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March 18, 2022

Chair and Members of Committee

City of Hamilton  
Planning Committee  
City Hall  
71 Main Street West  
Hamilton, Ontario  
L8P 4Y5

Dear Committee Members:

**RE: WATERDOWN COMMUNITY NODE SECONDARY PLAN & CHANGES TO  
FLAMBOROUGH ZONING BY-LAW NO. 90-145-Z AND THE CITY OF HAMILTON ZONING  
BY-LAW NO. 05-200, TO IMPLEMENT THE DIRECTIONS OF THE WATERDOWN  
COMMUNITY NODE SECONDARY PLAN STUDY - 198 VICTORIA ST**

We are the planning consultants retained by the Owner of 198 Victoria St (“subject lands”) to provide planning services with respect to these lands. We have been monitoring the Waterdown Community Node Secondary Plan (“SP”) and Zoning By-law Amendment (“ZBLA”) processes and have reviewed the previous draft and the final proposed materials prepared by staff. We offer these comments to Committee and Council to assist in making a good land use planning recommendation and decision respectively. Our comments will focus primarily on the subject lands and proposed provisions of the ZBLA.

## **Site Context and Background**

The subject lands are municipally known as 198 Victoria Street, and are in the urban area of Waterdown, at the south-east corner of the intersection of Parkside Dr & Victoria St, as illustrated in **Figure 1**. The lands are legally described as PCL 12-1, Section M-5, Lots 12 & 13, Part 1 of Registered Plan M-5, in the City of Hamilton. It should be noted that Plan M-5 is no longer a Registered Plan of Subdivision under the Planning Act. The subject lands are a corner lot with approximate frontage of 49.4 m along Victoria St, and frontage of approximately 61.0 m along Parkside Dr, with an approximate lot area of 3,009 m<sup>2</sup>. As illustrated in **Figure 2**, the surrounding neighbourhood consists of a variety of lot areas and shapes. In this context, the subject lands are the largest lot within the urban area in the immediate neighbourhood context.

The subject lands are currently developed with a two-storey residential dwelling that has an approximate ground floor area of 159 m<sup>2</sup> with attached porches totaling approximately 29 m<sup>2</sup>, and an above-ground pool. There is a one storey detached garage on the southern portion with an approximate ground floor area of 76 m<sup>2</sup>. These conditions are illustrated in **Figure 3**. The property is lined with trees and shrubs along Parkside Dr, and along the interior property line to the south. The front of the property, along Victoria St has a variety of trees and small shrubs within a landscaped yard, with a row of trees lining the south portion of the driveway. Existing dwellings in the area exhibit a range of styles, shapes and sizes, as illustrated in **Figures 4-10**.

The existing dwelling on the subject lands has been inventoried within the City's Municipal Heritage Register as having historical value (Vance House). Inclusion on the Register signals that the City's broad position is that dwellings with cultural heritage value or interest should be maintained on site if possible. Given this, the proposed land division is based on retaining the existing dwelling as a key feature of the immediate neighbourhood context.



Figure 2 - Lot Area Comparison of Subject Lands and Context; City of Hamilton Mapping



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*Figure 3 - Existing Dwelling and Detached Garage as Viewed from Victoria St*



*Figure 4 - Image of Dwelling in Surrounding Context*



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*Figure 5 - Image of Dwelling in Surrounding Context*



*Figure 6 - Image of Dwelling in Surrounding Context*



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*Figure 7 - Image of Dwelling in Surrounding Context*



*Figure 8 - Image of Dwelling in Surrounding Context*



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*Figure 9 - Image of Dwelling in Surrounding Context*



*Figure 10 - Image of Dwelling in Surrounding Context*

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## Active Applications for Land Division and Minor Variance

We have submitted concurrent applications for Land Division and Minor Variance for the subject lands, and these applications remain active. The Land Division seeks to divide the subject lands into a total of three (3) new lots. The proposal is centered on retaining the existing dwelling, driveway and detached garage, while creating one new lot fronting on Victoria St and one new lot fronting on Parkside Dr. The size and shape of the proposed lots were established based on a review of the site context and the range of lot shapes in the neighbourhood vicinity.

The existing lot has a frontage of 49 m along Victoria Street, 61 m along Parkside Dr, and lot area of 3,009 m<sup>2</sup>. The proposed Consent applications would result in the creation of 3 residential lots in total, as follows:

1. **Ultimate Retained Lands** - Includes the existing dwelling, detached garage, etc., with a total lot area of approximately +/- 1319.3 m<sup>2</sup>;
2. **Proposed Lot 1** – Proposed new lot with frontage on Victoria St of +/- 15.25 m, a depth of +/- 61 m, and a total area of +/- 929.36 m<sup>2</sup>; and,
3. **Proposed Lot 2** – Proposed new lot with frontage on Parkside Dr of +/- 22 m, a depth of +/- 34 m, and a total area of +/- 751.11 m<sup>2</sup>

These proposed lots maintain consistency and compatibility with the character of the area. We re-iterate that our proposal is predicated on key neighbourhood characteristics, including lot sizes and shapes along Victoria St and Parkside Dr.

Variances are required to recognize certain conditions of the existing dwelling and to permit the proposed lots, as follows:

### Ultimate Retained Lands

1. A minimum rear yard of 3.5 m instead of the minimum required 7.5 m (applies to the easterly dwelling footprint extent that runs parallel to Parkside Drive);
2. A minimum rear yard of 0.3 m and a minimum side yard of 0.4 m instead of the minimum required 1.0 m for the existing detached garage;
3. A maximum lot coverage of for accessory buildings, excluding swimming pools, of 6.0% instead of the maximum 5% for the existing detached garage; and,
4. A maximum projection for eaves or gutters of 1.0 m instead of the maximum permitted 0.65 m into all required yard setbacks

### Proposed Lot 1

1. A total lot area of +/- 929 m<sup>2</sup> instead of the minimum required 975 m<sup>2</sup>; and,
2. A minimum lot frontage of 15 m instead of the minimum required 22 m

### Proposed Lot 2

1. A total lot area of +/- 750 m<sup>2</sup> instead of the minimum required 975 m<sup>2</sup>; and
2. A minimum lot frontage of 21.5 m instead of the minimum required 22 m

The proposal is illustrated in **Figure 11**.

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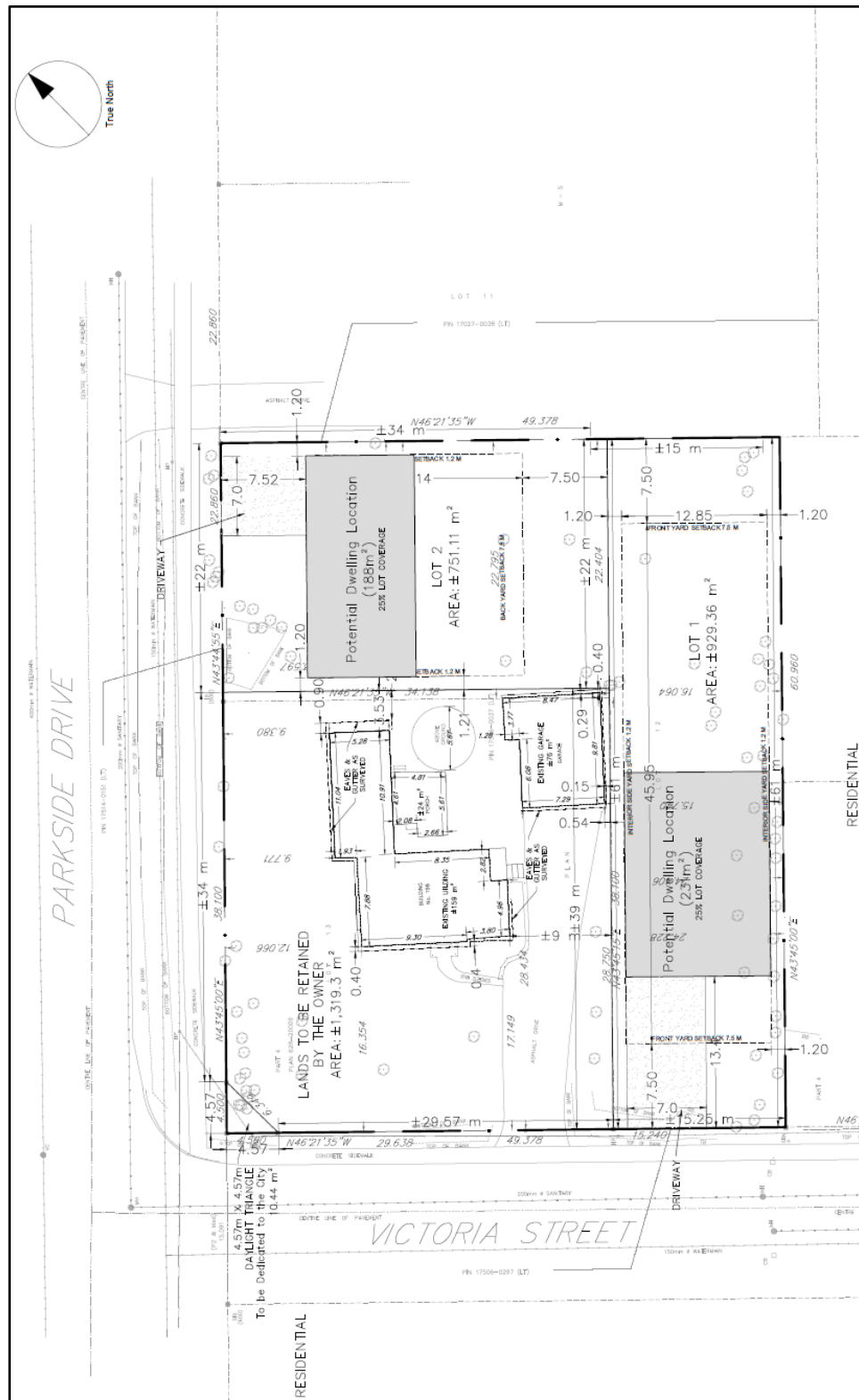


Figure 11 - Proposed Land Division and Conditions of Retained Lands



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## Comments on Proposed ZBLA

We understand that the stated intent of the ZBLA is “to implement the directions of the Waterdown Community Node Secondary Plan Study”. While we have reviewed all documents being presented to Committee, our comments focus on the ZBLA.

We understand the subject lands are proposed to be rezoned under By-law No. 90-145-Z from the “R1-5” Zone to the Urban Residential (Single detached) “R1-74d” Zone.

### Proposed Provisions to Recognize Existing Development

We understand that proposed provision 6.3.74 a) i) states the following:

- a) Notwithstanding Sections 2.3.1 and 2.3.2 of By-law No. 90-145-Z, the following shall apply and be numbered accordingly
- i) Notwithstanding any other provisions of this By-law, any lot within the R1-74, R1-74a, R1-74b, R1-74c, R1-74d, R1-74e, R1-74f, R1-74g or R1-74h Zone of this By-law, and the location thereon of any building or structure, existing on the effective date of this By-law, shall be deemed to comply with the regulations for any required setbacks, front yard, exterior yard, rear yard, lot width, lot area, building height, legally established flat roofs, legally established balconies, rooftop terraces and decks above the first storey and legally established U-shaped driveway alignment and are permitted by this By-law;

We agree with the inclusion of this provision, as we understand it is intended to prevent extensive instances of legal non-conforming status for lots, dwellings and structures. While the provision does not clarify, **we recommend that it be worded to clearly state that the provisions pertaining to setbacks and height applicable to any existing dwelling and/or structure continue to apply even in the case of land division which does not alter those conditions (i.e. a front yard setback, exterior side yard setback and building height would continue to be recognized if proposed land division does not affect or modify those existing conditions). Or alternatively, that a guiding direction be prepared to state this is how the zoning is to be applied.**

### Proposed Provision to Recognize Existing Applications

We understand that provision 6.3.74 a) ii) states the following:

- a) Notwithstanding Sections 2.3.1 and 2.3.2 of By-law No. 90-145-Z, the following shall apply and be numbered accordingly:
- ii) Notwithstanding any other provisions of this By-law, within an R1-74, R1-74a, R1-74b, R1-74c, R1-74d, R1-74e, R1-74f, R1-74g or R1-74h Zone, a building permit may be issued to permit the erection of a building or structure in accordance with any minor variance, site specific zoning, site plan, consent, plan of subdivision or plan of condominium that has been conditionally approved by the City of Hamilton or the Ontario Land Tribunal as it read on the day before Bylaw No. \_\_\_\_ was passed by Council, provided the Building Permit application complies with the provisions of Zoning By-law No. 90-145- Z, as amended, that affected the lot before By-law No. \_\_\_\_ came into effect. For the purposes of determining zoning conformity, the following shall apply:

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1) This By-law is deemed to be modified to the extent necessary to permit a building or structure that is erected in accordance with Subsection ii) above; and,

2) Once the permit or approval under Subsection ii) above, has been granted, the provisions of this By-law apply in all other respects to the land in question.

We generally agree with the inclusion of this provision, as we understand it is intended to ensure existing applications that have been granted status of approval are not encumbered by changes to Zoning. However, **we recommend that the wording be modified so as to state “...the day before the Final Effective Date of this By-law, being the Date of Enactment by Council or Ontario Land Tribunal, in accordance with the provisions of the Planning Act, ...”.**

### **Proposed Lot Size Requirements**

In our review, we note that the proposed lot size requirements of the R1-74 D zone under proposed provision 6.3.78 are as follows:

- I. Lot Area (minimum): 975 square metres
- II. Lot Frontage (minimum): 22 metres

These proposed minimums are consistent with the existing R1-5 zone requirements and thus do not represent a departure. Despite this, **we suggest consideration be given to modify these R1-74D requirements to be consistent with the standard proposed R1-74 provisions stated within the new Section 6.2 as follows:**

- I. Lot Area (minimum): 665 square metres
- II. Lot Frontage (minimum): 18 metres

As illustrated in **Figures 11 & 12** below, the existing context, which consists of the existing block and properties on surrounding streets, includes some variability and range of lot sizes and shapes. The proposed minimums identified in our recommendation above are more reflective of this variety and will permit some neighbourhood change over time without negatively affecting character. There are existing lots with areas as low as 570 m<sup>2</sup> and existing lots with frontages as low as 15.5 m. In addition, there are lots which are longer in depth than width, and others which are squarer shaped with almost equal lot width and depth conditions.



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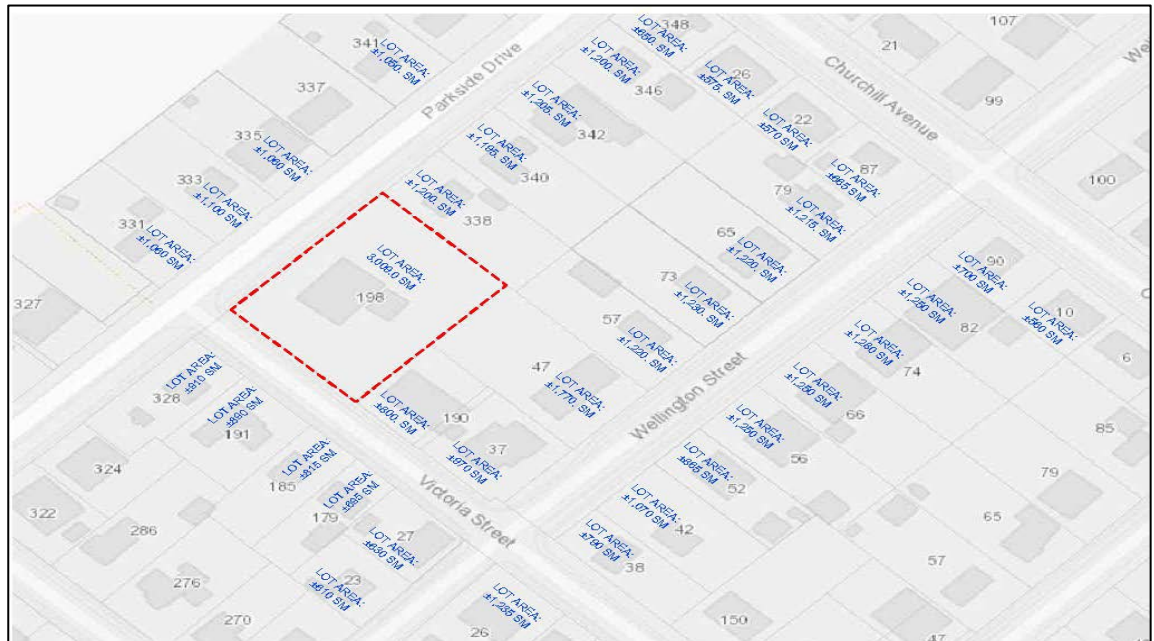


Figure 12 - Lot Areas of Surrounding Context



Figure 13 - Lot Frontages of Surrounding Context

### Proposed Maximum Height

In our review, we note that the proposed maximum height permission for the R1-74 D zone under proposed provision 6.3.78 is as follows:

- III. Height (maximum): 6.5 m

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This provision differs quite substantially from the existing standard R1 – Urban Residential permission of a maximum height of 11 m. In our review, this modification is overly restrictive and would limit any new dwellings to a mainly a one-storey height, which does not truly reflect the existing character. As demonstrated in **Figures 7-10**, the surrounding context includes dwellings of 1 ½ & 2 storey heights, and the existing dwelling on the subject lands is a 2-storey dwelling with a pitched roof. Given the subject lands exhibit potential for land division, limiting the construction of any new dwellings on newly created lots to essentially a single storey does not reflect the character of this unique lot and the surrounding context, and would overly constrain options for compatible dwelling design at later stages, such as building permit. **We strongly recommend that Committee and Council reject this restrictive requirement, and instead modify the maximum height permission to clearly state a maximum of at least 10 m in height.** This may also require an adjustment to the proposed maximum height within new provisions of Section 6.2.

### Proposed Setback Requirements

We understand that the base provisions for setbacks are proposed to be provided under new provisions within Section 6.2 as follows:

#### (iv) Required Front Yard (minimum and maximum)

- a. For a Lot located between two Interior lots or one Interior lot and one Corner Lot that has the adjacent dwellings facing the same street.

Within 20% of the average front yard setback of the two nearest principal dwellings on either side of the lot.\*

- b. For a Lot located between an Interior lot or a Corner Lot that has one adjacent dwelling facing another street.

Within 20% of the average front yard setback of the one nearest principal dwelling of the interior lot. \*

- c. For a Corner Lot that has one adjacent dwelling facing the same street.

Within 20% of the average front yard setback of the one nearest principal dwelling facing the same street. \*

- d. Other cases not described in this table.

5.0 -10.0 metres

\* In no cases shall the front yard setback be less than 5.0 metres.

#### (v) Interior Side Yard (minimum)

#### (v) Interior Side Yard (minimum);

- a. 1.2 metres for a principal dwelling that is less than or equal to 6.5 metres and is fewer than two storeys in Height; and,
- b. 1.8 metres for a principal dwelling that is less than or equal to 8.5 metres and is two or more storeys in Height;

#### (vi) Exterior Side Yard (minimum)

- a. Within 20% of the front yard setback of the nearest principal dwelling facing the same street as the Exterior Side Yard; and,



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- b. In no cases shall the Exterior Side Yard setback be greater than 7.5 metres;

#### ***Front and Exterior Side Yard***

In general, we find these provisions to be confusing, and that they will likely be challenging to interpret and implement for the average resident. We believe the intent is to provide some flexibility for dwelling siting based on the context. While that sentiment is agreeable, it is our opinion that consistent setbacks should be established to provide predictability and regularity. In that regard, **we recommend that Committee and Council modify the provisions to the following:**

- a. **Front Yard (minimum): 6 m**
- b. **Exterior Side Yard (minimum): 6 m**

#### ***Side Yard***

We find these provisions to be unnecessarily restrictive in relation to the existing context and will result forcing variances or awkward dwelling designs. We do not believe there is a fundamental need to require greater setbacks for dwellings up to 2 storeys and at least 10 m in height. A standard 1.2 m side yard in relation to a 10 m dwelling height is adequate for this scale of built form such that it will provide dwelling separation on the ground and permit standard lot-level grading, drainage and landscaping. **We strongly recommend the Committee and Council modify the ZBLA such that the standard 1.2 m side yard setback in the existing provisions of Section 6.2 be maintained.**

#### **Proposed Dwelling Depth and Garage Setback Provisions**

We understand the following new provisions are proposed to be included in Section 6.2:

- (i) Dwelling Depth (maximum) – 20 metres;
  - (iii) Garage and Carport Requirements
    - a) Attached and detached garages and Carports shall not project beyond the front façade of a dwelling or a side façade of a dwelling situated on a Corner Lot; and,
    - b) Minimum Setback from Front or Exterior Side Façade of a Dwelling for attached and detached garages and Carports:
- |                                |                  |
|--------------------------------|------------------|
| Setback Garage / Carport Width |                  |
| 0 metres                       | 0 – 3 metres     |
| 2 metres                       | 3.1 – 4.5 metres |
| 4 metres                       | 4.6 – 7 metres   |
| 6 metres                       | 7.1 – 8 metres   |

In our opinion, both provisions are overly restrictive and add unnecessary complexity to future new dwellings and/or additions.

With respect to dwelling depth, the built form is already proposed to be controlled through the combination of setback lot coverage requirements. This combination of provisions is sufficient to regulate built form. For example, on larger lots, the lot coverage maximum will dictate the size and shape of the footprint, while the setbacks will govern the placement of that footprint. This is

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illustrated by the gray dwelling footprint boxes in **Figure 11**, which illustrate the maximum dwelling footprints possible on the proposed new lots of different sizes and shapes. These footprints are placed within the larger areas defined by setback requirements. **As such, we strongly recommend Committee and Council to reject this proposed requirement.**

With respect to garage setbacks, we understand that the intent is to de-emphasize private garages in dwelling design. It is our opinion that proposed provision a) is sufficient to ensure this intent is achieved, and that increased setback required for wider garages is overly complex and unnecessary. **We therefore strongly recommend Committee and Council to reject proposed provision b) and maintain provision a) if so desired.**

### **Relationship to Proposed OPA for Secondary Plan**

The comments above focus on the implementation of the ZBLA. Should Committee and Council agree with the proposed modifications and direct staff accordingly, any connected policies in the proposed SP (i.e. dwelling height, built form, etc.) would have to be correspondingly modified. **We thus suggest that this direction be provided to staff, as appropriate.**

### **Recognize Subject Lands with Site-Specific Zoning**

With all of the above stated, and particularly our comments on the proposed provisions for existing conditions and conditionally approved applications, we are of the opinion that the subject lands warrant special consideration based on the ability to accommodate two new lots for compatible new residential dwellings in keeping with the character of the surrounding neighbourhood context. In our opinion, the proposed ZBLA modifications will be overly restrictive for new development in general and may prevent this lot from providing new housing within the urban boundary.

Given the unique nature of the subject lands in relation to the context, and recognizing that it provides the opportunity for compatible land division and infill development to accommodate new dwelling units within the urban boundary, the subject lands would best be addressed in the proposed ZBLA with a site-specific Zone which would allow for the following provisions:

1. Minimum Lot Area: 665 square meters
2. Minimum Lot Frontage: 18 m
3. Maximum Building Height of 10 m
4. Minimum Front Yard Setback of 6 m
5. Minimum Side Yard Setback of 1.2 m
6. Minimum Exterior Side Yard Setback of 6 m

Thank you for reviewing this submission and considering the comments within. I can be contacted directly for further discussion.



Mike Crough RPP MCIP  
Associate Director, Practice Lead – Planning

cc: Mr. Jorasingh Purewal