



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

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| TO: | Chair and Members Planning Committee |
| COMMITTEE DATE: | August 11, 2020 |
| SUBJECT/REPORT NO: | Applications for Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200 and Draft Plan of Condominium (Vacant Land) for Lands Known as 42, 44, 48, 52, and 54 Lakeshore Drive (Stoney Creek) (PED20082) (Ward 10) |
| WARD(S) AFFECTED: | Ward 10 |
| PREPARED BY: | E. Tim Vrooman (905) 546-2424 Ext. 5277 |
| SUBMITTED BY: | Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department |
| SIGNATURE: | |

RECOMMENDATION

- (a) That **Revised Zoning By-law Amendment Application ZAC-18-005, by A.J. Clarke and Associates (c/o Franz Kloibhofer) on behalf of Robert Kosik, Mildred Kosik, Wendell Harrison, Elizabeth Laing, Robert Strong, Maureen Strong, and Elizabeth Sleep (Owners)** to change the zoning from the Rural Residential “RR” Zone to the Single Residential “R2-66” Zone, Modified, in order to permit 28 units for single detached dwellings on a private road (condominium road) on lands known as 42, 44, 48, 52, and 54 Lakeshore Drive (Stoney Creek), as shown on Appendix “A” to Report PED20082, be **APPROVED** on the following basis:
- (i) That the draft By-law attached as Appendix “B” to Report PED20082, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,

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- (ii) That the proposed amendment is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan.
- (b) That **Revised Zoning By-law Amendment Application ZAC-18-005, by A.J. Clarke and Associates (c/o Franz Kloibhofer) on behalf of Robert Kosik, Mildred Kosik, Wendell Harrison, Elizabeth Laing, Robert Strong, Maureen Strong, and Elizabeth Sleep (Owners)** to change the zoning from the Rural Residential “RR” Zone to the Conservation/Hazard Land (P5, 645) Zone, in order to establish a shoreline protection area along Lake Ontario on lands known as 42, 44, 48, 52, and 54 Lakeshore Drive, Stoney Creek, as shown on Appendix “A” to Report PED20082, be **APPROVED** on the following basis:
 - (i) That the draft By-law attached as Appendix “C” to Report PED20082, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council; and,
 - (ii) That the proposed amendment is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow (2019), and complies with the Urban Hamilton Official Plan.
- (c) That **Revised Draft Plan of Condominium (Vacant Land) Application 25CDM-201802, by A.J. Clarke and Associates (c/o Franz Kloibhofer) on behalf of Robert Kosik, Mildred Kosik, Wendell Harrison, Elizabeth Laing, Robert Strong, Maureen Strong, and Elizabeth Sleep (Owners)** to establish a Draft Plan of Condominium (Vacant Land) on lands known as 42, 44, 48, 52, and 54 Lakeshore Drive, Stoney Creek, as shown on Appendix “A” to Report PED20082, be **APPROVED**, subject to the following:
 - (i) That this approval apply to the Draft Plan of Condominium (Vacant Land) application 25T-201802, prepared by A.J. Clarke and Associates Ltd., and certified by Nicholas P. Muth, O.L.S., dated February 12 2020, consisting of 28 vacant land units for single detached dwellings, common elements for a private road, and exclusive use waterfront, attached as Appendix “F” to Report PED20082, subject to the Owner entering into a standard form condominium approval agreement as approved by City Council and with Special Conditions attached as Appendix “G” to Report PED20055;
 - (ii) In accordance with the City’s Comprehensive Development Guidelines and Financial Policies Manual (2017) there will be no cost sharing for this development; and,

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- (iii) That Payment of Cash-in-Lieu or dedication of Parkland will be required, pursuant to Section 51 of the *Planning Act*, with the calculation for the payment to be based on the value of the lands on the day prior to the day of issuance of each building permit, all in accordance with the Financial Policies for Development and the City's Parkland Dedication By-laws, as approved by Council.

EXECUTIVE SUMMARY

The application is for a Zoning By-law Amendment and Draft Plan of Condominium (Vacant Land) to create 28 condominium units for 27 proposed single detached dwellings and one existing single detached dwelling that is to be retained, as well as common elements for a private road, and exclusive use waterfront areas with a shoreline protection wall.

A site specific Single Residential "R2-66" Zone, Modified; a Single Residential "R2-67" Zone, Modified; a Single Residential "R2-68" Zone, Modified; and, a Conservation/ Hazard Land (P5, 645) Zone are proposed for this development. A P5 Zone is proposed for lands that are susceptible to erosion along the Lake Ontario shoreline. Shoreline protection works for the lands in the proposed P5 Zone have been completed, inspected, and approved by the Ministry of Natural Resources and Hamilton Conservation Authority.

Proposed modifications are required to the Single Residential "R2" Zone to recognize a common element condominium road as a street, limit vehicular access to the common element condominium road, permit 28 single detached dwellings on the subject lands, establish the rear lot lines abutting Lake Ontario and setbacks from the P5 Zone, allow for site specific minimum lot and condominium unit areas and frontages, and establish minimum front and side yards, setbacks from the common element condominium road, and distance between buildings, and recognize and tie the draft approved vacant land condominium units for the proposed by-law modifications to the Site Plan Control application, which are discussed in detail in Appendix "D" to Report PED20082. Staff are supportive of the proposed modifications.

The proposed Draft Plan of Condominium (Vacant Land) approval would be subject to conditions attached as Appendix "G" to Report PED20082.

The proposal has merit and can be supported as it is consistent with the Provincial Policy (2020) (PPS) and conforms to A Place to Grow (2019), complies with the policies of the Urban Hamilton Official Plan and the Urban Lakeshore Area Secondary Plan, and

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represents good planning by, among other things, providing a compatible development that is in keeping with the existing lot pattern and configuration of the neighbourhood.

Alternatives for Consideration – See Page 24

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an application for a Zoning By-law Amendment and Draft Plan of Condominium (Vacant Land).

HISTORICAL BACKGROUND

Report Fact Sheet

| Application Details | |
|----------------------------|---|
| Owners: | Robert Kosik; Mildred Kosik; Wendell Harrison and Elizabeth Laing; Robert Strong and Maureen Strong; and, Elizabeth Sleep |
| Applicant/Agent: | A.J. Clarke and Associates (c/o Franz Kloibhofer) |
| File Number: | ZAC-18-005 25CDM-201802 |
| Type of Applications: | Zoning By-law Amendment Draft Plan of Condominium (Vacant Land) |
| Proposal: | 28 condominium units for one existing single detached dwelling to be retained and 27 proposed single detached dwellings, common elements for a private road, and exclusive use waterfront areas with a shoreline protection wall. |
| Property Details | |
| Municipal Address: | 42, 44, 48, 52, and 54 Lakeshore Drive, Stoney Creek |
| Lot Area: | ±2.488 ha |

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| Servicing: | Full municipal services |
| Existing Use: | Single detached dwellings |
| Documents | |
| Provincial Policy Statement (PPS): | The proposal is consistent with the PPS (2020). |
| A Place to Grow: | The proposal conforms to A Place to Grow (2019). |
| Official Plan Existing: | “Neighbourhoods” on Schedule E – Urban Structure and Schedule E-1 – Urban Land Use Designations. |
| Official Plan Proposed: | No changes proposed. |
| Secondary Plan Existing: | “Low Density Residential 2b” on Map B.7.3-1 – Urban Lakeshore Area Secondary Plan Land Use Plan. |
| Secondary Plan Proposed: | No changes proposed. |
| Neighbourhood Plan: | Trillium – Low Density Residential. |
| Zoning Existing: | Rural Residential “RR” Zone |
| Zoning Proposed: | Single Residential “R2-66” Zone, Modified (Block 1); Single Residential “R2-67” Zone, Modified (Block 2); Single Residential “R2-68” Zone, Modified (Block 3); and, Conservation/Hazard Land (P5, 645) Zone. |
| Modifications Proposed: | <ul style="list-style-type: none"> • To deem the condominium road as a street; • To recognize a Vacant Land Condominium Unit for the purposes of the proposed by-law modifications; • To deem the rear lot line along Lake Ontario as the boundary of the Residential Zone; • To limit access to the common element condominium road; • To permit 28 single detached dwellings on the subject lands; • Minimum Lot Area; • Minimum Lot Frontage; • Minimum Front Yard; |

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| | <ul style="list-style-type: none"> • Minimum Side Yard; • Minimum Setback from a Common Element Condominium Road; • Minimum Distance between Buildings on the Same Lot; • Condominium Unit Area and Frontage; • Site Plan Approval; and, • Special Setback from a Conservation/Hazard Land (P5) Zone. |
| Processing Details | |
| Received: | December 15, 2017 |
| Deemed Complete: | January 14, 2018 |
| Notice of Complete Application: | Sent to 93 property owners within 120 m of the subject lands on February 14, 2018. |
| Public Notice Sign: | Posted March 16, 2018 and updated with Public Meeting date July 15, 2020. |
| Notice of Public Meeting: | Sent to 100 property owners within 120 m of the subject lands on July 24, 2020. |
| Public Comments: | 1 email expressing concern (see Appendix “I” to Report PED20082) |
| Processing Time: | 873 days (not including the 97 days that the <i>Planning Act</i> timelines were suspended in accordance with Ontario Regulation 149/20: Special Rules Relating to Declared Emergency). |

EXISTING LAND USE AND ZONING

| | <u>Existing Land Use</u> | <u>Existing Zoning</u> |
|--------------------------------------|---------------------------------|---|
| <u>Subject Lands:</u> | Single Detached Dwellings | Rural Residential “RR” Zone |
| <u>Surrounding Land Uses:</u> | | |
| North | Lake Ontario | n/a |
| South | Single Detached Dwellings | Single Residential “R2-53” Zone, Modified |

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|------|--|--|
| East | Single Detached Dwellings | Rural Residential “RR” Zone |
| West | Watercourse, Single Detached Dwellings | Conservation/Hazard Land (P5) Zone; Open Space “OS” Zone; Single Residential “R2-50” Zone, Modified; Single Residential “R2-57” Zone, Modified; and Single Residential “R2-58” Zone, Modified. |

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Planning Policy Framework

The Provincial Planning Policy Framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (2020) (PPS). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS 2020.

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent Local Planning Appeal Tribunal (LPAT) approval of the City of Hamilton Official Plan, the City of Hamilton has established the local policy framework for the implementation of the Provincial planning policy framework. As such, matters of Provincial interest (i.e. efficiency of land use and balanced growth) are discussed in the Official Plan analysis that follows.

One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to Cultural Heritage policies of the PPS. The following policies, amongst others, apply:

- “2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.
- 3.1.1 Development shall generally be directed to areas outside of:
 - a. *hazardous lands* adjacent to the shorelines of the *Great Lakes - St. Lawrence River System* and *large inland lakes* which are impacted by *flooding hazards, erosion hazards* and/or *dynamic beach hazards*.”

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The subject property meets three of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and
- 3) In an area of sandy soil in areas of clay or stone.

Notwithstanding current surface conditions, these criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the *Planning Act* and Section 2.6.2 of the *Provincial Policy Statement* apply to the subject application. A Stage 1-2 and Stage 3 archaeological report (P389-0252-2016 & P389-0255-2017) has been submitted to the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries. While the Provincial interest has yet to be signed off by the Ministry, Staff concur with the recommendations made in the reports and no longer have an interest in the subject property with respect to archaeology.

With respect to Policy 3.1.1, a Shoreline Hazard Assessment, prepared by Shoreplan Engineering Ltd. dated September 5, 2017, has been submitted. The proposed shoreline protection works adjacent to Lake Ontario have been completed and have been inspected and approved by the Ministry of Natural Resources (MNR) and Hamilton Conservation Authority (HCA). HCA completed a compliance check of the shoreline retaining wall construction and confirm the wall has been constructed as per the approved design. Additionally, the implementing Zoning By-law attached as Appendix “C” to Report PED20082 proposes the Conservation/Hazard Land (P5) Zone for the hazard lands. Based on the foregoing, staff is satisfied that the proposal is consistent with Policy 3.1.1.

As the application for changes in zoning comply with the Official Plan and the relevant policies in the PPS (2020), it is staff’s opinion that the application:

- is consistent with Section 3 of the *Planning Act*;
- is consistent with the Provincial Policy Statement (2020); and,
- conforms to A Place to Grow (2019).

Urban Hamilton Official Plan (UHOP)

The subject lands are designated “Neighbourhoods” on Schedule E – Urban Structure and Schedule E-1 – Urban Land Use Designations. The following policies, amongst others, apply to the proposal.

Hazard Lands

- “B.3.6.5.4 *Hazard lands* shall be placed in a separate zoning classification in the Zoning Bylaw.
- B.3.6.5.6 *Hazard lands* shall be conserved and land uses or activities which could be affected by prevailing hazardous conditions such as flooding or erosion, or could increase the inherent hazard, shall be prohibited in *hazard lands* and on lands adjacent to hazard lands.
- B.3.6.5.11 Development approvals shall not be granted within *hazard lands* or on lands adjacent to *hazard lands* that are regulated by a Conservation Authority until written consent is obtained from the applicable Conservation Authority.”

As discussed above, the implementing Zoning By-law attached as Appendix “C” to Report PED20082 proposes the Conservation/Hazard Land (P5) Zone for the hazard lands. Uses permitted in the P5 Zone include conservation, flood and erosion control facilities, and passive recreational uses. The modification to remove the requirement for the 7.5 metre setback from the limits of the P5 Zone, which is further discussed in Appendix “D” to Report PED20082, is supported by staff and the Hamilton Conservation Authority.

Natural Heritage

- “C.2.7.3 The City shall require the incorporation of Linkages into a design of new development requiring approval by this Plan to retain and enhance the cultural, aesthetic, and environmental qualities of the landscape, wherever possible and deemed feasible to the satisfaction of the City.
- C.2.11.1 The City recognizes the importance of trees and woodlands to the health and quality of life in our community. The City shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

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A Linkage Assessment / EIS Addendum was prepared by Myler Ecological Consulting, dated June 2019, which identified that residential trees and shrubs within the subject properties were being used as temporary resting and foraging sites as well as cover for migratory birds. Since migratory birds chose suboptimal habitat where suitable habitat is unavailable, it is important to retain this function. Through discussions with the applicant, it was identified that trees would be planted within the development including along the rear of Lots 17-23. The Linkage Assessment/EIS has been approved on the basis that the following mitigation measures will be implemented:

1. Trees and shrubs planted along the rear of Lots 17-23 will be maintained;
2. Native species will be used in the planting areas associated with Lots 17-23. The diversity of native trees and shrubs will allow for plantings to be functional as well as attractive;
3. Coniferous trees will be included within the planting plan. This is important since many of the migratory birds observed were using cedars on site as a resting place; and,
4. Bird-friendly design elements (i.e. internal blinds and shades, tinting/adhesive film/frit patterns on windows and landscape design) will be incorporated into the design of houses within Lots 17-22.

These matters will be addressed at the Site Plan Control stage through landscape plans and elevations; with the landscape plan requirements, a warning clause to maintain the function of the Linkage, and the requirement for Site Plan Control, secured as Condition Nos. 13, 16, and 19, respectively, of Appendix “G” to Report PED20082. The requirements for Site Plan Control are further discussed on the Analysis and Rationale section of this Report.

A Tree Inventory and Preservation Plan (TIPP) has been prepared by Jackson Arboriculture Inc. (Jeremy Jackson; certified arborist), revised October 1, 2019. The TIPP has been approved based on the following:

1. Trees #36 (Silver Maple), 37 (Silver Maple), 45 (Honey Locust) and 47 (Catalpa) are to be monitored by a certified arborist twice a year (spring and fall) for any signs of failure for a period of 3 years;
2. Trees that have been proposed to be retained will be protected with tree protection measures (i.e. fencing); and,

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3. Compensation for 42 trees that will be/have been removed will be provided on site to ensure that existing tree cover is maintained.

These matters have been addressed through Condition Nos. 14 and 15 of Appendix “G” to Report PED20082.

Neighbourhoods Designation

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

E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 – Urban Land Use Designations:

- a) residential dwellings, including second dwelling units and *housing with supports*.

E.3.2.4 The existing character of established Neighbourhoods designated areas shall be maintained.”

The proposed development of 28 vacant land condominium units for single detached dwellings on a private condominium road contributes to the provision of complete communities by providing an innovative form of dwelling for the surrounding established neighbourhood. The area is well served with open spaces, parks, and other natural amenities such as the Lake Ontario waterfront. The proposed development builds upon the established lot and block pattern and built form of the existing residential neighbourhood.

Residential Intensification

“B.2.4.1.4 *Residential intensification* developments shall be evaluated based on the following criteria:

- a) a balanced evaluation of the criteria in b) through g), as follows;
- b) the relationship of the proposal to existing neighbourhood character so that it maintains, and where possible, enhances and builds upon desirable established patterns and built form;

- c) the development's contribution to maintaining and achieving a range of dwelling types and tenures;
- d) the *compatible* integration of the development with the surrounding area in terms of use, scale, form and character. In this regard, the City encourages the use of innovative and creative urban design techniques;
- e) the development's contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;
- f) infrastructure and transportation capacity; and,
- g) the ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an application for a residential intensification *development* within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) *compatibility* with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood; and,

- j) infrastructure and transportation capacity and impacts.”

Land uses in the vicinity of the subject land are predominantly single detached dwellings, with groups of semi-detached and street townhouse dwellings towards the west and south, with convenient access to neighbourhood parks and public amenities. The proposed development of 28 vacant land condominium units for single detached dwellings on a private condominium road is designed to be compatible with the scale and character of the area, and builds upon the established lot and block pattern and built form of the existing residential neighbourhood. At the same time, the proposal adds to the range of dwelling types for the neighbourhood. The infrastructure and transportation capacity has been deemed to be sufficient, as discussed in further detail in the Analysis and Rationale for Recommendation section of this Report.

Built Form, Scale and Design

- “E.3.4.5 For low density residential areas, the maximum height shall be three storeys.
- E.3.4.6 *Development* in areas dominated by low density residential uses shall be designed in accordance with the following criteria:
- c) A mix of lot widths and sizes *compatible* with streetscape character; and a mix of dwelling unit types and sizes *compatible* in exterior design, including character, scale, appearance and design features; shall be encouraged. *Development* shall be subject to the Zoning By-law regulations for appropriate minimum lot widths and areas, yards, heights, and other zoning regulations to ensure *compatibility*.”

The dwelling units are intended to be in conformity with the maximum building height of 11 m allowed in the Single Residential “R2” Zone. The lot widths and sizes are compatible with the existing streetscape. The proposed development complies with the requirements for low density residential in the Neighbourhoods designation. An Urban and Architectural Design Guidelines report will be required to address requirements for pedestrian accessibility, streetscape landscaping, and architectural design. Architectural control will also be required, to implement the objectives of the Architectural Design Guidelines report. These requirements are addressed as Condition Nos. 17 and 18 of Appendix “G” to Report PED20082. The exterior design of the dwellings will be reviewed at the Site Plan Control stage, with requirement for Site Plan Control secured as Condition No. 19 of Appendix “G” to Report PED20082.

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Based on the foregoing, staff are of the opinion that the proposal complies with the applicable policies of Volume 1 of the Urban Hamilton Official Plan.

Urban Lakeshore Area Secondary Plan

Residential Designations

“B.7.3.1.3 Low Density Residential 2b Designation

Notwithstanding Policies E.3.4.3 and E.3.4.4 of Volume 1, the following policies shall apply to the lands designated Low Density Residential 2b on Map B.7.3-1 – Urban Lakeshore Area - Land Use Plan:

- a) the permitted uses shall be single, semi detached and duplex dwellings; and,
- b) the density shall range from 1 to 29 units per net residential hectare.”

The proposed development is for 28 vacant land condominium units for single detached dwellings on 2.488 net residential hectares, which converts to 11.25 units per net residential hectare. The proposed development complies with the permitted housing form and density range requirements for the Low Density Residential 2b Designation.

Based on the foregoing, staff are of the opinion that the proposal complies with the applicable policies of the Urban Lakeshore Area Secondary Plan.

Trillium Neighbourhood Plan

The subject lands are designated “Low Density Residential” in the Trillium Neighbourhood Plan. The proposal for 28 single detached dwellings on a condominium road complies with the Trillium Neighbourhood Plan.

Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton By-law No. 05-200

In order to permit the proposed development, the Zoning By-law Amendment application proposes to rezone the subject property to the Single Residential “R2-66” Zone, Modified (Block 1), the Single Residential “R2-67” Zone, Modified (Block 2), and the Single Residential “R2-68” Zone, Modified (Block 3), all under Stoney Creek Zoning By-law No. 3692-92; and, the Conservation/Hazard Land (P5, 645) Zone under City of Hamilton By-law No. 05-200. The proposed zoning will be discussed in the Analysis and

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Rationale section of this Report, and an evaluation of the proposed modifications to the “R4” Zone and P5 Zone are included in Appendix “D” to Report PED20082.

RELEVANT CONSULTATION

| Departments and Agencies | | |
|---|--|---|
| <ul style="list-style-type: none"> • Asset Management, Strategic Planning Division, Public Works Department; • Construction, Strategic Planning Division, Public Works Department; • Landscape Architectural Services, Strategic Planning Division, Public Works Department; and, • Recreation Division, Healthy and Safe Communities Department. | | No Comment |
| | Comment | Staff Response |
| Capital Budgets and Financing Section, Financial Planning and Policy Division, Corporate Services Department | <ul style="list-style-type: none"> • The owner must pay the outstanding storm, sanitary and sewer connection charge under By-law 11-052, Bridgeport Phase 1 for 42, 44 and 48 Lakeshore Drive. | <ul style="list-style-type: none"> • This matter is being addressed through Condition No. 1 of Appendix “G” to Report PED20082. |
| Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department | <ul style="list-style-type: none"> • Has no concerns with the revised Zoning By-law Amendment application proceeding to approval. • No additional road right-of-way dedications are required. • All outstanding servicing, stormwater management, grading, wastewater generation, watermain hydraulic analysis, groundwater impact, private road closure, dedication of | <ul style="list-style-type: none"> • Drainage and maintenance easements, outstanding servicing costs, utility relocates, decommissioning of any existing water wells or septic tanks, discharging existing reciprocal access easements, acquisition of City owned lands are being addressed through Condition Nos. 1 to 11 of Appendix “G” to Report PED20082. • All other matters will be addressed prior to |

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| | <p>road right-of-way widening, provision of sidewalks, etc. will be reviewed in more detail through conditions of Draft Plan of Condominium approval or at the Site Plan Control stage.</p> <ul style="list-style-type: none"> • There is no cost sharing anticipated for this development. | <p>registration of the condominium and at the Site Plan Control stage.</p> |
| <p>Forestry and Horticulture Section, Environmental Services Division, Public Works Department</p> | <ul style="list-style-type: none"> • Approved the Tree Management Plan, dated November 15, 2017. Three city trees are proposed for removal. Of these trees, two warrant replacement fees as per the public tree preservation & sustainability policy. • Payment of replacement fees and tree removal permit fees are required. • A Landscape Plan is required. | <ul style="list-style-type: none"> • These requirements are being addressed through Condition No. 21 of Appendix “G” to Report PED20082. |
| <p>Growth Planning Section, Growth Management Division, Planning and Economic Development Department</p> | <ul style="list-style-type: none"> • The 0.3 m reserve will need to be lifted to facilitate the subject proposal. • The address for the lands known as 54 Lakeshore Drive will require a change of address. • The Owner is to contact for a list of pre-approved Stoney Creek road names for the common element lane. • Requested that a note be included on the draft plan | <ul style="list-style-type: none"> • These requirements are being addressed through Condition Nos. 5 and 22 of Appendix “G” to Report PED20082. • Approval limitation has been added as Note No. 1 in the condition of Draft Plan of Condominium approval (see Appendix “G” to Report PED20082). |

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| | <p>conditions indicating that draft plan approval shall lapse if the plan is not given final approval within three years or an extension has been granted.</p> | |
| <p>Hamilton Conservation Authority</p> | <p><u>Stormwater Management</u></p> <ul style="list-style-type: none"> No significant concerns with the stormwater management concept; however, there are a few details to address. <p><u>Linkage Assessment and EIS</u></p> <ul style="list-style-type: none"> Migratory birds use the on-site white cedars as a resting place. Recommend coniferous trees be incorporated into the final planting plan. Use of native species in all plantings is recommended. Ensure that lighting is designed to reduce the likelihood of attracting migratory birds. All site preparation should be completed outside the migration and breeding bird timing windows in accordance with the federal <i>Migratory Birds Convention Act</i>. <p><u>Natural Hazards</u></p> <ul style="list-style-type: none"> A shoreline retaining wall has been constructed as per the approved design and HCA has no concerns | <p><u>Stormwater Management</u></p> <ul style="list-style-type: none"> Stormwater management details can be addressed at the Site Plan Control stage. Lot grading and drainage and erosion and sediment control plans are addressed as Condition Nos. 24 and 25 of Appendix “G” to Report PED20082. <p><u>Linkage Assessment and EIS</u></p> <ul style="list-style-type: none"> A landscaping plan is required as Condition No. 26 of Appendix “G” to Report PED20082. Site lighting design and site preparation works can be addressed at the Site Plan Control stage. <p><u>Natural Hazards</u></p> <ul style="list-style-type: none"> See Appendix “I” to Report PED20082 for a drawing showing the approved shoreline improvement works. HCA Permits and easements have been addressed through Condition Nos. 3, 12, 23 of Appendix “G” to Report PED20082. The lands to the south limit |

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| | <p>with the as-built wall. The stormwater outlet and headwall have yet to be constructed and will have to proceed through the existing HCA permit or a new permit depending on timing of construction.</p> <ul style="list-style-type: none"> • Required 6 metre erosion access allowance easement beyond the long-term stable top of bank is shown on the Draft Plan of Condominium. No further concerns provided the easement is registered on title in favour of the abutting landowners. • The lands within the shoreline erosion hazard limit to the south limit of the 6m erosion access allowance should be zoned as Conservation/Hazard Land (P5) Zone. | <p>of the 6m erosion access allowance are proposed to be rezoned to Conservation/Hazard Land (P5) Zone as shown in Appendix “C” to Report PED20082.</p> |
| <p>Public Health Services, Healthy Environments Division, Healthy and Safe Communities Department</p> | <ul style="list-style-type: none"> • Requested a Pest Control Plan during the construction / development phase of the project. | <ul style="list-style-type: none"> • This requirement is being addressed through Condition No. 27 of Appendix “G” to Report PED20082. |
| <p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and</p> | <ul style="list-style-type: none"> • Current right-of-way width of Watershore Drive is ±18.0 m. The local road standard width is 20.12 m. • There is joint ownership on Lakeshore Drive between | <ul style="list-style-type: none"> • Watershore Drive was approved and constructed in 2006 with an 18.0 m municipal right-of-way through the Bridgeport Phase 1 subdivision (62M- |

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| <p>Economic Development Department</p> | <p>the City and the surrounding residents. The applicant must obtain the City's portion through a purchase of sale.</p> <ul style="list-style-type: none"> • There is an existing reserve that fronts Lakeshore Drive which doesn't allow access onto Watershore Drive. • Municipal sidewalk is required along the frontage of the property. Some form of pedestrian treatment within the development to provide safe access for pedestrians to the municipal sidewalk is recommended. • 5.0 m x 5.0 m visibility triangles must be provided for each driveway access. | <p>1073). Because of this existing condition, additional right-of-way is not required.</p> <ul style="list-style-type: none"> • Reserves and land transfers / purchase are being addressed through Condition No. 5 of Appendix "G" to Report PED20082. • The provision of sidewalks and other site plan requirements will be addressed at the Site Plan Control stage. |
| <p>Recycling and Waste Disposal Section, Environmental Services Division, Public Works Department</p> | <ul style="list-style-type: none"> • This development is eligible for municipal waste collection service subject to meeting the City's requirements. The property owner must contact the City to request waste collection service to complete a site visit to determine if the property complies with the City's waste collection requirements. | <ul style="list-style-type: none"> • This requirement is being addressed as Note No. 2 on the conditions of Draft Plan of Condominium approval (See Appendix "G" to Report PED20082). |
| <p>Public Consultation</p> | | |
| | <p>Comment</p> | <p>Staff Response</p> |
| <p>Developer</p> | <p>The current owners of the subject lands are seeking the</p> | <p>The landowners have made the application for a zoning by-law</p> |

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| | rezoning and development of the land. However, it does not state the developer. Please specify all of the developers. | amendment and draft plan of condominium (vacant land) to determine land use and tenure. The landowners may proceed with the implementation of the plan or sell the subject lands to a developer once the planning approvals are in place. The application as submitted complies with the <i>Planning Act</i> application requirements. |
| Condominium Tenure | Clarify the purpose(s) for the tenure of the land as a condominium. Would all future property owners have equal access to the lakefront and have to contribute to the future maintenance required to the shoreline protection and private road? | A vacant land condominium corporation is required to establish their own by-laws to specify contributions from each unit owner to the private road and other common elements for continuing operation and maintenance, and establish who will have access to and maintain the shoreline. The shoreline protection area is shown as a common element and therefore will be owned and maintained by the future condominium corporation. |
| Shoreline Protection | What company studied the existing shoreline erosion hazard and prepared the proposed shoreline protection? Was a study conducted or report prepared on potential lakefront erosion to nearby properties near-by due to installation of the proposed shoreline protection? Do the approval agencies take this into consideration? | A Shoreline Hazard Assessment was prepared by Shoreplan Engineering Ltd. dated September 5, 2017. The shoreline protection works have been completed, inspected and approved by the Ministry of Natural Resources (MNR) and Hamilton Conservation Authority (HCA). These agencies have regard to offsite impacts; however, the details of which are outside the scope of these |

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| | | <i>Planning Act</i> applications. HCA inspected the shoreline retaining wall construction and confirm it has been constructed as per the approved design. |
| Lakeshore Drive | <p>Will Lakeshore Drive be physically closed off west of 34 Lakeshore Drive, and future owners will have no access to Lakeshore Drive?</p> <p>Will Lakeshore Drive be used for the development and construction traffic and activities, or will access be via Watershore Drive?</p> | <p>The proposed development will connect directly to Watershore Drive. The existing reciprocal access easement over 42, 44 and 48 Lakeshore Drive is required to be discharged, as required by Condition No. 10 of Appendix “G” to Report PED20082, removing legal access to Lakeshore Drive.</p> <p>Construction traffic and activities will be addressed through the Site Plan Control process.</p> |
| Grading and Drainage | <p>Have any elevation studies been conducted to ensure that the slopes proposed will not have water drainage and damage issues to the near-by homeowners on Lakeshore Drive?</p> | <p>A preliminary review of a grading plan has been completed by Development Engineering staff. All development is required to contain drainage on site. Detailed review of grading will be addressed during the Site Plan Control process.</p> |

Public Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 93 property owners within 120 m of the subject lands on February 14, 2018.

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A Public Notice Sign was posted on the property on March 16, 2018, and updated on July 15, 2020, with the Public Meeting date. Finally, Notice of the Public Meeting was sent to 100 property owners within 120 m of the subject lands on July 24, 2020.

Public Consultation Strategy

Pursuant to the City's Public Consultation Strategy Guidelines, the applicant prepared a Public Consultation Strategy which included an information letter delivered to residents within 120 m of the subject lands, Planning staff, and the Ward Councillor on March 9, 2018, and included contact information for recipients to provide feedback to the Applicant's Agent that would be recorded and provided to the City. No comments were received through this public consultation and no further consultation was required.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:
 - i) It is consistent with the PPS and conforms to A Place to Grow (2019);
 - ii) It complies with the policies of the Urban Hamilton Official Plan and the Urban Lakeshore Area Secondary Plan; and,
 - iii) The proposal represents good planning by, among other things, providing a compatible development that is in keeping with the existing lot pattern and configuration of the neighbourhood.

2. The proposed Zoning By-law Amendment is to change the zoning from the Rural Residential "RR" Zone to the Single Residential "R2-66" Zone, Modified (Block 1), the Single Residential "R2-67" Zone, Modified (Block 2), the Single Residential "R2-68" Zone, Modified (Block 3), and the Conservation / Hazard Lands (P5, 645) Zone, in order to permit 28 units for single detached dwellings on a private road.

The implementing by-law proposes modifications to the Single Residential "R2" Zone which are discussed in Appendix "D" to Report PED20082. The proposed development complies with the Urban Hamilton Official Plan and Urban Lakeshore Area Secondary Plan and places hazard lands that are susceptible to erosion in the Conservation/Hazard Land (P5) Zone, with consent to develop the lands adjacent to these hazard lands having been granted from the Hamilton Conservation Authority. It contributes to a complete community by providing an innovative form of dwelling for the surrounding established neighbourhood,

provides a built form that is compatible with the scale and character of the area, and builds upon the established lot and block pattern and built form of the existing residential neighbourhood. On the basis of the above, staff are supportive of the proposed Zoning By-law Amendment.

3. The proposed Draft Plan of Condominium (Vacant Land) is for 28 condominium units, with one existing single detached dwelling to be retained and 27 proposed new single detached dwellings, common elements for a private road, and exclusive use waterfront areas with a shoreline protection wall, as shown on the attached plan, marked as Appendix “F” to Report PED20082. The private condominium road will provide access to Watershore Drive. All 28 units will be accessed from the private condominium road. Staff are supportive of the Draft Plan of Condominium (Vacant Land) and recommend its approval, subject to conditions attached as Appendix “G” to Report PED20082.

Vacant land condominiums contain units and common elements. The “unit” is a vacant parcel of land on which a building or structure may be constructed only after the condominium is registered. In this regard, vacant land condominiums are akin to a subdivision with vacant parcels of land fronting a public road. The distinction is that private services, roadways, and amenities are constructed to private development standards, included as condominium common elements, and are the responsibility of the condominium corporation.

4. Site Plan Control By-law No. 15-176 applies to any single detached dwellings, including accessory buildings and structures, decks, and additions, forming part of an innovative house grouping development, which for the purposes of this by-law means any development proposing to locate multiple single detached dwellings on a single parcel of land. Further, no more than one single detached dwelling shall be located on a parcel of land. Accordingly, the vacant land condominium must be registered prior to the construction of any additional dwellings on the subject lands.

Prior to registration, a Site Plan Control application is required for the proposed development consisting of 28 vacant land units for single detached dwellings, common elements for a private road, and exclusive use waterfront. Matters to address through the Site Plan Control application include, but are not limited to, architectural design, landscaping, site lighting design, stormwater management, preliminary grading, road design, water and wastewater servicing, dedication of road right-of-way widening, and the provision of sidewalks. To ensure that these matters are addressed, the requirement for Site Plan Control, and subsequently to ensure the development is consistent with zoning and the final Site Plan

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Control approval, are secured as Condition Nos. 19 and 20 of Appendix “G” to Report PED20082. The Site Plan Control requirement is not intended to apply to individual dwellings on each vacant land condominium unit.

ALTERNATIVES FOR CONSIDERATION

Should the application be denied, the lands could not be developed with condominium units fronting onto a private condominium road. The lands can be developed in accordance with the Rural Residential “RR” Zone, which permits single detached dwellings, fronting on a public road.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Healthy and Safe Communities

Hamilton is a safe and supportive city where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A” – Location Map
- Appendix “B” – Draft Amendment to Zoning By-law No. 3692-92
- Appendix “C” – Draft Amendment to Zoning By-law No. 05-200
- Appendix “D” – Zoning Modification Chart
- Appendix “E” – Concept Plan
- Appendix “F” – Proposed Draft Plan of Condominium
- Appendix “G” – Special Conditions of Draft Plan of Condominium Approval
- Appendix “H” – Approved Shoreline Improvement Works
- Appendix “I” – Public Submissions