

November 19, 2020

To:  
Legislative Coordinator,  
Planning Committee,  
City of Hamilton,  
71 Main Street, First Floor,  
Hamilton, Ontario  
L8P 4Y5

Via email to [clerk@hamilton.ca](mailto:clerk@hamilton.ca)

**Re:** City of Hamilton Official Plan amendment request

**Please note that I am requesting that my personal information remain confidential.**

I am requesting an amendment to Chapter F.14.3.1 of the Official Plan.

Within the Urban Hamilton Official Plan, the following policies require both the severed and retained lots to have frontage on a public road:

F.1.14.3.1 f) & F.1.14.3.3 d)– Neighbourhoods Designation;  
F.1.14.3.4 e) – Commercial/Mixed Use and Institutional Designations; and,  
F.1.14.3.5 d) – Employment Designation

Within the Rural Hamilton Official Plan, the following policy requires both the severed and retained lots to have frontage on a public road:

F.1.14.2.1 c) iv) – Agriculture, Rural, Specialty Crop, and Open Space and Rural Settlement Area Designations

Chapter F of the UHOP includes the following Policy in terms of Lot Creation:

1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 – Urban Land Use Designation, shall be permitted provided the following conditions are met:

- a. The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b. The lots comply with existing Neighbourhood Plans;
- c. The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d. The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- e. The lots are fully serviced by municipal water and wastewater systems; and,
- f. **The lots have frontage on a public road.**

I am requesting an amendment to section 1.14.3.1 more specifically to subsection (f). Consent for new lot creation should be allowed on a private road (nonpublic road) provided that the conditions set out subsections (a) to (e) are met.

I draw your attention to a case law *Watters v. Midland*, where decision was rendered by Ontario Municipal Board dated July 16, 2015. The case law is attached for your review. The case revolves around a similar situation where the property owner wished to sever lot on a private road and lands without direct access to an open, improved public road.

Town had a similar policy to not allow lot creations on private road.

The case comments that it is unusual for a private road to exist within the Town's settlement area.

The town Engineer gave evidence that Sumac Street in this case was one lane.

Sumac Street had no fire hydrants.

Appeal was upheld and severance were granted.

In paragraph [49] of the case, OMB Member Sloan allowed "a provisional consent for lot creation that is in keeping with the character of the area and that will not create a negative impact ...". Member Sloan also ordered the Official Plan amendment.

My submission relates directly to Windemere Road in Stoney Creek.

Where there is no financial or servicing hardship to the City severances should be allowed. Police and fire services, municipal water, municipal fire hydrants, municipal sanitary sewers, and garbage pickup services already exist on Windemere Road. Roadway was constructed by City contractor in 2018. There were new lot creations on this private road under the City of Stoney Creek prior to being assumed by City of Hamilton. Furthermore, westerly portion of Windemere Road is owned by the City the staff claim it is an unassumed roadway. The easterly portion is owned by Hamilton Conservation Authority. Windemere Road is mere meters away from such an improved public road and Fifty Point Joint Venture Development.

It would also benefit the City of Hamilton to amend the Official Plan and allow such severances where feasible to generate more revenue through taxes and other related fees.

Regards

Kevin Dhindsa

cc: Lisa Kelsey, Legislative Coordinator Planning Committee  
Delia McPhail, Planning & Economic Development Department  
Councillor Maria Pearson, Ward 10