

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: Chair and Members Planning Committee | WARD(S) AFFECTED: WARD 11 |
| COMMITTEE DATE: November 6, 2012 | |
| SUBJECT/REPORT NO: Application to Amend City of Stoney Creek Zoning By-law No. 3692-92 for Lands Located at 546-548 Fifty Road and 32-36 Kingspoint Circle (Stoney Creek) (PED12200) (Ward 11) | |
| SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department | PREPARED BY: Alvin Chan (905) 546-2424 Ext. 1334 |
| SIGNATURE: | |

RECOMMENDATION

That approval be given to **Zoning Amendment Application ZAC-12-019, by Marfive Holdings, c/o Mario and Maria Marchionda, (Owner)**, for changes in zoning from the Neighbourhood Development “ND” Zone and Rural Residential “RR” Zone to the Single Residential “R3-36” Zone, with a Special Exception, in order to facilitate the creation of 2 single detached residential lots fronting onto Kingspoint Circle, and to retain 2 single detached residential lots fronting onto Fifty Road, as approved by Committee of Adjustment Severance Applications SC/B-12:34 to SC/B-12:36, inclusive, on the lands known municipally as 546-548 Fifty Road and 32-36 Kingspoint Circle (Stoney Creek), as shown on Appendix “A” to Report PED12200, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED12200, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

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- (b) That the amending By-law be added to Map 4 of Schedule “A” of Zoning By-law No. 3692-92.
- (c) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and City of Stoney Creek Official Plan.

EXECUTIVE SUMMARY

The purpose and effect of Zoning Application ZAC-12-019 is to amend the City of Stoney Creek Zoning By-law in order to permit the development of 2 single detached residential lots fronting onto Kingspoint Circle, and to retain 2 single detached residential lots fronting onto Fifty Road, for the lands located at 546-548 Fifty Road and 32-36 Kingspoint Circle (see Appendix “A”).

In particular, land assembly through Committee of Adjustment Consent Applications SC/B-12:34 to SC/B-12:36, inclusive, (see Appendices “C” to “E”) will result in 2 single detached residential lots to be retained along Fifty Road, and the rear of these lands to be merged with part of Block 186 of 62M-987, “Fifty Road Joint Venture - Phase 2”, to create 2 single detached residential lots fronting Kingspoint Circle (see Appendix “F”).

The proposed application has merit and can be supported, as it is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe, the Hamilton-Wentworth Official Plan, and City of Stoney Creek Official Plan.

The proposed development is compatible with and complementary to the existing uses in the immediate area and neighbourhood, and provides for the development of a complete community.

Alternatives for Consideration - See Page 13.

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

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for an amendment to the Zoning By-law.

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The purpose and effect of the application is for changes in zoning from a Rural Residential and Future Development Zone to a Single Residential Zone in order to permit the creation of 2 single detached residential lots fronting onto Kingspoint Circle, and to retain 2 single detached residential lots fronting onto Fifty Road (see Appendix "F").

The proposal implements the required rezoning application, as per Condition 5 of Severance Applications SC/B-12:34 and SC/B -12:35 (see Appendices "C" and "D") and Condition 4 of SC/B-12:36 (see Appendix "E"), as approved by the Committee of Adjustment on June 14, 2012.

Chronology:

- January 25, 2012: Development Review Committee for FC-11-145.
- May 16, 2012: Submission of Committee of Adjustment Severance Applications SC/B-12:034 to SC/B-12:036, inclusive.
- May 31, 2012: Zoning By-law Amendment Application ZAC-12-019 received.
- June 14, 2012: Approval of Committee of Adjustment Severance Applications SC/B-12:034 to SC/B-12:036, inclusive.
- June 29, 2012: Application ZAC-12-019 deemed complete.
- July 10, 2012: Circulation of Notice of Complete Application for Application ZAC-12-019 to all residents within 120m of the subject lands.
- July 11, 2012: Public Notice Sign erected on subject lands.
- October 19, 2012: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands.

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for Lands Located at 546-548 Fifty Road and 32-36 Kingspoint Circle
(Stoney Creek) (PED12200) (Ward 11) - Page 4 of 14**

Details of Submitted Application:

Location: 546 and 548 Fifty Road and 32 and 36 Kingspoint Circle
(Stoney Creek) (See Appendix "A")

Owner/Applicant: Marfive Holdings (c/o Mario and Maria Marchionda)

Agent: A.J. Clarke and Associates Ltd. (c/o Stephen Fraser)

Property Description:

Lot Frontage: 546 Fifty Road - 13.72m
548 Fifty Road - 24.38m
32 Kingspoint Circle - 12.80m
36 Kingspoint Circle - 14.09m

Lot Depth: 546 Fifty Road - 27.86m
548 Fifty Road - 27.86m
32 Kingspoint Circle - 27.40m (irregular)
36 Kingspoint Circle - 27.40m (irregular)

Lot Area: 546 Fifty Road - 379.62m²
548 Fifty Road - 681.96m²
32 Kingspoint Circle - 484.13m²
36 Kingspoint Circle - 430.23m²

Servicing: Full Municipal Services

EXISTING LAND USE AND ZONING:

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|------------------------------|--|---|
| <u>Subject Lands:</u> | <u>546 Fifty Road</u> Vacant lands | Rural Residential "RR" Zone |
| | <u>548 Fifty Road</u> Single Detached Residential | Rural Residential "RR" Zone and Neighbourhood Development "ND" Zone |

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| <u>Surrounding Lands:</u> | | |
|----------------------------------|--|---|
| North | Single Detached Residential and Vacant Remnant Parcels | Rural Residential “RR” Zone and Neighbourhood Development “ND” Zone |
| South | Single Detached Residential | Single Residential “R1-13” Zone and Single Residential “R3-12” Zone |
| East | Single Detached Residential | Single Residential “R3-12” Zone |
| West | Single Detached Residential | Neighbourhood Development “ND” Zone |

POLICY IMPLICATIONS

Provincial Policy Statement:

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in Settlement Areas, Policy 1.1.3.1.

Additionally, Policy 2.6.2 requires that development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation on site. It is noted that the requirement for an Archaeological Assessment was a condition of approval for the respective Severance Applications (SC/B-12:34 to SC/B-12:36) (see Condition 3 - Appendices “C” to “E”).

Staff notes that an Archaeological Assessment was submitted with the subject application, and upon review, staff concurs with the findings. Accordingly, the Provincial interest has been satisfied.

Lastly, Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities (such as transportation corridors) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and minimize risk to public health and safety.

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It is noted that Committee of Adjustment Consent Applications SC/B-12:34 to SC/B-12:36, inclusive, are subject to a condition of approval whereby the necessary noise warning clause(s) are to be included within the required Consent Agreements (see Condition 2 - Appendices "C" to "E"). Accordingly, the Provincial interest has been addressed.

Based on the foregoing, the proposal is consistent with the Provincial Policy Statement.

Growth Plan for the Greater Golden Horseshoe (Places to Grow):

The subject application is consistent with the Guiding Principles, Section 1.2.2, and the Managing Growth policies of the Plan, through a planned and managed growth that supports a strong and competitive economy, while protecting, conserving, enhancing, and wisely using the valuable natural resources of land, air, and water for current and future generations; optimizing the use of existing and new infrastructure to support growth that is in a compact, efficient form; and establishing a built compact, vibrant, and complete community. Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

Hamilton-Wentworth Official Plan:

The subject properties are designated as "Urban Area" in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

Additionally, Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As mentioned above, the Provincial interest has been satisfied.

As the subject application is to create 2 single detached residential lots fronting onto Kingspoint Circle, and to retain 2 single detached residential lots fronting onto Fifty Road, within the "Urban Area" where full municipal services are available, the proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan:

The subject lands are designated as "Residential" on Schedule A - General Land Use Plan and "Low Density Residential" on Schedule A4 - Urban Lakeshore Area.

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Policy A.1.2.1 prescribes that: *“the primary uses permitted in areas designated on Schedule “A” as RESIDENTIAL shall be for dwellings. The location and type of residential densities within these areas, however, shall conform with the relevant Secondary Plan provisions, as specified under this Sub-section, Sub-section A.13, F.3, and other relevant policies of this Plan.”*

Additionally, Policy A.1.2.5 requires that: *“any development shall be provided with full urban services, including paved roads, municipal sanitary and storm sewers, and piped water. In no case will development be approved where the agency having jurisdiction indicates that such services are not available or adequate to accommodate the intended development, unless otherwise specified in this Plan.”*

The proposal is for single detached residential on full municipal services, which is consistent with the above noted policies, and conforms to the “Low Density Residential” designation of the Urban Lakeshore Secondary Plan, which is further discussed below.

Furthermore, Policy A.1.2.19 states:

“In the development of new residential areas, and as far as practical in the infilling or redevelopment of established areas, Council may undertake or require the following in order to achieve high standards of residential amenity:

- a) Provision and maintenance of adequate off-street parking;*
- b) The provision and maintenance of adequate separation distances, and the placement of buffering features between residential uses of differing densities, as well as other land uses.*
- c) Provision, improvement and/or maintenance of on-site landscaping; and,*

In addition, residential development and/or infilling within developed neighbourhoods shall not be on a scale so as to create a land use conflict with surrounding uses.”

Lastly, Policy A.1.2.27 states that: *“In the evaluation of residential development or redevelopment proposals, adequate provisions for noise attenuation features, to the satisfaction of the Ministry of the Environment, may be required.”*

As the proposed development will provide adequate off-street parking, is of the appropriate density, will not create conflict with surrounding land uses, and includes appropriate noise warning clauses within the required Consent Agreements, the proposal conforms to the “Residential” policies of the City of Stoney Creek Official Plan.

Urban Lakeshore Area Secondary Plan - Fifty Point Neighbourhood:

The subject lands are designated as “Low Density Residential” in the Urban Lakeshore Area Secondary Plan. Policy A.1.2.12 prescribes that “Low Density Residential” be approximately 1 to 29 units per net residential hectare, and predominantly of a single detached housing form, amongst others.

As the proposed development is to create and retain a total of 4 single detached residential lots, with an approximate density of 17 units per net residential hectare, the proposed development conforms to the policies of the Urban Lakeshore Area Secondary Plan.

New Urban Hamilton Official Plan:

The Urban Hamilton Official Plan received Ministerial Approval from the Ministry of Municipal Affairs and Housing on March 16, 2011, and, therefore, can no longer be modified. However, the Plan has been appealed to the Ontario Municipal Board.

The subject lands are designated as “Neighbourhoods” on Schedule “E” - Urban Structure and Schedule “E-1” - Land Use Designations, and as “Low Density Residential 2b” on Map B.7.3-1 - Urban Lakeshore Area Secondary Plan.

Policy Section E.3.2.1 of Volume 1 prescribes that: *“Areas designated Neighbourhoods shall function as complete communities, including the full range of residential dwelling types and densities, as well as supporting uses intended to serve the local residents.”*

As the subject development provides for a complete community, and is of a Residential nature in accordance with the uses permitted under Policy E.3.2.3, the subject application conforms to the “Neighbourhoods” general policies.

The proposed development of the 2 new lots on Kingspoint Circle and 2 retained lots on Fifty Road will be subject to a maximum height of 11m, as per the amending By-law, and will be accessed via a local road, with a lot width and size compatible with the streetscape character, scale, appearance, and design, thereby ensuring compatibility and public safety.

Similarly, the Secondary Plan policies, in particular, the “Low Density Residential 2b” designation, permits singles, and regulates development to a density of 1-29 units per net residential hectare. Since the proposal is for 4 single detached residential lots, with an approximate density of 17 units per net residential hectare, it would conform with the “Neighbourhoods” and “Low Density Residential 2b” policies of the Urban Hamilton Official Plan.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Recreation Division, Community Services Department.
- Taxation Division, Corporate Services Department.
- Ministry of Transportation.

Operations and Waste Management Division (Public Works Department) has confirmed that the subject development is eligible for municipal pick-up curb-side in front of the properties, and subject to compliance with the City's Solid Waste Management By-law No. 09-067.

Traffic Engineering Section (Public Works Department) requested that a sketch be provided to illustrate the building envelopes with driveway width and location connecting the garages to Kingspoint Circle (see Appendix "F"). The required sketch was provided by the applicant/agent, dated May 16, 2012, and upon review by Traffic staff, was deemed satisfactory. Based on the foregoing, the above noted concern has been addressed.

Forestry and Horticulture Section (Public Works Department) has requested a Tree Management Plan for all Municipal and on-site trees. However, upon further review by Forestry staff, the lands are outside of the Stoney Creek Tree By-law, and a Tree Management Plan is no longer required.

Notwithstanding, Forestry staff has requested that the existing trees be plotted on the required reference plan(s) for the associated severance applications. The applicant/agent has been advised, and is in agreement with this requirement. Based on the foregoing, the above concern has been satisfied.

Environment and Sustainable Infrastructure Division (Public Works Department) has advised that the proposed development does not impact the B-line higher order transit corridor, but that any road widenings be acquired. Furthermore, they have requested that Transportation Demand Management (TDM) initiatives be applied, including sidewalks, cycling facilities, and permeable pavers.

It is noted that requisite road widening has been secured previously under Severance Application SC/B-05:120 and, accordingly, no further dedications are required. With respect to the TDM initiatives, the proposal will be serviced by the existing sidewalks along Fifty Road and within the interior of Kingspoint Circle, and any further TDM initiatives would be at the discretion of the applicant/owner. Based on the foregoing, staff is of the opinion that the above concerns have been satisfied and have no further comments and/or concerns.

PUBLIC CONSULTATION

In accordance with Council's Public Participation Policy, preliminary circulation of the application was not required since the property was also the subject of various Consent Applications, which is a Public Process. No letters were received in response to the circulation of the severance applications, and no members of the public attended the Committee of Adjustment Meeting.

In accordance with the new provisions of the Planning Act, Notice of Complete Application for the Zoning By-law Amendment was circulated to 130 property owners within 120m of the subject property on July 10, 2012. No letters have been received in response to this notice.

Furthermore, a Public Notice sign for the Zoning By-law Amendment was posted on the property on July 11, 2012. Finally, Notice of the Public Meeting was given in accordance with the requirements of the Planning Act on October 19, 2012.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe, as it represents an opportunity for growth in Settlement Areas.
 - (ii) It conforms to the policies of the Hamilton-Wentworth Official Plan.
 - (iii) It conforms to the "Residential" and "Low Density Residential" policies of the City of Stoney Creek Official Plan and Urban Lakeshore Area Secondary Plan - Fifty Point Neighbourhood.
 - (iv) It conforms to the intent and purpose of the "Neighbourhoods" and "Low Density Residential 2b" policies of the new Urban Hamilton Official Plan and Urban Lakeshore Area Secondary Plan - Fifty Point Neighbourhood.
 - (v) The proposed development is compatible with existing land uses in the immediate area, and represents good planning by, among other things, providing for the development of a complete community, enhancing the streetscape along Fifty Road and Kingspoint Circle, while making efficient use of existing infrastructure within the urban boundary.

- (vi) The proposal implements the condition of approval for Severance Applications SC/B-12:34 to SC/B-12:36, inclusive, which requires the final approval of a rezoning application, as identified as Condition 5 of Appendices “C” and “D”, and Condition 4 of Appendix “E”.
2. The applicant has requested modifications to the Single Residential “R3” Zone, as follows:

Single Residential “R3-36” Zone:

Maximum Lot Coverage:

The applicant has requested an increase in lot coverage from 40% to 45% for all proposed lots. It is noted that the increase in lot coverage is to recognize the existing dwelling on the proposed retained lot, and in order to provide additional and alternative housing sizes than those found in the neighbourhood for the future single detached residential building lots.

The proposed lots exceed the minimum lot area of the Single Residential “R3” Zone and, additionally, surrounding existing development includes site-specific modifications that have removed the maximum lot coverage for the existing single detached residential.

Furthermore, lot coverage generally seeks to regulate development to ensure adequate stormwater management, site servicing, and amenity space. In review of the requested increase, Growth Management staff has confirmed there are no significant or adverse impacts with respect to servicing and stormwater management, and staff is of the opinion that sufficient open space and amenity are maintained.

Based on the foregoing, staff supports the requested increase in lot coverage, as it will allow for additional housing sizes and designs, which would be consistent with the existing development and zoning in the area.

3. Development Engineering has advised that municipal sewers and watermains are available on Kingspoint Circle and Fifty Road. Private dual sewer and water connection construction to service each of the proposed lots will be required.

It is noted that a best effort recovery for the sanitary sewer on Fifty Road, in the amount of \$5,626.00, was collected by the City on May 15, 2006. In addition, the transfer of Parts 1 and 3 of Reference Plan 62R-17483, for road widening purposes along the entire frontage of these lands on Fifty Road, was provided under the previous Severance Application SC/B-05:120, and no additional road widenings are required on this roadway or Kingspoint Circle.

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Furthermore, it is noted that a cash payment recovery towards the applicant/owner's share of the "as-constructed" costs for urbanizing Fifty Road along the frontage of the new lot has been provided.

However, a further cash payment will be required along the frontage of the northerly lot to be created fronting Fifty Road, along with the sanitary sewer mainline and private drain connection recovery, as noted earlier. There are no cost recoveries associated with the 2 proposed new lots fronting on Kingspoint Circle.

Based on the foregoing, additional sanitary sewer and private drain connection recoveries may be required along the frontage of the northerly lot to be created on Fifty Road. This requirement, along with the above noted concerns, has been addressed through Severance Applications SC/B-12:34, SC/B-12:35, and SC/B-12:36, whereby all issues respecting outstanding servicing costs, urbanization costs, and lot grading (Consent Agreement) etc., are addressed as a condition of approval (see Condition 6 - Appendices "C" and "D", and Condition 5 - Appendix "E").

Regarding side yard setbacks, if one-way (back-to-front) drainage is proposed, it is recommend that a minimum 1.2m setback be required on both sides of all lots to accommodate the required drainage swales and provide for unobstructed pedestrian access to the back yard. Based on the City's new Grading Policy for one-way drainage, a minimum of 2.0m separation between the buildings and a minimum of 1.2m on the garage side is required, otherwise the lots will be subject to two-way (split) drainage.

Furthermore, the ponding of the rear yard catchbasins should be minimized, with a minimum 2.0m space between foundation walls, to accommodate an overland flow route to the proposed rear yard catchbasin.

In light of the above noted servicing comments, appropriate setback and minimum distance separation between units will be subject to a grading plan, as required through the Consent Agreements.

Based on the foregoing, staff is satisfied that the required Consent Agreements will ensure that the required grading and servicing conforms to the City of Hamilton Lot Grading Policy and, therefore, has no further comments and/or concerns.

ALTERNATIVES FOR CONSIDERATION

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

If the application is denied, the applicant would be able to retain the existing single detached dwelling on 548 Fifty Road, and develop 546 Fifty Road for the uses, as prescribed by the Rural Residential “RR” Zone, which permits a single detached dwelling, accessory structure, and home occupations.

The lands to be consolidated, being Part of Block 186, 62M-987, “Fifty Road Joint Venture - Phase 2”, would remain in a future development zone, and would not be developable until further land assembly has been completed.

Lastly, it is noted that since the subject Zoning By-law Amendment Application is a condition of approval of the associated severance applications, the severances would not attain final approval and would, therefore, lapse.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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

Financial Sustainability

- ◆ Effective and sustainable Growth Management.
- ◆ Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative, and cost-effective manner.

The proposed development utilizes an existing road network and existing servicing capacity, resulting in a more sustainable, cost-effective development.

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

The proposed residential units will provide a greater housing choice for the area, and will provide for an improved streetscape and public safety in the neighbourhood.

Healthy Community

- ◆ Plan and manage the built environment.

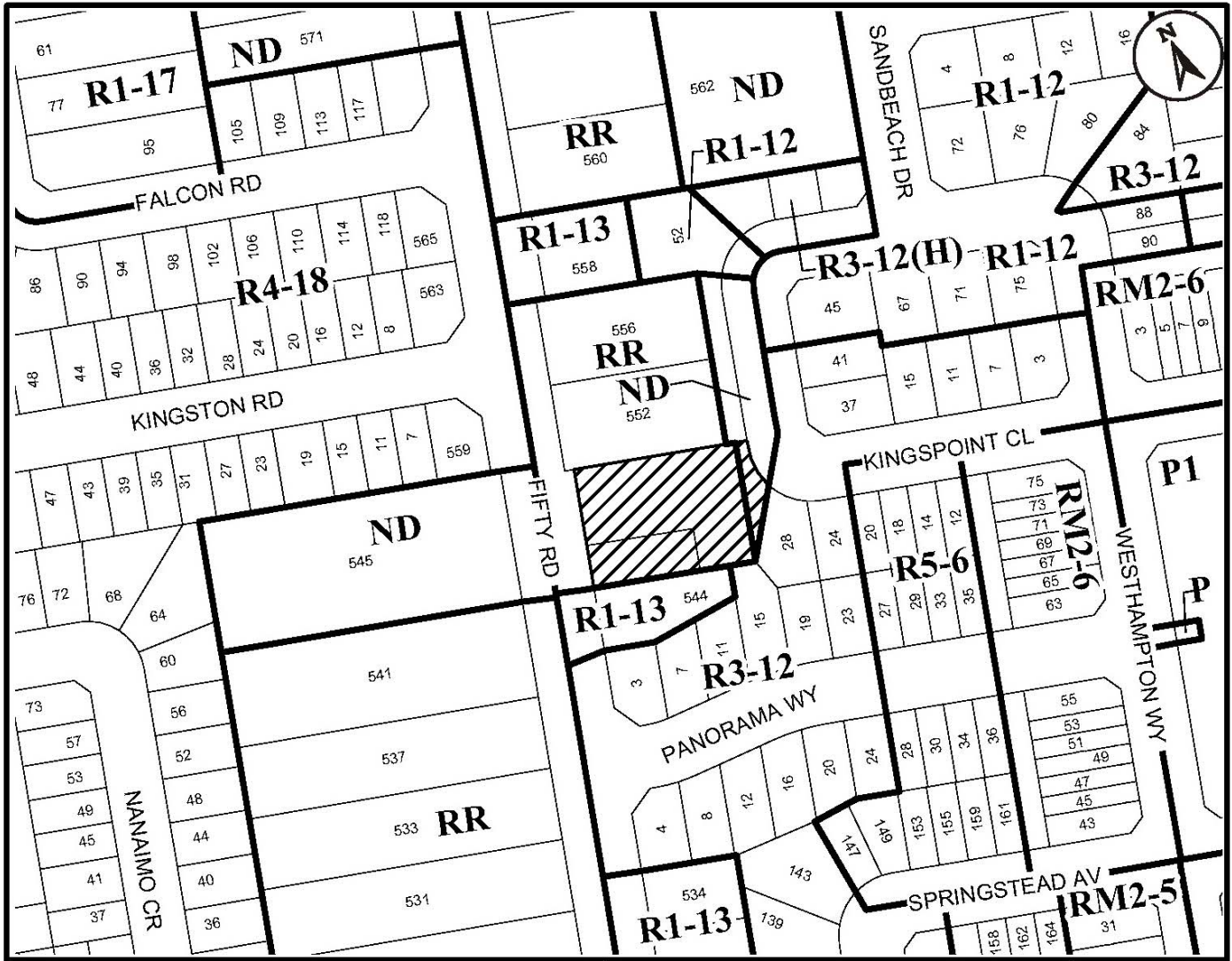
The lands are being developed in accordance with the planned uses for the area, and the development is a logical form of development along both Fifty Road and Kingspoint Circle. The units will provide housing opportunities for residents of Hamilton and a complete community.

APPENDICES / SCHEDULES

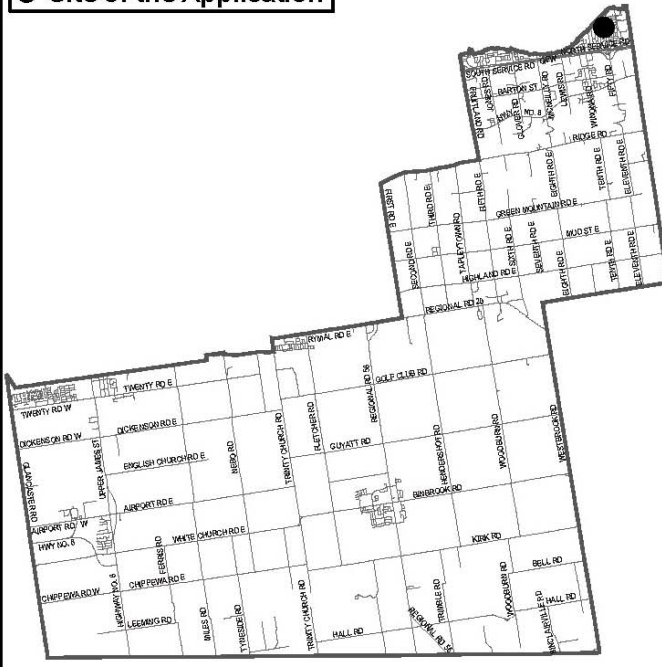
- Appendix "A": Location Map
- Appendix "B": Implementing Zoning By-law Amendment to City of Stoney Creek Zoning By-law No. 3692-92
- Appendix "C": Committee of Adjustment Decision for SC/B-12:34
- Appendix "D": Committee of Adjustment Decision for SC/B-12:35
- Appendix "E": Committee of Adjustment Decision for SC/B-12:36
- Appendix "F": Draft Reference/Concept Plan

:AC

Attachs. (6)



● Site of the Application



Ward 11 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAC-12-019

Date:
July 3, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
AC/NB

Subject Property

546 & 548 Fifty Road, 32 & 36 Kingspoint Circle, Stoney Creek



Change in Zoning from the Rural Residential "RR" Zone and Neighbourhood Development "ND" Zone to the Single Residential "R3-36" Zone, Modified.

Authority: Item [REDACTED]
Planning Committee
Report: 12-[REDACTED] (PED12200)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 3692-92 (Stoney Creek) Respecting the Lands Located at 546 and 548 Fifty Road and 32 and 36 Kingspoint Circle

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

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

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

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 3692-92 (Stoney Creek) be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;

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

1. That Map No. 4 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing from the Rural Residential "RR" Zone and Neighbourhood Development "ND" Zone to the Single Residential "R3-36" Zone, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That Sub-section 6.4.7, "Special Exemptions", of Section 6.4 Single Residential "R3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption, "R3-36"; as follows:

"R3-36" - 546 and 548 Fifty Road and 32 and 36 Kingspoint Circle, Schedule "A", Map No. 4

Notwithstanding the provisions of Paragraph (g), of Section 6.4.3 "Zone Regulations", of Section 6.4, Single Residential "R3" Zone, of Zoning By-law No. 3692-92, on those lands zoned "R3-36" by this By-law, the following shall apply:

(g) Maximum Lot Coverage: 45 percent.

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 Single Residential "R3 Zone provisions, subject to the special requirement referred to in Section 2.
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 [REDACTED] day of [REDACTED], 2012.

R. Bratina
Mayor

Rose Caterini
Clerk

ZAC-12-019



This is Schedule "A" to By-Law No. 12-
 Passed the day of, 2012

 Mayor

 Clerk

Schedule "A"

Map Forming Part of
 By-Law No. 12-_____

to Amend By-law No. 3692-92

Subject Property

546 & 548 Fifty Road, 32 & 36 Kingspoint Circle, Stoney Creek



Change in Zoning from the Rural Residential "RR" Zone and Neighbourhood Development "ND" Zone to the Single Residential "R3-36" Zone, Modified.

Scale:
 N.T.S.

File Name/Number:
 ZAC-12-019

Date:
 July 3, 2012

Planner/Technician:
 AC/KA



Hamilton



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

NOTICE OF DECISION

APPLICATION FOR CONSENT\LAND SEVERANCE

APPLICATION NO. SC/B-12:34
SUBMISSION NO. B-34/12

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as 546 and 548 Fifty Road, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent A.J. Clarke & Associates (Stephen Fraser) on behalf of the owners M. & M. Marchionda & Marfive Holdings Limited, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land (Part 4 on the attached sketch) with an area of approximately 440m² to be merged in title with the adjacent lands (Part 1, 62R-18083) for residential purposes and to retain a parcel of land (Parts 1, 2, 3 and 5 on the attached sketch) containing existing buildings (to be demolished) with an area of approximately 1535m² for residential purposes.

This application is being heard in conjunction with SC/B-12:35 & SC/B-12:36.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Stoney Creek Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"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 may exceed the Municipality's and the Ministry of the Environment's noise criteria."

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


Should deeply buried archaeological materials be found on the property during any of the above development activities 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).

4. That the lands to be severed be merged in the same name and title as the lands to be added to, known as 36 and 32 Kingspoint Circle.
5. That the applicant/owner apply for and receive final approval of a Rezoning Application to the satisfaction of the Director of Development Planning.
6. That the Owner enters into with the City of Hamilton and registers a Consent Agreement to deal with and address issues including, but not limited to: grading and drainage; cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
7. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
8. As a condition of severance approval we will require the Applicant to provide an Engineering drawing illustrating the location of the driveway approaches from the curb of Kingpoint Circle back to the building envelope to confirm they do not conflict with each other or any existing driveways.
9. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
10. The owner submit to the Committee of Adjustment office an administration fee of \$45.90 (15.30 per lot) payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

DATED AT HAMILTON this 14th day of June, 2012.

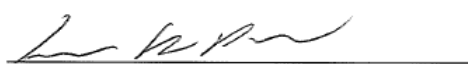

M. Dudzic, Chairman

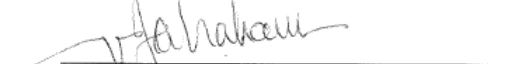

I. Dunlop


D. Serwatak


D. Smith


L. Gaddy


W. Pearce


V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 21st, 2012.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 21st, 2013) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

SC/B-12:34
Page 3

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 11th, 2012.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The existing Consent Agreement dated May 1, 2006 entered into between the previous Owners [Olga and Alex Teleguine] and the City of Hamilton registered on May 31, 2006 as WE394597 along with the Transfer Easement (Lot Grading) from Olga and Alex Teleguine to the City over Part 2, Plan 62R-17483 registered on May 31, 2006 as WE394596 are to be discharged from title upon the registration of the new Consent Agreement and Lot Grading Easement transfer.
2. Based on the attached plans and on the applications being approved and all conditions being met, the owner / applicant should be made aware that the following municipal addresses will be assigned: Part 1 – 36 Kingspoint Circle; Part 2 – 32 Kingspoint Circle; Part 3 – 548 Fifty Road; Part 4 – 546 Fifty Road.
3. The applicant will be required to pay cash-in-lieu of parkland dedication at the time of a Building Permit application for the newly created lots, based on the value of the lands as of the day before Building Permit issuance.



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

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. SC/B-12:35
SUBMISSION NO. B-35/12

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as 546 and 548 Fifty Road, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent A.J. Clarke & Associates (Stephen Fraser) on behalf of the owners M. & M. Marchionda & Marfive Holdings Limited, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land (Part 2 on the attached sketch) with an area of approximately 353m² containing existing buildings (to be demolished) for residential purposes and to retain two parcels of land (Parts 1 and 2 attached sketch) containing existing buildings (to be demolished) each with an area of approximately 353m² for residential purposes.

This application is being heard in conjunction with SC/B-12:34 & SC/B-12:36.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Stoney Creek Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

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

SC/B-12:35
Page 2

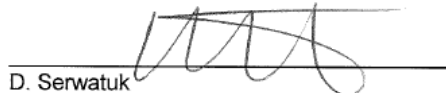
Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent 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).


4. That the lands to be severed be merged in the same name and title as the lands to be added to, known as 36 and 32 Kingspoint Circle.
5. That the applicant/owner apply for and receive final approval of a Rezoning Application to the satisfaction of the Director of Development Planning.
6. That the Owner enters into with the City of Hamilton and registers a Consent Agreement to deal with and address issues including, but not limited to: grading and drainage; cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
7. Demolition of all or an appropriate portion of the building straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.
8. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
9. The Applicant is required to provide an Engineering drawing illustrating the location of the driveway approaches from the curb of Kingpoint Circle back to the building envelope to confirm they do not conflict with each other or any existing driveways, to the satisfaction of Public Works Department (Johanna Black).
10. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
11. The owner submit to the Committee of Adjustment office an administration fee of \$45.90 (15.30 per lot) payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

DATED AT HAMILTON this 14th day of June, 2012.

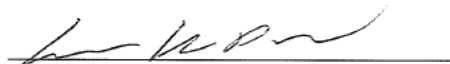

M. Dudzic, Chairman

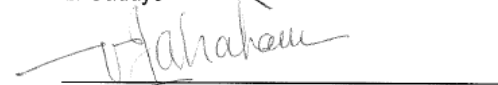

I. Dunlop


D. Serwatak


D. Smith


L. Gaddy


W. Pearce


V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 21st, 2012.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 21st, 2013) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

SC/B-12:35
Page 3

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 11th, 2012.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

NOTES (TO BE INCLUDED IN DECISION IF APPROVED):

1. The existing Consent Agreement dated May 1, 2006 entered into between the previous Owners [Olga and Alex Teleguine] and the City of Hamilton registered on May 31, 2006 as WE394597 along with the Transfer Easement (Lot Grading) from Olga and Alex Teleguine to the City over Part 2, Plan 62R-17483 registered on May 31, 2006 as WE394596 are to be discharged from title upon the registration of the new Consent Agreement and Lot Grading Easement transfer.
2. Based on the attached plans and on the applications being approved and all conditions being met, the owner / applicant should be made aware that the following municipal addresses will be assigned: Part 1 – 36 Kingspoint Circle; Part 2 – 32 Kingspoint Circle; Part 3 – 548 Fifty Road; Part 4 – 546 Fifty Road.
3. The applicant will be required to pay cash-in-lieu of parkland dedication at the time of a Building Permit application for the newly created lots, based on the value of the lands as of the day before Building Permit issuance.



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

NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

**APPLICATION NO. SC/B-12:36
SUBMISSION NO. B-36/12**

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as 546 and 548 Fifty Road, formerly in the City of Stoney Creek, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent A.J. Clarke & Associates (Stephen Fraser) on behalf of the owners M. & M. Marchionda & Marfive Holdings Limited, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land (Part 5 on the attached sketch) with an area of approximately 474m² to be merged in title with the adjacent lands (Part 2, 62R-18083) for residential purposes and to retain a parcel of land (Parts 1, 2, 3 and 4 on the attached sketch) containing existing buildings (to be demolished) with an area of approximately 1501m² for residential purposes.

This application is being heard in conjunction with SC/B-12:34 & SC/B-12:35.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS APPROVED** for the following reasons:

1. The proposal does not conflict with the intent of the Hamilton-Wentworth and City of Stoney Creek Official Plans.
2. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
3. The Committee considers the proposal to be in keeping with development in the area.

Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following conditions.

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. That the owner/applicant agree to include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"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 may exceed the Municipality's and the Ministry of the Environment's noise criteria."

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

SC/B-12:36
Page 2

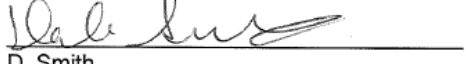
Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent 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).

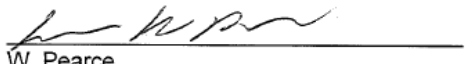
4. That the applicant/owner apply for and receive final approval of a Rezoning Application to the satisfaction of the Director of Development Planning.
5. That the Owner enters into with the City of Hamilton and registers a Consent Agreement to deal with and address issues including, but not limited to: grading and drainage; cash payment requirements for items such as trees, urbanization of the adjacent roads, cost recoveries for existing above and/or underground services, inspection of grading and services to be installed; and securities for items such as: estimated cost of services to be installed, lot grading, driveway approaches, new or re-location of sidewalks adjacent to the subject lands and any damages to the existing City infrastructure or public property during construction.
6. The owner shall receive final approval of any necessary variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building Services Division).
7. The lands to be conveyed shall be registered in the same name and title as the lands to which they are to be added.
8. The Applicant is required to provide an Engineering drawing illustrating the location of the driveway approaches from the curb of Kingpoint Circle back to the building envelope to confirm they do not conflict with each other or any existing driveways, to the satisfaction of Public Works Department (Johanna Black).
9. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
10. The owner submit to the Committee of Adjustment office an administration fee of \$45.90 (15.30 per lot) payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.

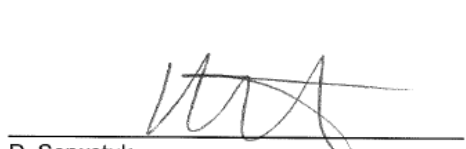
DATED AT HAMILTON this 14th day of June, 2012.


M. Dudzic, Chairman

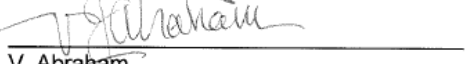

I. Dunlop


D. Smith


W. Pearce


D. Serwatak


L. Gaddy

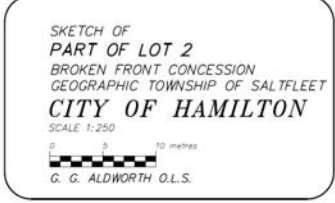
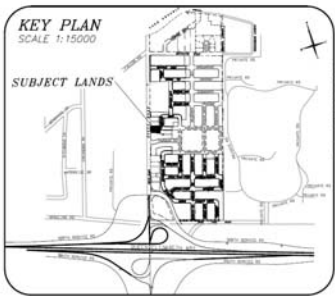
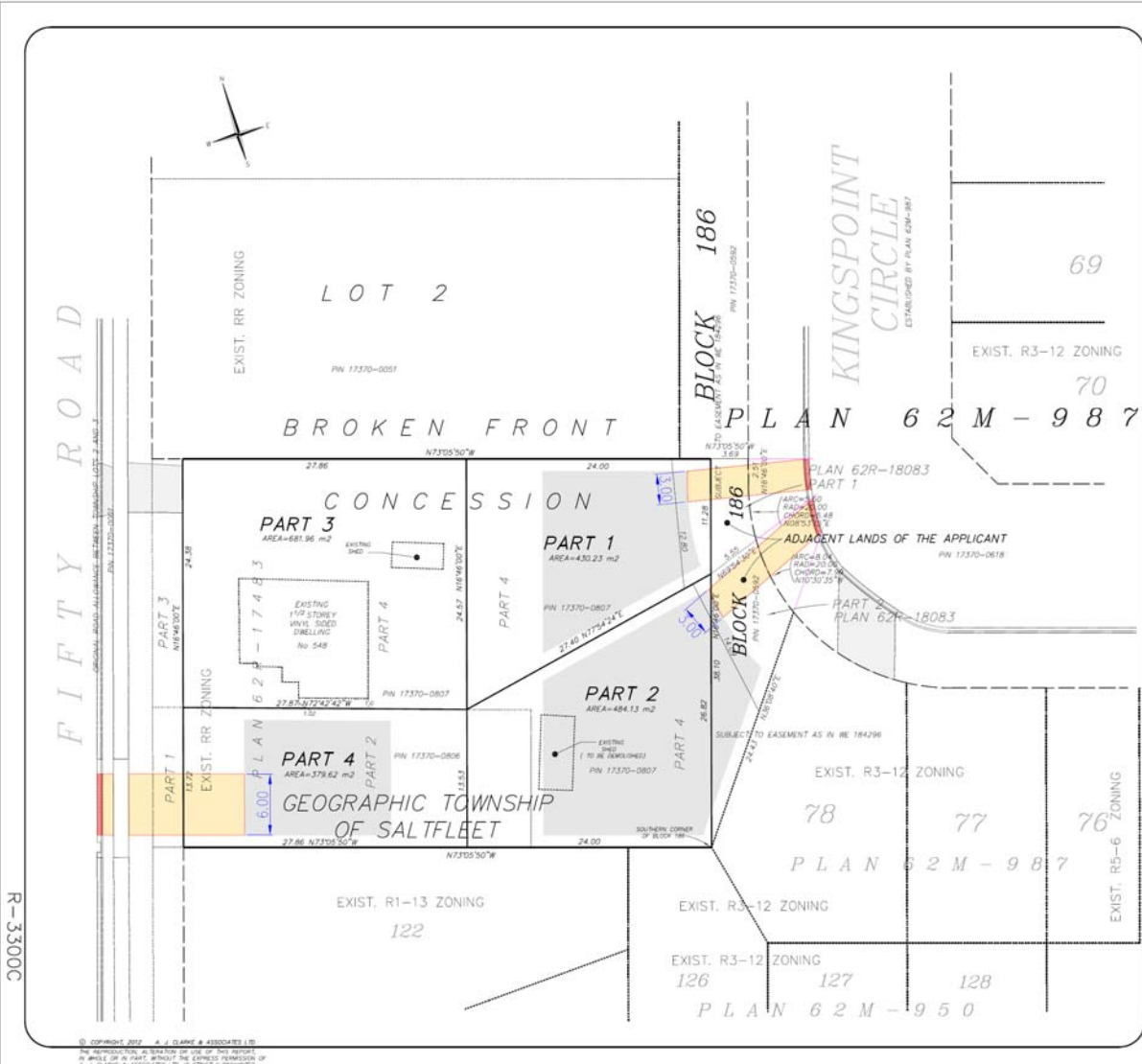

V. Abraham

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS June 21st, 2012.
HEREIN NOTED CONDITIONS MUST BE MET WITHIN ONE (1) YEAR OF THE DATE OF THIS NOTICE OF DECISION (June 21st, 2013) OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS July 11th, 2012.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.

Note: The existing Consent Agreement dated May 1, 2006 entered into between the previous Owners [Olga and Alex Teleguine] and the City of Hamilton registered on May 31, 2006 as WE394597 along with the Transfer Easement (Lot Grading) from Olga and Alex Teleguine to the City over Part 2, Plan 62R-17483 registered on May 31, 2006 as WE394596 are to be discharged from title upon the registration of the new Consent Agreement and Lot Grading Easement transfer.



METRIC:
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

NOTE:
THIS PLAN IS COMPILED FROM PLANS AND RECORDS ON FILE IN THIS OFFICE AND IS NOT BASED ON AN ACTUAL FIELD SURVEY.

THIS PLAN IS PREPARED TO ACCOMPANY AN APPLICATION TO THE COMMITTEE OF ADJUSTMENT REQUESTING A GRANT OF SEVERANCE AND IS NOT INTENDED FOR REGISTRATION.

CAUTION:
THIS IS NOT A PLAN OF SUBDIVISION AND SHALL NOT BE USED FOR TRANSACTION OR MORTGAGE PURPOSES.

MAY 16, 2012
DATE

A. J. Clarke and Associates Ltd.
SURVEYORS • PLANNERS • ENGINEERS
25 MAIN STREET WEST, SUITE 300
HAMILTON, ONTARIO L8P 1H1 CANADA
TEL. 905-528-9767 FAX 905-528-9289
EMAIL: ajc@ajclarke.com

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