



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 18, 2014
SUBJECT/REPORT NO:	Proposed Official Plan Amendment and Zoning By-law Amendment to Permit a Mobile Home Park and a Seasonal Trailer Park at 57 and 58 12 th Concession Road East (Flamborough) (PED14032) (Ward 15)
WARD(S) AFFECTED:	Ward 15
PREPARED BY:	Cam Thomas (905) 546-2424 Ext.4229
SUBMITTED BY:	Joe-Anne Priel Acting General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Official Plan Amendment Application OPA-13-017, Fern Brook Resort Inc., Owner**, to amend policies and re-designate lands located at 58 12th Concession Road East (Flamborough), on Schedule “D” of the Rural Hamilton Official Plan (RHOP), to establish a Seasonal 100-site Trailer Park (Block “2”) and protected Conservation Areas (Blocks “3” and “5”), as shown on Appendix “A” to Report PED14032, on the following basis:
- (i) That Blocks “2”, “3”, and “5” be changed from the “Rural” designation to the “Open Space” designation;
 - (ii) That Blocks “2”, “3”, and “5” be identified further as Site-Specific Area “R-█”;
 - (iii) That the draft Official Plan Amendment (OPA), attached as Appendix “B” to Report PED14032, be adopted by City Council; and,
 - (iv) That the proposed OPA is consistent with the Provincial Policy Statement (PPS), Greenbelt Plan, Rural Hamilton Official Plan (RHOP) and the intent of the Town of Flamborough Strategy for Recreational Vehicle Parks, Report DPD1994-21 (see Appendix “C”).

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(b) That approval be given to **Amended Zoning Applications D14-ST and ZAC-02-093, Fern Brook Resort Inc., Owner**, for changes in zoning to permit a permanent 15-unit mobile home park and ancillary uses (Block “1”), a 100-site seasonal trailer park and ancillary uses (Block “2”), and protected Conservation Areas (Blocks “3”, “4”, and “5”), for the lands located at 57 and 58 12th Concession Road East (Flamborough), as shown on Appendix “A” to Report PED14032, on the following basis:

- (i) That Block “1” be changed from the Recreational Open Space “O3-3”, Zone Modified, to the Residential Mobile Home “R9-6-1-(H)” Zone, Modified, Holding and the Residential Mobile Home “R9-6-2-(H)” Zone, Modified, Holding;
- (ii) That Block “2” be changed from the Agriculture “A” Zone, to the Recreational Open Space “O3-10-1(H)”, Zone, Modified, Holding;
- (iii) That Block “3” be changed from the Conservation Management “CM” Zone, to the Recreational Open Space “O3-10”, Zone, Modified;
- (iv) That Blocks “4” and “5” be changed from the Conservation Management “CM” Zone, to the Conservation Management “CM-4” Zone, Modified;

That the amending By-law apply the following Holding Provisions in accordance with Section 36 (1) of the Planning Act, R.S.O., 1990, to Blocks “1”, and “2”, by introducing the Holding Symbol ‘H’ as a suffix to the proposed Residential Mobile Home “R9-6-1(H)” Zone, Modified, Holding, the Residential Mobile Home “R9-6-2(H)” Zone, Modified, Holding and the Recreational Open Space “O3-10(H)”, Zone, Modified, Holding;

- (v) The Holding provision referred to in Section (b) (iv) shall not be removed until such time as the following conditions have been completed:

Holding Provision “R9-6-1(H)” Holding Zone

The removal of the Holding provision “1(H)” will allow for the development of up to 50 permanent mobile home sites (units) on Block “1”, as well as the following uses:

- (b) Clubhouse, accessory to the Manufactured and Mobile Home Park, which may include as ancillary uses to the park, administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness

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and leisure facilities including a pool, hot tub, sauna, showers, and fitness room.

- (c) One Manager's suite and two staff apartments, adjacent to the existing clubhouse.
- (d) Maintenance, utility and storage buildings; and,
- (e) Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children's play area, volleyball and tennis courts, and picnic areas.

The Holding provision "1(H)" shall remain in effect until such time as the completion of the following conditions:

(1) Site Plan Agreement (SPA)

The Owner shall enter into a Site Plan Agreement with the City and register it on title, for Block "1" - North Lands, to address required improvements and upgrades to the servicing, infrastructure, and layout of the mobile home park in a multi-phase plan, to be developed through the Site Plan approval process, through which the required financial securities for the construction of works, identified through Site Plan approval process, will be specified by the City and posted by the Owner, prior to Site Plan approval of each phase.

The development of the SPA should be made in reference to the requirements outlined in the Municipal Responsibility Agreement, adequately providing services to the development as outlined in the Functional Servicing Report, and to the satisfaction of the Director of Hamilton Water, Public Works.

(2) Municipal Responsibility Agreement

The Owner shall enter into and register the signed Municipal Responsibility Agreement and associate Trust agreement on title. Prior to registration of the Agreements, the Owner shall post the financial securities required thereunder to the satisfaction of Senior Director of Growth Management, the Director of Hamilton Water, Public Works, and the Director of Planning.

(3) Conservation Halton

- (a) Preparation and submission of a Flood Emergency Plan to the satisfaction of Conservation Halton (CH) is required to ensure a safe evacuation of residents during a flood emergency.
- (b) The completion of fill placement/grading and pedestrian bridge upgrades as recommended in the Stantec letter report, dated March 6, 2008, to ensure safe ingress/egress during regulatory storm events, to the satisfaction of Conservation Halton.

City Council shall remove the 'H' symbol "1(H)" and, thereby, give effect to the Residential Mobile Home "R9-6-1(H)" Zone, Modified, Holding provisions, to allow for up to 50 permanent mobile home sites by enactment of an amending By-law, once the above-noted conditions 1, 2, and 3, are satisfied.

Holding Provision 'R9-6-2(H) Holding Zone'

The removal of the Holding provision "2(H)" will allow for the development of an additional 100 permanent mobile home sites (units) on Block "1" for a total of 150 permanent mobile home sites (units). The Holding provision "2(H)" shall remain in effect until such time as the completion of the following conditions:

(1) Functional Servicing Report

Preparation and submission of an addendum to the Functional Servicing Report and Operations and Maintenance Manual, to the satisfaction of the Senior Director of Growth Management and the Director of Hamilton Water, Public Works. The addendum shall address the following matters:

- a) A Hydrogeological Study, with the assistance of a Qualified Person, to characterize the following:
 - i) The direction of groundwater flow;
 - ii) The existence of both an upstream and downstream monitoring well whose location reflects the groundwater flow regime;

- iii) Confirm that the downstream well is located within the effluent plume and at least 40 m. from the septic system and tile field;
 - iv) Confirm that the monitoring well number and the monitoring well information provided to date was sampled from the upstream and downstream monitoring wells identified in (ii) and (iii), above;
 - v) Determine appropriate effluent trigger limits at the monitoring wells;
 - vi) If recommended by the Hydrogeologist, install additional monitoring wells in order to address items (i) to (v).
- b) Following the collection of at least three consecutive years of monitoring data, the Owner shall reassess the Hydrogeological Study to confirm effluent trigger limits and provide recommendations on any required infrastructure upgrades, referencing the monitoring data in conjunction with the water and waste water flow rate and occupancy records;
- c) Submission of theoretical design flows for both the water and wastewater systems, based on full occupancy of the Fern Brook Development (150 permanent and 100 season sites), following MOE Design Guidelines (2008), City of Hamilton Engineering Guidelines (2006), and the Ontario Building Code;
- d) Submission of historical water and wastewater flow rates which are based on Ministry of Environment Design Criteria and accompanied by occupancy records for the related time period;
- e) Demonstration that the rated capacity of the Water Treatment System is capable of servicing the full Fern Brook Development (150 permanent and 100 seasonal sites), with the rated capacity being based on the largest unit for each process component out of service, and that the system is adequately designed to meet the MOE/Hamilton Fire Department fire storage and fire flow requirements;
- f) Demonstration that the Sewage Treatment System will: i) function adequately for the design flows of the full Fern Brook Development (150 permanent sites and 100 seasonal sites),

identifying the need for additional equipment in order to meet the rated firm capacity with the largest unit out of service; ii) operate in accordance with the associated Certificate of Approval; iii) produce an effluent, at the discharge point of the treatment system, with a nitrate concentration less than, or equal to 10 mg/L; and iv) maintain a nitrate concentration, at the property boundary downstream of the sewage treatment system, that does not exceed 2.5 mg/L.; and,

- g) Revisions to the Operations and Maintenance Manuals for the water and wastewater treatment facilities which follow MOE's prescribed format and which include a comprehensive set of operating instructions and a process narrative to explain how the facility is intended to operate in accordance with the required treatment system, as determined through the ongoing engineering analysis and in consultation with the City.

City Council shall remove the 'H' symbol "2(H)" and, thereby, give effect to the Residential Mobile Home "R9-6" Zone, Modified provisions, to allow for 100 permanent mobile home sites to a maximum of 150 permanent mobile home sites by enactment of an amending By-law, once the above-noted conditions are satisfied.

Holding Provision "O3-10(H)" Zone, Modified

The removal of the Holding provision "(H)" will allow for the development of up to 100 seasonal trailer sites on Block "2" and the sewage treatment plan and dispersal fields on Block "3". The Holding provision "(H)" shall remain in effect until such time as the completion of the following conditions:

(1) Site Plan Agreement

The Owner has entered into a Site Plan Agreement with the City and registered said Agreement on title, for Blocks "2" and "3" ("South Lands"). The Site Plan Agreement will address but shall not be limited to: required improvements and upgrades to the servicing, infrastructure, and layout of the seasonal trailer park, through which the required financial securities for the construction of works identified through the Site Plan Approval process will be specified by the City and posted by the Owner prior to Site Plan Approval.

(2) Municipal Responsibility Agreement

The Owner has executed and registered on title the signed Municipal Responsibility Agreement and associate Trust Agreement to the satisfaction of the Senior Director of Growth Management and the Director of Hamilton Water, Public Works, and the Director of Planning. Prior to registration of said Agreements, the Owner shall post the financial securities required thereunder to the satisfaction of Senior Director of Growth Management and the Director of Hamilton Water, Public Works, and the Director of Planning.

City Council may remove the Holding provision 'H' and thereby give effect to the Recreational Open Space Zone "O3-10", Zone, Modified zone provisions, for Block "2", to allow for a maximum of 100 seasonal trailer sites and Block "3", to permit the Private Sewage Treatment Plant with Dispersal fields, by enactment of an amending By-law, once the above-noted conditions are satisfied.

- (vi) That Council authorize the Mayor and City Clerk to execute a Municipal Responsibility Agreement and associated Trust Agreement, substantially in the form attached as Appendix "H" to Report PED14032, with content acceptable to the City Solicitor and the Director of Planning.
- (vii) That the draft By-law, attached as Appendix "C" to Report PED14032, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
- (viii) That the proposed changes in zoning are in conformity with the PPS, the Hamilton-Wentworth Official Plan (HWOP), and the Flamborough Official Plan, and will be in conformity with the RHOP upon approval of OPA No. [REDACTED].

EXECUTIVE SUMMARY

The purpose of these applications is to amend the RHOP and Flamborough Zoning By-law, to permit a 100-unit seasonal trailer park at 58 12th Concession Road East (Blocks "2" and "3" on Appendix "A"), referred to as the South Lands, and to legalize an existing 150-unit mobile home park at 58 12th Concession Road East (Block "1" on Appendix "A"), referred to as the North Lands. The proposal provides for a redistribution of 100 seasonal trailer sites from the North Lands, known currently as the "Fern Brook Resort" to the South Lands, which are presently undeveloped. The proposal would allow the existing 150 permanent residential units (mobile homes) to remain on the North Lands,

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contingent on the necessary infrastructure upgrades and, to be properly recognized through an amending Zoning By-law.

The proposals have merit and can be supported, as they are consistent with the PPS and conform to the HWOP, and the Flamborough Official Plan. Under the RHOP, the North Lands do not require an amendment. However, the RHOP policies regarding non-conforming and non-complying uses do apply to the North Lands, and the proposed zoning of the permanent mobile home park would comply with these policies. The South Lands are subject to the RHOP and would conform to the criteria to re-designate the South Lands to “Open Space.”

The proposal would require the use of Holding ‘H’ Provisions to address requirements for further hydrogeological investigations, as well as outlining the details for water and wastewater upgrades, in support of work for the applicant’s Functional Servicing Report; a Site Plan Agreement to set out a multi-phase transition plan to allow for upgrades to the existing infrastructure on the North Lands; and a Municipal Responsibility (Default) Agreement which provides financial assurance to ensure there are sufficient reserves in place for the continued operation and maintenance of the sustainable private water and waste water services (“private services”), in the event that the City would have to assume responsibility. The Holding ‘H’ provisions have been structured for the North Lands and South Lands to permit development in stages subject to the completion of certain conditions for the two sections of the property. The approval of the applications provides changes to the distribution of the seasonal and permanent units on the property, and will facilitate the upgrades necessary for improvements in land use, reduced flood risk, access in the event of Regional or 100 Year Storms, and servicing and human safety to allow for future sustainability of the uses.

Alternatives for Consideration – See Page 70

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Although the Municipal Responsibility Agreement mitigates the financial risk to the City, there is still the possibility that the City may be required by the Ministry of the Environment, or by default of the Owner, to take over the operation and maintenance of the sustainable private services at some cost to the City, if the operating cost security, and/or the capital reserve fund, are insufficient to meet the operating and capital needs of the system at the time of take over.

New financial costs to the City are therefore potential risk with respect to operation and repair of the water and sewage system.

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The City is currently exposed to the risk of operating the private water and sewage system without financial securities or the ability to collect fees for operation and maintenance. The recommended course of action will minimize the City's current risk to maintain the water and sewage system by allowing the Site Plan and the Municipal Responsibility Agreement to be executed and registered.

Staffing: None

Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider an application for an Official Plan Amendment and a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Chronology:

- November 16, 1992: Resolution by Town of Flamborough to place a moratorium on new trailer parks, followed by the development of a strategy for bringing existing trailer parks into conformity.
- March 28, 1994: Town of Flamborough resolution for strategy to bring existing recreation vehicle parks into compliance with town requirements (Report DPD1994-21).
- July 19, 1994: Submission of OPA Application D08-ST and Zoning By-law Amendment D14-ST for Stein resorts Inc. by Cumming Cockburn Ltd. (for the North Lands).
- April 7, 1997: Public Meeting with Flamborough Town Council. Application deferred ending resolution of property boundary (unopened road allowance), review by Environmentally Sensitive Areas Impact Evaluation Group (ESAIEG) and MOE Review of Assimilative Capacity study.
- April 8, 1998: Modification of Original OPA and Rezoning Applications to consider the use of the South Lands to accommodate a communal sewage system.
- September 10, 1998: Review by ESAIEG (revised applications were supported, and it was stated that there would be no impact on the Environmentally Sensitive Areas (ESA)).

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- November, 1998: Public Meeting with Flamborough Town Council (Application deferred).
- December 24, 2002: Submission of OPA Application OPA-02-034 and Zoning By-law Amendment ZAC-02-093 (for the South Lands).
- February 7, 2003: Water Treatment Facility approved by the MOE.
- October 16, 2008: Recirculation of revised development proposal for OPA-02-034 and ZAC-02-093.
- September 10, 2009: Fern Brook Resort purchases properties 57 and 58 12th Concession Road East, from Stein Resorts Inc.
- September 23, 2009: ESAEIG meeting to review revised EIS for South Lands. The EIS for the proposal is supported by ESAEIG.
- April 14, 2009: Open House, attended by approximately 200 residents at former “Four Seasons Club House”.
- November 29, 2013: Submission of Application for an Amendment to the RHOP for the “South Lands”.
- December 3, 2013: Engineering Assessment Update by Gunell Engineering Ltd. and peer review.
- February 20, 2014: Circulation of Notice of Public Meeting to all residents within 120 m of the subject lands and Notification Sign Update.

Background:

The property known as 57 12th Concession Road East was initially developed in 1969 as a 20 ha private campground park and resort under the former Township of East Flamborough, known as the Four Seasons Nature Park (Stein Resorts Inc.) (Appendix “A”). The park evolved into a residential community and campground consisting of 250 sites for mobile homes, seasonal trailers and cottages, for both seasonal and year-round accommodation. There are several permanent dwellings on the site that were constructed when the property was managed as the Four Seasons Resort, however, none of these were developed as legal units. The facility also includes a central clubhouse with a 20-room hotel, a restaurant and pool/spa/fitness complex, as well as a pond, outdoor courts for tennis and volleyball, and an outdoor pool. Development within the Four Seasons community was provided on private services consisting of individual

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wells and Class IV septic systems, which were not in accordance with the MOE requirements.

Under the former Town of Flamborough, a resolution was passed by Council on November 16th, 1992, issuing a moratorium on new applications for mobile home park development. However, given the status of the approximately 900 illegal, year-round, mobile home units throughout Flamborough, it was considered more appropriate to address the issues related to full-time residency of recreational vehicle parks. Consequently, on March 28, 1994, Town of Flamborough staff brought forward a strategy for bringing recreational vehicle parks into compliance with municipal requirements. Report DPD1994-21 (See Appendix "C") identified 11 recreational vehicle parks with permanent, full-time residency. Flamborough Council adopted the strategy which allowed for each park to make the necessary applications to the Town within a certain allotted time.

Of the 11 parks identified, six applications for a licence to operate a Recreational Camping Establishment were received, in accordance with By-law No. 91-47-L, while seven parks submitted Official Plan and Zoning By-law Amendment applications. The Four Seasons Nature Resort submitted their applications on July 19, 1994, to recognize 150 permanent mobile home units, and 100 seasonal units, on the lands on the north side of the 12th Concession, known as 57 12th Concession Road East (D08-ST, D14-ST). Applications from each of the parks were eventually brought forward to Flamborough Council for decision. However, despite numerous staff recommendations for approval, any decision with respect to Four Seasons Nature Resort was deferred by Flamborough Council due to outstanding servicing, environmental and sustainability concerns regarding the proposal servicing, environmental, and sustainability issues regarding the proposal.

Following amalgamation, Four Seasons submitted two additional applications in late 2002 to amend the Official Plan and Zoning By-law to permit a 100-unit seasonal trailer park and ancillary uses on the abutting lands on the south side of the 12th Concession known as 58 12th Concession Road East (OPA-02-034, ZAC-02-093), which was acquired by the Four Seasons Resort (the South Lands). This property was a former farm which has a large natural area consisting of part of Bronte Creek and the Beverly Swamp ESA. This proposal allowed the seasonal units to be relocated immediately south of the established park. This redistribution of the existing population capacity was intended to address some of the unresolved servicing concerns. In 2009, City of Hamilton Council approved the closure of an unopened portion of 12th Concession Road East road allowance, in favour of Four Seasons Nature Resort, in order to facilitate the construction of a communal sewage collection line across the two properties. The communal sewage system was approved by the MOE to address outstanding servicing, environmental, and sustainability concerns, regarding the 150 permanent sites plus the club house and staff residences proposed by the current owner, Fern Brook Resort Inc.

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To date, no recommendations have been brought forward to City of Hamilton Council for a decision concerning these applications.

Proposals

The proposal is for an amendment to the RHOP to permit changes in the land use designation for the property located at 58 12th Concession Road East, Flamborough (South Lands), and to permit changes in zoning to the Flamborough Zoning By-law, to recognize the full-time residency of the existing mobile home park located at 57 12th Concession Road East, Flamborough (North Lands), and permit the development of a seasonal trailer park on the South Lands, in accordance with Council-approved Staff Report DPD1994-21 (See Appendix “C”), in order to bring the Fern Brook Resort into compliance with the City’s requirements.

Official Plan Amendments

An OPA for the North Lands was submitted in 1994 under the former Town of Flamborough, as Application D08-ST, and in 2002 for the South Lands, with the City of Hamilton, as Application OPA-02-024.

Application D08-ST (North Lands - 57 12th Concession Road East)

OPA D08-ST was submitted in 1994 by the former owner, Stein Resorts Inc. (Four Seasons Resort), to legalize the existing 20 ha seasonal recreational campground on the North Lands, as a year-round mobile home park for 225 permanent sites, including the clubhouse, recreational facilities, hotel and administration offices.

The OPA was required because the Flamborough Official Plan did not contain policies within the “Open Space and Recreation” land use designation to permit mobile home parks. The application was the subject of four public meetings by the former Town of Flamborough, together with Zoning By-law Amendment Application D14-ST. However, decisions concerning the Applications were deferred, and no appeal was ever made to the Ontario Municipal Board (OMB).

In light of the RHOP coming into force in 2012, the former Flamborough Official Plan ceased to exist, which made their former OPA a nullity. Staff assessed the application against the policies of the RHOP, and have determined that an amendment to the RHOP is not required. This is explained in greater detail in the Policy Section under the RHOP.

Application OPA-02-024 (South Lands - 58 12th Concession Road East)

OPA-02-024 was submitted in 2002 to re-designate the lands comprising of 60 ha, acquired by Stein Resorts in 1997, which are located on the south side of 12th Concession Road East, from “Rural” to “Open Space and Recreation” (“South Lands”), to allow for the relocation of the seasonal trailer park, consisting of 100 sites, from the main property. This application has not proceeded to a Public Meeting because of the need to address servicing requirements. With this application, Application D08-ST was further modified to permit 150 permanent sites, as well as the other ancillary uses.

Application OPA-13-017 (South Lands - 58 12th Concession Road East)

Application OPA-13-017 was submitted November 29, 2013, to address the required Amendment to the RHOP in light of the RHOP coming into full force and effect. As the Flamborough Official Plan is no longer in effect, Application OPA-13-017 is required for procedural reasons and essentially replaces Application OPA-02-024.

Zoning By-law Amendments

Zoning By-law Amendments were also submitted in conjunction with the proposed OPAs in 1994 and 2002 for the North and South Lands.

Application D14-ST (North Lands - 57 12th Concession Road East)

Zoning By-law Amendment D14-ST was submitted in 1994 for the purpose of changing the zoning from the Recreational Open Space “O3-3” Zone to a modified Residential Mobile Home Park “R9” Zone, to permit a mobile home park. Originally, the Application was for 225 permanent sites and the requested ancillary uses; however, the Application was modified in 2002 for 150 sites and ancillary uses. In particular, the proposed rezoning is intended to recognize many of the existing ancillary uses and amenities associated with the permanent mobile home park. These include a clubhouse, and the associated uses provided within the clubhouse, including a convenience retail store, restaurant and tavern, laundry facilities, administration offices, 20-room hotel, a manager’s suite and two apartment units, and an indoor swimming pool, spa, and fitness centre. Other existing ancillary uses on the property, which the applicant is requesting to have recognized in the amending zoning, include a private swimming pool, maintenance, utility and storage buildings, and two existing single detached dwellings (see Appendix “E”).

A number of site-specific regulations are being requested for inclusion into the Modified “R9” Zone, in order to recognize the existing development. These are explained in the Analysis and Recommendations Section of the Report. Holding ‘H’ provisions would be

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required to address servicing upgrades, financial securities, and a Municipal Responsibility Agreement.

Application ZAC-02-93 (South Lands - 58 12th Concession Road East)

Zoning By-law Amendment ZAC-02-93 was submitted to change the zoning from the Agricultural “A” Zone to a Site-Specific Recreational Open Space “O3” Zone in order to allow for the relocation of the 100 seasonal trailer sites from the North Lands and from the Conservation Management “CM” Zone, to a Site-Specific Recreational Open Space “O3” Zone, in order to recognize the private services for the mobile home park and seasonal sites. As for the North Lands, Holding ‘H’ provisions are also required for the proposed zoning to address the requirement for hydrogeological investigations, servicing upgrades, financial securities, and a Municipal Responsibility Agreement.

The applicant is also requesting the consideration of several ancillary buildings which include a detached dwelling as a year round residence for a park supervisor, a maintenance building for the sewage and water distribution system, and a pavilion for social functions. At this time, the plan has been developed to show trailer sites, internal roads and sports fields (see Appendix “D”). The proposed location of ancillary buildings is also shown conceptually on Appendix “I”, with the following floor areas:

- Utility Building - 279 sq m
- Recreation Hall - 372 sq m
- Manager's Residence - 186 sq m

Background on Existing Private Services

At the time of the initial applications in 1994, the permanent units and seasonal sites comprising the Four Seasons Nature Resort was serviced by 13 drilled wells, and individual and shared septic tanks with tile fields and leaching pits. In February 1997, Cumming Cockburn Limited prepared the “Communal Servicing Feasibility Study, Stage One Report”, in accordance with the Region of Hamilton-Wentworth’s “Technical Checklist and Guidelines for Review of Communal Water or Sewage Systems”.

This report proposed a communal system to support the Four Seasons’ applications to be in conformity with municipal requirements. The report recommended retaining the existing water supply system, and replacing the septic tanks with a large communal system. England Naylor Engineering Ltd. prepared a comprehensive review of the sewage disposal alternatives, and concluded that a communal sewage system was the preferred alternative.

Sewage System

It was determined from the England Naylor Engineering Report that the most viable location for the proposed private sewage system was within the wetland boundaries on the South Lands. In 1998, Natural Resource Solutions Inc. prepared a sewage system upgrade EIS, prior to the EIS submitted in 2002 as discussed in the Environmental Impact Subsection of this analysis. At that time, ESAIEG, the MOE and the Halton Conservation Authority determined that the location for the proposed system was suitable and would not generate any adverse impacts to the wetlands. However, it was recognized that further investigation would be required, as well as a Certificate of Approval (CofA) from the MOE.

The MOE is the approval Authority on all sewage treatment facilities that accommodate flows greater than 10,000 L/day. A Sewage System Design Report was submitted to the MOE in 2002 as part of the CofA requirement under Section 53 of the Ontario Water Resources Act. The system was designed to accommodate 150 permanent mobile home sites, 100 seasonal trailer park sites, 120 seats in the Club House/Restaurant and 3 Bath Houses which were estimated to generate 109,000 L/day of flow. The Report recommended that the CofA be issued for 110,000 L/day of flow with 150,000 L of storage in the tank to accommodate peak volumes. The MOE issued a CofA on February 7, 2003.

Although the CofA was issued under the authority of the MOE, the system is not designed or installed to current City or MOE engineering standards. The CofA was therefore issued without municipal support or acknowledgement.

Terms and conditions of the CofA included Construction, Monitoring, Operations, Reporting, and Financial Assurance. In regards to Financial Assurance, Naylor Engineering submitted a report in 2003 which identified an estimated Capital Cost of \$174,000, and a three-year Operating Cost of \$71,400. However, the MOE determined that \$97,500 was sufficient for any environmental action required in the event of failure or abandonment. Naylor Engineering recommended that the amount of Financial Assurance be reviewed every three years and be provided on an on-going basis. A new CofA was provided in 2007 and \$97,500 was the total amount of financial assurance provided.

Since 2010, the City has been working with an external peer reviewer to determine the deficiencies with the existing sewage system, and how they should best be addressed.

Water Distribution System

The 1997 Cumming Cockburn Report identified 13 wells within the existing park of which 11 were drilled into the bedrock, and two drew water from the granular

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overburden. From this Report, it was determined that there was a sufficient supply of water to accommodate both permanent and seasonal occupants, and no additional water supply was required.

However, it was determined that two wells were drawing more than 50,000 L/day. The MOE requires all wells drawing more than 50,000 L/day be regulated by a Permit to Take Water. Four Seasons Nature Resort received a permit for Wells No. 3 and No. 6. Additionally, Four Seasons Nature Resort received a CofA for a water treatment facility, located at Well No. 3. A CofA for water works includes similar conditions to the CofA sewage works, however, it does not include any Financial Assurance conditions as water treatment generally does not have adverse impacts to the environment, in the event of failure or abandonment.

The MOE is the approval authority for the design, installation and operation of sewage treatment and water systems of a certain size. The City is responsible for the issuance of building permits to construct the collection and distribution lines between the facility and the unit.

As the Fern Brook Resort systems are not designed to current City or MOE standards, staff have required a peer review of the systems, and as-built drawings be submitted for approval before the release of any building permits to construct the new lines to the South Lands, and for the upgrades to the North Lands. Financial securities for the construction of these works will be posted in phases and held by the City in accordance with an approved phased site plan.

Details of Submitted Application

Owner/ Applicant: Fern Brook Resort Inc. (previous owner, Stein Resorts Inc.)

Agent: Ruth Victor and Associates

Location: 57 and 58 12th Concession Road East, Flamborough

Description:

	<u>57 - 12th Con Road E</u>	<u>58 - 12th Con Road E</u>
Frontage:	106 m	4.1 m
Depth :	532.5 m	696.4 m
Area	19.4 ha	60 ha

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EXISTING LAND USE AND ZONING:

	Existing Uses:	Existing Zoning:
57 12 th Concession Road East "North Lands"	250-unit permanent and seasonal trailer park, "Fern Brook Resort"	Recreational Open Space Zone (O3-3), Modified, and Conservation Management (CM) Zone
North	Farm	Conservation Management (CM) Zone and Agriculture (A) Zone
South	Former Farm (owned by Fern Brook Resort, Inc.) and two residential properties	Conservation Management (CM) Zone and Agriculture (A) Zone
East	Provincially Significant Wetlands	Conservation Management (CM) Zone
West	Outdoor Club and Lodge (Waterdown Sportsmen's Club, 33 12 th Concession Road East)	Conservation Management (CM) Zone and Residential Mobile Home Park (R9-6) Zone
58 12 th Concession Road East "South Lands"	Former Farm and dwelling	Conservation Management Zone (CM) and Agriculture (A) Zone
North	"Fern Brook Resort"	Recreational Open Space Zone (O3-3), modified, and Conservation Management (CM) Zone
South	Existing small farms with residences	Conservation Management (CM) Zone and Agriculture (A) Zone
East	Provincially Significant Wetlands	Conservation Management (CM) Zone
West	Existing Detached Dwellings and Provincially Significant Wetlands	Conservation Management (CM) Zone and Agriculture (A) Zone

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Comprehensive Policy Statements

The Comprehensive Policy Statements came into effect on May 18, 1994, and were the precursor to the 1997 and 2005 PPS. As they were in effect at the time of submission of the proposed amendments to the Flamborough Official Plan and Zoning By-law for the North Lands, submitted on July 13, 1994, a policy review of this document is warranted.

The most relevant sections of the Comprehensive Set of Policy Statements with respect to the existing mobile home park are the Natural Heritage and Infrastructure Polices.

The Comprehensive Policy Statement in Section B, 10a, did permit residential development that was not an extension to a settlement area within Rural Areas, subject to conditions. These conditions include demand for the type and scale of development, effects of development on the rural and recreational characteristics are assessed and acceptable, servicing for the site is suitable, long term public costs for infrastructure are acceptable. As set out elsewhere within this report, this development provides a form of very affordable housing in limited supply, whereas elsewhere within the City of Hamilton, no other lands are designated nor planned to be developed for this type of housing. The proposed development will have no adverse effect on the characteristics of the area, and the site is suitably serviced. No public infrastructure is required to accommodate this existing use.

Policy No. 1.2 pertains to the protection of provincially significant wetlands, and Policy No. 2.4 states that permission for development on adjacent lands shall not result in a) the loss of wetland functions; b) subsequent demand for future development that will negatively impact existing wetland functions, conflict with existing site-specific wetland management practices; and, d) loss of contiguous wetland area.

For the above natural heritage policies, as part of the review of the Application, discussions were held with CH, the Ministry of Natural Resources, and the City regarding the various permits and studies required for both the approval of the use of the mobile home park, as well as the new septic system for the property. These studies were reviewed by the various agencies. On March 21, 1997, the Conservation Authority indicated support for the OPA and ZBA to permit the conversion of the existing seasonal recreational vehicle park to a permanent mobile home park. It was determined by the municipality and CH that the proposal reflected an existing condition and the lands were already developed. The assessment of the lands for the new septic system were addressed through various permit processes. Any further EIS work was determined to not be necessary by CH because the proposal did not require further encroachment into the adjacent lands.

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Policy No. 3.5.4 states that in the flood plain, any new development permitted is to be protected by acceptable flood-proofing actions or measures. Ingress or egress for new buildings require vehicular and pedestrian movement to not be prevented during times of flooding.

Based on this policy, CH required a flood-proofing study which identified sites that were in unsuitable areas, as well as a strategy for addressing the development in the floodplain. This led to recommendations to remove and relocate the 100 trailer sites to the South Lands, and the eventual revised Applications for this portion of the property. With respect to this Policy Statement and under the Planning Act at the time, municipalities were required to have regard to the Comprehensive Set of Policy Statements. Based on the foregoing, staff are satisfied that the proposals have had appropriate regard to the Comprehensive Set of Policy Statements.

Provincial Policy Statement (2005)

The applications for both the North and South Lands have been reviewed for consistency with the 2005 PPS. The 2005 PPS is applicable, given the lapse of time that has occurred since the 1994 and 2002 Applications, and the need to apply the most current science and best practices. The lands are not located within Prime Agricultural Areas.

North Lands

With respect to Rural Areas, the following policies apply:

Policy No. 1.1.4.1 states that in rural areas located in municipalities:

- a) “permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses;
- b) development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure;
- c) new land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae;
- d) development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;
- g) recreational, tourism, and other economic opportunities should be promoted.”

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The proposed mobile home park use is intended to recognize the existing permanent dwellings (i.e. 150 sites), and would allow for the redistribution of the seasonal units to the South Lands, without the creation of any additional sites. As it would be regarded as an existing use which would allow for the improvement of the site including the lotting and the size of replacement units and it is consistent with the direction of the PPS. The existing mobile home park would be subject to private servicing, in accordance with the requirements set out in the FSR and MRA. The development would be compatible with existing uses and the proposed removal of 100 trailer sites and the transition plan to address upgrades to the servicing of the mobile sites, and the recommended zoning would further improve compatibility to address encroachments. The mobile home park generally functions as a community that does not negatively impact service levels for rural areas. In particular,

Policy No. 1.6.4.1 states that planning for sewage and water services shall:

- a) direct and accommodate expected growth in a manner that promotes the efficient use of existing:
 2. private communal sewage services and private communal water services, where municipal sewage services and municipal water services are not available.

- b) ensure that these systems are provided in a manner that:
 1. can be sustained by the water resources upon which such services rely;
 2. is financially viable and complies with all regulatory requirements; and,
 3. protects human health and the natural environment.

Existing private services have been provided to accommodate the mobile home park. An agreement with the municipality to ensure ongoing operation and maintenance of the systems is attached to this Report. As no new lots are being created through this application, and upgrades to the system are being required through agreements, the system will operate in a manner that will be more sustainable and beneficial to human health and the environment.

Concerning flood hazards, Policy No. 3.1.2 states that development and site alteration shall not be permitted within:

- c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard.

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The applicant has prepared a flood plain analysis which has been approved by CH. Works to address flood access issues, such as increasing road elevations in specific locations, will need to be addressed through the Site Plan Approval process. CH has indicated no objection to these applications subject to specific criteria regarding replacement unit sizes to be included within the zoning by-law.

Concerning natural heritage, Policy No. 2.1.1 states that natural features and areas shall be protected for the long term. Policy No. 2.1.6 states that development and site alteration shall not be permitted on adjacent lands to the natural heritage features, and areas identified in Policies 2.1.3, 2.1.4, and 2.1.5, unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

With respect to the above, Policy No. 2.1.3 states that development and site alteration shall not be permitted in d) significant wildlife habitat; and, e) areas of natural and scientific interest. Policy No. 2.1.5 includes the same policy for fish habitat.

The North Lands are situated adjacent to two ESA's which include the Beverly Swamp to the west, and the Freelon Esker Wetland complex to the East. There is no new development proposed beyond the limit of the existing developed area consisting of 150 permanent residential units, 100 trailer sites, open space areas, parking area and the clubhouse. The terms of reference were prepared in conjunction with the City and CH, after the 2005 PPS came into effect. The City, at the time the terms of reference was prepared, deemed the study ultimately completed, and thus would satisfy the PPS. At this time CH is satisfied that the proposal to permit 150 mobile trailer sites within the existing disturbed area of the site and outside of the established Development Constraint Boundary, would satisfy the intent of the PPS.

Based on the foregoing, the proposed ZBA to recognize the mobile home park on the North Lands would be consistent with the applicable Policies of the 2005 PPS.

South Lands

Policy No. 1.1.4.1, regarding Rural Areas, as excerpted above, applies to the South Lands. The proposed use of a recreational campground would be recognized as a resource based recreational activity, which is permitted under the 2005 PPS. The PPS is compatible with the rural landscape, and is an opportunity to be promoted according to the PPS within these areas. Minimum Distance Separation formulae calculations have been provided, and there is appropriate separation between the new campground and any adjacent livestock operations. The transportation network and proposed private servicing is available and appropriate for this use, and no expansion of infrastructure is required. Further, the development of an improved campground provides opportunities for the enhancement of local tourism.

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Concerning natural heritage, Policy No. 2.1.6, as noted previously, states that development and site alteration shall not be permitted on adjacent lands to the natural heritage features, and areas identified in Policies 2.1.3, 2.1.4, and 2.1.5, unless the ecological function of the adjacent lands has been evaluated and demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

An EIS was completed and reviewed by the City of Hamilton and CH, as well as the City's ESAIEG Committee. All concerns were addressed through that process. The proposed site layout protects all natural heritage features on the property, and respects all buffers required for these features. The study was used to establish the development constraint boundary for the amending zoning, to separate the future trailer sites and developable areas from the protected wetland areas and buffers.

Policy No. 3.1.2 regarding development and site alteration, excerpted above, applies to the South Lands. The applicant has prepared a flood plain analysis which has been approved by CH. Works to address flood access issues such as increasing road elevations in specific locations, and the use of levees, will need to be addressed through the Site Plan Approval process. CH has indicated no objection to these applications subject to specific criteria regarding replacement unit sizes to be included within the zoning by-law.

Policy No. 1.6.4.1 regarding planning for sewage and water services, excerpted above, applies to the South Lands. Private services exist to accommodate the campground uses. Through the recommended Holding 'H' provisions in the amending zoning and site plan approval process, the services would be required to be upgraded to operate in accordance with the City of Hamilton and MOE standards. The proposal is a relocation of existing campground sites from the North Lands, and there are no new lots being created through this proposal. No additional treatment infrastructure is required to accommodate this change. As noted, a Municipal Responsibility Agreement with the municipality to ensure ongoing operation and maintenance of the sustainable private services, is attached to this Report.

Policy No. 2.6.1 states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. As the South Lands met the criteria for an Archaeological Assessment, this study has been undertaken in accordance with Provincial requirements. This study is deemed to be satisfactory to the City and the Ministry of Culture.

Based on the foregoing, the proposed OPA and ZBA to permit a seasonal trailer park on the South Lands would be consistent with the applicable policies of the 2005 PPS.

Growth Plan for the Greater Golden Horseshoe

Staff note that Ontario Regulation 311/06, address transitional matters pertaining to the Growth Plan for the Greater Golden Horseshoe, 2006 (“Growth Plan”). Specifically, Section 2 states that a matter is deemed to have been commenced:

- a) in the case of a request for an OPA, on the day the request is received; and
- b) in the case of an application for an amendment to a zoning by-law, on the day the application is made.

Staff note that the ZBA applications were received prior to the enactment of the Places to Grow Plan on June 16, 2006. However, the RHOP Amendment for the South Lands is subject to the policies of the Growth Plan. The policies of the Growth Plan defer to the Greenbelt Plan when dealing with proposals in the Rural Area.

Greenbelt Plan

Section 7 of the Greenbelt Act, 2005, requires that decisions with respect to applications made under the Planning Act which were commenced on or after December 16, 2004 (the date this Plan came into force), and relate to the areas in this Plan designated as Protected Countryside, are required to conform to all applicable policies and provisions of this Plan.

Section 24(2) of the Greenbelt Act, 2005, directs that applications commenced prior to December 16, 2004, are not required to conform to Section 7, with the exception of certain prescribed matters.

On the basis of these requirements, the Greenbelt Plan does not apply to the proposed Zoning By-law Amendments, because the applications were made prior to the Greenbelt Plan coming into effect. However, the RHOP Amendment for the South Lands is subject to the policies of the Greenbelt Plan.

South Lands

The South Lands are located within the “Rural Area” of the Protected Countryside, as they are not Prime Agricultural.

Policy No. 3.1.4.1 states that rural areas support and provide the primary locations for a range of recreational, tourism and institutional and resource-based commercial/industrial uses.

The proposed use of a seasonal trailer park is considered a major recreational use.

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The Greenbelt Plan defines a major recreational use as:

“Major Recreational Uses are recreational uses that require large-scale modification of terrain, vegetation, or both, and usually also require large-scale buildings or structures, including but not limited to the following: golf courses; serviced playing fields; serviced campgrounds; and ski hills.”

With respect to the above-noted policies, the proposed seasonal campground is recognized as a permitted use within the Greenbelt Plan.

Under the Recreational Use Policies of the Greenbelt Plan, the following policies are applicable to the proposal:

- “4.1.2.1 Residential dwelling units, other than for an employee, shall not be permitted in association with recreational policies.
- 4.1.2.2 An application to establish or expand a major recreational use in the Natural Heritage System, will be accompanied by a vegetation enhancement plan that incorporates planning, design, landscaping, and construction measures that:
 - a) Maintain, or, where possible, enhance the amount of natural self-sustaining vegetation on the site and the connectivity between adjacent key natural heritage features or key hydrologic features;
 - b) Wherever possible, keep intermittent stream channels and drainage swales in a free-to-grow, low-maintenance condition;
 - c) Minimize the application and use of pesticides and fertilizers; and,
 - d) Locate new natural self-sustaining vegetation in areas that maximize the ecological value of the area.
- 4.1.2.3 An application to expand or establish a major recreational use shall be accompanied by a conservation plan demonstrating how water use and nutrient and biocide will be kept to a minimum, including the establishment and monitoring of targets.”

The proposed seasonal campground would require one dwelling for a campground manager, which may involve the use and retention of the existing dwelling.

With respect to Policies 4.1.2.2 and 4.1.2.3, staff are of the opinion that these would apply more directly to open spaces with large areas of turf that require high levels of

maintenance, such as golf courses, than to seasonal trailer parks, which have less maintenance and more naturalized areas. The proposed use would not require the use of pesticides and fertilizers. The work which was completed for the EIS has provided adequate protection for the sensitive areas through the provision of a 30 m VPZ (Vegetation Protection Zone). The development envelopes for the trailer sites, roads, and other amenities, would not intrude into existing protected areas and would not result in the removal of existing natural areas. The proposed development would not interfere with existing stream channels. The EIS has been developed to a standard that is satisfactory to the City's ESAIEG Committee and CH. Staff are of the opinion that the Greenbelt Policies have been applied correctly to determine the principle of land use for the seasonal trailer park on the South Lands. Therefore, further review and assessment would be more appropriate at the Site Plan approval stage to examine details pertaining to water use, monitoring and the provision of enhanced vegetation.

The Natural Heritage System policies apply to the majority of lands which comprise the South Lands. They are:

“3.2.2.3 New development or site alteration in the Natural Heritage System (as permitted by the policies of this Plan) shall demonstrate that:

- a) There will be no negative effects on key natural heritage features or key hydrologic features or their functions;
- b) Connectivity between key natural heritage features and key hydrologic features is maintained, or where possible, enhanced for the movement of native plants and animals across the landscape;
- c) The removal of other natural features not identified as key natural heritage features and key hydrologic features should be avoided. Such features should be incorporated into the planning and design of the proposed use wherever possible; and
- d) The disturbed area of any site does not exceed 25 percent, and the impervious surface does not exceed 10 percent, of the total developable area, except for uses described in and governed by Sections 4.1.2 and 4.3.2. With respect to golf courses, the disturbed area shall not exceed 40 percent of the site.

3.2.2.4 Where non-agricultural uses are contemplated within the Natural Heritage System, applicants shall demonstrate that:

- a) At least 30 percent of the total developable area of the site will remain, or be returned to, natural self-sustaining vegetation,

recognizing that Section 4.3.2 establishes specific standards for the uses described there;

- b) Connectivity along the system and between key natural heritage features or key hydrologic features located within 240 m of each other is maintained or enhanced; and,
- c) Buildings or structures do not occupy more than 25 percent of the total developable area and are planned to optimize the compatibility of the project with the natural surroundings.

3.2.4.4 In the case of wetlands, seepage areas and springs, fish habitat, permanent and intermittent streams, lakes, and significant woodlands, the minimum vegetation protection zone shall be a minimum of 30 m wide, measured from the outside boundary of the key natural heritage feature or key hydrologic feature.”

Staff are satisfied that the above-noted policies have been correctly applied through the provision of an approved EIS that is to the satisfaction of City’s ESAIEG Committee and CH. In particular,

- approximately 70% of the site will remain as natural area;
- future buildings will occupy less than 1% of the entire site; and,
- A 30 m VPZ would be provided for key natural heritage features.

As noted, it would be appropriate to examine opportunities for additional landscaping in conjunction with landscaping plans at the Site Plan approval stage.

Hamilton-Wentworth Official Plan

The former HWOP has ceased to exist and is no longer in effect, having been replaced by the RHOP. However, as the HWOP (1980, as amended, version) was in effect at the time of submission of the Zoning By-law Amendment for the North Lands, an evaluation under these policies is provided.

Both the North Lands and South Lands are designated “Rural Area” within the HWOP. On this basis, the following policy overview is provided:

North Lands

When the original applications were submitted for the North Lands to legalize the mobile home park, the 1980 HWOP was in effect.

The North Lands were identified as part of the “Rural Area” but were not within Prime Agricultural lands. Within the Rural Area, Policy No. 3.3.3. provides direction for Rural Mobile Home Development.

An objective for this Policy is to provide an alternative choice of living accommodation in the Region.

The policies include the following:

- 3.3.3.1 To require that each mobile home development is in compliance with the respective Area Municipal Official Plan;
- 3.3.3.2 To require that proposed mobile home development be permitted only:
 - (a) If it is authorized by an appropriate Zoning By-law;
 - (b) By a plan of subdivision;
 - (c) Subject to relevant Area Municipal policies regarding this type of development; and,
 - (d) If it is not located in Agricultural and Specialty Crop areas.
- 3.3.3.3 To consider mobile home development on the basis of Ministry of Environment and the local Health Unit, and all other relevant policies contained in this Plan.

With respect to the above-noted policies, the 1980 HWOP policies provide direction to permit mobile home parks subject to policies within the local Official Plan, authorization within the local Zoning By-law, and the application for a plan of subdivision. The Flamborough Official Plan did not include specific policies to address the development of residential mobile home parks. However, recognizing that there were several similar mobile home parks in existence, the Town adopted a strategy in 1994 to encourage the existing recreational vehicle parks to be appropriately recognized as a land use within Flamborough. The proposed Official Plan Amendment and Zoning By-law Amendment were initiated by the former Four Seasons Resort in response to this strategy.

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While planning applications D-08-ST and D-14-ST were submitted in July 1994, it was determined that further work was required for the applications to address flood plain issues and servicing requirements, before proceeding with a staff report and Public Meeting. A new HWOP was also approved in January 1995, which superseded the 1980 Plan. On this basis, the applications were determined to not require a plan of subdivision under the former 1980 HWOP and were dealt with under the 1995 HWOP.

Under the 1995 HWOP, the following policies were deemed applicable to the 1994 rezoning and Official Plan Amendment applications for the North Lands.

Policy No. C-3.2 states that the Rural Area contains a complex mix of sub-designations (Prime Agricultural Lands, EIS, and Mineral Aggregate Areas), as well as a variety of existing land uses and activities including residential, commercial, rural industrial and, the primary activity of farming.

Policy No. C-3.2.2.8 states the requirements to recognize the legal status of the existing park, without the requirement for a Regional OPA are as follows:

- a) the Area Municipality chooses to recognize the legal status of the existing park;
- b) the proponent maintains the number of units existing at the date the Area Municipality first considered the proposal to recognize the park; and,
- c) the Regional Public Health Department state that the existing communal water and/or sewage treatment systems are satisfactory, or require only a minor upgrade.

Policy No. C.4.2.1.3 states that communal systems shall be considered under the following conditions:

- a) The Region will not accept any further development which requires separate communal services, either sewage disposal or water supply, unless it can be demonstrated that the proposal is consistent with directions of Vision 2020, and/or significant in terms of a contribution to the Regional economy and unique characteristics concerning its location requirement;
- b) Where the Region approves a proposal in the Rural Area, which requires the installation or corrective substitution of a communal system, the Region will require a Responsibility Agreement, as defined in D11 of this Plan; and,
- c) In evaluating new or expanding communal systems in the Rural Area, the Region will use the "Technical Checklist and Guidelines for Review of

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Communal Water or Sewage Systems”, as detailed in the Plan’s implementation guide.

With respect to Policy No. C-3.2, the proposed mobile home park would be included within the range of uses, which is provided in the Rural Area. Regarding Policy No. C-3.2.2.8, staff are of the opinion that the legal status of the existing park should be recognized, as there is no expansion, but rather a reorganization of the North Lands to relocate the seasonal lots to the South Lands, in order to allow for reduced flood risk, a revised lot layout, and improvements with the underground infrastructure.

The recommended approach, with respect to the existing private services, would require the use of holding provisions in the amending zoning, to allow for improvements to the system by examining groundwater flows and monitoring wells, through a revised Functional Servicing Report. This will allow the private services to operate in accordance with MOE standards, which Public Health supports.

With respect to the policies on Communal Systems, the staff approach would be consistent with Policy No. C.4.2.1.3 b), to require a Municipal Responsibility Agreement, to address operational improvements and requirements, the provision of financial securities for the operation, maintenance and replacement of the system’s components, and for default in the event that the City would have to assume responsibility for the private services.

Therefore, the proposal to legalize the existing mobile home park on the North Lands would conform to the policies of the 1995 HWOP.

South Lands

The proposed seasonal trailer park would also be included in the range of uses permitted in the Rural Area as provided by Policy No. C.3.2.

Policy No. 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.

Concerning the above, an Archaeological Assessment has been provided, which is satisfactory to the City and the Ministry of Culture for the South Lands.

Policy No. C-1.2.2 of the Plan states that land use changes, in or adjacent to EIS, will only be permitted where such development:

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- i) will not adversely affect, degrade or destroy any of the qualities which are the basis for the area's designation;
- ii) will not cause any significant impacts upon water quality and quantity; and,
- iii) will not adversely affect the implementation of any resource protection policies or plans.

Therefore, the proposal to permit a seasonal trailer park on the South Lands would conform to the 1995 HWOP.

Town of Flamborough Official Plan

The former Town of Flamborough Official Plan is no longer in effect and does not exist, having been replaced by the RHOP. The Flamborough Official Plan was in effect at the time of the submission, and an evaluation under these policies is provided. A brief overview and evaluation of the Flamborough Official Plan Policies is provided on this basis.

The subject property is under two land use designations in the Flamborough Official Plan: the Open Space and Recreation designation, which applies to the proposed mobile home park located on the North Lands, and the Rural designation, which applies to the proposed seasonal trailer park on the South Lands.

Existing Mobile Home Park – North Lands

The proposal to permit a mobile home park on the North Lands would not conform to the range of uses permitted in the Open Space and Recreation designation. Under the former Town of Flamborough, the proposal was subject to an OPA and ZBA. The uses permitted in the Open Space and Recreation designation are set out as follows:

- B.9.1 The uses permitted in areas designated Open Space and Recreation as shown in Schedule “B” are: public and private recreation area or facility, trailer park (but does not include a mobile home park), golf course, passive and active areas, forestry, fish and wildlife management, cemeteries, Conservation Areas, agriculture, and a maximum of 1 accessory residential dwelling unit for a caretaker or security person.

Policy No. B.9.1 excludes semi-permanent and “year-round” residential uses, such as mobile home parks, and there are no land use designations in the Flamborough Official Plan that permit such uses.

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Notwithstanding the exclusion of mobile home parks as a permitted use in the Open Space and Recreation designation, staff would note that mobile home parks have been recognized through Site-Specific Policies in the Official Plan. In particular, one of the goals of the Rural Area, which includes the Open Space and Recreation designation, is to:

“Preserve the character of the Rural Area through the provision of a choice of living environments and lifestyles which do not disrupt or conflict with agricultural activities.”

The need to preserve the character of rural areas and limit the development of uncontrolled trailer parks, led to the adoption of a strategy to bring existing recreation vehicle parks into compliance with Town requirements on March 28, 1994 (Report DPD1994-21), and also to the creation of site-specific amendments for certain trailer parks in Flamborough.

The following mobile home parks have been created through site-specific amendments to the Official Plan, and are of comparable size to the proposal for the North Lands.

<u>Policy</u>	<u>Location</u>	<u>Number of Units</u>	<u>Approval Authority</u>
B.9.8.2 (OPA 33)	Sundance Park	76 dwelling units	Approved by OMB, April 14, 1994
B.9.8.5 (OPA 51, OPA 69)	Canusa Park	100 mobile home sites	Approved by Region, June 3, 1997
B.9.8.10 (OPA 89, OPA 97)	Safari Road	186 mobile home sites	Approved by OMB, July 31, 2002, and July 22, 2003

In the absence of specific criteria to assess mobile home park proposals, the consideration of the following policies under the Flamborough Official Plan, would also apply to the proposal to permit a mobile home park on North Lands:

- “B.1.5 Development of land in any Rural Area land use designation, shall be subject to the Minimum Distance Separation Formulas of the Agricultural Code of Practice, as amended from time to time.

- B.1.8 Development of lands shown as Hazard Lands on Schedule ‘E’ shall be guided by the policies contained in Section C.4, in addition to the policies of the pertinent Rural Area land use designation.

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- C.4.2 No development including the placing or removal of fill shall be permitted without the written approval of the presiding Conservation Authority. However, buildings, structures or other works associated with flood or erosion control, drainage or watercourse protection may be permitted if such works are approved by the presiding Conservation Authority.
- C.4.3 Council shall cooperate with the presiding Conservation Authority to determine the boundaries of Hazard Lands. In this regard, any amendment to this Plan will not be required for changes to Hazard Land boundaries, which are deemed to be suitable to the presiding Conservation Authority. Council may amend this Plan to incorporate more detailed Hazard Land mapping as it becomes available.
- (OPA 99) Land abutting Environmentally Significant Areas shall be developed in a manner which blends with and complements the natural attributes of the Area.
- D.2.7 Where development is permitted in the Rural Area, that development will require individual sewage disposal systems approved by the Regional Department of Health Services, and further Council shall be satisfied that:
- (i) the proposed sites have soils suitable for sewage disposal by means of individual septic systems; and,
 - (ii) the developer or property owner may be required to have a qualified hydrogeologist undertake an appropriate analysis to determine that soil conditions for the configuration and distribution of lots proposed within a plan of subdivision or, for single family dwellings, proposed on lots of record will adequately and safely accommodate the sewage disposal system for each proposed dwelling.”

Staff have undertaken a detailed evaluation of the Flamborough Official Plan for the existing mobile home park on the North Lands, and has determined that the above-noted policies have been satisfactorily addressed. In particular:

- Staff have verified the MDS information submitted by the applicant and find it sufficient in confirming that no land use conflicts will be created by the current applications;

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- Flood-proofing and Hydraulic Studies were submitted to demonstrate that the removal and relocation of the 100 seasonal trailer sites to the South Lands, and the acquisition and inclusion of the unopened road allowance as part of the property, would address the concerns of the City and CH with respect to development adjacent to the flood plain. In addition, specific zoning provisions to restrict new development would also provide further assurance for the approval of the applications;
- An EIS has been provided, which is satisfactory to ESAIEG and CH; and,
- The servicing of the site, including the required upgrades, are being addressed in accordance with the City of Hamilton and MOE standards.

Therefore, on the basis of the foregoing, the application to legalize the existing mobile home park on the North Lands would be supportable.

Proposed Seasonal Trailer Park – South Lands

The proposal to permit a seasonal campground on the South Lands does not conform to the Rural Land Use designation in terms of the range of permitted uses.

“B.3.1 The uses permitted in areas designated “Rural on Schedule “B” shall be: agriculture and related farm buildings; farm implement and machinery dealerships; fertilizer and agricultural chemical sales; grain milling facilities; feed mills; grain and seed storage; fruit and vegetable storage; milk collection; stockyards and sales barns; forestry; fish and wildlife management; reforestation projects; kennels; institutional uses; (maximum size 2 ha), which cater to the needs of the agricultural community; and, non-farm related residential dwellings on lots created by severance, in accordance with the severance policies of this Plan.”

As the Rural designation permits only agricultural uses and those related to agricultural, as well as, conservation and institutional uses, an Amendment would be required to re-designate the lands to “Open Space and Recreation”. The Open Space and Recreation designation permits the following uses;

“Policy 9.1 The uses permitted in areas designated Open Space and Recreation, as shown on Schedule ‘B’ are: public or private recreation area or facility, trailer park, golf course, passive and active areas, forestry, fish and wildlife management, cemeteries, Conservation Areas, agriculture and a maximum of one accessory residential dwelling unit for a caretaker or security person.”

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The Open Space and Recreation designation includes policies which allow for the consideration of new open space and recreation development on rural lands. They are:

- “B.9.7 Council may permit the designation of additional Open Space and Recreation lands by amendment to this Plan and the Zoning By-law. When considering proposals to designate additional lands for Open Space and Recreation use(s), Council shall be guided by the following:
- (ii) when new Open Space and Recreation development is proposed on Rural lands, such development may be permitted if the need to use this land is justified and such justification is documented on the following basis:
 - compatibility with surrounding land use(s); and,
 - current supply of the proposed use in the area.
 - (iii) the type of facility proposed and what uses are proposed;
 - (iv) the general need for and the desirability of the type of facility and use(s) proposed;
 - (v) the location of the proposed site in relation to land use and development policies of this Plan;
 - (vi) the capability of the topography, soils and vegetation to sustain the proposed uses without impairment to the site or surrounding lands;
 - (vii) the compatibility of the proposed use with the existing and planned surrounding uses;
 - (viii) the adequacy of existing or proposed roads to provide access for traffic to and from the site;
 - (ix) the adequacy of the proposed water supply and sewage disposal facilities proposed, and the approval of the Regional Department of Health Services and the Ministry of the Environment; and,
 - (x) a development plan prepared by the applicant to indicate the detailed layout of the proposed ultimate development.”

The following general assessment is provided with respect to the above policies:

I. Compatibility, Justification of Land Use and Soils

Concerning items ii), vi) and vii), the proposed seasonal campground would be compatible with surrounding and future uses. In particular, the proposed mobile home park is located in a remote section of the rural area and is bounded predominantly by ESA lands. The proposed seasonal trailer park would be separated from the two existing dwellings and agriculture to the south by natural areas. The use would be compatible with future uses which are now subject to conformity with the Green Belt Plan.

With respect to the supply of seasonal campgrounds within Flamborough, it is noted that there are approximately 10 campgrounds within the rural area. Under current policies, seasonal campgrounds are recognized as part of the City's open space system and are permitted in the Open Space designation.

II. Proposed Uses

The proposed use would be limited to 100 seasonal trailer sites, ancillary buildings, a private sewage and water services, and sports fields. Building construction would occur on the seasonal campground, but would be limited to the dwelling for a manager, a recreation building or pavilion, and maintenance/utility buildings. The proposed buildings would be provided outside of the development constraint boundary, within the location of existing buildings, to minimize impacts of the adjacent natural heritage features, and would be subject to Site Plan approval.

III. Need for Use and Location

The seasonal trailer park use has legally existed on the North Lands since 1969. Concerning item iv), it is the view of staff that seasonal campgrounds are an important component of local tourism, and would be a desirable land use because they contribute to the local economy. Concerning item v), the proposed trailer park would provide for a better organization of the Fern Brook Resort, and would address the flood risk issues associated with the overdevelopment of the North Lands. It would also provide for better long term servicing of the properties.

IV. Road System

The existing road system serving the proposed seasonal campground, item viii), would be considered adequate as it is paved, it provides for two way traffic which is accessible from Highway 6, and is a relatively short road which terminates at the site. Highway 6 is served by a centre turn lane.

V. Servicing

The private water and sewage services, item ix), would serve the campground as well as the mobile home park. Upgrades to the private water and sewage system will be required as outlined in the FSR and MRA to bring the system up to City of Hamilton and MOE standards. Private services are not regulated by policies under the Flamborough Official Plan, but are addressed in the HWOP under the Communal Systems policies referenced above. In this regard the requirement for a default or responsibility agreement is required by the City, to ensure that proper financial requirements have been met.

VI. Development Plans

A detailed development plan (Appendix “D”), has been submitted with the application for review by City departments and external agencies, to identify the location of the seasonal campgrounds, internal roads, private services, and sports fields. The conceptual Site Plan was used in the development of the applicant’s EIS, flood analysis and other technical studies to identify development limits. This information was also the basis for the creation of the draft zoning.

Therefore, on the basis of the foregoing, the OPA and Zoning By-law Amendment for the seasonal trailer park on the South Lands can be supported.

Rural Hamilton Official Plan

As indicated, the proposed amendment applications for the North Lands were submitted in 1994, and those for the South Lands were submitted in 2002-2003, which was prior to the RHOP coming into full force and effect in March 7, 2012. However, since the RHOP has come into effect, the previous Official Plans have ceased to exist. As a result, the RHOP applies to both the North and South Lands. Staff have examined the RHOP to determine whether an amendment would be required. A RHOP Amendment is required for the South Lands to allow for the proposed change in land use, and to enact the amending zoning. An RHOP is not required for the North Lands based on the following.

North Lands – Non-Conforming and Non-Complying Uses

Section F.1.2 provides policies which pertain to non-conforming and non-complying uses, which were in existence prior to the RHOP coming into effect.

“1.12.1 An *existing use*, located outside the Protected Countryside area as identified on Schedule A - Provincial Plans, that does not comply to or conform with the land use designations and policies of this Plan and/or the Zoning By-law, that

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existed prior to December 16, 2004, or any amendments, may continue, provided that:

- a) The non-complying use did not conflict with the Official Plan and Zoning By-law in effect at the time the use was established; and,
- b) The non-complying use has not been interrupted subsequent to the approval of this Plan.”

The RHOP defines an existing use as:

“Existing: when used in reference to a use, lot, building or structure, means any use, lot, building or structure legally established or created prior to the day of final approval and coming into effect of the relevant sections of this Official Plan, or at some earlier date as may be specified in the policies such as December 16, 2004, for the Greenbelt Plan policies.”

The RHOP then provides the discretion to recognize a non-complying use as an existing use in F.1.12.3:

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

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

With respect to the mobile home park, it is the view of staff that the RHOP provides the flexibility to recognize non-complying uses of a long-standing nature which are compatible with surrounding uses, which do not create negative impacts on the environment or with respect to traffic, and which are appropriately located subject to satisfying the criteria of Policy No. 1.12.3. In particular, the use on the North Lands has existed since 1969 and was the subject of applications to amend the Flamborough Official Plan and Zoning By-law in 1994, under the former ownership of the Four Seasons Nature Park. The site requires water and sewage system upgrades as outlined in the FSR and MRA in order to bring the system to City of Hamilton and MOE standards. The applicant has undertaken a detailed flood analysis to determine the

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proper locations of sites, which has resulted in the applications to relocate the seasonal sites to the South Lands. Additionally, the criteria in F.1.12.3 support the requirement for a Municipal Responsibility Agreement by providing a mechanism to protect against hazards, water pollution, and to create additional assurance that the use will be operated in accordance with provincial and municipal regulations.

The RHOP Policies pertaining to mobile home parks are based on the direction of the Greenbelt Plan, and as such do not support the use within the Rural Area.

The RHOP's Rural servicing policies also prohibit new communal water or wastewater treatment systems as provided in Policy No. C.5.2.1. Default Responsibility Agreements associated with any communal water supply or sewage treatment system are also subject to an Amendment to the RHOP, and considered in cases where a Municipal Class EA has been completed by the City as noted in Policy No. C.5.2.3.

However, the RHOP has created a separate definition and policies that apply to Sustainable Private Water and Wastewater Services in section C.5.1, which in the opinion of staff, apply to the proposed development.

Sustainable Private Water and Wastewater Services is defined as: "a sewage disposal system, other than a holding tank, that is designed and constructed in accordance with the Building Code Act, and a water supply well designed and constructed in accordance with the Ministry of Environment Guidelines or other guidelines approved by the City of Hamilton, which are located on the same property as the buildings to which the sewage disposal system and water well provide service."

In this case, the private services do not service separate lots or privately owned residences, as would be the case in subdivisions or condominiums. The property owner is a landlord who provides the tenants with the private services. The private services are provided to various buildings and units within the Fern Brook Resort property, which are under single rather than multiple ownerships. Section C.5.1 does not speak to any additional requirements being met before Council can authorize entering into a Municipal Responsibility Agreement.

Staff are of the opinion that the recognition of the mobile home park as an existing use is appropriate, given its longstanding nature and associated improvements, and are within the policy realm of the RHOP.

The consideration of the proposed mobile home park under this form of non-complying use is examined further with respect to the criteria of Policy No. 1.12.3.

a) Zoning

The amending zoning for the proposed mobile home park would be addressed through site-specific zoning to accommodate the existing mobile home park, which includes an assemblage of uses including support uses (i.e. clubhouse), constraint areas where development is prohibited, and site-specific zoning provisions to address provisions such as minimum setbacks, parking and lot coverage. The recommended amending zoning by-law would be consistent with the uses and the number of mobile home sites associated with the existing mobile home park, except that the seasonal units would be removed in order that they would be relocated on the South Lands.

b) Hazards and Traffic Safety

The provision of private services to manage sanitary waste and drinking water which has the required MOE approvals would provide sufficient safeguards for human health and would also minimize impacts on the natural environment, providing further operational measures are addressed at the Site Plan Approval stage. Traffic safety concerning the uses has been improved through the requirement for a centre turning lane on Highway 6 to access the 12th Concession Road East. Given the limited length of the 12th Concession Road East, as well as there being no high traffic generating uses, there are no concerns identified by Corridor Management with respect to the continued operation of the mobile home park and seasonal campground along this road.

c) Environment and Regulations

The proposed mobile home park would generally allow for reduced impacts on the ground water system because of the prior removal of individual septic systems in favour of a private wastewater treatment system. The private wastewater treatment system has received approvals from the MOE under both the Safe Drinking Water Act and the Ontario Water Resources Act, although it is recognized that further measures are required to the system to ensure that the system is operating in accordance with Environmental Compliance Approval issued by the MOE. The proposal reflects the appropriate delineation of flood plain modelling, and is satisfactory to CH. As well, the City's ESAIEG Committee reviewed the revised ESA, and are satisfied that the proposal would provide appropriate protection of the ESA.

Therefore, with respect to the above-noted criteria, it is the staff's opinion that the mobile home park (North Lands) can appropriately be deemed to be an "existing use", recognizing that it predated the Greenbelt Plan, and would not be subject to the policies of the RHOP. This approach is consistent with the Greenbelt Plan Act which provides transitional policies to allow applications which predated the passing of the Greenbelt Plan, to be exempt from those policies. The mobile home park, by recognition as an

existing use, would also be deemed to conform to the RHOP and would not be subject to an RHOP Amendment.

South Lands – Seasonal Campground

An RHOP Amendment Application is required for the South Lands because (i) the Flamborough Official Plan no longer exists and their former OPA is a nullity, and (ii) the proposed seasonal trailer park is not established on the South Lands and therefore Policy No. F.1.12.3, which pertains to existing uses, does not apply. The RHOP Policies detailed below, require an amendment to re-designate the South Lands “Open Space” to permit a seasonal trailer park. Therefore, the proposed seasonal trailer park is subject to an RHOP Amendment.

The Open Space designation permits the use of land as follows:

“D.3.3 Lands designated as Open Space on Schedule “D” - Rural Land Use Designations are public or private areas where the predominant use or function of the land is for recreational activities, conservation management and other open space uses. These uses include, but are not limited to parks for both active and passive recreational activities including resource-based recreational and tourism uses, recreation/community centres, pedestrian pathways, trails, bikeways and walkways, seasonal campgrounds, marinas, woodlots, forestry and wildlife management areas, fishing reserves, hazard lands and cemeteries. Ancillary commercial uses may be permitted as defined by section B.3.5.1, Parkland Policies and Section C.2, Natural Heritage System policies of this Plan.

C.3.3.2. Open Space designations shall be further refined in Secondary Plans and Rural Settlement Area Plans or identified in an Appendix to this Plan in accordance with Section B.3.5.1, Parkland Policies of this Plan.

The following ancillary uses shall be permitted subject to the following:

- a) Ancillary commercial uses such as but not limited to food concessions, recreational equipment rentals, and water oriented recreational uses that are complimentary to supporting and in conjunction with a resource-based recreational and tourism use, or recreation/community centre, may be permitted provided they do not interfere with or have any negative impacts on the open space nature of the land; and,
- b) One ancillary residential dwelling may be permitted in conjunction with a resource-based recreational and tourism use provided it does not

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interfere with or have any negative impacts on the open space nature of the land.

D.3.3.7 Where a re-designation to Open Space is required for the establishment of a new or expansion of an existing resource-based recreation and tourism uses or other major recreational use, including campgrounds, golf courses, trailer parks, resorts and similar tourism-based accommodations and recreational/open space uses such use may be permitted, subject to Section D.4.1.1.2 b) of the Plan.

D.4.1.1.2b) Resource-based recreation and tourism uses including campgrounds, golf courses, trailer parks, and similar seasonal or tourism-based accommodations, and recreational/open space uses shall only be considered in the Rural designation by amendment to this Plan to obtain an appropriate land use designation permitting the proposed use, and subject to the criteria of Section D.4.1.1 b) to e).

D.4.1.1 Uses permitted in the Rural designation are limited to the uses permitted in Section D.2.0, Agriculture Designation of this Plan, other resource-based rural uses and institutional uses serving the rural community as follows:

- b) The use shall not adversely impact surrounding agricultural uses or existing farm operations. Where non-farm development is proposed on lands used for agriculture it must be demonstrated, to the satisfaction of the City, that no reasonable alternative exists and the need and demand for the use at the proposed location is justified for the amount of land proposed based on existing undeveloped lands available for development in Rural Settlement Areas designation and the Urban Area;
- c) Any new or expanded use proposed within 500 m of a designated Rural Settlement Area or an estate residential development recognized as a site-specific policy area by this Plan shall provide evidence to the satisfaction of the City that there are no negative effects on the Rural Settlement Area or the estate residential development with respect to noise, vibration, lighting, traffic, and ground water;
- d) The development shall be compatible with surrounding land uses and the rural landscape; and,
- e) A Zoning By-law amendment and Site Plan approval shall be required to permit the use and address appropriate setbacks, building size and

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location, parking, lighting, drainage, buffering, screening and landscaping, and any other matters.”

A seasonal campground/trailer park is a permitted use in the Open Space designation as noted in Policy No. D.3.3. Policy No. C.3.3.2 also provides for ancillary uses, which are consistent with the proposed development of the seasonal trailer park, such as a recreation centre and an ancillary single detached dwelling. In addition, the sewage and water treatment system is associated with an existing use (i.e. the mobile home park) and has been developed on lands that are outside of key natural heritage features.

As the nature of the proposal is to permit the seasonal campground on the South Lands, a RHOP Amendment to re-designate the lands from “Rural” to Open Space” is required. Accordingly, the proposal is therefore subject to the criteria in Policy No. D.4.1.1 (b-e) noted above.

a) Criteria for Open Space Uses:

The proposed seasonal campground would abut three small existing farms, which are located south of the site. The proposed uses would not impact the adjacent farms because the uses would be separated by an extensive vegetated area along the common boundary. The majority of trailer sites and the proposed sports fields would also be more than 100 m from the property boundary.

In terms of alternative sites, the South Lands are the preferred alternative for the seasonal campground because they have not been actively farmed, the proposed use would allow for the retention of most of the ESA and Conservation lands with appropriate buffers, and the majority of activity would occur within open areas of the site, which were used previously for agriculture. The South Lands are also legally part of the same site rather than a separate site, because of their acquisition by the owner, as well as the acquisition and closure of the section of the 12th Concession Road East, also as an addition to the property. Within this context, the proposed campground would improve the utility and safety of the North Lands by allowing for the removal and relocation of seasonal trailer sites, which would help to address flood risk and life safety issues, to allow for the for the appropriate redevelopment of the North Lands. The proximity of the South Lands as an extension of the overall site would also ensure that there would be no disruption to traffic and adjacent uses during the construction and redevelopment phases.

The property is located more than 500 m from Freelon (i.e. 700 m) and would not impact this Settlement Area. According to the City’s Source Protection Planning Section, the proposed seasonal trailer site would be reasonably removed from most current municipal communal wells and their wellhead capture zones.

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The proposed use would be compatible with surrounding uses which include two small lot residential properties to the east, ESA lands to the east and west, recreation uses with lodging to the northwest, and agriculture to the south. The proposed seasonal trailer park has been the subject of an EIS to demonstrate that the development would not negatively impact the adjacent ESA. The proposed seasonal park would not likely interfere with the abutting residential uses because the trailer sites would not be located in close proximity to them. Activity areas, such as sports fields, would also be located on the southerly part of the property, to minimize noise. The access to the trailer sites would be provided through the Fern Brook Resort and would also be located at a considerable distance from the dwellings.

The proposed seasonal trailer park is the subject of a Zoning By-law Amendment, which is limited to 100 sites and will be subject to Site Plan Approval to address access, grading, parking, servicing, and other issues associated with this form of development. Therefore, based on the foregoing, the proposed change in designation from “Rural” to “Open Space” would conform to the criteria provided in Policy No. D.4.1.1 of the RHOP.

Core Areas - Within the Greenbelt Plan Area

“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.

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;

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- 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.
- 2.4.7 Where non-agricultural uses are proposed within the Greenbelt Natural Heritage System, applicants shall demonstrate that:
- a) At least 30 percent of the total developable area of the site will remain or be returned to natural self-sustaining vegetation;
 - b) Connectivity along the system and between key natural heritage or key hydrologic features located within 240 m of each other shall be maintained or enhanced; and,
 - c) Buildings or structures do not occupy more than 25 percent of the total developable area and are planned to be compatible with the natural surroundings.
- 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.
- 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.
- F. 3.2.1.2 When a development proposal has the potential to negatively impact a Core Area or its function, the proponent shall be required to prepare an EIS to the satisfaction of the City in consultation with the relevant

Conservation Authority. An EIS inventories and describes the existing Core Areas and ecological functions of the site in the context of the surrounding landscape. An EIS also assesses the potential negative impacts that proposed development may have on Core Areas and provide recommendations on natural area boundaries, mitigation measures, and design measures to accommodate or enhance existing natural features and functions.”

A number of EISs were submitted to address the proposed planning applications which have included the following.

- The 2002 EIS for the South Lands was not considered adequate in terms of providing a demonstration for the mitigation of natural features. No formal comments were provided by the ESAIEG.
- An EIS was submitted by Stantec Consulting Ltd. in 2006 to further assess the impact of the proposed seasonal trailer park on the South Lands in accordance with the PPS, ESAIEG’s EIS Guidelines (July, 2004) and the Greenbelt Plan. CH were of the opinion that the applications were premature and insufficient information was provided.
- A revised EIS was submitted to the City in September 2008 following further consultation with CH. The revised EIS was reviewed by ESAIEG who were satisfied with the recommendations without further changes. CH was satisfied with the EIS subject to additional information pertaining to flood plain modelling. The new limit of development which is identified as the 2008 “Development Constraint Boundary”, and based on the Regional Floodline, as well as a 30 m VPZ was established and became the basis for the boundary between the Open Space “O3” and Conservation Management “CM” Zone, and the revised plan for the seasonal trailer park.

Based on the foregoing, the impacts of the proposed seasonal trailer park have been addressed in accordance with current natural heritage policies, and conforms to the RHOP.

Sustainable Private Water and Wastewater Services

It is the objective of the RHOP to ensure that all new rural development establishes and maintains in perpetuity, sustainable, private services, wherever municipal water and/or wastewater services are not available.

“5.1.2 All new development located outside the Urban Area boundary or the municipal water service districts of Freelon, Carlisle, Greensville and Lynden, that requires

an approval under the Planning Act, shall provide sustainable private services. The land owner is responsible for the maintenance, upkeep and repair of all private water supply and sewage disposal systems in accordance with applicable legislation.”

Sustainable Private Services: means a sewage disposal system, other than a holding tank, that is designed and constructed in accordance with the Building Code Act, and a water supply well designed and constructed in accordance with MOE or other guidelines approved by the City of Hamilton, which are located on the same property as the buildings to which the sewage disposal system and water well provide service.

Communal Water and Wastewater Systems

It is the objective of the RHOP to restrict both the creation and expansion of communally serviced or partially serviced rural development.

“C.5.2.1 The creation of new communal water or wastewater treatment systems is prohibited.

C.5.2.3 The City will not consider nor accept to becoming a party to a ‘default responsibility agreement’ for any private communal water supply or sewage treatment system as may be required pursuant to Ministry of the Environment guidelines whether or not the existing or proposed development is permitted by this Plan or the Zoning By-law. An amendment to this Plan shall be required prior to acceptance of a ‘default responsibility agreement’ for a private communal water supply or wastewater system. Such amendment will not be considered for a private communal system unless a Municipal Class Environmental Assessment, completed in accordance terms of reference approved by the City and the estimated cost of system operation and maintenance, including appropriate financial securities required in the event of system failure, have been identified and will be charged by registered agreement to the owners of the land serviced by the expanded communal service system.”

With respect to the above-noted policies, the communal waste and wastewater system would serve both the existing permanent mobile home park and seasonal trailer park, and is regarded as an existing system because Provincial certificates have been issued and because the existing mobile home park would be recognized as an “existing use” under the RHOP.

As directed in Policy No. C.5.2.3, the default agreement for the private services is being required to ensure proper financial arrangements are in place so that the system will be sustainable financially for the City if it were required to be assumed by the City.

RELEVANT CONSULTATION

Public Consultation

The applications to amend the Official Plan and Zoning By-law, submitted in 1994, were circulated to the public and brought forward to the Town of Flamborough's Development Committee for a public meeting on five occasions. Delegations from members of the public were heard at these meetings; however no decision was rendered from Flamborough Council. The applications received in 2002 were circulated in accordance with new City of Hamilton Public Participation Policy; however, a public meeting was never scheduled.

Notice of the public meeting, to present this report will be given in accordance with the regulations of the Planning Act.

Agencies/Departments Having No Comment or Objections

- Open Space Development and Park Planning; Capital Planning Division;
- Horizon Utilities;
- Hamilton Municipal Parking System, Parking Services;
- Capital Planning and Implementation; and,
- Urban Forestry Planning and Protection Coordinator.

Conservation Halton

Comments Prior to 2008

In 1996, a Flood Proofing Study was submitted to CH by Cumming Cockburn Ltd. The report demonstrated that potential flood impacts were at acceptable levels, and that impacts could be further mitigated through additional flood-proofing measures. The strategy included rotating or relocating certain features, raising the elevation of road sections to ensure safe access, and excavating a portion of the site as compensation for filling to protect any affected dwellings from the Regional Storm event. Additionally, the Development Line was revised to compensate any encroachments.

Compensation plans were prepared to address options for the units which were subject to a flood hazard. The report recommendations, including a preferred option for the owner to acquire the unopened road allowance on the 12th Concession Road East to enlarge the property, were supported by CH.

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2008 Comments

In 2008, CH requested additional information to address their concerns regarding redevelopment of the property and access and egress to the property under regulatory storm flooding conditions. In response to these issues, the application provided an inventory of all buildings and structures on the North Lands and a detailed hydraulic analysis, and a series of recommendations to address the flood risk issues. These documents and recommendations were accepted by CH. In addition, the previous agreements on the limits for development were reviewed in the context of these studies, and a final limit to development as shown on the attached zoning schedules was established by CH. One of the objectives of this review process was to determine the amount of additional built space that could be accommodated within the North Lands, based on CH's policies. The outcome of this analysis is that the maximum size of replacement units is to be restricted to the lesser of 50% coverage, or a maximum 144 sq m, for a mobile home unit (see Appendix "E").

CH has noted that several of the internal roads on the North Lands are subject to flooding during the Regional storm event. The internal roads (i.e. Bare Haven Road at Bronte Creek and Lakeview Drive), would need to be regraded (i.e. raised) to allow for safe access to the Clubhouse. CH is requesting that the required work would need to be carried out at the Site Plan stage, prior to the undertaking of any servicing upgrades to the property. The recommended locations for safe pedestrian crossings over Bronte Creek within the North Lands, which are based on a 2009 Hydraulic Analysis report by Stantec Consulting Limited, will also be examined at the Site Plan stage (see Appendix "K"). A Flood Emergency Plan has been recommended to ensure safe evacuation of residents during a flood emergency, which is discussed in more detail in the Updated Comments.

CH also requested a visual monitoring and recording program for erosion and sedimentation control as a condition of Site Plan Approval, to be undertaken to protect the Provincially Significant Wetlands during the construction period.

December 2013 Updated Comments

1) North Lands:

Under Ontario Regulation 162/06, all habitable structures are required to be dry flood-proofed and engineered to withstand the anticipated flood depths and velocities. Erosion hazards and riparian setbacks from the watercourse must be considered for lots adjacent to watercourses. These will be implemented through any future Site Plan Agreement and the CH Regulation Permit process.

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CH has noted that Section 3.1.2(c) of the PPS states that development and site alteration shall not be permitted within areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard.

Further to this policy, CH has advised that a large portion of the North Lands (mobile home park) is located within the Regulatory Floodplain of Bronte Creek. This includes the park's internal road system and portions of the 12th Concession Road East out to Highway 6, which also affects access to the South Lands. In particular, the flood depths exceed MNR ingress/egress access standards for personal vehicles and pedestrians.

In 2008, flood modelling for the site was completed by Stantec Consulting, and evaluated to assess pedestrian/vehicle access. It has been noted that while several sections of the internal roads on the North Lands and 12th Concession Road East have remained impeded for personal vehicle access under the Regulatory Storm Event, the use of minor fill placement in specified sections of the roadway and specific ingress/egress standards should be undertaken in anticipation of Regulatory Flood Events. Vehicle access during Regulatory Storm Events is not provided for, and should be addressed. It is recommended that the City consider the requirement for an emergency vehicle ingress/egress (fire/ambulance), where an injured person/medical emergency must be evacuated from the site during a flooding event.

The completion of a formal Flood Emergency Plan (FEP) is recommended, to ensure the orderly evacuation of park residents to a safe refuge during a Regional Storm Event. The existing club house is located outside of the regulatory flood hazard and was identified as an appropriate "safe refuge" for the FEP. The FEP is to be prepared by the land owner on consultation with the City and CH. CH requires that the FEP and road filling/pedestrian bridge upgrades be included as part of the Holding provisions in the amending zoning, and implemented through the Site Plan Approval process.

CH requests that the amending by-law recognize or acknowledge the existing Regulated Area on the lands.

In addition, CH has advised that the previous issues raised in 2009 correspondence, have now been satisfied. In this regard, the pumphouse facility will be elevated above the Regional Storm Elevation; the staging area will not be used for permanent sites; and that any proposed outdoor recreation facilities will be dealt with through the site plan approval process and CH Permit approval.

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2) South Lands:

CH has advised that a comprehensive four season EIS was prepared by Stantec Consultants (September 2008) for the South Land development. The report identified and evaluated the significant Natural Heritage Features and incorporated buffer setbacks and mitigation requirements for the features. The report concluded that the proposed seasonal campground will not encroach into any of the natural heritage features identified on, or adjacent to, the South Lands. These features include the Beverly Swamp PSW, the Freelton – Eskerwetland Complex ESA and ANSI, other wetlands, significant woodlands, and a fish habitat in Bronte Creek (including Redside Dace, a Provincial and National Endangered Species).

Buffer setbacks were incorporated into the proposed development plan. Floodplan generation was also provided by Stantec in a separate engineering submission. Overall, CH accepted the reports which provide the basis for the recommended Zoning boundaries. CH are satisfied that all proposed development on the South Lands are located outside of the flood hazard and significant natural heritage feature buffers. Accordingly, a Permit is not required from CH for the proposed development on the South Lands.

CH has noted that there are recommendations contained within the EIS, which would be implemented through the Site Plan Approval process, which include:

- an educational package for residents regarding natural features;
- the management of Butternut Trees on the site;
- monitoring of erosion control during construction phases; and,
- monitoring of impacts associated with the water treatment facility on site (may also be addressed through Municipal Responsibility Agreement).

CH recommends that the South Lands also be included and subject to the FED, as discussed under the North Lands comments.

Summary:

Recognizing the requirement for the FEP, Site Plan Approval and the use of specific Holding provisions to address the proposed development of the site, CH are in support of the applications subject to the following:

1. That prior to final approval, the amending zoning by-law recognize CH's existing regulated area.

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2. That the recommended Holding provisions include the requirements for the completion of a Flood Emergency Plan to the satisfaction of CH to ensure safe evacuation for residents during a flood emergency.
3. That the recommended Holding provisions include a requirement for the completion of fill placement/ grading and pedestrian bridge upgrades as recommended in the March 6, 2008 Stantec letter to ensure safe access/egress during Regulatory storm events to the satisfaction of CH.

Public Health Services

Public Health has reviewed all Assimilative Capacity, Sewage Treatment and Communal Serving reports submitted as part of this application. Public Health agrees with the staff recommendation for the Owner to obtain a peer review of the existing private water and sewage works.

Note: In accordance with this direction, the City retained the services of a peer reviewer to review the existing private water and sewage works for the Resort.

Corridor Management

The proposed roadway connecting the North and South Lands should be a minimum of 6 m to accommodate emergency vehicles and two-way traffic.

Sustainable Initiatives Section, Hamilton Water Division, Public Works Department

Sustainable Initiatives (SI) has retained the services of a Professional Engineer to peer review the water and wastewater systems at Fern Brook Resorts. It has been identified that the water and wastewater system are not operating up to City of Hamilton or MOE design criteria. With the advice of a Professional Engineer it has been advised that a holding be placed on the entire property until the required water upgrades are implemented, as outlined in the MRA, demonstrating that the rated capacity of the water system can adequately service the full occupancy of the development (150 permanent and 100 seasonal sites), as reported by the theoretical flow calculations in the memo from Gamsby and Mannerow, dated January 17, 2014.

With respect to the wastewater system, the proponent has demonstrated that the system can adequately sustain 150 sites, as outlined by the design criteria in the CofA. With the advice of a Professional Engineer, SI suggests placing a hold on 100 sites until which time the proponent can either i) prove that the wastewater system can adequately support the full occupancy of the resort, as outlined by the theoretical flow calculations from the Gamsby and Mannerow Memo dated January 17, 2014, or by providing

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complete flow data with supporting occupancy records; or, ii) implement the required system upgrades to adequately support the full occupancy of the resort as outlined by the theoretical flow calculations from the Gamsby and Mannerow memo dated January 17, 2014, or by providing complete flow data with supporting occupancy records.

In addition to the requirements of this holding, the proponent should also be required to complete a hydrogeological study to accurately characterize groundwater flow, demonstrate completeness of the current groundwater monitoring network and identify nitrate trigger levels in monitoring wells downstream of the septic system, as outlined in the requirements for the FSR.

Strategic Planning, Public Works Department

The proponent has to be aware of Bronte Creek Watershed Study and follow any recommendations made by CH. Updated Storm Drainage Policy and Criteria and Guidelines for Stormwater Infrastructure should be used as specified in the reports. From the stormwater management perspective, recommendations of the City of Hamilton Stormwater Master Plan for source and conveyance control should be incorporated into the servicing plans. Development Engineering should provide detailed comments on stormwater management.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal to permit an Amendment to the RHOP to permit a change in designation from “Rural” to “Open Space”, and concurrent Zoning By-law Amendment to permit a seasonal trailer park on the South Lands (58 12th Concession Road East), and for a Zoning By-law Amendment to permit a mobile home park on the North Lands (57-12th Concession Road East), has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS, and conforms to the HWOP, the Flamborough Official Plan, the RHOP and the intent of the Town of Flamborough Strategy for Recreational Vehicle Parks, Report DPD1994-21 (See Appendix “C”);
 - ii) It recognizes the full-time residency of 150 units within the existing mobile home park at 57 12th Concession Road East;
 - iii) It will establish a 100-unit seasonal trailer park on the South Lands which will allow for required upgrades to the mobile home park on the North Lands; and,

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- iv) The proposal would provide compatible development for existing and future uses.

2. Proposed Seasonal Trailer Park

The justification for the proposed RHOP Amendment to change the land use designation from “Rural” to “Open Space” in the RHOP was examined through OPA-02-034 and the subsequent Application, OPA-13-017, and can be supported based on the following:

- i) The proposed seasonal trailer park would conform to the RHOP criteria provided in Policy No. D.4.1.1 to assess major open space land uses such as trailer parks. The proposal meets the required criteria based on the following:
- It would not adversely impact surrounding agricultural uses or existing farm operations (Policy No. 4.1.1.b);
 - It would not have a negative impact on existing wells within the nearby Rural Settlement Area of Freelon (Policy No. 4.1.1.c); and,
 - It would be compatible with surrounding land uses (i.e. conservation lands, agriculture and adjacent open space uses), and the rural landscape (Policy No. 4.1.1.d).
- ii) The proposed seasonal trailer park would conform to the RHOP policies for Key Natural Heritage Features. The EIS addressed development adjacent to an ESA. The applicant’s revised EIS has been completed to the satisfaction of the City’s ESAIEG Committee and CH. It would provide for:
- The protection of key natural heritage features through a 30 m VPZ;
 - A development envelope to allow for the creation of the trailer sites, internal roads, and sports fields, on lands that are not environmentally sensitive; and,
 - The retention of wetland and woodland vegetation communities.
- iii) The proposed seasonal trailer park would satisfy the Provincial requirements for Archaeology under the PPS 2005 through the provision of an Archaeological Assessment which is acceptable to the Ministry of Culture and the City of Hamilton.

- iv) The proposed seasonal trailer park would satisfy the concerns of CH with respect to flood risk, through the provision of a development constraint boundary. This boundary was used to establish the separation between the Conservation Management “CM” Zone and the Open Space “O3” Zoning. The seasonal trailer sites would be developed on lands which were primarily used for agricultural purposes and which are outside of the regional flood line. CH also regarded the proposal to relocate trailer sites from the North Lands to the South Lands as a means of reducing the flood risk within the North Lands. The amending Zoning that would be created would also have the effect of increasing the amount of lands that are zoned “CM” Zone, which will provide greater protection overall to the South Lands by prohibiting development.
- v) The proposed relocation of the seasonal trailer park would facilitate opportunities for improvements to the private servicing of the entire Fern Brook Resort property by requiring upgraded water and sanitary servicing standards for the relocated seasonal trailer sites and remaining year-round sites in accordance with Provincial guidelines. This will reduce the number of pumping stations and achieve greater efficiency and improvements to the design and operation of the sewage collection system while allowing for improved functionality of both the water distribution and sewage collection systems.

3. Existing Mobile Home Park

The justification for the existing mobile home park on the North Lands is based on the following:

- i) The proposed mobile home park is considered to meet the policy requirements for an existing use and would be subject to the non-conforming and non-complying policies of the RHOP, and it meets the requirements of the HWOP and Town of Flamborough Official Plan.
- ii) Issues concerning flood risk have been addressed to the satisfaction of CH, through the provision of a development constraint line to recognize suitable areas on site for the development of buildings, the removal of the 100 seasonal trailer sites to reduce the development footprint, and the acquisition of the unopened road allowance from the City as additional lands. The concerns for ingress and egress, in the event of a Regional storm event, would be examined in greater detail at the Site Plan stage.
- iii) The mobile home park would be limited to 150 permanent sites, allowing for improvements to the functional and aesthetic layout of the mobile

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home park, by removing trailer sites from areas where they present a risk to human safety, allowing better use of parking facilities, and providing improved ingress and egress, and improved pedestrian and vehicular access. Future development would be limited through the recommended zoning by-law, allowing for further improvements to the operation of the site as a mobile home park such as reducing the size of replacement homes, removing encroachments, and requiring minimum setbacks for new dwellings and structures.

- iv) The approval of the proposal would allow the mobile home park to undergo important servicing upgrades which would not occur if the rezoning is denied. In particular, this would facilitate a process to allow the water treatment and water distribution systems to be upgraded to function according to MOE standards. Secondly, it would allow for the underground infrastructure serving the individual permanent sites to be upgraded through replacement by undertaking a multi-phase plan in conjunction with the Site Plan Review process and the removal of holding provisions.
- v) The approval of the Zoning By-law Amendment would establish new standards for the mobile home park that are not available under the existing "O3-3" Zoning provisions with respect to the future development of the site, the maximum number of mobile units, maximum coverage permitted on individual sites, and the restriction of outdoor storage. It would essentially allow for improvements aesthetically, functionally, and in terms of public safety. Future replacement of mobile units would also be subject to building and plumbing permits, based on the Ontario Building Code which did not occur under the current zoning provisions because the permanent residential uses were not permitted.
- vi) The proposed mobile home park would operate under a private sewage system with requirements for a Municipal Responsibility Agreement that would conform to the policy direction of the HWOP, which was in effect for the application.
- vii) The comments provided from the circulation to the public and property owners were received between December 1998, and September 2012. The comments pertain to taxes, life safety issues such as fire, vandalism, garbage and property standards issues. A summary of the comments is provided in Appendix "F". It is staff's opinion that the comments with respect to property standards issues and vandalism would be addressed through better enforcement of regulations by the current owners, the detailed review which will be undertaken through the Site Plan Approval

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Process, and the enforcement of new regulations that will be provided through the approval of the Zoning By-law Amendments.

4. The proposed Zoning By-law Amendment applications would amend the Flamborough Zoning By-law to create the following:
- A Site-Specific Residential Mobile Home Zone “R9”(H) Holding Zone with two sets of Holding ‘H’ provisions to permit the 150-unit permanent mobile home park to be redeveloped on the north side of the property in two stages (57 Concession 12 Road East);
 - A Site-Specific Recreational Open Space “O3(H)” Holding Zone to permit a seasonal trailer park for 100 seasonal sites on the south side of the property (58 Concession 12 Road East); and,
 - A Site-Specific Conservation Management Zone “CM” for the surrounding environmentally sensitive and flood prone areas to provide for their protection, and which excludes buildings and structures.

Zoning for Existing Mobile Home Park

The recommended Residential Mobile Home Zone, to be known as the Residential Mobile Home “R9-6-1(H)” Zone, Modified, Holding” and the “Residential Mobile Home “R9-6-2(H)” Zone, Modified, Holding” will apply to only Block “1” (see Appendix “B”) contained within the limits of development of 57 12th Concession Road East.

Existing uses consistent with the current form of land use development are the only permitted uses in the “R9-6” Zone, and are comprised of the following:

- 150 permanent sites for mobile homes;
- One manager’s suite and two staff apartments within a residential dwelling adjacent to the clubhouse;
- An outdoor swimming pool and bar;
- Outdoor tennis and volleyball courts;
- A clubhouse accessory to the mobile home park existing at the time of passing of the amending By-law, which may include the following:
 - A hotel containing 20 suites;
 - A restaurant and tavern for up to 192 patrons;
 - A coin laundry facility;
 - An indoor swimming pool;
 - A health and fitness room;

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- Showers, sauna and hot tub;
- A convenience store;
- Administrative offices;
- Dining Hall with a maximum occupancy of 465 persons; and,
- An indoor games room.

With respect to the above uses, it is noted that the amending Zoning By-law will not recognize the two existing detached dwellings because they were not permitted uses under the Town of Flamborough. In the event that these dwellings should be removed, they would need to be replaced only with mobile homes, as new permanent detached dwellings would not be permitted.

Staff recommend the following provisions to be included in the amending By-law to address both the mobile home park and the individual mobile home sites, to ensure orderly redevelopment of the subject lands:

Recommended “R9-6-1(H)” Zone, Modified, Holding and “R9-6-2(H)” Zone, Modified, Holding on “North Lands” (Block “1” on Schedule “A” of Appendix “C”)

<u>R9 Zone Provision</u>	<u>Minimum Requirement</u>	<u>Recommended Requirement</u>	<u>Comments /Justification</u>
1) Lot Area (max.)	3 ha	19.4 ha	The proposed lot area conforms, however a modified provision would apply to recognize the maximum area of the existing mobile home park to respect the agreed-to development area.
2) Area occupied by Park and Place of Recreation	8%	12.4%	The proposed area conforms, however a modified provision would apply to recognize existing park and recreation facilities (pond, children’s play area, outdoor pool and hot tub, courts for tennis, volleyball and basketball, picnic areas) which do not contain buildings and which used to establish development

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			constraint boundaries to address flood risk for the park.
3) Lot Coverage (max) for commercial uses: Personal services establishment, convenience retail, dry cleaning establishment and laundromat	5%	1.5%	A modified provision would apply to recognize the area occupied by the existing clubhouse which contains commercial uses such as a convenience store and laundromat and also includes the attached residences for managers
4) Lot Frontage (min)	200 m	106 m	A modified provision would apply to recognize the existing enlarged Fern Brook Resort property, which includes the unopened road allowance east of the entrance.
5) Building Height (max)	11 m	11 m	The current requirement would apply which is the height of the Clubhouse.
6) Front Yard (min)	15 m	15 m for mobile home units, except 26 m shall apply to the existing clubhouse and attached managers' residences	A modified front yard provision would apply for the existing clubhouse and managers' residences to maintain consistency with CH's approved floodline requirements (see Appendix "E").
7) Rear Yard (min)	15 m	15 m except 8.5 m shall be permitted along the north-easterly boundary of the property	A modified rear yard provision would apply to recognize existing mobile home sites near the north-easterly corner of the park, where it may not be

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			possible in light of future reconfiguration of the Park, to meet the 15 m setback because of the location and depth of the site (see Appendix “E”).
8) Side Yard (min)	15 m	15 m, except 6.5 m shall be permitted along the westerly boundary of the property	A modified side yard provision is required for several existing sites situated along the westerly lot boundary as it may not be possible in light of future reconfiguration of the Park to meet the required 15 m setback. The reduced setback would not affect adjacent development and can be supported (see Appendix “E”).
9) Parking	1 space per unit plus 0.25 spaces for visitors	same	The provisions conform to Zoning By-law however a Modified provision would apply to require visitors parking (i.e. 38 spaces) only in designated parking areas on the property.
10) Minimum Internal Road Widths	n/a	3 m	A special provision is required to require a minimum 3 m width for the internal roads to allow for one way access.
11) Parking Space	2.6 x 5.8 m	2.6 x 5.5 m	The slightly reduced parking space requirement which would be in accordance with the provisions of By-law 05-200 would be acceptable.

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Zoning for Individual Mobile Home Sites

<u>R9 Zone Provision</u>	<u>Minimum Requirement</u>	<u>Recommended Requirement</u>	<u>Comments / Justification</u>
1) Minimum Area for Mobile Home Sites	370 sq m	234 sq m	To recognize the existing site layout of the mobile home park, which contains some undersized lots and which was reviewed by CH to determine flood risk and development constraint boundaries.
2) Minimum Frontage	12 m	12 m, except existing sites shall be required to have frontage of not less than 4.1 m	A modified provision would apply to recognize the continued use of several smaller frontage lots within the Park which are occupied by mobile home units.
3) Lot Coverage (max)	35%	Existing mobile homes shall be permitted. Replacement trailers shall not exceed the lesser of 50% of the lot area or 144 sq m	A special provision is recommended to recognize existing mobile homes and cottages and to provide a cap on future sites to address the concerns of CH based on floodline analysis to reduce the amount of habitable space on the site.
5) Front Yard (min)	3 m	Existing mobile homes and residential units shall be permitted to be 0 m , except 1.5 m setback is required for new development	A special provision is recommended to recognize development along some front lot lines of mobile home sites. To allow for better utilization of the sites, to ensure safety and improved privacy it is recommended that new development on existing sites maintain a 1.5 m rear yard setback

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6) Rear Yard (min)	3 m	Existing mobile homes and residential units shall be permitted to be 0 m except 1.5 m setback is required for new development	A special provision is recommended to recognize development along some rear lot lines. To minimize intrusion into neighbouring sites, and the natural areas, it is recommended that new development on any existing site maintain a 1.5 m rear yard setback.
7) Interior Side Yard (min)	1.5 m	Existing mobile homes and residential units shall be permitted to be 0 m except 1.5 m setback is required for new development.	To minimize intrusion into neighbouring sites, and the natural areas, it is recommended that new development on any existing site maintain a 1.5 m side yard setback.
8) Open Storage	Not Permitted	Not Permitted	The existing provision to restrict any open storage on individual sites should be maintained.
9) Landscaped Open Space	10%	10%	The existing provision should be maintained.

With respect to the above, it is recognized that the mobile home park will be subject to a multi-phase transition plan to address infrastructure upgrades over approximately five years (see Site Plan Agreement and Site Plan approval discussion in Analysis/Recommendations Section). This will require excavation to replace existing underground connections to residential units for the private sewage system, which may ultimately affect the location of individual sites and internal roads. While the recommended zoning provides flexibility to recognize certain existing situations, reduced setbacks may be required for certain lots, which would be subject to approval of Minor Variances.

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Recommended “O3-4-1(H)” Zone, Modified, Holding for Seasonal Trailer Park

<u>O3 Zone Provision</u>	<u>Minimum Requirement</u>	<u>Recommended Requirement</u>	<u>Comments /Justification</u>
1) Lot Area (min)	40,000 sq m	Lands to be used for a seasonal trailer park under the O3-10(H) Zoning shall not exceed 131,265 sq m.	While the proposed seasonal trailer park meets the minimum lot area, a modified provision is recommended to limit the zoned portion of the lands in accordance with the Development Constraint Boundary.
2) Minimum Frontage	30 m	4 m	The frontage was removed by the purchase of the former road allowance to the current owner. In addition, frontage is not required because access is provided from the mobile home park via an internal road connection into the seasonal trailer park.
3) Height (max)	11 m	11 m	Future buildings will be in compliance with height requirements.
4) Lot Coverage (max)	10%	0.5% of Area of South Lands	Future buildings including a dwelling for a park supervisor, a building for recreational activities and administration, and a maintenance building for private sewage services will be limited to 0.5% of the entire South Lands area because of the predominance of sensitive lands. New buildings will be addressed under Site Plan

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			Approval. Further studies may be triggered based on the size and location of the buildings.
5) Front Yard (min)	15 m	94 m	The provision would be maintained and a modified provision is recommended to prohibit the location of trailer sites within the front yard.
6) Rear Yard (min)	7.5 m	31 m	The provision would be maintained and a modified provision is recommended to require the minimum rear yard for a trailer site to be 31 m.
7) Side Yard (min)	7.5 m	7.6 m	The provision would be changed slightly and a modified provision is recommended to require the minimum side yard for a trailer site to be 7.6 m.
8) Open Storage	Not Permitted.	Same	The existing provision to prohibit open storage areas within the seasonal trailer park would be maintained.
9) Planting Strip (min)	3.0 m across all lot lines adjacent to a street.	none	A special provision is recommended to allow the planting strip requirement to be waived recognizing that the site has minimal frontage, and the trailer sites are located a significant distance from the 12 th Concession Road East.
10) Parking		1 space per seasonal site, plus 0.25 spaces for	A special provision is recommended to address parking for seasonal sites

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		visitors. Visitors parking shall be provided within the main lot beside the clubhouse of the mobile home park.	which is to be provided on each site. The Flamborough Zoning By-law does not have a specific parking requirement for seasonal trailer parks, only mobile home parks.
11) Internal Roads		6 m	A special provision is required for internal roads which are inside the seasonal trailer park to allow for two-way access

Holding Provisions

A series of Holding provisions are recommended for the amending zoning of the mobile home park and seasonal trailer park. The RHOP establishes criteria for the use of Holding Provisions in Section F.1.8.2 which include:

- a) Where development is contingent upon other related matters occurring first such as (but not limited to):
 - i) completion of required site or area specific studies; and,
 - iv) securing of funding agreements on necessary infrastructure or services.
- b) Where phasing is necessary in order to ensure orderly development and/or achieve one or more objectives of this Plan.

With respect to the above, staff support the principle of the uses as proposed, but recommend the use of separate Holding provisions for the North Lands and South Lands, to enable development to occur in stages, subject to the satisfactory review and completion of additional engineering and operational studies with respect to servicing to ensure compliance with MOE and City standards, to require an agreement which addresses functional requirements to the existing mobile home park to allow for proper servicing and site development.

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North Lands – Holding Removal

The consideration of the proposed mobile home park (North Lands) would be subject to holding “H” provisions to address specific technical, legal, financial, and servicing requirements for the proposed development in two stages, to allow up to a maximum of 150 permanent units.

First Stage of Holding of the North Lands

The first stage of development for the North Lands would involve the completion of the following Holding provisions of the “Residential Mobile Home “R9-6-1(H)” Zone, Modified, Holding”, in order to allow for the development of 50 permanent sites on the property as well as the following existing uses:

- Clubhouse, accessory to the mobile home park, which may include within the building complex as ancillary uses to the park: administrative offices, a convenience store, a hotel consisting of 20 suites, a restaurant and tavern, a dining area, games room, fitness and leisure facilities including a pool, hot tub, sauna, showers, and fitness room;
- One Manager’s suite and two staff apartments, adjacent to the existing clubhouse;
- Maintenance, utility and storage buildings; and,
- Facilities for outdoor sports and leisure, including an outdoor pool, hot tub, children’s play area, volleyball and tennis courts, and picnic areas.

Staff note that the inclusion of the above-noted bulleted uses would recognize the allowance for those uses which have been established as part of the mobile home park, once certain Holding provisions have been addressed, in order that these uses can be appropriately upgraded and renovated to serve the residents of the Fern Brook Community.

1. Site Plan Agreement

The Owner will be required to enter into a Site Plan Agreement with the City, and register it on title, to address required improvements and upgrades to the servicing, infrastructure, and layout of the mobile home park, in a multi-phase plan to be addressed as part of Site Plan Approval. This will include the requirement for financial securities for each phase of development.

2. Municipal Responsibility Agreement

The Owner shall register the signed Municipal Responsibility Agreement on title and post the financial required securities. This requirement is explained in further detail in Section 5, below.

3. Conservation Halton Requirements

The Owner shall prepare an Emergency Plan to ensure safe evacuation of residents during a flood emergency, as well as pedestrian bridge upgrades, to ensure safe access to the satisfaction of CH.

Second Stage of Holding of the North Lands

The second stage for the development of the North Lands would involve the removal of the following Holding provisions from the “Residential Mobile Home “R9-6-2(H)” Zone, Modified, Holding, to allow for an additional 100 permanent sites, to a maximum of 150 permanent sites.

1. Functional Servicing Report

An Addendum to the Functional Servicing Report and Operations and Maintenance Manual is required, which includes a Hydrogeological Investigation, submission of theoretical design flows for both the water and wastewater systems, submission of historical water and wastewater flow rates accompanied by occupancy records for the related time period, demonstration that the rated capacity of the water and wastewater treatment systems are capable of servicing the full Fern Brook Development, and revisions to the Operations and Maintenance Manuals.

If confirmation of the above is not demonstrated, then further geotechnical investigation will be required to confirm the above, which is subject to peer review and may include the requirement to install additional monitoring wells. The specific wording is provided in the Draft Amending By-law in Appendix “C”.

South Lands – Holding Removal

The development of the proposed seasonal trailer park (South Lands) consisting of 100 sites and accessory uses, as well as the sewage treatment plan and dispersal fields, would be subject to the completion of the following Holding provisions of the “Recreational Open Space “O3-10(H)” Zone, Modified, Holding:

1. Site Plan Agreement

The Owner will be required to enter into a Site Plan Agreement with the City, and register it on title, to address the servicing and development of the seasonal campground, to be addressed as part of Site Plan Approval. This will include the requirement for financial securities for all phases of development.

2. Municipal Responsibility Agreement

The Owner shall register the signed Municipal Responsibility Agreement on title and post the financial required securities. This requirement is explained in further detail in Section 5, below.

Order of Holding Removals

Further to the above, in order to commence the required upgrades to the existing mobile home park located in the North Lands in five phases, and to allow for the development of the first 50 permanent mobile home sites and the provision of servicing, it will be necessary to first remove the Holding provision from the South Lands. This will accommodate the temporary relocation of the residents from the North Lands to the South Lands, and allow for the completion of the various phases.

Recommended Conservation Management “CM” Zone

The Conservation Management “CM-4” Zone, Modified will apply to Block “4” (see Appendix “C” Draft Zoning By-law) contained on the subject lands, outside the limit of development. Modifications to the Zone will be to ensure no structures or recreational uses are permitted outside of the limit of development.

5. Municipal Responsibility Agreement

Municipal Responsibility Agreements are legal agreements between a municipality and developer which stipulate (i) the conditions under which private services will be constructed, operated and maintained; (ii) financial assurance provisions for capital improvements to ensure sufficient funds for system repair and/or replacement; and (iii) the action to be undertaken by the municipality in the event of default, including in the event that the MOE orders the municipality to assume the communal services.

Entering into a Municipal Responsibility Agreement is being recommended for all of the following reasons:

Under the former Region of HWOP, Responsibility Agreement is defined as “an agreement between the Region of Hamilton-Wentworth and a proponent, which

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contains provisions for the design and construction of communal water and/or sewage treatment systems components, operation standards and the circumstances for municipal assumption of the supply and treatment components.” While the HWOP is no longer in effect, the application was evaluated against the policies in effect at the time the application was made.

The Ontario Water Resources Act and the Safe Drinking Water Act, 2002 provide that, in the event of an environmental or public health problem related to private sewage and water services, the MOE Director may make an order requiring the municipality to act to correct the problem. The MOE has issued a Permit to Take Water for the existing water services and an Environmental Compliance Approval for the sewage works. The development applications will not increase the number of units serviced by these systems. Currently, there are no financial securities in place to ensure the availability of sufficient funds for capital improvements, nor to provide any cost recovery to the City in the event that it is required to assume operation of the private services.

A Municipal Responsibility Agreement and an associated trust agreement have been prepared and signed by the proponent, to be registered on title to the property. The Municipal Responsibility Agreement includes the following notable elements:

1. The existing private services will be repaired, upgraded and improved, as required, in accordance with an approved, phased Site Plan, for which financial securities for their construction will be posted prior to the issuance of a Building Permit for each phase;
2. The owner will prepare and supply to the City copies of all operating and maintenance manuals for the systems, including as-built drawings and contingency plans and notification procedures in the event of emergency and upset conditions;
3. The owner will submit an engineering report to the City every five years which shall detail (i) the condition of the private services, (ii) the adequacy of on-going maintenance, monitoring and inspection procedures, and (iii) any recommendations for repairs, replacements or additions to the private services;
4. The City has free and unobstructed access to the communal services at all times to ensure the owner’s compliance with the Municipal Responsibility Agreement, and may engage other persons on a cost-recovery basis to provide advice based on a review and inspection of the communal services;
5. The owner will transfer permanent easements in favour of the City on those lands required to properly maintain and operate the private services;

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6. The owner will deposit a cash sum with the City equalling 15% of the total capital replacement cost and three years' operating costs, which shall be held by the City as security for its costs associated with operating and maintaining the private services in the event of a default;
7. The owner will establish and contribute monthly to a reserve fund such amounts as determined by a reserve fund study and updated every five years, which funds will be held by a Trustee. The reserve funds are solely for the purpose of effecting capital expenditures for repairs, maintenance and/or enhancement of the private services; and,
8. Definition of what constitutes a default and a description of the nature and scope of the City's authority to act in the event of a default.

As noted in this Report, Policy No. C.5.1 of the RHOP regarding Sustainable Private Water and Wastewater Services applies to these existing private services, which service both the North and South Lands, which are part of a single operation, under single ownership. The RHOP does not providing any additional guidance or requirement regarding entering into Municipal Responsibility Agreements, to financially secure the operation and maintenance of sustainable private services.

In addition, the policies of the HWOP for Communal Systems as defined therein, have also been considered and were part of staff's overall evaluation. Policy No. C-3.2.2.8 to recognize the existing park without requiring a Regional OPA is based on the park maintaining the number of units from the initial consideration, and that the required upgrades to the system are considered minor in nature. Policy No. C.4.2.1.3 requires Communal Systems to be addressed through a Responsibility Agreement where upgrades to the system are required.

As noted in the Planning Policy Section, the proposal would also conform to these policies.

6. Site Plan Agreements and Site Plan Approval

The Holding provisions discussed under the recommended zoning include the requirement for a Site Plan Agreement to be entered into, between the Owner and the City, as part of the required Site Plan Approval process. The Site Plan Agreement will replace the existing Site Plan Agreement between the Owner of Four Seasons Nature Resort and the former Town of Flamborough, registered on October 24, 1986.

The Site Plan Agreement will set out a specific multi-phase transition plan to address upgrades to the existing infrastructure which services the mobile home units on the North Lands. The proposed plan is set out in five geographic areas (phases) in the

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applicant's current FSR (see Appendix "G"). The phases are designed around the sanitary collection system catchment areas. The areas that are to be addressed through upgrading are the sanitary collection system (includes new sanitary mains and private sanitary drains to the remaining 150 reconfigured mobile home sites) and the removal of the existing seasonal trailers. The five phases are intended to be developed over a five year period.

It will be necessary to develop the South Lands in part in order to allow for the transition of removing the trailers from the north side, and as noted, the first Holding removal would be required for the South Lands. Securities for the construction, separate and apart from those posted under the Municipal Responsibility Agreement, would be required to address the beginning of each phase of construction. The installation of new infrastructure on the South Lands would be required in order to allow the transition to occur for the redistribution of the sites from the North Lands. The Staging Plan will be refined and confirmed at the time of Site Plan.

Standard Site Plan requirements will also apply to the South Lands for the proposed trailer park to address grading, storm water management, parking, landscaping, access and the development of any new buildings that are proposed. A concept for the development of the south Lands is provided in Appendix "I" Updates to the applicant's EIS may also be require depending on the scale and location of new buildings on this portion of the site in relation to the adjacent Vegetation Protection Zone.

ALTERNATIVES FOR CONSIDERATION

If this application is denied, the applicant would be able to continue to use the North Lands portion of the subject property for a seasonal trailer park (recreational camping establishment) or other permitted use under the existing Recreational Open Space "O3-3" Zone and Conservation Management "CM" Zone. However, the City would be required to take enforcement measures (i.e. eviction) for the 150 permanent residences (148 existing mobile units and two detached dwellings) which are being occupied on the property without proper zoning and other required approvals. There is risk for the City in the continued operation of the mobile home park without proper zoning and approvals. The applicant would be able to use the South Lands portion of the subject property for agriculture or other permitted use under the existing Agricultural "A" Zone but would not be able to use this area for a seasonal trailer park.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

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

- 1.1 Continue to grow the non-residential tax base.
- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 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

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Draft Official Plan Amendment (Rural Hamilton Official Plan)
- Appendix “C”: Draft Zoning By-law Amendment (Flamborough Zoning By-law)
- Appendix “D”: Proposed Development Concept (South Lands)
- Appendix “E”: Existing Development Concept (Roads and Sites - North Lands)
- Appendix “F”: Proposed 5 Phase “Transition” Plan
- Appendix “G”: Summary of Comments Received from Circulation to Residents
- Appendix “H”: Draft Municipal Responsibility Agreement

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- Appendix "I": Proposed Site Development on South Lands
- Appendix "J": Plan of North Lands Showing Trailer Sites to be Removed
- Appendix "K": Plan of North Lands Showing Locations for Pedestrian Crossings for Safe Access

:CT

Attach(s): 11