



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	April 25, 2022
<b>SUBJECT/REPORT NO:</b>	Applications for an Amendment to the City of Flamborough Zoning By-law No. 90-145-Z and City of Hamilton Zoning By-law No. 05-200 and Draft Plan of Subdivision for Lands Located at 655 Cramer Road, Flamborough (PED22061) (Ward 13)
<b>WARD(S) AFFECTED:</b>	Ward 13
<b>PREPARED BY:</b>	Aminu Bello (905) 546-2424 Ext. 5264
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That **Zoning By-law Amendment Application ZAC-17-064, by 1376412 Ontario Ltd. c/o Zeina Homes, (Owner)**, for a change in zoning from Settlement Residential “R2-14(H)”, Modified – Holding Zone to a site specific Settlement Residential “R2” Zone, Modified, and the Conservation / Hazard Land (P5) Zone, for lands located at 655 Cramer Road, as shown on Appendix “A” attached to Report PED22061, be **DENIED** on the following basis:
- (i) That the proposal is not consistent with the Provincial Policy Statement (PPS);
  - (ii) The proposal does not comply with the Provincial D-6 Guidelines: Compatibility Between Industrial Facilities;
  - (iii) The proposal does not comply with the Growth Plan for the Greater Golden Horseshoe (2020);

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- (iv) The proposal does not comply with the Settlement Residential policies under the Greensville Rural Settlement Area Plan of the Rural Hamilton Official Plan;
  - (v) The proposal is not consistent with the Greenbelt Plan (2017).
- (b) That **Draft Plan of Subdivision Application 25T-201710 by 1376412 Ontario Ltd. c/o Zeina Homes, (Owner)**, to establish a Draft Plan of Subdivision in order to permit 18 residential lots, one stormwater management pond and three public roadways (one new proposed road and two extensions of existing public roads) for lands located at 655 Cramer Road, as shown on Appendix “B” attached to Report PED22061, be **DENIED** on the following basis:
- (i) The proposal is not consistent with the Land Use Compatibility Policy under the Provincial Policy Statement (PPS);
  - (ii) The proposal does not comply with the Employment policy under the Growth Plan for the Greater Golden Horseshoe (2020);
  - (iii) The proposal is not consistent with the Greenbelt Plan;
  - (iv) The proposal does not comply with the Settlement Residential policies of the Greensville Rural Settlement Area Plan and the policies for the approval of a Plan of Subdivision in the Rural Hamilton Official Plan;
  - (v) The proposal does comply with criteria relating to matters of health, safety and welfare of the present and future inhabitants as per Section 51(24) of the *Planning Act*.

## **EXECUTIVE SUMMARY**

The Applicant submitted a Zoning By-law Amendment Application and Draft Plan of Subdivision for the lands located at 655 Cramer Road to permit the development of 18 lots for single detached dwellings, municipal roads and a 0.71 hectare stormwater management pond. The purpose of the Zoning By-law Amendment Application is to modify the existing Settlement Residential “R2-14(H)”, Modified – Holding Zone to reduce the minimum lot area, reduced the minimum lot frontage, remove the Holding Provision and for a change in zoning to the Conservation/Hazard Land (P5) Zone for the proposed stormwater management pond. A Holding Provision currently exists on the subject property but Zoning By-law No. 90-145Z (Town of Flamborough) does not have

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any specific provisions required prior to removal. The Settlement Residential “R2-14(H)” Zone came into effect on December 21, 1992.

At the Formal Consultation stage, a Noise Study was identified by staff due to the proximity of Highway No. 5 and the adjacent industrial facilities. At the onset of staff’s review of the Zoning By-law Amendment and Draft Plan of Subdivision Applications, the need for an Odour Impact Assessment was identified due to the proximity of the subject lands to an existing meat rendering plant that is located on the abutting lands.

The Applicant submitted an Odour Impact Assessment in an effort to demonstrate that the 300 metre minimum separation distance from the adjacent industrial use (i.e. the existing meat rendering plant owned and operated by Rothsay) required by the D-6 Guidelines could be reduced to 70 metres to permit the residential development. The City retained peer reviewers to assess the proposed reduction in setbacks. The City’s peer reviewers concluded that a meat rendering plant is considered to be a Class III facility under the Ministry of Environment, Conservation and Parks’ D-6 Guidelines: Compatibility Between Industrial Facilities (D-6 Guidelines). The D-6 Guidelines requires a minimum 300 metre separation distance from any sensitive land uses and a Class III industrial operation, measured from lot line to lot line.

The Applicant has proposed a residential subdivision comprised of 18 single detached residential lots, of which 14 lots are located within the 300 metre separation distance from Rothsay.

A Noise Impact Assessment was submitted by the Applicant, however the Noise Impact Assessment has not adequately demonstrated how noise generated from Highway No. 5 and the adjacent industrial use will be mitigated within the proposed residential subdivision to avoid potential land use conflicts and complaints by the future residents.

It is the opinion of staff that the Applications do not have merit and cannot be supported because they are not consistent with and/or conform to the following:

- Land Use Compatibility policy 1.2.6.1 of the Provincial Policy Statement (2020);
- The D-6 Guidelines: Compatibility Between Industrial Facilities;
- Employment policy 2.2.5.8 of the Growth Plan for the Greater Golden Horseshoe (2020);
- Greenbelt Plan (2017) for lands identified as Hamlets in the Protected Countryside that are subject to the policies of the Growth Plan and governed by an official plan;
- Settlement Residential policy A.3.5.5.10 under the Greensville Rural Settlement Area Plan; and,

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- Policy F.1.14.1.2 for the approval of a Plan of Subdivision in the Rural Hamilton Official Plan (RHOP).

**Alternatives for Consideration – See Page 26**

**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 to consider Applications for an amendment to the Zoning By-law and for a Draft Plan of Subdivision.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner:	1376412 Ontario Ltd. c/o Zeina Homes
Applicant/Agent:	A.J. Clarke and Associates (c/o Stephen Fraser)
File Number:	ZAC-17-064 25T-201710
Type of Application:	Zoning By-law Amendment Draft Plan of Subdivision
Proposal:	To develop 18 single detached residential lots, one stormwater management pond and three public roads (one new proposed road and two extensions of existing public roads). The proposed residential lots will be serviced by private well and septic tanks.
<b>Property Details</b>	
Municipal Address:	655 Cramer Road, Flamborough (see Location Map attached as Appendix “A” to Report PED22061).
Lot Area:	±15.6 hectares (38.5 acres)
Servicing:	Privately serviced well and septic tanks are proposed.

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<b>Property Details</b>	
Existing Use:	Vacant Land
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposal is not consistent with the PPS (2020).
Greenbelt Plan:	The proposal is not consistent with the Greenbelt Plan.
A Place to Grow:	The proposal does not conform to the Growth Plan, as amended.
Official Plan Existing:	“Hamlets (Rural Settlement Area)” on Schedule “A” – Provincial Plans.  “Rural Settlement Area” on Schedule “D” – Rural Land Use Designations.
Official Plan Proposed:	No amendment proposed.
Secondary Plan Existing:	“Settlement Residential” on Volume 2: Map 8a – Greenville Rural Settlement Area Plan.
Secondary Plan Proposed:	No amendment proposed.
Zoning Existing:	Settlement Residential “R2-14(H)”, Modified – Holding Zone
Zoning Proposed:	Site Specific Settlement Residential “R2” Zone, Modified and Conservation / Hazard Land (P5) Zone
Modifications Proposed:	<ul style="list-style-type: none"> <li>• Notwithstanding Section 7.3.14 (a), a minimum lot area of 7,000 square metres be permitted instead of the required 8,000 square metres; and,</li> <li>• Notwithstanding Section 7.3.14 (b), a minimum lot frontage of 21 metres be permitted instead of the required 35 metres.</li> </ul>
<b>Processing Details</b>	
Received:	August 9, 2017.
Deemed Complete:	August 17, 2017.
Notice of Complete Application:	August 28, 2017.

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<b>Processing Details</b>	
Public Notice Sign:	September 5, 2017.
Revised Notice of Complete Application:	December 6, 2017.
Notice of Public Meeting:	Sent to 45 property owners within 120 metres of the subject property on April 7, 2022; and was given by way of newspaper in accordance with the provisions of the <i>Planning Act</i> on April 7, 2022.
Public Comments:	Two letters / emails expressing concern (see Appendix "G" attached to Report PED22061).
Processing Time:	1,720 days from date Application was submitted.

**EXISTING LAND USE AND ZONING**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Vacant	Settlement Residential "R2-14(H)" – Holding Zone
<b>Surrounding Lands:</b>		
<b>North:</b>	Agricultural Use, Residential Dwellings and Residential Care Facility	Agriculture (A1) Zone and Rural (A2) Zone
<b>East:</b>	Residential dwellings and Vacant Parcel	Settlement Residential (S1) Zone and "Settlement Residential "R2-14(H)" – Holding Zone
<b>South:</b>	Residential Dwellings	Settlement Residential (S1) Zone and Settlement Residential (S1, 77, H7) Zone

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	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>West:</b>	Rothsay Industrial Operation and Natural Heritage Feature	Conservation / Hazard Land (P6) Zone and Rural (A2, 124) Zone

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

### **Provincial Policy Statement (2020)**

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 shall be consistent with the PPS (2020). The following policies of the PPS (2020), amongst others, are applicable to the Applications.

“1.2.6.1 Major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.”

The Rothsay Dundas Plant (Rothsay) at 870 Highway 5 West, is an existing meat rendering plant located immediately east of the subject property. Rothsay is a 24 hour a day operation that converts animal by products into fats and proteins that are used in the production of animal feed, fuel and fertilizers. The existing industrial facility is considered to generate multiple nuisance factors such as odour, noise and truck traffic, which required an Odour Impact Assessment by staff. The purpose of the Odour Impact Assessment is to demonstrate land use compatibility between the existing industrial facility and the proposed sensitive land uses in accordance with the “Compatibility between Industrial Facilities and Sensitive Land Uses”, published by the MECP as Guideline D-6 (the D-6 Guidelines).

### **Odour - D-6 Guidelines: Compatibility Between Industrial Facilities**

The D-6 Compatibility Guidelines (D-6 Guidelines) are intended to inform land use planning decisions surrounding industrial facilities and sensitive uses. The D-6 Guidelines aim to prevent or minimize future land use conflicts due to the encroachment of sensitive land uses and industrial land uses proposed in proximity to another. The D-6 Guidelines outline a range of separation distances based on a categorization of facilities according to the nature of their emissions, physical size/scale, production

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volumes and intensity of operations. Based on the D-6 Guidelines, the existing meat rendering plant is considered to be a Class III industrial operation.

The D-6 Guidelines recommend a minimum separation distance from property line to property line, where no incompatible development should occur within the identified classifications for Class III uses of 300 metres minimum.

An Odour Impact Assessment, as well as response memorandums to the City’s peer reviewer, was submitted by the Applicant in an effort to demonstrate that there are no land use compatibility issues between the existing meat rendering plant and the proposed residential subdivision and, therefore the minimum separation distance could be reduced from 300 metres to 70 metres.

There were multiple peer reviews undertaken by the City of the Applicant’s Odour Impact Assessment and response memorandums, which are summarized in the following table:

<b>Applicant Submission</b>	<b>City-Retained Peer Reviewer</b>
1. Odour Impact Assessment Report No. 26422 by Ortech Consulting Inc. dated June 12, 2018.	Response Letter by Rubidium Environmental dated December 21, 2018.
2. Commentary of Peer Review by Ortech Consulting Inc., dated January 23, 2019.	Response Letter by Rubidium Environmental dated February 12, 2019.
3. Additional Odour Impact Assessment Report No. 26422-2 by Ortech Consulting Inc., dated February 5, 2020.	Technical Memorandum by Golder Associates dated July 28, 2020.
4. Response Memorandum (Reference No. 26422-3) by Ortech Consulting Inc., dated November 17, 2020.	Technical Memorandum by Golder Associates dated March 8, 2021.
5. Response Memorandum (Reference No. 26422-4) by Ortech Consulting Inc., dated November 17, 2020.	
6. Final Report: Order Impact Assessment Summary Report No. 26790 by Ortech Consulting Inc., dated December 7, 2021.	Peer Review not required as no new information was provided.

The Applicant’s retained odour expert, Ortech Consulting (Ortech), indicated through the numerous submissions that the adjacent industrial use (Rothsay) should be



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identified as a Class II facility due to the installation of a biofilter and that the appropriate separation distance between Rothsay and the proposed development is 180 metres instead of 300 metres.

Ortech also indicated that the subject lands are already zoned for a residential use, therefore the use of D-6 Guidelines to demonstrate land use compatibility is not applicable. In response, planning staff note that Policy 1.2.6.1 is applicable where new development is proposed which the PPS (2020) defines as the “creation of a new lot”. The Ministry of Environment, Conservation and Parks’ Procedure D-1 Land Use and Compatibility states that the guidelines (i.e. D-6 Guidelines) apply when a change in land use may place a sensitive use within the influence area of a facility. In that event, the D-6 Guidelines applies for the review of site-specific development plans (e.g. plans of subdivision, plan of condominium and lot severances) including redevelopment and/or infill proposals.

In response, the City’s peer reviewer, Rubidium Environmental, indicated that there has been some evidence that the biofilter constructed has been ineffective. In addition, Rothsay has received hundreds of odour complaints. Finally, in support of the opinions of both Rubidium Environmental and Golder Associates, the recommendation from the Ministry of Environment, Conservation and Parks states that the adjacent industrial use should be classified as a Class III facility. Email correspondence received from the Ministry of Environment, Conservation and Parks dated February 22, 2022, attached as Appendix “F” to Report PED22061, states that “this facility would be classified as a Class 3 facility, which means that in accordance with the MOECC Guidelines D-6, a minimum 300 metre separation distance should be maintained from the property line of Rothsay, and the nearest residential lot that may be proposed” and “facilities are best positioned to confirm their classifications as they fully understand their operations”. The City’s peer reviewers have concurred that the calculated separation distance within the Applicant’s submitted study was not calculated using the requirements of the D-6 Guidelines. The Applicant’s odour consultant, (Ortech) requested separation distance of 180 metres was measured from the eastern edge of the Rothsay Plant operations to the western boundary of the proposed residential subdivision and not from the property lines of the lands owned by Rothsay, therefore not in compliance with the D-6 Guidelines.

The results of the peer reviews undertaken by the City-retained Odour Consultants are summarized in Appendix “E” attached to Report PED22061.

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The adjacent owner (Rothsay), submitted their own separate peer review prepared by Ramboll dated September 10, 2020, to review technical accuracy and validity of the Additional Odour Impact Assessment dated February 5, 2020, prepared by Ortech Consulting. The results of the peer review completed by Ramboll is summarized as follows:

- The Rothsay facility is described a Class III facility regardless of the mitigation measures implemented;
- Despite the effective biofilter mitigation, emissions from the main emission stack have been measured to be extremely high and does not account for all odour impact sources at the Rothsay facility;
- Fugitive emission sources at Rothsay are generally released at ground level, are mainly located on the east side of the property (e.g. wastewater treatment aeration basins, clarifiers, ponds), and would have little dilution before the sensitive receptors;
- The Rothsay facility is one of the very few facilities in Ontario with an odour performance limit exceeding 1 odour unit, therefore potential odour impacts from Rothsay are greater than expected from other Class III industries; and,
- Does not see credible evidence to support that a noise barrier and/or line of trees on the proposed residential development will significantly mitigate odour impacts on that property.

It is the opinion of staff that the adjacent industrial use located at 880 Highway No. 5 West (Rothsay) is as a Class III facility. Class III facilities require a 300 metre separation distance from sensitive land uses to mitigate potential adverse effects. The 300 metre separation distance is required where the proposal has not provided substantiating information that potential effects have been otherwise mitigated.

It is the opinion of staff that the proposed development is not consistent with Section 1.2.6.1 of the PPS (2020) and is not consistent with the PPS. The submitted Odour Impact Assessment and response memorandums were not conclusive in demonstrating that the minimum separation distance could be reduced to permit the residential development, therefore the proposed development is not in compliance with the D-6 Guidelines.

**Noise - Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning (NPC-300)**

In response to Policy 1.2.6.1 of the PPS (2020), the Applicant submitted an Environmental Noise Analysis, first submitted on July 14, 2017, revised on August 17, 2018, followed by an addendum dated January 14, 2020 and the Applicant's response

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to staff's comments dated July 20, 2020. The study was submitted by the Applicant to determine road noise mitigation measures, which recommended a combination of a noise wall/berm, upgraded windows and doors and implementation of warning clauses for residential owners/occupants.

In order to achieve compliance with the Ministry of Environment, Conservation and Parks' Noise Guidelines (NPC-300), the Environmental Noise Analysis states the subject lands would have to be deemed a Class 2 area. Under a Class 2 area, the Draft Plan of Subdivision must include a warning clause registered against the subject lots stipulating that physical noise mitigation measures would be required for the subject lands. The Class 2 status will require the following mitigation measures to the residential lots referenced in the Concept Plan, attached as Appendix "B" to Report PED22061:

- A 5.8 metre high sound barrier along the west portion of Lots 11 to 14;
- A 2.0 metre high sound barrier along the west portion of Lots 10 and 15; and,
- Lots 9 to 16 must be designed to include noise-sensitive windows on second floor facades where excess noise is predicted.

The Applicant has proposed a 5.8 metre high sound barrier for Lots 11 to 14; however, staff are not satisfied that this is a reasonable solution to the noise mitigation. A 5.8 metre high sound barrier wall may result in negative visual impacts such as limiting viewpoints into the existing mature woodlot and an undesirable appearance of a high wall located along the rear of residential lots. Based on this, it is staff's opinion that the proposal is also not consistent with Policy 1.2.6.1 of the PPS (2020) from a noise perspective.

### **Greenbelt Plan (2017)**

The Greenbelt Plan outlines the following policies, amongst others, for hamlets contained within settlement areas.

- "3.4.4 For lands within Hamlets in the Protected Countryside, the following policy shall apply:
1. Hamlets are subject to the policies of the Growth Plan and continue to be governed by official plans and related programs or initiatives and are not subject to the policies of this Plan, save for the policies of sections 3.1.5, 3.2.3, 3.2.6, 3.3 and 3.4.2. Limited growth is permitted through infill and intensification of Hamlets subject to appropriate water and sewage services."

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The subject lands are located within a Hamlet, which is subject to the Growth Plan policies and continues to be governed by a municipal official plan. Hamlet areas are not subject to the policies of the Greenbelt Plan. In review of the above, staff are of the opinion that the proposal is consistent with the Greenbelt Plan.

**Growth Plan for the Greater Golden Horseshoe (2020, as amended)**

The following policies, amongst others, apply to this proposal.

“2.2.1.2 Forecasted growth to the horizon of this Plan will be allocated based on the following:

(a) The vast majority of growth will be directed to *settlement areas* that:

- (i) Have a *delineated built boundary*;
- (ii) Have existing or planned *municipal water and wastewater systems*; and,
- (iii) Can support the achievement of *complete communities*;

(c) Within *settlement areas*, growth will be focused in:

- (i) *Delineated built-up areas*;
- (ii) *Strategic growth areas*;
- (iii) Locations with existing or planned transit, with a priority on *higher order transit* where it exists or is planned; and,
- (iv) Areas with existing or planned *public service facilities*.

2.2.5.8 The development of sensitive land uses, major retail uses or major office uses will, in accordance with provincial guidelines, avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial, manufacturing or other uses that are particularly vulnerable to encroachment.”

As previously discussed under the Provincial Policy Statement section of this Report, staff are of the opinion that the proposed sensitive land uses are incompatible with the existing industrial use and the proposed mitigation measures do not minimize any potential adverse effects. As such, the Applications do not conform with the Growth Plan for the Greater Golden Horseshoe, 2020.

## **Rural Hamilton Official Plan (RHOP)**

The subject lands are identified as “Hamlets (Rural Settlement Areas)” on Schedule “A” – Provincial Plans and designated “Rural Settlement Area” on Schedule “D” – Rural Land Use Designations. The property is designated “Settlement Residential” in the Greensville Rural Settlement Area Plan in Volume 2: Map 8a. In addition, the property is identified as Major Development Area A in Volume 2: Map 8b. The following policies, amongst others, apply to the proposal.

### Volume 1 – Rural Hamilton Official Plan Policies

“B.3.6.3.19 The City shall ensure that all development or redevelopment with the potential to create conflicts between sensitive land uses and point source or fugitive air emissions such as noise, vibration, odour, dust, and other emissions complies with all applicable provincial legislation, provincial and municipal standards, and provincial guidelines, and shall have regard to municipal guidelines. The City may require proponents of such proposals to submit studies prior to or at the time of Application submission, including the following: noise feasibility study; detailed noise study; air quality study; odour, dust and light assessment; and any other information and materials identified in Section F.1.9 – Complete Application Requirements and Formal Consultation.”

As discussed in detail under the Provincial Policy Statement section of this report, the proposal is not consistent with the D-6 Guidelines, does not propose an appropriate minimum separation distance for a Class III facility or provide adequate noise mitigation. As such, the proposal does not comply with policy B.3.6.3.19 of the Rural Hamilton Official Plan.

“F.1.14.1.2 Council shall recommend for approval only those Plans of Subdivision that conform to the following criteria:

- (a) The Plan of Subdivision conforms to the policies and land use designations of this Plan;
- (b) The Plan of Subdivision can be supplied with adequate services and community facilities;
- (c) The Plan of Subdivision shall not adversely impact upon the transportation system and the natural environment;

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- (d) The Plan of Subdivision can be integrated with adjacent lands and roadways; and,
- (e) The Plan of Subdivision shall not adversely impact municipal finances.”

As discussed in detail under the Provincial Policy Statement section of this report, the proposal does not comply with policy F.1.14.1.2 since the proposal is not consistent with the D-6 Guidelines and does not propose an appropriate minimum separation distance for a Class III facility.

With respect to criteria (b) and (c), the Applicant submitted a Hydrogeological Study for private services for the proposed lots. The study has been reviewed by Source Water Protection staff who are satisfied with the study subject to hydrogeological-related conditions for the Draft Plan of Subdivision. Should the Applications be approved, outstanding comments regarding the ground water conditions would need to be addressed to the satisfaction of the Hamilton Conservation Authority.

The Applicant has submitted a Scoped Environmental Impact Statement and General Vegetation Inventory to the City and the Hamilton Conservation Authority. Natural Heritage staff are satisfied with the proposal subject to the appropriate draft plan conditions.

The Applicant is required to address outstanding Engineering and Transportation Planning concerns regarding safe driveway access locations, as discussed under the Relevant Consultation section of this Report.

The proposal complies with criteria (d) as existing road connections provide future opportunities to extend municipal road access to the abutting easterly lands.

The proposal complies with criteria (e) as there are no additional financial implications to the City and there would be no cost sharing for any works required for the proposed plan of subdivision.

Volume 2, Rural Settlement Area Plans

- “1.2.4 Development in Rural Settlement Areas shall proceed in accordance with the specific policies and designations for each Rural Settlement Area and subject to the following conditions:
- (a) Within the Rural Settlement Areas, development shall be of a height, density, area and nature to be compatible with the existing built environment;
  - (b) All development shall be required to obtain approval from the City for servicing. Any development shall be serviced in accordance with Section C.5.1, Sustainable Private Water and Wastewater Services of Volume 1 of this Plan; and,
  - (c) The development shall comply with the Natural Heritage System Policies, Section C.2.0, Volume 1 of this Plan.
- 1.2.6 New residential development which is dependent upon a new public road or extension to an existing public road shall only proceed on the basis of a Plan of Subdivision; and,
- 1.3.1 On lands designated Settlement Residential, residential uses are limited to single detached dwellings and small scale residential care facilities. Small scale institutional uses may also be permitted in accordance with Policy A.1.3.6 of Volume 2.”

The proposal intends to develop the lands for a residential subdivision comprised of 18 lots fronting onto municipal roads and a stormwater management pond. Staff are satisfied that policy A.1.2.4 (c) of Volume 2 has been addressed as the Environmental Study submitted by the Applicant demonstrates no negative impacts to Core Areas. Staff find that the proposal does comply with the applicable noted policies above as the residential subdivision fronts onto municipal roads and adequate wastewater servicing and water supply is demonstrated through the review of the Hydrogeological Study, subject to the required draft plan conditions.

Greensville Rural Settlement Area Plan

- “A.3.5.5.3 The predominant form of residential development shall continue to be the single detached dwelling.

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- A.3.5.5.4 Residential development in the Rural Settlement Area Plan area shall predominantly take place by registered Plan of Subdivision. Plans of Subdivision shall comply with the land use designations and policies of this Rural Settlement Area Plan. Infilling by the consent process may be permitted where the size and location of a property precludes it from being developed by Plan of Subdivision or in conjunction with another Plan of Subdivision and where it will not interfere with existing or future development.
- A.3.5.5.10 Where new residential development is proposed in proximity to industry including the existing aggregate heavy industrial use to the north, the proponent of the development shall consult with appropriate public agencies and carry out any necessary studies to determine if the proximity to such industry may be offensive to the enjoyment of property by existing and future residents, or impact on the operations or expansions of existing industrial users, by reason of emission of odour, smoke, dust, noise, gas, fumes, vibration or refuse matter.
- A.3.5.5.11 In accordance with appropriate provincial regulations and guidelines, distance separations and/or warning clauses and any other measures identified in the reports may be required through the subdivision or consent approval process.
- A.3.5.14.2 Before a second phase of an additional maximum 12 lots shall be draft approved in each of the three Major Development Areas, the Province and the City shall be satisfied that there are no outstanding problems related to the servicing or impacts on surface or ground water created by Phase 1 and, that Phase 2 can proceed without causing any unacceptable impacts on the ground and surface waters. The modification or delay of development on one of the Major Development Areas shall not preclude Phase 2 from proceeding in other Development Areas. Phase 3 of development shall not occur until after the Comprehensive Servicing Study referred to in Sections A.3.5.5.1 and A.3.5.5.2 of Volume 2 of this Plan, has been completed and approved by the City in consultation with the Ministry of the Environment, the Niagara Escarpment Commission, the Ministry of Natural Resources and the Hamilton Conservation Authority.”

As stated above, the proposed residential subdivision comprised of 18 lots complies with Policy A.3.5.5.3. Although the built form is permitted, staff are not satisfied that the proposed subdivision complies with policy A.3.5.5.10 of Volume 2, which states that any new residential land uses will have to submit any studies required to provide



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confirmation that there will be no impact on the sensitive land uses from the existing industry. As noted previously, staff are not satisfied that the proposed mitigation would permit the reduction of the 300 metre separation distance identified in the D-6 Guidelines. Therefore, the current proposal does not comply with the RHOP.

To ensure that any subsequent development phases may proceed without servicing impacts on the surface or ground water, staff note that Policy A.3.5.14.2 of Volume 2, sets a 12 residential lot maximum between each of the three Major Development Areas. The maximum lot threshold is required. The Applicant proposes to develop 18 single detached dwellings as part of the Draft Plan of Subdivision. In order to meet the policies in the Official Plan, if the Applications were approved, a Holding Provision would be added to a portion of the Draft Plan of Subdivision to limit the amount of dwellings constructed until a Comprehensive Servicing Study has been completed and approved.

The proposal does not comply with all applicable RHOP Policies as the issue of land use compatibility has not been demonstrated.

**Town of Flamborough Zoning By-law No. 90-145-Z**

The subject property is currently zoned Settlement Residential “R2-14(H)” Zone, Modified – Holding. The Settlement Residential “R2-14(H)” Zone came into effect on December 21, 1992.

The “R2-14” Zone permits Single Detached Dwellings. A Zoning By-law Amendment has been requested to modify the existing site-specific zone provisions and remove the Holding Provision for the proposed residential subdivision. The Holding Provision currently existing on the subject property does not have any specific provisions required prior to removal.

The Applicant has requested that a site-specific provision to reduce the required lot frontage from 35 metres to 21 metres and reduce the required lot area from 8,000 square metres to 7,000 square metres for the proposed single detached residential lots.

**Zoning By-law No. 05-200**

The Zoning By-law Amendment Application proposes a change in zoning from the Settlement Residential “R2-14(H)” Zone, Modified – Holding to the Conservation/Hazard Land (P5) Zone to permit the stormwater management pond on the subject lands.

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**RELEVANT CONSULTATION**

The following Departments had no comments or objections to the Applications:

- Public Works Department, Recreation Division, Asset Management Division and Landscape Architectural Services; and,
- Hydro One.

The following Departments and Agencies submitted the following comments:

<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Forestry and Horticulture, Public Works Department	<ul style="list-style-type: none"> <li>• A Tree Management Plan is required due to municipal assets identified on site;</li> <li>• A Landscape Plan is required in accordance with any subdivision agreement; and,</li> <li>• In accordance with the New Developments Tree Planting Policy, the City collects cash in lieu of trees for residential subdivisions; the Forestry and Horticulture Section will provide clearance of a Street Tree Planting condition upon receipt of a plan depicting new trees and a cash payment as shown in item 2.8 of the completed Subdivision Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Should the Applications be approved, a Tree Management Plan and Landscape Plan will be required as conditions of Draft Plan of Subdivision.</li> </ul>
Growth Planning, Planning and Economic Development Department	<ul style="list-style-type: none"> <li>• That pursuant to Section 51(32) of the <i>Planning Act</i>, draft approval shall lapse if the plan is not given final approval within three years. However, extensions will be considered if a written request is received before the draft approval lapses.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> </ul>

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<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Hamilton Public Health Services, Public Works Department	<ul style="list-style-type: none"> <li>The Applicant would need to submit a Dust Control Plan and a Pest Control Plan for the subject proposal.</li> </ul>	<ul style="list-style-type: none"> <li>Should the Applications be approved, the noted requirements would be addressed through the Draft Plan of Subdivision conditions.</li> </ul>
Hamilton Conservation Authority (HCA)	<ul style="list-style-type: none"> <li>The HCA provided initial comments on October 25, 2017 and a revised response on October 9, 2018. The HCA stated that additional information was required to update the Hydrogeological Study to address outstanding ground water comments. As well, additional information was required for the Functional Servicing and Stormwater Management Reports.</li> </ul>	<ul style="list-style-type: none"> <li>Should the Applications be approved, the requirements for a Hydrogeological Report, Functional Servicing Report and Stormwater Management Report are required to be addressed through Draft Plan of Subdivision conditions.</li> </ul>
Ministry of Environment, Conservation and Parks (MECP)	<ul style="list-style-type: none"> <li>MECP staff advised that the proponent should conduct a study in accordance with the direction provided in the MECP D-6 Guidelines;</li> <li>The City should require the proponent complete a study in accordance with the D-5 Guidelines to demonstrate the lands are capable of sustaining individual wells and septic systems;</li> <li>The scale and size of the by-product rendering facility would classify the site as a Class III facility under the D-6 Guidelines;</li> <li>A minimum 300 metre separation distance should be maintained from the property line of industrial use and the near residential lot proposed; and,</li> <li>Facilities are best positioned to confirm their classification as they fully understand their operations.</li> </ul>	<ul style="list-style-type: none"> <li>Staff required the proponent to undertake an Odour Impact Assessment for the subject lands, the results of which are discussed on page 7 of this report and attached as Appendix "D", "E" and "F" to Report PED22061.</li> </ul>

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<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Source Water Protection, Public Works Department	<p>Source Water Protection staff are satisfied that the proposal meets the RHOP sustainable servicing principles. The following comments identified below, are recommended as conditions of Draft Plan of Subdivision, should the Applications move forward:</p> <ul style="list-style-type: none"> <li>• Groundwater quality sampling should include mandatory testing of free chlorine prior to the sample collection for bacteria. The concentration of free chlorine should be 0.00 mg/L in the water prior to sampling;</li> <li>• Water quantity testing should include a requirement ensuring that supply wells can sustain a daily water withdrawal of 2,250 L/day. The peak water withdrawal rate should be at least 19 L/min consistently for 120 minutes. The water level in the supply well should consistently recover to at least 95% of static prior to the next water withdrawal period (within 24 hours); and,</li> <li>• A pre- and post- development water balance should be completed to demonstrate that the proposed water re-infiltration measures can balance the water infiltration deficit upon development of the site.</li> </ul>	<ul style="list-style-type: none"> <li>• Should the Applications be approved, the groundwater quality and quantity testing would be addressed through Draft Plan of Subdivision conditions.</li> </ul>

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<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Transportation Planning Division, Planning and Economic Development Department	<ul style="list-style-type: none"> <li>• Due to safety concerns for users of driveway accesses, staff are not supportive of Lots 9 and 10 proposed within a 90 degree turn and the Street "A" intersection;</li> <li>• The driveways for Lots 5, 6, 7 and 8 are to be located as far as possible from the intersection of Streets "A" and "B" and illustrated on the engineering drawings;</li> <li>• A temporary cul-de-sac for maintenance and emergency vehicles at the easterly terminus of Lower Street "A" (Lots 6 and or 7) is required;</li> <li>• The Applicant is to make the necessary arrangements to lift all 0.3 metres reserves;</li> <li>• Paved shoulders along both sides of the ROW are required to be a minimum of 2.0 metres and sidewalks at a minimum of 1.5 metres; and,</li> <li>• Outstanding revisions required to the Transportation Demand Management (TDM) Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Should the Applications be approved, technical details are required to be addressed through conditions of Draft Plan of Subdivision.</li> </ul>
Environmental Services Division, Public Works Department	<ul style="list-style-type: none"> <li>• The proposal is eligible for waste collection service subject to meeting the City's requirement.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted</li> </ul>
Infrastructure Planning, Growth Management Division, Planning and Economic Development Department	<p>The following comments are outstanding regarding the Functional Servicing/Stormwater Management Report:</p> <ul style="list-style-type: none"> <li>• The erosion control criteria should be verified between the Mid Spencer/Greenville Rural Settlement Area Subwatershed Study and Functional Servicing Report.</li> </ul>	<ul style="list-style-type: none"> <li>• Should the Applications be approved, engineering requirements would be addressed through the Draft Plan of Subdivision conditions</li> </ul>

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<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
<p>Infrastructure Planning, Growth Management Division, Planning and Economic Development Department <b>(Continued)</b></p>	<ul style="list-style-type: none"> <li>• Clarification is required regarding the storm storage reduction in consideration with the reduction in imperviousness surface;</li> <li>• Clarification is required to ensure post development peak flows are consistent with the hydrologic model parameters;</li> <li>• Clarification is required on how the water balance target for each lot will be satisfied;</li> <li>• The FSR/SWM Report should be revised to include a sensitivity assessment utilizing different storm distributions (Hydrological Model); and,</li> <li>• The Preliminary Grading Plan &amp; Post Development Drainage Plan should include a cross-section of the existing easement south of the pond to demonstrate conveyance of post-development Regional flows.</li> </ul>	
<p>Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department</p>	<p>The Development Engineering staff provided initial comments on October 25, 2017 and revised comments on December 10, 2018. The following revisions are required:</p> <ul style="list-style-type: none"> <li>• Written Consent and/or internal agreement with the existing development to the south (Spencer Creek Estates) is required to address maintenance/cleaning and sedimentation removal from existing culverts, roadside ditches, road, etc. during construction activities.</li> <li>• A revision to the Draft Reference Plan is required to verify whether the existing Guy Wires/ Radio Towers will be removed or if an easement is proposed for Maintenance Access.</li> </ul>	<ul style="list-style-type: none"> <li>• Should the Applications be approved, engineering requirements would be addressed through the Draft Plan of Subdivision conditions.</li> </ul>

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<b>Departments and Agencies</b>		
<b>Agency</b>	<b>Comment</b>	<b>Staff Response</b>
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department <b>(Continued)</b>	<ul style="list-style-type: none"> <li>• A revision to the Draft Reference Plan is required to show a temporary turning circle at the east end of Street “A” for servicing truck movements;</li> <li>• A revision to the Draft Reference Plan is required to provide an adequate curve radius for Street “A” along Lots 9, 10, 11, and Block 19, and along Lots 14 and 15. Asphalt width must extend to a minimum of 9.0m at a 90° road bend;</li> <li>• The 1.15m high retaining wall at the east limit of Street “A” should be eliminated; and,</li> <li>• The Geotechnical Report specifies minimum criteria for road pavement design parameters that are not consistent with City standards.</li> </ul>	

<b>Public Consultation</b>		
Rothsay, a Division of Darling International Canada Inc.	<ul style="list-style-type: none"> <li>• In a letter, Rothsay expressed interest in the zoning amendment and subdivision Applications being the owner-operators of a large-scale meat rendering facility located at 880 Highway 5 West.</li> <li>• The owner referenced that the existing industrial operation would classify the Dundas Plant as a Class III facility under the Ministry of Environment, Conservation and Parks’ D-6 Guidelines, which requires a 1,000m area of influence and 300m separation distance.</li> <li>• The owner requested that the City consider a minimum 300 metre separation distance to ensure no sensitive uses are permitted within this area.</li> </ul>	<ul style="list-style-type: none"> <li>• As discussed under the Provincial Policy Statement section of this Report, staff find the Odour Impact Assessment and subsequent response memorandums are not conclusive in demonstrating that the minimum separation distance can be reduced. Staff are not in support of the Applications.</li> </ul>

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<b>Public Consultation</b>		
<p>Rothsay, a Division of Darling International Canada Inc. <b>(Continued)</b></p>	<ul style="list-style-type: none"> <li>• In a letter, Rothsay requested that City staff advise the Applicant to revise their Environmental Noise Analysis to include night hours to address the 24 hour/day operation of the Rothsay facility;</li> <li>• Rothsay recommended the City reconsider Warning Clauses registered on title to inform future residents of odour impacts;</li> <li>• Rothsay retained Ramboll Environmental and Health (Ramboll) to peer review the technical accuracy of the Odour Impact Assessment Reports prepared by Ortech Consulting;</li> <li>• Ramboll advised that the nature and scale of the existing industrial use is considered a Class III facility regardless of the mitigation measures implemented;</li> <li>• Ramboll confirmed that the D-6 Guidelines states separation distances are measured between property lines of the industrial and sensitive uses and not the emission stack of the Rothsay facility; and,</li> <li>• The Applicant's suggested mitigation measures of a noise barrier and tree plantings will not reduce the odour impacts</li> </ul>	

**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 45 property owners within 120 m of the subject property on August 28, 2017 and a revised circulation was sent out on December 6, 2017. A Public Notice sign was posted on the property on September 11, 2017. A Notice of Public Meeting was mailed to 45 adjacent property owners on April 7, 2022. A Notice of Public Meeting was published in the Hamilton Spectator on April 7, 2022 in accordance with the



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requirements of the *Planning Act*. Two responses were received as a result of the public consultation circulation that are summarized in the table above and are attached as Appendix “G” to Report PED22061.

**ANALYSIS AND RATIONALE FOR RECOMMENDATION**

- 1) The proposal does not have merit and cannot be supported for the following reasons:
  - (i) The proposal is not consistent with the Land Use Compatibility policies under the Provincial Policy Statement (2020) and the Ministry of Environment, Conservation and Parks’ D-6 Guidelines and Noise Guidelines (NPC-300). The proposal does not demonstrate that the proposed residential uses would be compatible with the existing Class III facility and the proposed noise mitigation measures were not satisfactory;
  - (ii) The proposal is not consistent with the Growth Plan for the Greater Golden Horseshoe (2020), where the development of sensitive uses must avoid, or where avoidance is not possible, minimize and mitigate adverse impacts on industrial uses;
  - (iii) The proposal is not consistent with the Greenbelt Plan (2017). Lands identified as Hamlets in the Protected Countryside are subject to the policies of the Growth Plan and the official plan of the governing municipality;
  - (iv) The proposal does comply with criteria relating to matters of health, safety and welfare of the present and future inhabitants as per Section 51(24) of the *Planning Act*; and,
  - (v) The proposal does not comply with the Settlement Residential policies under the Greensville Rural Settlement Area Plan as the proposed residential uses would not be compatible with the existing Class III industrial facility.
  
- 2) As discussed in the D-6 Guidelines: Compatibility Between Industrial Facilities and the Rural Hamilton Official Plan sections of the report, staff are not in support of the proposal for the following reasons:
  - (i) The proposed separation distance does not meet the Ministry of Environment, Conservation and Parks’ Guidelines D-6 – Compatibility Between Industrial Use. Based on the review conducted by the City’s peer

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reviewer, Rothsay is to be classified as a Class III facility that requires a minimum separation distance of 300 metres'

- (ii) The proposed residential subdivision does not provide appropriate noise mitigation measures; and,
  - (iii) The proposed residential subdivision has unresolved safety concerns regarding the proposed driveways of Lots 9 and 10 that limit vehicle and pedestrian sightlines at the intersection of two roadways.
- 3) The residential development is proposed on 15.5 hectares, where the Application of the 300 metre minimum separation distance would result in approximately ±5.3 hectares of land available for potential residential development. A general estimate completed by staff has determined that approximately four residential lots could be developed outside of the 300 metre minimum separation distance based on the Applicant's submitted Concept Plan. It is opinion of staff that the minimum separation distance in the D-6 Guidelines should be applied, therefore the portion of the subject lands determined as incompatible with the adjacent industrial should not be developed into residential lots.

### **ALTERNATIVES FOR CONSIDERATION**

- 1) If the proposed Zoning By-law Amendment and Draft Plan of Subdivision are approved, staff should be directed to prepare a Draft Zoning By-law Amendment and Draft Plan of Subdivision conditions that implement the proposed Concept Plan attached as Appendix "B" to Report PED22061.
- 2) Alternatively, a partial Zoning By-law Amendment may be considered for the east portion of the subject lands that is located outside the 300 metre minimum separation distance required under the D-6 Guidelines as shown on Appendix "C" attached to Report PED22061. A revised Draft Plan of Subdivision Application would be required for any revised reconfiguration.

### **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

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**Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

**Clean and Green**

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED22061 - Location Map

Appendix "B" to Report PED22061 - Proposed Draft Plan of Subdivision

Appendix "C" to Report PED22061 - Minimum Separation Distance

Appendix "D" to Report PED22061 - Odour Impact Assessment Peer Review Technical Memorandums

Appendix "E" to Report PED22061 - Summary of Odour Impact Assessment Peer Review

Appendix "F" to Report PED22061 - Correspondence - MOECP staff

Appendix "G" to Report PED22061 - Public Comments

AB:sd