

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: Chair and Members Planning Committee | WARD(S) AFFECTED: CITY WIDE |
| COMMITTEE DATE: January 14, 2014 | |
| SUBJECT/REPORT NO: Amendment to Site Plan Control By-law No. 03-294, as Amended by By-law No. 08-298 (PED14014) (City Wide) | |
| SUBMITTED BY: Joe-Anne Priel Acting General Manager Planning and Economic Development Department | PREPARED BY: Heather Travis (905) 546-2424 Ext. 4168 |
| SIGNATURE: | |

RECOMMENDATION:

- (a) That approval be given to amend Site Plan Control By-law No. 03-294, as amended by By-law No. 08-298, to implement the policies of the Rural Hamilton Official Plan (RHOP).
- (b) That the draft By-law, attached as Appendix "A" to Report PED14014, which has been prepared in a form satisfactory to the City Solicitor, be forwarded to City Council for enactment.

EXECUTIVE SUMMARY

The RHOP came into full force and effect on March 7, 2012. Amendments to the City's Site Plan Control By-law are required in order to implement policy sections within the RHOP, dealing with both the protection of natural heritage features, and with agricultural-related commercial and industrial uses. The proposed amendments to the Site Plan Control By-law No. 03-294 will address both of these issue areas, as well as some required minor technical changes.

Alternatives for Consideration – See Page 13.

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

Financial: N/A.

Staffing: N/A.

Legal: N/A.

HISTORICAL BACKGROUND

Site Plan Control By-law No. 03-294

Site Plan Control By-law No. 03-294 was passed by Hamilton City Council on October 15, 2003. The effect of this By-law was to designate the whole of the City of Hamilton as a Site Plan Control Area. All development (as defined under Section 41 of the Planning Act) within the City of Hamilton would thereby be subject to Site Plan Control, with the exception of certain forms of development to which the provisions of the By-law did not apply. The specific forms of development that were identified as not being subject to Site Plan Control were: single-detached, semi-detached, and duplex dwellings, and any buildings accessory thereto; street townhouse dwellings within a registered plan of subdivision; and, agricultural buildings or structures. However, notwithstanding that these forms of development were not subject to Site Plan Control, the By-law did identify special exceptions within these development types that would require Site Plan approval, those being: single-detached, semi-detached, and duplex dwellings adjacent to Major Open Space and Environmentally Significant Areas, or within certain specific areas identified within the By-law, and commercial and agricultural greenhouses. By-law No. 03-294 also identified the plans, drawings, and other requirements that would be required as part of a Site Plan Control application.

Amending By-law No. 08-298

Amendments were made to the Site Plan Control By-law in 2008, through By-law No. 08-298, to add requirements related to pre-consultation, and to permit additional site design considerations to be included in the review of development.

POLICY IMPLICATIONS

The amendments to the Site Plan Control By-law are being proposed in order to implement the policies of the RHOP, the majority of which came into effect on March 7, 2012. The policies of the RHOP which are relevant to the proposed amendments to the Site Plan Control By-law are discussed in this Section.

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Section C.2.0 of the RHOP contains policies related to the Natural Heritage System. These policies focus on the protection of the City's natural heritage features, and limitations on development in the vicinity of these features. The Natural Heritage System, including all Core Areas within the City, is identified on Schedule B of the RHOP. Policies of note include:

- "C.2.3.3 Any development or site alteration within or adjacent to Core Areas shall not negatively impact their environmental features or ecological functions.
- C.2.4.2 New development or site alteration shall not be permitted within a key natural heritage feature within the Greenbelt Natural Heritage System or a key hydrologic feature anywhere in the Protected Countryside, including any associated vegetation protection zone. However, new development or site alteration proposed adjacent to (within 120 m. of) a key natural heritage feature within the Greenbelt Natural Heritage System, or a key hydrologic feature anywhere in the Protected Countryside, requires an Environmental Impact Statement which identifies a vegetation protection zone, according to the requirements in Sections C.2.4.10, C.2.4.11, C.2.4.12, C.2.4.13, and C.2.4.14.
- C.2.4.6 New development or site alteration subject to Sections C.2.4.1, C.2.4.2, C.2.4.3, C.2.4.5, C.2.4.7, C.2.4.8 and C.2.4.9 requires, prior to approval, the submission and acceptance of an Environmental Impact Statement, which demonstrates to the satisfaction of the City in consultation with the relevant Conservation Authority that:
- a) There shall be no negative impacts on the Core Areas or their ecological functions;
 - b) Connectivity between Core Areas shall be maintained, or where possible, enhanced for the movement of surface and ground water, plants, and wildlife across the landscape;
 - c) The removal of other natural features shall be avoided or minimized by the planning and design of the proposed use or site alteration wherever possible; and,
 - d) The disturbed area of a site shall not exceed 25 percent of the total developable area, except for golf courses, where permitted, for which the disturbed area shall not exceed 40 percent of the site. Impervious surfaces to be established in such disturbed areas shall not exceed 10 percent of the total developable area.

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- C.2.4.8 Beyond the Greenbelt Natural Heritage System within the Protected Countryside, new development and site alteration shall not be permitted within or adjacent to key natural heritage features in the Greenbelt Protected Countryside unless it has been evaluated through an Environmental Impact Statement, and has been demonstrated that there shall be no negative impacts on the natural features or their ecological functions.
- C.2.4.9 New development and site alteration within the Protected Countryside of the Greenbelt Plan Area that is proposed to take place within or adjacent to any other Core Area identified on Schedule B - Natural Heritage System, through a consent, Plan of Subdivision, Zoning By-law, Site Plan approval, Official Plan amendment, or Site Alteration By-law permit, shall require an Environmental Impact Statement in accordance with Sections C.2.4.6 of this Plan.”

The above noted policies identify the requirement for the submission of an Environmental Impact Statement prior to any development or site alteration within or adjacent to a Core Area (including all key hydrologic features and key natural heritage features), as identified on Schedule “B”. The amendments to the Site Plan Control By-law, as will be discussed in the Analysis/Rationale for Recommendation Section below, will implement this requirement by requiring Site Plan approval for any new development within or adjacent to such a feature.

Section D.2.0 of the RHOP describes the uses permitted in the Agriculture, Rural, and Specialty Crop designations. The policies identify several of these uses as requiring Site Plan Control, as follows:

“D.2.1.1.1 Mushroom operations, including the growing, harvesting, cleaning, packaging, and shipping of mushrooms produced on the site and any other uses directly related to mushroom production, including the creation of compost, are permitted. The establishment of a new mushroom operation or the expansion of an existing operation shall be subject to Site Plan approval to address the appropriate building location, drainage, and any other matters.”

To implement the above policy, Section 9.0 of the Site Plan Control By-law has been amended to add mushroom operations to the list of uses requiring Site Plan Control, as addressed in the Analysis/Rationale for Recommendation Section below.

“D.2.1.1.3 Farm greenhouses are greenhouses used primarily for the growing of crops for off-site wholesale only. Farm greenhouses may be permitted provided the following conditions are met:

- a) Site Plan approval shall be required to address appropriate building location, storm water management, and drainage;”

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Section 8.4 of the existing Site Plan Control By-law already identifies commercial and agricultural greenhouses as being subject to Site Plan Control and, therefore, no changes to the Site Plan Control By-law are required to implement this policy.

“D.2.1.1.4 A farm labour residence may be permitted on the same lot as the primary farm use, provided all the following conditions are met:

- b) A maximum of one farm labour residence may be permitted without an amendment to the Zoning By-Law, in the form of an accessory apartment attached to and forming part of the principal farm residence, or an accessory detached temporary dwelling, such as a mobile home, provided:
 - ii) Where a temporary dwelling is used as a farm labour residence:
 - 1) Site Plan approval shall be required regarding location of the temporary dwelling, access from a street, and any other matters. Any accessory detached temporary dwelling to be used as a farm labour residence shall be located near the principal farm dwelling with shared driveway access;”

While the policy above identifies the requirement for Site Plan Control for Farm Labour Residences, staff are not recommending that this use be added to the list of uses requiring Site Plan Control. The proposed Rural Zoning By-law, which is anticipated to be brought forward in early 2014, contains regulations for Farm Labour Residences related to dwelling location, access, and servicing requirements. These requirements must be adhered to in the construction of a new Farm Labour Residence. As such, staff find that the requirement for Site Plan Control for this use is not necessary and would be overly onerous to the agricultural community. An amendment to the RHOP to remove the requirement for Site Plan Control for Farm Labour Residences will be brought forward with the new Rural Zoning in 2014.

“D.2.1.2 Agricultural-related uses are farm-related commercial and farm-related industrial uses that are small scale, producing products and services, wholly and directly related to a farming operation and which are required in close proximity to an agricultural use. They are uses necessary to support agricultural uses and are permitted provided the following conditions are met:

- a) The use must produce products or services directly related to a farming operation, and requires a location in close proximity to a farm operation. Permitted uses shall be limited to grain dryers, feed mills, grain and seed storage facilities, primary farm produce bulk storage, and processing facilities, farm product supply dealers, livestock assembly points, and agricultural research operations;

- e) Agricultural-related uses shall be subject to Site Plan approval to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening, and landscaping, and any other matter.”

As will be discussed further in the Analysis/Rationale for Recommendation Section, staff are recommending that Site Plan Control should be applied to agricultural-related commercial and industrial uses when they are “stand-alone” and not located on the same lot as an Agricultural use. Section 9.0 of the Site Plan Control By-law will be amended accordingly.

“D.2.1.3 To encourage on-farm economic diversification as a means of reinforcing the agricultural economy, limited secondary uses are permitted. On-farm secondary uses are secondary to the primary agricultural use and are limited to agri-tourism uses, farm vacation homes, home industries, kennels, and small scale retailing of agricultural products. On-farm secondary uses shall be permitted provided the following conditions are met in all cases:

- d) Site Plan approval may be required.”

This policy indicates that Site Plan Control may be required for on-farm secondary uses. In reviewing the uses which are permitted as secondary to Agriculture listed above, staff have identified that Site Plan Control should be applied to kennels and large agri-tourism operations (greater than 500 sq. m. gross floor area). Staff find that these uses have potential for off-site impacts which should be reviewed through a Site Plan Control application. Other secondary uses (farm vacation home, small-scale retailing, home industries) are generally small-scale in nature and part of normal farming operations. In the interest of finding a balance between protecting the rural environment while not being overly onerous to the agricultural community, staff are not recommending Site Plan Control be applied to these uses. This will be discussed further in the Analysis/Rationale for Recommendation Section of the Report.

“D.3.1.1 A small scale winery may be permitted secondary to a permitted agricultural use in the Specialty Crop designation provided the following conditions are met:

- b) Site Plan approval shall be required to address appropriate setbacks, building size and location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters;”

Section 9.0 of the Site Plan Control By-law has been amended to add wineries to the list of uses requiring Site Plan Control, as indicated in Appendix “A”.

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Further discussion regarding the addition of these uses within the Site Plan Control By-law is provided in the Analysis/Rationale for Recommendation Section of this Report.

Finally, the following policies from Section 7 address the implementation of Site Plan Control:

“F.1.7.1 Site Plan Control shall be used to achieve the following planning objectives:

- a) Promote pedestrian scale development and land use compatibility;
- b) Enhance the public realm and create a functional and distinctive streetscape through high-quality building design;
- c) Preserve and enhance community character by integrating heritage features and important views in site designs;
- d) Integrate ecologically important features into site designs to protect and enhance their functions; and,
- e) Ensure accessibility for people with a range of abilities through safe and efficient pedestrian and vehicular circulation.

F.1.7.3 Council may establish the classes of development that are subject to Site Plan Control, and those which are exempt, in a By-law passed pursuant to the Planning Act.”

Based on the information above, the proposed amendments are in accordance with the policies of the RHOP. A future amendment to the RHOP will be brought forward with the new Rural Zoning By-law to remove the requirement for Site Plan Control for a Farm Labour Residence.

RELEVANT CONSULTATION

Agricultural and Rural Affairs Advisory Committee

Staff attended the Agricultural and Rural Affairs Advisory Committee meeting on August 19, 2013, to present the proposed amendments to the Site Plan Control By-law. Staff explained the rationale behind the proposed amendments and answered questions regarding the Site Plan Control application process, and specific questions regarding the proposed definitions within the By-law.

Legal Services

The By-law attached as Appendix “A” has been reviewed by staff from Legal Services and appropriate revisions have been made based on comments provided.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The revisions to the Site Plan Control By-law focus on two significant areas of change. The first significant change is the requirement for Site Plan approval for all development located within or adjacent to Core Areas within the Natural Heritage System. The second area of change is the requirement for several agricultural and agricultural-related uses to be subject to Site Plan Control. These two areas of revision will be discussed below. In addition, the revised By-law also includes other minor changes to provide clarity and consistency in language, which will also be highlighted below.

1. Development Located Within or Adjacent to a Natural Heritage Feature (Core Area)

As noted above, Section C.2.0 of the RHOP contains policies which address development within or adjacent to key natural heritage features, key hydrologic features, and other Core Area features, identified on Schedule “B” to the RHOP. The policies require the submission of an Environmental Impact Statement (EIS) prior to any development occurring within or adjacent to these features. The mechanism for staff to evaluate proposed development within these areas and determine whether or not an EIS will be required is through the submission and approval of a Site Plan Control application.

The By-law includes the following new definitions to provide clarity to this requirement:

“Adjacent” means development located within 120 m. of a Core Area, except where bisected by a municipal road, or active rail corridor.

“Core Area” means key natural heritage features, key hydrologic features, local natural areas, and their vegetation protection zones, as indicated on Schedule “B” - Natural Heritage System of the Rural Hamilton Official Plan and Schedule “B” - Natural Heritage System of the Urban Hamilton Official Plan.

This requirement for an EIS and, therefore, approval of a Site Plan Control application, applies to all types of development located within or adjacent to a Core Area, including development types which would otherwise be exempt (single-detached, semi-detached, and duplex dwellings, agricultural buildings or structures). As such, the following Section 9.1 has been added to the Site Plan

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Control By-law to clarify that all development shall be subject to Site Plan Control when located within or adjacent to these features, as indicated in Appendix "A":

9.0 Notwithstanding Section 8.0 above, the provisions of this By-law shall apply to the following:

9.1 any buildings or structures, including accessory buildings and structures, decks, and additions to existing buildings, situated adjacent to or within a Core Area(s), except for single-detached, semi-detached, duplex, or street townhouse dwellings, located within a plan of subdivision or plan of condominium draft-approved after January 1, 2013.

As noted, the only exception to this requirement is for single-detached, semi-detached, duplex or street townhouse dwellings, located within a registered plan of subdivision or condominium, which received draft approval after January 1, 2013. Site Plan Control is not required in this circumstance as conformity with RHOP policies, including a requirement for an EIS, would have been determined through review of the draft plan of subdivision/condominium application.

Section 9.1 provides the authority for staff to require approval of a Site Plan Control application, prior to development occurring within or adjacent to a Core Area. However, when reviewing a proposed development within or adjacent to a Core Area, as is current best practice, staff will continue to have the option to determine that a proposal will not be subject to Site Plan Control, if the proposed works are located within an area that is already significantly disturbed, or located a substantial distance from the Core feature.

A Site Plan Control application for a single-detached dwelling, semi-detached dwelling, street townhouse dwelling, or agricultural use located within or adjacent to a Core Area, is subject to a reduced application fee (one-half of the normally applicable Site Plan Control fee). Further, staff aim to expedite the timelines for the processing of these applications, in order to be less onerous to homeowners and the agricultural community.

2. Requirement for Site Plan Control for Agriculture and Agricultural-Related Uses

Section D.2 of the RHOP provides policy direction related to the agricultural and agricultural-related uses permitted within the Agriculture, Rural, and Specialty Crop designations. As noted above, the policies identify the requirement for Site Plan Control for several of these uses. To implement these policies, the following definitions, that are based on the proposed Rural Zoning By-law, are being added to Section 1.0 of the Site Plan Control By-law.

“Abattoir” means a building or structure, or portion thereof, used for the confinement of live animals awaiting slaughter and slaughtering of live animals and the packaging of animal carcasses and may include the processing, packing, treating, and storing of the product on the premises, but shall not include the manufacture of inedible meat by-products, or rendering of such products as tallow, grease, glue, fertilizer, or any other inedible product.

“Agricultural Processing Establishment - Stand Alone” means a building or structure, or portion thereof, used for a stand alone facility dedicated to adding value to agricultural products through the physical or chemical transformation of raw agricultural commodities or agri-based ingredients and may include Accessory Retail, but shall not include an Abattoir or Winery.

“Agricultural Storage Establishment” means a building or structure, or portion thereof, used for a stand alone facility dedicated to the storage of agricultural products from one or more farm operations.

“Agri-tourism” means a Secondary Use to an Agricultural operation that provides educational and active opportunities to experience the agricultural way of life in Rural Hamilton. Such activities may include, for example, farm machinery and equipment exhibitions, farm-tours, petting zoos, corn mazes, hay rides, sleigh rides, processing demonstrations, pick your own produce, farm theme playground for children, and educational facilities that focus on farming instruction, and which may include accessory Retail, but shall not include Restaurants or banquet halls.

“Farm Product Supply Establishment” means a building or structure, or part thereof, used for the sale and/or storage of feed, seeds, fertilizers, farm equipment or other goods or materials used in Agriculture.

“Kennel” means a building or structure, or part thereof, used for the breeding, raising, training, sheltering or boarding of dogs, cats and other domestic animals, but shall not include Veterinary Service or Veterinary Service - Farm Animal, or the keeping of farm animals as part of an Agricultural operation.

“Livestock Assembly Point” means a building or structure, or part thereof, used for livestock auction markets, livestock assembly pens, stockyards, dealers in livestock, cooperative or buying stations, livestock shows, or other places where livestock is assembled for the purposes of sale, show, exchange, breeding, barter, or transportation, and where the assembled livestock has more than one owner, but shall

not include Retail pet stores. The assembly point may handle one or more species of livestock.

“Winery” means a Secondary Use to an Agricultural operation for the processing of grapes and other produce in the production of wines or other beverages. Winery uses may include the crushing, fermentation, production, bottling, aging, storage, and Accessory sale of wine and wine-related products and other beverages, a laboratory, a winery administrative office, and a tasting and hospitality and retail area, but shall not include a Restaurant, a banquet hall, a Conference or Convention Centre, or overnight accommodation.

It is noted that Policy D.2.1.2 of the RHOP had listed a number of uses which are considered to be “agricultural-related uses” subject to Site Plan Control, those being: grain dryers, feed mills, grain and seed storage facilities, primary farm produce bulk storage and processing facilities, farm product supply dealers, livestock assembly points, and agricultural research operations. Staff note that these individual uses are included within the broader definitions above, which are consistent with the definitions which are being proposed for inclusion within the new Rural Zoning By-law coming forward for approval in early 2014. For consistency purposes, staff recommend that these definitions also be incorporated into the revised Site Plan Control By-law.

Further, Sections 9.6 through 9.10 have been added to the Site Plan Control By-law (see Appendix “A”), to identify the requirement for Site Plan Control for development (as defined) associated with the specific agricultural and agricultural-related uses identified in the RHOP, those being:

- Mushroom operations;
- Kennels;
- Agri-tourism uses with a gross floor area greater than 500 sq. m.;
- Wineries; and,
- The following stand-alone, agricultural-related commercial and industrial uses: Abattoir, Agricultural Processing Establishment, Agricultural Storage Establishment, Farm Product Supply Establishment, and Livestock Assembly Point.

Regarding the above uses, there are several comments of note which should be highlighted. First, the requirement for Site Plan Control for these uses is applicable only to “Development” (as defined) associated with these uses, meaning that Site Plan Control is only applicable when new buildings or structures

are proposed. Site Plan Control is not applied to the non-development portions of these uses, for example, a corn maze associated with an agri-tourism use, or a vineyard associated with a winery.

Second, the requirement for Site Plan Control for Agri-tourism uses only applies to new buildings or structures associated with the Agri-tourism use which have a gross floor area greater than 500 sq. m. Staff are of the opinion that the requirement for Site Plan Control should only apply to new development associated with large-scale Agri-tourism operations, which have the potential to impact on surrounding uses, which may include traffic, parking, or servicing impacts. The requirement for Site Plan Control should not be applied to small Agri-tourism uses (for example, small farm stands or information kiosks) which will not have an impact on surrounding uses.

Finally, with regard to the agricultural-related commercial and industrial uses identified in the final bullet point above, the requirement for Site Plan Control is only being applied to these uses when they are stand-alone uses that are not located on the same lot as an agricultural operation. The rationale is that these uses (Abattoir, Agricultural Processing, Agricultural Storage, Livestock Assembly) would be considered part of a normal farming operation if they are located on an agricultural property. The revisions to the Site Plan Control By-law are not intended to apply Site Plan Control to normal farming operations. It is only when these uses are stand-alone, and have the potential to grow to a greater size with greater impacts, that Site Plan Control should be required.

All of these special provisions have been included in the By-law in an effort to be less onerous for the agricultural community. Site Plan Control should only be applicable in situations where there is potential for impact on adjacent properties due to concerns such as grading, drainage, parking, traffic, or lighting impacts. Through these revisions, staff have attempted to find a balance between protecting the rural landscape and surrounding property owners during development, while not placing unnecessary restrictions on the agricultural community.

3. Other Edits and Clarifications

Several minor technical edits have also been included within the amended By-law to provide clarity and consistency. The remainder of the edits are as follows:

- The definition of “development” has been updated to provide reference to the correct section of the Municipal Act;
- Section 3.1.1 has been amended to provide clarity regarding the information that must be included on site plan drawings;

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- Section 7.0 has been reworded to provide clarity to the requirement that a building permit cannot be issued for lands under Site Plan Control until the City has approved a site plan in accordance with Section 41 of the Planning Act;
- Wording has been added to Sections 9.2, 9.3, and 9.4 to clarify that accessory buildings and structures, decks, and additions are also subject to Site Plan Control; and,
- Section 9.5 has been amended to clarify that structures used for aquaponics or hydroponics, or other similar type operations, are subject to Site Plan Control, consistent with the requirement for greenhouses.

The above mentioned changes are technical in nature, and do not change the intent of the By-law.

ALTERNATIVES FOR CONSIDERATION:

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

Should the revisions to the Site Plan Control By-law, attached as Appendix “A”, not be approved, the policies of the RHOP noted above would not be implemented. Staff would not have authority to require Site Plan Control for all lands within or adjacent to a Core Area, nor would staff have the authority to require Site Plan Control for the additional agricultural and agricultural-related uses identified in the revised By-law.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.3 Enhance customer service satisfaction.

APPENDICES / SCHEDULES

Appendix "A": Amendments to Site Plan Control By-law No. 03-294, as amended
by By-law No. 08-298

Appendix "B": Consolidated Site Plan Control By-law with proposed revisions

:HT

Attachs. (2)

Authority: Item [REDACTED]
Planning Committee
Report: 14-[REDACTED] (PED14014)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend By-law No. 03-294, as amended by By-law No. 08-298, to implement the policies of the Rural Hamilton Official Plan

WHEREAS under the provisions of Section 41 of the Planning Act, R.S.O 1990, c. P.13, as amended, a Council of a Municipality may by by-law designate the whole or part of the Municipality as a Site Plan Control Area;

AND WHEREAS Subsection 41(4) of the Planning Act, R.S.O 1990, c. P.13, as amended, authorizes municipalities to pass a by-law to permit the consideration of matters relating to exterior design, sustainable design elements, and facilities designed to have regard for accessibility, in the approval of development within a Site Plan Control area;

AND WHEREAS there are Official Plans in effect for the City of Hamilton that describe a proposed Site Plan Control area and contain policies related to Site Plan Control;

AND WHEREAS it is desirable that the said policies of the said Official Plans be applied to the proposed site plan control area by way of a designation and implementation by-law;

AND WHEREAS the City of Hamilton passed Site Plan Control By-law No. 03-294 on the 15th day of October, 2003 and amended by By-law No. 08-298 on the 10th day of December, 2008;

AND WHEREAS it is necessary to amend the Site Plan Control By-law of the City of Hamilton to implement the requirements of the Rural Hamilton Official Plan;

AND WHEREAS the Council of the City of Hamilton, in adopting Item **XX** of Report PED14014 of the Planning Committee at its meeting held on the **XXth** day of **January, 2014**, recommended that Site Plan Control By-law No. 03-294 be further amended as hereinafter provided;

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

Section 1.0 of By-law No. 03-294, as amended by By-law No. 08-298, shall be deleted and replaced with:

- 1.1 "Abattoir" means a building or structure, or portion thereof, used for the confinement of live animals awaiting slaughter and slaughtering of live animals and the packaging of animal carcasses and may include the processing, packing, treating, and storing of the product on the premises, but shall not include the manufacture of inedible meat by-products, or rendering of such products as tallow, grease, glue, fertilizer, or any other inedible product.
- 1.2 "Adjacent" means development located within 120 m. of a Core Area, except where bisected by a municipal road, or active rail corridor.
- 1.3 "Agricultural Processing Establishment – Stand Alone" means a building or structure, or portion thereof, used for a stand-alone facility dedicated to adding value to agricultural products through the physical or chemical transformation of raw agricultural commodities or agri-based ingredients and may include Accessory Retail, but shall not include an Abattoir or Winery.
- 1.4 "Agricultural Storage Establishment" means a building or structure, or portion thereof, used for a stand-alone facility dedicated to the storage of agricultural products from one or more farm operations.
- 1.5 "Agri-tourism" means a Secondary Use to an Agricultural operation that provides educational and active opportunities to experience the agricultural way of life in Rural Hamilton. Such activities may include, for example, farm machinery and equipment exhibitions, farm-tours, petting zoos, corn mazes, hay rides, sleigh rides, processing demonstrations, pick your own produce, farm theme playground for children, and educational facilities that focus on farming instruction, and which may include accessory Retail, but shall not include Restaurants or banquet halls.
- 1.6 "City" means City of Hamilton.
- 1.7 "Core Area" means key natural heritage features, key hydrologic features, local natural areas, and their vegetation protection zones as indicated on Schedule "B" – Natural Heritage System of the Rural Hamilton Official Plan and Schedule "B" – Natural Heritage System of the Urban Hamilton Official Plan.
- 1.8 "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of

substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined by subsection 164(4) of the Municipal Act or of sites for the location of three or more mobile homes as defined by subsection 46(1) of the Planning Act.

- 1.9 "Farm Product Supply Establishment" means a building or structure, or part thereof, used for the sale and/or storage of feed, seeds, fertilizers, farm equipment or other goods or materials used in Agriculture.
- 1.10 "Kennel" means a building or structure, or part thereof, used for the breeding, raising, training, sheltering or boarding of dogs, cats and other domestic animals, but shall not include Veterinary Service or Veterinary Service - Farm Animal, or the keeping of farm animals as part of an Agricultural operation.
- 1.11 "Land Titles Act" means the Land Titles Act, R.S.O. 1990, c. L. 5, as amended.
- 1.12 "Livestock Assembly Point" means a building or structure, or part thereof, used for livestock auction markets, livestock assembly pens, stockyards, dealers in livestock, cooperative or buying stations, livestock shows, or other places where livestock is assembled for the purposes of sale, show, exchange, breeding, barter, or transportation, and where the assembled livestock has more than one owner, but shall not include Retail pet stores. The assembly point may handle one or more species of livestock.
- 1.13 "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 1.14 "Ontario Heritage Act" means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended.
- 1.15 "owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the Registry or Land Titles Office, and
- 1.16 "person" includes an owner.
- 1.17 "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended.
- 1.18 "Registry Act" means the Registry Act, R.S.O. 1990, c. R.20, as amended.

- 1.19 "Winery" means a Secondary Use to an Agricultural operation for the processing of grapes and other produce in the production of wines or other beverages. Winery uses may include the crushing, fermentation, production, bottling, aging, storage, and Accessory sale of wine and wine-related products and other beverages, a laboratory, a winery administrative office, and a tasting and hospitality and retail area, but shall not include a Restaurant, a banquet hall, a Conference or Convention Centre, or overnight accommodation.

Section 3.0 of By-law No. 03-294, as amended by By-law No. 08-298, is further amended as follows:

Subsection 3.1.1 shall be deleted and replaced with:

- 3.1.1 plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith, and of all facilities and works required as a condition of approval under Section 41 of the Planning Act, including commercial parking lots and sites for the location of three or more trailers and/or mobile homes, and facilities designated to have regard for accessibility for persons with disabilities, and showing the location of any Core Area(s);

Subsection 3.1.2.5 shall be deleted and replaced with:

- 3.1.2.5 the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities; and,

Section 7.0 of By-law No. 03-294, as amended by By-law No. 08-298, shall be deleted and replaced with:

- 7.0 No building permit or permits shall be issued until the Owner has received approval from the City pursuant to Section 41 of the Planning Act and this By-law.

Section 9.0 of By-law No. 03-294, as amended by By-law No. 08-298, shall be deleted and replaced with:

- 9.0. Notwithstanding Section 8.0 above, the provisions of this By-law shall apply to the following:
- 9.1 any buildings or structures, including accessory buildings and structures, decks, and additions to existing buildings, situated Adjacent to or within a Core Area(s), except for

single-detached, semi-detached, duplex or street townhouse dwellings located within a plan of subdivision or plan of condominium draft approved after January 1, 2013;

- 9.2 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, forming part of the zero lot line development shown on the map attached to and forming part of this by-law as Schedule "A";
- 9.3 any single detached dwelling, semi-detached dwelling, and duplex dwelling, including accessory buildings and structures, decks, and additions, situated to the east and west of Beach Boulevard as shown on the map attached to and forming part of this By-law as Schedule "B";
- 9.4 any single detached, semi-detached, and duplex dwellings, including accessory buildings and structures, decks, and additions, forming part of a linked housing or similar innovative house grouping development as described in the City's Official Plan, any approved Neighbourhood Plan or any other planning policy document approved by the City. Any development proposing to locate multiple single, semi or duplex dwellings on a single parcel of land is hereby deemed to be an innovative house grouping development within the meaning of this clause 9.4,
- 9.5 commercial and agricultural greenhouses, including structures used for aquaponics or hydroponics or similar, and buildings and structures accessory thereto;
- 9.6 mushroom operation buildings and structures, and structures accessory thereto;
- 9.7 Kennel buildings and structures;
- 9.8 Agri-tourism buildings and structures with a gross floor area greater than 500 sq. m.;
- 9.9 Winery buildings and structures; and,
- 9.10 the following Agricultural-Related commercial or industrial uses, and buildings and structures accessory thereto, provided they are not located on the same lot as an agricultural use: Abattoir; Agricultural Processing Establishment - Stand Alone; Agricultural Storage Establishment; Farm Product Supply Establishment; and, Livestock Assembly Point.

The Clerk be 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], 2014.

R. Bratina
Mayor

R. Caterini
Clerk

DRAFT

| | |
|-------------------|--|
| Authority: | Item 1, Hearings Sub-Committee Report: 03-333 (PED03247) CM: October 15, 2003 |
| | Bill No. 294 |

CITY OF HAMILTON

BY-LAW NO. 03-294

**TO ESTABLISH SITE PLAN CONTROL IN THE CITY OF HAMILTON, AS AMENDED
BY BY-LAW NO. 08-298, AND BY-LAW NO. 14-XXX**

WHEREAS, under the provisions of Section 41 of the Planning Act, a Council of a Municipality may by by-law designate the whole or any part of the Municipality as a Site Plan Control Area:

AND WHEREAS there are Official Plans in effect for the City of Hamilton that describe a proposed site plan control area and contain policies related to Site Plan Control;

AND WHEREAS it is desirable that the said policies of the said Official Plans be applied to the proposed site plan control area by way of a designation and implementation by-law;

AND WHEREAS the City of Hamilton is the lawful successor to the former municipal corporations identified in Section 11.0 of this by-law:

**NOW THEREFORE THE COUNCIL OF THE CITY OF HAMILTON ENACTS AS
FOLLOWS:**

1.0 In this section:

- 1.1** "Abattoir" means a building or structure, or portion thereof, used for the confinement of live animals awaiting slaughter and slaughtering of live animals and the packaging of animal carcasses and may include the processing, packing, treating, and storing of the product on the premises, but shall not include the manufacture of inedible meat byproducts, or

rendering of such products as tallow, grease, glue, fertilizer, or any other inedible product.

- 1.2 "Adjacent" means development located within 120 metres of a Core Area, except where bisected by a municipal road, or active rail corridor.
- 1.3 "Agricultural Processing Establishment – Stand Alone" means a building or structure, or portion thereof, used for a stand alone facility dedicated to adding value to agricultural products through the physical or chemical transformation of raw agricultural commodities or agri-based ingredients and may include Accessory Retail, but shall not include an Abattoir or Winery.
- 1.4 "Agricultural Storage Establishment" means a building or structure, or portion thereof, used for a stand alone facility dedicated to the storage of agricultural products from one or more farm operation(s).
- 1.5 "Agri-tourism" means a Secondary Use to an Agricultural operation that provides educational and active opportunities to experience the agricultural way of life in Rural Hamilton. Such activities may include, for example, farm machinery and equipment exhibitions, farm-tours, petting zoos, corn mazes, hay rides, sleigh rides, processing demonstrations, pick your own produce, farm theme playground for children, and educational facilities that focus on farming instruction, and which may include accessory Retail, but shall not include Restaurants or banquet halls.
- 1.6 "City" means City of Hamilton.
- 1.7 "Core Area" means key natural heritage features, key hydrologic features, local natural areas, and their vegetation protection zones as indicated on Schedule "B" – Natural Heritage System of the Rural Hamilton Official Plan and Schedule "B" – Natural Heritage System of the Urban Hamilton Official Plan.
1.8 "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined by subsection ~~168(5)~~ 164(4) of the Municipal Act or of sites for the location of three or more mobile homes as defined ~~in~~ by subsection 46(1) of the Planning Act.
- 1.9 "Farm Product Supply Establishment" means a building or structure, or part thereof, used for the sale and/or storage of feed, seeds, fertilizers, farm equipment or other goods or materials used in Agriculture.

- 1.10 "Kennel" means a building or structure, or part thereof, used for the breeding, raising, training, sheltering or boarding of dogs, cats and other domestic animals, but shall not include Veterinary Service or Veterinary Service – Farm Animal, or the keeping of farm animals as part of an Agricultural operation.
- 1.11 "Land Titles Act" means the Land Titles Act, R.S.O. 1990, c. L. 5, as amended.
- 1.12 "Livestock Assembly Point" means a building or structure, or part thereof, used for livestock auction markets, livestock assembly pens, stockyards, dealers in livestock, cooperative or buying stations, livestock shows, or other places where livestock is assembled for the purposes of sale, show, exchange, breeding, barter, or transportation, and where the assembled livestock has more than one owner, but shall not include Retail pet stores. The assembly point may handle one or more species of livestock.
- 1.13 "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- 1.14 "Ontario Heritage Act" means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended.
- 1.15 "owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the Registry or Land Titles Office, and
- 1.16 "person" includes an owner.
- 1.17 "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended.
- 1.18 "Registry Act" means the Registry Act, R.S.O. 1990, c. R.20, as amended.
- 1.19 "Winery" means a Secondary Use to an Agricultural operation for the processing of grapes and other produce in the production of wines or other beverages. Winery uses may include the crushing, fermentation, production, bottling, aging, storage, and Accessory sale of wine and wine-related products and other beverages, a laboratory, a winery administrative office, and a tasting and hospitality and retail area, but shall not include a Restaurant, a banquet hall, a Conference or Convention Centre, or overnight accommodation.
- 2.0 The whole of the area within the corporate limits of the City of Hamilton is hereby designated as a Site Plan Control Area.
- 3.0 No person shall undertake any development in the site plan control area unless:

- 3.1 Council of the City or persons to whom authority has been delegated has approved of the following:
- 3.1.1 plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith, and of all facilities and works required as a condition of approval under Section 41 of the Planning Act, including commercial parking lots and sites for the location of three or more trailers and/or mobile homes, and facilities designated to have regard for accessibility for persons with disabilities, and showing the location of any *Core Area(s)*;
 - 3.1.2 drawings showing plan, elevation and cross-section views for each building to be erected, including any residential building containing more than 2 dwellings units, which are sufficient to display:
 - 3.1.2.1 the massing and conceptual design of the proposed building;
 - 3.1.2.2 the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
 - 3.1.2.3 the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
 - 3.1.2.4 matters relating to exterior design, including without limitation the character, scale, appearance and design features of building, and their sustainable design, but only to the extent that it is a matter of exterior design;
 - 3.1.2.5 the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities; and,
 - 3.1.2.6 facilities designed to have regard for accessibility for persons with disabilities, but which exclude matters relating to interior design, the layout of interior areas, other than the interior walkways, stairs, elevators and escalators referred to in Clause 3.1.2.3, and the manner of construction and standards for construction.

- 3.2 Prior to the submission of any application for approval of development within the site plan control area, the owner formally consults with Council of the City or persons to whom authority has been delegated, for the purpose of identifying the need for and scope of any other information and materials considered necessary by the City and other affected agencies to allow full consideration of the development application.
- 3.2.1 Notwithstanding Subsection 3.2 of this By-law, this requirement may be waived where the Council of the City or persons to whom authority has been delegated determines in his or her discretion that no reasonable purpose would be served by such a consultation due to the nature of the application."
- 4.0 As a condition of approval of the plans and drawings referred to in Subsection 3.1, the City may require the owner to enter into an agreement or undertaking with the City imposing any conditions permitted by Section 41 of the Planning Act.
- 5.0 Notice of any agreement or undertaking entered into under clause 4.0 above may be registered against the land to which it applies and the municipality may enforce the provisions thereof against the owner and, subject to the provisions of the Registry Act and the Land Titles Act, any and all subsequent owners of the land.
- 6.0 Where the owner is required by this by-law or by any agreement or undertaking entered into pursuant hereto to do or ensure that any matter or thing be done and such person defaults in doing such matter or thing, the same may be done by the City and the expense of so doing may be recovered by action or in like manner as municipal taxes.
- 7.0 No building permit or permits shall be issued until the Owner has received approval from the City pursuant to Section 41 of the Planning Act and this By-law.
- 8.0 Subject to Section 9.0 below, the provisions of this by-law do not apply to:
- 8.1 any single detached dwelling, duplex dwelling or semi-detached dwelling;
- 8.2 any building accessory to the uses described in paragraph 8.1 above;
- 8.3 any street townhouse building within a registered plan of subdivision for which the subdivision agreement is in full force and effect; and
- 8.4 any agricultural building or structure.

- 9.0. Notwithstanding Section 8.0 above, the provisions of this by-law shall apply to the following:
- 9.1 any buildings or structures, including accessory buildings and structures, decks, and additions to existing buildings, situated Adjacent to or within a Core Area(s), except for single detached, duplex, semi-detached or street townhouse dwellings located within a plan of subdivision or plan of condominium draft approved after January 1, 2013,
 - 9.2 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, forming part of the zero lot line development shown on the map attached to and forming part of this by-law as Schedule "A";
 - 9.3 any single detached dwelling, duplex dwelling and semi-detached dwelling, including accessory buildings and structures, decks, and additions, situated to the east and west of Beach Boulevard as shown on the map attached to and forming part of this by-law as Schedule "B";
 - 9.4 any single detached dwellings, duplex dwellings and semi-detached, dwellings, including accessory buildings and structures, decks, and additions, forming part of a linked housing or similar innovative house grouping development as described in the City's Official Plan, any approved Neighbourhood Plan or any other planning policy document approved by the City. Any development proposing to locate multiple single, semi or duplex dwellings on a single parcel of land is hereby deemed to be an innovative house grouping development within the meaning of this clause 9.4,
 - 9.5 commercial and agricultural greenhouses, including structures used for aquaponics or hydroponics or similar, and buildings and structures accessory thereto;
 - 9.6 mushroom operation buildings and structures, and structures accessory thereto;
 - 9.7 Kennel buildings and structures;
 - 9.8 Agri-tourism buildings and structures with a gross floor area greater than 500 square metres;
 - 9.9 Winery buildings and structures; and,
 - 9.10 the following Agricultural-Related commercial or industrial uses, and buildings and structures accessory thereto, provided they are not located on the same lot as an agricultural use: Abattoir; Agricultural Processing

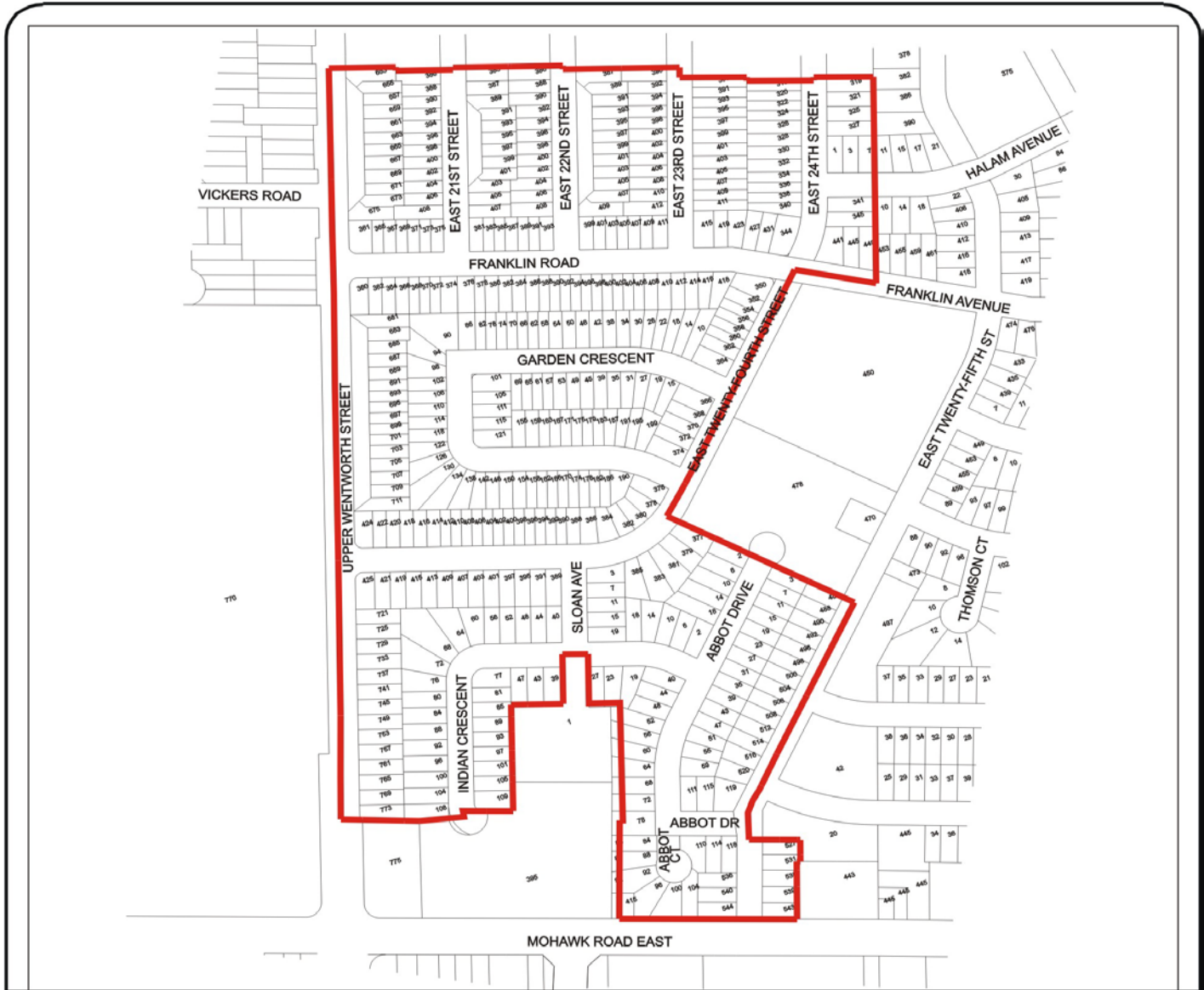
Establishment – Stand Alone; Agricultural Storage Establishment; Farm Product Supply Establishment; and, Livestock Assembly Point.

- 10.0 The Mayor and the Clerk, or delegate, as the case may be, are hereby authorized to execute any agreement or undertaking prepared pursuant to Section 4.0 of this by-law and signed by the owner or developer of the affected land, provided that Council or persons with delegated authority have approved the plans and drawings required to be submitted under Section 3.0 of this by-law.
- 11.0 The Corporation of the Town of Ancaster by-law 92-7 passed on the 13th day of January, 1992, as amended; The Corporation of the Township of Glanbrook by-law 311-85 passed on the 7th day of October, 1985; The Corporation of the Town of Dundas by-law 3803-89 passed on the 15th day of June, 1989, as amended; The Corporation of the Town of Flamborough by-law 86-95.S passed on the 15th day of September, 1995; The Corporation of the City of Stoney Creek by-law 3265-90 passed on the 23rd day of October, 1990, as amended; and The Corporation of the City of Hamilton by-law 79-275 passed on the 25th day of September, 1979, as amended, are all hereby repealed in their entirety.
- 12.0 This by-law shall come into force and take effect on the date all of the Official Plan amendments adopted by By-law _____ are finally approved.

PASSED AND ENACTED this 15th day of October , 2003.

MAYOR

CLERK



This is Schedule "A" to By-Law No. 03—

Clerk

Passed the day of, 2003

Mayor

Schedule "A"

Map Forming Part of
By-Law No. 03-_____

Legend

 **Subject Property**
Lands to be regulated by
By-Law No. 03-_____



Planning and Development Department

Hamilton

North

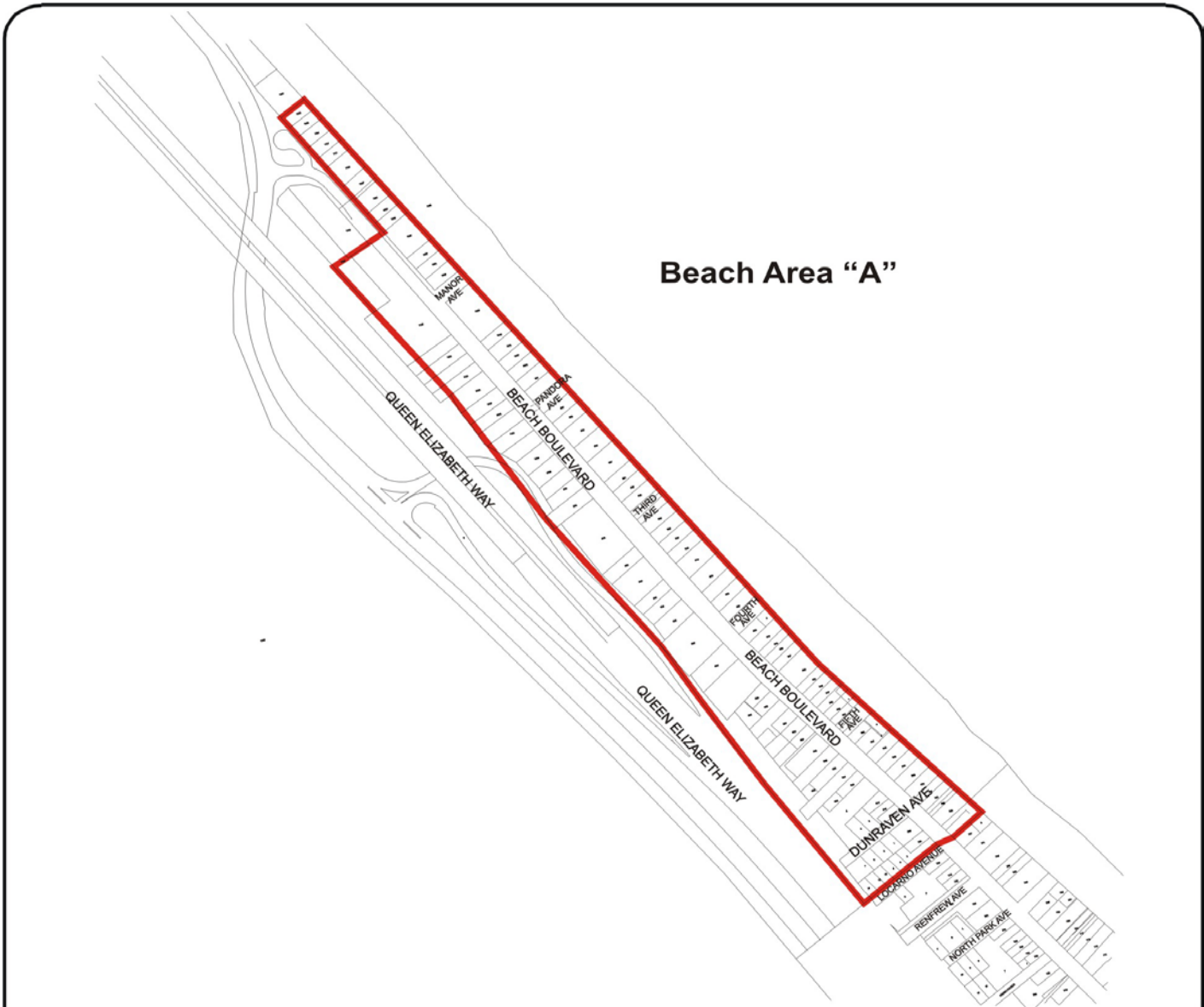


Scale
NOT TO SCALE

Date
September 10, 2003

Reference File No.
SITE PLAN PROCESS

Drawn By
LC



This is Schedule "B" to By-Law No. 03—

Passed the day of, 2003


----- Clerk

----- Mayor

Schedule "B"

Map Forming Part of
By-Law No. 03-____

Legend

 **Subject Property**
Lands to be regulated by
By-Law No. 03-____



Planning and Development Department

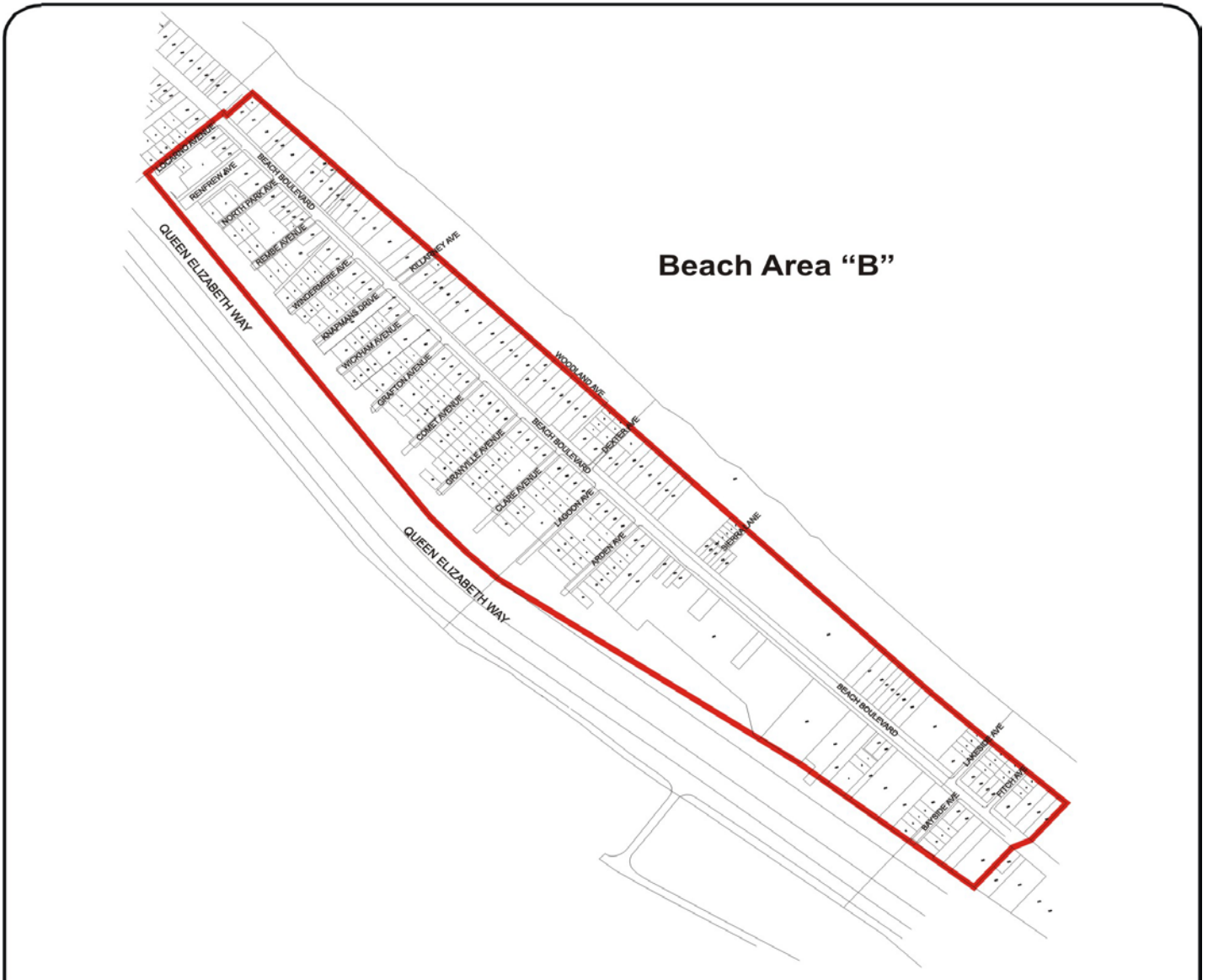


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Date
September 10, 2003

Reference File No.
SITE PLAN PROCESS

Drawn By
LC



Beach Area "B"

This is Schedule "B" to By-Law No. 03—

----- Clerk

Passed the day of, 2003

----- Mayor

Schedule "B"

Map Forming Part of
By-Law No. 03-____

Legend

 **Subject Property**
Lands to be regulated by
By-Law No. 03-____



Hamilton

Planning and Development Department

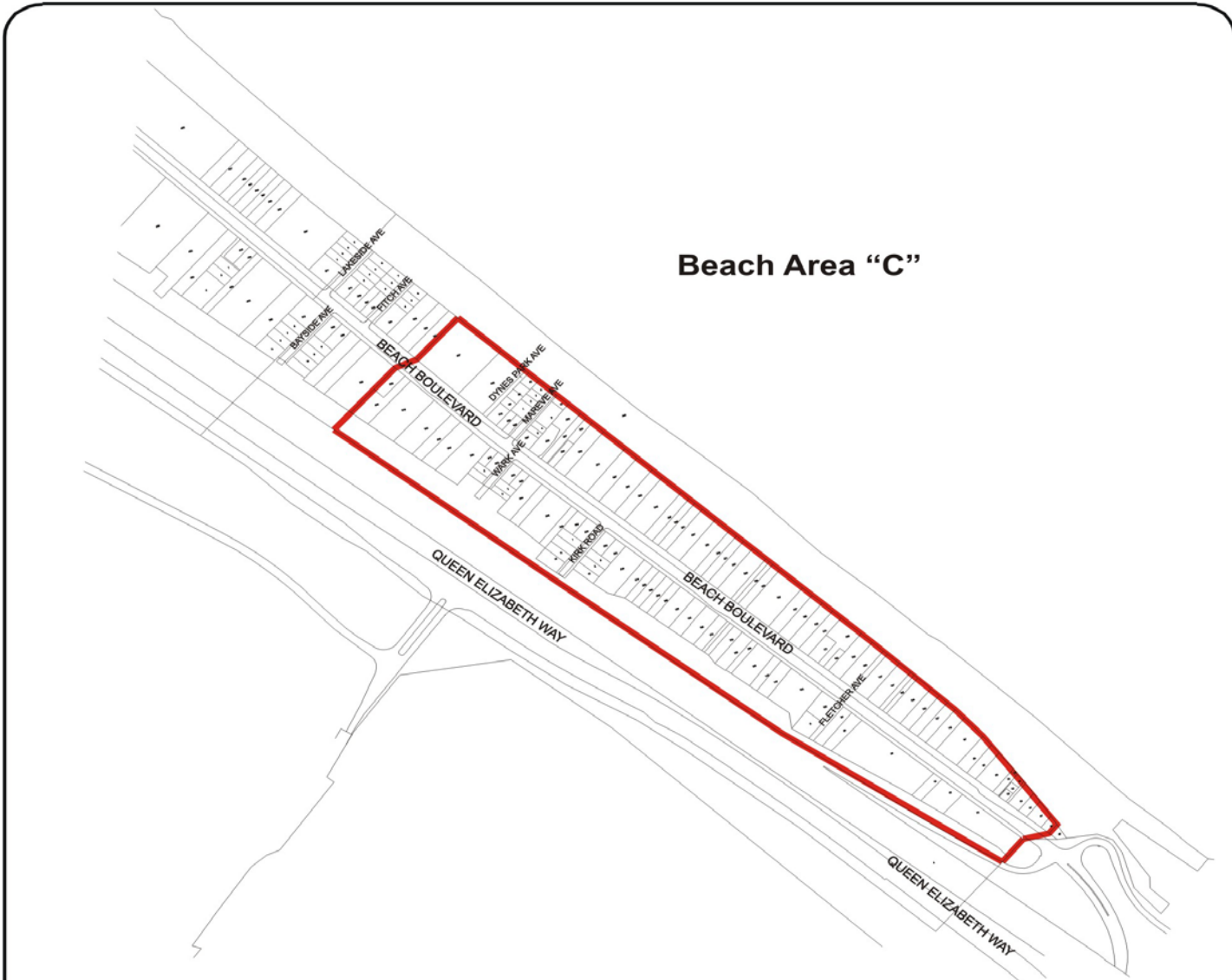


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September 10, 2003

Reference File No.
SITE PLAN PROCESS

Drawn By
LC



This is Schedule "B" to By-Law No. 03—

Clerk

Passed the day of, 2003

Mayor

Schedule "B"

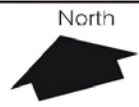
Map Forming Part of
By-Law No. 03-____

Legend

 **Subject Property**
Lands to be regulated by
By-Law No. 03-____



Planning and Development Department



Scale
NOT TO SCALE
Date
September 10, 2003

Reference File No.
SITE PLAN PROCESS
Drawn By
LC