on March 26, 2019 to property owners within 120 metres of the subject property.
Public Comments:	<p>12 letters were received:</p> <ul style="list-style-type: none"> • 0 in support; • 11 expressing concern; and, • 1 requesting additional information.

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	Two responses to the agent's Public Information Letter: <ul style="list-style-type: none"> • 1 in support; and, • 1 expressing concern.
Processing Time:	410 days

Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Two family dwelling (184 Markland Street) and single unit semi detached dwelling (186 Markland Street)	"D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District

Surrounding Land Uses:

North	Two family dwelling	"DE-3" (Multiple Dwellings) District
East	Single detached dwellings	"D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District
South	Single detached and two family dwellings	"D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District
West	Single detached dwellings	"D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

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

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning

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Appeals Tribunal approval of the City of Hamilton Official Plans, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (e.g. efficiency of land use, balanced growth, environmental protection and sensitive land uses) are reviewed and discussed in the Official Plan analysis that follows.

Cultural Heritage and Archaeology

Staff note the Cultural Heritage policies have not been updated within the UHOP in accordance with the PPS. The following policy of the PPS also applies:

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

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

- 1) areas of pioneer EuroCanadian settlement; and,
- 2) along historic transportation routes.

The subject properties are included in the City’s Register of Property of Cultural Heritage Value or Interest as non-designated properties. A Cultural Heritage Impact Assessment (CHIA) dated November 2018 was submitted as part of the complete application in 2018. The report assessed the impact of the proposed development on heritage attributes using municipal heritage policies. The CHIA was supportive of the project, including the possible future addition of a front yard porch to the dwelling so long as the porch is in keeping with the Victorian-style heritage character of the Durand Neighbourhood. The CHIA was reviewed by City staff and staff concur with the recommendations. It is the opinion of staff that as the proposal seeks to adaptively reuse the existing building, the heritage attributes of the protected heritage property will be conserved. With the exception of the parking area, no external modifications or new construction are proposed. As such, a written caution advising of the archaeological potential of the subject lands will be included at the Site Plan Control stage.

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Noise

Regarding noise, the PPS provides the following:

“1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and / or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.”

The applicant submitted a Noise Impact Study prepared by S. Llewellyn and Associates Limited dated November 2018 for the subject proposal. The noise study determined that vehicular traffic on Queen Street South is the dominant transportation noise source of sound affecting the proposed development. Based on the results of the study, the predicted noise levels impacting the subject property are below the maximum un-attenuated noise levels required by the Ministry of the Environment, Conservation and Parks and therefore no noise mitigation measures are required.

As the application for a change in zoning complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the PPS; and,
- Conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019).

Urban Hamilton Official Plan

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

“E.2.6.7 Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes *compatible* with the existing character or function of the neighbourhood shall be permitted. Applications for *development* and *residential intensification* within Neighbourhoods shall be reviewed in consideration of the local context and shall be permitted in accordance with Sections B.2.4 – Residential Intensification, E.3.0 – Neighbourhoods Designation, E.4.0 – Commercial and Mixed Use Designations, and, E.6.0 – Institutional Designation.

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- E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and *housing with supports*.
- E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. *Residential intensification* within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

High Density

- E.3.6.1 High density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads.
- E.3.6.2 Uses permitted in high density residential areas include multiple dwellings, except street townhouses.
- E.3.6.6 In high density residential areas, the permitted net residential densities, identified on Appendix G – Boundaries Map shall be:
- b) greater than 100 units per hectare and not greater than 200 units per hectare in all other Neighbourhoods designation areas.
- E.3.6.7 Development within the high density residential category shall be evaluated on the basis of the following criteria:
- a) *Development* should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may be permitted indirect access to a collector or major or minor arterial roads from a local road upon which only a small number of low density residential dwellings are fronting on the local road.
- d) Development shall:
- i) Provide adequate landscaping, amenity features, on-site parking, and buffering where required;

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- ii) Be compatible with existing and future uses in the surrounding area in terms of heights, massing, and an arrangement of buildings and structures; and,
- iii) Provide adequate access to the property, designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.”

The policies for lands designated “Neighbourhoods” permit residential uses including multiple dwellings (Policies E.3.2.3 and E.3.6.2). As the proposal is for a multiple dwelling with a density exceeding 100 units per hectare the high density policies apply.

The proposed use is restricted to the existing two and a half storey building and therefore will not alter the existing scale and character of the neighbourhood (Policy E.2.6.7 and E.3.2.4).

The proposed development has a density of 109.8 units per hectare and is located 50 metres from Queen Street South, a minor arterial road, in accordance with policies E.3.6.6 b) and E.3.6.1.

The subject lands are located on Markland Street which is classified as a local road with no direct access to a collector road, major or minor arterial road. A total of 11 low density residential dwellings front onto the portion of Markland Street extending from Hess Street South and Queen Street South. Therefore, only a limited number of low density residential dwellings are located between the subject property and a minor arterial road (Queen Street South) (Policy E.3.6.7 a)).

Policy E.3.6.7 d), i) requires that development provide adequate amenity features. Adequate amenity space is required to meet the private amenity and recreation needs of the residents of the proposed development and are being provided in the following ways:

- A rear second floor deck approximately 13.95 square metres in area;
- Two rear first floor decks each approximately 9.6 square metres in area; and,
- A rear yard sodded area approximately 29 square metres in area.

In addition, the subject property is within 500 metres of four municipal parks (Radial Park, Mapleside Park, Hamilton Amateur Athletic Association and Durand Park). The amenity features, both on site and in the surrounding area, will ensure that the amenity needs of the residents of the proposed multiple dwelling will be met.

Adequate landscaping is required for development to be compatible with the streetscape character of the area, provide buffering for surrounding properties and to

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improve the storm water management of the subject lands by providing appropriate porous lands. The proposal is seeking to maintain and expand upon the landscaping that currently exists and therefore the proposal will not alter the existing streetscape character of the area and, will improve upon the existing situation with respect to buffering surrounding properties and storm water management. It is noted the rear yard will be balanced between landscaped area and parking area, as shown in the concept plan attached as Appendix "C" to Report PED20016.

The subject property is located within area "B" on schedule "H" in the City of Hamilton Zoning By-law No. 6593. A multiple dwelling within area "B" requires one parking space per unit. The proposed multiple dwelling with six units requires a minimum of six parking spaces to conform to the Zoning By-law. The proposed development will exceed the minimum number of parking spaces with a total of seven parking spaces being provided and therefore adequate on-site parking will be provided, as shown in the concept plan attached as Appendix "C" to Report PED20016.

Policy E.3.6.7 d), ii) requires that development be compatible with the existing and future uses of the surrounding area in terms of height, massing and the arrangement of the buildings. As the proposed multiple dwelling will be within the existing building there are no concerns in terms of height and massing.

Policy E.3.6.7 d), iii) requires that development provide adequate access to the property to minimize traffic conflicts between vehicles and pedestrians both on and off site. Vehicle access to the proposed parking spaces is provided by way of the existing un-assumed alleyways. No new driveways are being proposed nor will the proposal add any new interactions between vehicles and pedestrians. The residents of the proposed development will gain access to the building and parking areas by way of proposed walkways, as shown in the concept plan attached as Appendix "C" to Report PED20016.

Residential Intensification

"B.2.4.1.4 Residential Intensification development shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g), as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
- c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;

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- d) the compatible integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

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

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

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B.2.4.3.2 Residential Intensification in established historical neighbourhoods shall be in accordance with Policy B.3.4.3.6 and Policy B.3.4.3.7.”

The proposed change in use will be restricted to the existing building thereby maintaining the existing streetscape, lot pattern, relationship to neighbouring properties, and cultural heritage value, in accordance with Policies B.2.4.1.4 b), d) and g) and B.2.4.2.2 b), c), d), e), g), h) and i).

As previously noted the proposed development maintains adequate parking and amenity space to meet the needs of the residents of the proposed multiple dwelling. There are existing municipal services along Markland Street that can service the subject lands and have been demonstrated to have adequate capacity, therefore, there is adequate infrastructure capacity to service the proposed development. Based on the scale of the proposed development minimal traffic will be generated and is unlikely to have an impact on the area road network, therefore, there is adequate transportation capacity to meet the needs of the proposed development. The proposed multiple dwelling contributes towards achieving a range of dwelling types and tenures. Therefore, the proposal is in accordance with Policies B.2.4.1.4 c), e) and f) and B.2.4.2.2 f) and j).

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

Durand Neighbourhood Plan

The subject lands are designated “Single and Double” within the Durand Neighbourhood Plan.

“Single Family Residential Area

The area from mid-block between Herkimer and Markland south to the Escarpment is characterized by older single family homes on large lots, generally increasing in size and value closer to the Escarpment, south of Aberdeen Avenue. This area has remained relatively stable over the years except for some minor infilling.

2.1 Residential

Primary uses permitted are dwellings ranging from single-family housing to apartment units.

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Objective 1 – Variety of Housing Densities and Types

Durand is attractive as a residential environment because of its proximity to the downtown, its ambience and amenities and the number and quality of its building stock, therefore this character should be maintained and enhanced.

Policies

1. The Durand Neighbourhood will contain a variety of residential densities as shown on Map 1 in Appendix B.
2. Higher residential densities will be encouraged on the periphery of the neighbourhood, where possible, to minimize impacts on the interior.
3. Low residential densities will be maintained in the area south of Charlton Avenue.

Objective 4 – Renovation and Redevelopment

Renovation, infilling and compatible redevelopment or re-use of existing buildings should be encouraged especially if it is aimed at a specific group or activities not currently well-served in the area.

Policies

1. The rehabilitation of older or deteriorating housing will be encouraged wherever possible or desirable.
2. Adaptive re-use of existing buildings will be encouraged especially if the building is deemed of historical or architectural significance, contributes to the streetscape, or if the new use is providing a service of use not currently available in the area, such as short-term lodging homes, bed and breakfast establishments, neighbourhood pub, or family accommodation.
6. Redevelopment, where encouraged, will be in the form of infilling of a scale and design which is compatible with existing development.
7. Measures to encourage the provision of affordable housing for both singles and families will be considered, such as minor modifications to zoning by-law requirements.”

Multiple dwellings are not permitted for lands designated “Single and Double” in the Durand Neighbourhood Plan and therefore the designation of the subject lands will need to be changed from “Single and Double” to “Medium Density Apartments”.

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The neighbourhood plan does contemplate the adaptive re-use of older buildings and specifically buildings with historical or architectural significance. As discussed previously, the proposal is to accommodate a multiple dwelling with six units within the existing building which is included in the City's Register of Property of Cultural Heritage Value or Interest.

Based on the forgoing the proposed development complies with the policies of the Durand Neighbourhood Plan, subject to the change in designation from "Single and Double" to "Medium Density Apartment".

City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District. To implement the proposed development, the applicant has applied to change the zoning to a site specific "DE-3" (Multiple Dwellings) District. Staff have proposed two site specific modifications and the applicant has requested 14 site specific modifications to accommodate the proposal as outlined on page 4 of Report PED20016.

The proposed site specific modifications facilitate the legalization of six dwelling units within the existing building and to permit the required parking to be located in the rear yard, accessed from alleyways. A detailed discussion on the merits of the modifications is provided in the Zoning By-law Site Specific Modifications Table contained in Appendix "D" to Report PED20016.

RELEVANT CONSULTATION

Departments and Agencies		
	Comment	Staff Response
<ul style="list-style-type: none"> • Transit Division, Public Works Department • Strategic Planning, Public Works Department 	No Comment	
<ul style="list-style-type: none"> • Healthy Environments Division, Public Health Services 	Promote walking, cycling or using public transit, which increases physical activity and improves air quality.	The proposed development is a form of residential intensification in proximity to transit and other amenities which will promote

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton
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Street, Hamilton (PED20016) (Ward 2) - Page 16 of 24**

	Encourage the provision of short term bicycle parking and secure indoor bicycle parking.	walking, cycling and transit use.
<ul style="list-style-type: none"> Forestry and Horticulture Section, Public Works Department 	<p>Reviewed Tree Management Plan and identified issues with the plan in respect to correctly identifying existing municipal tree assets.</p> <p>Require payment of Tree Management Plan review fee.</p> <p>A permit will be issued upon approval of the Tree Management Plan.</p>	The Tree Management Plan will be completed as part of the Site Plan Control application which is required to lift the 'H' Holding provision.
<ul style="list-style-type: none"> Recycling and Waste Disposal, Operations Division, Public Works Department 	Proposed development is eligible for municipal waste collection services subject to meeting the City's requirements.	Recycling and waste disposal will be reviewed as part of the Site Plan Control application
<ul style="list-style-type: none"> Engineering Approvals 	<p>Markland Street is required by the UHOP to have a width of 20.117 metres.</p> <p>There is an existing 150 mm diameter watermain, 1,050 mm concrete watermain and 375 mm combined sewer on Markland Street adjacent to the subject property.</p> <p>The peak domestic water usage for the site, based on the approximate fixture unit approach, has been calculated as 1.39 L/s, which is acceptable. The Functional Servicing Report submitted sufficiently demonstrates that</p>	<p>A right-of-way widening dedication to the City is not required as Markland Street is currently 20.117 metres.</p> <p>Required fire flow calculations, firewall requirements and servicing requirements will need to be updated to reflect the merger of the subject lands.</p> <p>A revised Functional Servicing Report will need to be submitted as part of the future Site Plan Control application, in order to update domestic and fire flow calculations based on the final design of the building.</p>

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	<p>the existing municipal sewer and water infrastructure can adequately service the proposed development.</p> <p>In respect to required fire flow the applicant needs to demonstrate a firewall between the two properties on any future plans. The gross floor area of the dwelling has not been provided, therefore the required fire flow calculations cannot be verified. Updated hydrant flow from 2018 data should be utilized. The additional and updated information needs to be included in any future Functional Servicing Report.</p>	<p>A detailed engineering review will be undertaken as part of the future Site Plan Control application.</p>
<ul style="list-style-type: none"> • Development Planning 	<p>A Tree Management Plan (TMP) prepared by Adesso Design, dated July 31, 2018 was submitted with the application.</p> <p>The TMP shows that all trees on-site are to be preserved. A tree is located within the alleyway and is therefore a municipal tree. Approval from Forestry and Horticultural staff is required respecting any potential disturbance.</p> <p>If there are any alterations to existing chimneys the applicant must contact the Ontario Ministry of Natural Resources and Forestry to determine if there would be any impact to the species'</p>	<p>The TMP will be completed as part of the Site Plan Control application.</p>

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Zoning By-law No. 6593 for Lands Located at 184 and 186 Markland
Street, Hamilton (PED20016) (Ward 2) - Page 18 of 24**

	habitat.	
• Growth Planning	The Owner is required to submit a list indicating the unit numbers that will be used for the addressing of each unit.	The list indicating the unit numbers will be required as part of the Site Plan Control application.
Public Consultation		
Issue	Comment	Staff Response
Supportive Comments	Support the relocation of the parking spaces out of the alleyway. Support the relocation of the accessory structures.	The proposed parking space layout and location of accessory structures can be seen in Appendix "C" to Report PED20016.
Over Intensification	The proposal represents an over intensification with respect to the scale and density of the development compared to the neighbourhood.	While the applicant originally proposed a total of eight dwelling units the applicant has subsequently reduced the total number of units to six. The proposed six dwelling units are to be established within the existing low rise building. Adequate on-site parking will be provided for the proposed six dwelling units without any modification to the By-law.
Insufficient Parking and Traffic Impacts and Impacts on Access	There is not sufficient parking to meet the needs of the proposed use which will put further demand on already limited on-street parking in the area. Parking that obstructs the alleyway will create traffic impacts and obstruct access	Revised proposal includes seven parking spaces, whereas the Zoning By-law requires a minimum of six parking spaces. The existing and proposed parking spaces will be accessed from the existing un-assumed alleyways.

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Street, Hamilton (PED20016) (Ward 2) - Page 19 of 24**

	<p>for surrounding properties.</p> <p>The increase in activity will further erode the condition of the alleyway.</p>	<p>The applicant has revised the parking layout, including relocating the parking spaces to not obstruct the alleyway.</p> <p>The additional parking spaces are not expected to significantly increase the activity on the alleyway.</p>
Loss of Green Space	The proposed use would reduce the amount of greenspace (landscaping).	The applicant is not seeking to reduce the minimum landscape requirement of the Zoning By-law and is seeking to maintain and expand upon the existing on-site landscaping.
Impact on Storm Water Management	The increased amount of impervious surface area proposed for the development will result in negative impacts with respect to Storm Water Management.	<p>No concerns were raised by staff respecting Storm Water Management.</p> <p>A detailed review of grading and drainage, as well as Storm Water Management will be undertaken as part of the Site Plan Control application.</p>
Fencing (Visual Barriers)	The proposed development lacks fencing between the rear yard and adjacent properties.	<p>Fencing will be required along the easterly lot line (side yard) to provide buffering and screening to the adjacent properties to the east.</p> <p>To the west and north are alleyways and on the west and north sides of the alleyways parking and detached garages are predominate. Not requiring fencing on the west and north sides of the subject property can be supported in order to allow vehicles to access the parking.</p>

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton
Zoning By-law No. 6593 for Lands Located at 184 and 186 Markland
Street, Hamilton (PED20016) (Ward 2) - Page 20 of 24**

		The establishment of all required visual barriers will be addressed at the Site Plan Control stage.
Noise	The proposed development will create negative noise impacts on the adjacent lands.	Based on the scale of the proposed multiple dwelling (six units), it is not anticipated that significant noise will be generated.
Privacy	<p>The proposed development will create privacy impacts on the adjacent lands.</p> <p>A specific concern was also raised respecting privacy impacts from proposed raised platforms.</p>	<p>The proposal is seeking to establish a multiple dwelling within the existing building and therefore there will be no change in respect to the existing windows.</p> <p>While the existing building is to be maintained the applicant is proposing to construct second storey balconies at the rear of the building along with stairs to the balconies which includes raised platforms (landings).</p> <p>The second storey balcony at the rear of the building predominately looks down onto the back yard of the subject lands, with only a small portion of the balcony facing the adjacent properties to the east and west. The balconies will be setback approximately 2.1 metres from the property line to the east and 4.0 metres from the property line to the west, thereby reducing the overlook impact from the second storey balconies.</p> <p>A specific concern was raised in respect to raised platforms. The platforms are intended to be</p>

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Zoning By-law No. 6593 for Lands Located at 184 and 186 Markland
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		landings for exterior stairs for the units. Given the small size they would not be suitable as amenity space. The Site Plan Control process will evaluate the elevation plans and incorporate any mitigation measures require to limit privacy and overlook concerns from the new multiple dwelling units.
Character of Neighbourhood	That the proposed development is not in keeping with the character of the neighbourhood.	The proposal is to be contained within the existing building. The existing and proposed parking area will be located at the rear of the existing building and therefore the parking area will not alter the streetscape character of the neighbourhood.
Property Values	The proposed development would negatively impact the property values of existing properties in the area.	Staff are not aware of any supporting information or any empirical data with respect to property devaluation that would substantiate this concern.
Loss of Heritage Building	The proposed development would result in a loss of heritage buildings.	The proposal is seeking to legalize dwelling units within the existing heritage building.

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 349 property owners within 120 m of the subject property on January 11, 2019. A Public Notice sign was posted on the property on January 25, 2019 and updated on January 8, 2020. Finally, Notice of the Public Meeting was given on January 17, 2020 in accordance with the requirements of the *Planning Act*.

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To date, 11 letters have been submitted expressing concern with the proposed development including a letter from the Durand Neighbourhood Association and one letter requesting further information which are attached as Appendix “E” to Report PED20016 and summarized in the table above.

Public Consultation Strategy

The Public Consultation Strategy included mailing out a public information letter to the property owners within 120 metres and the Durand Neighbourhood Association, as discussed on page 5 of Report PED20016. The applicant was contacted by two neighbouring residents, one in support and one expressing concern.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the PPS and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
 - (iii) The proposed development is of a size and scale that is compatible with the area, and represents good planning.
2. The application for Zoning By-law Amendment is for a change in zoning from the “D” (Urban Protected Residential – One and Two Family Dwelling, Etc.) District to the “DE-3/S-1796 – ‘H’” (Multiple Dwellings) District, Holding, Modified.

The proposed change in zoning will permit a form of residential intensification within the built-up area, increasing the total number of units from three to six. As the proposed six unit multiple dwelling will be located within the existing building there will be no change to the character of the area from the street. The proposal will maintain adequate on-site parking to meet the requirements of the Zoning By-law and will provide adequate landscaping.

The modifications to the “DE-3” (Multiple Dwelling) District meet the intent of the “Neighbourhoods” designation of the UHOP with some modifications needed to recognize the existing built form. The modifications are identified on page 4 of Report PED20016 and discussed in detail in Appendix “D” to Report PED20016.

Therefore, staff support the proposed Zoning By-law Amendment.

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**SUBJECT: Application for Zoning By-law Amendment to the City of Hamilton
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3. The subject property currently contains eight dwelling units that were established without a building permit. As the application for Zoning By-law Amendment will permit a maximum of six dwelling units, the applicant will be required to remove two of the eight dwelling units and receive Building Permits for the remaining six dwelling units.

4. Holding Provision

The existing building has been illegally converted to an eight unit multiple dwelling without the necessary Building Permits. An 'H' Holding Provision is being proposed on the subject lands to ensure that a Building Permit is applied for, thereby legally establishing the six unit multiple dwelling.

In addition, staff are placing an 'H' Holding Provision on the subject lands to ensure that an application for Site Plan Control is applied for and Conditional Site Plan Approval is granted prior to lifting the Holding Provision.

Finally, staff are placing an 'H' Holding Provision on the subject lands to ensure that the properties of 184 and 186 Markland Street are merged together in title, to ensure that the proposed development is established on a single lot.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the subject property would remain zoned "D" Urban Protected Residential – One and Two Family Dwellings, etc.) District, in the City of Hamilton Zoning By-law No. 6593. Furthermore the applicant would be required to adhere to the Order to Comply and would be required to discontinue the use of the existing building as an eight unit multiple dwelling.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

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Zoning By-law No. 6593 for Lands Located at 184 and 186 Markland
Street, Hamilton (PED20016) (Ward 2) - Page 24 of 24**

Clean and Green

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

Built Environment and Infrastructure

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

Culture and Diversity

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

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Location Map

Appendix "B" – Draft Amendment to Zoning By-law No. 6593

Appendix "C" – Revised Concept Plan

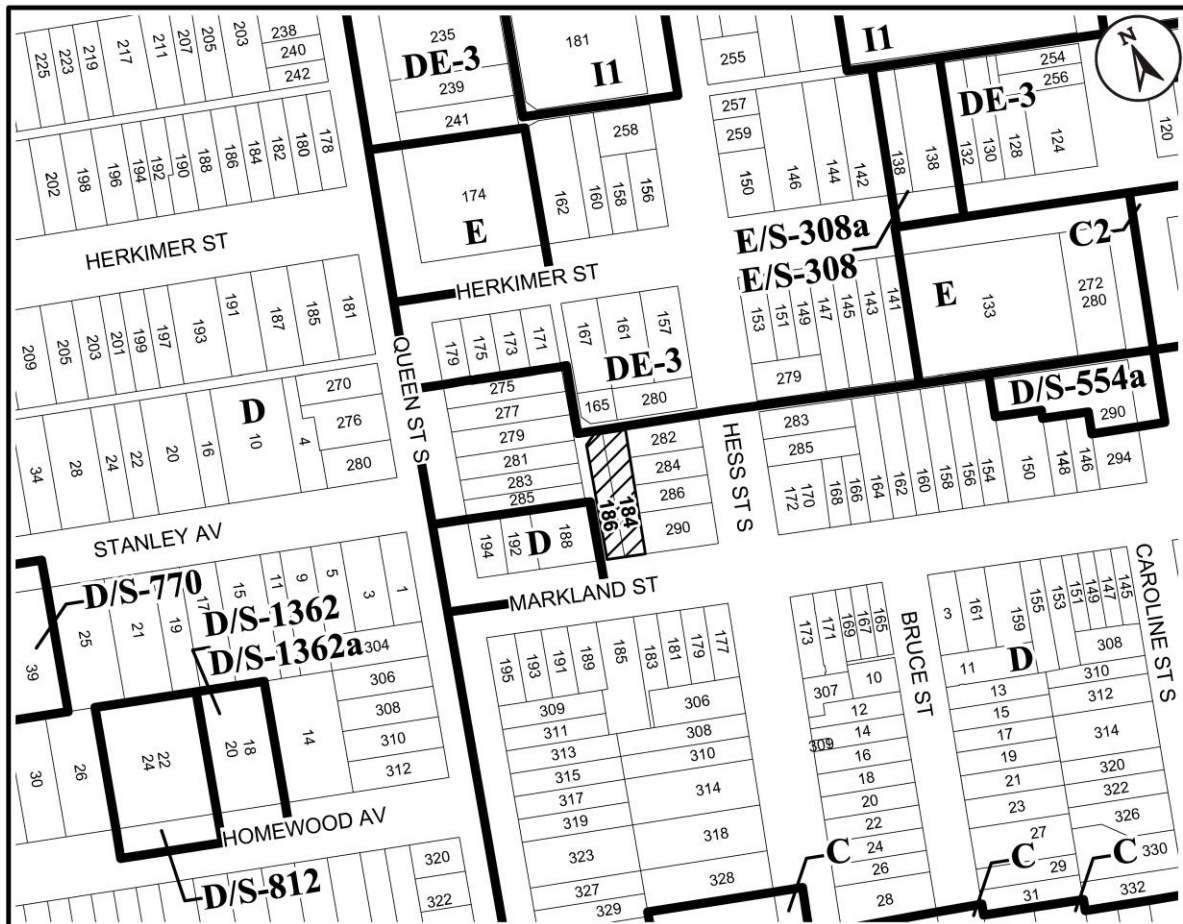
Appendix "D" – Zoning By-law Site Specific Modification - Chart

Appendix "E" – Public Submissions

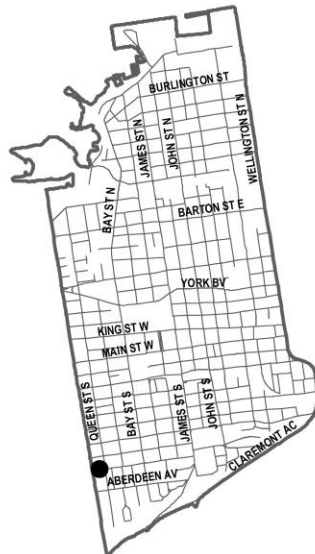
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● Site Location



Key Map - Ward 2

N.T.S.

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAC-18-047

Date:
November 20, 2019

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
DB/NB

Subject Property

184 & 186 Markland Street



Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwelling, Etc.) District to "DE-3/S-1796-'H" (Multiple Dwellings) District, Modified, Holding

Authority: Item, Planning Committee
Report
CM: February 12, 2020
Ward: 2

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 6593 (Hamilton) as amended,
Respecting Lands Located at 184 and 186 Markland Street, Hamilton

WHEREAS the Council of the City of Hamilton, in adopting Item _____ of Report 20 - _____ of the Planning Committee, at its meeting held on the _____ day of _____, 2020, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan approved August 16, 2013.

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

1. That Sheet No. W6 of the District Maps, appended to and forming part of Zoning By-law No. 6593 (Hamilton), is amended as follows:
 - a) By changing the zoning from the "D" (Urban Protected Residential – One and Two Family Dwellings, etc.) District, to the "DE/S-1796-'H'" (Multiple Dwelling) District, Holding, Modified;

on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That the "DE" (Multiple Dwelling) District provisions as contained in Section 10C of Zoning By-law No. 6593, applicable to the subject lands, be modified to include the following special requirements:
 - a) That in addition to Section 10C (1), a multiple dwelling with a maximum of six dwelling units shall be permitted within the building existing on the date of the passing of this By-law.
 - b) That Section 10C (1) (via) and (vii) shall not apply.
 - c) That notwithstanding Section 10C (3) (i) (b), a front yard of a depth of 2.7 metres shall be permitted for the building existing on the date of the passing of this By-law.

- d) That notwithstanding Section 10C (3) (ii) (b), a side yard of a width of 1.2 metres for the easterly side yard and 0 metres for the westerly side yard, shall be permitted for the building existing on the date of the passing of this By-law.
 - e) That notwithstanding Section 10C (4) ii), iii) and iv), a width of at least 12.8 metres and an area of at least 545.0 square metres.
 - f) That Section 10C (5) shall not apply for the building existing on the date of the passing of this By-law.
 - g) That notwithstanding Section 18 (3) (vi) (b), the existing encroachment of any eaves or gutters of the building existing on the date of the passing of this By-law shall be permitted.
 - h) That notwithstanding Section 18 (3) (vi) (e), the encroachment of any uncovered porch and associated stairs of the building existing on the date of the passing of this By-law shall be permitted.
 - i) That notwithstanding Section 18 (4) (v) (b), an air conditioner shall be permitted within the westerly side yard provided such equipment has a minimum setback of 0 metres from the side lot line.
 - j) That Section 18A (1) (c), (32) and (33) shall not apply.
 - k) That notwithstanding Section 18A (1) (f), (9) and (10), manoeuvring space may be provided both **on the lot and on the** un-assumed laneway with a minimum aisle width of 4.2 metres.
 - l) That Section 18A (11) (a), shall not apply to the northerly and westerly lot line but shall apply to the easterly lot line.
 - m) That Section 18A (12) (a) and (b), shall not apply to the northerly and westerly lot line but shall apply to the easterly lot line.
 - n) That Section 18A (12) (c), shall not apply to northerly and westerly lot line but shall apply to the easterly lot line.
 - o) That notwithstanding Section 18A (24) (b) (i) and (ii), access shall be provided by way of an alleyway.
 - p) That Section 18A (25), shall not apply to the northerly and westerly lot line, however an access driveway shall be a minimum of 1.5 metres from the easterly lot line.
3. That the 'H' symbol applicable to the lands referred to in Section 1 shall be removed conditional upon:

- i) The Owner apply for a Building Permit to legalize a multiple dwelling with a maximum of six units, to the satisfaction of the City's Chief Building Official;
 - ii) That the Owner applies for and receives Conditional Site Plan Approval, to the satisfaction of the Manager of Development Planning, Heritage and Design; and,
 - iii) That the Owner merge the properties municipally known as 184 and 186 Markland Street into the same name and title, to the satisfaction of the Manager of Development Planning, Heritage and Design.
4. That no building or structure shall be erected, altered, extended, or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "DE-3" District provisions, subject to the special requirements in Section 2 of this By-law.
5. That By-law No. 6593 is amended by adding this By-law to Section 19B as Schedule S-1796.
6. That Sheet No. W6 of the District maps is amended by making the lands referred to in Section 1 of this By-law as Schedule S-1796.
7. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

ZAC-18-047



<p>This is Schedule "A" to By-law No. 20-</p> <p>Passed the day of, 2020</p>	<p>-----</p> <p style="text-align: center;">Mayor</p> <p>-----</p> <p style="text-align: center;">Clerk</p>
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<h2 style="margin: 0;">Schedule "A"</h2> <p style="margin: 10px 0 0 0;">Map Forming Part of By-law No. 20-_____</p> <p style="margin: 10px 0 0 0;">to Amend By-law No. 6593</p>	<p>Subject Property 184 & 186 Markland Street</p> <p> Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwelling, Etc.) District to "DE-3/S-1796-'H" (Multiple Dwellings) District, Modified, Holding</p>
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<p>Scale: N.T.S.</p>	<p>File Name/Number: ZAC-18-047</p>	
<p>Date: Nov. 201, 2019</p>	<p>Planner/Technician: DB/NB</p>	
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>		

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

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

Committee: Planning and Economic Development Committee

Report No.: PED20016 Date: 01/14/2020

Ward(s) or City Wide: Ward: 2

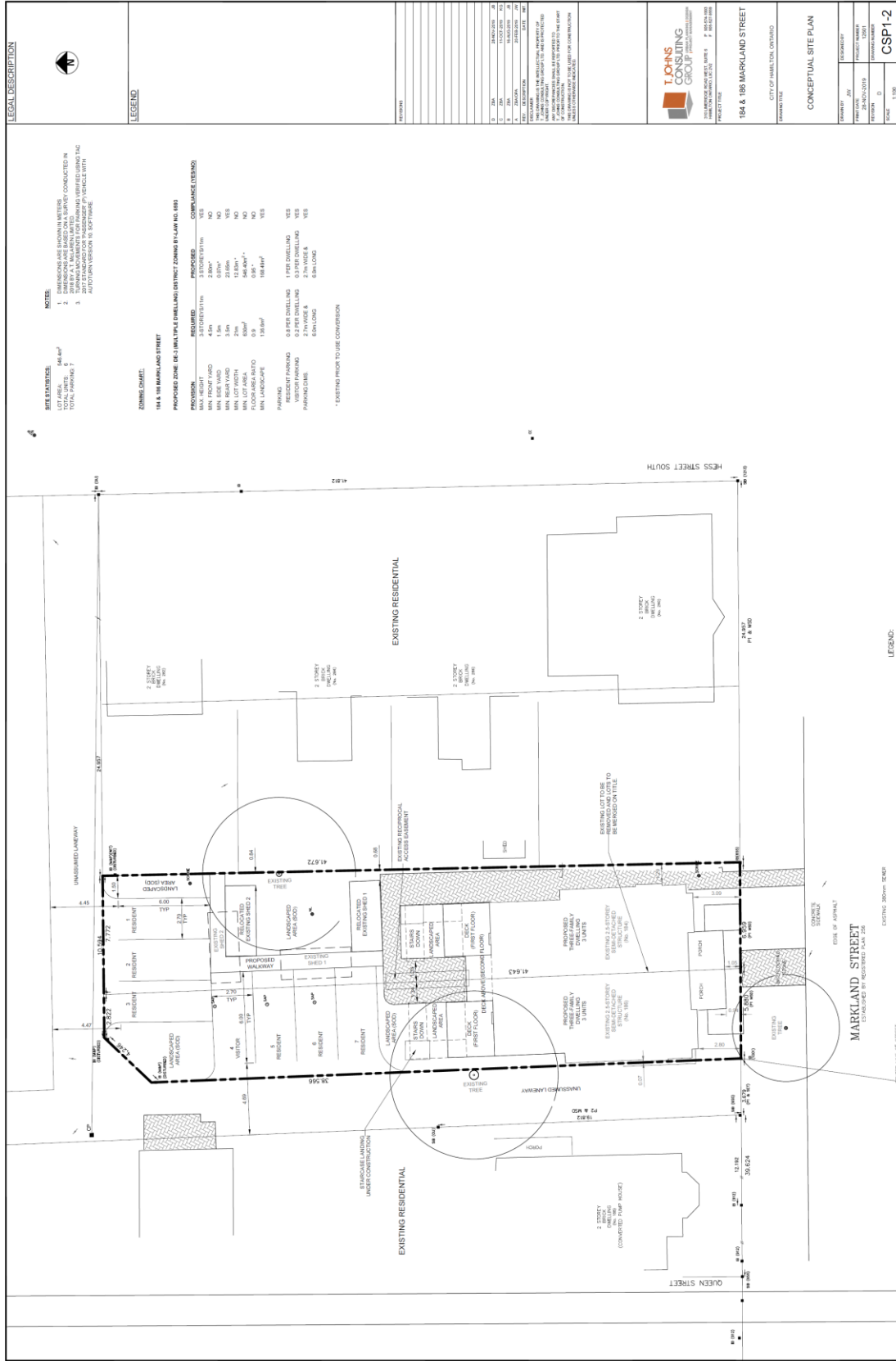
(MM/DD/YYYY)

Prepared by: Daniel Barnett

Phone No: 905-546-2424 ext. 4445

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

Appendix "C" to Report PED20016
Page 1 of 1



LEGAL DESCRIPTION



LEGEND

NOTE:
1. DIMENSIONS ARE SHOWN IN METERS
2. DIMENSIONS ARE SHOWN IN FEET AND INCHES
3. DIMENSIONS ARE SHOWN IN FEET AND INCHES
4. DIMENSIONS ARE SHOWN IN FEET AND INCHES
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6. DIMENSIONS ARE SHOWN IN FEET AND INCHES
7. DIMENSIONS ARE SHOWN IN FEET AND INCHES
8. DIMENSIONS ARE SHOWN IN FEET AND INCHES
9. DIMENSIONS ARE SHOWN IN FEET AND INCHES
10. DIMENSIONS ARE SHOWN IN FEET AND INCHES

PROPOSED ZONE (D1-1 MULTIPLE DWELLING) DISTRICT ZONING BY-LAW NO. 693

REQUIREMENT	REQUIRED	PROPOSED	COMPLIANCE (LETTERS)
MAX HEIGHT	3.5 STOREYS (11m)	3.5 STOREYS (11m)	YES
MIN FRONT YARD	4.5m	2.00m*	NO
MIN REAR YARD	3.5m	2.00m*	NO
MIN LOT WIDTH	27m	18.00m*	NO
FLOOR AREA RATIO	0.8	0.8*	YES
MIN LANDSCAPE	158sqft	158sqft	YES
PARKING	0 PER DWELLING	1 PER DWELLING	YES
RESIDENT PARKING	0 PER DWELLING	1 PER DWELLING	YES
PARKING DIMS	2.7m WIDE & 8.0m LONG	2.7m WIDE & 8.0m LONG	YES

* EXISTING PRIOR TO USE CONVERSION

PROPOSED ZONE (D1-1 MULTIPLE DWELLING) DISTRICT ZONING BY-LAW NO. 693

REQUIREMENT	REQUIRED	PROPOSED	COMPLIANCE (LETTERS)
MAX HEIGHT	3.5 STOREYS (11m)	3.5 STOREYS (11m)	YES
MIN FRONT YARD	4.5m	2.00m*	NO
MIN REAR YARD	3.5m	2.00m*	NO
MIN LOT WIDTH	27m	18.00m*	NO
FLOOR AREA RATIO	0.8	0.8*	YES
MIN LANDSCAPE	158sqft	158sqft	YES
PARKING	0 PER DWELLING	1 PER DWELLING	YES
RESIDENT PARKING	0 PER DWELLING	1 PER DWELLING	YES
PARKING DIMS	2.7m WIDE & 8.0m LONG	2.7m WIDE & 8.0m LONG	YES

* EXISTING PRIOR TO USE CONVERSION

PROPOSED ZONE (D1-1 MULTIPLE DWELLING) DISTRICT ZONING BY-LAW NO. 693

REQUIREMENT	REQUIRED	PROPOSED	COMPLIANCE (LETTERS)
MAX HEIGHT	3.5 STOREYS (11m)	3.5 STOREYS (11m)	YES
MIN FRONT YARD	4.5m	2.00m*	NO
MIN REAR YARD	3.5m	2.00m*	NO
MIN LOT WIDTH	27m	18.00m*	NO
FLOOR AREA RATIO	0.8	0.8*	YES
MIN LANDSCAPE	158sqft	158sqft	YES
PARKING	0 PER DWELLING	1 PER DWELLING	YES
RESIDENT PARKING	0 PER DWELLING	1 PER DWELLING	YES
PARKING DIMS	2.7m WIDE & 8.0m LONG	2.7m WIDE & 8.0m LONG	YES

* EXISTING PRIOR TO USE CONVERSION

JOHNS CONSULTING GROUP
CONSULTANTS

184 & 186 MARKLAND STREET
MARKLAND STREET SOUTH, MISSISSAUGA, ONTARIO L4X 1L7

PROJECT TITLE: CONCEPTUAL SITE PLAN

DATE: 11/08

SCALE: 1:100

CSP1-2

NO.	DATE	DESCRIPTION
1	11/08/2010	CONCEPTUAL SITE PLAN
2	11/08/2010	CONCEPTUAL SITE PLAN
3	11/08/2010	CONCEPTUAL SITE PLAN
4	11/08/2010	CONCEPTUAL SITE PLAN
5	11/08/2010	CONCEPTUAL SITE PLAN

Zoning By-law Site Specific Modifications – “DE-3” (Multiple Dwellings) – District

Provision	Required	Requested Amendment	Analysis
Section 10C: (Multiple Dwellings) - Uses			
(1) Restriction on number of dwelling units <i>**Proposed By Staff</i>	Permits a Multiple Dwelling.	To restrict a multiple dwelling to a maximum of six dwelling units within the building existing on the date of the passing of the By-law.	The proposed modification is to restrict a multiple dwelling to be contained within the existing building and to have a maximum of six units. The modification will maintain the existing character of the neighbourhood and preserve a building of Cultural Heritage value, while limiting the overall density of the subject lands to a compatible scale. Therefore, the proposed modification can be supported.
(1) <i>**Proposed By Staff</i>	Emergency Shelter and Long Term Care Facility are uses permitted in the “DE-3” (Multiple Dwelling) District.	To prohibit an emergency shelter and a long term care facility.	Neither an emergency shelter or long term care facility are permitted in the current “D” (Urban Protected Residential – One and Two Family Dwelling, Etc.) District. The applicant is not proposing to establish either an emergency shelter or long term care facility, however, the proposed modification is to ensure that the subject lands are ultimately used only for the use that has been applied for (multiple dwelling). Therefore, the proposed modification can be supported.
Section 10C “Multiple Dwelling” District - Requirements			
(3) (i) (b) Front Yard <i>**Applicant requested</i>	A front yard of a depth of at least one one-hundred and twentieth part of the product obtained by multiplying the height	To permit a front yard setback of 2.7m for the building existing on the date of the passing of the By-	The proposed modification is to recognize the existing front yard setback of the existing building. Therefore, the proposed modification can be supported.

modification	of the building structure by its width, but no such front yard shall have a depth of less than 4.5 metres and need not have a depth of more than 7.5 metres.	law.	
(3) (ii) (b) Side Yard **Applicant Requested Modification	Along each side lot line a side yard of a width of at least one one-hundred and twentieth part of the product obtained by multiplying the height of the building by its length, less 1.5 metres where no balcony, sunroom or any window of a habitable room overlooks the side yard, but no such side yard shall have a width of less than 1.5 metres, and need not have a width of more than 9.0 metres, but plus 3.0 metres where any balcony, sunroom or window of a habitable room	To permit a Westerly side yard of 0 metres and a Easterly side yard of 1.2 metres, for the building existing on the date of the passing of the By-law.	The proposed modification is to recognize the existing side yard setbacks of the existing building. The proposed modification also maintains adequate space on the easterly side of the building for access. The merger of the subject lands will improve pedestrian access for 186 Markland Street by allowing pedestrian access through the existing 1.29 metre easterly side yard. Therefore, the proposed modification can be supported.

	does overlook such side yard, but no such side yard shall have a width of less than 4.5 metres and need not have a width of more than 13.5 metres.		
(4) (ii), (iii), and (iv) Lot Width and Lot Area **Applicant Requested Modification	A minimum lot width of 21 metres and lot area of 640 square metres.	A minimum lot width of 12.8 metres. A minimum lot area of 545.0 square metres.	The proposed modification is to recognize the combined lot width and lot area of the two existing residential properties (184 and 186 Markland Street). The merger of the two existing lots will improve the function of the subject lands in respect to parking, access, and amenity space. Furthermore the existing lot width of 12.8 metres and existing lot area of 545.0 square metres represent an adequate sized lot in which to accommodate the proposed six unit multiple dwelling along with adequate parking and amenity space. Therefore, the proposed modification can be supported.
(5) Floor Area Ratio **Applicant Requested Modification	Maximum gross floor area of no greater than the area of the lot multiplied by the floor area ratio factor of 0.9 (Maximum of 490.5 square metres).	To eliminate the maximum floor area ratio for a multiple dwelling within the building existing on the date of the passing of the By-law.	The proposed modification is to not apply the maximum floor area ratio to the existing building, and therefore permits the existing building to maintain its existing floor area ratio. Any proposal to construct a new building would require the building to conform to the maximum Floor Area Ratio of 0.9 times that of the lot area. Therefore, the proposed modification can be supported.

Section 18 – Supplementary Requirements and Modifications			
<p>(3) (vi) (b) Encroachment of Eaves and Gutters</p> <p>**Applicant Requested Modification</p>	<p>Eaves and gutters may project into a required front yard not more than 1.5 metres provided that no such projection shall be closer to a street line than 1.5 metres.</p> <p>May project inot a require rear yard not more than 1.5 metres.</p> <p>May required side yard not more than one-half of its width, or 1.0m whichever is the lesser.</p>	<p>To recognize the eaves and gutters of the building existing on the date of the passing of the By-law.</p>	<p>The proposed modification recognizes the existing eaves and gutters for the existing building.</p> <p>Therefore, the proposed modification can be supported.</p>

<p>(3) (vi) (e) Encroachment of a porch</p> <p>**Applicant Requested Modification</p>	<p>An uncovered porch and associated stairs which does not extend more than 1 metre above the floor level of the first storey may project into a required yard if distant at least 1.5 metres from the nearest street line.</p>	<p>To permit an uncovered porch and associated stairs to be a distance at least 0 metres from the nearest street line for a multiple dwelling within the building existing on the date of the passing of the By-law.</p>	<p>The proposed modification recognizes the existing uncovered porch and associated stairs located in the front yard.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(4) (v) (b) Air conditioners</p> <p>**Applicant Requested Modification</p>	<p>Air conditioners and pumps and other similar mechanical equipment within a required side has a minimum setback of 0.6 metres from the side lot line.</p>	<p>To permit an air conditioner to located within 0 metres of the westerly side lot line.</p>	<p>The proposed modification is to recognize an existing air conditioner that is located on the westerly side of the existing building. The air conditioner abuts the existing alleyway and therefore will maintain a separation of 3.6 metres from the property located to the west.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>Section 18A – Parking and Loading Requirements</p>			
<p>(1) (c), (32) and (33) – Minimum No. loading spaces that are unobstructed and accessible</p>	<p>A minimum of 1 loading space is required that is unobstructed and freely accessible without hindrance between the loading</p>	<p>No on-site loading space shall be provided.</p>	<p>Due to the limited size and scale of the proposed development (maximum of six units) a dedicated on-site loading space is not necessary. Loading and unloading activities would be predominately limited to those times when tenants move into and out of the units and given the small number of units this is not anticipated to be a frequent occurrence. Loading can still be undertaken by</p>

**Applicant Requested Modification	space and an access driveway.		way of smaller vehicles parked in the rear parking spaces or with larger vehicles utilizing on-street parking. Therefore, the proposed modification can be supported.
(1) (f), (9) and (10) Minimum Manoeuvring Space **Applicant Requested Modification	A minimum required manoeuvring space of 6.0 metres is required to be provided on the subject lands.	To permit a total of 4.2 metres of manoeuvring space, the majority to be provided off-site within an existing alleyway.	The proposed parking spaces are to be accessed off existing un-assumed alleyways, which are not anticipated to have significant traffic levels and any vehicles traveling along the alleyways are anticipated to be traveling at a slow speed. The modification for a reduction in manoeuvring space and to provide most of the manoeuvring space within the existing alleyway is not anticipated to create traffic conflicts. Therefore, the proposed modification can be supported.
(11) (a) and (25) Setback of a Parking Area **Applicant Requested Modification	A minimum 1.5 metre setback shall be provided between a parking area and an adjoining residential district. A minimum 3.0 metre setback from an adjacent residential district that does not permit a multiple dwelling.	To not require a minimum setback between a parking area and an adjoining residential district to the north and west. To not require a minimum setback between a parking area and an adjoining residential district that does not	A separation distance of 1.5 metres cannot be provided along the northerly and westerly sides of the parking area as the parking spaces will be accessed directly from the alleyway on the north and west sides. The parking will however be separate from the adjacent properties to the north and west by way of the alleyway. A 1.5 metre separation from the east side will be provided and therefore no modification for the easterly side lot line will be required. A modification will however be required to reduce the setback requirement of 3.0 metres to 1.5 metres. Providing a 3.0 metre setback would require the elimination of one of the seven parking spaces. Only one of the seven proposed parking spaces will be within

		<p>permit a multiple dwelling.</p>	<p>3.0 metres of the property to the east. The parking space will not face directly toward the adjacent lot line which will reduce impacts from head lights. Furthermore the parking space is located adjacent to the parking spaces of the adjacent property to the east and not amenity area. Finally a visual barrier and a 1.5 metre planting strip will have to be provided along the easterly lot line which will provide visual buffering for the adjacent lands.</p> <p>Therefore, the proposed modification can be supported.</p>
<p>(12) (a), (b) and (c) – Planting Strip and Visual Barrier</p> <p>**Applicant Requested Modification</p>	<p>To require a landscaped area with a planting strip between a parking area and loading area and a residential district.</p> <p>To provide a visual barrier between a parking area and the boundary of the lot abutting a residential district.</p>	<p>To not require a landscaped area between the parking area and a residential district to the north and west.</p> <p>To not require a visual barrier between a parking area and the residential district to the north and west.</p>	<p>Direct access is provided between the parking and the alleyway to the north and west and therefore a landscaped area or visual barrier cannot be provided along these sides of the parking area. On the adjacent lands on the west side of the alleyway, surface parking and detached garages abut the alleyway. Similarly, surface parking and detached garages are located on the north side of the alleyway. As the parking area abuts parking areas on adjacent properties to the north and west, a landscaped area and visual barrier is not required to buffer the adjacent residential properties.</p> <p>The proposed modifications respecting a planting strip and visual barrier are only applicable for the north and west property lines. A visual barrier and planting strip will still be required along the easterly lot line, which will provide sufficient buffering between the parking area and the adjacent lands to the east.</p> <p>Therefore, the proposed modification can be supported.</p>

<p>(24) (b) (i) and (ii) – Access Driveway Width</p> <p>**Applicant Requested Modification</p>	<p>To require an access driveway width of at least 5.5 metres (two way access) or separate ingress and egress driveways with a width of at least 3.0 metres (one way access).</p>	<p>No on-site access driveway, access to be provided by way of an alleyway.</p>	<p>The proposed parking spaces will be accessed by an alleyway that is greater than 3.0 metres in width. The parking spaces will therefore have sufficient means to provide adequate ingress and egress to the parking spaces.</p> <p>Therefore, the proposed modification can be supported.</p>
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February 1, 2019

Hamilton, ON L8P 3P7

RE: UHOPA-18-021 and ZAC-18-047

Not to be entered in public record, at writer's request

Dear Mr. Barnett,

We are writing to ask that the zoning application for a high-density residential unit at 184 and 186 Markland Street Hamilton be denied.

we are strongly opposed to this re-zoning application.

We proudly moved to this neighbourhood in 2014, and part of the decision to purchase our home was based on a careful look at the nearby zoning permits.

over the past two years we have been negatively impacted in a number of serious ways by the owners, who have proceeded with construction and addition of 8 units on these properties. We would be discouraged and devastated by the impact if the City allowed this re-zoning to proceed.

Some of our concerns are outlined below:

- 1) This is a quiet, community-oriented street filled with mostly single family homes. If re-zoning for these 8 (or more) rental units is allowed on the properties in question, the culture and make-up of our neighbourhood could change drastically, with significant impact on desirability and property values.
- 2) The proposal could have major implications to the neighbourhood with regards to safety, crime rates, traffic, noise levels, etc.
- 3) We have small children who use our backyard to play, and we enjoy spending time outside with friends and family. The Edmonds' additional units have created a 'fishbowl' effect with 4 of the units staring directly into our yard, with their frequent rotation of renters. They have also been building multiple balconies on the back of this property which have been compromising the peace and use of our backyard.
- 4) Street and lane parking for this stretch of Markland Street is already extremely limited, given the urban density and hospital workplaces nearby. Home-owners have difficulty finding parking close to their homes as it is, and the lane between Markland and Herkimer gets dangerously congested. With 8 or more units and the extra cars requiring parking, there is already a major impact on the needs of homeowners on this street.

- 5) We are extremely concerned that the proposed change of zoning could pave the way for demolition of the current structure and construction of a multi-story building on the property, which would be entirely out of keeping with the culture and historical significance of this part of the Durand neighbourhood.
- 6) The Edmonds' have already gone ahead and created the 8 rental units. Major exterior and interior renovations and construction has been going on for two years, which has impacted our property already (debris in our back yard, damage to our fence on multiple occasions, noise, etc.).
- 7) We know that there have been many City notifications on the property ordering them to cease/hold construction, which raises concerns to us about their level of civic consultation, building code adherence, and transparency in making this level of impact on the community.

We would like it to be known that we are vehemently opposed to the change in zoning being proposed. We plan to attend any public meeting regarding the applications in question to express our opinion, which is shared by many in the neighbourhood.

Please keep us informed regarding the notice of the public meeting and any decisions regarding this application.

Sincerely,

Paul & Helen Nichols

Hamilton, Ontario L8P 3T4

February 6, 2019

Daniel Barnett
City of Hamilton
Planning & Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario L8P 4Y5

Re: UHOPA-18-021, ZAC-18-047

Dear Mr. Barnett:

In response to the City's above referenced letter, dated January 11, 2019, we are pleased to provide comment on the requested Official Plan Amendment (OPA) and Zoning By-law Amendment.

We fervently oppose the requested OPA to establish a site specific policy are in order to permit a high density residential use located on a local road. With limited access to arterial streets from the proposed location, significant increases in local density (even site specific increases) only serve to exacerbate the current traffic congestion along Queen Street South and James Street South. Additionally, ongoing conversations between local residents and the City – often through the Durand Neighbourhood Association – have acknowledged that, while increases in density will be a reality for the Durand, those increases should be contained to the northern portion of the neighbourhood. This allows for easier access to transit along Main Street, protects the historic character of the Durand, and provides a more appropriate transition from the high density buildings in the northern portion of the neighbourhood, to the lower density, single-family housing that characterizes south Durand.

We also oppose the requested Zoning By-law Amendment. While it is understood that the change in zoning would not result in any substantial building height increases, there are a number of other issues that arise. The nature of proposed amendment results in insufficient green space for the enjoyment of the building tenants. Reduced setbacks (and associated building/site modifications) will reduce permeable surfaces and negatively impact storm water run-off from the site. Finally, changes to parking dimensions / requirements will result in an untenable parking situation for tenants and adjacent neighbours.

The above detailed concerns, particularly those related to the proposed Zoning By-law Amendment, are not without basis. This is clear, as the impacts have already been realized as the building and site modifications that would be permitted through the amendments have already been completed. The increased hardscape on the front porch/entrance way has increased site run-off; the construction of storage huts and partial construction of rear exit stairways has removed any meaningful green space for tenant enjoyment; and the newly constructed parking spaces have resulted in the tenants (already residing in the most of the new units) encroaching into the public alleyway easement with their parked cars. In addition, the extra parking has resulted in additional traffic in the rear alleyways, causing increased wear and tear / rutting of the alleyway. For local residents that do not have driveways or alleyway parking they now have an even great challenge finding street parking, owing to guests visiting the increased number of units at the subject properties and parking on the nearby streets.

The owners of 184 and 186 Markland Street have operated in bad faith from the beginning. They did not seek the OPA or the Zoning By-law Amendment prior to commencing construction. Nor did they advise the neighbouring properties of their intentions. The design and planning of their project is deeply flawed from both an urban planning and a design perspective. Based on this, we do strenuously oppose the requested OP and Zoning By-law Amendments.

Thank you for providing us the opportunity to provide comment on the proposed changes. We hope the issues and deficiencies identified via this letter will be given the significant consideration they deserve.

Respectfully,

Paul L. Nichols, MASC, MCIP, RPP
Helen Burnett-Nichols, MA



February 7th, 2019

Daniel Barnett
City of Hamilton
Planning & Economic Development Department
71 Main Street West, 5th Floor, Hamilton, ON. L8P 4Y5
Re: UHOPA-18-021, ZAC-18-047

Dear Mr. Barnett,

We are writing in regards to the application for the Official Plan Amendment and Zoning By-law Amendment for the lands located at 184 & 186 Markland Street, Hamilton. (Ward 2)

We understand the applicants are seeking a zoning by-law amendment to modify the existing properties currently consisting of a single dwelling and a duplex dwelling, and redevelop them into a four unit dwelling on each lot for a total of 8 dwelling units. This is an increase of 5 dwelling units within the confines of the existing properties.

The applicants are asking the properties be rezoned from D to DE3 which allows multiple dwellings up to 3 storeys in height in order that they may legally comply.

There are no drawings and there is no site plan included with this proposal to indicate the extent of the modifications. The presumption is that the modifications are therefore all internal to the existing buildings.

The Durand Neighbourhood Association is not clear on the implications to the neighbourhood from this redevelopment. Our concerns would include the increased parking requirements and access and maneuverability from the greater density. Would the additional 5 dwelling units required parking come at the expense of the required landscape area being that $\frac{1}{4}$ of each lot must be soft landscape. Additional paving also comes at the expense of green space and contributes to our surface runoff and drainage issues.

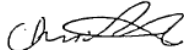
Can the City confirm that the new proposal will legally meet the requirements of the proposed new DE3 zoning or will it require additional site specific variances? Specifically will the proposal comply with the DE3 zoning with respect to the following?

- Height
- Floor Area
- Side Yard Setbacks
- Front Yard Setbacks
- Lot Area
- Lot Width
- Landscape Area
- Parking

A further concern would be that there is a plan in place for the garbage and recycling.

Zoning amendments are a more major application unlike minor variances sought at Committee of Adjustment. We feel that there is currently a lack of information to determine implications to the neighborhood from this redevelopment proposal and suggest a deferral or denial until our concerns can be addressed.

Respectfully,



Christopher Redmond

President

The Durand Neighbourhood Association

On behalf of the Board of Directors: Roberta Harman, Anne Tennier, Dennis Baker, Geoff Roche, Janice Brown, Paul Nichols, Andrew McGilliard, Doug Tewksbury, Bianca Caramento, Erica Ippolito.

From:
Sent: February-06-19 6:06 PM
To: Barnett, Daniel
Subject: Application by Edmonds @ 184/186 Markland Street

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

Re: Application by Edmonds @ 184/186 Markland Street (UHOPA-18-021 and ZAC-18-047)

Dear Mr. Barnett:

I am concerned about this application and am opposed to it.

1. The value of my property will diminish with this zoning being proposed.
2. Parking on the street and cross streets is at a premium already. The properties in question do not have adequate parking now.

As mentioned by the city, I wish to be kept apprised of any information of any development regarding this application.

Thank You,

Mark Stephens

Homeowner since 1985

Barnett, Daniel

From:
Sent: February-06-19 4:53 PM
To: Barnett, Daniel
Subject: Re: 184 and 186 Markland

Dear Daniel

I am writing to you today regarding 184 and 186 Markland St. (ZAC-18-047 and UHOPA.18.021) and the proposed zoning and plan amendments they have applied for. Please do not use my personal information.

Though it is stated that they are applying to be a legal eight-unit multi-family dwelling, the change in zoning does not benefit the neighbourhood at eight units or if a future owner decides to implement additional units through expansion upwards or behind the current building which the new zoning would allow.

The illegal implementation of the current eight-plex has already affected traffic in the alley which we live. There are approximately 14 cars parking in the alley prior to the renovation of 184 and 186 Markland. The eight-plex has added an additional 8 cars to the alleyway. At one point, the owner tried to use the alley itself as an additional parking spot until neighbours complained that it was unsafe. The additional vehicles put further strain on an alleyway that is not maintained by the city. This cost of additional gravel and road maintenance being required by the influx of neighbours comes directly from the pockets of all those that use the alley.

Likewise, the renovations that have occurred thus far were not done by going through the proper channels. The builder did not apply for the proper zoning prior to construction. The basement apartments required digging further down into the foundation at both addresses to create proper ceiling heights for tenants and at the moment there are no active fire escapes for those living in the attic apartments. I am worried that some of the construction was also done without proper permits. The backyard consists of sets of storage sheds for bikes and recycling and garbage. They are the only home without fencing around their property.

In this area, we have had several issues with old homes and the old sewage pipes. Having that much pressure on older pipes and roads would create further sewer issues in the neighbourhood. Last year, it took crews four separate visits to fix Queen St. after pipes issues between Herkimer and Markland. Four homes continued to shake after due to poorly repair asphalt after the pipes were repaired. These homes are architecturally beautiful but are very sensitive to renovation and environmental changes.

There is also no promise that this dwelling will stay an eight-plex in the future and the change of zoning opens up further development. Most buildings in the neighbourhood are maximum three storeys, but if the zone changes allow for up to 10 storeys in such a lucrative area of the city, what would stop a future developer from further expansion? These eight apartments are already being rented for a premium price (over \$1000 for each) meaning they generate over \$8000 a month. Our community cannot support further infrastructure. Each house in the neighborhood is already built very close together (if not already in a townhouse style). Future development and expansion of old homes would not add to the historical integrity of the Durand community.

Sincerely

On Wed, Feb 6, 2019 at 1:51 PM Barnett, Daniel <Daniel.Barnett@hamilton.ca> wrote:

Hi

I have attached a copy of the Notice and the location map for the rezoning application for 184 & 186 Markland Street.

Daniel

From:
Sent: February-06-19 11:01 AM
To: Barnett, Daniel
Subject: 184 and 186 Markland

Hi Daniel

I have misplaced by letter about the aforementioned properties about a zoning and planning change. Could you possibly send me a copy of the information so that I can submit a letter to speak to these changes?

Thank you

February 6th, 2019, Hamilton, Ontario, Canada

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

RE: Application by Edmonds at 184 and 186 Markland Street (UHOPA-18-021 and ZAC-18-047)

Dear Mr. Barnett,

Further to your the letter of January 11, 2019, we wish to express the following concerns with respect to the redevelopment of
184 and 186 Markland Street, Hamilton, Ontario, Canada

1. Parking - We are concerned that the addition of more units will impact the limited amount of street parking on Markland between Hess Street South and Queen Street South.
2. Property Values - we are concerned a multiple unit dwelling will negatively impact property values of nearby homes.
3. Family Neighbourhood - we are concerned a multiple unit dwelling will impact the family neighbourhood.

As indicated in the letter, we expressly request the city remove our private information the public record.

We further request to be notified of dates, times of formal hearings/meetings and any decisions in writing.

Respectfully submitted

Owners :
Telephone:

Rec A
Feb 7/19
hb

TO: DANIEL BARNETT, CITY OF HAMILTON
PLANNING DEPT & ECONOMIC DEVELOPMENT

RE: "EDMONDS" APPLICATION FOR 184 & 186 MARLAND ST
UHOPA-18-021 & ZAC 18-047

KINDLY include me @ _____
as being opposed to the re-zoning of 184 & 186
Marland into a 4 plex each.

My reasons are:

- 1/ PARKING IN ALLEY is an eyesore & inadequate
for 8 UNITS... NEVER MIND VISITORS.
- 2/ street parking is already compromised
- 3/ Added noise & commotion is considerable
- 4/ Will effect property values in neighbourhood
- 5/ Will open door for developers in a quiet res.
neighbourhood.
- 6/ I didn't buy into this area to be surrounded
by 4 plexes

KINDLY REMOVE MY PERSONAL INFORMATION

David Brown and Carina Fato

February 5th, 2017

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

RE: Application by Edmonds at 184 and 186 Markland Street (UHOPA-18-021 and ZAC-18-047)

Dear Mr. Barnett,

I offer you our thanks for notifying us of these 11-January 2019 applications regarding Official Plan and Zoning By-law Amendments.

I take this opportunity to state our opposition to these applications and thus ask you to deny them from being implemented. I offer the following reasons as homeowners and residents of the affected area;

- a) the character and quality of the existing neighborhood will diminish; current homeowner-residents here contribute greatly towards clean appearances and peaceful interactions. Although 184 and 186 Markland St currently presents as clean and tidy, some tenants have been rude and vulgar during regular interactions. It is anticipated that the addition of similar tenants will not improve the current neighbourhood atmosphere.
- b) Based on advice from realty professionals, the creation of this high-density zoning will diminish my property value by 10-15%.
- c) The increased tenancy associated with this application will further complicate and impede existing traffic volumes and challenges for parking spots. The majority of resident-homeowners in this area are 2-car owners with single car parking capabilities; street parking is presently at a premium due to the current tenant load and cannot withstand a higher population density.

As mentioned in the notification we received from the City, please ensure that we are kept abreast of developments regarding this application in a timely manner. I stand by to clarify/add towards any additional information you may need regarding our opposition.

Thank you for listening to our concerns

Sincerely,

David Brown and Carina Fato

Barnett, Daniel

From:
Sent: January-19-19 6:29 PM
To: Barnett, Daniel
Cc: McKie, Shannon
Subject: 184 & 186 Markland St.

Re: File No. UHOPA-18-021
File No. ZAC-18-047

Dear Mr. Barnett,

I am concerned about these proposed amendments because of their likely effect changing the nature of the neighborhood. One of the subject properties is a heritage house (184 Markland) and deserves protection. In both cases putting a fourplex on a narrow lot will be a marked departure from the character of structure that makes up the neighborhood, and manifestly would require deviation from the Official Plan. I would not like to see some of the last of the gracious 19th century neighborhoods move toward nondescript contemporary medium density housing.

I trust that the promised copy of the staff report will be provided well in advance of the public meeting so that I and other members of the interested public will have ample time to consider and evaluate it. If I were to come to the Planning Office would I be able to obtain a copy for my study. I would not like to be at a disadvantage relative to either the staff or the proponents in case I should have counter arguments.

Thank you very much for your attention to this matter.

Sincerely yours,

Michael G. Vesselago
5 Homewood Ave
Hamilton, On L8P 2M1



*Professional Corporation

February 6, 2019

Email: Daniel.Barnett@Hamilton.ca
Daniel Barnett
City of Hamilton
Planning and Economic Development Department
Development Planning,
Heritage and Design – Urban Team
71 Main Street West, 5th Floor,
Hamilton, On, L8P 4Y5

Dear Barnett:

Re: Office Plan Amendment Application
File No: UHOPA-18-021
184 and 186 Markland Street

As you are aware, Robert and Michelle Edmonds have applied to re-zone their properties at 184/186 Markland Street from a single dwelling unit / two dwelling unit to permit a four unit dwelling on each lot. In effect the property would be legally allowed to incorporate 8 separate apartments.

Markland street is residential, relatively low traffic and family friendly. Most of the homes on the street are owned by single families. Overtime, various parties have chosen to break the zoning bylaws and turn single family homes into four-unit apartments. The result is invariably the same in each case. The parties that move in are transient. The properties are not as well looked after. Traffic increases on the street and the people who live in these units are less engaged with the community at large.

Mr. and Ms. Edmonds have looked after their property to date, but no doubt they will eventually sell or pass on. If the property is designated as an eight-unit apartment, the chances that it will ever return to it's intended purpose as a family home for middle class families is significantly diminished. It also opens up the possibility for a developer to tear the building down and put up a unit that does not conform to the character of the neighbourhood.

As a general rule, I believe in the universal maximum: act in a way that you would will to become a universal law (thanks Kant). If everyone on Markland were to turn their



2

properties into four-unit apartments in order to maximize rent, the character of Markland would be ruined. This is a street of single-family homes for middle class people and it should remain as such.

Thank you for your consideration of our concerns. If you have any questions, please contact us. I would also ask that you please remove our contact information from this letter for the purpose of publishing. The Edmonds are our neighbours and we respect them. We try to be as accommodating to our neighbours as possible, however, we do not support this proposal.

Yours very sincerely,

Barnett, Daniel

From:
Sent: September-17-19 8:03 PM
To: Barnett, Daniel
Subject: Re: City of Hamilton public notice zac-18-047

Hi Daniel,

Thank you for the helpful information. I'd like to be added to any updates please. This email address is suitable for these purposes.

Regards,

On Tue., Sep. 17, 2019, 10:40 a.m. Barnett, Daniel, <Daniel.Barnett@hamilton.ca> wrote:

Hi Tim

I am the planner on the file and would be happy to answer any question you have on the file.

The application for 184 & 186 Markland St was originally submitted to legalize 4 dwelling units on each lot for a total of 8 units. Subsequently the applicant has altered the proposal to reduce the number of proposed units from 8 to 6 units and to merge the separate properties into a single lot.

Based on our current report timelines we are looking to bring the application forward to a public meeting in either December or January. Prior to the meeting the public notice sign will be updated with the date of the meeting and a revised notice will be sent out to all property owners within 120m and anyone outside of the 120m radius who has requested notification.

Daniel

From:
Sent: September-16-19 4:55 PM
To: Barnett, Daniel
Subject: City of Hamilton public notice zac-18-047

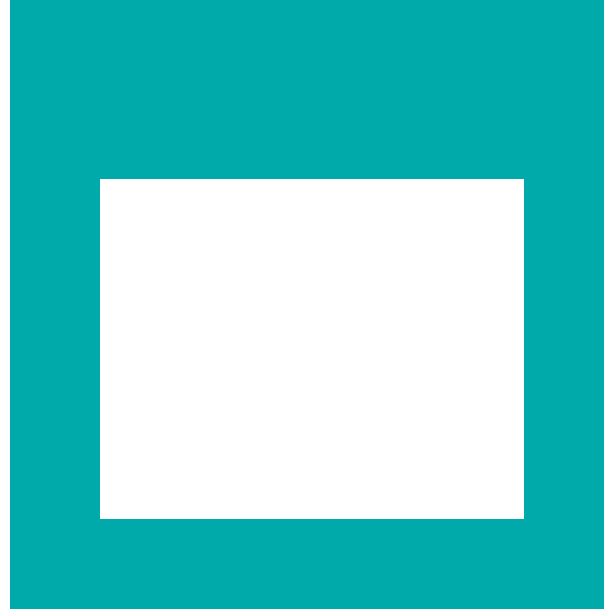
Hello,

Where can I find more information relating to City of Hamilton public notice zac-18-047?

Regards,

Comments in Response to Public Information Letter

Name/Date/Number/Address	Comments/concerns
	<ul style="list-style-type: none">• Happy with changes to parking (pulled back from the laneway)• Happy with the move of the accessory structures
	<ul style="list-style-type: none">• Concern with current number of units (8) and the parking requirements it generates• Concern of 3' x 3' raised platforms and their use/view into his property (they are the landings for stairs)



WELCOME TO THE CITY OF HAMILTON

PLANNING COMMITTEE

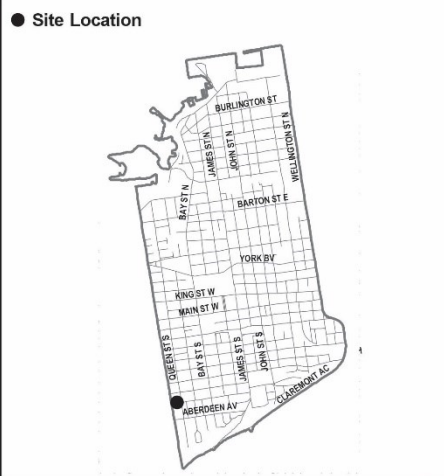
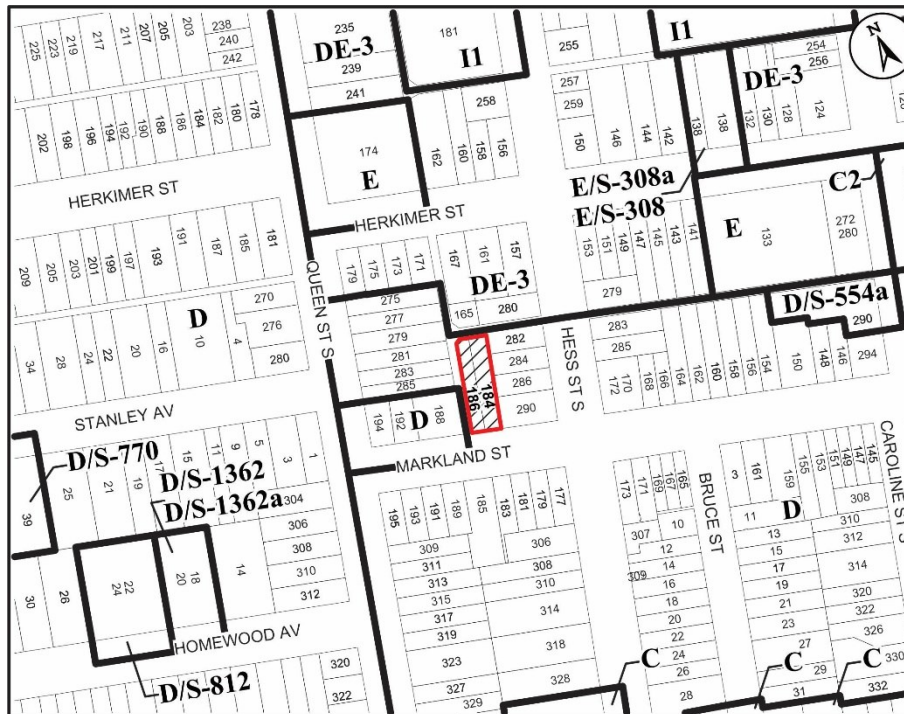
February 4, 2020

PED20016 – (ZAC-18-047)

Application for Zoning By-law Amendment for Lands Located at
184 and 186 Markland Street, Hamilton.

Presented by: Daniel Barnett





Key Map - Ward 2 N.T.S.

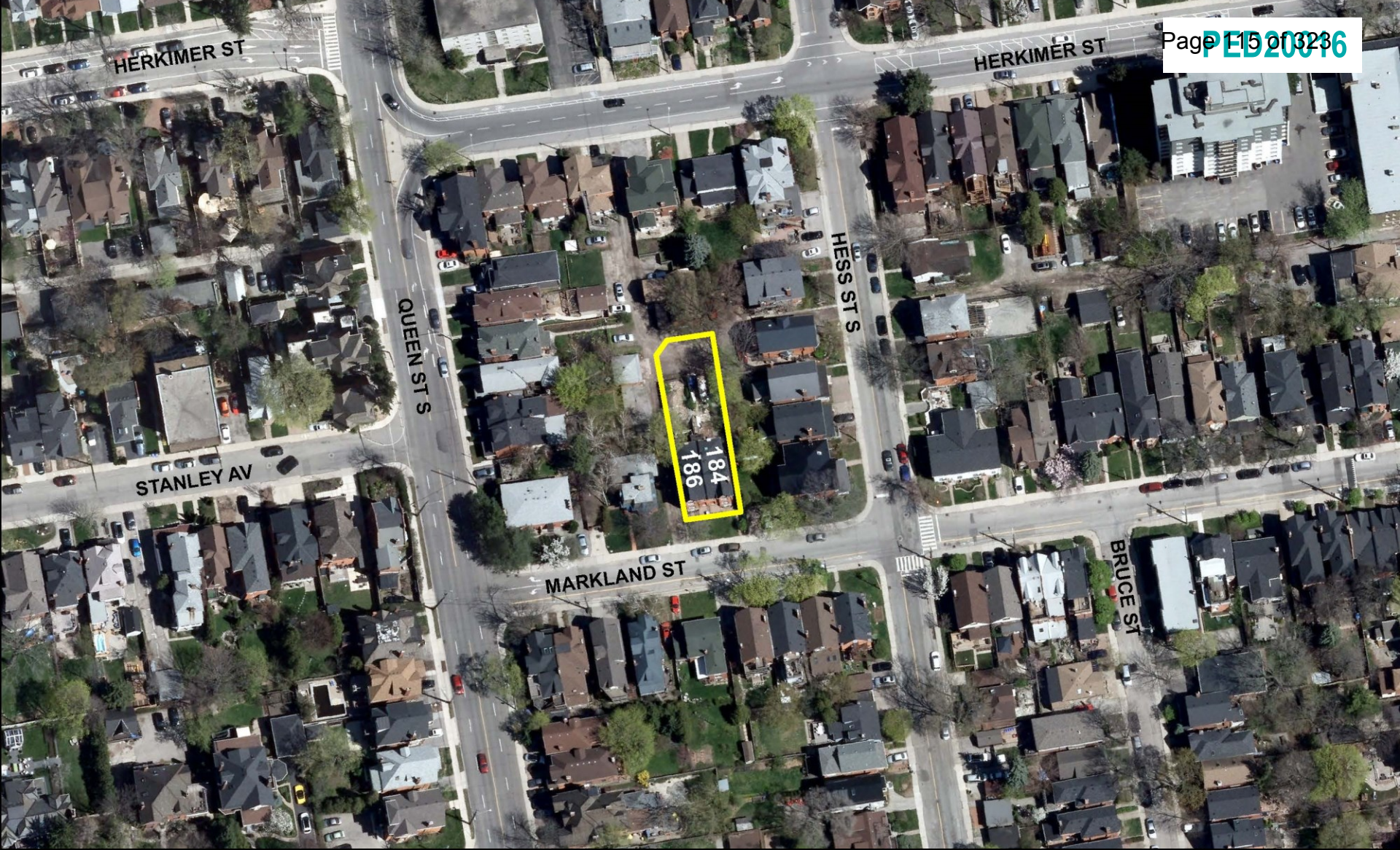
Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
File Name/Number: ZAC-18-047	Date: November 20, 2019
Appendix "A"	Scale: N.T.S.
Planner/Technician: DB/NB	

Subject Property
 184 & 186 Markland Street

Change in Zoning from the "D" (Urban Protected Residential - One and Two Family Dwelling, Etc.) District to "DE-3/S-1796-'H" (Multiple Dwellings) District, Modified, Holding

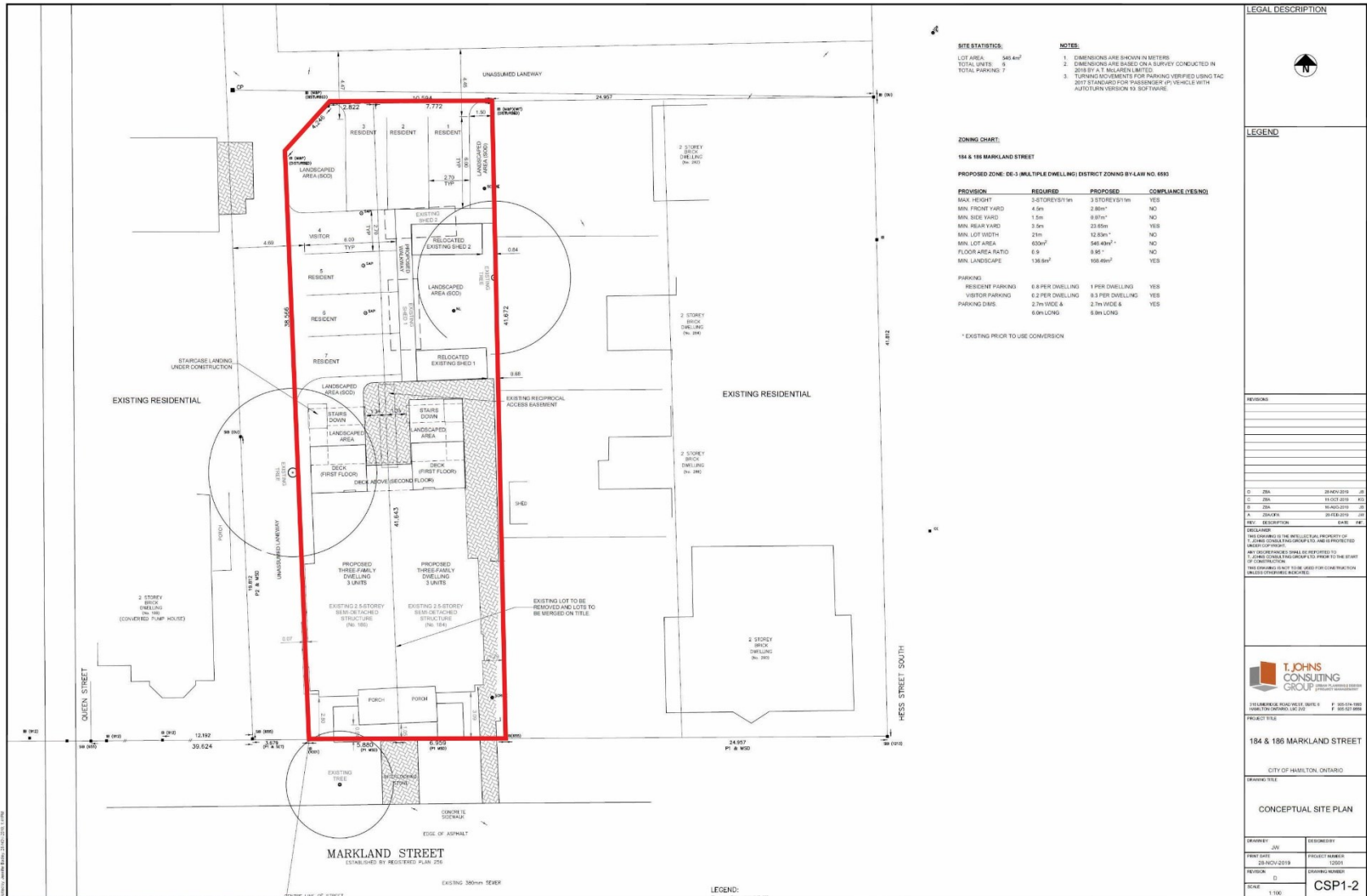


SUBJECT PROPERTY



184 & 186 Markland Street, Hamilton





SITE STATISTICS:

LOT AREA: 548 4th
 TOTAL UNITS: 9
 TOTAL PARKING: 7

NOTES:

1. DIMENSIONS ARE SHOWN IN METERS
2. DIMENSIONS ARE BASED ON A SURVEY CONDUCTED IN 2018 BY A T.A. BUCHAN LIMITED
3. TURNING MOVEMENTS FOR PARKING VERIFIED USING TAC 2017 STANDARDS FOR PASSENGER (P) VEHICLE WITH AUTURN VERSION 9.5 SOFTWARE

ZONING CHART:

184 & 186 MARKLAND STREET

PROPOSED ZONE: DE-3 (MULTIPLE DWELLING) (DISTRICT ZONING BY LAW NO. 689)

PROVISION	REQUIRED	PROPOSED	COMPLIANCE (YES/NO)
MAX. HEIGHT	3 STOREYS/11m	3 STOREYS/11m	YES
MIN. FRONT YARD	4.9m	3.80m*	NO
MIN. SIDE YARD	1.5m	0.97m*	NO
MIN. REAR YARD	3.0m	3.00m	YES
MIN. LOT WIDTH	21m	32.80m*	NO
MIN. LOT AREA	630m ²	548 4th*	NO
FLOOR AREA RATIO	0.9	0.96*	NO
MIN. LANDSCAPE	136.9m ²	166.69m ²	YES

PARKING	REQUIRED	PROPOSED	COMPLIANCE (YES/NO)
PER DwELLING	6.8 PER DWELLING	1 PER DWELLING	YES
VISITOR PARKING	6.2 PER DWELLING	8.3 PER DWELLING	YES
PARKING DIMS	2.7m WIDE & 6.0m LONG	3.7m WIDE & 6.0m LONG	YES

* EXISTING PRIOR TO USE CONVERSION

LEGAL DESCRIPTION



LEGEND

REVISIONS

NO.	DATE	DESCRIPTION

DRAWN	DATE	BY	DATE	BY

DECLARATION
 I, THE UNDERSIGNED, THE REGISTERED PROFESSIONAL ENGINEER, IN THE PROVINCE OF ONTARIO, HEREBY CERTIFY THAT I AM A MEMBER OF THE REGISTERED PROFESSION OF ENGINEERS IN ONTARIO AND I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER PERSON OR ENTITY AT THE SAME TIME AS I AM PROVIDING ENGINEERING SERVICES TO YOU. I AM NOT PROVIDING ENGINEERING SERVICES TO ANY OTHER PERSON OR ENTITY AT THE SAME TIME AS I AM PROVIDING ENGINEERING SERVICES TO YOU.



184 & 186 MARKLAND STREET
 CITY OF HAMILTON, ONTARIO

PROJECT TITLE
 CONCEPTUAL SITE PLAN

DRAWN BY	DESIGNED BY

PRINT DATE	PROJECT NUMBER
28-FEB-2019	10001

SCALE: 1:100
 CSP1-2

File Path: C:\Users\T.Johns\Documents\184 & 186 Markland Street\184 & 186 Markland Street\ConceptualSitePlan.dwg
 File Name: 184 & 186 Markland Street\ConceptualSitePlan.dwg
 File Size: 1,100,000 bytes
 File Type: AutoCAD Drawing Template
 File Date: 28-Feb-2019 10:00:00 AM
 File Path: C:\Users\T.Johns\Documents\184 & 186 Markland Street\184 & 186 Markland Street\ConceptualSitePlan.dwg



Subject property, as seen from Markland Street looking north





Property at 290 Hess Street South, located to the east of the subject property, as seen from Markland Street looking north east





Markland Street, as seen from Markland Street looking east





Properties at 188, 192, and 194 Markland Street, located to the west of the subject property, as seen from Markland Street looking north west





Properties at 189, 191, 193, and 195 Markland Street, located to the south west of the subject property, as seen from Markland Street looking south west





Properties at 183 and 185 Markland Street, located to the south of the subject property, as seen from Markland Street looking south





Properties 177, 179, 181 and 183 Markland Street, located to the south east of the subject property, as seen from Markland Street looking south east





Alleyway to the west of the subject property, as seen from Markland Street looking north





Rear of the subject property, as seen from the alleyway looking south east





Parking spaces and accessory building located at the rear of the subject property, as seen from the alleyway looking east





Parking spaces and accessory building located at the rear of the subject property, as seen from the alleyway looking south





Existing accessory building and parking areas for the properties located on the west side of the alleyway, as seen from the alleyway looking south west





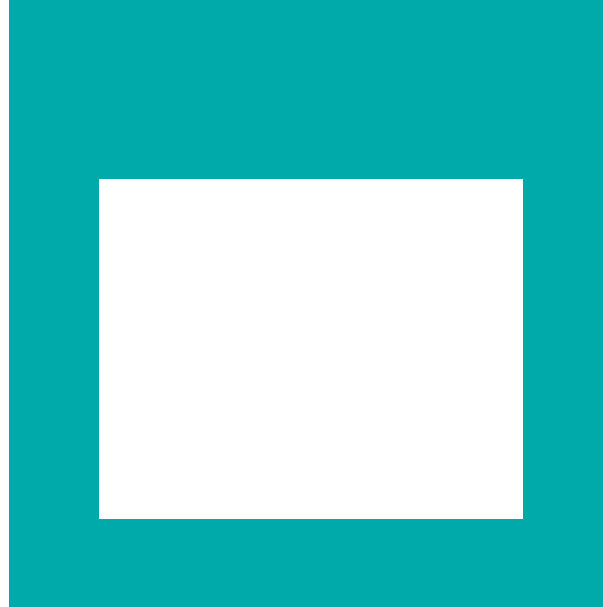
Parking area and existing dwellings located to the east of the subject property, as seen from the alleyway looking south east





Parking area and existing accessory building locate to the north of the subject property, as seen from the alleyway looking north





THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



January 27th, 2020

Daniel Barnett
City of Hamilton
Planning & Economic Development Department
71 Main Street West, 5th Floor, Hamilton, ON. L8P 4Y5
Re: UHOPA-18-021, ZAC-18-047

Dear Mr. Barnett,

We are following up with a second letter in regards to the application for the Official Plan Amendment and Zoning By-law Amendment for the lands located at 184 & 186 Markland Street, Hamilton. (Ward 2) Our first letter was dated Feb 7th, 2019

We now understand the applicants are seeking a zoning by-law amendment to modify the existing properties currently consisting of a single dwelling and a duplex dwelling, and redevelop them into a three unit dwelling on each lot for a total of 6 dwelling units. This is less than the 8 dwelling units previously proposed.

The applicants are still asking the properties be rezoned from D to DE-3 which allows multiple dwellings up to 3 storeys in height in order that they may legally comply.

The Durand Neighbourhood Association met with the owner's planning agent in regards to the proposal. Our concern is still with the increased parking requirements, access and maneuverability from the greater density, and loss of landscaped area. The owner's agent said that the City is demanding that the 6 dwelling units have a total of 8 required parking spaces. These parking spaces come at the expense of the required landscape area. One quarter of each lot must be soft landscape. The DNA is strongly opposed to this development if it means that space for trees and landscape is lost at the expense of parking. Parking and specifically hard surface parking contributes to our surface runoff and drainage issues. Reduction in landscape area, means there is no room for trees to shade the dwellings, shade the parking pads, and shade the shared access drive. The access lane that is of right shared by several other property owners will now being used as the maneuvering area for this property's parked cars. The

owner is proposing density increase of 3 fold and parking increase of 4 fold. The adjacent property owners will be subjected to views of multiple parked cars with no green space. In the winter time the snow will need to be pushed into the street as the sides of the shared alley will be filled with parked cars. The DNA thinks that at the very least the number of required spaces should be 1 space per unit, totaling six spaces. This would leave the other 2 spaces landscaped with trees and a place to pile snow. In many of the new proposed multi residential developments the City has allowed as little as 0.33 spaces per dwelling unit so we are not understanding the requirement for more than one per unit especially when neighbours within the same block have been allowed no parking spaces as they were on the bus transit corridor.

We remain concerned with the precedent setting bylaw and zoning accommodations being granted to homes in the Durand that are seeking to increase density with multi-unit dwelling renovations, while not meeting many of the most basic requirements of the zoning bylaw including:

- Height
- Floor Area
- Side Yard Setbacks
- Front Yard Setbacks
- Lot Area
- Lot Width
- Landscape Area
- Parking

We feel in this specific proposal, the surface runoff from parking is an issue. It is to the detriment of landscape area in the Durand and will contribute to our City's storm and sanitary main issues especially in prolonged rain events. We would suggest a more permeable surface for all the parking pads in addition to reducing the number of parking spaces. Further we would suggest that the Site grading plan be reviewed in detail by the City to ensure no storm water impacts on adjacent neighbours.

Respectfully,

Christopher Redmond

President

The Durand Neighbourhood Association

On behalf of the Board of Directors: Roberta Harman, Anne Tennier, Dennis Baker, Geoff Roche, Janice Brown, Andrew McGilliard, Erica Ippolito, Barry Walsh, Michelle Tom, Tim Zahavich.

Chamberlain, Lisa

From: Barnett, Daniel
Sent: February 3, 2020 9:51 AM
To: Chamberlain, Lisa
Subject: FW: 184 and 186 Markland,

From: Zen Masniak
Sent: February 2, 2020 8:54 PM
To: Barnett, Daniel <Daniel.Barnett@hamilton.ca>
Subject: 184 and 186 Markland,

I live next door at [redacted] and have seldom had a day of peace. Car doors slamming in the alley parking lot, engines making noise in the morning and waking me up, the alley kicking up dust and noise with car use. Am seriously considering selling my house even at a reduced price. I know my property has taken a financial nose dive due to this property next door. Am in my seventieth year, my peaceful retirement is in jeopardy and I am very upset. Zen Masniak

Chamberlain, Lisa

Subject: FW: ZONING: FEB 4th at 9:30am re: 184 / 186 Markland (UHOPA-18-021 and ZAC-18-047)

From:
Sent: February 3, 2020 8:02 AM
To: Barnett, Daniel <Daniel.Barnett@hamilton.ca>
Cc:
Subject: Re: ZONING: FEB 4th at 9:30am re: 184 / 186 Markland (UHOPA-18-021 and ZAC-18-047)

City of Hamilton Planning Division
Legislative Coordinator, Planning Committee
Attn: Daniel Barnett

Hello Daniel

I am writing to express my concern about the above application.

As owner of: I back side on to this property.

We are just finishing our own approved renovation at some cost. We secured required permits and carefully followed codes and policies, engineering, structural, fire, egress, etc to ensure our safety and that of our neighbours.

Having flouted city policy, how can we be sure structures, fire ratings, alarms, exit lighting, fire escapes, etc have been installed to code by the 184/186 Markland applicant?

I believe granting a variance after the fact sets a poor and dangerous precedent.

If a 6 unit will be approved instead of 8, how will that be assured? Will 2 kitchens and baths be removed? If not, what will stop them renting 8 illegally once 6 are approved?

I have no problem with intensification but doing so in a lawless fashion sets a dangerous precedent and does a disservice to the renters and neighbours both.

Before any approval, I respectfully request all safety codes and neighbourhood requirements be fully met.

Respectfully

Garry Boychuk



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Application to Amend City of Hamilton Zoning By-law 05-200 for Lands Located at 630 Stone Church Road West (Hamilton) (PED20024) (Ward 14)
WARD(S) AFFECTED:	Ward 14
PREPARED BY:	E. Tim Vrooman (905) 546-2424 Ext. 5277
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Revised Zoning By-law Amendment Application ZAR-19-003 by CPDL Mancini Holdings Inc. (Owner)** for a change in zoning from the Community Commercial (C3) Zone to a Modified Community Commercial (C3) Zone to recognize an illegally constructed rear yard freezer addition on lands located at 630 Stone Church Road West, Hamilton, as shown on Appendix "A" to Report PED20024, be **DENIED** on the following basis:

- i) That the proposed amendment does not comply with the Urban Hamilton Official Plan (UHOP) as the massing of the addition, including reducing the rear yard setback and increasing the height, does not maintain the general intent and purpose of the UHOP as the addition does not maintain the character of the existing neighbourhood.

EXECUTIVE SUMMARY

The purpose of the application is to seek modifications to the Community Commercial (C3) Zone to recognize the illegal construction of a rear yard freezer addition to the existing bakery, and to recognize legal non-conforming regulations respecting the

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

**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 2 of 16**

existing development. There is no record of a building permit being applied for or issued for the illegally constructed freezer addition, and an Order to Comply was issued by the City on April 12, 2016.

On May 18, 2017, a minor variance application to the provisions of Hamilton Zoning By-law No. 6593 (HM/A-17:127, as shown on Appendix “C” to Report PED20024) was considered by the Committee of Adjustment for the rear yard setback and the required landscape strip along the north and east lot lines. The Planning comments stated that reducing the rear yard setback would not be maintaining the character of the existing neighbourhood and did not support the variances. However, the Committee granted the variances. The adjacent townhouse development, located to the north and east of the subject property, appealed the Committee decision to the Local Planning Appeal Tribunal (LPAT, Case No. PL170710, as shown on Appendix “D” to Report PED20024). The LPAT hearing was held on October 17, 2017, and the LPAT allowed the appeal in part, denying the variance to the rear yard setback, but approving a variance to the required landscape strip.

The proposed Zoning By-law Amendment impacts the visual landscape and precludes any opportunity for screening from the residential development to the rear. The proposed Zoning By-law Amendment does not comply with the Urban Hamilton Official Plan (UHOP), as the cumulative massing of the structure as a result of reducing the rear yard setback and increasing the height of the addition beyond the original building does not maintain the general intent and purpose of the UHOP. Given that the addition does not maintain, enhance or respect the character of the existing neighbourhood, staff recommend that the application be denied.

Alternatives for Consideration – See Page 15

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 Zoning By-law Amendment.

**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 3 of 16**

HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Applicant/Owner:	CPDL Mancini Holdings Inc. c/o Lidio Mancini
Agent:	IBI Group (c/o Angela Buonamici)
File Number:	ZAR-19-003
Type of Application:	Zoning By-law Amendment
Proposal:	<ul style="list-style-type: none"> To seek modifications to the Community Commercial (C3) Zone to recognize the construction of a 38 m² rear yard addition to the existing building, which includes a freezer covered by a roof structure. There is no record of a building permit being applied for or issued for the freezer addition. An Order to Comply was issued by the City on April 12, 2016; and, To recognize legal non-conforming regulations respecting the existing bakery. It is important to note that in the time since the Minor Variance application and LPAT appeal, the lands were rezoned from the “HH/S-725” (Community Shopping and Commercial, etc.) Zone, Modified, to the (C3) Zone through By-law No. 17-240, resulting in technical modifications that would be required to recognize the previously existing conditions of the development. Staff would be prepared to support these modifications.
Property Details	
Municipal Address:	630 Stone Church Road West, Hamilton (see Appendix “A” to Report PED20024)
Lot Area:	± 1,700.1 m ² (rectangular)
Servicing:	Full municipal services
Existing Use:	Bakery (Sweet Paradise)

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**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 4 of 16**

Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
A Place to Grow:	The proposal conforms to A Place to Grow.
Official Plan Existing:	<ul style="list-style-type: none"> • Identified as “Neighbourhoods” on Schedule E – Urban Structure • Designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations • Permitted uses include local commercial uses
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	Community Commercial (C3) Zone
Zoning Proposed:	Modified Community Commercial (C3) Zone
Modifications Proposed:	<p>For the freezer addition to the existing building:</p> <ul style="list-style-type: none"> • Permitted Yard Encroachments from 0.6 m to 0.5 m for the eaves and gutters; and, • Minimum Rear Yard from 7.5 m to 0.8 m. <p>To recognize legal non-conforming regulations respecting the existing bakery:</p> <ul style="list-style-type: none"> • Accessory Buildings in Commercial and Mixed Use Zones for maximum gross floor area from 10 m² to 11 m²; • Visual Barrier Requirement from 1.8 m to 1.7 m; • Parking Location from 3.0 m from the street line to 0.9 m from the street line; • Parking Space Sizes from 3.0 m x 5.8 m and 4.4 m x 5.8 m for barrier free parking spaces to 2.7 m x 5.5 m plus an abutting 1.9 m shared aisle for barrier free parking spaces; • Parking Aisle Width from 6.0 m to 5.8 m; • Location of Loading Facilities from not permitted in a required yard abutting a Residential Zone to permitted within the required easterly side yard; • Minimum Number of Required Parking Spaces from 15 (including 1 barrier free space) to 13 (including 1 barrier free space);

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**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 5 of 16**

	<ul style="list-style-type: none"> • Building Setback from a Street Line from 4.5 m to 20.1 m; • Minimum Interior Side Yard from 1.5 m to 1.1 m; and, • Built Form for New Development to exempt the restriction prohibiting parking spaces and aisles between the building façade and the front lot line, and to exempt from requiring the principal entrance from having direct access from the public sidewalk.
Processing Details	
Received:	December 7, 2018
Deemed Complete:	January 7, 2019
Notice of Complete Application:	Sent to 139 property owners within 120 m of the subject property on January 16, 2019.
Public Notice Sign:	Posted January 22, 2019
Notice of Public Meeting:	<ul style="list-style-type: none"> • Sent to 139 property owners within 120 m of the subject property on January 17, 2020. • Given by way of newspaper in accordance with the provisions of the <i>Planning Act</i>.
Public Comments:	None received to date.
Processing Time:	393 days.

Previous Minor Variance Application

In 2017, an application for a minor variance was made to the Committee of Adjustment (HM/A-17:127) to recognize variances associated with the construction of the freezer addition to the existing bakery, notwithstanding that per the “HH/S-725” (Restricting Community Shopping and Commercial) District, Modified, of Hamilton Zoning By-law 6593:

1. A rear yard of 1.2 m shall be provided instead of the minimum required 5.17 m rear yard setback; and,
2. No landscape strip shall be provided instead of the 3.0 m wide landscape strip required along the north and east lot lines.

**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 6 of 16**

The Planning comments to the Committee of Adjustment did not recommend support for reducing the rear yard setback as it would not be maintaining the character of the existing neighbourhood. The Committee of Adjustment, at their May 18, 2017 hearing, granted the variances, deeming them to be minor in nature, desirable for the appropriate development of the land and building and consistent with the general intent and purpose of the Zoning By-law and the Official Plan. A copy of the Committee of Adjustment decision is attached as Appendix “C” to Report PED20024.

Local Planning Appeal Tribunal (LPAT) Appeal

Stonechurch Cooperative Homes Inc., a co-op housing development comprised of 54 townhouses at 620 Stone Church Road West, located to the north and east of the subject property, appealed the decision of the Committee of Adjustment to the Local Planning Appeal Tribunal (LPAT, formerly the Ontario Municipal Board) (Case No. PL170710). A portion of the Co-op (including the backyards of several townhouses) abuts the rear property line of the bakery, and there is a grade drop of approximately 1.22 – 1.52 m between the subject lands and the Co-op maintained by a wooden retaining wall and fence. The LPAT hearing was held October 17, 2017.

With respect to the variance to the rear yard setback, a resident of the co-op / Appellant who testified on its behalf alleged that the illegal addition diverts rainwater from the bakery, flooding the co-op homes and is the cause of degradation of the retaining wall. However, the resident conceded that this was speculation on their part, and a professional engineer retained by the applicant testified in support of the proposed variances, indicating that the addition did not introduce any new structural loads or grading changes in relation to the retaining wall.

The May 18, 2017 Planning comments to the Committee of Adjustment stated that reducing the rear yard setback would not be maintaining the character of the existing neighbourhood, and on that basis, does not maintain the general intent and purpose of the UHOP, suggesting that the reduced rear yard setback is incompatible with the existing residential land uses at the rear.

The applicant did not present any professional planning evidence at the LPAT hearing. Presented with no planning evidence to the contrary, the LPAT concurred with the Planning staff comments, finding that the requested variances do not maintain the purpose and intent of the Urban Hamilton Official Plan and Zoning By-law, and are not desirable for the appropriate development of the subject property.

The variance to the landscape strip was not identified as having any undue impacts or issues with the requested relief from this requirement. Therefore, the LPAT concluded the variance to be minor and authorized the reduced landscape strip. A copy of the LPAT decision is attached as Appendix “D” to Report PED20024.

**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 7 of 16**

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Retail (Bakery)	Community Commercial (C3) Zone
<u>Surrounding Land Uses:</u>		
North	Block townhouses	“D/S-645a” and “D/S-645b” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified
South	Single detached dwellings	“C” (Urban Protected Residential, etc.) District
East	Block townhouses	“D/S-645a” and “D/S-645b” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified
West	Commercial uses	Community Commercial (C3, 304) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

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

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent LPAT approval of the City of Hamilton Urban Hamilton Official Plan, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of Provincial interest (i.e. efficiency of land use) are discussed in the Official Plan analysis that follows.

**SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for
Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 8 of 16**

One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to Cultural Heritage policies of the PPS. The following policy, amongst others, applies:

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

The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) In an area of elevated topography; and,
- 3) Along historic transportation routes.

Notwithstanding current surface conditions, these criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. Should the Zoning By-law Amendment be approved, a written caution regarding archeological resources will be required to be included as part of any future application, requiring the Owner to acknowledge the archaeological potential of the subject property and that the Owner is required to contact the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries should archaeological material or human remains be encountered during construction.

Based on the foregoing, the proposal is consistent with Section 3 of the *Planning Act* and 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 and designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations. In addition, Stone Church Road West is designated a Minor Arterial road on Schedule “C” – Functional Road Classification. The following policies, amongst others, apply to the proposal.

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Lands Located at 630 Stone Church Road West (Hamilton) (PED20024)
(Ward 14) – Page 9 of 16**

Neighbourhoods Designation

- “E.3.1.4 Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution.
- E.3.8.9 *Development and redevelopment* of local commercial uses shall:
- c) be *compatible* with the surrounding area in terms of design, massing, height, setbacks, on-site parking, noise impact, landscaping, and lighting.
- B.3.3.2.6 Where it has been determined through the policies of this Plan that compatibility with the surrounding areas is desirable, new development and redevelopment should enhance the character of the existing environment by:
- c) allowing built form to evolve over time through additions and alterations that are in harmony with existing architectural massing and style; and,
 - e) encouraging a harmonious and compatible approach to infilling by minimizing the impacts of shadowing and maximizing light to adjacent properties and the public realm.”

The rear yard freezer addition to the existing bakery does not enhance the character of the existing environment, as it is not in harmony with the form and massing of the existing commercial development, the adjacent commercial plaza to the west, or the abutting residential development to the north and east. The form and massing of the addition alters the building’s exterior, which creates a rear yard encroachment. With the addition there is a proposed rear yard setback of 0.8 m, whereas the Community Commercial (C3) Zone and the adjacent “D/S-645a” and “D/S-645b” (Urban Protected Residential – One and Two Family Dwellings, etc.) District, Modified, both require minimum rear yards of 7.5 m. Staff note that the setback to the original building, without the freezer addition, is 5.1 m.

The proposed zoning relief for the addition results in a significant reduction to the minimum rear yard and the cumulative impact of the minimal setback and increased height from the original building, combined with an existing change in grade with the commercial use set approximately 1.5 to 2.0 m above the residential development, creates visual massing and overlook concerns. The proposed 0.8 m setback, combined with the grade differential supported by a retaining wall, limits and may effectively eliminate any opportunity to screen and buffer the adjacent residential development from the commercial use. As a result, the addition, with its massing, is not consistent or

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in harmony with the character of the existing surroundings. The retaining wall as well as a wooden fence delineates the property line. The proposed amendment to permit the rear yard addition by allowing a reduced rear yard setback with no opportunity for buffering or screening is not compatible with the surrounding residential land uses, as the addition creates a visual impact for the adjacent dwellings as the height and massing of the addition extend beyond the retaining wall and fence. Further, because of the illegal construction of the addition, no Planning, Engineering, or Building review could be undertaken to address any issues with respect to the construction and any impacts on grading and the retaining wall.

While staff acknowledge that the addition has minimal shadowing impacts on adjacent developments, its overall height and massing set so close to the property line create an overall impact that is not in character with the area. Further, the exterior finishing materials and roof line of the addition, with its exposed panels and wooden support columns, siding, and higher sloped projecting roof, does not provide a consistent, orderly, or visually compatible arrangement of parts with the existing building's grooved concrete block façade and flat roof. Compatibility issues are addressed below.

Noise

"B.3.6.3.19 *Development or redevelopment* with the potential to create conflicts between *sensitive land uses* and point source or fugitive air emission such as noise, vibration, odour, dust, and other emissions may include:

- c) commercial or any other uses with the potential to produce point source or fugitive air emission such as noise, vibration, odour, dust, and other emissions, including those with a high number of deliveries, loading areas, and other noise generating features such as a drive-through speaker, or car wash, in the vicinity of *sensitive land uses.*"

The subject lands abut residential uses to the north, which are considered a sensitive land use. Accordingly, as part of this application a Noise Analysis Study titled "Sweet Paradise Bakery" prepared by dBA Acoustical Consultants Inc., dated November 2018, reviewed the noise impacts with respect to environmental noise due to the existing freezer addition. Based on the results of the study, no additional mitigation, building components or warning clauses are required. Staff are satisfied with the study findings.

Parking

"C.4.5.15 Parking and loading requirements regulated through the Zoning By-Law or site plan approval shall ensure adequate parking for the site, while

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avoiding excess parking supply that can discourage transit use and active *transportation choices*.”

The subject property has the required number of parking spaces for the existing development, being 13 spaces, in accordance with the formerly approved Site Plan Application File No. DA-89-38. However, staff note that the property has demonstrated a historic shortage of operational parking spaces. Based on the current requirements for the Community Commercial (C3) Zone, 15 parking spaces would be required. The rear yard freezer addition increases the gross floor area of the building, which constitutes an intensification of the use of the property and would require an additional two parking spaces, potentially further exacerbating the existing operational parking needs.

Site Grading and Drainage

“C.5.4.2 Any new *development* that occurs shall be responsible for submitting a detailed storm water management plan prior to *development* to properly address on site drainage and to ensure that new *development* has no negative impact on off site drainage.”

Matters raised at the LPAT Hearing concerned the impact of the addition on external site runoff and the structural integrity of the retaining wall. A Drainage Analysis Memo prepared by IBI Group, signed by John Iezzi, P. Eng., dated November 11, 2018 concluded that:

- The addition does not increase the quantity of storm water runoff compared to the previous impervious conditions of the hard-surfaced rear yard;
- Runoff from the addition discharges to grade at an existing catch basin; and,
- The footing design will distribute structural loads below the retaining wall and will not transfer additional load onto the retaining wall.

Development Engineering has reviewed this submission and has no concerns with the above conclusions.

Based on the foregoing, the proposed amendment does not comply with the Urban Hamilton Official Plan (UHOP) as reducing the rear yard setback does not maintain the general intent and purpose of the UHOP and does not enhance the character of the existing neighbourhood.

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Hamilton Zoning By-law No. 05-200

The subject lands are currently zoned Community Commercial (C3) Zone in Hamilton Zoning By-law No. 05-200, as shown on Appendix “A” to Report PED20024. The recognized use is “Retail”, which is a permitted use in the C3 Zone.

The applicant is proposing modifications to the Community Commercial (C3) Zone for a reduction in the rear yard setback to recognize the illegal construction of the rear yard addition to the existing building, and to recognize legal non-conforming regulations respecting the existing bakery, including the existing accessory building (shed).

As noted above, the lands were rezoned from the “HH/S-725” (Community Shopping and Commercial, etc.) Zone, Modified, to the Community Commercial (C3) Zone through By-law No. 17-240. The existing buildings, including the principal and accessory buildings, are legal non-conforming as a result of the new Community Commercial (C3) Zone regulations and several of the proposed modifications are intended to legalize the existing building in the absence of a vacuum clause, which remains under appeal and is not final and binding.

The proposed modifications to the C3 Zone are discussed in greater detail in the Analysis and Rationale for Recommendation section of this Report.

RELEVANT CONSULTATION

Departments and Agencies		
	<ul style="list-style-type: none"> Recycling and Waste Disposal Section, Environmental Services Division, Public Works Department; Transit Planning and Infrastructure, Transit Operations Division, Public Works Department; and, Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department. 	No Comment
	Comment	Staff Response
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	No concerns. The freezer addition does not increase the impervious area of the site in any way and directing the roof water leaders from the freezer to drain to the existing catch basin on the east side of the building will have no negative effect on the drainage of the property or the existing storm water relief system.	Noted.

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Forestry and Horticulture Section, Environmental Services Division, Public Works Department	There are municipal tree assets on site although it is determined that no impacts are anticipated, therefore a Tree Management Plan and Landscape Plan are not required.	Noted.
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Public Consultation

The applicant submitted a public consultation strategy in support of the application. The applicant noted that as the rear yard modification was already presented to the public through the Committee of Adjustment minor variance application, a neighbourhood meeting would not be necessary. Instead, the applicant proposed to meet with the Ward Councillor to discuss the Public Consultation Strategy to focus on objections raised from the adjacent property owners of Stonechurch Cooperative Homes Inc. to the north.

The owner has met with the residents of Stonechurch Cooperative Homes Inc. (Co-op) and has agreed to build a new fence and retaining wall; based on this agreement the applicant has advised that the concerns of the Co-op have been satisfied. The applicant has followed up with the Ward Councillor and has confirmed that no further public consultation will be required. Staff do note that if Planning Committee accepts staff's recommendation to deny the Zoning By-law Amendment application, there currently is no mechanism to ensure that the above work is carried forward. However, should the Zoning By-law Amendment be approved staff recommend that a Holding provision be enacted to require a subsequent Site Plan Control application to ensure this work is carried out.

Notice of the Public Meeting was given by way of newspaper in accordance with the requirements of the *Planning Act*.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposed Zoning By-law Amendment cannot be supported for the following reason:
 - i) The proposed amendment does not comply with the Urban Hamilton Official Plan (UHOP) as reducing the rear yard setback does not maintain the general intent and purpose of the UHOP and would not be maintaining the character of the existing neighbourhood.
2. The applicant has requested Site Specific modifications to the Community Commercial (C3) Zone of Hamilton Zoning By-law 05-200 for lands located at

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630 Stone Church Road West, Hamilton. By way of this application, the applicant is seeking to recognize the rear yard freezer addition to an existing bakery, and recognize legal non-conforming regulations respecting the existing development.

Modifications to the C3 Zone requested to recognize the construction of the rear yard addition to the existing bakery include reductions to the Minimum Rear Yard and Permitted Yard Encroachments for the overhanging eaves.

As discussed in the Urban Hamilton Official Plan section of this report, staff are not in support of the proposal. While staff are satisfied that the rear yard freezer addition does not present noise or shadow concerns, the visual impact of the addition does not enhance the character of the existing environment. The addition is not in harmony with the surrounding developments, as the addition requires a significant reduction to the minimum rear yard from 7.5 m to 0.8 m and creates visual massing and overlook concerns from the adjacent dwellings. Based on its cumulative impact resulting from the minimal setback, increased height from the original building, and overall massing, the addition is not consistent or in harmony. The exterior finishing materials and roof line of the addition does not provide a consistent, orderly, or visually pleasing arrangement of parts with the existing building.

Therefore, staff recommends that the Zoning By-law Amendment Application be denied.

To recognize legal non-conforming regulations respecting the existing bakery, modifications to the C3 Zone would be required for:

- Accessory Buildings in Commercial and Mixed Use Zones for maximum gross floor area from 10 m² to 11 m²;
- Visual Barrier Requirement from 1.8 m to 1.7 m;
- Parking Location from 3.0 m from the street line to 0.9 m from the street line;
- Parking Space Sizes from 3.0 m by 5.8 m and 4.4 m by 5.8 m for barrier free parking spaces to 2.7 m by 5.5 m plus an abutting 1.9 m shared aisle for barrier free parking spaces;
- Parking Aisle Width from 6.0 m to 5.8 m;
- Location of Loading Facilities from not permitted in a required yard abutting a Residential Zone to permitted within the required easterly side yard;
- Minimum Number of Required Parking Spaces from 15 (including 1 barrier free space) to 13 (including 1 barrier free space);
- Building Setback from a Street Line from 4.5 m to 20.1 m;
- Minimum Interior Side Yard from 1.5 m to 1.1 m; and,

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SUBJECT: Application to Amend City of Hamilton Zoning By-law 05-200 for Lands Located at 630 Stone Church Road West (Hamilton) (PED20024) (Ward 14) – Page 15 of 16

- Built Form for New Development to exempt the restriction prohibiting parking spaces and aisles between the building façade and the front lot line, and to exempt from requiring the principal entrance from having direct access from the public sidewalk.

Staff would be prepared to support these modifications. While these modifications would be required to recognize previously existing conditions, staff provides the following additional comments:

- The accessory building (shed) was legally existing prior to the current Zoning By-law coming into effect. It has a gross floor area of 10.5 m², whereas a maximum of 10.0 m² is permitted to be located in a required rear yard.
- Regarding the Building Setback from a Street Line, it is important to note that section 4.12 f) Vacuum Clause for Commercial and Mixed Use Zones would deem the building to comply with setback regulations, however, this provision of amending By-law 17-240 remains under appeal and is not final and binding.

ALTERNATIVES FOR CONSIDERATION

- 1) Should the application be approved, staff be directed to prepare an amending Zoning By-law consistent with the concept plans proposed. To address the compatibility concerns raised in this report, a Holding provision should be enacted to require a subsequent Site Plan Control application.
- 2) Council could direct staff to negotiate revisions to the proposal with the applicant in response to the issues and concerns identified in this Report and report back to Council on the results of the discussion.
- 3) Should the application be denied, the illegally constructed freezer addition would need to be removed for the property to conform to the Community Commercial (C3) Zone.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Economic Prosperity and Growth

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

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Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

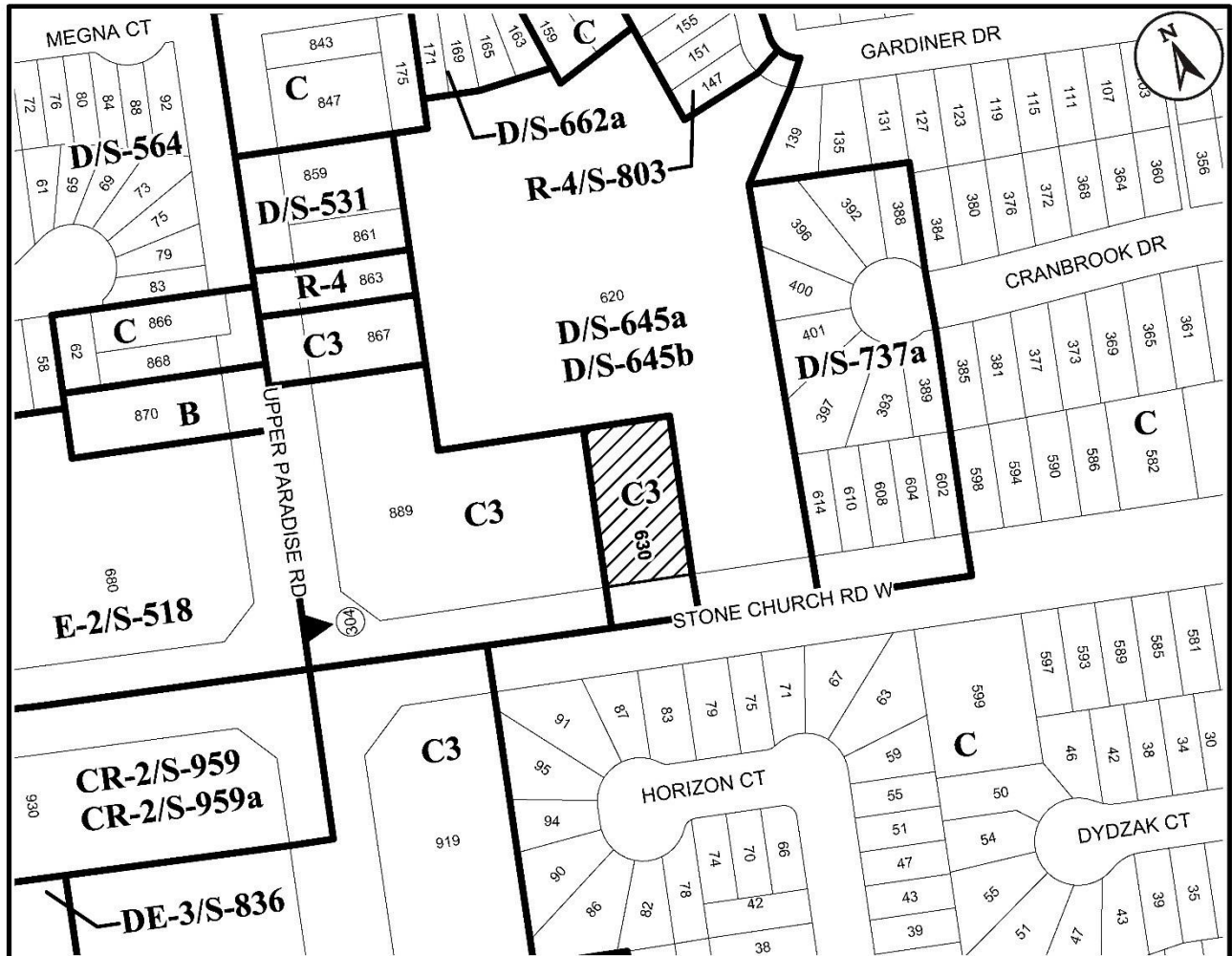
Appendix “A” – Location Map

Appendix “B” – Concept Plan

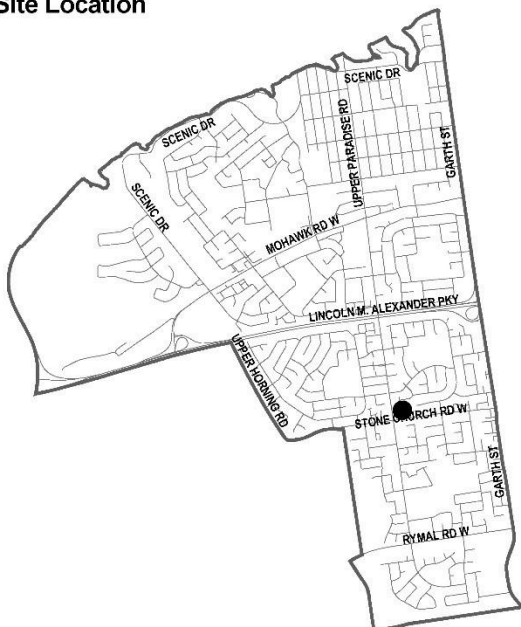
Appendix “C” – Committee of Adjustment Minor Variance Application No. H/MA-17:127

Appendix “D” – Local Planning Appeal Tribunal (Formerly OMB) Case No. PL170710

TV:mo



● Site Location



Key Map - Ward 14

N.T.S.

Location Map



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAR-19-003

Date:
November 15, 2019

Appendix "A"

Scale:
N.T.S.

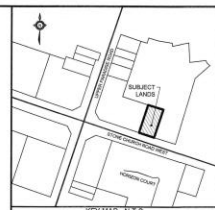
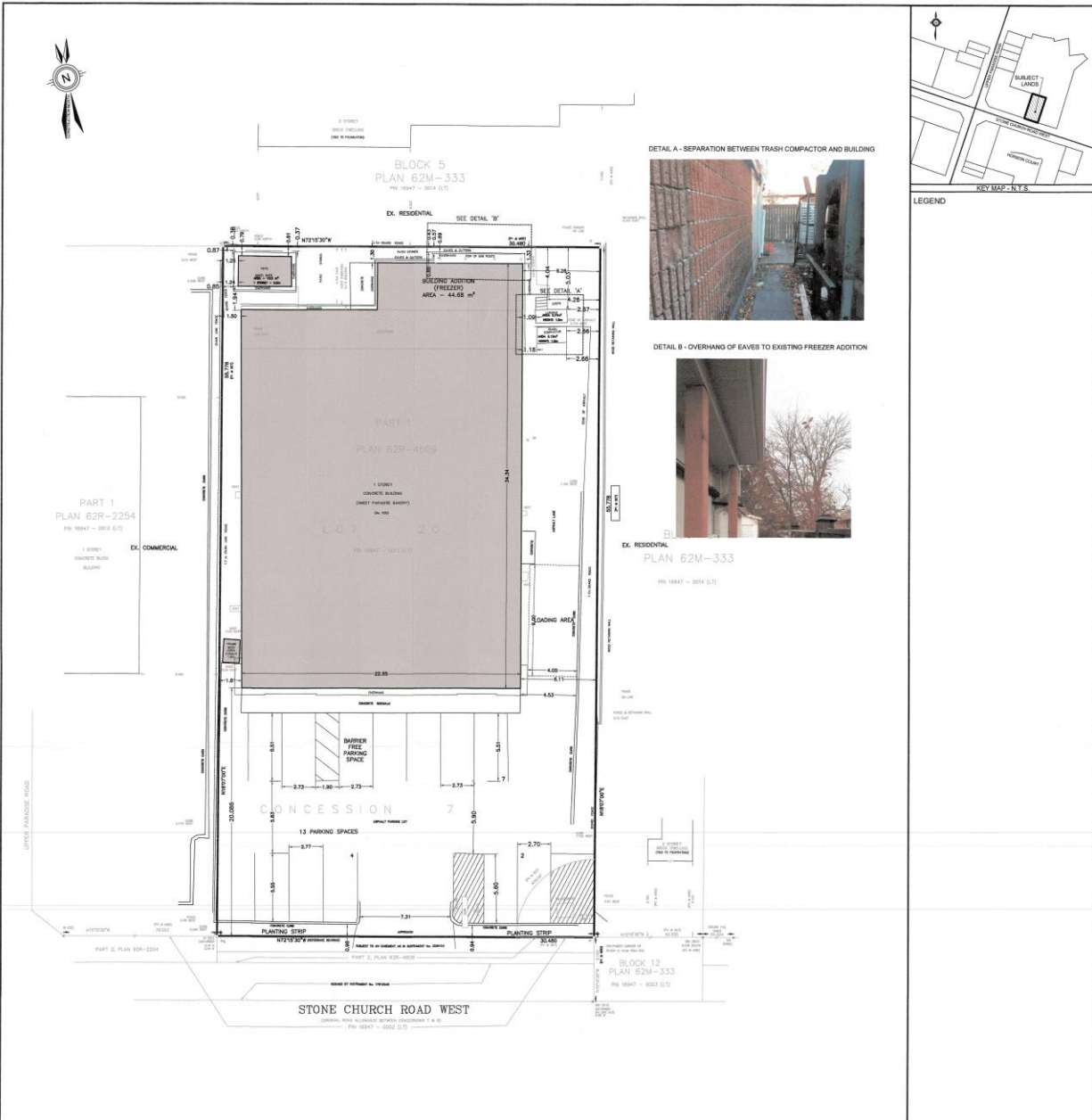
Planner/Technician:
TV/NB

Subject Property

630 Stone Church Road West

Zoned Community Commercial (C3) Zone

Appendix "B" to Report PED20024
Page 1 of 1



KEY MAP - N.T.S.

LEGEND

DETAIL A - SEPARATION BETWEEN TRASH COMPACTOR AND BUILDING



DETAIL B - OVERHANG OF EAVES TO EXISTING FREEZER ADDITION



NOT FOR CONSTRUCTION

SOURCE: PLAN PROVIDED BY A.T. MALAREN, DATED JUNE 26, 2016.
BENCHMARK: NOT NOTED

SCALE: 1:100

DESIGN BY: A. BUCARNO
CHECKED BY: J. ARENS
DRAWN BY: S. CHALMERS
DATE: 2016.03.26

DRAWING ISSUE RECORD

APPROVALS

IBI GROUP
200 East Wigglesworth Street North
Hamilton, ON L8L 1H8 Canada
Tel: 905.546.1070 Fax: 905.546.1011
ibi@ibi.com

CITY OF HAMILTON
630 STONE CHURCH ROAD W,
HAMILTON, ON

ZONING COMPLIANCE

FILE NUMBER: 118641 SHEET NUMBER: S1

ZONE	COMMUNITY COMMERCIAL/CDZ	REQUIRED	PROVIDED	MODIFICATION	NOT TO BE LOCATED WITHIN A FRONT YARD	PROVIDED (AS PER EXISTING)
MIN. FRONTAGE ON STREET	4.5 m	30.48 m			ACCESSORY BUILDINGS	
MIN. FRONT YARD SETBACK	1.5 m	20.96 m			ACCESSORY BUILDINGS TO BE LOCATED ON A MAX. GROSS FLOOR AREA OF LESS THAN 10.0 m ² AND A MAX. BUILDING HEIGHT OF 3.0 m MAY BE LOCATED IN A REQUIRED REAR YARD OR A REQUIRED SIDE YARD.	
BUILDING FROM STREET LINE	1.5 m	20.96 m			MIN. NUMBER OF PARKING	13 SPACES (AS PER EXISTING)
REAR YARD	7.5 m	1.3 m		X (AS PER FREEZER ADDITION)	PARKING SPACE FOR EACH 20.0 m ² OF GROSS FLOOR AREA WHICH ACCOMMODATES SUCH USE	
INTERIOR SIDE YARD (WEST)	1.5 m	1.5 m			MIN. NUMBER OF BARRIER FREE PARKING SPACES	1 SPACE REQUIRED (AS PER EXISTING)
INTERIOR SIDE YARD (EAST)	3.0 m	6.1 m		X (AS PER FREEZER ADDITION)	MIN. PARKING SPACE SIZE	2.0 m x 5.0 m (AS PER EXISTING)
MAX. REAR YARD ENCROACHMENT (EAVES & GUTTERS)	0.8 m	0.8 m		X (AS PER FREEZER ADDITION)	MIN. BARRIER FREE PARKING SPACE SIZE	4.4 m x 5.0 m (AS PER EXISTING)
MAX. BUILDING HEIGHT	14.0 m	5.38 m		X	MIN. ASBLE WIDTH	5.0 m (AS PER EXISTING)
MAX. GROSS FLOOR AREA (COMMERCIAL USES)	10,000 m ²	46.02 m ² (ADDITION) 88.21 m ² (TOTAL) 78.96 m ² (TOTAL)			PARKING ON THE SAME LOT	PARKING FACILITIES SHALL BE LOCATED ON THE SAME LOT AS THE USE REQUIRING THE PARKING (AS PER EXISTING)
BUILT FORM FOR NEW DEVELOPMENT					PARKING LOCATED FROM A STREET LINE AND PLANTING STRIP	MIN. 3.0 m FROM A STREET LINE (AS PER EXISTING)
ROOFTOP MECHANICAL EQUIPMENT SHALL BE LOCATED AND/OR SCREENED FROM VIEW OF ANY ADJACENT STREET					3.0 m PLANTING STRIP REQUIRED BETWEEN THE STREET LINE AND PARKING SPACES OR ASBLE	3.0 m (AS PER EXISTING)
INTERIOR LOT OR THROUGH LOT THE MINIMUM WIDTH OF THE GROUND FLOOR PACKAGE FACING THE FRONT LOT					NOT PERMITTED IN A FRONT YARD, NOT PERMITTED IN ANY REAR ADJACENT STREET OR A REQUIRED YARD ADJUTING A RESIDENTIAL OR INSTITUTIONAL ZONE UNLESS SCREENED BY A SOLID BARRIER	3.0 m (AS PER EXISTING)
NO PARKING, STACKING LANES, OR ASBLES SHALL BE LOCATED BETWEEN THE REQUIRED BUILDING PACKAGE AND THE FRONT LOT LINE AND FLANAGE LOT LINE					MIN. NUMBER OF SHORT TERM BICYCLE PARKING SPACES	5 SPACES (AS PER EXISTING)
A MINIMUM OF ONE PRINCIPAL ENTRANCE SHALL BE PROVIDED					LOCATION FOR SHORT TERM BICYCLE PARKING SPACES	WITHIN A BICYCLE PARKING AREA AT GRADE (AS PER EXISTING)
GENERAL						
PLANTING STRIP						
VISUAL BARRIER						
OUTDOOR STORAGE						



Committee of Adjustment
 Hamilton City Hall
 71 Main Street West, 5th floor
 Hamilton, ON L8P 4Y5
 Telephone (905) 546-2424, ext. 4221
 Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT

DECISION OF THE COMMITTEE

APPLICATION NO. HM/A-17:127
 SUBMISSION NO. A-127/17

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 6593, of the City of Hamilton, Section 14A.

AND IN THE MATTER OF the Premises known as Municipal number 630 Stone Church Rd. W., in the City of Hamilton and in an "HH/S-725" (**Restricted Community Shopping and Commercial**) district;

AND IN THE MATTER OF AN APPLICATION by the agent Kalos Engineering Inc. on behalf of the owner CPDL Mancini Holdings Inc., for relief from the provisions of the Zoning By-Law No. 6593, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the construction of a 38m² rear yard addition to the existing bakery notwithstanding that:

1. A rear yard of 1.2m shall be provided instead of the minimum required 5.17m rear yard setback; and,
2. No landscaped area shall be provided instead of the 3.0m wide landscaped area required along the north and east lot lines.


THE DECISION OF THE COMMITTEE IS:

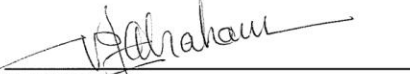
That the variances, as set out in paragraph three above, are **GRANTED** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter did not affect the decision.

DATED AT HAMILTON this 18th day of May, 2017.


 M. Dudzic (Chairman)


 D. Serwatak


 V. Abraham


 L. Gaddy


 P. Mallard

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **June 7th, 2017**.

NOTE: This decision is not final and binding unless otherwise noted.

HMA-17:127
Decision
Page 2

NOTE:

1. Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: January 11, 2018

CASE NO(S): PL170710

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

Appellant:	Stonechurch Cooperative Homes Inc.
Applicant:	CPDL Mancini Holdings Inc.
Subject:	Minor Variance
Variance from By-law No.:	6593
Property Address/Description:	630 Stone Church Road West
Municipality:	City of Hamilton
Municipal File No.:	A-127/17
OMB Case No.:	PL170710
OMB File No.:	PL170710
OMB Case Name:	Stonechurch Cooperative Homes Inc. v. Hamilton (City)

Heard: October 17, 2017 in Hamilton, Ontario

APPEARANCES:

Parties

Representative

CPDL Mancini Holdings Inc.	Unrepresented
Stonechurch Cooperative Homes Inc.	Gary Pana

DECISION DELIVERED BY ANNE MILCHBERG AND ORDER OF THE BOARD

[1] Stonechurch Cooperative Homes Inc. ("the Appellant") has appealed the May, 2017 decision of the Committee of Adjustment ("CoA") of the City of Hamilton ("the City") to approve variances for the property at 630 Stone Church Road West ("the

2

PL170710

subject property"), which contains a commercial bakery/delicatessen. The Applicant is CPDL Mancini Holdings, Inc ("Applicant").

[2] The variances are requested to legalize a 38 square metres ("sq m ") rear yard addition which includes a freezer covered by a roof structure. According to the Applicant's witness at the hearing, J. P. Campana of Kalos Engineering, this illegal construction was discovered by authorities after a car crashed into the front of the bakery. An order to comply was issued by the City, and an application to the CoA was submitted for the following variances from Zoning By-law No. 6593 ("the ZBL"):

- A rear yard of a 1.2 metres ("m") shall be provided instead of the minimum required 5.17 m rear yard setback. (Variance 1)
- No landscaped area shall be provided instead of the 3.0 m wide landscaped area required along the north and east lot lines. (Variance 2)

[3] The Appellant is an incorporated cooperative ("co-op") housing development comprised of 54 townhouses at 620 Stone Church Road West, next door to the subject property. The co-op property is irregularly shaped, and a portion of it (including the back yards of several townhouses) abuts the rear property line of the bakery. There is a grade drop of approximately 1.22 – 1.52 m between the subject lands and the co-op lands in this area, managed by a wooden retaining wall.

[4] Carin Finch, a resident of the co-op/Appellant who testified on its behalf, alleged that the illegal addition (which would require the allowance of Variance 1 to become legalized) :

- diverts rainwater away from the bakery, flooding co-op homes whenever there is a significant rainfall; and
- is the cause of the degradation of the retaining wall between the two properties.

[5] Mr. Campana, a professional engineer retained by the Applicant, testified in support of the proposed variances. His testimony focused on the flooding claim and on the retaining wall. Though Mr. Campana initially appeared at the hearing as the Applicant’s sole representative, and intended to be the sole witness as well, the Board directed him to choose one role or the other. He chose to be a witness, and in doing so, could not cross-examine the Appellant’s witness. As a workaround, the Board offered to hear questions he might have pertaining to the Appellant’s evidence, and to relay relevant ones to the Appellant.

[6] Neither of the Parties brought expert land use planning witnesses to the hearing, or provided much detail about the neighbourhood context. The only planning evidence before the Board on the four tests of a minor variance under the *Planning Act* (“Act”) was contained in a May 18, 2017 report from the Planning and Economic Development Department (“Planning Report”), found within Exhibit 1. It was quite thin on analysis, but was the only planning evidence before the Board in this matter.

[7] No representative from the Planning and Economic Development Department appeared at the hearing to speak to the Planning Report.

ANALYSIS AND DISPOSITION

[8] Section 45(1) of the Act sets out four tests that a minor variance must meet. The Board focused on these in its analysis and disposition.

Are the proposed variances minor?

[9] Variances can be deemed minor if there are no undue impacts arising.

[10] In the case of Variance 2, neither the Appellant nor the Planning Report identified any undue impacts or issues with the requested relief from the 3 m landscape strip

requirement along the north and east property lines, nor could the Board discern any undue impacts. On this basis, the Board concludes that Variance 2 is minor.

(a) Retaining wall:

[11] In the case of Variance 1, which entails relief from the rear yard setback, Ms. Finch asserted that reducing the rear yard setback from 5.17 m to 1.2 m caused the retaining wall between the two properties to become unstable. She conceded that this was speculation on her part, as she is not an engineer. In contrast, Mr. Campana's position was that the condition of the retaining wall was unrelated to the relief requested by Variance 1. An engineer, he testified that the freezer addition within the rear setback did not introduce new structural loads or grading changes in relation to the retaining wall.

[12] There was no planning evidence before the Board to prove that the condition of the retaining wall was directly related to the reduced setback. More importantly, the Board was obliged to frame its analysis of impact as if the freezer had not yet been constructed on the lands. Had the variance been applied for in advance of the illegal construction, any concern raised about maintaining the integrity of the retaining wall would have been an engineering/construction matter outside the Board's jurisdiction, not a planning matter. For this reason, the Board finds that Variance 1 has no planning-related impact on the retaining wall.

(b) Storm water management:

[13] The other perceived impact Ms. Finch raised with respect to Variance 1 had to do with storm water management. Instead of having an open area at the rear of the subject property (with the 5.17 m ZBL setback) where the ground can absorb the rainwater, she claimed, the freezer addition diverts rainwater onto the Appellant's lands. Her observation was that, ever since the freezer was built, storm waters from the subject property overflow the retaining wall and flood a section of the co-op lands and

some townhouses during significant rainfall. She claimed that the Applicant's later addition of an eavestrough did not alleviate the flooding.

[14] Prior to the construction of the freezer, Ms. Finch claimed, no flooding occurred on the co-op lands. She testified that these lands had been specifically graded and landscaped to manage storm water, and include a swale.

[15] Mr. Campana disagreed with Ms. Finch's flooding claim. He testified that the roof over the freezer, which has a single slope from the south towards the north property line, collects all the storm water over the freezer, and the eavestrough discharges it directly into a storm water grate on the subject property. In his estimation, the freezer addition causes no diversion of rain water to the Appellant's property. Mr. Campana also claimed that the City was satisfied that storm water was being properly managed in the vicinity of the freezer, but proffered no proof of this.

[16] The Board analyzed the dispute about storm water impact as if the freezer had not yet been constructed on the lands, along these lines:

- How was storm water handled on the subject property pre-construction?
- What would be the storm water impact of adding the freezer?
- If needed, what mitigation measures would be introduced? Would they be effective?

[17] Mr. Campana testified that, prior to construction of the freezer, the open space at the rear of the property was covered by rain-impervious concrete slabs at grade. In his view, the freezer's sloped roof and eavestrough provided better storm water management than the prior condition of the open space covered by concrete slabs, and could not have dumped more water onto the co-op lands. The Board adjusted the weight of these comments upon hearing that Mr. Campana had been hired by the Applicant after the illegal construction of the freezer had been discovered by authorities, and that he had not witnessed the exact pre-construction site conditions of either the subject property or the adjacent co-op lands.

[18] While Ms. Finch's testimony pointed to the possibility that the Applicant's storm water mitigation measures may not have been adequate, there was not enough evidence to show certainty or even probability that the freezer construction caused the flooding. The Board concluded that it did not have sufficient evidence to make a finding on impact.

[19] Consequently, the Board relied on the other three tests of the Act to determine whether Variance 1 should be allowed.

Do the proposed variances maintain the general intent and purpose of the Urban Hamilton Official Plan ("UHOP")?

[20] The Planning Report notes that the subject lands are designated as "Neighbourhoods" in Schedules E and E-1 of the UHOP.

[21] With respect to Variance 2, the Planning Report opined that eliminating 3 m planting strips inside the north and east property lines would not be inconsistent with the character of the existing neighbourhood.

[22] In distinction, with respect to Variance 1, the Planning Report opined that reducing the rear yard setback would be counter to the character of the existing neighbourhood, and on that basis, does not maintain the general intent and purpose of the UHOP. The Board finds accordingly.

Do the proposed variances maintain the general intent and purpose of the ZBL?

[23] The subject lands are zoned "Existing Residential "HH-S-725" under the ZBL [Exhibit 1].

[24] In the case of Variance 2, the opinion in the Planning Report is that the elimination of 3 m planting strips inside the north and east property lines would have no negative effect on area character.

[25] With respect to Variance 1, the Planning Report suggests the reduced rear yard setback may be incompatible with the existing residential land uses at the rear (i.e., the co-op). One of the purposes of a rear yard setback is to allow for the adequate separation of adjacent, incompatible uses, to avoid land use conflicts. There was no conclusion on the Board's part as to whether the freezer addition caused the flooding, but it appears to be incompatible with the co-op next door.

Are the variances desirable and appropriate for the development of the subject property?

[26] In the case of Variance 2, the elimination of the 3 m planting strips did not elicit any concerns from the Appellant or the planning staff, and the Planning Report opines that the general intent and purpose of the OP and ZBL are maintained. On this basis, the Board concludes that Variance 2 is desirable and appropriate for the development of the subject property. The Board finds accordingly.

[27] In the case of Variance 1, the Planning Report opined that the reduced setback results in built form that is not in keeping with the neighbourhood character. The Board's observation in hearing evidence from the Parties is that the lack of setback heightens the conflict between incompatible uses.

CONCLUSIONS AND ORDER

[28] There was no evidence in the hearing that Variance 2 should not be allowed, and even the Appellant advised the Board as much. The Planning Report opinion was that Variance 2 met all four tests of the Act. Therefore, the Board will allow this variance.

[29] As for Variance 1, the Board finds that it does not maintain the purpose and intent of the UHOP and ZBL, and is not desirable for the appropriate development of the subject property. In order for a variance to be allowed, all four tests of the Act have to be met. In this case, the variance fails on three tests.

[30] Accordingly The Board orders that the appeal is allowed in part and that:

- the variance to Zoning By-law No. 6593 to permit a rear yard of a 1.2 m instead of the minimum required 5.17 m rear yard setback is not authorized.
- the variance to Zoning By-law No. 6593 to permit no landscaped area along the north and east lot lines, instead of the required 3 m wide landscaped area, is authorized.

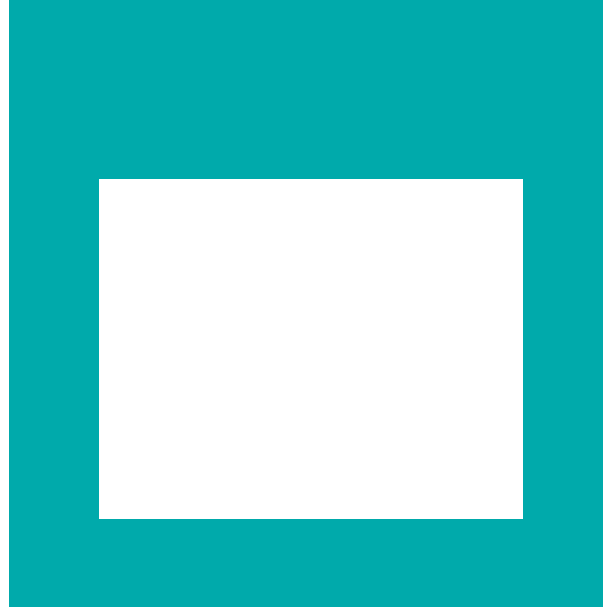
"Anne Milchberg"

ANNE MILCHBERG
MEMBER

If there is an attachment referred to in this document
please visit www.elfto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248



WELCOME TO THE CITY OF HAMILTON

PLANNING COMMITTEE

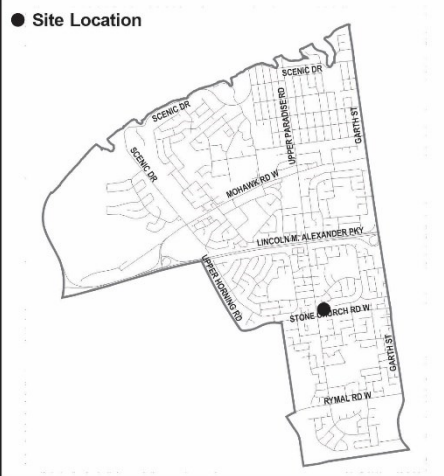
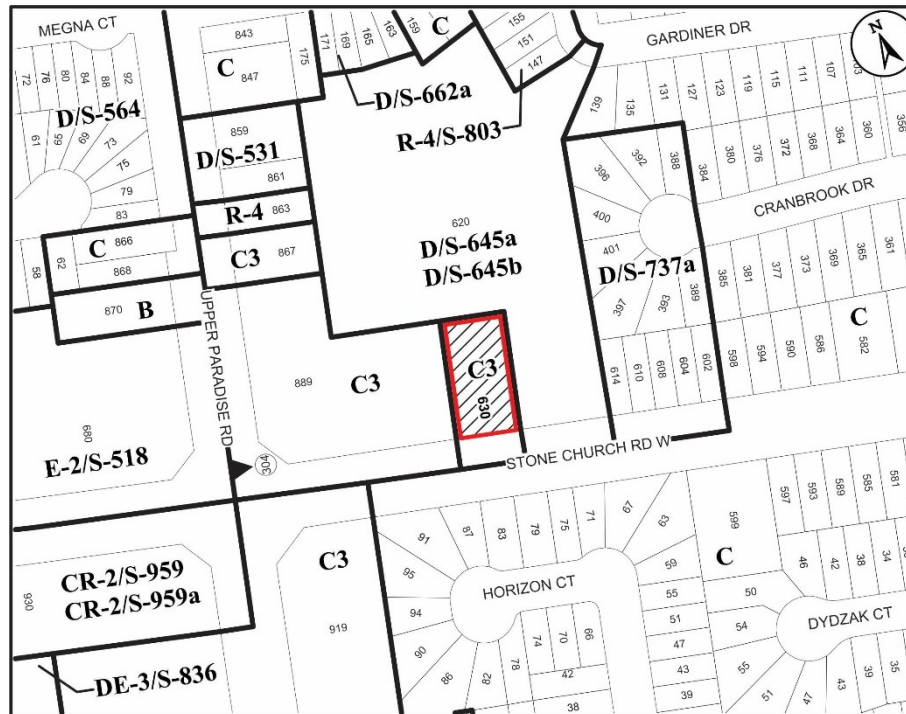
February 4, 2020

PED20024 – (ZAR-19-003)

Application to Amend City of Hamilton Zoning By-law 05-200 for Lands
Located at 630 Stone Church Road West, Hamilton.

Presented by: Tim Vrooman





Key Map - Ward 14 N.T.S.

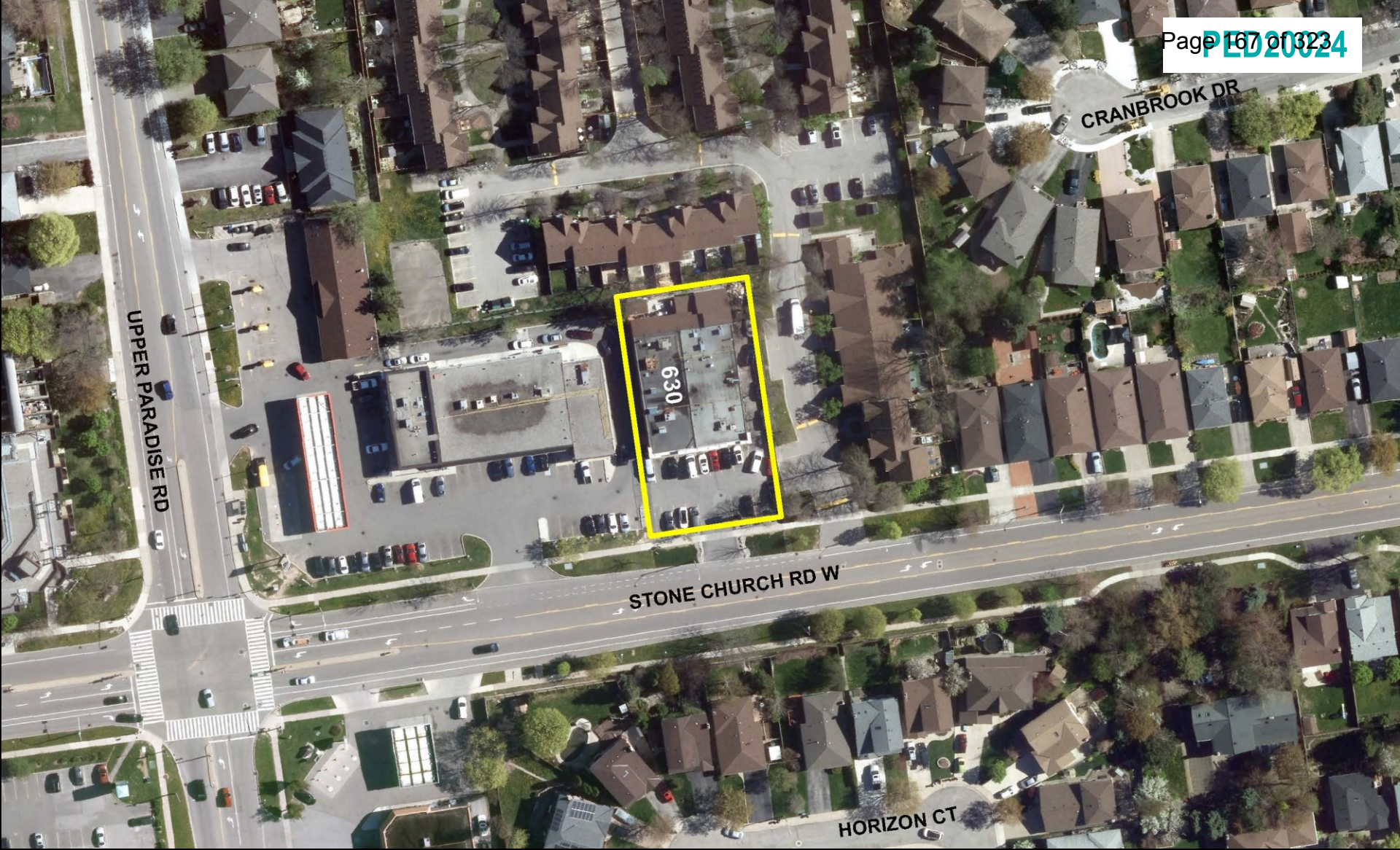
Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
File Name/Number: ZAR-19-003	Date: November 15, 2019
Appendix "A"	Scale: N.T.S.
Planner/Technician: TV/NB	

Subject Property
 630 Stone Church Road West

Change in Zoning from Community Commercial (C3) Zone to Modified Community Commercial (C3) Zone

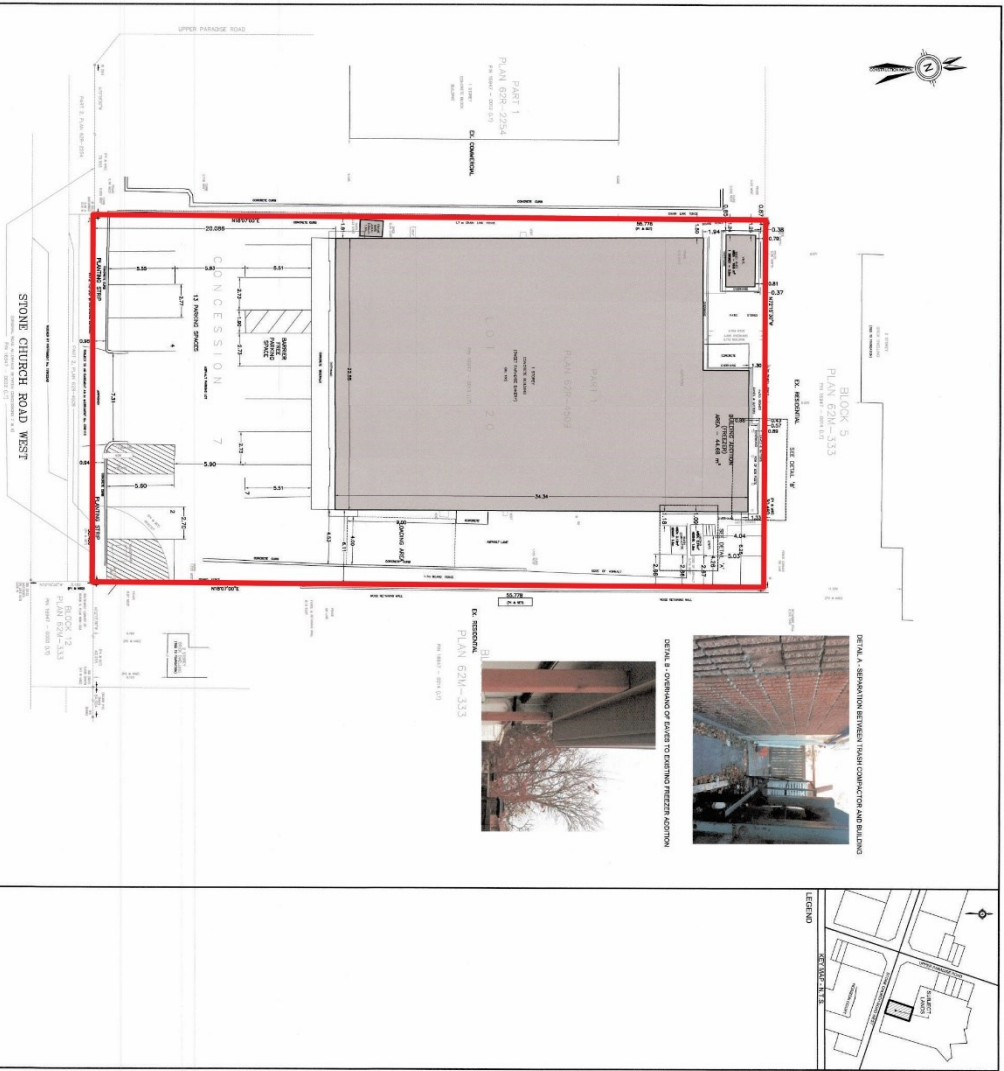


SUBJECT PROPERTY



630 Stone Church Road West, Hamilton





ZONE	COMMENTS/COMPLETION DATE	PERMITTED	REVISIONS	REASONING
ST	STANDARD RESIDENTIAL SINGLE-FAMILY DWELLING			SEE REVISIONS
SECTION 16-132	CONCERNING CONCEPT PLAN	132.0	132.1	132.2
SECTION 16-133	CONCERNING CONCEPT PLAN	133.0	133.1	133.2

PROPERTY INFORMATION	REMARKS
APPLICANT	
PROJECT NAME	
ADDRESS	
CITY	
STATE	
ZIP	
CONTACT PERSON	
PHONE	
EMAIL	

REVISION	DATE	DESCRIPTION
1	02/02/2024	ISSUED FOR PERMITTING



Subject site from Stone Church Road West





View to the east along Stone Church Road West





View to the south across Stone Church Road West





View to the west along Stone Church Road West





Freezer addition from southeast





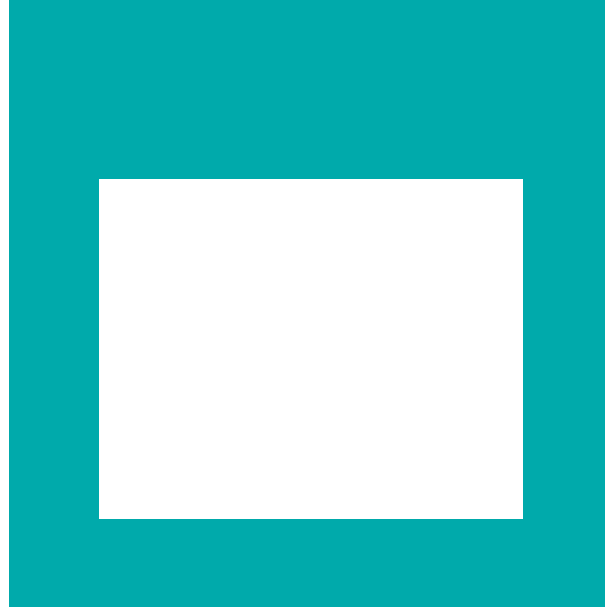
Freezer addition from east





Freezer addition from south





THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Application for Revised Draft Plan of Subdivision for Lands Located at 22 Green Mountain Road West (Stoney Creek) (PED20026) (Ward 9)
WARD(S) AFFECTED:	Ward 9
PREPARED BY:	E. Tim Vrooman (905) 546-2424 Ext. 5277
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Revisions to Draft Approved Plan of Subdivision 25T-200803R, by Empire Communities (Stoney Creek) Ltd. (Owner)** to establish an extension of the subdivision known as “Victory Ridge Phase IV” for a 0.88 ha site located at the northwest corner of Green Mountain Road West and Upper Centennial Parkway, known as 22 Green Mountain Road West, as shown on Appendix “A” to Report PED20026, to develop residential blocks on an extension of a public road, be **APPROVED**, subject to the following:

- (i) That this approval apply to the Draft Plan of Subdivision “Victory Ridge Phase IV” 25T-200803R, prepared by Armstrong Hunter and Associates, and certified by Douglas E. Hunt, O.L.S., dated March 25, 2019, consisting of two blocks for a maximum of 27 freehold street townhouse dwellings (Blocks ‘A30’ and ‘A31’), dedication of road right-of-way widening for Green Mountain Road West (Block ‘H’), one Open Space block (Block ‘J’), and the extension of a public road (Street ‘L’), subject to the Owner entering into a standard form subdivision agreement as approved by City Council and with Special Conditions attached as Appendix “E” to Report PED20026;

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- (ii) In accordance with the City's Comprehensive Development Guidelines and Financial Policies Manual (2017) there will be no cost sharing for this subdivision; and,
- (iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 51 of the *Planning Act*, with the calculation for the payment to be based on the value of the lands on the day prior to the day of issuance of each building permit, all in accordance with the Financial Policies for Development and the City's Parkland Dedication By-laws, as approved by Council.

EXECUTIVE SUMMARY

The application is for a revision to a Draft Approved Plan of Subdivision known as Victory Ridge Phase IV, to extend a public road (Street 'L') eastward, terminating as a cul-de-sac at the eastern end of the subject lands to accommodate two blocks for a maximum of 27 freehold street townhouse dwellings. A right-of-way widening dedication for Green Mountain Road West is provided as Block 'H'. An open space block is also proposed to provide a buffer between the Street 'L' cul-de-sac and the Upper Centennial Parkway right-of-way. Approval would be subject to the owner entering into a Standard Form Subdivision Agreement, with Special Conditions.

The proposed development provides for dwelling units in an area where full municipal services are available and will be compatible with the existing development in the immediate area with respect to use, size and scale. Minor variances to the Multiple Residential "RM3-38" Zone will be required to address minimum required front and rear yard setbacks and minimum required lot area for some of the units, and Part Lot Control applications will be required to create individual lots for each unit. The proposal has merit and can be supported as it is consistent with the Provincial Policy Statement (2014), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan (UHOP).

Alternatives for Consideration – See Page 24

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 Subdivision.

**SUBJECT: Application for Revised Draft Plan of Subdivision for Lands Located at
22 Green Mountain Road West (Stoney Creek) (PED20026) (Ward 9) –
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HISTORICAL BACKGROUND

Report Fact Sheet

Application Details	
Owner:	Empire Communities (Stoney Creek) Ltd.
Applicant/Agent:	Armstrong Planning (c/o Michael Auduong)
File Number:	25T-200803R
Type of Application:	Revisions to Draft Approved Plan of Subdivision
Proposal:	To extend a public road (Street 'L' to be locally known as Utter Place) eastward through the site, terminating as a cul-de-sac at the eastern end of the block to accommodate a maximum of 27 freehold street townhouse dwellings (Blocks 'A30' and 'A31'), a road widening (Block 'H'), and to establish an Open Space block (Block 'J').
Property Details	
Municipal Address:	22 Green Mountain Road West (see Appendix "A" to Report PED20026)
Lot Area:	± 0.88 ha (irregular)
Servicing:	Full municipal services
Existing Use:	The subject site is currently developed with a temporary cul-de-sac terminating at the existing Utter Place and is developed with a residential sales office associated with the surrounding Victory Ridge Phase IV subdivision.
Documents	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS.
A Place to Grow:	The proposal conforms to A Place to Grow.

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Official Plan Existing:	<ul style="list-style-type: none"> Identified as “Neighbourhoods” on Schedule E – Urban Structure Designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations
Official Plan Proposed:	No amendment proposed.
Secondary Plan Existing:	Nash Neighbourhood Secondary Plan: Low Density Residential 2h
Secondary Plan Proposed:	No amendment proposed.
Zoning Existing:	Multiple Residential “RM3-38” Zone, Modified
Zoning Proposed:	No amendment proposed.
Processing Details	
Received:	August 20, 2018
Deemed Complete:	October 15, 2018
Notice of Complete Application:	Sent to 33 property owners within 120 m of the subject lands on October 31, 2018.
Public Notice Sign:	Posted November 7, 2018 and updated with Public Meeting date January 8, 2020.
Notice of Public Meeting:	Sent to 33 property owners within 120 m of the subject property on January 17, 2020.
Public Comments:	None received to date.
Processing Time:	477 days.

Previous Applications

The area was subject to a Zoning By-law Amendment Application (ZAC-08-026) and Draft Plan of Subdivision Application (25T-200803) in 2008 for the purpose of

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developing the 23.36 ha site known as “Victory Ridge” to permit the phased and orderly development of the subject lands on “lot-less” blocks. A maximum of 129 street townhouse units, 204 single detached lots, and two medium density blocks for 90 maisonette units, for a total of 423 dwelling units was proposed. The medium density blocks were divided by the originally proposed alignment of Street ‘A’ (now known as Morrissey Boulevard). The lands subject to this Revised Draft Plan of Subdivision formed part of the medium density blocks.

Through a subsequent settlement at the Ontario Municipal Board (OMB) in 2010, the Draft Plan realigned Street ‘A’ (Morrissey Boulevard) to its present location and established two medium density blocks at the southeast end of the subdivision to permit street townhouses.

An application for a revision to the Draft Approved Plan of Subdivision Application File No. 25T-200803 to add new public roads within the western block was approved in 2017, introducing Street ‘L’ (Utter Place), which presently terminates as a temporary turning circle at the edge of the subject lands.

EXISTING LAND USE AND ZONING

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Residential sales centre	Multiple Residential “RM3-38” Zone, Modified
<u>Surrounding Land Uses:</u>		
North	Open Space (Archaeological site), Single detached dwelling	Conservation/Hazard Land “P5” Zone, Single Residential – One “R1” Zone
South	Terra Environmental Stoney Creek Landfill, vacant land	Neighbourhood Development “ND” Zone, Arterial Commercial (C7, 586) Zone
East	Agriculture (Greenhouse), Single Detached Dwellings	Single Residential – One “R1” Zone, Agriculture (A1) Zone
West	Street townhouse dwellings	Multiple Residential “RM2-20” Zone

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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Planning Framework

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

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal (formerly known as the Ontario Municipal Board) approval of the City of Hamilton Official Plan, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of Provincial interest (i.e. efficiency of land use and balanced growth) are reviewed and discussed in the Official Plan analysis below.

Staff also note the UHOP has not been updated with respect to Cultural Heritage policies with the PPS. The following policy of the PPS applies:

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

The subject property meets four of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

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

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the Provincial Policy Statement apply to the subject application. Cultural Heritage Planning staff have taken note of the Open Space archaeological site buffer identified as Block ‘E’, shown on the Redline Revision Draft Plan of Subdivision (see Appendix “C” to Report PED20026). Given that the remainder of the site is disturbed, Staff require that an acknowledgement be added as a note to the Special Conditions of Draft Plan approval. With this acknowledgement,

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which is being addressed as Note No. 2 in Appendix “E” to Report PED20026, the City’s archaeological concerns have been satisfactorily addressed.

As the application complies with the UHOP, it is staff’s opinion that the application is:

- Consistent with Section 3 of the *Planning Act*,
- Consistent with the PPS; and,
- Conforms to A Place to Grow (2019).

Urban Hamilton Official Plan (UHOP)

The subject lands are designated “Neighbourhoods” on Schedule E – Urban Structure and Schedule E-1 – Urban Land Use Designations. The subject lands are further designated “Low Density Residential 2h” on Map B.7.5-1 – Nash Neighbourhood Secondary Plan. The following policies, amongst others, apply to this proposal:

Noise, Vibration, and Other Emissions from Stationary Sources

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

B.3.6.3.18 The City shall ensure that all development or redevelopment with the potential to create conflicts between sensitive land uses and point source or fugitive air emissions such as noise, vibration, odour, dust, and other emissions complies with all applicable provincial legislation, provincial and municipal standards, and provincial guidelines, and shall have regard to municipal guidelines.”

The subject lands have direct frontage on Upper Centennial Parkway, which is a designated Major Arterial road, and is located across from Terra Environmental Stoney Creek Landfill to the south on Green Mountain Road West. Accordingly, HGC Engineering Limited has prepared a noise study “Noise Impact Study, Empire Communities Victory Phases 3 & 4, Ontario, prepared for Empire Communities (Stoney Creek Ltd.)” dated September 29, 2015, and an addendum noise impact study titled “Addendum #2 - Noise Impact Study, Empire Communities Victory Phase 4 Hamilton, Ontario” dated June 13, 2019, in support of this development. The study reviewed the acoustic requirements for this development with respect to Upper Centennial Parkway and the Terra Environmental Stoney Creek Landfill. Based on the results of the study, warning clauses, unit design for the provision of air conditioning units, and acoustical

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barriers will be required for Phase IV. Staff are generally satisfied with the findings of these studies, subject to the requirements below:

Acoustical Barriers:

Acoustical barriers shall consist of a 2.2 m acoustical wall constructed along the easterly yard of unit 15 and extend westerly along the northerly rear of unit 15, as shown schematically in Figure 2 of the addendum noise impact study titled “Addendum #2 - Noise Impact Study, Empire Communities Victory Phase 4 Hamilton, Ontario” dated June 13, 2019, prepared by HGC Engineering Limited.

The wall and / or wall and berm combination of the acoustical barriers surrounding unit 15 shall have a minimum height of 2.2 metres and be constructed of a durisol type material with a minimum surface density of 20 kg/m² and be in a continuous line without openings or gaps.

The requirements for the acoustical barriers, warning clauses, and unit design for the provision of air conditioning units have been addressed through Condition Nos. 121, 122, and 125 in Appendix “E” to Report PED20026.

The Terra Environmental Stoney Creek Landfill is located to the south of the subject site. Warning clauses advising all potential purchasers / tenants of the site’s proximity to the landfill are included through Condition No. 123 in Appendix “E” to Report PED20026.

Low Density Residential

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

- a) Direct access from lots to adjacent to major or minor arterial roads shall be discouraged.
- b) Backlotting along public streets and in front of parks shall be discouraged. The City supports alternatives to backlotting, such as laneway housing and window streets, to promote improved streetscapes and public safety, where feasible.”

The proposed development will extend the local road network with lot access via the local road, and lots facing Green Mountain Road West will have dual frontage for an enhanced streetscape. For those units, a balcony will be located on the second storey facing Street ‘L’ to provide residents with private amenity space in lieu of having two front yards and no rear yard. To ensure that the yards facing Green Mountain Road

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West function as dual fronting units, restrictions on fencing and the provision of walkways leading from the building entrances to the public sidewalk will be required, which has been addressed through Condition No. 126 in Appendix “E” to Report PED20026. Easements will also be required to allow interior units to have external access to their yards for general maintenance and upkeep for both residential blocks, which will be addressed through future Part Lot Control application(s) required to create individual lots for each unit.

Residential Greenfield Design

- “E.3.7.1 New greenfield communities shall be designed with a unique and cohesive character. Buildings, streetscapes, street patterns, landscaping, open spaces, and infrastructure shall be designed to contribute to this character.
- E.3.7.2 New greenfield communities shall be designed to include a focal point. All elements of the design of the community including the layout of streets, trails, pedestrian connections, and transit routes as well as the location of land uses and transit stops, shall contribute to creation of the community focal point.”

The proposed extension of the local road will provide a logical and cohesive continuation of the streetscape and built form. The built form will follow the direction of the Urban Design Guidelines for Victory Ridge (dated February, 2013) submitted and approved for this subdivision. Specific design considerations will be further addressed in the Nash Neighbourhood Secondary Plan section of this report.

Road Widening

- “C.4.5.2 The road network shall be planned and implemented according to the following functional classifications and right-of-way-widths:
- e) Collector roads, subject to the following policies:
- iii) The basic maximum right-of-way widths for minor arterial roads shall be 26.213 metres...;”

Green Mountain Road West is classified as a Collector road on Schedule C – Urban Road Classification of the UHOP. Accordingly, a 3.05 m right-of-way widening along Green Mountain Road West, as well as a 12.19 m x 12.19 m daylighting triangle at the intersection of Green Mountain Road West and Upper Centennial Parkway in accordance with Policy C.4.5.7 c), have been identified as Block ‘H’ on the Redline Revision Draft Plan of Subdivision (see Appendix “C” to Report PED20026). The right-

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of-way and daylight triangle dedications have been secured as an existing condition of Draft Plan of Subdivision approval as Condition No. 34 of Appendix “D” to Report PED20026.

Plan of Subdivision

- “F.1.14.1.2 Council shall approve only those plans of subdivision that meet the following criteria:
- a) the plan of subdivision conforms to the policies and land use designations of this Plan;
 - b) the plan of subdivision implements the City’s staging of development program;
 - c) the plan of subdivision can be supplied with adequate services and community facilities;
 - d) the plan of subdivision shall not adversely impact upon the transportation system and the natural environment;
 - e) the plan of subdivision can be integrated with adjacent lands and roadways;
 - f) the plan of subdivision shall not adversely impact municipal finances; and,
 - g) the plan of subdivision meets all requirements of the *Planning Act*.”

As has been previously discussed, the proposed Draft Plan of Subdivision complies with the Urban Hamilton Official Plan and meets all requirements of the *Planning Act*. It is consistent with the Criteria for Staging of Development as the site can be adequately serviced using existing infrastructure, subject to the proposed Draft Plan conditions. The development will not adversely impact the transportation system or natural environment, will be integrated with existing lands and roads, and will not adversely impact municipal finances.

Based on the foregoing, staff are of the opinion that the proposed development complies with the policies of the Urban Hamilton Official Plan.

Nash Neighbourhood Secondary Plan

The subject lands are designated “Low Density Residential 2h” on Map B.7.5-1 – Nash Neighbourhood Secondary Plan. The following policies, amongst others, apply:

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“B.7.5.4.1 In addition to Section E.3.4 – Low Density Residential of Volume 1, the following policies shall apply to lands designated Low Density Residential 2 and 2h on Map B.7.5-1 – Nash Neighbourhood – Land Use Plan:

- b) Low Density Residential 2h Designation:
 - i) Notwithstanding Policy E.3.4.3 of Volume 1, multiple dwellings such as street and block townhouses, duplexes, triplexes and quadraplexes shall be permitted.
 - ii) Notwithstanding Policy E.3.4.4 of Volume 1, the density shall be in the range of 30 to 49 units per net residential hectare.
 - iii) The maximum height of dwelling units shall be three storeys.

B.7.5.9.5 Gateways

- a) To promote and enhance community identity, two Gateways shall be provided in the following locations:
 - ii) the existing or realigned Green Mountain Road West, West of the intersection with Upper Centennial Parkway.
- b) Gateways shall be designed to express the distinct character of the neighbourhood and signal entrance into a pedestrian-friendly area. They shall incorporate enhanced landscaping which may include a central landscape median and/or architectural feature.

B.7.5.10.6 Local roads shall be designed within a 20 metre right-of-way width. Smaller right of way widths may be considered subject to the approval of the City.”

The proposed development is for a maximum of 27 street townhouses on 0.502 net residential hectares. This translates to 47.7 and 62.3 units per net residential hectare for Blocks ‘A30’ and ‘A31’, respectively. The UHOP recognizes that there are some previously existing land uses that do not comply with the goals and objectives set out in the Plan, and the following relevant policies for existing, non-complying and non-conforming uses apply to the proposed development:

“F.1.12.7 Legally existing land uses which do not comply with the land use designations shown on Schedule E-1 - Urban Land Use Designations or

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their related policies should cease to exist over time. Accordingly, such uses shall be deemed as legal non-complying.

F.1.12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:

- a) the Zoning By-law shall permit only the existing use and the associated performance standards;
- b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,
- c) the use is in compliance with appropriate provincial and municipal regulations.

F.1.12.9 The expansion or enlargement or change in legal non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan and the Zoning By-law.”

The existing Multiple Residential “RM3-38” Zone, Modified that applies to the site permits townhouse dwellings. The site-specific Zoning By-law was approved December 9, 2010, prior to the adoption of the UHOP. As stated above, a maximum density of 62.3 units per net residential hectare is proposed for Block ‘A31’ which exceeds the 49 units per net residential hectare maximum density for lands designated “Low Density Residential 2h” in the Nash Neighbourhood Secondary Plan.

In this regard, Section F.1.12.8 of the UHOP provides an opportunity to carry forward and recognize these existing non-complying zoning permissions. The proposed uses are supported by the general policies for the “Low Density Residential 2h” in the Nash Neighbourhood Secondary Plan and are supported by the objectives of the PPS (2014) and A Place to Grow (2019) which encourage compact form in settlement areas. These uses are compatible with the character of surrounding development in the neighbourhood. The surrounding subdivision pattern and street network has been designed specifically to accommodate this form of development and, as such, it will not introduce any safety issues with respect to traffic. For lands designated “Low Density Residential 2h” for all phases of the Victory Ridge subdivision, a total of 163 dwelling units are existing/proposed on 4.16 net residential hectares, which translates to 39.2 units per net residential hectare. Therefore, the overall density meets the general intent of the policies of the Nash Neighbourhood Secondary Plan. Required variances to the development regulations for Block ‘A31’ to accommodate the proposed form and

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density are further discussed below and in the Analysis and Rationale for Recommendation section of this Report.

The dwelling units are intended to be three storeys in height and in conformity with the maximum building height of 12.5 metres allowed in the Multiple Residential “RM3-38” Zone, Modified.

A 3.0 m buffer between the Street ‘L’ cul-de-sac and Upper Centennial Parkway right-of-way has been provided as part of Open Space Block ‘J’, as shown on the Redline Revised Draft Plan of Subdivision (see Appendix “C” to Report PED20026), to establish an appropriate gateway treatment at the Upper Centennial Parkway / Green Mountain Road intersection. The gateway buffer will be sodded and landscaped by the Applicant with landscape elements and a guardrail that will provide a physical barrier as well as a visual buffer and screening of the cul-de-sac from the intersection to enhance aesthetics of the corner, prevent unauthorized vehicle shortcutting maneuvers between the two roadways, and minimize visual distractions for drivers at the busy intersection. This Open Space Block will be owned and maintained by the City, and cash payment and securities will be required to be put in place respectively for long term maintenance and full replacement cost contingency of the enhanced landscape treatment. These matters have been addressed as Condition Nos. 118 and 126 of Appendix “E” to Report PED20026.

The proposed Street ‘L’ (Utter Place) is classified as a local road with an 18.0 m right-of-way width. The proposed permanent cul-de-sac will also provide an opportunity for a future road access for adjacent lands located at 403, 405, 407, 411, and 413 Upper Centennial Parkway. This frontage provides a preferable option over having direct road access to Upper Centennial Parkway should these lots redevelop. These requirements are being addressed as Condition No. 124 of Appendix “E” to Report PED20026.

Based on the foregoing, staff are of the opinion that the proposed development complies with the policies of the Nash Neighbourhood Secondary Plan.

Stoney Creek Zoning Bylaw No. 3692-92

The subject property is currently zoned Multiple Residential “RM3-38” Zone, Modified, in Stoney Creek Zoning By-law No. 3692-92, as shown on Appendix “A” to Report PED20026.

The Multiple Residential “RM3-38” Zone, Modified permits maisonettes, street townhouses, townhouses, and apartment dwellings. The intended use of the site for 27 street townhouses is permitted in the RM3-38” Zone. The proposed development has been reviewed and compared to the standards of the “RM3-38” Zone. Based on the

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concept plan, as shown on Appendix “B” to Report PED20026, the following minor variances to the “RM3-38” Zone will be required:

- A minimum rear yard setback of 6.0 m for Lots 15 – 27, where 7.0 m is required;
- A minimum required lot area of not less than 180 m² for end units (Lots 15, 21, 22 and 27), where 195 m² is required for end units; and,
- A minimum front yard setback of not less than 4.1 m for Lots 1 – 13 and 2.88 m for Lot 14 for the balconies/support columns, where 4.5 m is required.

The Applicant had indicated their intention to submit a minor variance application for the above modifications upon approval of the revised draft plan of subdivision. These modifications are further discussed in the Analysis and Rationale for Recommendation section of this report. The applicant will be required to apply for and receive final approval of a Minor Variance application from the Committee of Adjustment prior to the approval of a subsequent Part Lot Control application to create the individual lots for each townhouse unit and prior to the issuance of any building permits. Street townhouse dwellings in a registered plan of subdivision are exempt from Site Plan Control.

RELEVANT CONSULTATION

Departments and Agencies		
	<ul style="list-style-type: none"> • Asset Management, Strategic Planning Division, Public Works Department; • Construction, Strategic Planning Division, Public Works Department; and, • Hydro One Networks Inc. 	No Comment
	Comment	Staff Response
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	<ul style="list-style-type: none"> • There are no municipal tree assets on site, and therefore a Tree Management Plan will not be required. • A Landscape Plan, prepared and signed by a certified Landscape Architect, will be required. 	The Landscape Plan must be submitted for review by the Forestry & Horticulture Section, which is addressed as Condition 2.8 of the City’s Standard Conditions of Subdivision Approval. The condition of Street Tree Planting will be cleared upon receipt of a plan depicting

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		new trees and a cash payment.
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	<p><u>Roadways</u></p> <ul style="list-style-type: none"> The proposal identifies the removal of the existing cul-de-sac turnaround, extension of the 18.0 m municipal right-of-way (Street 'L'), and a cul-de-sac at the east limit with a minimum asphalt radius of 13.0 m and minimum outside radius of 18.0 m. The current local road standard width is 20.0 m with 1.5 m sidewalk along both sides; however, the existing Street 'L' in the "Victory Ridge Phase III" subdivision – to the immediate west of the subject site – was approved and constructed with an 18.0 m municipal right-of-way, with the existing sidewalk constructed on the south side of Street 'L' only. Thus, because of this existing condition a sidewalk shall only be required to be constructed along the south side of Street 'L' in Phase IV. The sidewalk will continue partway around the turning circle and turn south through Open Space Block 'J' to connect to the existing sidewalk along Green Mountain Road West. In addition, the Owner will provide cash-in-lieu for the sidewalk on the north side of Street 'L'. The Geotechnical Investigation, prepared by Urbantech West, dated March 25, 2019, will need to be revised to reflect City standards with respect to road 	<ul style="list-style-type: none"> The roadway standard matters are being addressed as revised Condition Nos. 104, 113 and 114 of Appendix "E" to Report PED20026, and cash-in-lieu for the sidewalk will be addressed through the standard form Subdivision Agreement. The Geotechnical Investigation is addressed as revised Condition No. 38 of Appendix "E" to Report PED20026. The requirement for an on-street Parking Plan is addressed as existing Condition No. 101 of Appendix "D" to Report PED20026. The right-of-way widening has been dedicated through existing Condition No. 34 of Appendix "D" to Report PED20026.

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	<p>construction.</p> <ul style="list-style-type: none"> • The on-street Parking Plan, prepared by Urbantech West, dated January 2019, has been reviewed and is deemed satisfactory. • A road widening along Green Mountain Road West has been identified as Block 'H' as shown on the Redline Revision Draft Plan of Subdivision (see Appendix "C" to Report PED20026). 	
	<p><u>Water</u></p> <p>There are existing watermain stubs at the existing east limit of Utter Place (Street 'L') as well as on Green Mountain Road West at the intersection of Upper Centennial Parkway. A watermain loop connecting these stubs through Block 'J' is proposed, as shown on the Redline Revision Draft Plan of Subdivision (see Appendix "C" to Report PED20026).</p>	Noted.
	<p><u>Wastewater</u></p> <p>Sanitary flows from the proposed development will drain to the existing sewer at the existing east limit of Utter Place (Street 'L'), ultimately discharging to the existing sanitary trunk sewer on Upper Centennial Parkway. As part of the detailed engineering design, the Owner shall provide a revised Functional Servicing Brief to account for external sanitary flows and construct a sanitary sewer along the frontage within the Upper Centennial Parkway</p>	Noted.

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	road allowance.	
	<p><u>Adjacent Lands</u></p> <p>Municipal services from this proposal shall be sized and extended to the perimeter of the site to the north to allow a watermain and sanitary sewer to be extended to the existing properties on Upper Centennial Parkway to the north of the subject lands.</p>	<p>This is addressed as revised Condition No. 28 of Appendix “E” to Report PED20026. The detailed engineering design shall also consider a future driveway connection to the properties on Upper Centennial Parkway.</p>
	<p><u>Grading and Drainage</u></p> <p>The proposed grading shall match existing elevations at the property line, and storm drainage from the proposed lots and blocks shall be directed to Street ‘L’ while Block ‘H’ will drain towards Green Mountain Road. Minor drainage from the proposed rear yards shall be directed to Street ‘L’, while major drainage and emergency overland flow for Block ‘A30’ shall be directed to Street ‘L’. In coordination with Heritage Planning staff, grading work shall be permitted within Block ‘E’ – Archaeological Site to provide a major overland flow route for the rear yards of Block ‘A31’. Approved grading works within Block ‘E’ shall be located outside of the designated archaeological limit and the archaeological feature shall remain undisturbed at all times. The proposed grading design at Lot 27 shall ensure that no storm drainage is directed to Block ‘A28’. These, amongst other detailed design matters, will be addressed through the detailed engineering design of the storm system. The detailed design shall also ensure that there are</p>	<p>These matters are being addressed as Condition Nos. 116 and 117 of Appendix “E” to Report PED20026.</p>

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	<p>sufficient side and rear yard setbacks on Blocks 'A30' and 'A31' to satisfy grading requirements and facilitate a rear yard catchbasin connection along the west property line of Block 'A31' within the subject lands.</p>	
	<p><u>General</u></p> <p>As part of the detailed engineering design and review, the Owner will also be required to:</p> <ul style="list-style-type: none"> • Provide a hydrogeological study and well water survey; • Implement the recommendations in the revised Redhill Landfill Impact Assessment regarding lands located to the south; and, • Provide a dust mitigation plan and conduct surveys and submit protocols and plans where services are to be constructed in rock. <p>The proposed watermain must satisfy Form 1 requirements. An Environmental Compliance Approval application will be required for the proposed sewers.</p> <p>The Owner will also be required to demolish the existing sales office prior to pre-grading of the site.</p> <p>In accordance with the City's Comprehensive Development Guidelines and Financial Policies Manual (2017) there will be no cost sharing for this subdivision.</p>	<ul style="list-style-type: none"> • Hydrogeological study and well water survey are addressed as revised Condition Nos. 26 and 27 of Appendix "E" to Report PED20026. • Landfill Impact Assessment implementation addressed through existing Condition Nos. 81 – 84 of Appendix "D" to Report PED20026, and an additional condition is included as Condition No. 120 of Appendix "E" to Report PED20026. • Dust mitigation plan and surveys are addressed through existing Condition Nos. 106 – 108 of Appendix "D" to Report PED20026. • Form 1 and ECA requirements are addressed as Condition 1.10 of the City's Standard Conditions of Subdivision Approval. • Demolition is addressed as Condition No. 112 of Appendix "E" to Report PED20026.
<p>Growth Planning</p>	<ul style="list-style-type: none"> • Conditions of Draft Plan of 	<ul style="list-style-type: none"> • Existing conditions are

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<p>Section, Growth Management Division, Planning and Economic Development Department</p>	<p>Subdivision approval must take into account both the original Draft Approval Conditions, dated December 9, 2010 as well as the revised Draft Approval conditions for Phase 3, dated October 23, 2017.</p> <ul style="list-style-type: none"> • Easements for access to the rear yards may be required. • Restrictions on fencing in front yards may be required. • Requested that a note be included on the draft plan conditions indicating that draft plan approval shall lapse if the plan is not given final approval within three years or an extension has been granted. 	<p>attached as Appendix “D” to Report PED20026. The revisions have been considered through the revised Special Conditions attached as Appendix “E” to Report PED20026.</p> <ul style="list-style-type: none"> • Easements will be addressed through future Part Lot Control application(s) required to create individual lots for each unit. • Fencing has been addressed through Condition No. 126 of Appendix “E” to Report PED20026. • Approval limitation has been added as Note No. 1 in the condition of Draft Plan of Subdivision approval (See Appendix “E” to Report PED20026).
<p>Hamilton Conservation Authority (HCA)</p>	<p>Advises that the location of the proposed Revised Draft Plan does not contain lands that are regulated by HCA and has no objection to the proposed red line revisions. However, staff advise that their relevant draft plan conditions will be applicable to this future phase.</p>	<p>Relevant conditions of original Draft Plan approval, dated December 9, 2010, as well as conditions of revised Draft Plan approval for Phase 3, dated October 23, 2017, are attached as Appendix “D” to Report PED20026.</p>
<p>Landscape Architectural Services, Strategic Planning Division, Public Works Department (LAS)</p>	<ul style="list-style-type: none"> • Requested cash-in-lieu of parkland dedication. • The Owner will be required to provide fencing along the adjacent Block ‘E’ – Archaeological Site, as shown on the Redline Revision 	<ul style="list-style-type: none"> • Cash-in-lieu of parkland will be addressed through the standard form Subdivision Agreement and as part of the building permit process.

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	<p>Draft Plan of Subdivision (see Appendix “C” to Report PED20026).</p> <ul style="list-style-type: none"> • The Owner shall include a clause in all Purchase and Sales agreements advising that the Archaeological Site is intended to remain in a natural state and maintenance of this block will be kept at a minimum. • The City will assume ownership and maintenance of Open Space Block ‘J’, provided that the gateway feature consist of vegetation only and not architectural features (i.e. decorative walls, etc.). LAS has requested cash payment and securities be put in place respectively for maintenance and replacement cost contingency of the enhanced landscape treatment, including any necessary irrigation systems. 	<ul style="list-style-type: none"> • Fencing is addressed as revised Condition No. 103 of Appendix “E” to Report PED20026. • Warning clause is included as existing Condition No. 14 of Appendix “D” to Report PED20026. • Open Space Block ‘J’ matters are addressed as Condition Nos. 118, 119 and 127 of Appendix “E” to Report PED20026.
Public Health Services, Healthy Environments Division, Healthy and Safe Communities Department	Requested a Pest Control Plan during the construction/development phase of the project.	This requirement is being addressed as Condition No. 115 of Appendix “E” to Report PED20026.
Recycling and Waste Disposal Section, Environmental Services Division, Public Works Department	Development is eligible for municipal waste collection service subject to meeting the City’s requirements. The property owner must contact the City to request waste collection service to complete a site visit to determine if the property complies with the City’s waste collection requirements.	This requirement is being addressed as Note No. 3 in the conditions of Draft Plan of Subdivision approval (See Appendix “E” to Report PED20026).

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Transit Planning and Infrastructure, Public Works Department	<ul style="list-style-type: none"> • Advised that the site is adjacent to the S-Line, a future Rapid Transit Corridor, on Upper Centennial Road. • There is existing local transit on Upper Centennial Parkway (Route 44), including a bus stop adjacent to the subject site. • Their preference is to see transit oriented design, including direct pedestrian connections between front entrances and Upper Centennial Road. 	The applicant is proposing to extend the sidewalk along the proposed cul-de-sac through the open space block to connect to the existing sidewalk along Green Mountain Road West, which continues eastwards to the existing bus stop.
Transportation Planning Section, Planning and Economic Development Department	<ul style="list-style-type: none"> • Reviewed and approved the Transportation Impact Study (TIS) with no revisions required. • Require 1.5 metre wide sidewalks on both sides of Street 'L'. 	Sidewalks are proposed to be constructed on the south side of the street and the Owner will provide cash-in-lieu for the sidewalk on the north side, and the provision of sidewalks are being addressed as Condition Nos. 113 and 114 of Appendix "E" to Report PED20026.
Union Gas	Requested that as a condition of final approval, the Owner is required to provide the necessary easements and/or agreements required for the provision of gas services for this project.	This requirement is being addressed as Condition No. 128 of Appendix "E" to Report PED20026.

Public Consultation

As the proposal is for revisions to an approved Draft Plan of Subdivision that implements the 2008 zoning approvals, no public consultation strategy was required.

In accordance with the provisions of the *Planning Act*, the Public Notice Sign was updated on January 8, 2020, with the Public Meeting date. Finally, Notice of the Public Meeting was given in accordance with the requirements of the *Planning Act* on January 17, 2020.

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ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The application is for Revisions to a Draft Plan of Subdivision to provide for up to 27 street townhouse units on the extension of a public road. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS and conforms to A Place to Grow (2019);
 - ii) It provides for dwelling units in an area where full municipal services are available, making efficient use of the land and infrastructure; and,
 - iii) The proposed development is compatible with the existing development in the immediate area with respect to use, size and scale.

2. The subject lands are part of Phase IV of the subdivision known as Victory Ridge, located on the northwest corner of Green Mountain Road West and Upper Centennial Parkway, with access and frontage from an extension of Utter Place. The subject application (25T-200803R) is to extend a public road (Street 'L' to be locally known as Utter Place) eastward through the site, terminating as a cul-de-sac at the eastern end of the block to accommodate a maximum of 27 freehold street townhouse dwellings.

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

- (a) It is consistent with the Provincial Policy Statement and conforms to A Place to Grow (2019);
- (b) Through the phasing of development within the Nash Neighbourhood Secondary Plan, the proposal represents a logical and timely extension of existing development and services and is in the public interest;
- (c) It complies with the applicable policies of the Urban Hamilton Official Plan and the Nash Neighbourhood Secondary Plan;
- (d) The subject lands can be appropriately used for the purposes for which it is to be subdivided and will not negatively impact natural heritage features, and flood control will be addressed through stormwater management plans that will be required as standard conditions of draft plan approval;
- (e) The proposed subdivision will be compatible with the existing road network and block pattern of the surrounding neighbourhood;

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- (f) The proposed road will adequately service the proposed subdivision and is a logical extension the current road network;
- (g) The dimensions and shapes of the proposed lots conform to the Zoning By-law and are sufficient to accommodate the proposed development of street townhouse dwellings, subject to the applicant applying for and receiving approval of minor variances;
- (h) Restrictions and regulations for the development of the subdivision are included in the conditions of draft plan approval and Subdivision Agreement;
- (i) Adequate utilities and municipal services are available to service the proposed lots within the subdivision, the particulars of which will be determined as part of the conditions of draft approval and Subdivision Agreement; and,
- (j) The application will not have any negative impact on the City's finances.

Further to (g) above, based on the concept plan, as shown on Appendix "B" to Report PED20026, the following minor variances to the "RM3-38" Zone will be required:

- A minimum rear yard setback of 6.0 m for Lots 15 – 27, where 7.0 m is required;
- A minimum required lot area of not less than 180 m² for end units (Lots 15, 21, 22 and 27), where 195 m² is required for end units; and,
- A minimum front yard setback of not less than 4.1 m for Lots 1 – 13 and 2.88 m for Lot 14 for the balconies/support columns, where 4.5 m is required.

With respect to the first two minor variances, these are specific to Block 'A31' and are due to the shallow depth of this Block (18.7 to 19.1 m) as a result of the fixed road location at the western limit of the site (Utter Place) and the Open Space archaeological site buffer identified as Block 'E', shown on the Redline Revision Draft Plan of Subdivision (see Appendix "C" to Report PED20026). Based on this and as the archaeological site buffer is located at the rear of the units and no other dwellings or structures would back onto the units, a reduced rear yard setback can be supported, provided that the rear yards can be graded at a maximum slope of 5% in accordance with City of Hamilton grading requirements which would be addressed as part of detailed engineering design and review. With respect to the lot area, it is noted that the internal units comply

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with the lot area requirements, and the end units comply with the side yard setbacks. With the exception of the additional lot area required for the side yards, the lots are otherwise identical and therefore the minor variances are technical in nature.

With respect to the front yard setback of the lots in Block 'A30', these non-conformities are a result of the foundation and support columns for the second storey balconies and are subject to the principal building front yard setback (4.5 m). If the balconies were cantilevered, then the front yard setback would be measured to the partition walls, which would comply as they are setback no less than 7.0 m which is greater than the minimum required 4.5 m. Cantilevered balconies may be as close as 3.0 m to the front lot line. With the exception of Lot 14, the balconies would conform as shown if they were cantilevered. The balcony and column of Lot 14 are shown to be 2.88 m from the street line which would not conform.

The applicant will be required to apply for and receive final approval of a Minor Variance application from the Committee of Adjustment in support of this proposed development prior to the approval of a subsequent Part Lot Control application to create the individual lots for each townhouse unit and prior to the issuance of any building permits.

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

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the lands could be developed in accordance with the Multiple Residential "RM3-38" Zone, Modified, which permits uses including, but not limited to, townhouse dwellings as a single block with private internal roads, for rental tenure or a plan of condominium application could be made for condominium tenure.

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

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APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

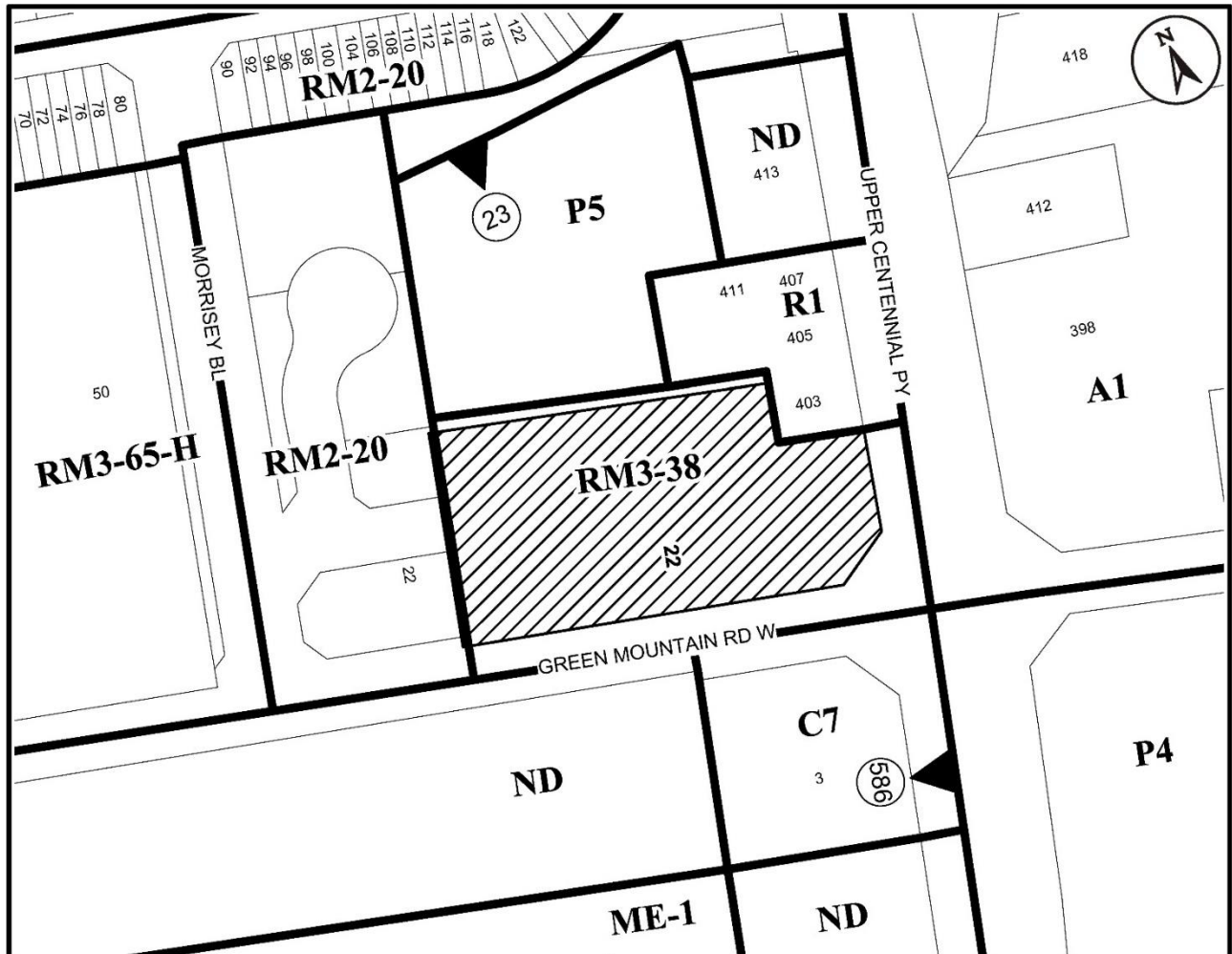
Appendix “B” – Concept Plan

Appendix “C” – Redline Revision Draft Plan of Subdivision

Appendix “D” – Original and Revised Conditions of Draft Plan of Subdivision Approval
(File Nos. 25T-200803 and 25T-200803(r))

Appendix “E” – Draft Plan of Subdivision Special Conditions

TV:mo



● Site Location



Key Map - Ward 9

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
25T-200803R

Date:
October 7, 2019

Appendix "A"

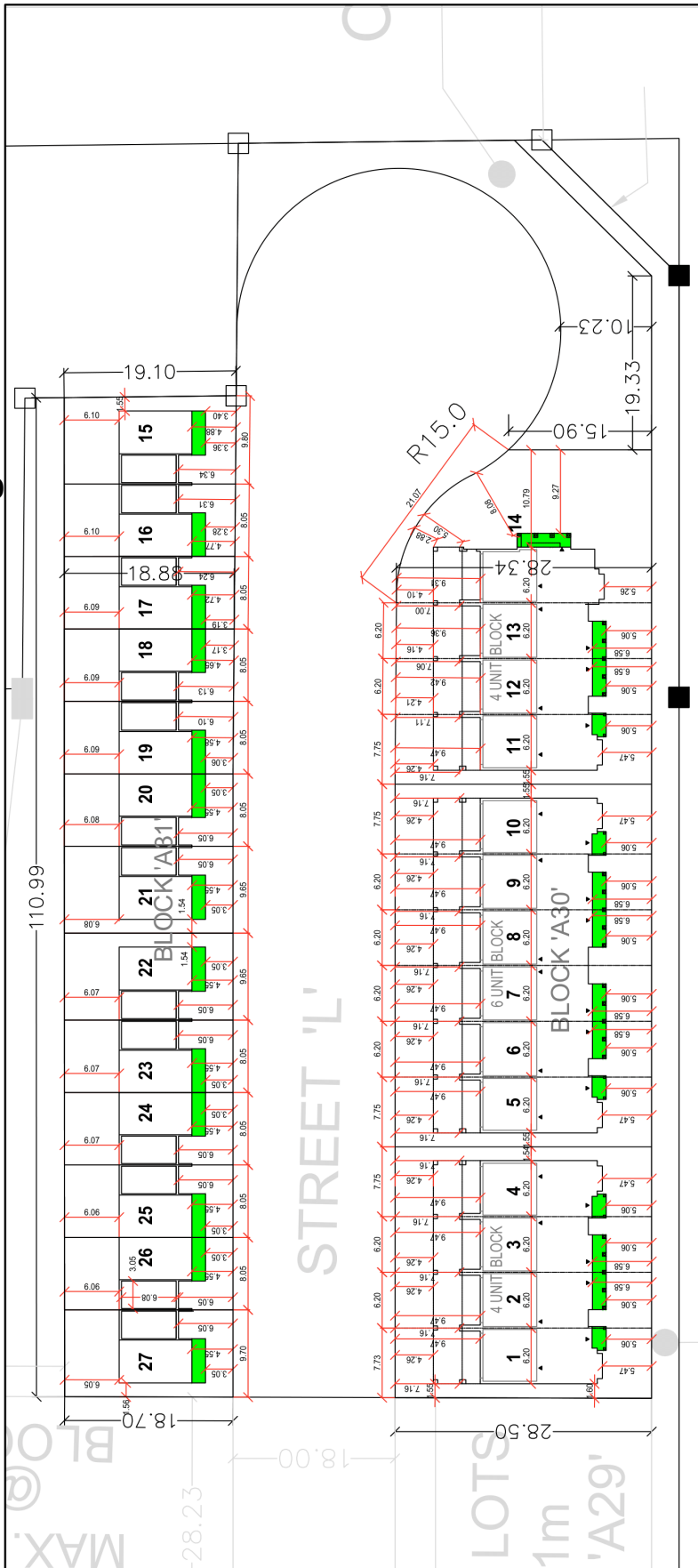
Scale:
N.T.S.

Planner/Technician:
TV/NB

Subject Property

22 Green Mountain Road

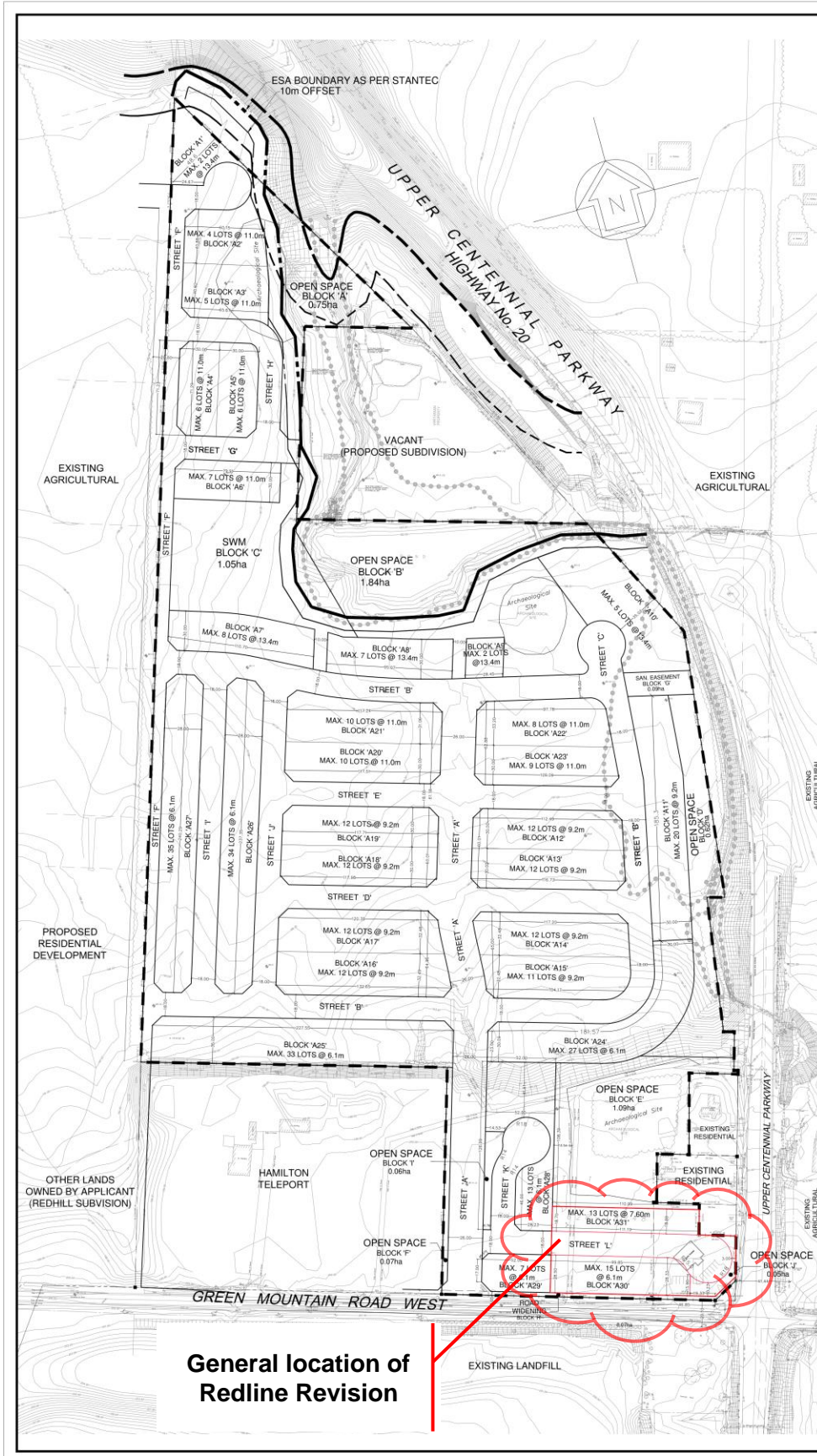
VICTORY PHASE 4: Lotting



Aug 14, 2019

LOT	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Area (m2)	221.41	173.85	173.85	222.30	221.75	173.85	173.85	173.85	173.85	222.30	222.16	173.39	173.06	436.17	183.53	152.76	152.17	151.58	150.99	150.72	180.64	180.60	150.63	150.60	150.58	150.55	180.91
Frontage (m)	7.73	6.20	6.20	7.75	7.75	6.20	6.20	6.20	6.20	7.75	6.20	6.20	6.20	21.07	9.80	8.05	8.05	8.05	8.05	8.05	9.65	9.65	8.05	8.05	8.05	8.05	9.70

Covered Porch



General location of Redline Revision

KEY MAP

ADDITIONAL INFORMATION
 Required Under Section 51(17)
 Of The Planning Act R.S.O. 1990 c.P.13

SUBJECT LANDS
 ADDITIONAL LANDS OWNED BY APPLICANT

Proposed Land Use	Reference	Area (Ha)
Residential Singles 13.4m	BLOCKS A1, A7, A8, A9, A10	1.41
Residential Singles 11.0 m	BLOCKS A2, A3, A4, A5, A6, A20, A21, A22, A23	2.57
Residential Singles 9.2 m	BLOCKS A11, A12, A13, A14, A15, A16, A17, A18, A19	3.46
Street Townhouses 6.1m	BLOCKS A24, A25, A26, A27, A28, A29, A30	3.54
Street Townhouses 7.6m	BLOCK A31	0.21
Open Space	BLOCKS A, B, D, E, F, L, I	4.47
SWM Pond	BLOCK C	1.05
Sanitary Easement	BLOCK G	0.09
Road Widening	BLOCK H	0.07
Roads	STREETS A-L	6.49
TOTAL SITE AREA		23.36

Proposed Unit Counts		
13.4m Single Detached Lots	24	6%
11.0m Single Detached Lots	63	17%
9.2m Single Detached Lots	115	30%
6.1m Street Townhouses	164	43%
7.6m Street Townhouses	13	3%
Total Dwelling Units	381	100%

DATA NOTES AND LEGEND

No.	REVISION	DATE
15	REVISE LIMITS OF BLOCK 30, BLOCK J, STREET L, DELETE BLOCK K	FEBRUARY/2019
14	REPLACE MEDIUM DENSITY BLOCK WITH TOWNHOUSE BLOCKS 30, 31, EXTEND STREET L	JULY/2018
13	REVISE LIMITS OF BLOCK 28, STREET K	JANUARY/2017
12	REVISE LIMITS OF BLOCK 30, 28, E, STREET K	JULY/16
11	REVISE STREET K TO INCLUDE CUL-DE-SAC	FEBRUARY/16
10	REVISE STREET K TO INCLUDE CUL-DE-SAC	JANUARY/16
9	MEDIUM DENSITY BLOCK REMOVED & STREET L EXTENDED EAST 6.0M TOWNS ADDED ON SOUTH SIDE OF STREET L AND 7.6M TOWNS ADDED ON THE NORTH SIDE OF STREET L	JULY/15
8	REPLACE BLOCKS 30, 31 WITH MEDIUM DENSITY BLOCK ADD CUL-DE-SAC	JUNE/15
7	BLOCK A28 & A30 SHIFTED SOUTH, REVISE BLOCK A28 SHARE PUBLIC ROADS ST. K & L, REVISED TO 18m, OPEN SPACE BLOCK H & J REMOVED, ROAD WIDENING BLOCK K ADDED	MAR/15
6	REVISE BLOCK A28 TO ADD PUBLIC ROADS	NOV/14
5	REVISED	OCT/10
4	REVISED STREET "A" LAYOUT	APRIL/10
3	LOT LAYOUT REVISIONS	NOVEMBER/08
2	LOT LAYOUT REVISIONS	OCTOBER/08
1	CUL-DE-SAC ADDED	MARCH/08

REVISIONS

OWNER'S CERTIFICATE

BE, BEING THE REGISTERED OWNER OF THE SUBJECT LANDS HEREBY AUTHORIZE ARMSTRONG HARTER & ASSOCIATES TO PREPARE AND SUBMIT A DRAFT PLAN OF SUBDIVISION FOR APPROVAL.

SIGNED: DATE: March 25, 2019.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE SUBJECT LANDS AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN ON THIS PLAN.

SIGNED: DATE: March 25, 2019.

REDLINE REVISION DRAFT PLAN

of Subdivision
 PART OF LOT 25
 CONCESSION 5
 (GEOGRAPHIC TOWNSHIP OF SALTFLEET)

CITY OF HAMILTON armstrong

SCALE: 1:1,500
 PROJECT No.: 1790
 DESIGN: D.S.
 DRAWING No.: 15
 APPROVED: DATE: February 27, 2019

<p>Approved by the O.M.B.</p> <p>Issue Date: <u>December 9, 2010</u></p> <p>OMB File</p> <p>Decision/Order No. <u>PL091011</u></p>

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PL091011

ATTACHMENT "4":**Conditions of Draft Plan of Subdivision Approval for "Empire Nash"**

1. That this approval apply to "Nash Neighbourhood Redline Revision Draft Plan of Subdivision", prepared by Armstrong Hunter and Associates, and certified by Bryan Jacobs, OLS, dated October 2010, showing a maximum of 423 units consisting of: 129 street townhouse residential lots (Blocks A24, A25, A26 and A27), 115 single detached residential lots with 9.2m lot frontages (Blocks A11, A12, A13, A14, A15, A16, A17, A18 and A19), 65 single detached residential lots with 11.0m lot frontages (Blocks A2, A3, A4, A5, A6, A20, A21, A22 and A23), 24 single detached residential lots with 13.4m lot frontages (Blocks A1, A7, A8, A9 and A10), 90 medium density units (Blocks A28 and A29); 4 open space blocks (Blocks A, B, D and E), a stormwater management pond (Block C), a sanitary sewer easement block (Block G), one block to be added to the lands to the west (Block F), and the creation of 10 new internal public roads, (Streets A, B, C, D, E, F, G, H, I and J), subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the following Special Conditions:
2. That, prior to preliminary grading or servicing, the Owner submit a tree preservation study and plan, prepared by a certified arborist or landscape architect, for review and approval by the Director of Capital Planning and Implementation, Public Works Department, and provide written certification from the Owner's landscape architect/arborist to the Director of Planning that all measures for the protection of isolated trees, tree clusters and woodlands, in accordance with the Detailed Tree Preservation Plan approved by the City, have been implemented and inspected, prior to any clearing or grubbing of the lands within the draft plan.
3. That, prior to registration of the final plan of subdivision, and at the Owner's expense, the Owner shall submit Architectural and Urban Design Guidelines, prepared by a qualified architect or urban designer (referred to as the "Design Architect"), and where required on the draft plan, be in accordance with the requirements and/or recommendations contained within the Visual Assessment Study approved by the Niagara Escarpment Commission, to the satisfaction of the Director of Planning.
4. That, prior to registration of the final plan of subdivision, and at the Owner's expense, the Owner shall have a "Control Architect", independent of the "Design Architect" firm or individual retained, to the satisfaction of the Manager of Community Planning and Design, and whose function shall be:
 - i) To ensure, amongst other matters, the appropriate development of each lot with respect to siting, built form, materials, colours and landscaping in

compliance with the approved Architectural and Urban Design Guidelines, including the Visual Analysis for Blocks A1 and A10; and,

- ii) To certify, through stamping and signing, all drawings for the development of each lot and or block subject to the architectural guidelines prior to the issuance of any building permit(s).
5. That the Owner agrees, at their expense, to design and construct an entrance feature that is prepared by a qualified landscape architect, to the satisfaction of the Director of Planning and the Director, Operations and Maintenance.
 6. That, prior to registration of the final plan of subdivision, the Owner shall submit a Landfill Impact Assessment, to the satisfaction of the Director of Planning. This assessment shall comply with MOE Guideline D-4, Land Use On or Near Landfills and Dumps. Specifically, this study shall consider landfill-generated gases, ground and surface water, contamination by leachate, odour, litter, contaminant discharges associated with vehicular traffic, visual impact, dust, noise, other air emissions, fires, surface runoff, vectors and vermin, and the migration of methane gas. The assessment shall identify any required remediation measures, controls, or conditions that should be included if the proposed development is approved in order to minimize adverse effects on the proposed land use from the landfill. The Landfill Impact Assessment, and any studies completed as part thereof, must be completed by qualified experts. Should peer reviews of the assessment or any separate reports prepared as part of the assessment be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the, Director of Planning.
 7. That, prior to registration of the final plan of subdivision, the Owner shall investigate the noise levels on the site, and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment's recommended sound level limits. An acoustical report, prepared by a qualified Professional Engineer and containing the recommended control measures, shall be submitted, to the satisfaction of the, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the Director of Planning and Director of Development Engineering.
 8. That, prior to registration of the final plan of subdivision, the Owner submits an addendum to the Environmental Impact Statement (EIS), prepared by Stantec, dated February 22, 2008, for review by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG), and implement the recommendations/mitigation measures as requested by the City of Hamilton, to the satisfaction of the Director of Planning.

9. That, prior to the issuance of any building permit, the Owner shall submit a signed Record of Site Condition (RSC) to the Director of Planning and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.
10. That, prior to the issuance of building permits for any lot for a single detached dwelling where an interior side yard setback is less than 1.2 metres, that the Owner establish all required maintenance easements or such other mechanism that will allow for maintenance to the satisfaction of the City Solicitor and Director of Planning. Where a foundation wall must be constructed prior to final determination of the easement location, the Owner shall agree, in writing, that the maintenance easements or any other mechanism that has been approved by the City Solicitor and Director of Planning will be established prior to occupancy, all to the satisfaction of the Director of Planning.
11. That, prior to registration of the final plan of subdivision, Block "B" ("Nash II" Archaeological site AhGx-248) and Block "E" ("Nash IV" Archaeological Site AhGx-250) be conveyed to the City.
12. Those, prior to registration of the draft plan of subdivision, the Owner provide the sum of \$25,000 to be placed in a City fund for the perpetual care and maintenance of Blocks "B" and "E", to the satisfaction of the Director of Planning.
13. That, prior to registration of the final plan of subdivision, the Owner prepare, at their expense, an archaeological site management plan for Blocks "B" and "E", prepared by a licensed archaeologist from the City of Hamilton's roster, to the satisfaction of the Director of Planning detailing, but not limited to:
 - i) The intended long-term use of the Blocks "B" and "E";
 - ii) Any means of long-term physical definition and protection of the sites;
 - iii) Surface treatment (e.g. ground-cover);
 - iv) Neighbourhood and Councillor engagement; and,
 - v) First Nations engagement, and the nature of this involvement.
14. That, prior to registration of the final plan of subdivision, the Owner agree to the inclusion in the Subdivision Agreement of the following warning clause:

"Purchasers are advised that despite the fact the City has ownership of the archeological sites, maintenance of those sites will be at a minimum, and the sites will remain in a natural state, which may become of concern, occasionally interfering with some activities of the abutting land owners."
15. That, prior to registration of the final plan of subdivision, the Owner agrees to prepare and implement a grading plan, incorporating the recommendations of the final Visual Impact Assessment, to address the final building height for

Blocks "A1" and "A10", to the satisfaction of the Director of Engineering in consultation with the Niagara Escarpment Commission.

16. That, prior to registration of the final plan of subdivision, storm sewers, sanitary sewers and water shall be available to service the lands of the draft plan, to the satisfaction of the Director of Development Engineering.
17. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time trunk sanitary sewer and watermain, including appurtenances, are constructed in accordance with the City Water/Wastewater Master Plan, and the supporting Conceptual Design Report for the Centennial Parkway Trunk Feeder main and Sanitary Sewer, and Related Master Plan Projects (March 2009), to the satisfaction of the Director of Development Engineering
18. That, prior to servicing, the Owner agree to prepare a comprehensive functional servicing plan for the Nash Neighbourhood for sanitary sewer and watermain servicing. For sanitary servicing, the servicing plan shall investigate alternative servicing options; e.g. deep gravity system vs. shallow gravity system with a pumping station, to the satisfaction of the Director of Development Engineering.
19. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time as full municipal services including sanitary sewers, storm sewers, watermain, and fully urbanized roadway are constructed, at the Owner's expense, on Green Mountain Road West from Upper Centennial Parkway to the west limits of the subject lands, to the satisfaction of the Director of Development Engineering.
20. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the rear yard and side yard of Blocks "A6", "A7", "A8", "A9", and the sideyard of Block "A10, which abut SWM Block "C" and Open Space Block "B", to the satisfaction of the Director of Development Engineering.
21. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the side yard of Blocks "A10" and "A11", which side yards abut Sanitary Sewer and Watermain Easement Block "G", to the satisfaction of the Director of Development Engineering.
22. That, prior to servicing, Owner agree to prepare a detailed stormwater management report to address quality and quantity control, as well as 5 year and 100 year storm, including provisions for a major overland flow route for review and approval by the Director of Development Engineering and all other appropriate agencies, with sufficient back-up information, to verify that the stormwater management facility has been designed with a suitable outlet and in

accordance with current storm water management guidelines, and that the land area designated for a storm water management facility will accommodate the proposed facility. Further, the Owner shall submit: (i) a maintenance plan for the SWM facility; and, (ii) a monitoring plan that describes how the performance and effectiveness of the SWM pond will be monitored to ensure that the SWM quality and quantity control criteria are achieved.

23. That, prior to registration of the final plan of subdivision, the Owner agrees to:

- i) Operate and maintain, in an acceptable manner, SWM facility throughout the construction of all stages of draft plan registration, or until a time as established by the Director of Development Engineering, and monitor such operation and effects thereof;
- ii) Assume full responsibility for the cost to operate and maintain the SWM facility, including any changes to conditions of the MOE's approval until such time that the facility is assumed by the City of Hamilton;
- iii) Provide an operation and maintenance manual, to the satisfaction of the Director of Development Engineering, for the SWM facility, and agree to inspect/monitor and maintain the SWM facility in accordance with said manual throughout construction, or until a time as established by the Director of Development Engineering; and,
- iv) Keep detailed logs concerning performance and required maintenance activities for the pond, including costs for cleaning and removal of sediment etc., to the satisfaction of the Director of Development Engineering. This information is to be included in the operation and maintenance manual that will be provided to the City of Hamilton by the Owner upon the future assumption of the facility,

all to the satisfaction of the Director of Development Engineering.

24. That, prior to registration of the final plan of subdivision, the Owner agree to convey sufficient lands (Block "C") to the City of Hamilton for the purposes of an adequately sized Stormwater Management (SWM) Facility, to the satisfaction of the Director of Development Engineering.

25. That, prior to registration of the final plan of subdivision, the Owner shall prepare a Groundwater Study, which shall assess the impact the proposed development would have on the water supply and the sewage disposal systems on the adjacent properties. Pending the outcome of the Study, the Owner shall propose appropriate mitigative measures to address the concerns; to the satisfaction of the Director of Development Engineering.

26. That, prior to servicing, the Owner shall submit a hydrogeological study, prepared by a qualified professional, that assesses impacts to existing and future homes, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts, such as continuously running sump pumps both during construction and post construction and to undertake any remedial works, as recommended, including monitoring, to the satisfaction of the Director of Development Engineering.
27. That, prior to servicing, the Owner, through a soil consultant or other qualified consultant, shall: check existing wells which provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells, prior to the commencement of construction; monitor these wells during construction; and check wells for a period of one year after the completion of construction. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Director of Development Engineering.
28. That, prior to registration of the final plan of subdivision, the Owner provide an engineering design for a suitable servicing easement for water, sewer, and road access through Block "A29" to provide for servicing of the future redevelopment of private lands known as 403, 405, 407, 411, and 413 Upper Centennial Parkway, to the satisfaction of the Director of Development Engineering.
29. That, prior to registration of the final plan of subdivision, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the intersection of Street "A" and Street "B" (north intersection), Street "A" and Street "D", Street "A" and Street "E", Street "B" and Street "D", Street "B" and Street "E", Street "B" and Street "F", Street "F" and Street "G", Street "F" and Street "H", Street "G" and Street "H", all to the satisfaction of the Director of Development Engineering.
30. That, prior to registration of the final plan of subdivision, 4.5 metre x 4.5 metre daylight triangles be established on the final plan of subdivision at the "L" shaped bends on Street "B" at the corner of Block "A15" and Block "A22", and the "L" shaped bends of Street "H" at the corner of Block "A5", all to the satisfaction of the Director of Development Engineering.
31. That, prior to registration of the final plan of subdivision, 7.0 metre x 7.0 metre daylight triangles be established on the final plan of subdivision at the south intersection of Street "A" and Street "B", to the satisfaction of the Director of Development Engineering.
32. That prior to registration of the final plan of subdivision, the Owner agree to dedicate the necessary lands for daylight triangles to accommodate the ultimate design of intersection upgrades at the intersection of the widened limits of Green Mountain Road West at Upper Centennial Parkway, to the satisfaction of the Manager, Traffic Engineering and Operations, and the Director of

- Development Engineering. In the event there are temporary works required, the Owner further agree that he will be responsible for all related costs of installation, removal, and restoration.
33. That, prior to registration of the final plan of subdivision, a 7.0 metre x 7.0 metre daylight triangle be established on the final plan of subdivision, at the intersection of the widened limits of Green Mountain Road West and Street "A", to the satisfaction of the Director of Development Engineering.
 34. That, prior to registration of the final plan of subdivision, the final plan of subdivision include a block showing sufficient lands to be dedicated to the City of Hamilton as public highway, by Owner's certificate on the plan, to establish the widened limit of Green Mountain Road West at 13.0 meters from centerline of the original road allowance, to the satisfaction of the Director of Development Engineering.
 35. That, prior to registration of the final plan of subdivision, the Owner shall submit the necessary transfer deeds to the City's Legal Department to convey sufficient lands for a sanitary sewer easement, to the satisfaction of the Director of Development Engineering.
 36. That, prior to servicing, the Owner shall include in the engineering design for the draft plan lands installation of 1.5m wide sidewalks on both sides of Streets "A" and "F"; the outer loop of Streets "B" and "H", the north side of Streets "D" and "E", the south side of Street "G", the west side of Streets "I" and "J", however, all subject to change in accordance with the current applicable City sidewalk policy in affect at the time of engineering approval, to the satisfaction of the Director of Development Engineering.
 37. That, prior to servicing, the Owner include in the engineering design, the driveway locations for the bend in Street "B" and the cul de sacs at the north limits of Streets "C" and "F", to the satisfaction of the Director of Development Engineering, and the Manager of Traffic Engineering and Operations.
 38. That, prior to servicing, the Owner shall implement recommendations of a Geotechnical report, prepared by a qualified consultant, to the satisfaction of the Director of Development Engineering.
 39. That, prior to registration of the final plan of subdivision, the Owner, through a qualified consultant shall: maintain and monitor the existing siltation/erosion control; provide monthly reports until the completion of sodding, all to the satisfaction of the Director of Development Engineering.
 40. That, prior to registration of the final plan of subdivision, the Owner shall include in the engineering design verification that the proposed water main system

provides adequate domestic and fire flows in accordance with MOE requirements, to the satisfaction of the Director of Development Engineering.

41. That, prior to servicing, the Owner shall agree that a maximum of 100 residential units of the final plan shall be permitted to be constructed with only one (1) public road access to service each phase of the development. A second public road access to the subject lands is required, prior to development, beyond the initial 100 residential units, to the satisfaction of the Director of Development Engineering.
42. That, prior to registration of the final plan of subdivision, the Owner agree to urbanize Green Mountain Road West from Upper Centennial Parkway to the west limit of the draft plan lands, including the installation of sewers and sidewalks in accordance with requirements of the Nash Neighbourhood Secondary Plan, to the satisfaction of the Director of Development Engineering, and the Director of Operations and Maintenance.
43. That, prior to servicing, the Owner prepare a street parking plan for Streets 'A', 'B', 'D', 'F', 'G', 'H', 'I' and 'J', based on the premise of achieving on street parking for 40% of the total units, to the satisfaction of the Director of Development Engineering, and the Director of Operations and Maintenance.
44. That, as part of the engineering design, the Owner agree that surface drainage from larger width abutting lots will not be permitted to drain through adjacent narrow width lots, to the satisfaction of the Director of Development Engineering.
45. That, prior to registration of the final plan of subdivision, the Owner pay their proportionate share for the future urbanization of Upper Centennial Parkway, adjacent to the east limit of the subject lands, based on the City's "New Roads Servicing Rate" in effect at the time of payment, to the satisfaction of the Director of Development Engineering.
46. That, prior to registration of the final plan of subdivision, the Owner agree to complete, at their own expense, an Environmental Assessment (Class Environmental Assessment) for the realignment of First Road West and Green Mountain Road West; or, the Owner provide evidence that the Class EA is not necessary, to the satisfaction of the Director of Capital Planning and Implementation, and the Director of Development Engineering.
47. That, prior to registration of the final plan of subdivision, the Owner is to finalize the Traffic Impact Study prepared for the Nash Neighbourhood development lands. The report will consider safety, capacity, phasing, and provide recommendations for improvements in location, geometry and/or intersection control. The report will include development of the Nash Neighbourhood, and

include potential development of the surrounding neighbourhoods, to the satisfaction of the Director of Operations and Maintenance.

48. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for any roadway improvements required on the adjacent road networks as a result of the proposed development identified through the Traffic Impact Study or staff recommendations. Potential works to include design, new roadway construction, pavement widening of existing roads for additional turning lanes or centre two-way left turn lanes, urbanization, traffic signal installation or roundabout construction, signal hardware upgrades at existing signalized intersections, median construction, pavement markings and signage. Roundabout feasibility analysis is suggested to be undertaken by a consultant well versed in Rodel and roundabout design. The Traffic Impact Study has identified the limits of review, including Mud Street and also Highland Road, to the satisfaction of the Director of Operations and Maintenance.
49. That, prior to registration of the final plan of subdivision, the Traffic Impact Study for the Nash Neighbourhood lands, prepared by the Owner (Cole Engineering Group Ltd.), will be peer reviewed by a City of Hamilton roster traffic consultant, at the expense of the Owner. The City's roster consultant shall review the submitted traffic impact studies for the following developments to ensure that a consolidated analysis of all intersections in the study area and their impacts on the road network and adjacent neighbourhoods has been addressed. The peer review analysis will also identify an overview of the recommended improvements required on the arterial and collector road network to ensure an acceptable level of service is achieved, to the satisfaction of the Director of Operations and Maintenance. The traffic impact studies and/or development applications to be reviewed in the peer review exercise are:
- Paletta International Commercial lands @ Mud Street and First Road West (File Nos. ZAC-04-092 and ZAH-06-34).
 - Upper Centennial Developments (File Nos. ZAC-06-99 and OPA-06-26).
 - ORC lands Mud Street at Isaac Brock (File Nos. ZAC-08-062, OPA-08-012 and 25T-200806).
 - City of Hamilton Sports Park Complex Expansion.
 - Penny Lane Estates, Felker (File Nos. ZAC-08-077 and 25T-200808).
 - Paletta International Residential lands, Felker (File Nos. ZAC-09-031 and OPA-09-008).

50. That, prior to registration of the final plan of subdivision, at the Owner's expense, the Owner will be responsible for base road surveying, engineering, potential roundabout or traffic signal design, and pavement marking design for development related projects. At the Owner's expense, they will be required to hire a traffic engineering consultant, approved by the City, to provide City formatted engineering drawings. The City would monitor the roundabout and/or traffic signal design, and pavement marking design, and once the design is close to completion, City staff would finalize the details. Traffic signal, roundabout and pavement marking design drawings must be approved and signed by the Manager of Traffic Engineering and Operations.
51. That, prior to registration of the final plan of subdivision, the Owner dedicate sufficient lands from the north-west corner of Green Mountain Road West at Upper Centennial Parkway to complete intersection traffic control upgrading or re-alignment, based on the approval by the City of the Owner's Traffic Impact Study. The dimensions of the land to be dedicated cannot be confirmed at this time, however, we advise that a 15m x 15m daylight triangle will likely be necessary. The required size of the triangle may increase depending on the ultimate intersection location and upgrades required to accommodate Nash Neighbourhood traffic, multi-lane roundabout or traffic signal, to the satisfaction of the Director of Operations and Maintenance.
52. That, prior to registration of the final plan of subdivision, that the Owner upgrade the existing intersection of Green Mountain Road West at Upper Centennial Parkway, at their cost, in accordance with the recommendations of an approved Class EA process, to the satisfaction of the Director of Operations and Maintenance.
53. That, prior to registration of the final plan of subdivision, that Green Mountain Road West be upgraded to an urban cross-section from Upper Centennial Parkway through the limits of their property, to the satisfaction of the Director of Operations and Maintenance.
54. That, prior to registration of the final plan of subdivision, the urbanization of Green Mountain Road West will include the requirement that the Owner undertake to confirm that the required sightline standards have been met at the intersection of Green Mountain Road West at Street 'A'. The Owner shall incorporate TAC methods in the calculations i.e. driver height at future neighbourhood road intersections looking east and west to the windshield (considering street lights on the roadway) of vehicle on Green Mountain Road, 10 km/h over posted speed, sight lines for left and right turns to attain 85% of design speed per TAC, etc, all to the satisfaction of the Director of Operations and Maintenance.
55. That, prior to registration of the final plan of subdivision, that Green Mountain Road West along the extent of the subject lands, be designated a 26 metre

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road allowance width collector road, with on-street bike lanes, to the satisfaction of the Director of Operations and Maintenance.

56. That, prior to registration of the final plan of subdivision, that the driveway locations at the bend in the Street 'B' be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveways must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
57. That, prior to registration of the final plan of subdivision, that the lots at the north end of Street 'F' be reconfigured to avoid the cul-de-sac road design; if not possible, driveway locations on the cul-de-sac at Street "F" will be relocated. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
58. That, prior to registration of the final plan of subdivision, that the driveway locations on Street 'C' be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
59. That, prior to registration of the final plan of subdivision, that an On-Street Parking Plan be prepared to address lot sizes and the capability of the road network to accommodate on-street parking for the neighbourhood, and still maintain emergency routes and road maintenance activities, to the satisfaction of the Director of Operations and Maintenance.
60. That, prior to registration of the final plan of subdivision, Street 'A' at the southerly intersection with Street 'B', must intersect with as much of a 90 degree angle as possible. The plan shall be modified to provide a straight approach and departure at the intersection, to the satisfaction of the Director of Operations and Maintenance.
61. That, prior to registration of the final plan of subdivision, the Owner prepare and implement an erosion and sediment control plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:
 - a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;
 - b) All erosion and sediment control measures shall be inspected after each rainfall, to the satisfaction of Authority staff;

- c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,
 - d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.
62. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a stormwater management plan and detailed design engineering drawings for the subject property, to the satisfaction of the Hamilton Conservation Authority (HCA) and the Director of Engineering, ensuring all Provincial, municipal, and HCA policies and standards are met.
63. That, prior to registration of the final plan of subdivision, the permanent storm water management facility be dedicated to the City of Hamilton for ownership and maintenance.
64. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a landscaping plan for the storm water management facility, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.
65. That, prior to registration of the final plan of subdivision, the Owner demonstrates, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering, that all major flows, including external drainage, can be conveyed safely, and that all Provincial, municipal, and HCA policies and standards are met.
66. That, prior to registration of the final plan of subdivision, the Owner prepare and implement detailed design drawings that are prepared by a qualified fluviogeomorphologist for the proposed channel works, in accordance with the modeling prepared by MTE Consultants Ltd. in their Functional Floodline Analysis study, dated September 2009, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
67. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified engineer to undertake a structural assessment of the existing weir structure located at the downstream end of the farm pond, and that any identified necessary repair and/or replacement works be implemented to ensure the structural integrity of the man-made structure, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
68. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified geotechnical engineer to undertake an assessment of the Eramosa Escarpment slope, and determine whether the proposed

residential development will have any impacts on slope stability, to the satisfaction of the Hamilton Conservation Authority.

69. That, prior to registration of the final plan of subdivision, a Tree Protection Plan be prepared and implemented that outlines how the proposed retained trees will be protected from development activities prior to and during construction and/or grading activities, to the satisfaction of the Hamilton Conservation Authority.
70. That, prior to registration of the final plan of subdivision, all proposed outdoor lighting located adjacent to the ESA and buffer lands be configured or appropriately shielded to prevent the intrusion of light into these habitat areas, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.
71. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a lot grading plan, to the satisfaction of the Hamilton Conservation Authority.
72. That, prior to registration of the final plan of subdivision, the applicant install chain link fencing, or other acceptable type, at the rear of all lots and blocks that abut open space blocks, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
73. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause and identify on the grading and drainage plans, a requirement for a permit to be obtained from the Hamilton Conservation Authority under its *Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04*, prior to the initiation of any watercourse alterations, and/or construction and grading works within the Authority's regulated areas.
74. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause acknowledging that approval is required under the Federal Fisheries Act from the Department of Fisheries and Oceans, prior to any watercourse alterations.
75. That, prior to registration of the final plan of subdivision, all open watercourse channels and associated flood and erosion hazard lands be contained within an appropriate Open Space zone, to the satisfaction of the Hamilton Conservation Authority.
76. That, prior to registration of the final plan of subdivision, the Visual Impact Assessment is finalized to ensure acceptable building heights for Block A1 and Block A10, to the satisfaction of the Niagara Escarpment Commission

77. That, the Owner acknowledges development of Block A1 and Block A10 will be subject to final Site Plan Approval prior to the issuance of any building permit(s).
78. That prior to the registration of the final plan of subdivision, measurements by Industry Canada, of radio frequency electromagnetic fields adjacent to the Owner's lands are completed and submitted to the City and that the City is advised by Industry Canada there are no Safety Code 6 Guideline issues resulting from development of the Owner's lands and that any recommendations by Industry Canada applicable to the Owner are implemented by the Owner or their implementation is secured by the Owner to the satisfaction of the Director of Planning.
79. That, the owner shall agree in the **Subdivision Agreement**, to include and demonstrate the inclusion, to the satisfaction of the Director of Planning, the following warning clauses in all offers of purchase and sale within 120 m of the common boundaries of the Juch-Tech Property and the Empire Property:

"Residents are advised that they are located and will be living in proximity to a telecommunications facility holding a Class "A" license for the provision of telecommunications services, as well as a radio license from Industry Canada with approval to access space segments on specific satellites for an indefinite period. This establishment has been in operation since March 1999 and involves the use of a number of parabolic reflector antennae (earth stations) and the emission of microwaves through airspace above certain areas within the Nash Secondary Plan area. Residents in the area are advised they will be living adjacent to and underneath those transmissions and that they could be subject to interference, with any communications or other electronic equipment and appliances in use in their home, which interference may affect the ability to use such appliances."

The aforesaid warning clause shall not be discharged.

80. That, the owner shall agree in the Subdivision Agreement, to include the following warning clause:

"Purchasers of any lots within 120 m of the common property boundaries of the Juch-Tech Property and the Empire Property are advised and acknowledge, covenant and agree that:

Purchasers are advised and hereby put on notice that any lot purchased is located in proximity to a telecommunications facility holding a Class "A" license for the provision of telecommunications services, as well as a radio license from Industry Canada with approval to access space segments on specific satellites for an indefinite period. This establishment has been in operation since March 1999 and involves the use of a number of parabolic reflector

antennae (earth stations) and the emission of microwaves through airspace above certain areas within the Nash Secondary Plan area. Residents in the area are advised they will be living adjacent to and underneath those transmissions and that they could be subject to interference, with any communications or other electronic equipment and appliances in use in their home, which interference may affect the ability to use such appliances."

81. That, the owner shall implement the recommendations in the peer review by AMEC of the Landfill Impact Assessment study submitted by the applicant.
82. That, **the owner shall agree in the Subdivision Agreement to pay for the costs associated with a peer review by a qualified professional engineer, to verify the risk model data employed by GlobalTox contained within the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc., for the purpose of confirming the minimum depth of clayey silt soil required between the highest groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills, to the satisfaction of the City of Hamilton, Director of Development Engineering.**
83. That, **prior to the issuance of building permit, implementation of the approved Revised Landfill Assessment prepared by MTE Consultants and dated September 14, 2010 and peer reviews thereof, pertaining to the minimum depth of clayey silt soil required between the highest groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills shall be certified by a qualified professional engineer, stating that the required clayey silt soil layer depth has been placed, compacted and graded for all lots/blocks within 500 metres of the Operating and Closed Landfills, to the satisfaction of the City of Hamilton, Director of Development Engineering.**
84. Prior to building permit issuance the owner shall demonstrate to the Director of Development Engineering that the Owner has made arrangements to include the following condition in any building permit to be issued for all lots/blocks within 500m of the Operating and Closed Landfills:

"A clayey silt soil layer is required to be added to the bottom of the basement excavation prior to foundation work being performed in accordance with the subdivision agreement. The Owner shall provide the Building Inspector with a confirmation from a Professional Engineer that the clayey silt soil layer has been installed in accordance with the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc. and peer review thereof as required in the subdivision agreement,

prior to pouring of the footings."

85. That, **the owner shall** plant street trees of a sufficient quantity and quality, included as part of the Street Tree Planting Plan, within the boulevard on the west side of Street 'A' between Green Mountain Road West and the south side of Block 'A25' to the satisfaction of the Director of Planning.
86. That, prior to the registration of the final plan of subdivision, a landscape plan shall be prepared to the satisfaction of the Director of Planning that provides for tree planting of sufficient quantity and quality along the south side of Block "A25" to the satisfaction of the Director of Planning and that the Owner shall agree in the Subdivision Agreement to implement said landscape plan and that the Owner shall include, in all offers of purchase and sale within Block "A25", provision for the implementation of the approved landscape plan.
87. That, **prior to servicing**, at the Owner's expense, the applicant shall construct a 1.8m tall chain-link fence along the entire southerly side of Block 'A25' parallel on the south side of the southerly lot line of Block 'A25'. Further, should the owner and the adjacent property owner whose property the chain-link fence would be located on are not able to arrange a mutually agreeable schedule and terms on the construction of said fence, then the applicant shall advise the Director of Planning of such a problem, and should further negotiations fail and no agreement is achieved that would enable the fence to be constructed by the Owner in a timely manner such that erection of the fence would impact the timing of construction of the necessary servicing for the subdivision, that this condition shall be considered null and void and waived for the purposes of clearing conditions of Draft Plan Approval, all to the satisfaction of the Director of Engineering.
88. That, **prior to servicing**, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.8m tall board on board fence along the southerly limits of Block 'A25' to the satisfaction of the Director of Planning.
89. That Owner shall not be permitted cost recoveries for Street A from the City through best efforts by the City or any other actions by the City, save and except for over-sizing in accordance with the City's Financial Policies for Development to the satisfaction of the Director of Development Engineering.
90. That **prior to registration of the final plan** of subdivision, or any phase thereof containing Streets "G" and "H", that the Owner shall demonstrate to the Director of Planning that the Owner has provided road and servicing access from Streets "G" and "H" to the abutting lands and that the Owner has provided to the Owner(s) of 601 Upper Centennial Parkway, Roll No. 251800351083600, Terranet Pin No. 17091133, Part of Lot 25, Concession 5, a copy of the most current plan proposed to be registered.

91. That, the Owner shall not be permitted access from: (a) Upper Centennial Parkway to the lands within the draft plan; and (b) Green Mountain Road to Blocks A28 and 'A29'.
92. That no direct driveway access shall be permitted to individual lots or units from Street "A" to Block "A28".
93. That the Owner shall agree in the Subdivision Agreement that Block "F" shall be conveyed, immediately consecutive to the registration of the final plan, to the owner of the abutting lands to the west for nominal consideration and that at the time of conveyance Block "F" shall be sodded at the Owner's expense, all to the satisfaction of the Director of Planning. In addition, and prior the registration of the final plan, the Owner shall make arrangements satisfactory to the City Solicitor and Director of Planning ensuring the conveyance of Block "F", immediately consecutive to registration of the final plan, to the owner of the abutting lands to west for nominal consideration and that Block "F" will be sodded at the Owner's expense at the time of conveyance.
94. That **prior to registration of the final plan**, that the Owner include on the Plan of Subdivision and all applicable Engineering Design Drawings, 0.3m reserves, to be dedicated to the City of Hamilton on the west side of Street 'A' from Green Mountain Road to the southerly limits of Block 'A25' and on the south side of Blocks 'A28' and 'A29' from Street 'A' to the easterly limits of Block 'A29' and on the west side of 'A29' adjacent to Upper Centennial Parkway, all to the satisfaction of the Director of Planning.
95. That prior to servicing the Owner submit an updated Functional Servicing Report and Stormwater Management Report to address approved zoning provisions concerning lot coverage, impervious surface areas, lot grading and servicing and implement in accordance with approval of said documents to the satisfaction of the Director of Development Engineering.
96. That, **prior to registration** the Owner install a minimum 1.8m high black vinyl chain link fence, at the expense of the Owner, 0.3m from the easterly limits of Block 'F' running from the southerly to the northerly limits of Block 'F', to the satisfaction of the Director of Planning.
97. That, **prior to registration** of the final plan of subdivision, the Owner shall secure a storm drainage easement north of the storm water management pond outlet in favour of the City across private lands abutting the lands of the draft plan; to the satisfaction of the Director of Development Engineering.

Approved by the O.M.B.
Issue Date: <u>December 9, 2010</u>
Decision/Order No. <u>PL091011</u>

REVISED SCHEDULE 1
(October 23, 2017)

As authorized by By-law No. 07-323, I, Guy Paparella, hereby revise the draft plan approval for a subdivision located at 22 Green Mountain Road west, Empire Communities, owner, in the City of Hamilton under File No. 25T200803(r), as follows:

a) That condition No. 1 be deleted and replaced with the following:

1) That this approval apply to the 'Redline Revision Draft Plan of Subdivision' prepared by Armstrong Planning and Project Management, and certified by Douglas E Hunt, OLS, dated October 6, 2017, showing a maximum of 450 units consisting of: street townhouse dwellings with a lot frontage of 6.1m (Blocks A24, A25, A26, A27, A28 and A29), single detached residential lots with a frontage of 9.2m (Blocks A11, A12, A13, A14, A15, A16, A17, A18 and A19), single detached residential lots with a frontage of 11.0m (Blocks A2, A3, A4, A5, A6, A20, A21, A22 and A23) single detached residential lots with a frontage of 13.4m (Blocks A1, A7, A8, A9, A10), medium density units (Block A30), 6 open space blocks (A, B, D, E, F, I) a storm water management pond (Block C), a sanitary sewer easement (Block G), a road widening (Block H) and public streets (A, B, C, D, E, F, G, H, I, J, K, L).

b) That the following conditions No.'s 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111 be added:

98) That, **prior to registration of the plan of subdivision**, 9.0m x 9.0m daylight triangles be established on the final plan at the intersection of Street "L" and Street "A", to the satisfaction of the Senior Director, Growth Management Division. Nov 23/18 2.13mm

99) That, **prior to registration of the plan of subdivision**, 4.5m X 4.5m daylight triangles be established on the final plan at the intersection of Street "K" and Street "L", to the satisfaction of the Senior Director, Growth Management Division. Nov 23/18 2.13mm

100) That, **prior to servicing**, the Owner shall include in the engineering design and cost schedules provision for the installation of 1.5m wide sidewalks in accordance with current applicable City sidewalk policy in effect at the time of engineering approval all to the satisfaction of the Senior Director, Growth Management Division. 4.09mm

101) That, **prior to servicing**, the Owner prepares and submits a driveway location/on street parking plan showing: 4.09mm

REVISED SCHEDULE 1
(October 23, 2017)

- i) the location of driveways based on the premise of achieving on-street parking for 40% of the total dwelling units;
- ii) the driveways ramps and curb openings for all lots;
- iii) the pairing of driveways;
- iv) where lots in the subdivision about a park entrance or a public walkway, as the case may be; and,
- v) the location of transit pads, community mailbox pads and fire hydrants, where the location has been determined by the appropriate authorities,

to the satisfaction of the Senior Director, Growth Management Division.

- 102) That, **prior to servicing**, the Owner indicates all driveway locations on the engineering drawings for all lots and further that the driveways be established outside of the daylight triangles, to the satisfaction of the Senior Director, Growth Management Division. 4.09hh
- 103) That, **prior to servicing**, the Owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.5m black vinyl chain link fence along the east property limit adjacent to the open space block (Block "E"-Archaeological Site), to the Senior Director, Growth Management Division. 4.09ii
- 104) That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for the installation and removal of a temporary turnaround, minimum asphalt radius R=13.0 and a minimum outside radius R=18.0m, on Street "L" at the easterly limits of the subdivision, including the dedication of land, to the satisfaction of the Senior Director, Growth Management Division. 4.09jj
- 105) That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for the installation of a permanent turning circle of minimum asphalt radius R=13.0m and minimum outside radius R=18.0m at the north limit of Street "K", to the satisfaction of the Senior Director, Growth Management Division. 4.09kk
- 106) That, **prior to servicing**, the Owner provides, to the satisfaction of the Senior Director of Growth Management, a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works as well as the contractor/agent contact information so that the City can direct works be completed as necessary, to the satisfaction of the Senior Director, Growth Management Division. 4.09ll

REVISED SCHEDULE 1
(October 23, 2017)

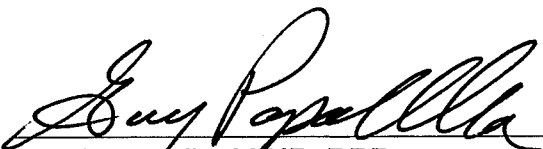
- 107) That, **prior to servicing**, where services are to be constructed in rock, the Owner shall conduct a pre-condition survey of residences within 100 metres and notify residents of rock removal within 200 metres of that phase of construction, to the satisfaction of the Senior Director, Growth Management Division. 4,09mm

- 108) That, **prior to servicing**, the Owner shall submit a rock removal protocol and vibration monitoring plan, including a pre-construction survey and associated cost estimates, prepared by a licensed professional engineer. All associated costs will be borne by the Owner and shall be included in the engineering cost schedules to the satisfaction of the Senior Director, Growth Management Division. 4,09mm

- 109) That, **prior to registration of the plan of subdivision**, the Owner agrees to enter into a long term maintenance agreement with the City to maintain the open space block (Block "I") in perpetuity, including geotechnical monitoring, wall maintenance and annual inspection reports, to the satisfaction of the Senior Director, Growth Management Division. 2.1300
Nov 23/18

- 110) That, **prior to servicing**, the Owner shall demonstrate that the proposed swale along the rear yards of the northerly portion of Block "A28" can adequately convey the minor and major flows, including all external drainage areas to the existing ditch inlet catch basin located in the north-west corner of Block "A28", with no spillage. In addition, all roof water leaders for any townhouse units within the northerly portion of Block "A28" must be directed and discharge at the front of the dwellings, all to the satisfaction of the Senior Director, Growth Management Division. 4,0900

- 111) That the owner agrees they are aware the existing conditions of draft approval have not been updated to reflect the changes on the plan dated October 6, 2017. The clearance of each condition is subject to a review which will determine if further requirements are necessary, to the satisfaction of the Senior Director of Growth Management. 2.13pp
Nov 23/18

Signed: 
Guy Paparella, MCIP, RPP
Director, Growth Planning

Date: October 23, 2017

<p>Approved by the O.M.B.</p> <p>Issue Date: <u>December 9, 2010</u></p> <p>OMB File</p> <p>Decision/Order No. <u>PL091011</u></p>

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PL091011

ATTACHMENT "4":**Conditions of Draft Plan of Subdivision Approval for "Empire Nash"**

1. That this approval apply to "Nash Neighbourhood Redline Revision Draft Plan of Subdivision", prepared by Armstrong Hunter and Associates, and certified by Bryan Jacobs, OLS, dated October 2010, showing a maximum of 423 units consisting of: 129 street townhouse residential lots (Blocks A24, A25, A26 and A27), 115 single detached residential lots with 9.2m lot frontages (Blocks A11, A12, A13, A14, A15, A16, A17, A18 and A19), 65 single detached residential lots with 11.0m lot frontages (Blocks A2, A3, A4, A5, A6, A20, A21, A22 and A23), 24 single detached residential lots with 13.4m lot frontages (Blocks A1, A7, A8, A9 and A10), 90 medium density units (Blocks A28 and A29); 4 open space blocks (Blocks A, B, D and E), a stormwater management pond (Block C), a sanitary sewer easement block (Block G), one block to be added to the lands to the west (Block F), and the creation of 10 new internal public roads, (Streets A, B, C, D, E, F, G, H, I and J), subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the following Special Conditions:
2. That, prior to preliminary grading or servicing, the Owner submit a tree preservation study and plan, prepared by a certified arborist or landscape architect, for review and approval by the Director of Capital Planning and Implementation, Public Works Department, and provide written certification from the Owner's landscape architect/arborist to the Director of Planning that all measures for the protection of isolated trees, tree clusters and woodlands, in accordance with the Detailed Tree Preservation Plan approved by the City, have been implemented and inspected, prior to any clearing or grubbing of the lands within the draft plan.
3. That, prior to registration of the final plan of subdivision, and at the Owner's expense, the Owner shall submit Architectural and Urban Design Guidelines, prepared by a qualified architect or urban designer (referred to as the "Design Architect"), and where required on the draft plan, be in accordance with the requirements and/or recommendations contained within the Visual Assessment Study approved by the Niagara Escarpment Commission, to the satisfaction of the Director of Planning.
4. That, prior to registration of the final plan of subdivision, and at the Owner's expense, the Owner shall have a "Control Architect", independent of the "Design Architect" firm or individual retained, to the satisfaction of the Manager of Community Planning and Design, and whose function shall be:
 - i) To ensure, amongst other matters, the appropriate development of each lot with respect to siting, built form, materials, colours and landscaping in

compliance with the approved Architectural and Urban Design Guidelines, including the Visual Analysis for Blocks A1 and A10; and,

- ii) To certify, through stamping and signing, all drawings for the development of each lot and or block subject to the architectural guidelines prior to the issuance of any building permit(s).
5. That the Owner agrees, at their expense, to design and construct an entrance feature that is prepared by a qualified landscape architect, to the satisfaction of the Director of Planning and the Director, Operations and Maintenance.
 6. That, prior to registration of the final plan of subdivision, the Owner shall submit a Landfill Impact Assessment, to the satisfaction of the Director of Planning. This assessment shall comply with MOE Guideline D-4, Land Use On or Near Landfills and Dumps. Specifically, this study shall consider landfill-generated gases, ground and surface water, contamination by leachate, odour, litter, contaminant discharges associated with vehicular traffic, visual impact, dust, noise, other air emissions, fires, surface runoff, vectors and vermin, and the migration of methane gas. The assessment shall identify any required remediation measures, controls, or conditions that should be included if the proposed development is approved in order to minimize adverse effects on the proposed land use from the landfill. The Landfill Impact Assessment, and any studies completed as part thereof, must be completed by qualified experts. Should peer reviews of the assessment or any separate reports prepared as part of the assessment be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the, Director of Planning.
 7. That, prior to registration of the final plan of subdivision, the Owner shall investigate the noise levels on the site, and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment's recommended sound level limits. An acoustical report, prepared by a qualified Professional Engineer and containing the recommended control measures, shall be submitted, to the satisfaction of the, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the Director of Planning and Director of Development Engineering.
 8. That, prior to registration of the final plan of subdivision, the Owner submits an addendum to the Environmental Impact Statement (EIS), prepared by Stantec, dated February 22, 2008, for review by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG), and implement the recommendations/mitigation measures as requested by the City of Hamilton, to the satisfaction of the Director of Planning.

9. That, prior to the issuance of any building permit, the Owner shall submit a signed Record of Site Condition (RSC) to the Director of Planning and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee.
10. That, prior to the issuance of building permits for any lot for a single detached dwelling where an interior side yard setback is less than 1.2 metres, that the Owner establish all required maintenance easements or such other mechanism that will allow for maintenance to the satisfaction of the City Solicitor and Director of Planning. Where a foundation wall must be constructed prior to final determination of the easement location, the Owner shall agree, in writing, that the maintenance easements or any other mechanism that has been approved by the City Solicitor and Director of Planning will be established prior to occupancy, all to the satisfaction of the Director of Planning.
11. That, prior to registration of the final plan of subdivision, Block "B" ("Nash II" Archaeological site AhGx-248) and Block "E" ("Nash IV" Archaeological Site AhGx-250) be conveyed to the City.
12. Those, prior to registration of the draft plan of subdivision, the Owner provide the sum of \$25,000 to be placed in a City fund for the perpetual care and maintenance of Blocks "B" and "E", to the satisfaction of the Director of Planning.
13. That, prior to registration of the final plan of subdivision, the Owner prepare, at their expense, an archaeological site management plan for Blocks "B" and "E", prepared by a licensed archaeologist from the City of Hamilton's roster, to the satisfaction of the Director of Planning detailing, but not limited to:
 - i) The intended long-term use of the Blocks "B" and "E";
 - ii) Any means of long-term physical definition and protection of the sites;
 - iii) Surface treatment (e.g. ground-cover);
 - iv) Neighbourhood and Councillor engagement; and,
 - v) First Nations engagement, and the nature of this involvement.
14. That, prior to registration of the final plan of subdivision, the Owner agree to the inclusion in the Subdivision Agreement of the following warning clause:

"Purchasers are advised that despite the fact the City has ownership of the archeological sites, maintenance of those sites will be at a minimum, and the sites will remain in a natural state, which may become of concern, occasionally interfering with some activities of the abutting land owners."
15. That, prior to registration of the final plan of subdivision, the Owner agrees to prepare and implement a grading plan, incorporating the recommendations of the final Visual Impact Assessment, to address the final building height for

Blocks "A1" and "A10", to the satisfaction of the Director of Engineering in consultation with the Niagara Escarpment Commission.

16. That, prior to registration of the final plan of subdivision, storm sewers, sanitary sewers and water shall be available to service the lands of the draft plan, to the satisfaction of the Director of Development Engineering.
17. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time trunk sanitary sewer and watermain, including appurtenances, are constructed in accordance with the City Water/Wastewater Master Plan, and the supporting Conceptual Design Report for the Centennial Parkway Trunk Feeder main and Sanitary Sewer, and Related Master Plan Projects (March 2009), to the satisfaction of the Director of Development Engineering
18. That, prior to servicing, the Owner agree to prepare a comprehensive functional servicing plan for the Nash Neighbourhood for sanitary sewer and watermain servicing. For sanitary servicing, the servicing plan shall investigate alternative servicing options; e.g. deep gravity system vs. shallow gravity system with a pumping station, to the satisfaction of the Director of Development Engineering.
19. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time as full municipal services including sanitary sewers, storm sewers, watermain, and fully urbanized roadway are constructed, at the Owner's expense, on Green Mountain Road West from Upper Centennial Parkway to the west limits of the subject lands, to the satisfaction of the Director of Development Engineering.
20. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the rear yard and side yard of Blocks "A6", "A7", "A8", "A9", and the sideyard of Block "A10, which abut SWM Block "C" and Open Space Block "B", to the satisfaction of the Director of Development Engineering.
21. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the side yard of Blocks "A10" and "A11", which side yards abut Sanitary Sewer and Watermain Easement Block "G", to the satisfaction of the Director of Development Engineering.
22. That, prior to servicing, Owner agree to prepare a detailed stormwater management report to address quality and quantity control, as well as 5 year and 100 year storm, including provisions for a major overland flow route for review and approval by the Director of Development Engineering and all other appropriate agencies, with sufficient back-up information, to verify that the stormwater management facility has been designed with a suitable outlet and in

accordance with current storm water management guidelines, and that the land area designated for a storm water management facility will accommodate the proposed facility. Further, the Owner shall submit: (i) a maintenance plan for the SWM facility; and, (ii) a monitoring plan that describes how the performance and effectiveness of the SWM pond will be monitored to ensure that the SWM quality and quantity control criteria are achieved.

23. That, prior to registration of the final plan of subdivision, the Owner agrees to:

- i) Operate and maintain, in an acceptable manner, SWM facility throughout the construction of all stages of draft plan registration, or until a time as established by the Director of Development Engineering, and monitor such operation and effects thereof;
- ii) Assume full responsibility for the cost to operate and maintain the SWM facility, including any changes to conditions of the MOE's approval until such time that the facility is assumed by the City of Hamilton;
- iii) Provide an operation and maintenance manual, to the satisfaction of the Director of Development Engineering, for the SWM facility, and agree to inspect/monitor and maintain the SWM facility in accordance with said manual throughout construction, or until a time as established by the Director of Development Engineering; and,
- iv) Keep detailed logs concerning performance and required maintenance activities for the pond, including costs for cleaning and removal of sediment etc., to the satisfaction of the Director of Development Engineering. This information is to be included in the operation and maintenance manual that will be provided to the City of Hamilton by the Owner upon the future assumption of the facility,

all to the satisfaction of the Director of Development Engineering.

24. That, prior to registration of the final plan of subdivision, the Owner agree to convey sufficient lands (Block "C") to the City of Hamilton for the purposes of an adequately sized Stormwater Management (SWM) Facility, to the satisfaction of the Director of Development Engineering.

25. That, prior to registration of the final plan of subdivision, the Owner shall prepare a Groundwater Study, which shall assess the impact the proposed development would have on the water supply and the sewage disposal systems on the adjacent properties. Pending the outcome of the Study, the Owner shall propose appropriate mitigative measures to address the concerns; to the satisfaction of the Director of Development Engineering.

26. That, prior to servicing, the Owner shall submit a hydrogeological study, prepared by a qualified professional, that assesses impacts to existing and future homes, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts, such as continuously running sump pumps both during construction and post construction and to undertake any remedial works, as recommended, including monitoring, to the satisfaction of the Director of Development Engineering.
27. That, prior to servicing, the Owner, through a soil consultant or other qualified consultant, shall: check existing wells which provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells, prior to the commencement of construction; monitor these wells during construction; and check wells for a period of one year after the completion of construction. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Director of Development Engineering.
28. That, prior to registration of the final plan of subdivision, the Owner provide an engineering design for a suitable servicing easement for water, sewer, and road access through Block "A29" to provide for servicing of the future redevelopment of private lands known as 403, 405, 407, 411, and 413 Upper Centennial Parkway, to the satisfaction of the Director of Development Engineering.
29. That, prior to registration of the final plan of subdivision, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the intersection of Street "A" and Street "B" (north intersection), Street "A" and Street "D", Street "A" and Street "E", Street "B" and Street "D", Street "B" and Street "E", Street "B" and Street "F", Street "F" and Street "G", Street "F" and Street "H", Street "G" and Street "H", all to the satisfaction of the Director of Development Engineering.
30. That, prior to registration of the final plan of subdivision, 4.5 metre x 4.5 metre daylight triangles be established on the final plan of subdivision at the "L" shaped bends on Street "B" at the corner of Block "A15" and Block "A22", and the "L" shaped bends of Street "H" at the corner of Block "A5", all to the satisfaction of the Director of Development Engineering.
31. That, prior to registration of the final plan of subdivision, 7.0 metre x 7.0 metre daylight triangles be established on the final plan of subdivision at the south intersection of Street "A" and Street "B", to the satisfaction of the Director of Development Engineering.
32. That prior to registration of the final plan of subdivision, the Owner agree to dedicate the necessary lands for daylight triangles to accommodate the ultimate design of intersection upgrades at the intersection of the widened limits of Green Mountain Road West at Upper Centennial Parkway, to the satisfaction of the Manager, Traffic Engineering and Operations, and the Director of

Development Engineering. In the event there are temporary works required, the Owner further agree that he will be responsible for all related costs of installation, removal, and restoration.

33. That, prior to registration of the final plan of subdivision, a 7.0 metre x 7.0 metre daylight triangle be established on the final plan of subdivision, at the intersection of the widened limits of Green Mountain Road West and Street "A", to the satisfaction of the Director of Development Engineering.
34. That, prior to registration of the final plan of subdivision, the final plan of subdivision include a block showing sufficient lands to be dedicated to the City of Hamilton as public highway, by Owner's certificate on the plan, to establish the widened limit of Green Mountain Road West at 13.0 meters from centerline of the original road allowance, to the satisfaction of the Director of Development Engineering.
35. That, prior to registration of the final plan of subdivision, the Owner shall submit the necessary transfer deeds to the City's Legal Department to convey sufficient lands for a sanitary sewer easement, to the satisfaction of the Director of Development Engineering.
36. That, prior to servicing, the Owner shall include in the engineering design for the draft plan lands installation of 1.5m wide sidewalks on both sides of Streets "A" and "F"; the outer loop of Streets "B" and "H", the north side of Streets "D" and "E", the south side of Street "G", the west side of Streets "I" and "J", however, all subject to change in accordance with the current applicable City sidewalk policy in affect at the time of engineering approval, to the satisfaction of the Director of Development Engineering.
37. That, prior to servicing, the Owner include in the engineering design, the driveway locations for the bend in Street "B" and the cul de sacs at the north limits of Streets "C" and "F", to the satisfaction of the Director of Development Engineering, and the Manager of Traffic Engineering and Operations.
38. That, prior to servicing, the Owner shall implement recommendations of a Geotechnical report, prepared by a qualified consultant, to the satisfaction of the Director of Development Engineering.
39. That, prior to registration of the final plan of subdivision, the Owner, through a qualified consultant shall: maintain and monitor the existing siltation/erosion control; provide monthly reports until the completion of sodding, all to the satisfaction of the Director of Development Engineering.
40. That, prior to registration of the final plan of subdivision, the Owner shall include in the engineering design verification that the proposed water main system

provides adequate domestic and fire flows in accordance with MOE requirements, to the satisfaction of the Director of Development Engineering.

41. That, prior to servicing, the Owner shall agree that a maximum of 100 residential units of the final plan shall be permitted to be constructed with only one (1) public road access to service each phase of the development. A second public road access to the subject lands is required, prior to development, beyond the initial 100 residential units, to the satisfaction of the Director of Development Engineering.
42. That, prior to registration of the final plan of subdivision, the Owner agree to urbanize Green Mountain Road West from Upper Centennial Parkway to the west limit of the draft plan lands, including the installation of sewers and sidewalks in accordance with requirements of the Nash Neighbourhood Secondary Plan, to the satisfaction of the Director of Development Engineering, and the Director of Operations and Maintenance.
43. That, prior to servicing, the Owner prepare a street parking plan for Streets 'A', 'B', 'D', 'F', 'G', 'H', 'I' and 'J', based on the premise of achieving on street parking for 40% of the total units, to the satisfaction of the Director of Development Engineering, and the Director of Operations and Maintenance.
44. That, as part of the engineering design, the Owner agree that surface drainage from larger width abutting lots will not be permitted to drain through adjacent narrow width lots, to the satisfaction of the Director of Development Engineering.
45. That, prior to registration of the final plan of subdivision, the Owner pay their proportionate share for the future urbanization of Upper Centennial Parkway, adjacent to the east limit of the subject lands, based on the City's "New Roads Servicing Rate" in effect at the time of payment, to the satisfaction of the Director of Development Engineering.
46. That, prior to registration of the final plan of subdivision, the Owner agree to complete, at their own expense, an Environmental Assessment (Class Environmental Assessment) for the realignment of First Road West and Green Mountain Road West; or, the Owner provide evidence that the Class EA is not necessary, to the satisfaction of the Director of Capital Planning and Implementation, and the Director of Development Engineering.
47. That, prior to registration of the final plan of subdivision, the Owner is to finalize the Traffic Impact Study prepared for the Nash Neighbourhood development lands. The report will consider safety, capacity, phasing, and provide recommendations for improvements in location, geometry and/or intersection control. The report will include development of the Nash Neighbourhood, and

include potential development of the surrounding neighbourhoods, to the satisfaction of the Director of Operations and Maintenance.

48. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for any roadway improvements required on the adjacent road networks as a result of the proposed development identified through the Traffic Impact Study or staff recommendations. Potential works to include design, new roadway construction, pavement widening of existing roads for additional turning lanes or centre two-way left turn lanes, urbanization, traffic signal installation or roundabout construction, signal hardware upgrades at existing signalized intersections, median construction, pavement markings and signage. Roundabout feasibility analysis is suggested to be undertaken by a consultant well versed in Rodel and roundabout design. The Traffic Impact Study has identified the limits of review, including Mud Street and also Highland Road, to the satisfaction of the Director of Operations and Maintenance.
49. That, prior to registration of the final plan of subdivision, the Traffic Impact Study for the Nash Neighbourhood lands, prepared by the Owner (Cole Engineering Group Ltd.), will be peer reviewed by a City of Hamilton roster traffic consultant, at the expense of the Owner. The City's roster consultant shall review the submitted traffic impact studies for the following developments to ensure that a consolidated analysis of all intersections in the study area and their impacts on the road network and adjacent neighbourhoods has been addressed. The peer review analysis will also identify an overview of the recommended improvements required on the arterial and collector road network to ensure an acceptable level of service is achieved, to the satisfaction of the Director of Operations and Maintenance. The traffic impact studies and/or development applications to be reviewed in the peer review exercise are:
- Paletta International Commercial lands @ Mud Street and First Road West (File Nos. ZAC-04-092 and ZAH-06-34).
 - Upper Centennial Developments (File Nos. ZAC-06-99 and OPA-06-26).
 - ORC lands Mud Street at Isaac Brock (File Nos. ZAC-08-062, OPA-08-012 and 25T-200806).
 - City of Hamilton Sports Park Complex Expansion.
 - Penny Lane Estates, Felker (File Nos. ZAC-08-077 and 25T-200808).
 - Paletta International Residential lands, Felker (File Nos. ZAC-09-031 and OPA-09-008).

50. That, prior to registration of the final plan of subdivision, at the Owner's expense, the Owner will be responsible for base road surveying, engineering, potential roundabout or traffic signal design, and pavement marking design for development related projects. At the Owner's expense, they will be required to hire a traffic engineering consultant, approved by the City, to provide City formatted engineering drawings. The City would monitor the roundabout and/or traffic signal design, and pavement marking design, and once the design is close to completion, City staff would finalize the details. Traffic signal, roundabout and pavement marking design drawings must be approved and signed by the Manager of Traffic Engineering and Operations.
51. That, prior to registration of the final plan of subdivision, the Owner dedicate sufficient lands from the north-west corner of Green Mountain Road West at Upper Centennial Parkway to complete intersection traffic control upgrading or re-alignment, based on the approval by the City of the Owner's Traffic Impact Study. The dimensions of the land to be dedicated cannot be confirmed at this time, however, we advise that a 15m x 15m daylight triangle will likely be necessary. The required size of the triangle may increase depending on the ultimate intersection location and upgrades required to accommodate Nash Neighbourhood traffic, multi-lane roundabout or traffic signal, to the satisfaction of the Director of Operations and Maintenance.
52. That, prior to registration of the final plan of subdivision, that the Owner upgrade the existing intersection of Green Mountain Road West at Upper Centennial Parkway, at their cost, in accordance with the recommendations of an approved Class EA process, to the satisfaction of the Director of Operations and Maintenance.
53. That, prior to registration of the final plan of subdivision, that Green Mountain Road West be upgraded to an urban cross-section from Upper Centennial Parkway through the limits of their property, to the satisfaction of the Director of Operations and Maintenance.
54. That, prior to registration of the final plan of subdivision, the urbanization of Green Mountain Road West will include the requirement that the Owner undertake to confirm that the required sightline standards have been met at the intersection of Green Mountain Road West at Street 'A'. The Owner shall incorporate TAC methods in the calculations i.e. driver height at future neighbourhood road intersections looking east and west to the windshield (considering street lights on the roadway) of vehicle on Green Mountain Road, 10 km/h over posted speed, sight lines for left and right turns to attain 85% of design speed per TAC, etc, all to the satisfaction of the Director of Operations and Maintenance.
55. That, prior to registration of the final plan of subdivision, that Green Mountain Road West along the extent of the subject lands, be designated a 26 metre

road allowance width collector road, with on-street bike lanes, to the satisfaction of the Director of Operations and Maintenance.

56. That, prior to registration of the final plan of subdivision, that the driveway locations at the bend in the Street 'B' be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveways must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
57. That, prior to registration of the final plan of subdivision, that the lots at the north end of Street 'F' be reconfigured to avoid the cul-de-sac road design; if not possible, driveway locations on the cul-de-sac at Street "F" will be relocated. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
58. That, prior to registration of the final plan of subdivision, that the driveway locations on Street 'C' be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
59. That, prior to registration of the final plan of subdivision, that an On-Street Parking Plan be prepared to address lot sizes and the capability of the road network to accommodate on-street parking for the neighbourhood, and still maintain emergency routes and road maintenance activities, to the satisfaction of the Director of Operations and Maintenance.
60. That, prior to registration of the final plan of subdivision, Street 'A' at the southerly intersection with Street 'B', must intersect with as much of a 90 degree angle as possible. The plan shall be modified to provide a straight approach and departure at the intersection, to the satisfaction of the Director of Operations and Maintenance.
61. That, prior to registration of the final plan of subdivision, the Owner prepare and implement an erosion and sediment control plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:
 - a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;
 - b) All erosion and sediment control measures shall be inspected after each rainfall, to the satisfaction of Authority staff;

- c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,
 - d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.
62. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a stormwater management plan and detailed design engineering drawings for the subject property, to the satisfaction of the Hamilton Conservation Authority (HCA) and the Director of Engineering, ensuring all Provincial, municipal, and HCA policies and standards are met.
63. That, prior to registration of the final plan of subdivision, the permanent storm water management facility be dedicated to the City of Hamilton for ownership and maintenance.
64. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a landscaping plan for the storm water management facility, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.
65. That, prior to registration of the final plan of subdivision, the Owner demonstrates, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering, that all major flows, including external drainage, can be conveyed safely, and that all Provincial, municipal, and HCA policies and standards are met.
66. That, prior to registration of the final plan of subdivision, the Owner prepare and implement detailed design drawings that are prepared by a qualified fluviogeomorphologist for the proposed channel works, in accordance with the modeling prepared by MTE Consultants Ltd. in their Functional Floodline Analysis study, dated September 2009, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
67. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified engineer to undertake a structural assessment of the existing weir structure located at the downstream end of the farm pond, and that any identified necessary repair and/or replacement works be implemented to ensure the structural integrity of the man-made structure, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
68. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified geotechnical engineer to undertake an assessment of the Eramosa Escarpment slope, and determine whether the proposed

residential development will have any impacts on slope stability, to the satisfaction of the Hamilton Conservation Authority.

69. That, prior to registration of the final plan of subdivision, a Tree Protection Plan be prepared and implemented that outlines how the proposed retained trees will be protected from development activities prior to and during construction and/or grading activities, to the satisfaction of the Hamilton Conservation Authority.
70. That, prior to registration of the final plan of subdivision, all proposed outdoor lighting located adjacent to the ESA and buffer lands be configured or appropriately shielded to prevent the intrusion of light into these habitat areas, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.
71. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a lot grading plan, to the satisfaction of the Hamilton Conservation Authority.
72. That, prior to registration of the final plan of subdivision, the applicant install chain link fencing, or other acceptable type, at the rear of all lots and blocks that abut open space blocks, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.
73. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause and identify on the grading and drainage plans, a requirement for a permit to be obtained from the Hamilton Conservation Authority under its *Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04*, prior to the initiation of any watercourse alterations, and/or construction and grading works within the Authority's regulated areas.
74. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause acknowledging that approval is required under the Federal Fisheries Act from the Department of Fisheries and Oceans, prior to any watercourse alterations.
75. That, prior to registration of the final plan of subdivision, all open watercourse channels and associated flood and erosion hazard lands be contained within an appropriate Open Space zone, to the satisfaction of the Hamilton Conservation Authority.
76. That, prior to registration of the final plan of subdivision, the Visual Impact Assessment is finalized to ensure acceptable building heights for Block A1 and Block A10, to the satisfaction of the Niagara Escarpment Commission

77. That, the Owner acknowledges development of Block A1 and Block A10 will be subject to final Site Plan Approval prior to the issuance of any building permit(s).
78. That prior to the registration of the final plan of subdivision, measurements by Industry Canada, of radio frequency electromagnetic fields adjacent to the Owner's lands are completed and submitted to the City and that the City is advised by Industry Canada there are no Safety Code 6 Guideline issues resulting from development of the Owner's lands and that any recommendations by Industry Canada applicable to the Owner are implemented by the Owner or their implementation is secured by the Owner to the satisfaction of the Director of Planning.
79. That, the owner shall agree in the **Subdivision Agreement**, to include and demonstrate the inclusion, to the satisfaction of the Director of Planning, the following warning clauses in all offers of purchase and sale within 120 m of the common boundaries of the Juch-Tech Property and the Empire Property:

"Residents are advised that they are located and will be living in proximity to a telecommunications facility holding a Class "A" license for the provision of telecommunications services, as well as a radio license from Industry Canada with approval to access space segments on specific satellites for an indefinite period. This establishment has been in operation since March 1999 and involves the use of a number of parabolic reflector antennae (earth stations) and the emission of microwaves through airspace above certain areas within the Nash Secondary Plan area. Residents in the area are advised they will be living adjacent to and underneath those transmissions and that they could be subject to interference, with any communications or other electronic equipment and appliances in use in their home, which interference may affect the ability to use such appliances."

The aforesaid warning clause shall not be discharged.

80. That, the owner shall agree in the Subdivision Agreement, to include the following warning clause:

"Purchasers of any lots within 120 m of the common property boundaries of the Juch-Tech Property and the Empire Property are advised and acknowledge, covenant and agree that:

Purchasers are advised and hereby put on notice that any lot purchased is located in proximity to a telecommunications facility holding a Class "A" license for the provision of telecommunications services, as well as a radio license from Industry Canada with approval to access space segments on specific satellites for an indefinite period. This establishment has been in operation since March 1999 and involves the use of a number of parabolic reflector

antennae (earth stations) and the emission of microwaves through airspace above certain areas within the Nash Secondary Plan area. Residents in the area are advised they will be living adjacent to and underneath those transmissions and that they could be subject to interference, with any communications or other electronic equipment and appliances in use in their home, which interference may affect the ability to use such appliances."

81. That, the owner shall implement the recommendations in the peer review by AMEC of the Landfill Impact Assessment study submitted by the applicant.
82. That, **the owner shall agree in the Subdivision Agreement to pay for the costs associated with a peer review by a qualified professional engineer, to verify the risk model data employed by GlobalTox contained within the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc., for the purpose of confirming the minimum depth of clayey silt soil required between the highest groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills, to the satisfaction of the City of Hamilton, Director of Development Engineering.**
83. That, **prior to the issuance of building permit, implementation of the approved Revised Landfill Assessment prepared by MTE Consultants and dated September 14, 2010 and peer reviews thereof, pertaining to the minimum depth of clayey silt soil required between the highest groundwater elevation and basement foundation for all lots within 500 metres of the Operating and Closed Landfills shall be certified by a qualified professional engineer, stating that the required clayey silt soil layer depth has been placed, compacted and graded for all lots/blocks within 500 metres of the Operating and Closed Landfills, to the satisfaction of the City of Hamilton, Director of Development Engineering.**
84. Prior to building permit issuance the owner shall demonstrate to the Director of Development Engineering that the Owner has made arrangements to include the following condition in any building permit to be issued for all lots/blocks within 500m of the Operating and Closed Landfills:

"A clayey silt soil layer is required to be added to the bottom of the basement excavation prior to foundation work being performed in accordance with the subdivision agreement. The Owner shall provide the Building Inspector with a confirmation from a Professional Engineer that the clayey silt soil layer has been installed in accordance with the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc. and peer review thereof as required in the subdivision agreement,

prior to pouring of the footings."

85. That, **the owner shall** plant street trees of a sufficient quantity and quality, included as part of the Street Tree Planting Plan, within the boulevard on the west side of Street 'A' between Green Mountain Road West and the south side of Block 'A25' to the satisfaction of the Director of Planning.
86. That, prior to the registration of the final plan of subdivision, a landscape plan shall be prepared to the satisfaction of the Director of Planning that provides for tree planting of sufficient quantity and quality along the south side of Block "A25" to the satisfaction of the Director of Planning and that the Owner shall agree in the Subdivision Agreement to implement said landscape plan and that the Owner shall include, in all offers of purchase and sale within Block "A25", provision for the implementation of the approved landscape plan.
87. That, **prior to servicing**, at the Owner's expense, the applicant shall construct a 1.8m tall chain-link fence along the entire southerly side of Block 'A25' parallel on the south side of the southerly lot line of Block 'A25'. Further, should the owner and the adjacent property owner whose property the chain-link fence would be located on are not able to arrange a mutually agreeable schedule and terms on the construction of said fence, then the applicant shall advise the Director of Planning of such a problem, and should further negotiations fail and no agreement is achieved that would enable the fence to be constructed by the Owner in a timely manner such that erection of the fence would impact the timing of construction of the necessary servicing for the subdivision, that this condition shall be considered null and void and waived for the purposes of clearing conditions of Draft Plan Approval, all to the satisfaction of the Director of Engineering.
88. That, **prior to servicing**, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.8m tall board on board fence along the southerly limits of Block 'A25' to the satisfaction of the Director of Planning.
89. That Owner shall not be permitted cost recoveries for Street A from the City through best efforts by the City or any other actions by the City, save and except for over-sizing in accordance with the City's Financial Policies for Development to the satisfaction of the Director of Development Engineering.
90. That **prior to registration of the final plan** of subdivision, or any phase thereof containing Streets "G" and "H", that the Owner shall demonstrate to the Director of Planning that the Owner has provided road and servicing access from Streets "G" and "H" to the abutting lands and that the Owner has provided to the Owner(s) of 601 Upper Centennial Parkway, Roll No. 251800351083600, Terranet Pin No. 17091133, Part of Lot 25, Concession 5, a copy of the most current plan proposed to be registered.

91. That, the Owner shall not be permitted access from: (a) Upper Centennial Parkway to the lands within the draft plan; and (b) Green Mountain Road to Blocks A28 and 'A29'.
92. That no direct driveway access shall be permitted to individual lots or units from Street "A" to Block "A28".
93. That the Owner shall agree in the Subdivision Agreement that Block "F" shall be conveyed, immediately consecutive to the registration of the final plan, to the owner of the abutting lands to the west for nominal consideration and that at the time of conveyance Block "F" shall be sodded at the Owner's expense, all to the satisfaction of the Director of Planning. In addition, and prior the registration of the final plan, the Owner shall make arrangements satisfactory to the City Solicitor and Director of Planning ensuring the conveyance of Block "F", immediately consecutive to registration of the final plan, to the owner of the abutting lands to west for nominal consideration and that Block "F" will be sodded at the Owner's expense at the time of conveyance.
94. That **prior to registration of the final plan**, that the Owner include on the Plan of Subdivision and all applicable Engineering Design Drawings, 0.3m reserves, to be dedicated to the City of Hamilton on the west side of Street 'A' from Green Mountain Road to the southerly limits of Block 'A25' and on the south side of Blocks 'A28' and 'A29' from Street 'A' to the easterly limits of Block 'A29' and on the west side of 'A29' adjacent to Upper Centennial Parkway, all to the satisfaction of the Director of Planning.
95. That prior to servicing the Owner submit an updated Functional Servicing Report and Stormwater Management Report to address approved zoning provisions concerning lot coverage, impervious surface areas, lot grading and servicing and implement in accordance with approval of said documents to the satisfaction of the Director of Development Engineering.
96. That, **prior to registration** the Owner install a minimum 1.8m high black vinyl chain link fence, at the expense of the Owner, 0.3m from the easterly limits of Block 'F' running from the southerly to the northerly limits of Block 'F', to the satisfaction of the Director of Planning.
97. That, **prior to registration** of the final plan of subdivision, the Owner shall secure a storm drainage easement north of the storm water management pond outlet in favour of the City across private lands abutting the lands of the draft plan; to the satisfaction of the Director of Development Engineering.

Approved by the O.M.B.
Issue Date: <u>December 9, 2010</u>
Decision/Order No. <u>PL091011</u>

REVISED SCHEDULE 1
(October 23, 2017)

As authorized by By-law No. 07-323, I, Guy Paparella, hereby revise the draft plan approval for a subdivision located at 22 Green Mountain Road west, Empire Communities, owner, in the City of Hamilton under File No. 25T200803(r), as follows:

a) That condition No. 1 be deleted and replaced with the following:

1) That this approval apply to the 'Redline Revision Draft Plan of Subdivision' prepared by Armstrong Planning and Project Management, and certified by Douglas E Hunt, OLS, dated October 6, 2017, showing a maximum of 450 units consisting of: street townhouse dwellings with a lot frontage of 6.1m (Blocks A24, A25, A26, A27, A28 and A29), single detached residential lots with a frontage of 9.2m (Blocks A11, A12, A13, A14, A15, A16, A17, A18 and A19), single detached residential lots with a frontage of 11.0m (Blocks A2, A3, A4, A5, A6, A20, A21, A22 and A23) single detached residential lots with a frontage of 13.4m (Blocks A1, A7, A8, A9, A10), medium density units (Block A30), 6 open space blocks (A, B, D, E, F, I) a storm water management pond (Block C), a sanitary sewer easement (Block G), a road widening (Block H) and public streets (A, B, C, D, E, F, G, H, I, J, K, L).

b) That the following conditions No.'s 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111 be added:

98) That, **prior to registration of the plan of subdivision**, 9.0m x 9.0m daylight triangles be established on the final plan at the intersection of Street "L" and Street "A", to the satisfaction of the Senior Director, Growth Management Division. Nov 23/18 2.13mm

99) That, **prior to registration of the plan of subdivision**, 4.5m X 4.5m daylight triangles be established on the final plan at the intersection of Street "K" and Street "L", to the satisfaction of the Senior Director, Growth Management Division. Nov 23/18 2.13mm

100) That, **prior to servicing**, the Owner shall include in the engineering design and cost schedules provision for the installation of 1.5m wide sidewalks in accordance with current applicable City sidewalk policy in effect at the time of engineering approval all to the satisfaction of the Senior Director, Growth Management Division. 4.09mm

101) That, **prior to servicing**, the Owner prepares and submits a driveway location/on street parking plan showing: 4.09mm

REVISED SCHEDULE 1
(October 23, 2017)

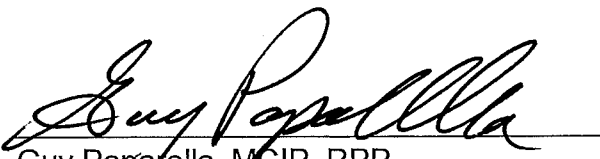
- i) the location of driveways based on the premise of achieving on-street parking for 40% of the total dwelling units;
- ii) the driveways ramps and curb openings for all lots;
- iii) the pairing of driveways;
- iv) where lots in the subdivision about a park entrance or a public walkway, as the case may be; and,
- v) the location of transit pads, community mailbox pads and fire hydrants, where the location has been determined by the appropriate authorities,

to the satisfaction of the Senior Director, Growth Management Division.

- 102) That, **prior to servicing**, the Owner indicates all driveway locations on the engineering drawings for all lots and further that the driveways be established outside of the daylight triangles, to the satisfaction of the Senior Director, Growth Management Division. 4.09hh
- 103) That, **prior to servicing**, the Owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.5m black vinyl chain link fence along the east property limit adjacent to the open space block (Block "E"-Archaeological Site), to the Senior Director, Growth Management Division. 4.09ii
- 104) That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for the installation and removal of a temporary turnaround, minimum asphalt radius R=13.0 and a minimum outside radius R=18.0m, on Street "L" at the easterly limits of the subdivision, including the dedication of land, to the satisfaction of the Senior Director, Growth Management Division. 4.09jj
- 105) That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for the installation of a permanent turning circle of minimum asphalt radius R=13.0m and minimum outside radius R=18.0m at the north limit of Street "K", to the satisfaction of the Senior Director, Growth Management Division. 4.09kk
- 106) That, **prior to servicing**, the Owner provides, to the satisfaction of the Senior Director of Growth Management, a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works as well as the contractor/agent contact information so that the City can direct works be completed as necessary, to the satisfaction of the Senior Director, Growth Management Division. 4.09ll

REVISED SCHEDULE 1
(October 23, 2017)

- 107) That, **prior to servicing**, where services are to be constructed in rock, the Owner shall conduct a pre-condition survey of residences within 100 metres and notify residents of rock removal within 200 metres of that phase of construction, to the satisfaction of the Senior Director, Growth Management Division. 4,09mm
- 108) That, **prior to servicing**, the Owner shall submit a rock removal protocol and vibration monitoring plan, including a pre-construction survey and associated cost estimates, prepared by a licensed professional engineer. All associated costs will be borne by the Owner and shall be included in the engineering cost schedules to the satisfaction of the Senior Director, Growth Management Division. 4,09mm
- 109) That, **prior to registration of the plan of subdivision**, the Owner agrees to enter into a long term maintenance agreement with the City to maintain the open space block (Block "I") in perpetuity, including geotechnical monitoring, wall maintenance and annual inspection reports, to the satisfaction of the Senior Director, Growth Management Division. 2.1300 Nov 23/18
- 110) That, **prior to servicing**, the Owner shall demonstrate that the proposed swale along the rear yards of the northerly portion of Block "A28" can adequately convey the minor and major flows, including all external drainage areas to the existing ditch inlet catch basin located in the north-west corner of Block "A28", with no spillage. In addition, all roof water leaders for any townhouse units within the northerly portion of Block "A28" must be directed and discharge at the front of the dwellings, all to the satisfaction of the Senior Director, Growth Management Division. 4,0900
- 111) That the owner agrees they are aware the existing conditions of draft approval have not been updated to reflect the changes on the plan dated October 6, 2017. The clearance of each condition is subject to a review which will determine if further requirements are necessary, to the satisfaction of the Senior Director of Growth Management. 2.13PP Nov 23/18

Signed: 
Guy Paparella, MCIP, RPP
Director, Growth Planning

Date: October 23, 2017

**Revised Special Conditions for Draft Plan of Subdivision Approval for
25T-200803R**

That the following revised special conditions for Draft Plan of Subdivision Approval for 25T-200803R be received and endorsed by City Council:

- a) That Condition Nos. 1, 26-28, 38, 103, 104, and 111 be deleted and replaced with the following:
1. That this approval for the 'Redline Revision Draft Plan of Subdivision', prepared by Armstrong Hunter and Associates, and certified by Douglas E. Hunt, O.L.S., dated March 25, 2019, showing a maximum of 381 units consisting of: street townhouse dwellings with a lot frontage of 6.1m (Blocks 'A24', 'A25', 'A26', 'A27', 'A28', 'A29', and 'A30'), street townhouse dwellings with a lot frontage of 7.6m (Block 'A31'), single detached residential lots with a frontage of 9.2m (Blocks 'A11', 'A12', 'A13', 'A14', 'A15', 'A16', 'A17', 'A18', and 'A19'), single detached residential lots with a frontage of 11.0 m (Blocks 'A2', 'A3', 'A4', 'A5', 'A6', 'A20', 'A21', 'A22', and 'A23'), single detached residential lots with a frontage of 13.4 m (Blocks 'A1', 'A6', 'A7', 'A8', 'A9', and 'A10'), 7 open space blocks ('A', 'B', 'C', 'D', 'E', 'F', 'I', and 'J'), a stormwater management pond (Block 'C'), a sanitary sewer easement (Block 'G'), a road widening (Block 'H'), and public streets ('A', 'B', 'C', 'D', 'E', 'F', 'I', 'J', 'K', and 'L').
 26. That, **prior to preliminary grading**, the Owner agrees to submit a hydrogeological study, prepared by a qualified professional, that assesses impacts to existing and future homes, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts, such as continuously running sump pumps both during construction and post construction and to undertake any remedial works, as recommended, including monitoring, to the satisfaction of the Senior Director, Growth Management Division.
 27. That, **prior to preliminary grading**, the Owner agrees, through a soil consultant or other qualified consultant, to: check existing wells which provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells, prior to the commencement of construction; monitor these wells during construction; and check wells for a period of one year after the completion of construction. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Senior Director, Growth Management Division.
 28. That, **prior to servicing**, the Owner shall include in the engineering design and cost estimate schedules provision for the construction of a

sanitary sewer and watermain to service the lands of 403, 405, 407, 411, and 413 Upper Centennial Parkway. The sanitary sewer and watermain shall be constructed to the south limit of No. 403 Upper Centennial Parkway at 100% the Owner's cost, to the satisfaction of the Senior Director, Growth Management Division.

38. That, **prior to preliminary grading**, the Owner agrees to implement recommendations of a Geotechnical report, prepared by a qualified consultant, to the satisfaction of the Senior Director, Growth Management Division.
103. That, **prior to servicing**, the Owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.5m black vinyl chain link fence along the north property limit adjacent to the open space block (Block 'E'- Archaeological Site) and along the east property line of Block 'A30', to the Senior Director, Growth Management Division.
104. That, **prior to servicing**, the Owner include in the engineering design and cost estimates provision for:
- a. the removal of the temporary turnaround on Street "L" at 100% the Owner's cost, to the satisfaction of the Senior Director, Growth Management Division; and,
 - b. the installation of a permanent turning circle of minimum asphalt radius $R=13.0m$ and minimum outside radius $R=18.0m$, and a vehicle barrier at the east limit of Street "L",
- to the satisfaction of the Senior Director, Growth Management Division.
111. That the Owner agrees they are aware the existing conditions of draft approval have not been updated to reflect the changes on the plan dated March 25, 2019. The clearance of each condition is subject to a review which will determine if further requirements are necessary, to the satisfaction of the Senior Director of Growth Management.
- b) That the following Condition Nos. 112 through 127 (inclusive) be added:

Development Engineering:

112. That, **prior to preliminary grading**, the Owner shall demonstrate that the existing building has been demolished and existing private services decommissioned / abandoned to the satisfaction of the Senior Director, Growth Management Division.

113. That, **prior to servicing**, the Owner shall include in the engineering design and cost schedules provision for the installation of a 1.5m wide sidewalk along the south side of Street "L" extending through Block 'J' to Green Mountain Road, to the satisfaction of the Senior Director, Growth Management Division and the Manager of Transportation Planning.
114. That, **prior to servicing**, the Owner shall include in the cost estimate schedules and provide cash-in-lieu for the construction of a minimum 1.5m wide concrete sidewalk along the entire frontage of Block 'A31', to the satisfaction of the Senior Director, Growth Management Division.
115. That, **prior to preliminary grading**, the Owner agrees at his sole cost to prepare a pest control plan, focusing on rats and mice, which shall be developed and implemented for any demolition, and for the construction / development phase of the project and continue until the project is complete. The plan must outline steps involved in the potential control of vermin during all the development / construction and must employ integrated pest management practices. The plan must be formulated by a professional exterminator licensed by the MECP and shall include monitoring, removing potential food and water sources, and eliminating or preventing areas for harbourage. The plan can include trapping and / or baiting but special consideration should be aimed at ensuring any / all bait stations are tamper resistant and deceased rats are removed to prevent secondary poisoning of other animals. The plan is to be implemented when work activity at the site begins including but not limited to demolition, bush clearing, grading etc. This requirement is made under Section 26 of the Hamilton Property Standards By-law, No. 10-221 and to the satisfaction of the Medical Officer of Health.
116. That, **prior to preliminary grading**, the Owner shall demonstrate there is an adequate overland flow route, within Block 'E', from the rear yards of Block 'A31', all to the satisfaction of the Senior Director, Growth Management Division.
117. That, **prior to preliminary grading**, the minimum side yard setback along the east and west property lines of Block 'A30' and Block 'A31' shall be 2.0 metres, unless it can be demonstrated that a grading design can be accommodated within a setback less than 2.0 metres, in accordance with City standards, to the satisfaction of the Senior Director, Growth Management Division.
118. That, **prior to preliminary grading**, the Owner shall prepare a Landscape Plan / Planting Plan, which shall identify elements including but limited to plantings and guardrails, and include in the engineering design and cost

estimate schedules provision for the landscaping of Block 'J', including any necessary irrigation systems, all at 100% the Owner's cost, to the satisfaction of the Senior Director, Growth Management Division and the Manager of Development Planning, Heritage and Design, in consultation with the Director of Environmental Services and the Manager of Roads and Maintenance.

119. That, **prior to registration**, the Owner agrees to submit the necessary transfer deeds to the City's Legal Department to convey Block 'J' of the draft plan to the satisfaction of the Senior Director, Growth Management Division.
120. That, **prior to preliminary grading**, the Owner agrees to implement the recommendations in the Revised Landfill Impact Assessment titled "Redhill Developments, Empire Communities and 706870 Ontario Limited Nash Neighbourhood" revised and dated September 14, 2010 and prepared by MTE Consultants Inc. and peer review thereof, to the satisfaction of the Senior Director, Growth Management Division.

Development Planning:

121. That, **prior to servicing**, the Owner shall include in the engineering design for the subject lands, the inclusion of a noise barrier wall, as per Figure 2 of the addendum noise impact study titled "Addendum #2 - Noise Impact Study, Empire Communities Victory Phase 4 Hamilton, Ontario" dated June 13, 2019, prepared by HGC Engineering Limited, with a recommended minimum height of 2.2 m acoustical wall and berm combination be constructed along the easterly and northerly alignment along the side and rear of unit 15. The wall shall be shown on the final grading plan, to the satisfaction of the Director of Planning and Chief Planner and the Manager of Engineering Design and Construction. The final height of the noise barrier may change from those shown on Figure 2 based on final grading information once it becomes available.
122. That, **prior to registration**, the Owner agrees to include the following clauses, for all lots, in all purchase and sale and / or lease agreements, and registered on title to the satisfaction of the Director of Planning and Chief Planner:

Lots 1 to 27

Warning Clause "E":

"Purchasers / tenants are advised that due to the proximity of the adjacent Terra Environmental Stoney Creek Landfill, noise from the facility may at times be audible."

Lots 8 to 14 and 17 to 23

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."

Lots 15 and 16

Warning Clause "B"

"Purchasers / tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may on occasions 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."

Lots 8 to 23

Warning Clause "C"

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

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

"Purchasers / tenants are advised that the property is within 500 metres of the operational industrial, commercial and institutional TerraPure landfill."

124. That, **prior to registration**, the Owner agrees to provide and maintain a minimum of 8.0 metres of frontage along Street 'L' to the lands located at

403 Upper Centennial Parkway to the satisfaction of the Director of Planning and Chief Planner.

125. That, **prior to the issuance of building permit(s) for Unit 15**, which has been identified for noise mitigation measures, the builder's plans shall be certified by a Professional Engineer qualified to provide acoustical engineering services in Ontario as being in compliance with the recommendations of the Original Noise Feasibility Study prepared by HGC Engineering Limited (dated September 29, 2015), and the addendum noise impact study titled "Addendum #2 - Noise Impact Study, Empire Communities Victory Phase 4 Hamilton, Ontario" dated June 13, 2019, as approved, to the satisfaction of the Director of Planning and Chief Planner. Prior to final inspection and release for occupancy, this dwelling shall be certified by a Professional Engineer qualified to provide acoustical engineering services in Ontario as being in compliance with the recommendations of the Noise Study to the satisfaction of the Director of Planning and Chief Planner.
126. That, **prior to registration**, and at the Owner's expense, the Owner shall submit a Site Plan and Elevation Drawings for the newly created blocks to the satisfaction of the Manager of Development Planning, Heritage and Design, and which shall include:
- a. Enhanced architectural design for façades and yards facing Green Mountain Road West, consistent and compatible with building design for townhouses in Block 'A29'; and,
 - b. Private metal fence partitions, with a maximum height of 1.2 metres, and minimum 1.2 m wide concrete walkways leading from the porch to the public sidewalk, for each unit facing Green Mountain Road.

Parks and Cemeteries:

127. That, **prior to preliminary grading**, the Owner shall enter into an agreement with the City to provide:
- a. a cash payment for the future care and maintenance of landscaping of Block 'J', including any necessary irrigation systems, in an amount agreed to in the engineering design and cost estimate schedules; and,
 - b. securities for any replacement, if necessary, for the landscaping of Block 'J', including any necessary irrigation systems. The securities for replacement shall not be less than 100% of the cost estimate as

referred to in Condition No. 118, and shall be kept in force until the works are certified and upon the two-year maintenance period, whereupon any unused portions of the securities shall be released;

all to the satisfaction of the Director of Environmental Services and the Manager of Roads and Maintenance.

Union Gas:

128. That **prior to registration of the plan of subdivision**, the owner / developer provide to Enbridge Gas Inc.'s operating as Union Gas, ("Union") the necessary easements and / or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Union.

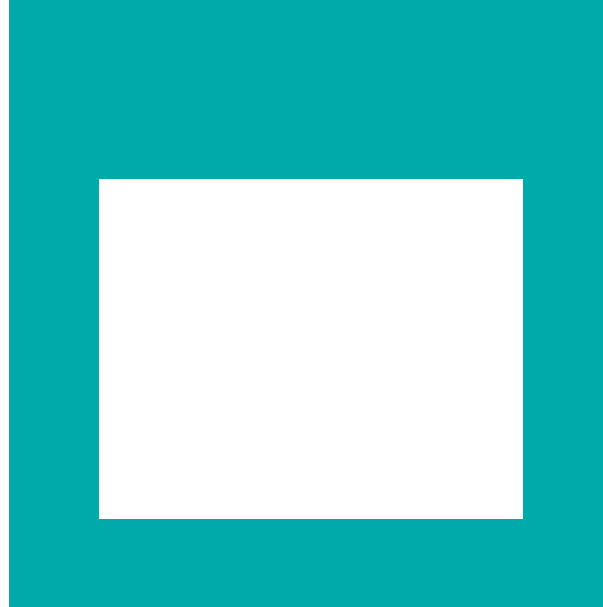
NOTES TO DRAFT PLAN APPROVAL

1. Pursuant to Section 51 (32) of the *Planning Act*, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received two months before the draft approval lapses.
2. **"Acknowledgement:** The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances and the proponent is advised to conduct an archaeological assessment prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries. All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the Ministry of Heritage, Sport, Tourism and Culture Industries.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MHSTCI and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."

Recycling and Waste Disposal:

3. This property is eligible for municipal waste collection service subject to meeting the City's requirements indicated by the Public Works Department and subject to compliance with the City's Solid Waste Management By-law 09-067, as amended. The property owner must contact the City by email wastemanagement@hamilton.ca or by telephone 905-546-CITY (2489) to request waste collection service. Waste Management staff will complete a site visit to determine if the property complies with the City's waste collection requirements.



WELCOME TO THE CITY OF HAMILTON

PLANNING COMMITTEE

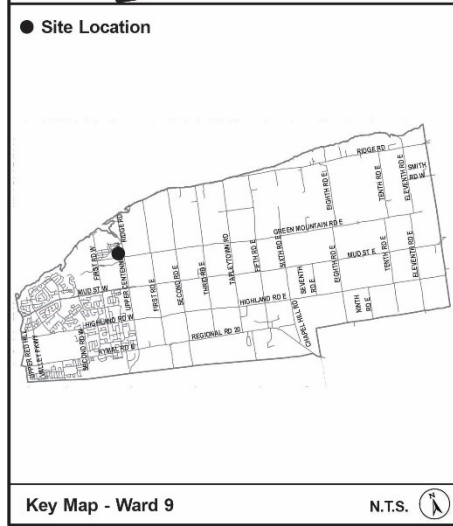
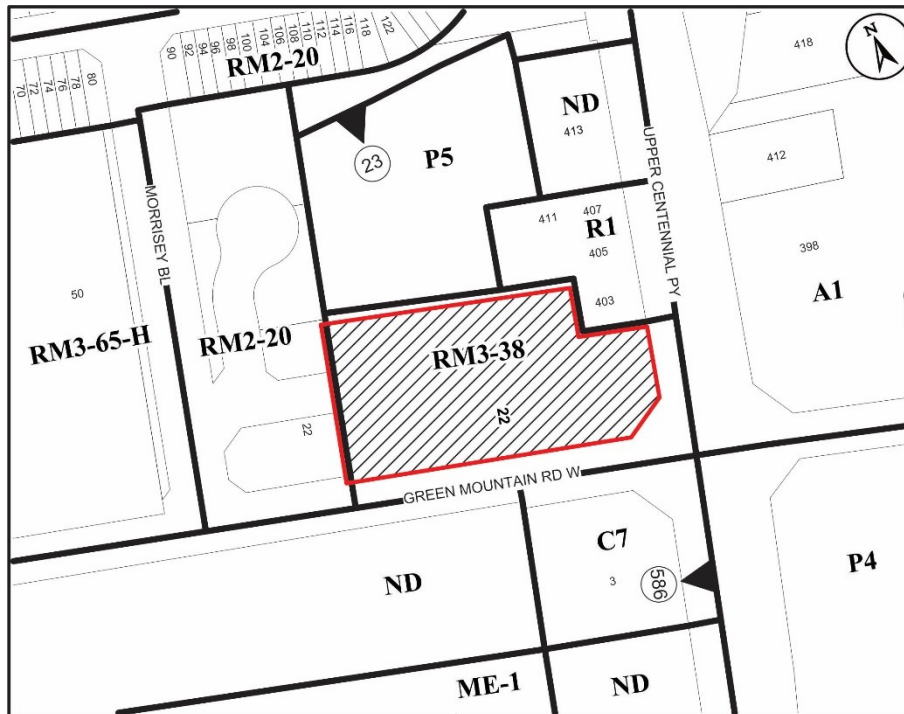
February 4, 2020

PED20026 – (25T-200803R)

Application for Revised Draft Plan of Subdivision for Lands Located at
22 Green Mountain Road West, Stoney Creek.

Presented by: Tim Vrooman





Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Hamilton

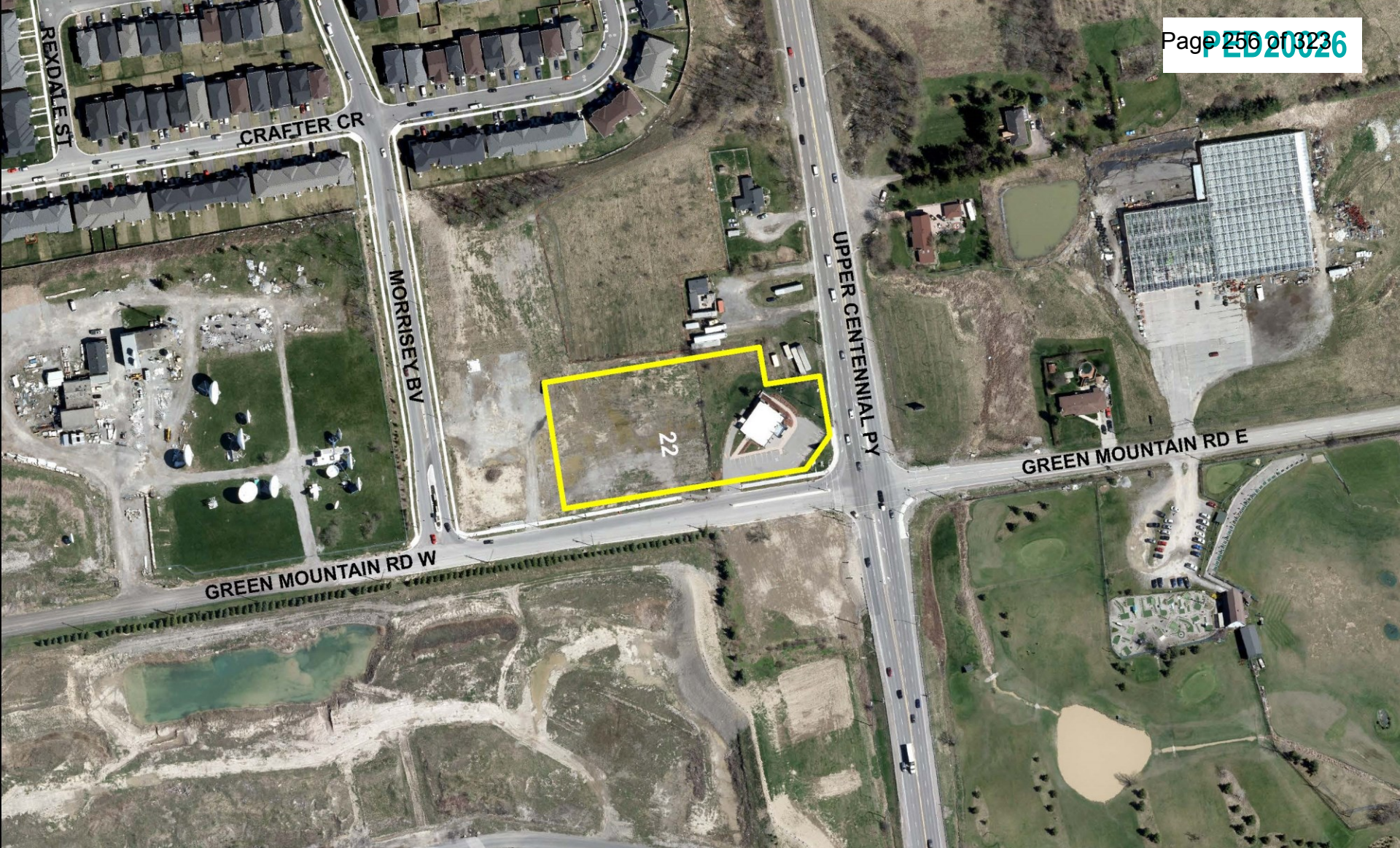
File Name/Number: 25T-200803R	Date: October 7, 2019
Appendix "A"	Scale: N.T.S.
Planner/Technician: TV/NB	

Subject Property

22 Green Mountain Road

N.T.S.





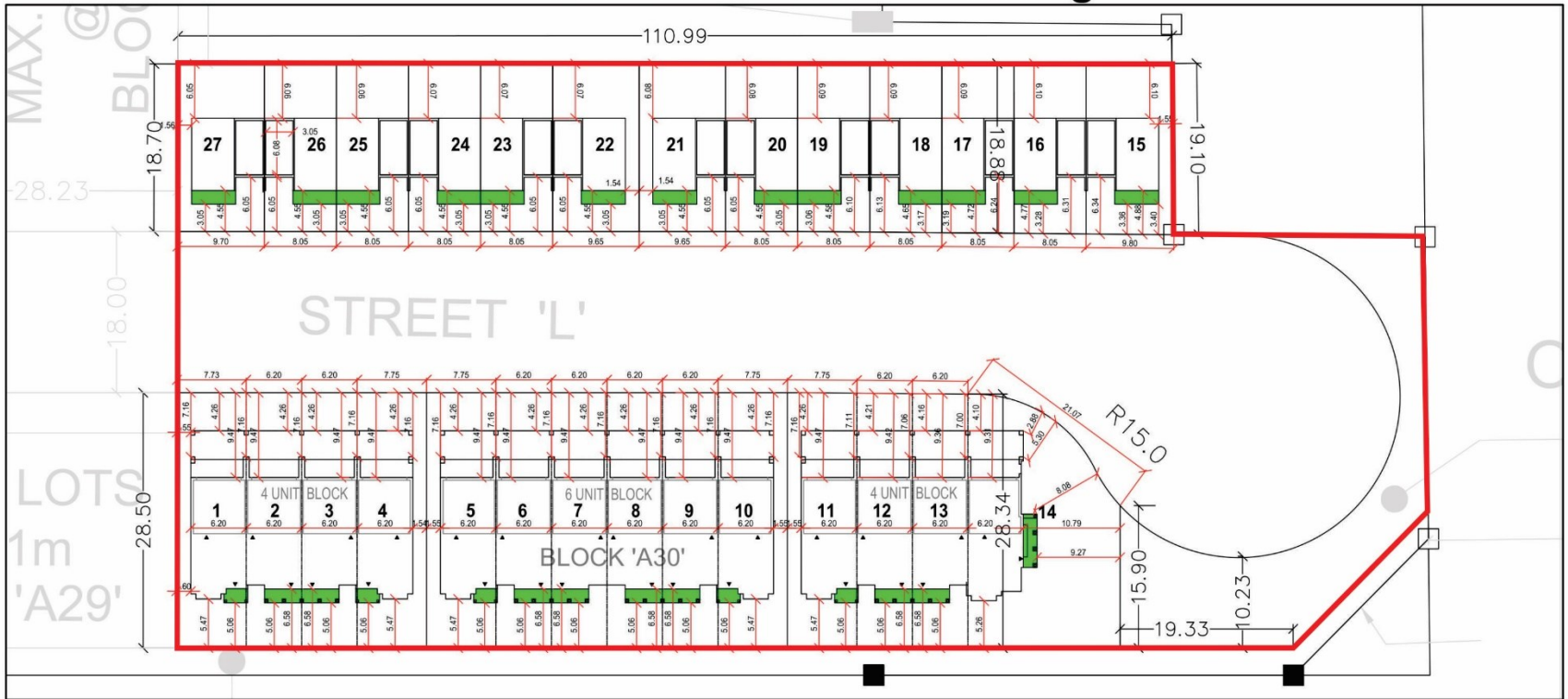
SUBJECT PROPERTY



22 Green Mountain Road West, Stoney Creek



VICTORY PHASE 4: Lotting



Aug 14, 2019

LOT	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	
Area (m2)	221.41	173.85	173.85	222.30	221.75	173.85	173.85	173.85	173.85	222.30	222.16	173.39	173.06	436.17	183.53	152.76	152.17	151.58	150.99	150.72	180.64	180.60	150.63	150.60	150.58	150.55	180.91	
Frontage (m)	7.73	6.20	6.20	7.75	7.75	6.20	6.20	6.20	6.20	7.75	7.75	6.20	6.20	21.07	9.80	8.05	8.05	8.05	8.05	8.05	9.65	9.65	8.05	8.05	8.05	8.05	8.05	9.70

Covered Porch



Southeast corner of site from intersection of Green Mountain Road and Upper Centennial Parkway





Southeast edge of site from Green Mountain Road





Southwest edge of site from Green Mountain Road





West end of site from Utter Place





View to the west along Utter Place





View to the north along Morrisey Boulevard





View to the west along Green Mountain Road





View to the east along Green Mountain Road





Commercial development across Green Mountain Road





View to the south along Upper Centennial Parkway





View to the north along Upper Centennial Parkway





Example of street townhouse built form





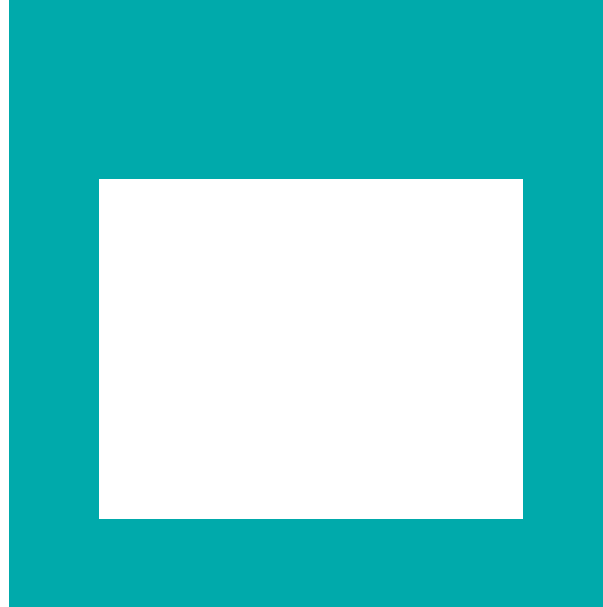
Example of dual fronting units





Archaeological site to the north (Block 'E')





THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3)
WARD(S) AFFECTED:	Ward 3
PREPARED BY:	Sean Stewart (905) 546-2424 Ext. 7163
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

That **Zoning By-law Amendment Application ZAR-19-016 by Victor and Patricia dos Santos, Owners**, for a further modification to the “C” (Urban Protected Residential, Etc.) District, to permit three dwelling units within the existing legal non-conforming two family dwelling for lands located at 11 Grosvenor Ave South, Hamilton, as shown on Appendix “A” to Report PED20034, be **APPROVED** on the following basis:

- (i) That the draft By-law, attached as Appendix “B” to Report PED20034, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law attached as Appendix “B” to Report PED20034, be added to District Map No. E76 of Zoning By-law No. 6593;
- (iii) That the proposed change in zoning complies with the polices and intent of the Urban Hamilton Official Plan, with regards to matters including, but not limited to, density, built form, and compatibility.

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

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

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

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 2 of 16

EXECUTIVE SUMMARY

The subject property is municipally known as 11 Grosvenor Avenue South, Hamilton. The owners have applied for an amendment to the City of Hamilton Zoning By-law No. 6593 to permit a three family dwelling by adding one additional unit to the existing legal non-conforming two family dwelling. Modifications to the Zoning By-law are required to recognize the existing building and to address parking deficiencies.

The application has merit and can be supported for the following reasons:

- Its is consistent with the Provincial Policy Statement (2014) (PPS);
- It conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019) (Growth Plan);
- It complies with the Urban Hamilton Official Plan (UHOP); and,
- The proposed development is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing additional rental housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.

Alternatives for Consideration – See Page 15

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for an amendment to the Zoning By-law.

HISTORICAL BACKGROUND

Application Details	
Applicant/Owner:	Victor and Patricia dos Santos
File Number:	ZAR-19-016
Type of Application:	Zoning By-law Amendment

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 3 of 16

Proposal:	To permit a three family dwelling within the existing legal non-conforming two family, two and a half storey dwelling with three parking spaces.
Property Details	
Municipal Address:	11 Grosvenor Avenue South, Hamilton
Lot Area:	402.3 m ²
Servicing:	Existing full municipal services.
Existing Use:	Legal non-conforming two family dwelling.
Documents	
Provincial Policy Statement (PPS):	The proposed development is consistent with the PPS.
A Place to Grow:	The proposed development conforms to the Growth Plan.
Official Plan Existing:	Neighbourhoods Designation
Official Plan Proposed:	No amendment proposed.
Zoning Existing:	"C" (Urban Protected Residential, Etc.) District
Zoning Proposed:	"C/S-1797" (Urban Protected Residential, Etc.) District, Modified
Modifications Proposed:	<ul style="list-style-type: none"> • To permit a three family dwelling; • Reduce the required amount of parking from 5 spaces to 3 spaces; • Reduce the front yard setback from 6.0 m (required) to 1.7 m (existing); • Reduce the required 1.2 m northerly side yard (required) to 0.0 m (existing); • Reduce the required lot width from 12.0 m (required) to 11.43 m (existing);

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SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 4 of 16

	<ul style="list-style-type: none"> • Reduce the required stairwell setback from 1.0 m (required) to 0.0 m (existing); • Reduce the required encroachment to street line from 1.5 m (required) to 1.0 m (existing); • Reduce the required terrace setback from 1.5 m (required) to 0.0 m (existing); • Eliminate prohibition of side yard accessory buildings to permit the existing accessory building and recognize the 0.3 m setback; • Eliminate 50% front landscaping requirement and to recognize existing front terrace; and, • Reduce the amount of manoeuvring space on the lot from 6.0 m (required), to 3.0 m (proposed) and to allow 3.0 m of manoeuvring space within the alley.
Application Received:	February 28, 2019
Processing Details	
Deemed Complete:	March 29, 2019
Notice of Complete Application:	Sent to 254 property owners within 120 m of the subject property on April 12, 2019.
Public Notice Sign:	Sign posted: April 10, 2019 Sign updated: January 8, 2020
Notice of Public Meeting:	Sent to 92 property owners within 120 m of the subject property on January 17, 2020.
Public Consultation:	On May 21, 2019, the applicant's planning consultant hand delivered 97 information letters to 97 properties within 120 m of the subject lands.
Public Comments:	<p>One petition signed by 16 neighbours opposing the proposal received by City staff on April 29, 2019 (attached as Appendix "E" to Report PED20034).</p> <p>One inquiry requesting general information and which expressed concerns regarding parking was received by the agent.</p>

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SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 5 of 16

Processing Time:	313 days
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Existing Land Use and Zoning:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Property:</u>	Legal non-conforming two family dwelling	"C" (Urban Protected Residential, etc.) District

Surrounding Land Uses:

North	Two storey multiple dwelling	Transit Oriented Corridor Mixed Use (TOC 1) Zone
East	Single detached dwellings	"C" (Urban Protected Residential, etc.) District
South	Single detached dwellings	"C" (Urban Protected Residential, etc.) District
West	Single detached dwellings	"C" (Urban Protected Residential, etc.) District

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014)

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (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, apply to the proposed development.

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

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 6 of 16

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

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

The existing two and a half storey building is not included on the City’s Register of Property of Cultural Heritage Value or Interest. No physical alteration of the exterior of the building is proposed. The City’s Cultural Heritage staff have reviewed the proposal and did not express any concerns from a cultural heritage perspective.

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

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

Urban Hamilton Official Plan

Neighbourhoods Designation

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

- “E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:
- a) residential dwellings, including second dwelling units and housing with supports.
- E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 7 of 16

- E.3.3.2 Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area.
- E.3.5.1 Medium density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads, or within the interior of neighbourhoods fronting on collector roads.
- E.3.5.5 Medium density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities, public transit, schools, active or passive recreational facilities, and local or District Commercial uses.
- E.3.5.7 For medium density residential uses, the net residential density shall be greater than 60 units per hectare and not greater than 100 units per hectare.
- E.3.5.9 Development within the medium density residential category shall be evaluated on the basis of the following criteria:
- a) Developments should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may gain access to the collector or major or minor arterial roads from a local road only if a small number of low density residential dwellings are located on that portion of the local road.
 - b) Development shall be integrated with other lands in the Neighbourhoods designation with respect to density, design, and physical and functional considerations.
 - c) Development shall be comprised of sites of suitable size and provide adequate landscaping, amenity features, on-site parking, and buffering if required. The height, massing, and arrangement of buildings and structures shall be compatible with existing and future uses in the surrounding area.
 - d) Access to the property shall be designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.”

The policies for lands designated “Neighbourhoods” permit residential uses including multiple dwellings (Policy E.3.2.3). The proposed three family dwelling falls within the

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 8 of 16

definition of multiple dwelling in the UHOP. The proposed intensification is encouraged within the Neighbourhoods designation, subject to meeting additional policies in B.2.4 which will be discussed in subsequent sections of this Report.

The proposed use is limited to the existing two and a half storey building. The existing scale and character of the neighbourhood largely consists of two and a half storey detached dwellings, with a low rise multiple dwelling to the immediate north of the subject property. The existing character of the established neighbourhood will be maintained, and the proposed residential intensification will be compatible to the scale and character of the existing residential neighbourhood (Policy E.3.2.4).

This proposal will increase the density of the subject property from 50 units per hectare to 75 units per hectare. The change in density and the proposed multiple dwelling built form will change the residential category from low density to medium density (Policy E.3.5.7). Policy E.3.5.1 of the UHOP directs higher density urban forms away from the interiors of neighbourhood areas, to the periphery of neighbourhoods in close proximity to major or minor arterial roads. The subject property is consistent with these policies as it is located one lot south of Main Street East, a major arterial road as shown in Schedule C – Functional Road Classification of the UHOP. Further, as the proposal will utilize the existing built form, there will not be a conflict with the transition to the adjacent lower density areas. Therefore, the proposal will be consistent with Policy E.3.3.2, which states that redevelopment adjacent to areas of lower density shall ensure that the height and massing is compatible with existing structures in the surrounding area.

Policy E.3.5.5 of the UHOP requires that medium density residential uses be located within safe and convenient walking distance of existing or planned community facilities, public transit, schools, recreation facilities and local commercial uses. The subject property is within close proximity to elementary schools, the Ottawa Street North commercial corridor, Gage Park, and existing public transit.

The UHOP directs that development within the medium density residential category be evaluated on a number of criteria as outlined in Policy E.3.5.9. The proposal is consistent with the relevant criteria in the following ways:

- The proposal benefits from having access to a major arterial road via an existing alley and short passage on an existing local road;
- The proposal will utilize an existing detached residential building which will maintain the existing form and character of the neighbourhood; and,

SUBJECT: Application for Zoning By-law Amendment for Lands Located at 11 Grosvenor Avenue South, Hamilton (PED20034) (Ward 3) - Page 9 of 16

- The proposal will not alter the existing lot fabric of the neighbourhood, will provide for one parking space per unit, and will provide amenity space for residents as well as ensuring the protection of an existing mature tree.

General Residential Intensification Policies

- “B.2.4.1.1 Residential intensification shall be encouraged throughout the entire built-up area, in accordance with the policies of Chapter E – Urban Systems and Designations and Chapter F – Implementation.
- B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:
- a) a balanced evaluation of the criteria in b) through g), as follows;
 - b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;
 - c) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;
 - d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
 - e) the development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
 - f) infrastructure;
 - g) the ability of the development to comply with all applicable policies.
- B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:
- a) the matters listed in Policy B.2.4.1.4;

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

The proposed multiple dwelling (three family dwelling) will be restricted to the existing building and lot, and no further building modifications, or changes to the lot pattern are proposed. As such, the proposal will maintain the existing streetscape, lot pattern, relationship to adjacent properties and built form. The removal of the existing fence barrier across the existing alleyway will enhance the streetscape pattern with regard to pedestrian and vehicular circulation in the neighbourhood, as well as provide access to the required parking. Further, the proposal will complement the existing functions of the neighbourhood by providing an additional type of housing for area residents who may wish to stay in the neighbourhood but who are seeking an alternative housing form and tenure type. Given that the proposed use will be accommodated within the existing built form, the proposal is consistent with Policies B.2.4.1.4 b), d) and g) and B.2.4.2.2 b), c), d), e), g), h) and i), as there will be no impacts on the form and character within the existing neighbourhood.

Policy B.2.4.1.4 c). speaks to maintaining and achieving a range of dwelling types and tenures. The proposed development supports this policy by introducing a multiple

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dwelling (three family dwelling) into an existing residential area, which will provide an additional rental opportunity in the city.

Policy B.2.4.2.2 b) of the UHOP states that compatibility with adjacent land uses for such matters as shadowing, lighting, traffic and other nuisance effects shall be considered when evaluating residential intensification proposals within the Neighbourhoods designation. As the proposed multiple dwelling will be accommodated within the existing building, no impacts on shadowing or lighting will occur. Regarding traffic, the addition of one residential unit will not impact transportation capacity as the subject property is in close proximity to a major arterial road. Recognizing that neighbourhood residents have concerns about parking, it should be noted that one parking stall will be provided for each unit. While no visitor parking will be provided, the property is well served by public transit and there is street parking available. City parking staff acknowledge that the block is moderately to heavily parked, however they are supportive of the proposed parking ratio provided.

Therefore, the proposal complies with the UHOP.

City of Hamilton Zoning By-law No. 6593

The subject property is currently zoned “C” (Urban Protected Residential, Etc.) District. To implement the proposed development, the applicants have applied for a further modification to the “C” District. The applicant has requested 11 site specific modifications to accommodate the proposal which are summarized on page 3 of Report PED20034. Approximately half of the requested modifications recognize the existing building on the property, while the remaining modifications seek to permit the proposed use and address parking matters. A detailed discussion of the merits of the proposed modifications is provided in the Zoning By-law Site Specific Modifications Table contained in Appendix “D” to Report PED20034.

RELEVANT CONSULTATION

Departments and Agencies		
Department	Comment	Staff Response
Growth Management & Environmental Services	No comments	None
Development Planning	No objections. Staff reviewed the Tree Protection Plan submitted by the	None

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

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	applicants' landscape architect and are satisfied that the mature trees will be adequately protected during the shed demolition and driveway enlargement.	
Forestry	No municipal tree assets onsite and therefore no Tree Management Plan required.	None
Parking	<p>Not concerned with the loss of one parking space associated with visitor parking. While Grosvenor Avenue South is moderately to heavily parked, public transit opportunities are within very close proximity.</p> <p>The parking spaces in the rear are accessed off of a public unassumed alley. The City cannot guarantee access through the alley as maintenance services are not provided, such as snow removal.</p> <p>Parking staff note that the alley entrance has been fenced off. The fence needs to be removed to permit access to the rear parking area.</p>	<p>Planning staff agree that the shortfall of one visitor parking space is acceptable given the alternate forms of transportation available.</p> <p>Staff have made the applicants aware of the status of the alleyway. The property owners have agreed to remove the fence.</p>
LRT	<p>Subject lands within 40 m of the future LRT corridor. LRT stop will be located on Main Street East between Grosvenor and Ottawa Street South.</p> <p>If Minor Site Plan Application required to address rear parking please circulate to the LRT office for review.</p> <p>While there is some on-street parking and loading permitted on Grosvenor Avenue South there may be changes to parking regulations due to LRT</p>	<p>Minor Site Plan application not required based on the nominal nature of necessary parking area improvements.</p> <p>Parking is provided for each unit proposed.</p>

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	<p>construction and indefinitely once operational.</p> <p>It is important to retain the existing municipal alley as a public asset in order to provide flexibility for rear property access on the LRT corridor.</p>	
Transportation Planning	<p>Parking spaces should be delineated with pavement markings to prevent vehicles from occupying multiple spaces.</p> <p>Transportation Planning cannot guarantee that the unassumed alleyway will be maintained for use during winter months.</p>	Applicant has been made aware of the comments.
Development Engineering	<p>A right-of-way widening for Grosvenor Ave South is not required.</p> <p>If grading changes are proposed, then the applicant shall provide a Grading Plan certified by a Professional Engineer (P. Eng).</p> <p>No stormwater management comments provided as there are no changes to existing drainage patterns, neighbouring properties are not adversely affected and no storm sewers are proposed.</p> <p>The proposed change in zoning has no significant servicing impacts.</p>	No changes to grading or drainage are proposed. If this changes the applicant is aware of the requirements of the Development Engineering Approvals Section.
Public Consultation		
Issue	Comment	Staff Response
Intensification	Area residents have the understanding that through work completed with former Councillor Bernie Morelli, that	Staff have reviewed the proposal against current Provincial Plan policies and

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	the area was protected from further duplex and triplex conversions.	the UHOP policies and are of the opinion that this proposal is consistent with relevant policy direction.
Parking Issues	Area residents are concerned that adding additional dwelling units to the neighbourhood will increase parking pressures on the street.	Staff acknowledge that Grosvenor Avenue South is a moderately to heavily parked street. Staff are of the opinion that the provision of one parking stall per unit is acceptable. In addition to the parking available on-site, there is frequent public transit service along Main Street East, which provides additional transportation opportunities.

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 254 property owners within 120 m of the subject property on April 12, 2019. A public notice sign was posted on the property on April 10, 2019 and updated on January 8, 2020. In addition, Notice of the Public Meeting was given on January 17, 2020 in accordance with the requirements of the *Planning Act*.

To date, City staff have received a letter of objection with petition signed by 16 neighbours who live on Grosvenor Avenue South attached as Appendix E to Report PED20034.

Public Consultation Strategy

The applicant's Public Consultation Strategy included hand delivering a public information letter to 97 property owners within 120 m in May, 2019. The letter included information about the proposal and provided the contact number of the planning consultant on file for residents to contact if they had questions.

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One resident contacted the planning consultant. The resident had questions about the process and also raised concerns about parking.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the PPS (2014) and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019);
 - (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
 - (iii) It is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing additional rental housing options, making efficient use of existing infrastructure within the urban boundary, and supporting public transit.
2. The application for Zoning By-law Amendment is for a further modification to the “C” (Urban Protected Residential, Etc.) District.

The proposed change in zoning will permit a modest form of residential intensification within the built-up area, by adding one additional dwelling unit to an existing legal non-conforming two family dwelling. As the proposed three family dwelling will be located within the existing building there will be no change to the form and character of the area. The proposal will maintain adequate on-site parking in the rear of the property and provide amenity space for the residents in the front and rear yard. Therefore, staff support the change in zoning.

The modifications to the “C” (Urban Protected Residential, Etc.) District meet the intent of the “Neighbourhoods” designation of the UHOP and recognize the existing built form of the subject lands. The modifications are identified on page 3 of Report PED20034 and discussed in detail in Appendix “D” to Report PED20034.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the subject property would remain zoned “C” (Urban Protected, Etc) District, in the City of Hamilton Zoning By-law 6593. The existing two family dwelling would retain its legal non-conforming status.

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ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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

Economic Prosperity and Growth

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

Healthy and Safe Communities

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

Clean and Green

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

Built Environment and Infrastructure

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

Culture and Diversity

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

Our People and Performance

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

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” – Location Map

Appendix “B” – Draft Amendment to Zoning By-Law No. 6593

Appendix “C” – Concept Plan

Appendix “D” – Zoning By-law Site Specific Modification – Chart

Appendix “E” – Public Submissions



This is Schedule "A" to By-law No. 20-

Passed the day of, 2020

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-law No. 20-_____

to Amend By-law No. 6593

Subject Property

11 Grosvenor Avenue South



Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "C/S-1797" (Urban Protected Residential, Etc.) District, Modified

Scale:
N.T.S.

File Name/Number:
ZAR-19-016

Date:
December 9, 2019

Planner/Technician:
SS/AL



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Authority: Item _____, Planning Committee
Report
CM: February 4, 2020
Ward: 3

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

To Amend Zoning By-law No. 6593 (City of Hamilton)

Respecting Lands located at 11 Grosvenor Avenue South, Hamilton

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

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

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

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951 (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Item _____ of Report 20-034 of the Planning Committee, at its meeting held on the 4th day of February 2020, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided; and,

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

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

1. That Sheet No. E76 of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the zoning from the "C"

(Urban Protected Residential Etc.) District to the "C/S-1797" (Urban Protected Residential, Etc.) District, Modified on the lands of the extent and boundaries of which are shown of the plan hereto annexed as Schedule "A".

2. That the "C" (Urban Protected Residential, Etc.) District provisions as contained in Section 9 of Zoning By-law No. 6593 applicable to the subject lands, be modified to include the following special requirements:
 - a) In addition to Section 9. (1), a three family dwelling shall be permitted within the building existing on the date of the passing this By-Law.
 - b) That notwithstanding Section 9. (3) (i), a front yard of a depth of at least 1.7 metres.
 - c) That notwithstanding Section 9. (3) (ii), a northerly side yard of a width of 0.0 metres.
 - d) That notwithstanding Section 9. (4), every lot or tract of land in a "C" District shall have a width of at least 11.4 metres and an area of at least 360.0 square metres.
 - e) That notwithstanding 18. (3) (vi) (c) (ii), into a required side yard not more than 0.0 metres from the northerly side lot line and 1.0 metre from the southerly side lot line.
 - f) That notwithstanding Section 18. (3) (vi) (cc) (i), into a required front yard, provided that no such projection shall be closer to a street line than 1.0 metre.
 - g) That notwithstanding Section 18. (3) (vi) (e), a terrace, uncovered porch, platform or ornamental feature which does not extend more than 1.2 metres above the floor level of the first storey, may project into a required yard, if distant at least 0.5 metres from the nearest side lot line and 0.0 metres from the nearest street line.
 - h) That notwithstanding Section 18. (4) (iv), an accessory building shall be permitted within the required side yard and rear yard, and every accessory building which is not part of the principal building which is located entirely within the side yard, shall be distant at least 0.3 metres from the nearest lot line.
 - i) Section 18. (14) (i) and 18. (14) (ii) shall not apply.
 - j) That notwithstanding Section 18A (1) (a) and (b), 1.0 space per Class A dwelling unit shall be provided.

- k) That notwithstanding Section 18A. (1) (f) and Table 6, Column 2, maneuvering space abutting upon and accessory to each required parking space, having a total width of 3.0 metres on the lot is to be used in conjunction with the 3.0 metre northerly abutting laneway for 90 degree angled parking.
 - l) That notwithstanding Section 18A. (9), 6.0 metres of maneuvering space shall be provided between the lot and the northerly abutting laneway.
 - m) That notwithstanding Section 18A. (21) all required parking spaces shall be located on the lot with maneuvering space shared between the lot and within the northerly abutting laneway and access shall be provided by means of the northerly abutting laneway.
3. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "C" (Urban Protected Residential, Etc.) District provisions, subject to the special provisions referred to in Section 2, respectively.
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 and ENACTED this day of , 2020.

Fred Eisenberger
Mayor

A. Holland
City Clerk

ZAR-19-016



This is Schedule "A" to By-law No. 20-
Passed the day of, 2020

Mayor

Clerk


Schedule "A"

Map Forming Part of
By-law No. 20-_____

to Amend By-law No. 6593

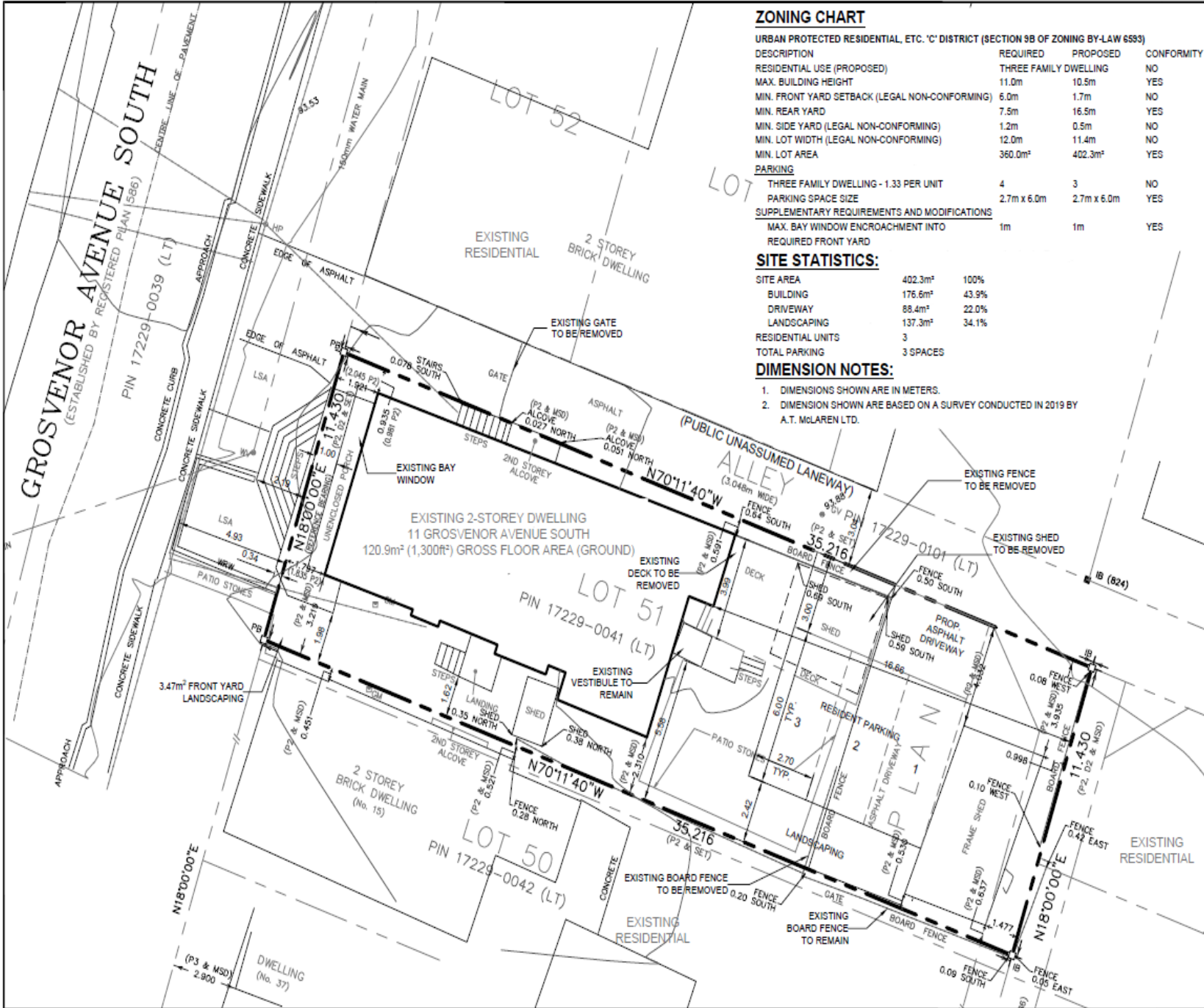
Subject Property

11 Grosvenor Avenue South

 Change in Zoning from the "C" (Urban Protected Residential, Etc.) District to the "C/S-1797" (Urban Protected Residential, Etc.) District, Modified

Scale: N.T.S.	File Name/Number: ZAR-19-016
Date: December 9, 2019	Planner/Technician: SS/AL
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	





ZONING CHART

URBAN PROTECTED RESIDENTIAL, ETC. "C" DISTRICT (SECTION 98 OF ZONING BY-LAW 6583)

DESCRIPTION	REQUIRED	PROPOSED	CONFORMITY
RESIDENTIAL USE (PROPOSED)	THREE FAMILY DWELLING		NO
MAX. BUILDING HEIGHT	11.0m	10.5m	YES
MIN. FRONT YARD SETBACK (LEGAL NON-CONFORMING)	6.0m	1.7m	NO
MIN. REAR YARD	7.5m	16.5m	YES
MIN. SIDE YARD (LEGAL NON-CONFORMING)	1.2m	0.5m	NO
MIN. LOT WIDTH (LEGAL NON-CONFORMING)	12.0m	11.4m	NO
MIN. LOT AREA	360.0m ²	402.3m ²	YES
PARKING			
THREE FAMILY DWELLING - 1.33 PER UNIT	4	3	NO
PARKING SPACE SIZE	2.7m x 6.0m	2.7m x 6.0m	YES
SUPPLEMENTARY REQUIREMENTS AND MODIFICATIONS			
MAX. BAY WINDOW ENCROACHMENT INTO REQUIRED FRONT YARD	1m	1m	YES

SITE STATISTICS:


SITE AREA	402.3m ²	100%
BUILDING	176.6m ²	43.9%
DRIVEWAY	88.4m ²	22.0%
LANDSCAPING	137.3m ²	34.1%
RESIDENTIAL UNITS	3	
TOTAL PARKING	3 SPACES	

DIMENSION NOTES:

1. DIMENSIONS SHOWN ARE IN METERS.
2. DIMENSION SHOWN ARE BASED ON A SURVEY CONDUCTED IN 2019 BY A.T. McLAREN LTD.

LEGAL DESCRIPTION

PART OF LOT 51, CLARENDON SURVEY AND PART OF ALLEYWAY, IN THE REAR OF LOT 51 (CLOSED BY JUDGE'S ORDER) REGISTERED PLAN NO. 586 IN THE CITY OF HAMILTON




REVISIONS

REV.	DESCRIPTION	DATE	INT.
G	REISSUE	04-OCT-2019	JW
F	REISSUE	30-JUL-2019	JW
E	REVISED PER CITY COMMENTS	30-JUL-2019	JW
D	UPDATED SURVEY	26-APR-2019	JW
C	SUBMISSION	26-FEB-2019	JW
B	REVIEW	26-FEB-2019	JW
A	REVIEW	13-FEB-2019	JW

DISCLAIMER

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310 LIMERIDGE ROAD WEST, SUITE 8
HAMILTON ONTARIO, L8C 2V2 P 905-574-1983
F 905-574-9559

PROJECT TITLE

11 GROSVENOR AVENUE SOUTH

HAMILTON, ONTARIO

DRAWING TITLE

SITE PLAN

DRAWN BY	JW	DESIGNED BY	JW
PRINT DATE	01-NOV-2019	PROJECT NUMBER	
REVISION	G	DRAWING NUMBER	SP1-1
SCALE	1:150		

Plotfiled by: Jennifer Bailey; 01-NOV-2019; 11:52AM

Site Specific Modifications to the “C” (Urban Protected Residential, Etc.) District			
Regulation	Required	Modification	Analysis
Section 9. (1) (i) Restriction on the number of dwelling units.	Permits a Single Family Dwelling.	To permit a three family dwelling within the exiting dwelling.	The proposed modification is to permit a three family dwelling. The proposed use is restricted to the existing building and as a result no external modifications are required. The proposed use will maintain the streetscape and established character of Grosvenor Avenue South. Therefore, staff support this modification.
Section 9. (3) (i) Front Yard	A front yard depth of at least 6.0 metres.	A front yard depth of at least 1.7 metres.	The proposed modification recognizes the existing building location. There are no changes proposed to the existing building and the streetscape and character is therefore maintained. Therefore, staff support this modification.
Section 9. (3) (ii) Side Yard	A side yard setback of 1.2 metres.	A northerly side yard of 0.0 metres.	The proposed modification recognizes the existing location of the building. There are no changes proposed to the exterior of the building. The exterior of the building can be accessed from the adjacent alley. Therefore, staff support this modification.
Section 9. (4) Intensity of Use	A lot width of at least 12.0 metres is required and an area of 360 square metres.	A minimum lot width of at least 11.4 metres and an area	This proposed modification is to recognize the existing lot width. While the overall lot area exceeds the required lot area, the required width is slightly less than the requirement. The

Regulation	Required	Modification	Analysis
		of 360 square metres.	<p>existing lot width is consistent with the lot fabric in the neighbourhood.</p> <p>The lot provides adequate parking and amenity space for the three family dwelling.</p> <p>Therefore, staff support this modification.</p>
Section 18. (3) (vi) (c) (ii)	Open fire escape or stairway may project into a required side yard no more than one third of its width or 1.0 metre, whichever is the lesser.	An open fire escape or open stairwell may project into a required side yard and be 0.0 metres from the nearest northerly side lot line and 1.0 metre from the nearest southerly lot line.	<p>This proposed modification recognizes the existing location of the northern and southern open stairwells on the property. This modification will not alter the existing streetscape character of the property.</p> <p>Therefore, staff support this modification.</p>
Section 18. (3) (vi) (cc) (i)	No bay window, balcony or dormer projection may be closer than 1.5 metres from a street line.	A bay window, balcony or dormer may project into a required front yard, provided no projection is closer to a street line than 1.0 metres.	<p>This proposed modification recognizes the existing condition of the dwelling. The existing bay window will not alter the character of the neighbourhood.</p> <p>Therefore, staff support this modification.</p>
Section 18. (3) (vi) (e) Encroachment of a porch	An uncovered porch and associated stairs which does not extend more than one metre above the floor level of the first storey may project into a required front yard if	To permit an uncovered porch and associated stairs to be a distance at least 0.0 metres from the nearest street line.	The proposed modification recognizes the existing condition of the front porch. An encroachment agreement with the City is required for the portion of the staircase that is within the road allowance. The applicant is working with the City to obtain this agreement.

Regulation	Required	Modification	Analysis
	distant at least 1.5 metres from the nearest street line.		Therefore, staff support this modification.
Section 18. (4) (iv)	No accessory building shall be permitted in the required side yard.	An accessory building shall be permitted within a required side yard and shall be distant at least 0.3 metres from the nearest lot line.	<p>This regulation prohibits the placement of accessory buildings (sheds) in side yards for access and maintenance reasons. No new construction is proposed, and the modification is recognizing the location of the existing accessory building.</p> <p>Therefore, staff support this modification.</p>
Section 18. (14) (i) and 18. (14) (ii)	50% front yard landscaping required based on a formula outlined in (ii).	No front yard landscaping requirement.	<p>The existing dwelling includes an unenclosed patio which occupies the majority of the front yard. The front patio provides amenity space for the residents. Many of the neighbouring properties contain front porches, although covered, and have small front yards, so the existing built condition is not out of character for the area.</p> <p>Therefore, staff support this modification.</p>
Section 18A. (1) (a) and (b) Minimum Required Parking	Three family dwelling requires 1.33 spaces per Class A dwelling unit. The visitor parking requirement is 0.33 spaces per unit.	One parking space per Class A dwelling unit.	<p>The proposed modification permits the reduction of the amount of required parking spaces from five to three spaces. The regulation seeks to ensure that there is sufficient parking for residents and visitors. Each unit has one assigned parking space, and there is street parking and regular transit service in the immediate vicinity for visitors.</p> <p>Therefore, staff support this modification.</p>

Regulation	Required	Modification	Analysis
<p>Section 18A. (1) (f), and Section 18A. (9)</p> <p>Maneuvering Space</p>	<p>6.0 metres of maneuvering space on the required lot for ninety-degree parking.</p>	<p>3.0 metres of maneuvering space on the subject lot and 3.0 metres offsite within the public alley.</p>	<p>The proposed parking spaces are to be accessed off an existing alleyway, which does not have significant traffic and any vehicles travelling along the alleyway are anticipated to be travelling at a slow speed. The modification for a reduction in maneuvering space and to provide some of the maneuvering space within the existing alleyway is not anticipated to create traffic conflicts.</p> <p>Therefore, staff support this modification.</p>
<p>Section 18A. (21)</p> <p>Access from a Driveway</p>	<p>All required parking spaces and maneuvering spaces shall have access by means of one or more access driveways,</p> <ul style="list-style-type: none"> a) Located on the lot; or b) Located partially on the lot in the case of a mutual driveway; or c) By means of a right of way. 	<p>All required parking spaces shall be located on the lot with the maneuvering space shared between the lot and within the northerly abutting laneway. Access shall be provided by means of the northerly abutting laneway.</p>	<p>The proposed parking spaces will be located on the subject property. Access is through an existing paved public unassumed alley. The applicant will remove the existing fence which is blocking the entrance to the alley from Grosvenor Avenue South. The alley will provide unimpeded access to the roadway from the parking area.</p> <p>Therefore, staff support this modification.</p>

To: Mark Kehler, City of Hamilton
Planning and Economic Development Department

File: ZAR-19-016

Re: 11 Grosvenor Avenue South "C" zoning to 3 family dwelling

Dear Mr. Mark Kehler,

We, as the property owners on Grosvenor Avenue South, from Maple Avenue to Main Street East, are requesting that the City not allow rezoning of 11 Grosvenor Avenue South nor any future similar rezoning of the area. For the following reasons:

Designation: Delta West was designated a housing intensified area

Almost 2 decades ago the area known as Delta West from Ottawa Street to Lawrence Rd. to Gage Avenue to Main Street East was designated a housing intensified area. We worked very hard, alongside Bernie Morelli at the time, to maintain this designation to ensure that the area would not be deluged with homes being converted to duplexes and triplexes, legally and illegally, (except for those that had been grandfathered at the time).

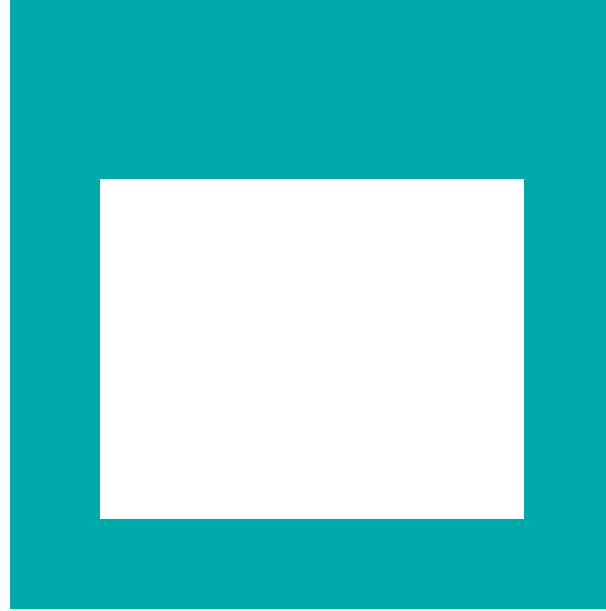
Parking issues:

Moreover, this area already has to contend with parking issues from existing multiple dwellings in this neighbourhood. Since we were not successful, with the City, in being approved for permitted parking on this street, it is very often difficult to find parking for the home owners on this street. Converting this building to a triplex would add to the parking issues, as there is not enough parking on the premises of 11 Grosvenor Avenue South.

We are attaching a list of property owner contact information that have signed a petition against a rezoning for the property at 11 Grosvenor Avenue South. Other than our comments, we request that the names and contact information not be placed on the City's website and that our name is recorded as "Grosvenor Avenue South property owners " if possible.

Sincerely,

Grosvenor Avenue South property owners



WELCOME TO THE CITY OF HAMILTON

PLANNING COMMITTEE

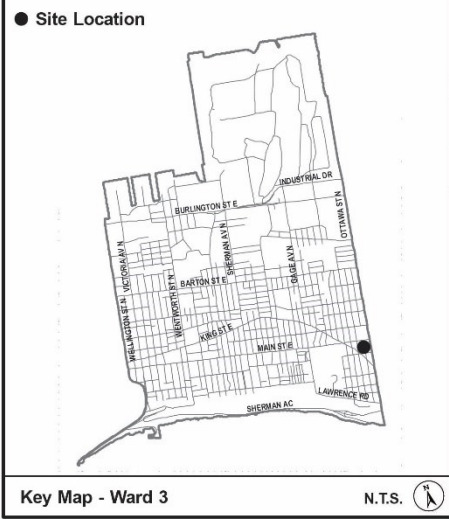
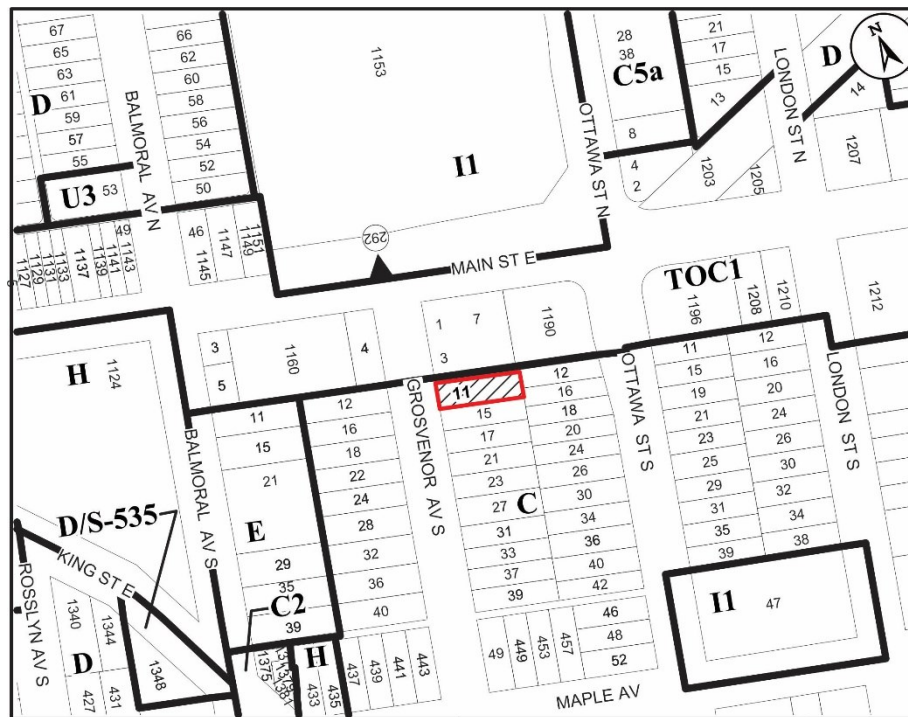
February 4, 2020

PED20034 – (ZAR-19-016)

Application for Zoning By-law Amendment for Lands Located at
11 Grosvenor Avenue South, Hamilton.

Presented by: Sean Stewart





Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
File Name/Number: ZAR-19-016	Date: December 9, 2019
Appendix "A"	Scale: N.T.S.
Planner/Technician: SS/AL	

Subject Property
 11 Grosvenor Avenue South

Change in Zoning from the "C"(Urban Protected Residential, Etc.) District to the "C/S-1797" (Urban Protected Residential, Etc.) District, Modified



SUBJECT PROPERTY



11 Grosvenor Avenue South, Hamilton





Subject property looking east on Grosvenor Avenue South





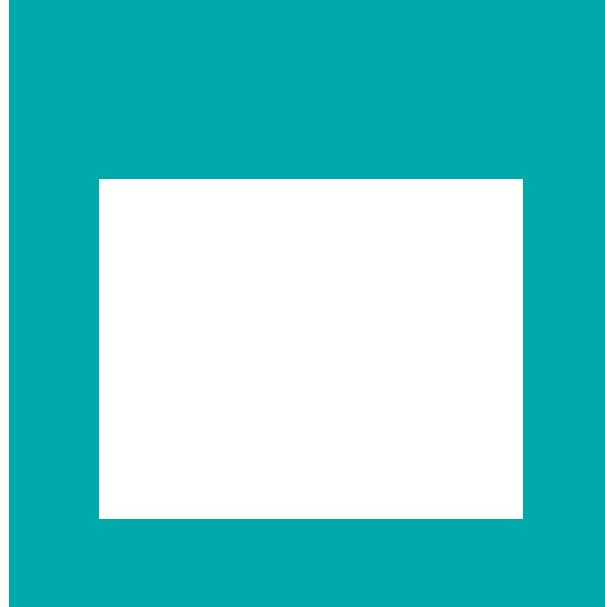
Subject property looking north on Grosvenor Avenue South





Subject property looking west from rear alley





THANK YOU FOR ATTENDING

THE CITY OF HAMILTON PLANNING COMMITTEE



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Amendments to the Property Standards By-law 10-221 Respecting Incomplete and Unrepairable Buildings (PED20032) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721
SUBMITTED BY:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the procedural and maintenance changes to the City of Hamilton Property Standards By-law 10-221 with respect to incomplete and unrepairable buildings described in Report PED20032, 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 PED20032, which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

EXECUTIVE SUMMARY

By-law amendments are occasionally required as part of continuous improvement efforts for the most efficient and effective by-laws. Report PED20032 recommends amending the City of Hamilton Property Standards By-law 10-211 (the Property Standards By-law) to include provisions to:

- Demolish or complete structures where there has been no substantial progress on the construction or demolition of the building for a period of more than one year

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

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

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

SUBJECT: Amendments to the Property Standards By-law 10-221 Respecting Incomplete and Unrepairable Buildings (PED20032) (City Wide) - Page 2 of 4

- Demolish any building that is vacant or is damaged by accident, storm, fire, neglect or otherwise, where it is not feasible to repair the building.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial/Staffing: N/A

Legal: Staff recommendation to use the Property Standards By-law and less formal appeal process is the preferred method to enforce incomplete and unrepairable buildings or structures.

HISTORICAL BACKGROUND

On September 15, 2010, City Council enacted the City of Hamilton Property Standards By-law to prescribe the standards for the maintenance and occupancy of property within the municipality and repeal By-law 03-117. Since its enactment, nine amendments to the Property Standards By-law were passed as a matter of housekeeping or to address specific municipal needs.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Building Code Act, 1992* allows municipalities to pass a by-law to prescribe standards for the maintenance and occupancy of property.

RELEVANT CONSULTATION

The Building Division and Legal Services was consulted in the preparation of this Report and the draft amending by-law attached as Appendix “A” to Report PED20032.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As part of continuous improvement efforts, staff work to review enforcement activities, and update various by-laws to address specific municipal needs identified by Council, committees, staff, public and the courts. In addition to continuous improvement efforts, by-laws require changes over time to align with changes to legislation, improve processes and to correct obsolete or imprecise language while maintaining the by-law’s original intent and effectiveness.

SUBJECT: Amendments to the Property Standards By-law 10-221 Respecting Incomplete and Unrepairable Buildings (PED20032) (City Wide) - Page 3 of 4

Incomplete Buildings or Structures

The *Building Code Act, 1992* authorizes the Chief Building Official (CBO) to revoke building permits where there has been no substantial progress on the construction or demolition of a building or structure for a period of more than one year. On occasion properties having the permit revoked remain dormant and open to the elements or trespass indefinitely. To remedy, the CBO may only commence the formal lengthy process and rights of appeal from the civil courts in an application to the Superior Court of Justice for injunctive relief under section 38 of the *Building Code Act, 1992*.

Staff propose adding a provision to the Property Standards By-law 10-221 to compel the completion or demolition of a building after a permit is revoked. This approach provides a fair and comprehensive procedure to best deal with incomplete buildings. Using the Property Standards By-law avoids the formality of a civil legal setting and associated expenses to both the City and the property owner. The proposed amendment also restates the provisions of section 37 of the *Building Code Act, 1992* to introduce as evidence a copy of the Chief Building Official's direction or order to revoke.

Unrepairable Buildings or Structures

Property Standard Orders require for the alternative to repair or remove the condition that does not conform with the standards of the By-law. Vacant buildings or structures damaged by accident, storm, fire, neglect or otherwise are not necessarily deemed unsafe, but demolition may be appropriate where it is not feasible to repair a damaged or derelict building. To ensure that no person or other person's property is exposed to risk of injury or damage, City staff propose amendments to require any building or portion of it deemed unrepairable or unsalvageable to be demolished within one year.

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.

**SUBJECT: Amendments to the Property Standards By-law 10-221 Respecting
Incomplete and Unrepairable Buildings (PED20032) (City Wide) -
Page 4 of 4**

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 the Property Standards By-law 10-221

**Appendix "A" to Report PED20032
Page 1 of 2**

Authority: Item ,
Report
CM:
Ward: City Wide

Bill No.

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

**To Amend Property Standards By-law No. 10-221
with Respect to Incomplete and Unrepairable Buildings**

WHEREAS Council has enacted Property Standards By-law No. 10-221 to prescribe standards for the maintenance and occupancy of property; and,

WHEREAS Council deems that incomplete and unrepairable buildings are not consistent with the standards for the maintenance and occupancy property prescribed and should be demolished, completed or repaired within a reasonable time.

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

1. The Property Standards By-law No. 10-221 is amended by adding the following after section 5:

INCOMPLETE CONSTRUCTION OR DEMOLITION

5.1(1) Where, in the opinion of an officer, there has been no substantial progress on the construction or demolition of a building, structure or portion thereof for a period of more than one year, such building, structure, or portion thereof shall be:

- (a) demolished in accordance with all applicable statutes, regulations and by-laws; or,
- (b) completed within a reasonable time as specified by the officer, in accordance with all applicable statutes, regulations and by-laws, including this By-law.

5.1.(2) A statement certified by the Chief Building Official or an officer that a permit issued under the *Building Code Act, 1992* was revoked under clause 8(10)(c) of the *Building Code Act, 1992* is receivable in evidence as proof, in the absence of evidence to the contrary, that there has been no substantial progress on the construction or demolition of the building, structure, or portion thereof that was the subject of the permit for a period of more than one year.

Appendix "A" to Report PED20032

Page 2 of 2

2. Section 6 of the By-law is amended by adding the following subsection:

6(8) Where any building is vacant or is damaged by accident, storm, fire, neglect or otherwise, and in the opinion of an officer or the Chief Building Official or an inspector appointed under the *Building Code Act, 1992* it is not feasible to repair the building to the standards prescribed by this By-law without first demolishing the building or a portion of it, the owner shall demolish the building or portion of it that it is not feasible to repair within one year of it becoming so.

3. Subsection 5(1) of the By-law is amended by striking out "6" and substituting "5.1".

4. This By-law comes into force on the date it is passed.

PASSED this _____ day of _____, 2020

F. Eisenberger
Mayor

A. Holland
City Clerk



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

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	February 4, 2020
SUBJECT/REPORT NO:	Amendments to the Idling Control By-law 07-160 and Administrative Penalty By-law 17-225 to Establish a Parking Contravention (PED20035) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Robert Ustrzycki (905) 546-2424 Ext. 4721 James Buffett (905) 546-2424 Ext. 3177
SUBMITTED BY: SIGNATURE:	Ken Leendertse Director, Licensing and By-law Services Planning and Economic Development Department
SUBMITTED BY: SIGNATURE:	Brian Hollingworth Director, Transportation Planning and Parking Division Planning and Economic Development Department

RECOMMENDATION

- (a) That the amendment to the Idling Control By-law 07-160 and Administrative Penalty By-law (APS) 17-225 to create a parking contravention described in Report PED20035, 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 PED20035, which has been prepared in a form satisfactory to the City Solicitor be enacted by Council.

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

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SUBJECT: Amendments to the Idling Control By-law 07-160 and Administrative Penalty By-law 17-225 to Establish a Parking Contravention (PED20035) (City Wide) - Page 2 of 4

EXECUTIVE SUMMARY

This Report is related to and forms part of the Planning and Economic Development Department's response to the City's Climate Change Administration Plan. Currently, the City of Hamilton's Idling Control By-law 07-160 (Idling Control By-law) is enforced by issuing tickets under the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, however the offence of "idling" is more properly categorized as a "parking offence" and could be enforced under the City's Administrative Penalty System (APS). This Report proposes amendments to both the Idling Control By-law as well as the City's Administrative Penalties By-law, to designate the Idling Control By-law as a parking related by-law that would fall under the City's APS. This change will make the enforcement of the Idling By-law more efficient and effective to help improve air quality and address the City's climate change commitments.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial/Staffing: Parking Enforcement Officers appointed as Municipal Law Enforcement Officers are authorized to enforce the parking by-laws of the City. Adopting the proposed amendment to establish the Idling Control By-law as a parking by-law will have no impact on current Hamilton Municipal Parking System (HMPS) resources.

Legal: Staff recommendation to amend the offence section of the Idling Control By-law as a parking contravention is the preferred method to enforce the idling of vehicles.

HISTORICAL BACKGROUND

On May 16, 2007, City Council enacted the City of Hamilton Idling Control By-law to regulate the idling of vehicles to reduce greenhouse gas emissions in the City's commitment to the Federation of Canadian Municipalities Partners for Climate Protection Program.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The *Municipal Act, 2001* authorizes municipalities to pass by-laws respecting the environmental well-being of the municipality and its inhabitants, including climate change, and authorizes municipalities to pass a by-law for parking. The *Municipal Act, 2001* also authorizes municipalities to require the owner of a vehicle to pay

SUBJECT: Amendments to the Idling Control By-law 07-160 and Administrative Penalty By-law 17-225 to Establish a Parking Contravention (PED20035) (City Wide) - Page 3 of 4

administrative penalties if their vehicle was left parked, standing or stopped in contravention of a designated by-law.

RELEVANT CONSULTATION

Legal Services, was consulted in the preparation of this Report and the draft amending by-law attached as Appendix “A” to Report PED20035.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

As part of continuous improvement efforts, staff work to review enforcement activities, and update 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 improve processes to provide effective by-laws.

Approximately 330 calls for idling contraventions were received since January 1, 2015, resulting in only two charges with no convictions. A by-law needs to be enforceable to be effective. Staff researched and reviewed the relevant technical and regulatory support documentation of existing idling control by-laws in other jurisdictions. Idling control by-laws among municipalities share the same enforcement challenges and difficulties, attributed to:

- length of time waiting for the driver/operator to return to the vehicle;
- requirement to identify the driver/operator; and
- lack of authority to identify the driver/operator.

The current Idling Control By-law shares this enforcement challenge. It establishes an offence normally considered as a moving contravention where the driver/operator be positively identified, and any legal action requires a lengthy formal trial in Provincial Offence Court. In principle, a parking contravention is not considered to be a moving violation. Idling contraventions only occur when the subject vehicle has been stationary for a period and in most events when the vehicle is unoccupied.

The current *Municipal Act, 2001* provides the authority to require an owner of a vehicle to pay an administrative penalty if the municipality is satisfied that the vehicle was left parked, standing or stopped in contravention of a designated by-law. The owner of the vehicle is ultimately liable, even though the owner was not the driver at the time of the contravention, unless the vehicle was used without the owner’s consent.

The proposed amendment creates a parking offence where:

- the owner of the vehicle, not the driver/operator, is liable for a contravention;

SUBJECT: Amendments to the Idling Control By-law 07-160 and Administrative Penalty By-law 17-225 to Establish a Parking Contravention (PED20035) (City Wide) - Page 4 of 4

- the provisions apply to the highway and any lands that are not a highway; and
- City vehicles are exempt while the operator is engaged in the performance of his or her duties.

The current resources and availability of staff in HMPS provides an efficient and expedient level of service to improve the City's response to vehicles in contravention of the Idling Control By-law.

To be consistent with the enforcement of other parking contraventions, and considering the environmental impact, staff recommend the proposed amendment be included in the APS By-law with an administrative penalty of \$100, which is a reasonable amount to promote compliance with the Idling By-law. The use of APS has produced positive impacts to administer and enforce parking contraventions that provides a fair, effective and efficient process to dispute parking tickets.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

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Healthy and Safe Communities

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Clean and Green

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

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 the Idling Control By-law 07-160 and Administrative Penalty By-law 17-225

**Appendix "A" to Report PED20035
Page 1 of 3**

Authority: Item ,
Report
CM:
Ward: City Wide

Bill No.

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

To Amend City of Hamilton Idling Control By-law 07-160, being a By-law to Prohibit Unnecessary Idling of Vehicles; and to Amend By-law 17-225, being a By-law to Establish a System of Administrative Penalties

WHEREAS Council enacted a By-law to prohibit the unnecessary idling of vehicles in the City of Hamilton, being By-law No. 07-160;

WHEREAS Council enacted a By-law to Establish a System of Administrative Penalties, being By-law 17-225; and,

WHEREAS this By-law amends By-law No. 07-160 and 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 letter changes.
2. That the second WHEREAS clause citing section 425 is repealed and replace with the following:

WHEREAS Section 102.1 of the Municipal Act, S.O. 2001, Chapter 25 authorizes municipalities to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles;

3. That Section 2 to By-law No. 07-160 is amended by adding the following subsections:
 - 2.7 "Park" or "Parking" means the standing of a motor vehicle, whether occupied or not, and includes when Standing temporarily for the purpose of and while actually engaged in loading or unloading merchandise.
 - 2.8 "Stand" or "Standing", means the halting of a Motor Vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.
4. That subsection 2.3 to By-law No. 07-160 be amended by repealing the definition of "idling" and replacing it with the following definition:

Appendix “A” to Report PED20035
Page 2 of 3

- 2.3 “Idling” means the parking or standing of a motor vehicle, while the combustion engine is running and is not being used to operate auxiliary equipment that is essential to the basic function of the motor vehicle.
5. That Subsection 2.6 to By-law No. 07-160 is amended by adding the following clause:
- (c) a motor vehicle owned or operated by the City of Hamilton while the operator is engaged in the performance of his or her duties;
6. That Subsection 3.1 to By-law No. 07-160 is repealed and the following substituted:
- 3.1 No person shall cause or permit a motor vehicle to idle for more than three (3) consecutive minutes on a highway (as defined in the *Highway Traffic Act*, R.S.O. 1990, c. H.8) under the jurisdiction of the City of Hamilton or on any other property or lands within the City of Hamilton that is not a highway.
7. That Subsections 4.3, 4.4 (b) and 4.4 (c) and 4.6 to By-law No. 07-160 are hereby repealed;
8. That Section 5 to By-law No. 07-160 is repealed and the following substituted:
- 5 Administrative Penalties System**
- 5.1 This by-law in its entirety is designated as a by-law to which the City’s Administrative Penalties by-law applies.
- 5.2 The owner of the motor vehicle that is left idling in contravention of this by-law, when given a penalty notice in accordance with the City’s Administrative Penalties By-law, shall be liable to pay the City an administrative penalty in the amount specified in Schedule A of the City’s Administrative Penalty By-law and any fees related thereto.
9. That Schedule A of By-law No.17-225 is amended by adding Table 21 titled Idling Control By-law No. 07-160;

TABLE 21: BY-LAW NO. 07-160 TO PROHIBIT UNNECESSARY IDLING OF VEHICLES WITHIN THE CITY OF HAMILTON					
ITEM	COLUMN 1 DESIGNATED BY- LAW & SECTION		COLUMN 2 SHORT FORM WORDING	COLUMN 3 EARLY PAYMENT	COLUMN 4 SET PENALTY
1	07-160	3.1	Idling longer than three (3) minutes	\$80.00	\$100.00

10. That in all other respects, By-law 07-160 and By-law 17-225 are confirmed; and

Appendix "A" to Report PED20035
Page 3 of 3

11. That the provisions of this by-law shall become effective on the date approved by City Council.

PASSED this _____ day of _____, 2020.

F. Eisenberger
Mayor

A. Holland
City Clerk

CITY OF HAMILTON

MOTION

PLANNING COMMITTEE DATE: FEBRUARY 4, 2020

MOVED BY COUNCILLOR J. FARR.....

SECONDED BY COUNCILLOR

Waiving Minor Variance Fee for 73 Cannon Street East

WHEREAS, the City of Hamilton Zoning By-law No. 6593 regulates the use of land at 73 Cannon Street East;

WHEREAS, an accessory building has been constructed on the subject lands with a maximum building height of 4.26 metres which does not conform to the Zoning By-law;

WHEREAS, the property owner is required to apply to the Committee of Adjustment for approval of a Minor Variance to address the maximum building height; and,

WHEREAS, the fee for an “after the fact” Minor Variance Application is \$4,119.00;

THEREFORE BE IT RESOLVED:

That staff be directed to waive the fee for the required Minor Variance Application to address the maximum building height for the lands located at 73 Cannon Street East.