



June 5, 2017

Mrs. Ida Bedioui,  
Planning Coordinator  
City of Hamilton – City Clerks Office  
71 Main Street West, 1<sup>st</sup> Floor  
Hamilton, ON L8P 4Y5

Dear Mrs Bedioui:

**RE: City of Hamilton Comprehensive By-law: Proposed Commercial and Mixed Use Zones (PED16100(b))  
COMMENTS – PLANNING COMMITTEE MEETING, JUNE 6<sup>th</sup>, 2017**

GSP Group Inc. represents New Horizon Development Group (NHDG) Inc. which has an interest in a number of properties in the City of Hamilton. NHDG's interest in the Comprehensive bylaw relates not only to its current property interests, some of which are listed below, but also in respect of other lands in the City in which it may either acquire an interest or for which it may file development applications in the future. Some of the properties for which NHDG has currently filed development applications or will do shortly are listed below:

1. Minor Site Plan Application MDA-17-046 for 526 Dundas Street East, former Town of Flamborough submitted February 17<sup>th</sup>, 2017 to permit a temporary sales trailer (H96-C6-566);
2. Site Plan Application DA-17-081 for 295 Skinner Road (Block 234, 62M-1238), former Town of Flamborough, submitted April 6<sup>th</sup> 2017 to permit 52 back-to-back townhouse units;
3. Site Plan Application DA-17-099 for 261 Skinner Road (Block 233, 62M-1238), former Town of Flamborough, submitted May 4<sup>th</sup> 2017 to permit 23 three-storey stacked townhouse units;
4. Site Plan Application DA-17-101 for 40 Mallard Trail (Blocks 229 and 240, 62M-1238), former Town of Flamborough, submitted May 9<sup>th</sup>, 2017 to permit a 2-storey commercial building (C5-565);
5. Site Plan Application for 446, 460, 470 Dundas St E and 10 Mallard Trail (Blocks 225-228 and 239, 62M-1238), former Town of Flamborough, submitted May 31<sup>st</sup>, 2017 to permit 772 apartment units and 700m<sup>2</sup> ground floor commercial (H95-C5-564 and C5-565);
6. Formal Consultation Application FC-17-014 for 50 Green Mountain Road, former City of Stoney Creek, submitted December 15<sup>th</sup>, 2016 and Zoning By-Law Amendment to permit a condominium townhouse development will be submitted in June;

7. Block 860 and 916, 25T-200513, former Town of Flamborough.(C5-565);
8. 860 Queenston Road, former City of Stoney Creek; and
9. 310 Frances Ave, former City of Stoney Creek.

On behalf of our client, we have reviewed Staff Report PED16100(b) and Draft Official Plan Zoning By-Law amendments to implement the proposed Commercial and Mixed Use (CMU) Zones. On the basis of our review, we respectfully request that our comments be considered prior to adoption of the Official Plan Amendment and passage of the Zoning Bylaw amendments.

### **Timing of Implementation**

Given the extensive development applications that are pending approval, it is important to allow the planning process to continue without delay or confusion with regards to which Zoning By-Law regulations require compliance. As referenced above, one development application includes 772 dwelling units spanning 7 apartment buildings and construction may be phased resulting in building permits being issued under the Former Town of Flamborough Zoning By-Law and the New City of Hamilton Zoning By-Law for MUC.

The statement within the Legal Implications section of the Staff Report on pages 4 and 5 advises that:

*“A new section has been added to this proposed CMU By-law to assist with the application of the by-law by staff should the By-law be subject to appeals. Currently, the Planning Act provides for a possible retroactive application of an appealed by-law should any appeals be withdrawn or dismissed. Furthermore, it is possible that an appealed by-law could be amended or repealed, in which case those amended or repealed portions are in force as of the date of the decision of the Ontario Municipal Board. However, during the time an appeal is outstanding, any Building Permit applications made require the Building Department to review the applications against any zoning by-law “made” which includes the new and former zoning by-laws.”*

The Report continues to state:

*“The intention of Section 12 of the proposed By-law attached as Appendix “B” to Report PED16100(b) is to clarify that until such time as the new zoning By-law regulation is in force and effect the new by-law is not “made” and does not apply to Building Permit applications.”*

Section 12 of the proposed Zoning By-Law affirms:

*“12. THAT For the purposes of the Building Code, this by-law or any part of it is not made until it has actually come into force as provided by section 34 of the Planning Act.”*

The statement does not clearly permit Site Plan applications that were reviewed under the current By-Law to continue to receive review at building permit stage under same By-Law, or would require a review of the new MUC By-Law possibly on the same day of permit issuance. Compliance issues may arise at this late stage requiring a Planning Act application resulting in delay. As an example, the Draft MUC zoning includes a design standard regulation, landscaped parking islands, for parking lots with 50 or more parking spaces. This is not a regulation in the existing zoning and the submitted drawings do not conform with this regulation.

We request that Committee exclude the foregoing lands with applications at the City of Hamilton from the application of any new zoning provisions and would be happy to discuss with Planning Staff how best to achieve this intent.

### **Parking Regulations**

Parking regulations within the current Zoning By-Law 05-200 indicate a minimum stall size of 2.6m x 5.5m. This regulation was recommended by Planning Staff and approved by Planning Committee and Council. MMM Group was retained during this process, and their Report from October 2005 recommended an optimal parking stall size of 2.7m x 5.8m, larger than the approved regulation.

This regulation has since been reviewed and Council has directed the stall size to be increased to 3.0m x 5.8m, a width that exceeds all former municipalities of Hamilton and all surrounding municipalities.

The MUC draft Zoning By-Law includes the increased stall size, and provides a further regulation, in that if a wall or column, in a parking structure, abuts a parking an additional 0.3m in width is required, per abutting wall/column, for a potential total width of 3.4m for each space.

*“5.2b) Unless permitted by another regulation in this By-law, parking space sizes shall be*

*i) Minimum 3.0 metres in width and 5.8 metres in length;*

*ii) Notwithstanding Subsection i) herein, a minimum 2.8 metres in width and 5.8 metres in length shall be permitted within an above ground or underground parking structure, but shall not apply to an attached or detached garage to a Block Townhouse Dwelling, Duplex Dwelling, Maisonette Dwelling, Semi-Detached Dwelling, Single Detached Dwelling, or Street Townhouse Dwelling.*

*iii) Where a wall, column, or any other obstruction is located abutting or within any parking space within an above ground or underground parking structure, the minimum width of a parking space shall be increased by 0.3 metres.*

*c) Notwithstanding Subsection b) herein, light standards, including the base, located at the intersection of 4 parking spaces shall not be considered as an obstruction.”*

The regulation identifies the additional 0.3m per adjacent wall/column width for all parking spaces within a “parking structure”. This term is not defined, and will cause confusion when

reviewing the required stall size. The regulation may be interpreted as requiring a width of 3.6m for a single car attached garage in a townhouse unit.

We note that the Council direction of May 24<sup>th</sup> 2017 includes direction to staff to proceed with an amendment to 05-200 as part of the Commercial and Mixed Use Zoning and Residential Zoning projects to *“increase the parking stall size for low density residential and townhouse development, including visitor parking spaces, and for surface parking areas to 3m x 5.8m.”*

It is unclear if this direction, implemented with the MUC zones, will only amend the existing 05-200 Zoning By-Law and therefore be in force and effect for all zones except the residential zones that remain under the By-Laws of the former municipalities, or if it will include municipality wide residential parking for low density residential and townhouse development.

We do not support the approval of the increase in parking stall size regulations within Zoning By-Law 05-200.

### **Site Specific Zoning**

Property #1, #4, #5 and #7 referenced above are included within the draft MUC Zoning By-Law. In reviewing the zoning for each property, we provide the following comments:

#1 (H96-C6-566): Both the current zoning (H-UC-14, ZBL 90-145-Z) and ZBL 05-200 permits a temporary sales office. This application is currently being processed by the City and would not conform to certain regulations within the new MUC zone, including but not limited to, maximum yard setback, and allowing associated parking between the building façade and front lot line. Therefore, we request that Site Specific 566 indicate the allowance of a temporary sales trailer, notwithstanding Subsection 4, 5 and 10.6.3

#4 (C5-565): The zoning was approved through an OMB decision and should be carried forward in its entirety. In confirmation with the City Building (Zoning) Department, the regulations in the current site specific zoning (UC-13, ZBL 90-145-Z) apply to all uses. Therefore, we request the Site Specific 565 d) be revised to state: “Notwithstanding Subsections 10.5.3 a), b), c), and d) the following regulations shall ~~also~~ apply:”

#5 (C5-565): The zoning was approved through an OMB decision and should be carried forward in its entirety. In confirmation with the City Building (Zoning) Department, the regulations in the current site specific zoning (UC-13, ZBL 90-145-Z) apply to all uses. Therefore, we request the Site Specific 565 d) be revised to state: “Notwithstanding Subsections 10.5.3 a), b), c), and d) the following regulations shall ~~also~~ apply:” We also request the parking island requirement, Section 5.2 h) be notwithstanding, given the design for the parking area has been submitted for approval to the City.

(H95-C5-564): The zoning was approved through an OMB decision and should be carried forward in its entirety, (H-UC-12, ZBL 90-145-Z). Therefore, we request the Site

Specific 564 b) be revised to state: “Notwithstanding Subsection 10.5.3 a), b), c), d), g) ii) and g) iii) the following regulations shall apply:”

#7: (C5-565): The zoning was approved through an OMB decision and should be carried forward in its entirety. In confirmation with the City Building (Zoning) Department, the regulations in the current site specific zoning (UC-13, ZBL 90-145-Z) apply to all uses. Therefore, we request the Site Specific 565 d) be revised to state: “Notwithstanding Subsections 10.5.3 a), b), c), and d) the following regulations shall ~~also~~ apply:”

Noting that Site Plan applications have been submitted for the majority of the properties identified above, we urge that there be no delay or confusion in the processing of these active files during the implementation of the MUC zones.

We request the above comments be addressed by City Staff prior to approval of the Commercial and Mixed Use Zoning By-Law and associated Urban Hamilton Official Plan Amendment.

Yours truly,  
**GSP Group**



Sarah Knoll, BES, MCIP, RPP

Senior Planner

cc: New Horizon Development Group Inc. Messrs. J. Paikin, J. Giacomodonato  
Aird & Berlis LLP, Ms. Patricia A. Foran  
City of Hamilton, Messrs. S. Robichaud, T. Lee