



20 Rousseaux Street, Ancaster L9G 2W5

**Mayor and Members of Council**

January 13, 2021

We bring to your attention and ask you take immediate steps to remedy a serious breakdown in governance at the City that strikes at the heart of trust and confidence.

The matter relates to rezoning and Official Plan amendments at 15 Church Street in Ancaster (PED20205).

This letter deals solely with the process, not the merits of the application.

**We ask Council to withhold approval of bylaw/official plan recommendations by the Planning Committee pending a full review as they are based on a Staff Report we believe may have material errors and omissions.**

We realize all members of the Planning Committee sit on Council. I ask that you step back from that role, and consider the ramifications of admitting documents with obvious errors to a statutory decision making process.

**LPAT:** Further, we recognize appealing to LPAT is the usual solution. Is it fair to put the cost and effort of LPAT on the backs of citizens when one of the reasons for an appeal is errors in a City document? No one can predict LPAT, but it seems to us a decision based on a Staff Report with material errors in it is unlikely to be upheld.

**The Entire Process Rests on Staff Reports:** City Councillors are seldom subject matter experts in the items that come before them. Decisions are made almost exclusively on recommendations that come from staff, and these documents are usually provided only days before a meeting. They have to be accepted at face value. Citizens rely even more on staff reports as the maze of Bylaws, Official Plans, and Secondary Plans is very complex. Again, it is a matter of days from seeing a Staff Report and a meeting.

There is no meaningful public input to planning decisions with the procedures used, and that places even more emphasis on valid information and assumptions in staff reports

It is a basic principle reports must be accurate, complete, balanced, transparent. We regret to say this particular report seems to miss these standards.

## The Issues

**Errors of Fact: We will not set these out in detail but the errors are material:**

- **Assumption 15 Church is in the Community Node in UHOP. It is not—it is residential.** All UHOP says is the downtown cores of the former municipalities are in Community Nodes.
- **Assumption that 15 Church is Mixed Use—Pedestrian. That describes full commercial areas. 15 Church is ER Residential.**
- **Assumption 15 Church is in the Community Node of the Ancaster Secondary Plan. It is not**
- **Assumption 15 Church is in the Village Core in the Secondary Plan. It is not.**

These are not opinions. They are facts, taken directly from applicable legislation. See [Appendix B](#)

**Omission:** Further, there is an omission concerning permitted light commercial uses in the Wilson Street Secondary Plan designation being sought. A section (2.7.8.3) dealing with implications of Residential 3 was partly redacted and only some of it included in the report. 8 sections or sub sections relating to commercial use were not included. See [Appendix A](#).

Unless a reader sought out the wording deep in the Secondary Plan it is unlikely they would connect town homes and commercial use. I am sure most citizens thought they were responding to a plan to put town homes in the neighbourhood, nothing more. That is not so.

**Staff Aware This is a Sensitive Issue:** We know Staff is well aware of resident sensitivity to commercial use at this location. This flows from a 2008 attempt to allow a commercial use. The City opposed the application. The OMB found in favour of the City. A review of that decision might be helpful.

**The lack of full disclosure in the report is problematic and we believe will lead to a loss at LPAT for the City. It would be prudent to stop the approval process now.**

**Result is it Looks Like a Minor Issue—It is Not:** The overall impression left in the verbiage on the policies that flow from these assumptions is it is a minor issue to allow Low Density Residential 3. The subject land is already in the Community Node and Village Core so rezoning to allow a use from the Community Node is a minor issue. **That is a very misleading impression to leave for users of the report.**

**A Correct Set of Facts:** The set of facts that should be set out initially in this Report are:

- Low Density Residential 1 with ER single home zoning;
- not in the Community Node;
- not in the Village Core;
- no Residential 3 or commercial in any residential area to date;
- staff disclosure that Residential 3 permits some commercial uses;
- Intensification targets for residential have been met



If it was this set of facts that underly the Report the discussion on moving it to Residential 3 could have a very different tone. Neighbourhoods all along Wilson St would be alerted uses permitted only on Wilson may come around the corner into their neighbourhood in the future.

**Who Knew?** We suggest many people with knowledge of the matter and professional knowledge of the Planning process knew or should have known this was a flawed report. For whatever reason, they chose not to point this out to the Planning Committee. We find this deeply disappointing,

**Transparency?** In our view transparency requires full and prominent disclosures. Key disclosures were omitted from the Report:

- that approval would move commercial uses into a heritage residential area and this would be a precedent.
- The possibility a different owner before construction could take advantage of this in a different way than 6 townhomes should have been included
- Full disclosure that an OMB decision prohibited this change in 2008 is material and should be included. The facts around 15 Church and applicable City legislation have not changed.

**Balance:** The Staff Report has no discussion about advantages of denying the applications and leaving the subject lands as ER, Residential 1. One sentence, that it will remain ER, is it. Staff Reports should be balanced regardless of the views of authors and both sides of a decision must be included.

**Delegation:** I was permitted 5 minutes for a virtual delegation on January 12. I regret I failed to communicate the gravity of this situation, and hope that this more fulsome explanation will do that.

**Our opinion should not be taken at face value,** but we expected Planning Committee would refer the matter to senior staff to see if concerns are valid. Instead, the process moved on.

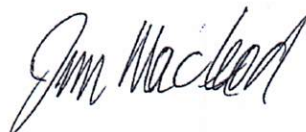
**Table Bylaw Amendments:** We are now asking Council to exercise the due diligence we believe the Planning Committee could have exercised. This means to table consideration of the bylaw and Official Plan amendments for 15 Church pending review of the Staff Report the recommendation is based on.

**Fresh Eyes:** We believe an independant consultant should review this Staff Report for accuracy and completeness.

We believe a corrected Staff Report could be different enough that the process to date may be invalidated. We realize this would cause issues, but we cannot see any way to move forward with decisions and preserve public trust in the City without a fresh process.

If any further information is needed I am willing to assist in any way possible.

Sincerely



Jim MacLeod

## APPENDIX A—LETTER TO HAMILTON COUNCIL JANUARY 13

b) In addition to Section E.3.4 – Low Density Residential of Volume 1, for lands designated Low Density Residential 3 on Map B.2.8-1 - Ancaster Wilson Street Secondary Plan: Land Use Plan, the following policies shall apply:

1. i) In addition to Policy E.3.4.3 of Volume 1, all forms of townhouses and low-rise *multiple dwellings* shall be permitted.
2. ii) Notwithstanding Policy E.3.4.4 of Volume 1, the *net residential density* range shall be 20 - 60 units per hectare.
3. \*iii) In addition to Policy E.3.4.3 of Volume 1, small scale commercial uses shall be permitted, including business and professional offices, medical office uses or clinics, day nursery, artist studios, funeral homes, and personal services.
4. \*iv) Notwithstanding Policy 2.8.7.3 b)iii) of this Plan, prohibited uses include retail, financial establishments, restaurants, motor vehicle service stations, and gas bars.
5. \*v) In accordance with Policy 2.8.7.3 b)iii) of this Plan, commercial uses shall be subject to the following:

\*1. Permitted uses shall be located in stand-alone commercial or mixed use buildings;

\*2. Residential units are encouraged on upper floors as part of any proposed *development or redevelopment*;

\*3. For mixed use buildings, commercial uses shall be located on the first floor only;

\*4. Parking shall be accommodated on site or through shared parking lots, where feasible;

\*5. New stand-alone commercial buildings shall be subject to the following provisions:

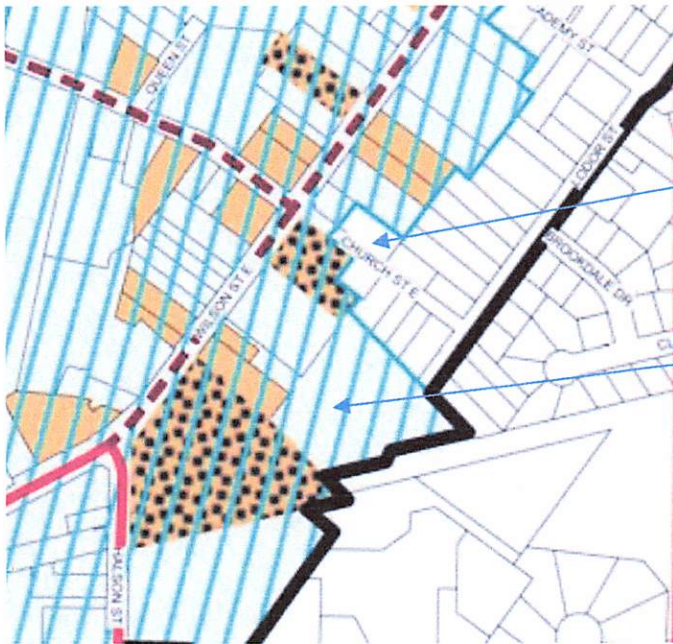
\*a. Commercial uses shall not exceed a total gross floor area of 500 square metres; and,

vi) New *development or redevelopment* shall ensure the height, massing, scale, and arrangement of the buildings and structures are *compatible* with the abutting uses.

\*REDACTED FROM WILSON STREET SECONDARY PLAN BEFORE INSERTING IN STAFF REPORT



**APPENDIX B—Letter to Hamilton City Council January 13  
Official Plan/Bylaw for Subject Property and Adjoining Area**



Subject Property 15 Church Not In Community Node. Zoned ER. Low Density Residential 1 Official Plan

Cross Hatch shows Community Node—Official Plan. Zoned C5a in adjacent areas. Report states Subject Property in this zone



Shaded Area shows Village Core—Official Plan. Zoned C5a. Report States subject property is in this zone

Subject Property 15 Church Not In Village Core. Zoned ER, Low Density Residential 1 Official Plan