



Hamilton

# INFORMATION REPORT

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	October 31, 2017
<b>SUBJECT/REPORT NO:</b>	Appeal to the Ontario Municipal Board (OMB) regarding Rural Hamilton Official Plan Amendment Application RHOPA-14-001, Zoning By-law Amendment Application ZAR-15-002 and Plan of Subdivision Application 25T-201403 for Lands Located at 34 11 <sup>th</sup> Concession Road East & 1800 Highway No. 6 (Flamborough) (Ward 15) (PED17176)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	George T. Zajac (905) 546-2424 Ext. 1024
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## Council Direction:

In accordance with subsections 17(40), 17(40.1), 22(7), 34(11), and 51(34) of the *Planning Act*, Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision Applications may be appealed to the Ontario Municipal Board (OMB) after 270 days (Official Plan Amendment Application), 180 days (Plan of Subdivision Application) and 120 days (Zoning By-law Amendment Application) if Council has not made a decision on the Application.

A motion to direct staff to advise the Planning Committee on matters relating to appeals regarding lack of decision by Council, pursuant to the *Planning Act* was passed by City Council on May 18, 2010. This Information Report has been prepared in accordance with Council's policy for staff to advise the Planning Committee and City Council of appeals for non-decision to the OMB.

The following information is provided for Planning Committee's information regarding Rural Hamilton Official Plan Amendment Application RHOPA-14-001, Zoning By-law Amendment Application ZAR-15-002 and Plan of Subdivision Application 25T-201403, which have been appealed to the OMB for lack of decision.

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**Information:**

The subject lands are municipally known as 34 11<sup>th</sup> Concession Road East & 1800 Highway No. 6, Former Town of Flamborough and are located at the southeast corner of the intersection of Highway No. 6 and 11<sup>th</sup> Concession Road East (see location map attached as Appendix “A” to Report PED17176).

The subject lands are surrounded to the north and south by single detached dwellings; to the east by vacant agricultural lands; and to the west by Highway No. 6. The subject lands have an area of approximately 6.6 hectares with a frontage of approximately 32.1 metres on 11<sup>th</sup> Concession Road East and 186.8 metres on Highway No. 6. There is currently an existing one storey single detached dwelling on the subject lands.

**Applications:**

Official Plan Amendment Application:

The Rural Hamilton Official Plan Amendment Application (RHOPA-14-001) is to redesignate a portion of the subject lands from “Settlement Residential” to “General Open Space” on Schedule “A”, Volume 3, Map 7, Freelon Rural Settlement Area of the Rural Hamilton Official Plan to accommodate the Stormwater Management Block (Block 21 on the Draft Plan) with a site specific policy to permit lot areas ranging from 2,034 square metres to 3,495 square metres, whereas the Rural Hamilton Official Plan permits a minimum lot size of 3,999 square metres.

Zoning By-law Amendment Application:

The purpose of the Zoning By-law Amendment Application (ZAR-15-002) is to change the zoning from the Settlement Residential “S1” Zone to the Settlement Residential “S1” – Special Exception Zone and the Conservation / Hazard Land “P5” Zone within Zoning By-law No. 05-200.

Draft Plan of Subdivision Application:

The purpose of the proposed Draft Plan of Subdivision Application (25T-201403) is to create twenty (20) single detached dwelling lots with a proposed roadway connecting to Logan Court, a proposed extension of Wildan Drive and a proposed Storm Water Management (SWM) pond.

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The Applications were submitted on November 11, 2014, and deemed to be complete on December 11, 2014. Two revisions to the original Application have been submitted since that time, which are as follows:

1. Original Submission (November 11, 2014): proposed twenty-four (24) single detached dwellings, a proposed Storm Water Management (SWM) pond and a roadway connecting to Logan Court;
2. Second Submission (May 27, 2016): response letter to City Staff / Agency comments included a proposed second egress roadway connection to 11<sup>th</sup> Concession Road East, a Vegetation Protection Zone and proposed twenty (20) single detached dwellings; and,
3. Third Submission (March 3, 2017): response letter to City Staff / Agency comments and a revision to the Draft Plan of Subdivision to vary the layout of the proposed Wildan Drive extension for the purpose of tree preservation.

Hamilton Water staff provided comments to advise that there was a development freeze within the Freelon Rural Settlement Area for the following reasons:

- Under existing conditions the Freelon drinking water treatment system does not provide firm capacity as defined under the “Design Guidelines for Drinking Water Systems”, 2008, Ministry of Environment. As a result, new subdivisions are not permitted until a supplementary supply of treated water can be secured for the community; and,
- Hamilton Water is undertaking a project to locate a supplementary supply of water, which will first investigate whether the existing water well supply can be sustainably increased to satisfy the firm capacity shortfall.

In addition, Hamilton Water staff provided the following:

- The developer is proposing “tertiary” private on-site sewage treatment systems to reduce nitrate levels in the sewage effluent in an effort to create lots smaller than prescribed under the Hamilton Rural Official Plan policies. Nitrate is a key pollutant originating from sewage disposal systems that can increase the risk to groundwater quality and public health. Given the fact that the nitrate-reducing technologies have not been approved under the Ontario Building Code, and after consulting with Hamilton Water staff, City staff do not endorse the use of these nitrate-reducing advanced treatment systems as it relates to the approval of undersized lots; and,

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- This subdivision falls within the Wellhead Protection Area of one of the municipal wells (FDL01). Therefore, and in the absence of satisfactory information demonstrated otherwise, an Application which proposes a high density of lots that would pose increased water quality risks to the Freerton Drinking Water System and its users cannot be supported.

The applicant has been advised of the concern identified by staff with respect to sustainable private sewers.

**Public Consultation:**

Notice of Complete Application and Preliminary Circulation were mailed to 48 property owners within 120 m of the subject lands. Two adjacent residents along 11<sup>th</sup> Concession Road East requested notification of the subject Applications, two additional residents provided objections to the subject proposal regarding lot sizes and access and there were two residents located on Wildan Drive that provided their concerns regarding lack of ground water in the area, as well as access for the subject proposal. A Public Information Meeting was held by the applicant on April 4, 2017, at which nineteen residents attended.

The appeal to the OMB was received by the City Clerk's Office on July 26, 2017, 988 days after the receipt of the initial Application.

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Location Map
- Appendix "B": Concept Plan
- Appendix "C": Appeal Letters

GZ:jp