

September 17th, 2015

GL/B-15:65 & GL/B-15:66 (8475 English Church Road East, Glanbrook)

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Rural:

GL/B-15:65

The purpose of this application is to permit the conveyance of an irregular-shaped vacant parcel of land (having a frontage of approximately 169 metres and an area of approximately 0.78 hectares) for residential purposes, and to retain an irregular-shaped parcel of land (having a frontage 273 metres and an area of approximately 59 hectares) containing an existing golf course, club house, and service buildings.

This application is scheduled to be heard in conjunction with Consent application GL/B-15:66.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff note that there are no policies which speak to lot creation within Open Space designations; however, the following policy relating to lot creation applies:

- 1.1.4.2 In *rural* areas, *rural settlement areas* shall be the focus of growth and development and their vitality and regeneration shall be promoted.

Given that this proposal is to create a new parcel for residential purposes in the rural area, and given that the creation of the proposed lot is not directed to a rural settlement area, the subject proposal is not consistent with the policies of the PPS.

Additionally, Staff note Policy 1.2.6.1 and 1.6.9.2 of the Provincial Policy Statement (PPS), as the proposed lot (Part 2 on the attached survey) is intended to be developed for residential purposes and is located within the Noise Exposure Forecast (NEF) of the John C. Munro Hamilton International Airport. Specifically, Part 2 on the attached survey is within the 35-39 NEF. Staff note that Policy 1.6.9.1 a) states that "airports shall be protected from incompatible land uses and development by prohibiting new residential development and other sensitive land uses in areas near airports above 30 NEF/NEP." Accordingly, staff advise that the proposed severance is not consistent with the PPS.

Greenbelt Plan

The subject property is located outside of the Protected Countryside of the Greenbelt Plan. As such, there are no lot creation policies that pertain to this area.

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Rural Hamilton Official Plan

The subject property is located within the “Open Space” designation on Schedule D – Rural Land Use Designations of the Rural Hamilton Official Plan (RHOP).

Chapter C, Policy 3.3 outlines that Planning policies ensure sufficient and viable open spaces are retained, enhanced, expanded, and appropriately acquired. Lands designated as “Open Space” are public or private areas where the predominant use of or function of the land is for recreational activities, conservation management, and other open space uses.

Staff note that residential dwellings are not permitted within this designation, except where one ancillary residential dwelling may be permitted in conjunction with a resource-based recreational and tourism use, provided that it does not interfere with or have any negative impacts on the open space nature of the land (as per Policy C.3.3.2 b)). Staff also note that any proposed dwellings would not be ancillary to the existing open space uses.

The following policies apply with respect to lot creation in the “Open Space” designation:

F.1.14.2.1 a) Severances that create a new lot for the following purposes shall be prohibited:

i) Residential uses except in accordance with:

1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,

2) Policies F.1.14.2.1.b iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed.

As this proposal is to create a parcel for a new residential dwelling, it does not meet the intent of the Rural Hamilton Official Plan.

Staff also note that given that the “Open Space” designation does not permit the construction of a residential dwelling, a successful Official Plan Amendment would be required in order to proceed.

The Rural Hamilton Official Plan’s archaeology Policy B.3.4.4.3 states that “in areas of *archaeological potential* identified on Appendix F-2 – Rural Archaeological Potential, an archaeological assessment:

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a) May be required and submitted prior to or at the time of application submission for the following planning matters under the *Planning Act* when they involve *soil disturbance* or *site alteration*:

- i) site plan applications; and,
- ii) plans of condominium.

b) May be required for the following planning matters under the *Planning Act* when they involve soil disturbance or site alteration:

- i) minor variances; and,
- ii) consents / severances.

c) Shall only be required for the lands on which soil will be disturbed or *site alteration* will be conducted as a direct result of the proposal.

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

- 1) 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,
- 2) Along historic transportation routes.

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. If this severance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment of Caution #1.

Township of Glanbrook Zoning By-law No. 464

The New Rural Zoning By-law was passed by Council on July 10, 2015, but is not yet final and binding. Until such time that it is final and binding, both the Township of Glanbrook Zoning By-law 464 and the rural zones of the City of Hamilton Zoning By-law 05-200 are in force and effect, with the most restrictive provisions of the two By-laws applying to the property.

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The subject property is split-zoned Private Open Space "OS1-131" Zone, Modified and Open Space Conservation "OS3-132" Zone, Modified in the Township of Glanbrook. These zones restrict uses to the following:

OS1-131 Zone: a golf course, practice range, clubhouse including one (1) accessory dwelling unit for a manager/greenskeeper, parking area, and accessory uses, buildings and structures.

OS3-132 Zone: a golf course and accessory uses. No buildings or structures shall be permitted on the lands zoned OS3-132.

The portion of the property labelled as Part 2 on the attached survey appears to be located within the OS3-132 Zone. As such, a successful Zoning By-law Amendment would be required to permit structures on the property, residential uses, and any site-specific performance standards.

City of Hamilton Zoning By-law 05-200

The subject property is zoned Open Space "P4-164" Zone, Modified in the new Rural Zoning By-law, as part of City of Hamilton Zoning By-law 05-200.

The zone permits the following uses: Botanical Gardens, Cemetery, Community Garden, Conservation, Golf Course (excluding mini-golf), Nature Centres, Marina, Recreation, and Urban Farms, subject to a set of performance standards. Staff note that residential uses are not permitted.

Special Exception 164 has the effect of regulating the location of golf course-related structures on the property.

Staff note that a successful Zoning By-law Amendment would be required to implement residential uses and any site-specific performance standards.

Recommendation

It is the opinion of Staff that the proposed severance is not consistent with the Provincial Policy Statement, does not comply with the Rural Hamilton Official Plan, and does not conform to the Township of Glanbrook Zoning By-law 464 and City of Hamilton Zoning By-law 05-200. As such, Staff recommend that this application be denied.

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CAUTION:

1. Notwithstanding current surface conditions, the property has been determined to be an area of archaeological potential. Although an archaeological assessment is not required by the City of Hamilton, the proponent is cautioned that during development activities, should deeply buried archaeological materials be found on the property the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

CONDITIONS (If Approved):

1. That the proponent successfully obtain an Official Plan Amendment to permit the proposed use.
2. That the proponent successfully obtain a Zoning By-law Amendment to permit the proposed use and performance standards.

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The purpose of this application is to permit the conveyance of an irregular-shaped vacant parcel of land (measuring approximately 62 metres by 65 metres, and having an area of 0.4 hectares) for residential purposes, and to retain an irregular-shaped parcel of land (having a frontage 380 metres and an area of approximately 59 hectares) containing an existing golf course, club house, and service buildings.

This application is scheduled to be heard in conjunction with Consent application GL/B-15:65.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff note that there are no policies which speak to lot creation within Open Space designations; however, the following policy relating to lot creation applies:

- 1.1.4.2 In *rural* areas, *rural settlement areas* shall be the focus of growth and development and their vitality and regeneration shall be promoted.

Given that this proposal is to create a new parcel for residential purposes in the rural

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area, and given that the creation of the proposed lot is not directed to a rural settlement area, the subject proposal is not consistent with the policies of the PPS.

Additionally, Staff note Policy 1.2.6.1 and 1.6.9.2 of the Provincial Policy Statement (PPS), as the proposed lot (Part 1 on the attached survey) is intended to be developed for residential purposes and is located within the Noise Exposure Forecast (NEF) of the John C. Munro Hamilton International Airport. Specifically, Part 1 on the attached survey is within the 40+ NEF. Staff note that Policy 1.6.9.1 a) states that “airports shall be protected from incompatible land uses and development by prohibiting new residential development and other sensitive land uses in areas near airports above 30 NEF/NEP.” Accordingly, staff advise that the proposed severance is not consistent with the PPS.

Greenbelt Plan

The subject property is located outside of the Protected Countryside of the Greenbelt Plan. As such, there are no lot creation policies that pertain to this area.

Rural Hamilton Official Plan

The subject property is located within the “Open Space” designation on Schedule D – Rural Land Use Designations of the Rural Hamilton Official Plan (RHOP).

Chapter C, Policy 3.3 outlines that Planning policies ensure sufficient and viable open spaces are retained, enhanced, expanded, and appropriately acquired. Lands designated as “Open Space” are public or private areas where the predominant use of or function of the land is for recreational activities, conservation management, and other open space uses.

Staff note that residential dwellings are not permitted within this designation, except where one ancillary residential dwelling may be permitted in conjunction with a resource-based recreational and tourism use, provided that it does not interfere with or have any negative impacts on the open space nature of the land (as per Policy C.3.3.2 b)). Staff also note that any proposed dwellings would not be ancillary to the existing open space uses.

The following policies apply with respect to lot creation in the “Open Space” designation:

F.1.14.2.1 a) Severances that create a new lot for the following purposes shall be prohibited:

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- i) Residential uses except in accordance with:
 - 1) Policies F.1.14.2.1 b) iii) and F.1.14.2.8, where a dwelling may be severed as a result of a farm consolidation; and,
 - 2) Policies F.1.14.2.1.b iv) and F.1.14.2.4, where a dwelling within a designated Rural Settlement Area may be severed.

As this proposal is to create a parcel for a new residential dwelling, it does not meet the intent of the Rural Hamilton Official Plan.

Staff also note that given that the "Open Space" designation does not permit the construction of a residential dwelling, a successful Official Plan Amendment would be required in order to proceed.

The Rural Hamilton Official Plan's archaeology Policy B.3.4.4.3 states that "in *areas of archaeological potential* identified on Appendix F-2 – Rural Archaeological Potential, an archaeological assessment:

- a) May be required and submitted prior to or at the time of application submission for the following planning matters under the Planning Act when they involve *soil disturbance* or *site alteration*:
 - i) site plan applications; and,
 - ii) plans of condominium.
- b) May be required for the following planning matters under the *Planning Act* when they involve *soil disturbance* or *site alteration*:
 - i) minor variances; and,
 - ii) consents / severances.
- c) Shall only be required for the lands on which soil will be disturbed or *site alteration* will be conducted as a direct result of the proposal.

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Tourism, Culture and Sport for determining archaeological potential:

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- 1) 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,
- 2) Along historic transportation routes.

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. If this severance is granted, Staff require that the Committee of Adjustment attach Condition #1 to the application.

Township of Glanbrook Zoning By-law No.464

The New Rural Zoning By-law was passed by Council on July 10, 2015, but is not yet final and binding. Until such time that it is final and binding, both the Township of Glanbrook Zoning By-law 464 and the rural zones of the City of Hamilton Zoning By-law 05-200 are in force and effect, with the most restrictive provisions of the two By-laws applying to the property.

The subject property is split-zoned Private Open Space "OS1-131" Zone, Modified and Open Space Conservation "OS3-132" Zone, Modified in the Township of Glanbrook. These zones restrict uses to the following:

OS1-131 Zone: a golf course, practice range, clubhouse including one (1) accessory dwelling unit for a manager/greenskeeper, parking area, and accessory uses, buildings and structures.

OS3-132 Zone: a golf course and accessory uses. No buildings or structures shall be permitted on the lands zoned OS3-132.

The portion of the property labelled as Part 1 on the attached survey appears to be located within the OS1-131 Zone. As such, a successful Zoning By-law Amendment would be required to permit residential uses and any site-specific performance standards.

City of Hamilton Zoning By-law 05-200

The subject property is zoned Open Space "P4-164" Zone, Modified in the new Rural Zoning By-law, as part of City of Hamilton Zoning By-law 05-200.

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The zone permits the following uses: Botanical Gardens, Cemetery, Community Garden, Conservation, Golf Course (excluding mini-golf), Nature Centres, Marina, Recreation, and Urban Farms, subject to a set of performance standards. Staff note that residential uses are not permitted.

Special Exception 164 has the effect of regulating the location of golf course-related structures on the property.

Staff note that a successful Zoning By-law Amendment would be required to implement residential uses and any site-specific performance standards.

Recommendation

It is the opinion of Staff that the proposed severance is not consistent with the Provincial Policy Statement, does not comply with the Rural Hamilton Official Plan, and does not conform to the Township of Glanbrook Zoning By-law 464 and City of Hamilton Zoning By-law 05-200. As such, Staff recommend that this application be denied.

CONDITIONS (If Approved):

1. That the proponent successfully obtain an Official Plan Amendment to permit the proposed use.
2. That the proponent successfully obtain a Zoning By-law Amendment to permit the proposed use and performance standards.
3. That the proponent shall carry out an archaeological assessment of the portion of the property to be conveyed (shown as **Part 1** on the submitted plans) and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning confirming that all archaeological resource concerns have met conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism, Culture and Sport.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism, Culture and Sport (MTCS) should be notified immediately (416.314.7143). In the event

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that human remains are encountered during construction, the proponent should immediately contact both MTCS and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

Growth Management:

Note: Based on this application being approved and all conditions being met, the owner / applicant should be made aware that the lands to be Retained will remain as 8475 English Church Road East, and the lands to be conveyed (Part 1) will be assigned the municipal address of 8345 English Church Road East; and the lands to be conveyed (Part 2) will be assigned the municipal address of 8211 English Church Road East .

Building Division:

1. The subject lands are presently zoned "OS3-131" and "OS3-132" according to Glanbrook Zoning By-law 464. Be advised that By-law 15-173 was passed on July 10, 2015 which changed the zoning of this property from the "OS3-131" and "OS3-132" zones to the "P4, Special Exception 164" zone under Hamilton Zoning By-law 05-200. However, By-law 15-173 has been appealed to the Ontario Municipal Board and is therefore not yet final. At present, all proposed development is reviewed under both the existing and the proposed Zoning By-laws with the more restrictive zoning regulations of both Zoning By-laws being applied. If By-law 15-173 is approved at the Ontario Municipal Board, the zoning under this By-law will be applicable.
2. Both the "OS3-131 and OS3-132" and the "P4, Special Exception 164" do not permit the proposed use of single detached dwellings. As such, as a condition of approval, final approval of a zoning amendment shall be required.
3. The applicant should obtain an appropriate municipal address for the proposed parcels from the Growth Planning Section of the Planning and Economic Development Department prior to the issuance of a building permit.
4. In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

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5. In order to clear conditions, the applicant will be required to make application for a Zoning Compliance review and pay the relevant fees.
6. The applicant, as a condition of approval, shall be required to provide evidence from a qualified professional that the existing septic system will be in compliance with the Ontario Building Code with respect to its location to the new property lines. The septic system shall be located entirely within the lands to be retained or the lot lines shall be reconfigured to accommodate the existing septic system. A septic system is not permitted to be located on adjacent lands.
7. Details regarding the proposed single detached dwellings have not been provided. As such zoning compliance cannot be determined for the proposed future residential buildings.

CONDITIONS:

1. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).
2. The applicant shall apply for and receive final approval of a Zoning By-law Amendment as determined necessary by the Planning and Economic Development Department (Building Division - Zoning Section).
3. The owner shall submit survey evidence that the lands to be retained, including any existing structures, conform to the requirements of the Zoning By-law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
4. The owner shall submit survey evidence from a BCIN Qualified Designer (Part 8 Sewage System) or Professional Engineer that the existing septic system complies with the clearance requirements of Part 8 of the Ontario Building Code for the lands to be retained, to the satisfaction of the Planning and Economic Development Department (Building Division – Building Engineering Section).

Source Water Protection:

For the proposed applications to permit the conveyance of 2 parcels of land with 0.78ha (Part2) and 0.4ha (Part 1) for residential purposes and to retain a parcel of land with an area of 59ha containing an existing golf course, club house and service buildings,

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Source Protection Planning (SPP) offers the following comments:

- The proposed severances will rely on private water and sewage services; the preliminary soil characterization indicates the presence of clayey soils in this area;
- SPP will require a Site Plan with location of the new septic systems and wells for both severed lots and existing well and septic system for retained lot including distances from neighbouring wells and septic systems to demonstrate compliance with clearance requirements of Part 8 of the Ontario Building Code; the septic systems shall be located downgradient of the proposed wells on site and the wells on the adjoining properties;
- SPP will require a Design Brief and a complete Hydrogeological Study, prepared by a qualified professional. The Design Brief shall identify the expected water source, expected water usage/flows and any treatment required in consideration of raw water quality and intended water use for the severed lots. The Design brief should also describe the expected wastewater flows, identify any unusual effluent contaminants outside of typical sanitary flows and the intended location, nature and general design of the proposed wastewater treatment system and tile bed.
- A complete Hydrogeological Study shall identify from a water source perspective:
 - o the preferred water source for the severed lots including location of the new wells and reference the design brief with respect to their ability to provide the capacities and quality of water required to service the proposed development;
 - o the proponent shall provide a copy of the well record(s) for the new wells servicing the lots to be severed;
 - o in order to assess the raw groundwater quality of the proposed new wells, the proponent shall provide water quality data from the new wells to be installed on the lots to be severed; the Groundwater Quality Parameters to be tested shall follow the parameters stated in the Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines (MOECC 2003) including Tables 1, 2 and 4, the Radiological Parameters to be tested shall be only Gross Alpha and Gross Beta;
 - o if the sampling results demonstrate that there are exceedances the report shall include recommendations for water treatment, SPP and Public Health will review the recommendations;
 - o pump testing is advised to demonstrate that adequate supply is available without unreasonably interfering with the well supplies of existing users in the area; in this case, a selection of area wells should be monitored during the pump testing, the investigation should follow MOE Guideline D-5-5 Technical Guideline for Private wells: Water Supply Assessment.

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- A complete Hydrogeological Study shall identify from sewage treatment perspective:
 - o clarify the suitability of soils on-site for septic and tile (Class 4 system) treatment and disposal, in reference to the flows and expected quality as identified by the Design Brief;
 - o the study should include a nitrate boundary calculation (MOE Guideline D-5-4 Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment) to ensure that the effluent flowing off-site meets Reasonable Use Guidelines (MOE Guideline B-7) and that the lot sizes are adequate to ensure natural infiltration is sufficient to attenuate contaminant concentrations at the lot boundaries.

A copy of the *Guidelines for Hydrogeological Studies and Technical Standards for Private Services (Final, Nov 2013)* can be made available to the proponent to ensure that the Hydrogeological Study contains appropriate investigation and calculations.

Development Engineering – East:

The subject properties are located on the south side of English Church Road lying east of Upper James Street.

The applicants are requesting consents for the purpose of conveying the two vacant parcels of land (Parts 1 and 2) for future single detached residential development both fronting on English Church Road. A 59.64 ha. +/- parcel of land is to be retained for continued golf course use (Willow Landing).

There are no municipal services along this section of English Church Road. The proposed new lots are to be serviced by privately owned and operated wells and individual septic systems.

Schedule "C" – Rural Functional Road Classification of the City of Hamilton Rural Official Plan designates English Church Road as a collector road and is to have an ultimate road allowance width of 36.58m (120 feet). A previous road widening was taken in 2008 along the frontage of the lands [Part 5 and 10, 62R-17859] in order to widen the roadway to 20.1m [66 feet]. English Church Road was previously identified in Schedule "E" of the former Township of Glanbrook Official Plan and classified only as a local road. A further road widening dedication will be required as a condition of consent

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approval. The proposed remnant lands also fronts on to the east limit of Upper James Street. This roadway is to have an ultimate roadway width of 45.0m (150 feet). A road widening dedication will also be required from the original centreline of this roadway as a condition of consent approval.

The Owner/applicant will be required to enter into a Consent Agreement with the City in order to ensure that the future residential development on the new lots proceeds in a proper and orderly manner. This Agreement is required to ensure that drainage from this parcel will be contained and directed to the appropriate outlet without affecting adjacent properties. Please note that the Owner will be responsible for the relocation of any street furniture (i.e. fire hydrant, utility poles etc.) that may be required as a result of this development.

Should this application be approved we recommend that it be subject to the following conditions:

1. That the Owner enters into with the City of Hamilton and registers a Consent Agreement to deal with and address issues including, but not limited to: grading and drainage; cash payment requirements for items such as trees, inspection of grading and services to be installed; and securities for items such as: lot grading, driveway approaches, and any damages to the existing City infrastructure or public property during construction.
2. That sufficient land is dedicated to the City along English Church Road along the entire frontage of the new lots to be created and the remnant lands in order to establish the property line 18.28 metres (60 feet) from the centreline of the original English Church Road allowance and 22.86m (75 feet) from the original centreline of Upper James Street.

Hamilton Municipal Parking System (Parking Services):

No Comment

PUBLIC WORKS DEPARTMENT

Traffic, Engineering and Operations Division:

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The Applicant, or future builder, will be responsible for confirming that appropriate sightlines will be provided at any proposed driveway in a future development proposal.

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Any new or change in access requires an Access Permit from the Municipal Parking Office. Details on the permit process can be obtained from Dave Lavallo at ext. 4578.

CORPORATE SERVICES:

Budgets, Taxation & Policy (outstanding taxes):

The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.