



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

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	August 3, 2022
<b>SUBJECT/REPORT NO:</b>	Application for Amendment to Flamborough Zoning By-law No. 90-145-Z for Lands Located at 265 Mill Street South, Flamborough (PED22162) (Ward 15)
<b>WARD(S) AFFECTED:</b>	Ward 15
<b>PREPARED BY:</b>	Devon Morton (905) 546-2424 Ext. 1384
<b>SUBMITTED BY:</b>	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That **Zoning By-law Amendment Application ZAC-21-017, by IBI Group Inc. on behalf of Braebourne Holdings Inc.**, for a change in zoning from the Parkway Belt Open Space “O1-1” Zone, Modified in the Town of Flamborough Zoning By-law No. 90-145-Z, to the Community Institutional (I2, 816, H129) Zone in the City of Hamilton Zoning By-law No. 05-200, to permit the adaptive re-use of the existing single detached dwelling and accessory structure for an Educational Establishment for lands located at 265 Mill Street South, Flamborough, as shown on Appendix “A” attached to Report PED22162, be **APPROVED**, on the following basis:

- (a) That the draft By-law, attached as Appendix “B” to Report PED22162, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (b) That Schedule “D” - Holding Provisions, of Zoning By-law No. 05-200, be amended by adding a Holding Provision as follows:

H129. Notwithstanding Section 8.2 of this By-law, within lands zoned Community Institutional (I2, 816) Zone on Map No. 483 on Schedule “A” – Zoning Maps, and described as 265 Mill Street South, Waterdown (Flamborough), no development shall be permitted until such time as:

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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.

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- (i) A revised Transportation Impact Study (TIS) has been submitted and approved with any recommendations made in the revised TIS being implemented to the satisfaction of the Manager, Transportation Planning;
  - (ii) A Conservation Plan and Construction Monitoring Plan has been submitted and approved with any recommendations made in the Conservation Plan and Construction Monitoring Plan being implemented to the satisfaction of the Manager of Heritage and Urban Design;
  - (iii) An updated Cultural Heritage Impact Assessment has been submitted and approved with any recommendations made in the Cultural Heritage Impact Assessment being implemented, to the satisfaction of the Director of Planning and Chief Planner;
- (c) That the proposed change in zoning is consistent with the Provincial Policy Statement (2020), conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, as amended, and the Niagara Escarpment Plan, 2017, and complies with the Urban Hamilton Official Plan.

## **EXECUTIVE SUMMARY**

The subject lands are municipally known as 265 Mill Street South and are located at the north east corner of Mill Street South and Mountain Brow Road. The owner, Braebourne Holdings Inc., has applied for an amendment to the Town of Flamborough Zoning By-law No. 90-145-Z to permit the adaptive re-use of the existing single detached dwelling and accessory structure for an Educational Establishment. The applicant proposes to relocate the existing Waterdown Montessori School to the subject lands to accommodate 157 students including an 836 square metre play area and 15 parking spaces including one barrier-free parking space. The Applicant's revised concept plan and elevations and renderings for the subject lands are attached as Appendices "C" and "D" to Report PED22162.

The purpose of the Zoning By-law Amendment is to change the zoning from the Parkway Belt Open Space "O1-1" Zone, Modified, in the Town of Flamborough Zoning By-law No. 90-145-Z, to the Community Institutional (I2, 816, H129) Zone in the City of Hamilton Zoning By-law No. 05-200. The applicant is requesting one modification to the regulations of the Community Institutional (I2) Zone to increase the maximum permitted accessory structure height. Planning staff also recommend modifications to limit the number of permitted uses, regulate the total gross floor area of the proposed Educational Establishment to 915.00 square metres, to apply the same regulations as

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an Educational Establishment to a Day Nursery and to permit uses only in the buildings and structures existing on the date of passage of the site specific by-law.

Additionally, a Holding Provision has been included in the amending by-law to be lifted once cultural heritage resources and transportation impacts have been addressed.

The proposed zoning regulations and Holding Provision will ensure significant cultural heritage resources are conserved through the proposed redevelopment of the subject lands and that the total enrolment numbers can be accommodated within the existing road network.

The application has merit and can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement (2020);
- It conforms to the Niagara Escarpment Plan (2017);
- It conforms to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
- It complies with the general intent of the Urban Hamilton Official Plan; and,
- The proposal is compatible with and complementary to the existing and planned land uses in the immediate and surrounding area, represents good planning by, among other things, making efficient use of existing infrastructure within the urban boundary, managing and preserving built heritage assets, supporting public transit, developing a complete community and providing an educational establishment to support the surrounding area.

**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 an application for an amendment to the Zoning By-law.

**HISTORICAL BACKGROUND**

**Report Fact Sheet**

<b>Application Details</b>	
Owner:	Braebourne Holdings Inc.
Applicant/Agent:	IBI Group Inc./Mike Crough
File Number:	ZAC-21-017.
Type of Application:	Zoning By-law Amendment.
Proposal:	<p>The original application was to change a portion of the zoning from the Parkway Belt Open Space “O1-1” Zone, Modified, to a modified Community Institutional (I2) Zone in order to permit the adaptive re-use of the existing single detached dwelling for a 387.38 square metre Educational Establishment with 647.85 square metres of floor area and an 800 square metre play area located at the rear of the dwelling. At that time, the applicant proposed to remove and construct several additions to the existing dwelling. The new additions included a covered porch and entry, north and east stair additions and a second-floor addition.</p> <p><b>Final Proposal – June 8, 2022</b></p> <p>The fourth proposal and Concept Plan submitted by the applicant in response to the comments received on the proposal, as revised, (see Appendix “C” attached to PED22162) is for:</p> <ul style="list-style-type: none"> <li>• Removal of previously proposed single detached dwelling and shared driveway.</li> <li>• A request to increase the maximum permitted accessory structure height.</li> <li>• Increased compensation ratio of 2:1 for all trees removed that are greater than 45 cm in diameter at breast height.</li> <li>• Retention of Tree #1003.</li> <li>• Commitment to make a coordinated effort to retain more trees on-site through the Site Plan stage.</li> <li>• Increased gross floor area of proposed Educational Establishment to 899.24 square metres.</li> </ul>

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<b>Property Details</b>	
Municipal Address:	265 Mill Street South, Flamborough (see Location Map attached as Appendix “A” to Report PED22162).
Lot Area:	2.05 ha.
Servicing:	Existing full municipal services.
Existing Use:	Single detached dwelling (vacant).
<b>Documents</b>	
Provincial Policy Statement (PPS):	The proposal is consistent with the PPS (2020).
Niagara Escarpment Plan	The proposal conforms to the Niagara Escarpment Plan (2017).
A Place to Grow:	The proposal conforms to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended).
Official Plan Existing:	“Neighbourhoods” on Schedule E – Urban Structure and “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations.
Official Plan Proposed	No amendment proposed.
Zoning Existing:	Parkway Belt Open Space “O1-1” Zone, Modified.
Zoning Proposed:	Community Institutional (I2, 816, H129) Zone.
Modifications Proposed:	<p>The Applicant is requesting a modification to:</p> <ul style="list-style-type: none"> <li>• Increase the maximum accessory structure height to 6.75 metres whereas 4.5 metres is required.</li> </ul> <p>Staff are recommending additional modifications to:</p> <ul style="list-style-type: none"> <li>• Restrict the permitted uses within the Community Institutional (I2, 816, H129) Zone to an Educational Establishment and Day Nursery;</li> <li>• Restrict the maximum gross floor area of an Educational Establishment to 915.00 square metres; whereas, no maximum is required; and,</li> <li>• Require that an Educational Establishment and Day Nursery be used in conjunction with the existing single detached dwelling on the property.</li> </ul>

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<b>Documents</b>	
Modifications Proposed <b>Continued:</b>	<ul style="list-style-type: none"> <li>• Apply the same regulations as an Educational Establishment to a Day Nursery;</li> <li>• Require the existing building to be retained by permitting uses in the building existing on the date of passage of the site specific by-law; and,</li> <li>• Require a Holding Provision for a revised Transportation Impact Study (TIS), a Conservation Plan, a Construction Monitoring Plan and a revised Cultural Heritage Impact Assessment.</li> </ul>
<b>Processing Details</b>	
Received:	March 24, 2021
Deemed incomplete:	April 21, 2021
Deemed complete:	May 6, 2021
Notice of Complete Application:	Sent to 21 property owners within 120 metres of the subject lands on May 18, 2021.
Public Notice Sign:	Posted May 27, 2021 and updated with public meeting date on July 6, 2022.
Additional Public Notice Sign:	Posted July 28, 2021 and updated with public meeting date on July 6, 2022.
Notice of Public Meeting:	Sent to 21 property owners within 120 metres of the subject lands on July 15, 2022.
Public Comments:	One email was received expressing concern for the proposed Zoning By-law Amendment (attached as Appendix "E" to Report PED22162).
Processing Time:	455 days from date of receipt of initial application and 57 days from date of receipt of final revised proposal.

**EXISTING LAND USE AND ZONING**

	<b>Existing Land Use</b>	<b>Existing Zoning</b>
<b>Subject Lands:</b>	Residential (single detached dwelling and accessory structure)	Parkway Belt Open Space "O1-1" Zone

**Surrounding Land Uses:**

North	Residential (single detached dwellings) and Parks/Open Space	Parkway Belt Open Space “O1” Zone & Conservation Management “CM” Zone
East	Residential (single detached dwellings)	Parkway Belt Open Space “O1-1” Zone, Modified & Conservation/Hazard Lands (P6) Zone
West	Residential (single detached dwellings) and Parks/Open Space (Smokey Hollow)	Conservation Management “CM” Zone & Parkway Belt Open Space “O1-1” Zone, Modified
South	Residential (outside City of Hamilton jurisdiction – Burlington)	Conservation/Hazard Lands (P6) Zone, Parkway Belt Open Space “O1-1” Zone, Modified & NEC Development Control (outside City of Hamilton jurisdiction – Burlington)

**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 be consistent with the PPS and conform to the Growth Plan for the Greater Golden Horseshoe (A Place to Grow, 2019, as amended).

The mechanism for the implementation of the Provincial plans and policies is through the Official Plan. Through the preparation, adoption and subsequent approval by the Ontario Land Tribunal, the City of Hamilton has established the Urban Hamilton Official Plan (UHOP) which contains local policies for the implementation of the Provincial planning policy framework. As such, matters of provincial interest (i.e. efficiency of land use) are discussed in the Official Plan analysis that follows.

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One exception to the local implementation of the Provincial planning policy framework is that the UHOP has not been updated with respect to the cultural heritage policies of the PPS. The following policies, amongst others, apply:

- “2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”

### Built Heritage

The existing two-storey stone dwelling is listed as a non-designated property on the City’s Municipal Heritage Register and is currently recommended for Designation under Part IV of the *Ontario Heritage Act*. The subject lands are located within the Village of Waterdown Cultural Heritage Landscape and adjacent to seven properties listed on the City’s Municipal Heritage Register. The stone house was constructed circa 1846 for John Cummer and is designed in a Georgian/Regency architectural style. The property has no known significant architects or builders associated with its construction. Notable architectural and design features include the American White-Oak staircase, original stone façade (south elevation) and two storey covered porch.

A Cultural Heritage Impact Assessment for the subject lands was completed by KSA Architectural Solutions Inc. dated December, 2020 and was subsequently revised February, 2022. The initial and updated Cultural Heritage Impact Assessment were reviewed by staff and the Policy and Design Working Group (PDWG) of the Hamilton Municipal Heritage Committee (HMHC). The PDWG and Inventory and Research Working Group recommended to the HMHC that the property be added to the Heritage Register and the City’s Workplan for Designation under Part IV the *Ontario Heritage Act* as a low priority.

At the Council meeting held on April 27, 2022, Council added the property to the City’s Workplan for Designation under Part IV of the *Ontario Heritage Act* as a low priority.

Planning staff will continue to work with the applicants through the Site Plan Application process to retain significant heritage attributes associated with the building’s cultural heritage value and interest. Conservation of internal and external heritage attributes will be achieved through a Conservation Plan and Construction Monitoring Plan which are included as an “H” Holding Provision and further by requiring the existing building to be protected in the Zoning By-law Amendment. A revised Cultural Heritage Impact Assessment will be required though the ‘H’ Holding Provision to address outstanding



comments and questions from cultural heritage staff related to features of the existing dwelling proposed to be retained through the adaptive reuse of the building.

The Owners have expressed their support to designate the subject lands under Part IV of the *Ontario Heritage Act*, once the Educational Establishment has been established.

#### Archaeological Resources

The subject lands meet five of the ten criteria used by the City of Hamilton and Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) for determining archaeological potential.

As part of this application, a Stage 1-2 (P398-0051-2020) archaeological report for the subject lands was submitted to the City and the Ministry of Heritage, Sport, Tourism and Culture Industries. The Province signed off on the reports for entrance into the Ontario Public Register in a letter dated May 28, 2021.

Based on the above, staff are of the opinion that the municipal interest in the archaeology of this portion of the site has been satisfied.

#### Noise

The following policies of the Provincial Policy Statement, 2020, amongst others, apply to the proposal:

“1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.”

The subject lands are in proximity to existing noise sources, primarily the abutting roads and Canadian Pacific Railway rail line. An Acoustical Study prepared by IBI Group Inc., dated February 7, 2020, was prepared in support of the application.

The existing CPR rail line will not pose a significant impact to the proposed Educational Establishment given the CPR rail line is approximately 200 metres in distance from the subject lands, there is significant vegetation that will act as a natural sound barrier and the hours of operation of the Education Establishment are limited to normal school operating hours.

The noise sources identified in the Acoustical Study impacting the subject lands included road noise from both Mountain Brow Road and Mill Street South and stationary noise from the proposed HVAC equipment.

The Acoustical Study determined that the sound levels from the road noise sources (Mountain Brow Road and Mill Street South) of 55 dBA warrants the inclusion of a Type A warning clause or physical control in accordance with the requirements of the Ministry of the Environment, Conservation and Parks which will be implemented at the Site Plan Control stage.

### **Urban Hamilton Official Plan**

The subject lands are identified “Neighbourhoods” on Schedule E – Urban Structure, designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations and are further designated “Built-up Area” on Appendix “G” of the Urban Hamilton Official Plan.

The following policies of the Urban Hamilton Official Plan, amongst others, apply to the proposal:

#### Neighbourhoods Designation

- “E.2.6.2      Neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents. These facilities and services may include parks, schools, trails, recreation centres, places of worship, small retail stores, offices, restaurants, and personal and government services.
  
- E.3.1.1      Develop compact, mixed use, transit-supportive, and active transportation friendly neighbourhoods.
  
- E.3.1.2      Develop neighbourhoods as part of a complete community, where people can live, work, shop, learn, and play.
  
- E.3.1.4      Promote and support design which enhances and respects the character of existing neighbourhoods while at the same time allowing their ongoing evolution.
  
- E.3.2.4      The existing character of established Neighbourhoods designated areas shall be maintained. Residential intensification within these areas shall enhance and be compatible with the scale and character of the existing residential neighbourhood in accordance with Section B.2.4 – Residential Intensification and other applicable policies of this Plan.

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E.3.2.8 Proposals for supporting uses, except local commercial uses, within the Neighbourhoods designation shall be evaluated on the following criteria:

- a) Compatibility with the surrounding area in terms of scale, massing, height, siting, orientation, setbacks, parking, and landscaping;
- b) Access to a collector or major or minor arterial road shall be preferred;
- c) Provision of adequate off-street parking with appropriate buffering and landscaping from residential uses;
- d) Compliance with Section B.3.3 – Urban Design Policies and B.3.5 – Community Facilities/Services Policies; and,
- e) Adjacency and integration with parks to provide an attractive extension of parks and maximize the use of parkland facilities.

E.3.2.10 Schools shall be designed to be accessible to those children they serve with minimum exposure to traffic hazards. Adequate bus loading and unloading facilities both on and off-site shall be incorporated into the design as needed.

E.3.2.15 The City shall encourage the adaptive reuse of the existing building stock for appropriate land uses. Rezoning applications for new uses shall be evaluated to ensure compatibility with surrounding land uses.”

The proposed Educational Establishment is a complementary facility that will serve the residents in the immediate and surrounding area (E.2.6.2). Furthermore, the proposed development contemplates an institutional use that contributes towards achieving the planned neighbourhood urban structure.

The subject lands are located along an existing Minor Arterial Road (Mill Street South) and proposed Major Arterial Road (Mountain Brow Road) as identified on Schedule “C”, Functional Road Classification, of the Urban Hamilton Official Plan (E.3.2.8). Mountain Brow Road will be urbanized, widened and reconstructed in the future. This location is transit-supportive and will promote active transportation and increased connectivity through the installation of a pedestrian connection from the principal building to proposed sidewalks along Mountain Brow Road (E.3.1.1). Additionally, the subject lands are adjacent to a Conservation Management Area (Smokey Hollow) that provides unfettered access to public open space (E.3.1.2).

With respect to the character of the area, the surrounding buildings existing today consist of low density, single detached dwellings, generally one to two storeys in height. The proposal will facilitate a compatible form of adaptive re-use within the existing urban boundary. The proposed development will incorporate appropriate landscape buffers, tree plantings and other design features to integrate the development with the surrounding area and ensure that the proposed development, while different from what exists in the immediate area, will be compatible in respect to scale, form and character (E.3.2.4 and E.3.2.8).

#### Community Facilities/Services

- “B.3.5.1.1 Create a vibrant, active and supportive City by providing community facilities/services that support a high quality of life for all residents.
- B.3.5.1.2 Achieve equitable and efficient access, distribution, and integration of community facilities/services which meet the needs of people of all ages, backgrounds, and capabilities throughout all stages of their lives and across the City.
- B.3.5.1.3 Provide community facilities/services in an efficient sustainable manner that optimizes their use, minimizes their environmental impacts, and promotes their flexibility to adapt to changing needs.
- B.3.5.2.4 New or renovated community facilities can create a focus for neighbourhood rejuvenation and are encouraged to locate in transition areas identified in secondary plans or by other City initiatives.
- E.3.10.1 Community facilities/services uses include public and private uses serving the cultural, religious, health, welfare, and educational needs of a neighbourhood. Community facilities/services may include community and recreation centres, arenas, parks, healthcare and social service facilities, long term care facilities, day care centres, seniors’ centres, emergency medical services, fire services, police services, cultural facilities, places of worship, museums, schools, universities and colleges, and libraries. (OPA 64)
- E.3.10.2 The City shall encourage a diverse range of community facility/service uses and promote the sharing of facilities and resources as capacities permit.”

The proposed development of an Educational Establishment brings a diverse mix of facilities (Montessori School) and services to the neighbourhood to support local

residents and service their needs (B.3.5.1.1 and B.3.10.1, B.3.10.2). The proposal creates employment opportunities within the immediate and surrounding area while leveraging the existing municipal infrastructure (B.3.5.1.3). The lands surrounding Mill Street South and Mountain Brow Road are in transition with the intention of facilitating development along the proposed Major Arterial Road (B.3.5.2.4).

#### Educational Facilities

“B.3.5.5.6 Schools shall provide landscaped open space for outdoor student activities and be designed and operated to limit noise, traffic, privacy impacts on neighbouring residents.”

The adjacent lands to the east and west are designated “Neighbourhoods” and the adjacent lands to the north are designated “Open Space” and have historically consisted of low-density residential uses and open space areas. The proposed development generally maintains the current-day, existing conditions of the subject lands through the adaptive re-use of the existing structures and provides adequate landscaped open space for students. As such, no adverse impact to the neighbouring residents or privacy concerns are anticipated (B.3.5.5.6).

#### The Niagara Escarpment Plan

“C.1.1.1 Any development within the Niagara Escarpment Plan area, as shown on Schedule A – Provincial Plans, shall meet the requirements of this Plan and the Niagara Escarpment Plan and Section 3.3 of the Greenbelt Plan. Where there is discrepancy between this Plan and the Niagara Escarpment Plan, the most restrictive policies will prevail.

C.1.1.6 To minimize the impact and further encroachments in the Escarpment environment, for those lands located within the Niagara Escarpment Plan area identified on Schedule A - Provincial Plans, the following policies shall apply:

- a) The design of the development shall be compatible with the visual and natural environment; and,
- b) Setbacks and screening adequate to minimize the visual impact of development on the Escarpment landscape shall be required.

C.1.1.10 On lands located within Urban Hamilton and identified as Niagara Escarpment Plan Urban Area on Schedule A - Provincial Plans, the following policies shall apply:

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- a) Where lands are designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations, the policies contained in Section E.3.0 - Neighbourhoods Designation shall apply.”

The subject lands are designated “Urban Area” in the Niagara Escarpment Plan, 2017 (NEP). The Niagara Escarpment Commission (NEC) has confirmed the proposed use is permitted within the Urban Area designation of the NEP and that the subject lands fall outside of the NEC’s area of Development Control. NEC staff have reviewed the applicant’s final proposal (see Appendix “C” attached to PED22162) and have not provided concerns related to the visual impact of the development (C.1.1.6).

#### Natural Heritage

“C.2.5.5 New development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in Section C.2.5.2 to C.2.5.4 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there shall be no negative impacts on the natural features or on their ecological functions.”

The subject lands are adjacent to Core Areas including Grindstone Valley Environmentally Significant Area, Grindstone Creek Area of Natural and Scientific Interest and the Grindstone Creek Valley Area of Natural and Scientific Interest and watercourse. As portions of the subject lands are developed and the subject lands are separated from the Core Areas by Mill Street South, impacts to the Core Areas or their functions is not anticipated.

#### Tree Management

“C.2.11.1 The city recognizes the importance of trees and woodlands to the health and quality of life in our community. The city shall encourage sustainable forestry practices and the protection and restoration of trees and forests.”

A Tree Protection Plan was reviewed with respect to the proposed application for Zoning By-law Amendment. A total of 131 trees have been inventoried, of which 54 privately-owned trees have been proposed to be removed to facilitate the proposal. All public trees identified on the subject lands are shown to be retained. It is recognized there may be further opportunities to retain additional trees on site. A revised Tree Protection Plan will be reviewed in further detail as part of the Site Plan Control Application and will require the inclusion of a note related to timing for tree removal to comply with the *Migratory Birds Convention Act*.

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In order to mitigate impacts to the existing tree canopy, compensation plantings are required for any private tree, 10 cm in DBH or greater, that is removed on the subject lands. Through discussions with the applicant, it has been agreed that tree #1003 will be retained and that for the removal of any privately-owned tree, compensation plantings will be provided at a rate of 1:1. Through the same discussions it was further agreed that for the removal of any privately-owned tree, greater than 45 cm in DBH, compensation plantings will be provided at a rate of 2:1. Compensation plantings will be required to be shown on a Landscape Plan consisting of native species only due to the subject lands adjacency to Core Areas. A detailed Landscape Plan will be required and reviewed as part of the Site Plan Control Application (C.2.11). Furthermore, the Landscape Plan will be required to include a note related to timing for tree removal to comply with the *Migratory Birds Convention Act*.

#### Traffic Management

“C.4.5.12 The City shall require transportation impact studies to assess the impact of proposed developments on current travel patterns and/or future transportation requirements. These studies shall be submitted as part of applications for Official Plan amendments, subdivision approvals, major rezoning and major site plan approvals.”

A Transportation Impact Study (TIS) was submitted in support of the Zoning By-law Amendment Application demonstrating there is adequate transportation service capacity for the proposed development. Staff reviewed and supported the TIS submitted with the application. As subsequent revisions to the proposal were made, the overall capacity of the Educational Establishment increased from 100 students to 157 students. Transportation Planning staff do not anticipate the increase in enrolment numbers to impact the recommendations from the Transportation Impact Study but are recommending that the subject lands be placed in a Holding (H) Provision to be lifted once an addendum to the Transportation Impact Study (TIS) is submitted and approved and any recommendations made in the revised TIS are implemented, to the satisfaction of the Manager, Transportation Planning to ensure the proposal complies with the Urban Hamilton Official Plan (C.4.5.12).

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

The subject lands are currently zoned Parkway Belt Open Space “O1-1” Zone, Modified in the Town of Flamborough Zoning By-law No. 90-145-Z. The Parkway Belt Open Space “O1-1” Zone, Modified permits agriculture, conservation, a park, and a single detached dwelling. To implement the proposed development, a rezoning to the Community Institutional (I2, 816, H129) Zone is required. The site-specific

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modifications to accommodate the proposal are outlined in the Report Fact Sheet and discussed in further detail in Appendix “F” attached to Report PED22162.

Staff note a small portion of the subject lands are regulated by Conservation Halton due to the slope and any development in the regulated area would require a development permit issued by their office.

**RELEVANT CONSULTATION**

<b>Departments and Agencies</b>		
	<b>Comment</b>	<b>Staff Response</b>
<ul style="list-style-type: none"> <li>• Canada Post;</li> <li>• Corporate Real Estate (City of Hamilton);</li> <li>• Commercial Districts and Small Business Section (City of Hamilton); and,</li> <li>• Bruce Trail Conservancy.</li> </ul>		No comment
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department	<p>Development Engineering has no objections with the proposal.</p> <p>No major concerns with the preliminary grading plan. A detailed review will be provided at the Site Plan Application stage.</p> <p>The proponent is proposing a sanitary service lateral to the easement north of the site, but a preliminary servicing plan has not been provided. As PW sees no issue with capacity at the sanitary sewer system, we have no major concerns. A servicing plan and a detailed review shall be provided at the Site Plan application stage.</p> <p>The maximum day domestic water usage for the site, based on the approximate fixture unit approach, has been calculated as 3.4 L/s. This calculation is acceptable.</p>	<p>Should the application be approved, matters related to grading, stormwater, site servicing and road improvements will be addressed at the Site Plan Control stage.</p> <p>Any required dedications shall be required to be shown on the Site Plan at the Site Plan Control stage.</p>



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	<b>Comment</b>	<b>Staff Response</b>
<p>Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department <b>Continued</b></p>	<p>At Site Plan Application stage, a road widening on Mill Street South (the Mill Street Right of Way that varies between approximately 12 feet (3.660m) and 46 feet (14.020m)) must be dedicated to the City of Hamilton.</p> <p>The Applicant will be required to dedicate to the City of Hamilton a 12.19m x 12.19m daylight triangle from the widened limits of Mill Street South and Mountain Brow Road.</p> <p>Development Approvals has no road widening requirement along Mountain Brow Road.</p> <p>The applicant shall provide the R-Plan and land transfer deed as proof of all land transfers. A survey conducted by an Ontario Land Surveyor and at the applicant's expense will determine the ultimate dimensions for the road allowance widening(s) and daylighting triangle requirements.</p> <p>The building floor area, building height, building materials, occupancy and exposure distances should be checked to be compliant with the RFF calculations at the Site Plan approval and building permit stages.</p> <p>We have no concerns from a water servicing perspective at this time. Updated domestic water usage and RFF calculations, based on the final design of the site, and a Servicing Plan, will be required at the Site Plan Control stage.</p> <p>The submitted Functional Servicing Report, dated November 27, 2020, is satisfactory.</p>	

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	<b>Comment</b>	<b>Staff Response</b>
Development Engineering Approvals Section, Growth Management Division, Planning and Economic Development Department <b>Continued</b>	<p>Section 4.5 of the report mentions that no stormwater quantity control is proposed (for storm outlet towards Mountain Brow Road) and the proposed development is not consistent with the previous comments provided at the FC stage (FC-19-071) from Infrastructure Planning.</p> <p>In addition, the pre-development drainage area plan shows a 2.11 ha area drains to the storm outlet towards Mountain Brow Road to the south which is not consistent with the contours and drainage direction which shows part of the subject site also drains to north. Please review and revise; and also, please revise the post development drainage area plan accordingly. Both pre and post development drainage area plan shows Figure no. 2.</p> <p>Stormwater management quantity and quality control for the proposed development should be consistent with the FC comments (FC-19-071).</p>	
Source Water Protection	<p>Hamilton Water requests the applicant's Geotechnical Report that would discuss soil/groundwater conditions as well as the need for dewatering during construction.</p> <p>Given that the development is on the edge of the urban boundary and a small number of nearby properties rely on private water servicing, if dewatering is anticipated for construction activities, we would require a door-to-door water well survey to be conducted for the development, to the satisfaction of Director, Hamilton Water. Dewatering has the potential to impact nearby private well owners.</p>	Should the application be approved, these matters, including a water well survey (if required), will be addressed at the Site Plan Control stage.

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	<b>Comment</b>	<b>Staff Response</b>
Source Water Protection <b>Continued</b>	<p>The result of this survey will determine the number of wells which could be impacted by construction activities and propose mitigation strategies in case impacts arise. Monitoring of private wells before, during, and after construction shall be conducted to protect both the applicant and private well owners.</p> <p>Regardless of dewatering needs, the Applicant shall provide a technical memorandum from a qualified professional (P.Eng, P.Geo) which provides a proposed Groundwater Monitoring and Contingency plan that outlines their protocol for action in case private well impacts arise from construction. This contingency plan would include identification and monitoring of potential impacts, triggers, timelines for investigation, City notification protocol, and mitigation plans in case impacts arise.</p> <p>This water well survey would include a door-to-door survey of wells within a 500 m radius of the site perimeter or the proposed area of influence from dewatering (whichever is greater) and should determine the condition and details of local wells, including the method of construction, static water level, pump intake, well depths, and water use.</p>	
Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department	<p>Transportation Planning support the proposed site development under the condition that the Mountain Brow Road access be designed and signed to only permit right-in-right-out movements by means of a diverter island installed internal to the subject site, and the school enrolment stay at or below the enrolment levels approved through the provision of ZAC-21-007.</p>	<p>The proposal has been designed to only permit right-in-right-out movements by means of a diverter island installed internal to the subject lands.</p>

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	<b>Comment</b>	<b>Staff Response</b>
<p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department <b>Continued</b></p>	<p>Gross floor area has been limited in the implementing Zoning By-law Amendment. An Holding “H” Provision will be placed on the subject lands until such time as a revised Transportation Impact Study (TIS) is provided that demonstrates the proposed size of the Educational Establishment of 915 square metres can be accommodated, to the approval of the Manager, Transportation Planning and any recommendations made in the TIS are implemented to the satisfaction of the Manager, Transportation Planning.</p> <p>If further enrolment and expansion of the site is contemplated in the future, Transportation Planning will require a Transportation Safety and Access Study to be undertaken to the approval of the Manager, Transportation Planning to determine any safety implications on the area road network with either the existing or proposed site expansion.</p> <p>In order to protect the existing and future pedestrian realm and road network, Transportation Planning shall require the following:</p> <ul style="list-style-type: none"> <li>• A varying right-of-way dedication on Mill Street South, generally as shown on the submitted Draft R-Plan, in order to achieve a 26.213 ultimate right-of-way, to be verified by Geomatics and Corridor Management prior to depositing.</li> </ul>	<p>Gross floor area has been limited in the implementing Zoning By-law Amendment.</p> <p>A Holding “H” Provision will be placed on the subject lands until such time as a revised Transportation Impact Study (TIS) is provided that demonstrates the proposed size of the Educational Establishment of 915 square metres can be accommodated to the approval of the Manager, Transportation Planning and approved and any recommendations made in the revised TIS are implemented to the satisfaction of the Manager, Transportation Planning.</p> <p>Should the Application be approved, matters related to driveway design and improvements to Mountain Brow Road including costs associated with new signage will be addressed at the Site Plan Control stage.</p>

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	<b>Comment</b>	<b>Staff Response</b>
<p>Transportation Planning Section, Transportation Planning and Parking Division, Planning and Economic Development Department <b>Continued</b></p>	<ul style="list-style-type: none"> <li>A functional design of the right-in-right-out driveway and diverter island prior to the City road works taking place so that the curb depressions can be co-ordinated with the installation of curb and sidewalk along Mountain Brow Road. The design as shown is generally acceptable to Transportation Planning but will need to be refined in greater detail before approval by Transportation Operations and Maintenance.</li> </ul> <p>As a special condition of site plan approval, prior to application for any building permits, the Applicant is responsible for the payment for the installation of reduced speed limit signage (40 km/h) and flashing school zone solar beacons on Mill Street South, Waterdown Road and Mountain Brow Road through the frontage of the school.</p> <p>All costs associated with the provision of this measure will be at the expense of the Applicant, dedicated to the City of Hamilton. The anticipated cost for purchase and installation is approximately \$20,000, to be confirmed by the Transportation Operations and Maintenance division. The location(s) will be determined by the City and are normally 150 metres in advance of the school site facing approaching traffic. The reduced speed limit flashers must be financed and operational prior to opening of the school. Additional information can be obtained from the Superintendent, Roadway Safety.</p> <p>5.0 metre x 5.0 metre visibility triangles must be provided for the proposed driveway access.</p>	<p>Should the application be approved, any proposed future expansion to the Educational Establishment beyond 915 square metres would trigger additional <i>Planning Act</i> approvals, through which the applicant would have to determine any safety implications on the area road network and make any necessary improvements.</p>

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	<b>Comment</b>	<b>Staff Response</b>
Environmental Services	<p>We request cash in lieu of parkland dedication, if applicable. The play area shall not be classified as parkland.</p> <p>The Right-Of-Way dedication on Mill Street should be reviewed for any conflicts with existing Ductile 150mm Watermain.</p>	Should the application be approved, these matters will be addressed prior to the issuance of a Building Permit.
Growth Planning Section, Growth Management Division, Planning and Economic Development Department	The Owner and Agent should be made aware that municipal addressing for the subject proposal will be determined when a Site Plan application is submitted. At the Site Plan stage, a Mountain Brow Road address will be assigned to the subject property.	The municipal address and mailing address will be finalized through the Site Plan Control Application.
Waste Management Operations Section, Environmental Services Division, Public Works Department	<p>Montessori schools are considered institutional facilities which are not eligible for municipal waste collection as outlined in the City of Hamilton's Solid Waste Management By-law No. 20-221.</p> <p>A private waste hauler must be arranged for the removal of all waste materials.</p>	Noted.
Forestry and Horticulture Section, Environmental Services Division, Public Works Department	<p>Forestry approves the tree management plan revision #1, dated 2021-02-10.</p> <p>Forestry does not require a landscape plan as all public trees within proximity to the proposed works are shown to be retained.</p>	Should the application be approved, this matter will be addressed at the Site Plan Control stage.
Conservation Halton	<p>We do not object to the proposed Zoning By-law Amendment. Technical comments provided can be addressed at future <i>Planning Act</i> applications.</p> <p>Retain all lands up to and including the 6 metres from the staked top of slope/Long-Term Stable Top of Slope (LTSTS) line within the "Parkway Belt Open Space – Modified Zone" (O1-1) of Zoning By-law 90-145-Z.</p>	<p>Noted.</p> <p>Conservation Halton staff have confirmed there are no concerns with the City's rezoning approach as outlined in this Report.</p>

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	<b>Comment</b>	<b>Staff Response</b>
Conservation Halton <b>Continued</b>	Reduce the extent of the proposed outdoor playground area so that no portion extends within the 6-metre erosion access allowance from the staked top of slope/LTSTS line.	The proposed outdoor playground was removed from the 6-metre erosion access allowance from the staked top of slope/LTSTS line.
Niagara Escarpment Commission	<p>Further to the formal consultation comments, the NEC staff have no objections.</p> <p>The lands are designated as Urban Area under the Niagara Escarpment Plan, 2017 (NEP) and are outside of the NEC's area of Development Control.</p> <p>A NEC Development Permit is not required to implement the proposal.</p> <p>The proposed uses are permitted within the Urban Area designation of the NEP.</p> <p>Please include NEC staff for comment during the site plan circulation.</p>	Noted, NEC staff will be circulated the future Site Plan Control application.
Alectra Utilities	<p>Minimum 4 metre horizontal clearance from existing O/H line(s) must be maintained at all times as per Alectra Utilities Standard 3-105.</p> <p>Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense.</p> <p>Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.</p> <p>Developers to acquire an easement, if required.</p>	Noted.
Enbridge	There is an existing gas service to this property that may need to be relocated or abandoned if the addition will be near the gas service.	Noted.

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	<b>Comment</b>	<b>Staff Response</b>
Canadian Pacific Railway	<p>Canadian Pacific does not oppose Commercial/Industrial/Non-Residential type developments in proximity to our right of way.</p> <p>Notwithstanding that stated above, all developments should still meet certain recommendations based upon site specific conditions and intended use. Please refer to the FCM-RAC Proximity Guidelines which can be found at the following link: <a href="http://www.proximityissues.ca">http://www.proximityissues.ca</a></p> <p>One submission from the public received.</p> <p>The member of the public stated their opposition to the proposal and indicated they will attend the Public Meeting. They further expressed concern related to the procedural requirements of providing comments. The member of the public further noted mailing address details to ensure notice was received and requested email notification if possible.</p>	<p>Noted.</p> <p>Further notice of the Public Meeting was provided in accordance with the requirements of the <i>Planning Act</i>. Staff responded to the member of the public and indicated the City would not pay lawyer fees. Email notification of the Public Meeting was provided.</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 residents within 120 metres of the subject lands on May 18, 2021. The initial Public Notice sign was posted on the lands May 27, 2021 and updated with the Public Meeting date on July 6, 2022. Based on public feedback that the sign was not visible, an additional Public Notice sign was posted on the lands July 28, 2021 and updated with the Public Meeting date on July 6, 2022. A Notice of Public Meeting was sent to property owners within 120 metres of the subject lands on July 15, 2022, in accordance with the requirements of the *Planning Act*.

To date, one public submission in opposition to the proposal has been received in response to the Public Notice. This submission is summarized above and included in Appendix “E” attached to Report PED22162.



## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. The proposal has merit and can be supported for the following reasons:
  - (i) It is consistent with the Provincial Policy Statement and conforms to the Niagara Escarpment Plan (2017) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019, as amended);
  - (ii) The proposed development complies with the Urban Hamilton Official Plan; and,
  - (iii) The proposal is compatible with the existing and planned neighbourhood and represents good planning by, among other things, making efficient use of existing infrastructure within the urban boundary, managing and preserving built heritage assets, developing a complete community and providing an educational establishment to support the surrounding area.
  
2. Zoning By-law Amendment

The application for Zoning By-law Amendment is for a change in zoning from the Parkway Belt Open Space “O1-1” Zone, Modified in the Town of Flamborough Zoning By-law No. 90-145-Z, to the Community Institutional (I2, 816, H129) Zone in the City of Hamilton Zoning By-law No. 05-200, to permit the adaptive re-use of the existing single detached dwelling and accessory structure for an Educational Establishment. The modifications are identified on page 5 of Report PED22162 and discussed in detail in Appendix “F” attached to Report PED22162.

The proposal is a form of adaptive re-use encouraged and envisioned by the Urban Hamilton Official Plan and the Community Institutional (I2, 816, H129) Zone, Modified, includes one modification proposed by the applicant to recognize an existing condition.

Therefore, staff support the proposed amendment to the Zoning By-law.

3. Holding Provision

An ‘H’ Holding Provision is recommended to address the following:

- A revised Transportation Impact Study (TIS) has been submitted and approved with any recommendations made in the revised TIS being implemented to the satisfaction of the Manager, Transportation Planning;

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- A Conservation Plan and Construction Monitoring Plan has been submitted and approved with any recommendations made in the Conservation Plan and Construction Monitoring Plan being implemented to the satisfaction of the Manager of Heritage and Urban Design; and,
- An updated Cultural Heritage Impact Assessment has been submitted and approved with any recommendations made in the Cultural Heritage Impact Assessment being implemented, to the satisfaction of the Director of Planning and Chief Planner.

4. Site Plan

A Site Plan Control application shall be required to implement the proposal as there is approximately 150 square metres of Gross Floor Area in building additions. Furthermore, the parking lot and driveway construction and increased intensification of the use on the subject lands warrants the submission of a Site Plan Control application. An exemption to the Site Plan Control process shall not be granted to implement this proposal.

**ALTERNATIVES FOR CONSIDERATION**

Should the Zoning By-law Amendment application be denied, the subject lands could be utilized in accordance with the existing Parkway Belt Open Space “O1-1” Zone, Modified within Zoning By-law No. 90-145-Z. This zone permits agriculture, conservation, a park and a single-detached dwelling.

**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**

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

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**Clean and Green**

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

**Culture and Diversity**

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

**Built Environment and Infrastructure**

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

**Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED22162 - Location Map

Appendix "B" to Report PED22162 - Amendment to Zoning By-law 05-200

Appendix "C" to Report PED22162 - Revised Concept Plan

Appendix "D" to Report PED22162 - Concept Elevations and Renderings

Appendix "E" to Report PED22162 - Public Submission

Appendix "F" to Report PED22162 - Zoning By-law Site Specific Modification Chart

DM:sd