



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	January 12, 2021
<b>SUBJECT/REPORT NO:</b>	Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12)
<b>WARD(S) AFFECTED:</b>	Ward 12
<b>PREPARED BY:</b>	Mike Davis (905) 546-2424 Ext. 1024
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION(S)**

That **Zoning By-law Amendment Application ZAR-20-032, by Neven Custom Homes Ltd. (Owner)**, for a change in zoning from the Settlement Residential (S1) Zone to the Settlement Residential (S1, 738) Zone and a Settlement Residential (S1, 738, H119) Zone in accordance with the conditions of Consent Application AN/B-B:12, in particular, to limit the maximum finished floor area of single detached dwellings and residential care facilities on future lots (Parts 1 to 3) to a maximum of 306.5 square metres and to prohibit development on a portion of the subject site until it can be demonstrated that long-term water takings are sustainable and that there are no significant negative impacts to ground water resources, on lands located at 1031 Highway 52 North, Ancaster, as shown on Appendix “A” to Report PED21002, be **APPROVED** on the following basis:

- (i) That the draft By-law attached as Appendix “B” to Report PED21002, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 2 of 15**

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- (ii) That the amending By-law be added to Schedule “C” of Zoning By-law No. 05-200;
- (iii) That the amending By-law apply the Holding Provisions of Section 36(1) of the *Planning Act*, R.S.O. 1990 to a portion of the subject lands by introducing the Holding symbol ‘H119’ as a suffix to the proposed Settlement Residential (S1, 738) Zone. The Holding Provision “H119” is to be removed to allow for the development of a single detached dwelling or residential care facility, conditional upon:
- (1) The applicant/owner entering into a ground water monitoring agreement with the City of Hamilton to support the construction of a single detached dwelling or residential care facility on the lands identified as Part 3 through Consent application AN/B-18:12; executing the terms of the ground water monitoring agreement, with monitoring occurring on the single detached dwellings or residential care facilities constructed on both Part 1 and Part 2 identified through Consent application AN/B-18:12, with monitoring beginning on the first date of occupancy for the single detached dwelling or residential care facility on the second lot to be developed and continuing for a minimum period of one year; and, providing satisfactory demonstration that long-term water takings are sustainable and that there are no significant impacts to ground water resources to the satisfaction of the Director of Hamilton Water.
- (iv) That the proposed change in zoning is consistent with the Provincial Policy Statement (PPS, 2020), conforms to the Greenbelt Plan (2017) and complies with the Rural Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

This report recommends approval of a Zoning By-law Amendment application by Neven Custom Homes Ltd. for a 2.35 hectare property known as 1031 Highway 52 North in the Copetown Rural Settlement Area. The purpose of the proposed Zoning By-law amendment is to:

- add a special exception to the existing Settlement Residential (S1) to limit the finished floor area of three future single detached dwellings or residential care facilities to a maximum of 306.5 square metres (3,300 square feet) each;
- add a definition for “finished floor area” to the proposed site-specific zoning to aid in the implementation of Condition No. 2 of approved Consent application (AN/B-18:12) related to the size “cap” on the proposed future dwellings; and,

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 3 of 15**

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- add a Holding Provision to a portion of the subject lands (future Part No. 3) to prohibit development of a single detached dwelling or residential care facility until a water monitoring program has been completed for the single detached dwellings or residential care facilities constructed on future Part 1 and Part 2 and the owner provides satisfactory demonstration that long-term water taking is sustainable and that there will be no significant negative impacts to ground water resources.

The proposed Zoning By-law Amendment is required to satisfy Condition No. 2 of approved Consent application (AN/B-18:12) for the creation of three residential lots served by individual private services (see Appendix “E” to Report PED21002 for Notice of Decision AN/B-18:12). These zoning regulations are being implemented to enhance protection for ground water resources through the planned development.

Based on the above, the proposal has merit and can be supported as it is consistent with the Provincial Policy Statement (2020), conforms to the Greenbelt Plan (2017), and complies with the Rural Hamilton Official Plan (RHOP).

**Alternatives for Consideration – See Page 14**

**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 prior to considering applications for an amendment to the Zoning By-law.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Applicant/Owner:	Neven Custom Homes Ltd.
Agent:	S. Llewellyn & Associates Ltd.
File Number:	ZAR-20-032

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 4 of 15**

Type of Application(s):	Zoning By-law Amendment
Proposal:	<p>The proposed Zoning By-law Amendment is to limit the finished floor area for three future single detached dwellings or residential care facilities to a maximum of 306.5 square metres (3,300 square feet) (see severance sketch attached as Appendix “D” to Report PED21002).</p> <p>The proposed amendment also applies a Holding Provision to a portion of the lands (shown as Part 3 in Consent application AN/B-18:12) to prohibit the construction of a single detached dwelling or a residential care facility until such time as a ground water monitoring program has been completed for the single detached dwellings or residential care facilities constructed on future Part 1 and Part 2 and it has been demonstrated that additional development would not negatively impact ground water resources.</p>
<b>Severance Details – AN/B-18:12</b>	
Part 1 – Lands to be Retained	53 m x 156 m 0.98 ha Vacant
Part 2 – Lands to be Severed	16.5 m x 89.8 m 0.66 ha Vacant
Part 3 – Lands to be Retained	16.5 m x 84.3 m 0.71 ha Vacant
<b>Property Details</b>	
Municipal Address:	1031 Highway 52 North, Ancaster (Copetown)
Lot Area:	2.35 hectares
Servicing:	Private on-site services.
Existing Uses:	Vacant
Proposed Uses:	Single detached dwellings

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 5 of 15**

<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
Greenbelt Plan:	The proposal conforms to the Greenbelt Plan (2017).
Official Plan Existing:	<ul style="list-style-type: none"> <li>• Designated “Rural Settlement Area” on Schedule “D” – Rural Land Use Designations.</li> <li>• Designated “Settlement Residential” on Volume 2: Map 2 – Copetown Rural Settlement Area Plan.</li> <li>• Portions designated “Core Areas” on Schedule “B” – Natural Heritage Features.</li> </ul>
Official Plan Proposed:	No change.
Zoning Existing:	Settlement Residential (S1) Zone and Conservation/Hazard Land – Rural (P6) Zone.
Zoning Proposed:	Part 1 Settlement Residential (S1, 738) and Conservation/Hazard Land – Rural (P6) Zone.
	Part 2 Settlement Residential (S1, 738) Zone.
	Part 3 Settlement Residential (S1, 738, H119) Zone.
Modifications Proposed:	<ul style="list-style-type: none"> <li>• Maximum finished floor area for single detached dwelling or residential care facility of 306.5 square metres (i.e. 3,300 square feet).</li> <li>• For the purposes of Special Exception 738, finished floor area shall be defined as the aggregate horizontal area measured from the exterior faces of the exterior walls of all floors of a building that are finished with flooring, wall covering (trimmed), and ceiling.</li> </ul>
<b>Processing Details</b>	
Received:	August 5, 2020
Deemed Complete:	August 14, 2020

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 6 of 15**

Notice of Complete Application:	Notice sent to 21 property owners within 120 m of the subject property on August 17, 2020.
Public Notice Sign:	Sign Posted: August 23, 2020. Sign Updated: December 9, 2020.
Notice of Public Meeting:	Notice sent to 21 property owners within 120 m of the subject property on December 18, 2020.
Public Consultation:	The public consultation strategy relies on <i>Planning Act</i> requirements carried out by the City including installation of a Public Notice Sign, circulation of the Notice of Application to all landowners within 120 metres of the site and the holding of a statutory public meeting before the City's Planning Committee.
Public Comments:	No written correspondence was received.
Processing Time:	160 days

**Consent for Severance Application AN/B-18:12**

On November 28, 2019, the Committee of Adjustment granted approval of Consent application AN/B-18:12 by Neven Custom Homes Ltd. for the creation of three residential lots (one severed lot and two retained lots) on 1031 Highway 52 North in the Copetown Rural Settlement Area (see severance sketch attached as Appendix "D" to Reports PED21002).

The consent application was originally considered and tabled by the Committee of Adjustment in 2018. As a result of the tabling, hydrogeological/ground water studies were required because each new lot was proposed to be less than 1.0 ha (i.e. lot sizes: 0.71 ha, 0.66 ha, and 0.98 ha respectively). In accordance with RHOP policy, lots less than 1.0 ha must be assessed regarding their potential short and long-term cumulative impacts on the quality and quantity of groundwater and surface water resources. Further, the southern portion of the property contains a Provincially Significant Wetland regulated by the Grand River Conservation Authority. An EIS was completed and the severance sketches were modified through the review process so that the identified Core Areas and Vegetation Protection Zones are all within the southern lot (future Part 1).

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 7 of 15**

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Condition No. 2 of the Consent approval requires the applicant to obtain approval of a Zoning By-law Amendment to limit the finished floor area of new single detached dwellings or residential care facilities to 306.5 square metres (3,300 square feet) and to apply a Holding Provision to Part 3 which would prohibit the construction of a single detached dwelling or residential care facility on Part 3 until completion of a water monitoring program for the single detached dwellings or residential care facilities constructed on future Part 1 and Part 2 and successful demonstration that the long-term water taking is sustainable and that there are no significant negative impacts to ground water resources in the area (see Appendix “E” to Report PED21002 for the Notice of Decision and consent conditions).

**Minor Variance Application AN/A-18:68**

On November 28, 2019, the Committee of Adjustment approved Minor Variance application AN/A-18:68 for reduced lot widths, a reduced side yard setback and an increased maximum building height on the three lots.

Figure 1: Approved Minor Variances (AN/A-18:68)

Lot #	Regulation	Required	Approved Variance
Part 1	Side Yard Setback (min.)	3.0 metres	2.0 metres
	Building Height (max.)	10.5 metres	12.0 metres
Part 2	Lot Width (min.)	30 metres	16.5 metres
	Building Height (max.)	10.5 metres	12.0 metres
Part 3	Lot Width (min.)	30.0 metres	16.5 metres
	Building Height (max.)	10.5 metres	12.0 metres

Approval of these variances satisfied Condition No. 4 of the Consent conditions (see Appendix “E” to Report PED21002). The approved variances will continue to apply to the site in addition to the new regulations being added by way of the proposed Zoning By-law Amendment.

**Existing Land Use and Zoning:**

	Existing Land Use	Existing Zoning
<b>Subject Property:</b>	Vacant.	Settlement Residential (S1) Zone and Conservation/Hazard Land – Rural (P6) Zone.

**Surrounding Lands:**

<b>North</b>	Single detached dwellings.	Settlement Residential (S2, 51) Zone and Settlement Residential (S1) Zone.
<b>East</b>	Copetown Lions Park and Community Centre.	Community Park (P2) Zone.
<b>South</b>	Single detached dwellings and woodlands.	Agricultural (A2) Zone and Conservation/Hazard Land – Rural (P6) Zone.
<b>West</b>	Single detached dwellings and Eagle Worldwide Retreat and Revival Centre.	Settlement Residential (S1) Zone and Conservation/Hazard Land – Rural (P6) Zone.

**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 (PPS 2020). The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with the PPS and conform to the Greenbelt Plan (2017).

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 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. sustainable use of water resources) are discussed in the Official Plan analysis that follows.

As the recommended Zoning By-law amendment complies with the Rural Hamilton 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*,
- consistent with the Provincial Policy Statement (2020); and,
- conforms to the Greenbelt Plan (2017).



## **Rural Hamilton Official Plan**

The subject lands are identified as “Rural Settlement Area” on Schedule “D” – Rural Land Use Designations and designated “Settlement Residential” on Volume 2: Map 2 – Copetown Rural Settlement Area in the Rural Hamilton Official Plan (RHOP).

As noted previously in this report, Zoning By-law No. 05-200 currently applies a Settlement Residential (S1) Zone to the subject site. The S1 Zone provides for a limited range of permitted uses and regulations (minimum lot size, setbacks, maximum height, etc.) that generally implement the Rural Hamilton Official Plan policies for “Settlement Residential” Areas.

The following policies of the RHOP, amongst others, are applicable to the proposed Zoning By-Law Amendment.

### **Copetown Rural Settlement Area Plan**

“A.2.2.6.4 New residential lots shall be of a minimum size of 1 hectare unless there is satisfactory evidence in the form of a hydrogeological study and a soils analysis that smaller lot sizes are feasible, however, they shall not be less than 0.4 hectares. The hydrogeological study and soils analysis shall assess the short and long term cumulative impacts on the quality and quantity of groundwater and surface water resources to the satisfaction of the Province and the City.”

Through the Consent application process, a hydrogeological/ground water study was reviewed and generally approved by Hamilton Water Staff. Based on the conceptual plans for the development, it was found that the proposed lot sizes were generally appropriate and that development of three lots would not introduce negative impacts to local groundwater quantity or quality.

As an additional safeguard, it was recommended through the ground water study and Staff review process that the City implement capacity/occupancy limits on the future single detached dwellings or residential care facilities to ensure that water demands of the proposed development would be consistent with what was reviewed and discussed in the report (i.e. include regulations to prevent the development of large scale 5+ bedroom dwellings).

The existing Settlement Residential (S1) Zone regulations that apply to the site do not contain any maximum dwelling size restrictions. As such, this Zoning By-law amendment is required to restrict the maximum size of any habitable buildings in accordance with the ground water report/review recommendations and provide a further

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 10 of 15**

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tool to manage water use. Based on the concept plans submitted by the Applicant, it was agreed with staff and affirmed by the Committee of Adjustment that a maximum finished floor area limit of 306.5 square metres (3,300 square feet) would be appropriate.

As a further safeguard to local ground water resources, Hamilton Water recommended that development of future “Lot 3” (shown as Part 3 of the severance sketch attached as Appendix “D” to Report PED21002) be prohibited until the applicant carried out a water monitoring program for any new residential buildings on Lots 1 and 2. The results of the monitoring program will help to more accurately characterize the anticipated water demands for the Part 3 and the Holding Provision provides a tool to ensure that Part 3 can only be developed if it is successfully demonstrated (by way of a one year monitoring program) that the long-term water taking is sustainable and that there is no significant negative impact to local ground water resources.

Overall, the proposed zoning by-law amendment will implement the recommendations of ground water analysis completed through the Consent application process and further implement the lot creation policies of the Copetown Rural Settlement Area Plan. As such, the proposal complies with the RHOP.

**City of Hamilton Zoning By-law No. 05-200**

The majority of the subject lands are currently zoned Settlement Residential (S1) Zone with the southeast portion being zoned Conservation/Hazard Land – Rural (P6) Zone. The S1 Zone permits agriculture, residential care facilities and single detached dwellings. The P6 Zone permits agriculture, conservation, passive recreation and secondary uses to agriculture. The P6 Zone also permits single detached dwellings subject to submission and approval of an Environmental Impact Statement.

The Settlement Residential (S1) Zone provides regulations for minimum lot size, setbacks and maximum height but does not contain regulations for maximum lot coverage or maximum building size that would control the overall floor area for new residential buildings. As such, it is necessary to add a new special exception to Schedule “C”: Special Exceptions for Specific Lands, to restrict the maximum finished floor to 306.5 square metres for single detached dwellings and residential care facilities.

For the purposes of the proposed Special Exception No. 738, the amending by-law includes a definition of “finished floor area”. For this site, it shall mean the aggregate horizontal area measured from the exterior faces of the exterior walls of all floors of a building that are finished with flooring, wall covering (trimmed), and ceiling. Finished floor area will not include “unfinished” basement or attic space that would be included within the “gross floor area” of the applicable buildings. This addition of this definition

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200 for Lands Located at 1031 Highway 52 North, Ancaster (PED21002) (Ward 12) – Page 11 of 15**

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will aid in the interpretation of the by-law provisions and will effectively implement the Committee of Adjustment direction to “cap” the future residential building sizes.

Additionally, the amending by-law will apply a Holding Provision to the lands identified as Part 3 which requires the owner enter into a water use monitoring agreement with the City of Hamilton, execute the terms of the agreement and be required to demonstrate that long-term water takings are sustainable and that there are no significant negative impacts to ground water resources.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
<ul style="list-style-type: none"> <li>• Grand River Conservation Authority;</li> <li>• Hydro One Networks Inc.;</li> <li>• Parks and Cemeteries, Public Works Department;</li> <li>• Public Health, Healthy and Safe Communities Department;</li> <li>• Landscape Architectural Services, Public Works Department; and,</li> <li>• Transportation Planning and Parking Division, Planning and Economic Development Department.</li> </ul>		No Comments
<p>Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department</p> <p>-and-</p> <p>Water &amp; Wastewater Planning, Hamilton Water Division, Public Works Department.</p>	<p>A successfully executed monitoring agreement will be required to support the application.</p>	<p>The ground water monitoring agreement will be required to be executed as a Condition of Consent approval (Condition # 18) and the proposed holding zone. This Zoning By-law amendment is intended to aid in the implementation of the intent of that agreement, which is to restrict development on Lot 3 until such time as it can be satisfactorily demonstrated there will be no negative impacts to local ground water resources.</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 21 property owners within 120 m of the subject property on August 17, 2020 and a Public Notice sign was posted on the property on August 23, 2020. The Public Notice Sign was updated with the Public Meeting Date on December 9, 2020. Finally, notice of the Public Meeting was given on December 18, 2020 in accordance with the requirements of the *Planning Act*.

At the time of writing this report, no submissions have been received from members of the public.

### **Public Consultation Strategy**

The Public Consultation Strategy prepared by the applicant's agent, S. Llewellyn & Associates Ltd., relies primarily on *Planning Act* requirements carried out by the City of Hamilton. These *Planning Act* requirements include installation of a Public Notice Sign, circulation of the Notice of Application to all landowners within 120 metres of the site and the holding of a statutory public meeting before the City's Planning Committee. The Applicants have indicated they will be present to answer questions at the statutory public meeting before Planning Committee. In addition, notification of nearby residents occurred through the previous Consent and Minor Variance application processes.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

1. The Zoning By-law Amendment has merit and can be supported for the following reasons:
  - (i) The application is consistent with the Provincial Policy Statement (2020) and conforms to the Greenbelt Plan (2017);
  - (ii) The application complies with the policies of the Rural Hamilton Official Plan; and,
  - (iii) The application provides for greater protection of ground water resources and will address Condition No. 2 of the Consent conditions.
  
2. Zoning By-law Amendment

Zoning By-law No. 05-200 applies a Settlement Residential (S1) Zone to the subject site. The S1 regulations provide for permitted uses and regulations (minimum lot size, setbacks, maximum height, etc.) that implement the land use policies for Settlement Residential Areas outlined in the RHOP. The permitted uses include agriculture, residential care facilities and single detached dwellings.

With specific regard to this proposal, the S1 Zone does not contain regulations for maximum lot coverage or residential building size regulations that would control the overall floor area for single detached dwellings or residential care facilities. As such, it is necessary to add a new special exception to restrict the maximum finished floor area to 306.5 square metres for a single detached dwelling or residential care facility. It is also necessary to include a definition for “finished floor area” to aid in the implementation of Condition No. 2, ensure consistency with the conceptual plans reviewed through the Consent process and avoid interpretation issues at the building permit stage. Further details regarding the proposed special exceptions are provided in the zoning modification chart attached as Appendix “C” to Report PED21002.

Additionally, the amending by-law will apply a Holding Provision to the lands identified as proposed “Part 3” which requires the owner enter into a water use monitoring agreement with the City of Hamilton for the single detached dwellings or residential care facilities constructed on future Part 1 and Part 2, execute the terms of the agreement by monitoring and be required to demonstrate that long-term water takings are sustainable and that there are no significant negative impacts to ground water resources to the satisfaction of the Director of Hamilton Water prior to removal.

The proposed Zoning By-law Amendment will satisfy Condition No. 2 of approved Consent application (AN/B-18:12) for the creation of three residential lots served by individual private services.

### 3. Ground Water Resources

The hydrogeological/ground water study completed through the consent application process aimed to assess the anticipated short and long term cumulative impacts to local quality and quantity of groundwater in Copetown. Overall, the Committee of Adjustment was satisfied that, subject to the approved conditions, there would be no negative impact on groundwater as a result of the proposed development. The proposed limits of maximum finished floor area for single detached dwellings will provide a general “cap” to the occupancy and bedroom count for the future residential buildings and will thereby assist in controlling daily water use from the properties. The proposed Holding Provision

applies an additional layer of protection in that the City, through the required monitoring program, will have clear data to support an assessment of ground water quantity impacts before moving forward with the development of Part 3. There is no obligation on the City to remove the Holding Provision if satisfactory demonstration cannot be provided. As such, the additional Zoning regulations support local and provincial planning objectives related to sustainable use of ground water resources.

4. Site Plan Control

Given that the proposed lots are within 120 metres of “Core Areas” as identified on Schedule B – Natural Heritage Features of the Official Plan, future development of single detached dwellings or residential care facilities on each lot will be subject to Site Plan Control.

## **ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment application be denied, the Applicant would not be able to fulfil the conditions of consent approval (AN/B-18:12). In this case, the property could be utilized in accordance with the existing Settlement Residential (S1) Zone provisions of the City of Hamilton Zoning By-law 05-200. The existing zoning permits single detached dwellings with a minimum lot area of 0.4 hectares.

## **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.

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Healthy and Safe Communities**

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### **Clean and Green**

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### **Built Environment and Infrastructure**

**SUBJECT: Application to Amend the City of Hamilton Zoning By-law No. 05-200  
for Lands Located at 1031 Highway 52 North, Ancaster (PED21002)  
(Ward 12) – Page 15 of 15**

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Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Location Map

Appendix “B” – Amendment to Zoning By-law No. 05-200

Appendix “C” – Zoning Modification Chart

Appendix “D” – Severance Sketch

Appendix “E” – Notice of Decision/Conditions for AN/B-18-12