

November 13, 2023

VIA EMAIL

Chair and Members of Planning Committee
c/o Lisa Kelsey
Legislative Coordinator
Planning Committee
City of Hamilton
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Ms. Kelsey:

**Re: Agenda Item 11.4, Greenbelt Statute Law Amendment Act, 2023 –
Reinstatement of Greenbelt Lands (PED23244) (City Wide)**

And Re: Northwest Corner of Barton Street and Fifty Road, City of Hamilton

We are the municipal solicitors acting on behalf of 5000933 Ontario Inc., owners of a 3.7 hectare (9.2 acre) parcel located at the northwest corner of Barton Street and Fifty Road, in the City of Hamilton.

The subject property was one of the 15 properties removed from the Greenbelt Plan as a result of the Ministry's ERO 019-6216 Decision made on December 21, 2022, and which are now proposed to be reinstated (ERO 019-7739). We have reviewed the above referenced report which recommends "That the proposed reinstatement of all 15 sites removed from the Greenbelt Area by the Government of Ontario, be supported; ...". The Report does not examine any of the 15 sites or undertake any analysis to support the reinstatement of the 15 parcels. Instead, there is an assumption that because the 15 parcels were previously included in the Greenbelt Area, they should be reinstated. In particular, the Report fails to consider the unique nature of the Northwest Corner of Barton Street and Fifty Road and previous analysis undertaken, and decisions made, by the City of Hamilton with respect to this property. Please consider the following:

1. The stated purpose of the Greenbelt Area is as follows:

Ontario's Greenbelt is an area of permanently protected green space, farmland, communities, forests, wetlands and watersheds. The Greenbelt protects environmentally sensitive land and farmland in Ontario's Greater Golden Horseshoe area from urban development. Growing the Greenbelt, August 2008

The subject property has no environmental features and is of poor agricultural value (Class 4).

2. The subject lands were mistakenly included in the Greenbelt as set out in a letter dated September 3, 2021 from the former Mayor of Hamilton to the Minister of Municipal Affairs and attached hereto.

3. The Lands abut an existing plan of subdivision on one boundary, a school on another, and arterial roads on the remaining two boundaries as shown on the concept plan and air photo attached hereto.
4. The lands immediately abut the existing urban boundary with direct access to full municipal services for the 194 townhouse units proposed to be built.
5. The lands were supported by City of Hamilton Council for removal from the Greenbelt for almost eight years as confirmed by three separately passed resolutions on December 9, 2015, September 14, 2016 and February 17, 2017. Copies of each of these resolutions are attached hereto.

My client requests that Appendix "A" to the Staff Report containing the "City of Hamilton Comments" be modified to add the following additional comments (highlighted):

The City of Hamilton fully supports the reinstatement of these lands to the Greenbelt Area. **The City of Hamilton also supports consideration of the Northwest Corner of Barton Street and Fifty Road, City of Hamilton, for possible removal from the Greenbelt Area in any future review of the Greenbelt Area.**

I have registered as a deputation by video conference. Kindly provide this correspondence to the members of the Planning Committee for their consideration.

Yours truly,

AIRD & BERLIS LLP



Steven A. Zakem
Managing Partner

SAZ:bp
Encl.

c. 5000933 Ontario Inc.



OFFICE OF THE MAYOR
CITY OF HAMILTON

September 3, 2021

Honourable Steve Clark
Minister of Municipal Affairs and Housing
17th Floor, 777 Bay Street
Toronto, ON
M5G 2E5

Dear Minister Clark,

In October 2003, Hamilton City Council adopted Official Plan Amendments to include the lands east of Fruitland Road to the Hamilton municipal boundary between Highway 8 and Barton Street as well as lands north of Barton on the west side of Fifty Road and north of the CNR tracks on the east of Fifty Road in the urban area, referred to as the Stoney Creek Urban Boundary Expansion or "SCUBE". This area provides an excellent opportunity to use the existing infrastructure services - roads, sewers and water mains - more wisely by allowing lower Stoney Creek to develop additional urban land uses. In addition, there are only a few parcels of land that are in active agricultural production. The Ministry of Municipal Affairs took a different viewpoint and appealed the amendments to the Ontario Municipal Board. The Ministry has indicated an intent to protect lands within the urban expansion area for agricultural purposes and, more particularly as "specialty crop" lands.

In October 2004, the Province introduced a draft Greenbelt Plan which identified the City's urban expansion area as "Protected Countryside" and "tender fruit and grape lands". The City moved quickly to argue against this designation. After significant public input, including a strong City presence, the final Greenbelt Plan designations were modified to include only one-third of the lands within "Protected Countryside" and "tender fruit and grape lands" (the lands bounded by Glover Rd, Hwy 8, McNeilly Rd and Barton St).

With the adoption of the Greenbelt Plan, the City and the Province were able to resolve the appeal which allowed for the City to proceed with the preparation and adoption of the Secondary Plan for the SCUBE lands. The Fruitland – Winona Secondary Plan was approved by Council in July, 2013 and again in May, 2014 as a result of the Urban Hamilton Official Plan coming into force and effect.

In 2017, the Chief Manager, the General Manager of Planning and Economic Development and the City's Chief Planner met with Provincial staff to review the SCUBE lands and to review the agricultural and soil capability reports prepared by qualified agricultural experts. If you require copies of these reports, please do not hesitate to contact me and I can arrange to have copies of these reports provided to your office.

The City of Hamilton supports the Greenbelt Plan and in fact in 2015 the City recommended lands to be added to the Greenbelt Plan area. These lands (referred to as the Twenty Mile Creek lands) were approximately 430 ha in area and are highly productive agricultural lands. These lands have been subsequently added to the Greenbelt.

Since the adoption of the Greenbelt Plan, Council has reiterated their position that all of the SCUBE lands should be removed from the Greenbelt Plan Area. I have attached a copy of the 2015 and 2016 Council adopted recommendations regarding both Growing the Greenbelt and recommendations for minor boundary adjustments.

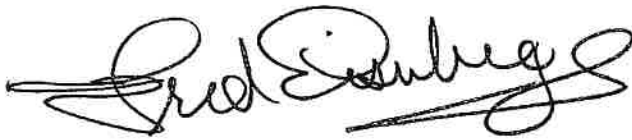
The one specific area in the SCUBE lands that I wish to draw your attention to are the lands at the north-west intersection of Fifty Road and Barton Street. These lands are approximately 4.0 ha (9.3 acres) in size. These lands are known as 938, 954 and 986 Barton St. ("Barton St" lands)

The Fifty Road lands were originally included in the 2013 Council adopted SCUBE Official Plan Amendment. During the negotiations and discussions with the Province to resolve the OMB appeal, the City requested the landowners in the two areas that were agreed to be removed from the Greenbelt Plan Area to provide the Parcel Identification Numbers (PINs) and Legal Descriptions to ensure that the correct lands were included in the mapping and subsequent OMB order. City staff relied on the landowner to provide the correct and accurate information. It is my understanding that as a result of an administrative oversight by the landowner of the Barton St lands, some but not all of the required property information was provided as it was incorrectly assumed that the properties had merged in title and were under the same PIN. This resulted in the Barton St lands remaining in the Greenbelt Plan area.

The land use planning benefits of the Barton Street lands being essentially an infill situation that will contribute to a complete community in terms of providing additional housing opportunities utilizing existing infrastructure (both hard and soft given the proximity to both a recently constructed elementary school and the existing community park) and complete streets by allowing for connectivity and urbanization to occur have been previously presented to Provincial staff. Removal of these lands from the Greenbelt Plan would allow for these lands to be included in the City's Municipal Comprehensive Review work and evaluated through that process for inclusion in the urban area.

As such, given the administrative error that has resulted in the unintended inclusion of the Barton St lands in the Greenbelt, whereas the original intent was that these lands develop in accordance with the SCUBE / Fruitland-Winona Secondary Planning process, and City Council's previous requests to the Province to remove these lands from the Greenbelt Plan area, I am writing to request that consideration be given to correct this matter as a technical amendment to the Greenbelt Plan. This could be achieved by either removing these lands from the Greenbelt Plan or to designate the Winona Urban Community s a "Town and Village" which would allow for the City to consider a maximum 10 ha boundary expansion to the Winona Urban Community in accordance with the applicable policies of the Greenbelt Plan

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Eisenberger". The signature is stylized with a large, sweeping initial "F" and a long, horizontal flourish at the end.

Fred Eisenberger
Mayor

c. Sergio Manchia, MCIP, RPP, Principal, Urban Solutions

Attachment – History of Greenbelt Plan Reviews and Planning Committee Recommendations.

History of Greenbelt Plan Boundary reviews - Background reports and Planning Report recommendations

- June 2015 (PED15078)

The City hired Dillon Consulting to assist with several public open houses, the purpose of which was to get feedback on potential changes to the Growth Plan for the Greater Golden Horseshoe, the Niagara Escarpment Plan (NEP) and the Greenbelt Plan prior to submitting comments to the Province.

Staff explained in this Report that as part of the review of the Provincial Plans, staff have begun to look at potential changes to the Greenbelt boundaries. A number of recommendations for changes to the boundaries were also brought forward by members of the public at the City's public consultation sessions. To help inform this boundary review process, Dillon Consulting has been retained to undertake a preliminary review of the long term land needs in the City to accommodate future growth. Based on this concern, the following recommendation was included in Report PED15078.

"(e) That City staff consult with the Province, the public, and the development community on options for any changes to the Greenbelt boundaries that are necessary to ensure Hamilton has sufficient land to accommodate future growth, while at the same time ensuring there is no net decrease in the size of the Greenbelt in Hamilton, and ensuring that the Greenbelt's goals related to protecting agricultural lands and natural heritage are achieved; and that these options be brought forward for Council's approval, prior to submitting them to the Province for its consideration.

Planning Committee approved the recommendation but the Report PED15078 was sent back to Planning Committee for a further review of the Greenbelt Plan boundaries.

- December 2015 (PED15078(a))

Public events were held to solicit input on changes to the Greenbelt Plan Plan boundaries. Five options were identified for potential changes to these boundaries. The recommendations in the report were two-fold:

(b) That the City of Hamilton requests the Province:

(ii) to defer any decisions on potential changes to the Greenbelt Plan boundaries in the City of Hamilton to allow the City to complete a municipal comprehensive review which will include a full assessment of the opportunities and constraints:

- (1) to determine the amount and location of land (both non-employment and employment) required to meet the 2031 to 2041 Growth Plan forecasts;
 - (2) to identify appropriate lands to add to the Whitebelt area, in the event that additional land is required for an urban boundary expansion to meet targets and based on the principles of cost effective, complete and healthy communities; and,
 - (3) to identify appropriate lands to be added to the Greenbelt Plan area;
- (c) That upon completion of the municipal comprehensive review, City Council request the Province to revise the Greenbelt Plan boundaries prior to the City adopting the Official Plan Amendment relating to Growth Plan conformity and implementation of the Municipal Comprehensive Review.
- (d) That notwithstanding Recommendations (b) and (c), as part of the current Coordinated Provincial Plan Review, the City of Hamilton requests the Province to give consideration to the following modifications to Greenbelt Plan Protected Countryside area as follows:
- (i) remove the Lower Stoney Creek lands (104 ha) and the lands north of Parkside Drive, east of Centre Road in Waterdown (28 ha) from the Greenbelt Plan, as shown on Appendix "B", identified in *Greenbelt Plan Boundary Review Report* prepared by Dillon Consulting, and attached as Appendix "C"; and,
 - ~~(ii) add the lands between Twenty Mile Creek and Airport Road, west and east of Nebo Road (231 ha) to the Greenbelt Plan, as shown on Appendix "B", identified in *Greenbelt Plan Boundary Review Report* prepared by Dillon Consulting, and attached as Appendix "C";~~
 - (ii) add the lands south of Twenty Mile Creek, east of Miles Road, north of Airport Road, and west of Trinity Church Road (approximately 430 ha) to the Greenbelt Plan;**
- (I) That staff be directed to include Coldwater Creek as an addition into the Greenbelt, as part of the City of Hamilton's submission of comments to the Coordinated Provincial Plan Review on the Greenbelt Plan and the Niagara Escarpment Plan Boundary Review.**

Staff's recommendations were modified as identified in the bold text, and supported by Planning Committee and City Council.

- September 2016 (PED15078(b))

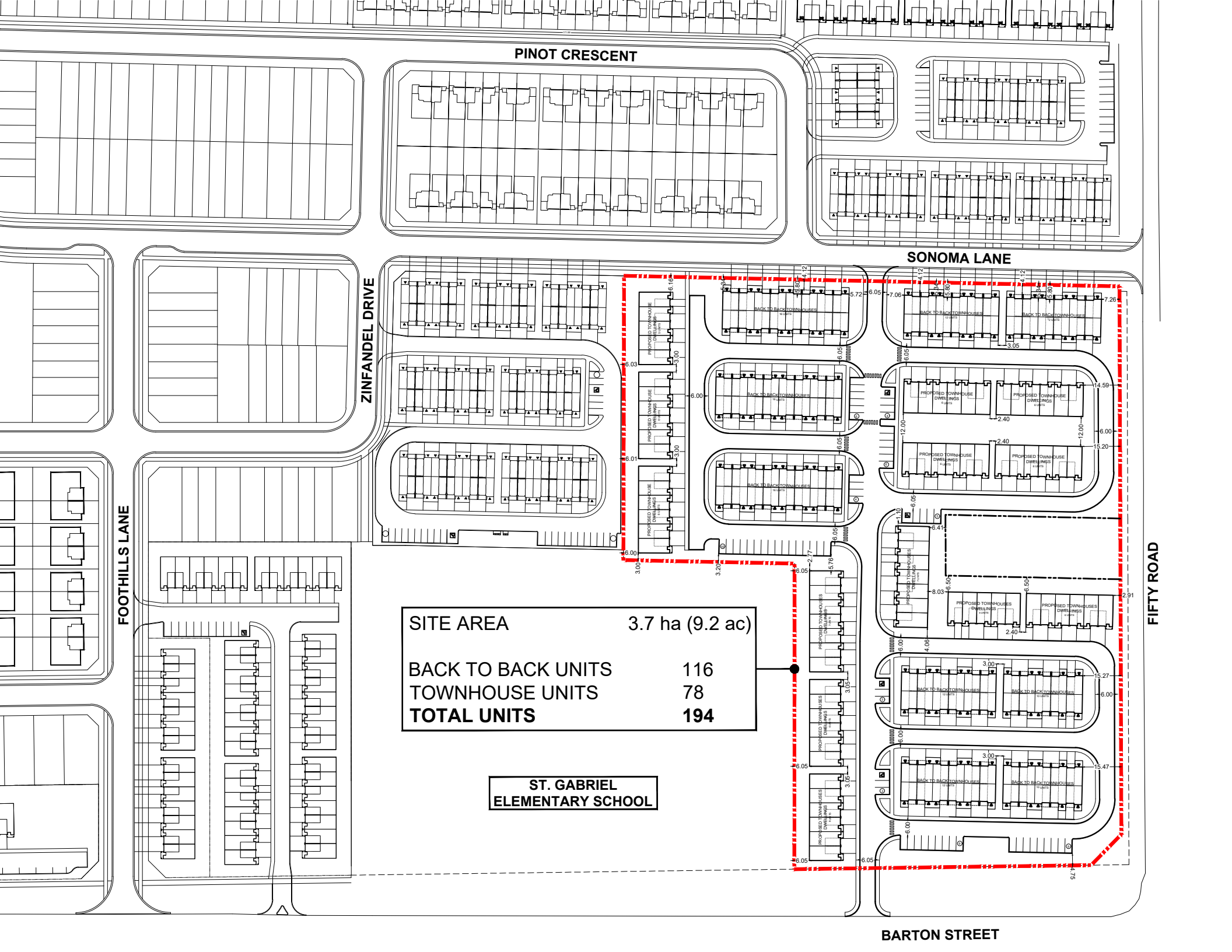
The Province released its draft Greenbelt Plan boundary changes for comment in May 2016, which included the following proposed boundary changes:

- (i) the addition of the Book Road lands (450 ha) and only a portion of the Miles road area (330 ha), not the full 430 ha which had been requested (see Appendix "A");
- (ii) the addition of Fifty Creek as an urban river valley; and,
- (iii) removal of a few parcels of land in Lower Stoney Creek (30 ha) that were already in the urban boundary, which is considered a technical amendment only (see Appendix "B").

The removal of the lands in Lower Stoney Creek and Waterdown, as well as the westerly portion of the Miles Road area and Coldwater Creek, as requested by the City, were not included in the May 2016 Greenbelt Plan revisions.

In September, City Council supported the additions to the Greenbelt Plan for Book Road and the Miles Road Area. However, they also reiterated their previous positions to:

- (i) remove the Waterdown and Lower Stoney Creek lands;
- (ii) add more lands to the Miles Road/Nebo Road area, as well as the Coldwater Creek urban river valley.



PINOT CRESCENT

SONOMA LANE

FOOTHILLS LANE

ZINFANDEL DRIVE

FIFTY ROAD

BARTON STREET

SITE AREA	3.7 ha (9.2 ac)
BACK TO BACK UNITS	116
TOWNHOUSE UNITS	78
TOTAL UNITS	194

ST. GABRIEL
ELEMENTARY SCHOOL



SPECIAL PLANNING COMMITTEE REPORT 15-020

9:30 am

Thursday, December 3, 2015

Council Chambers

Hamilton City Hall

71 Main Street West

Present: Councillors J. Partridge (Chair), B. Johnson, (1st Vice Chair), M. Pearson (2nd Vice Chari) C. Collins, D. Conley, M. Green, A. Johnson and R. Pasuta

Absent with regrets Councillor J.Farr

Also Present Councillor L. Ferguson

THE PLANNING COMMITTEE PRESENTS REPORT 15-020 AND RESPECTFULLY RECOMMENDS:

- 1. Coordinated Provincial Plan Review (Greenbelt Plan and Niagara Escarpment Plan Boundary Review) - City of Hamilton Comments (PED15078(a)) (City Wide) (Item 4.1)**
 - (a) That the Public Consultation Summary Report, prepared by Dillon Consulting, summarizing the comments received from the City-hosted consultation events on the Greenbelt Boundary Review and attached as Appendix "A", be received and forwarded to the Province to be considered as additional citizen input on the Coordinated Provincial Plan Review;
 - (b) That the City of Hamilton requests the Province:
 - (i) to revise the applicable Greenbelt Plan policies in order to allow municipalities to request changes to Greenbelt Plan designations and boundaries at the conclusion of a municipal comprehensive review, provided the review is completed in accordance with the Provincial Policy Statement (2014), the Growth Plan for the Greater Golden Horseshoe and meets the goals and objectives of the

Provincial Policy Statement and all other applicable Provincial Plans;

- (ii) to defer any decisions on potential changes to the Greenbelt Plan boundaries in the City of Hamilton to allow the City to complete a municipal comprehensive review which will include a full assessment of the opportunities and constraints:
 - (1) to determine the amount and location of land (both non-employment and employment) required to meet the 2031 to 2041 Growth Plan forecasts;
 - (2) to identify appropriate lands to add to the Whitebelt area, in the event that additional land is required for an urban boundary expansion to meet targets and based on the principles of cost effective, complete and healthy communities; and,
 - (3) to identify appropriate lands to be added to the Greenbelt Plan area;
- (c) That upon completion of the municipal comprehensive review, City Council request the Province to revise the Greenbelt Plan boundaries prior to the City adopting the Official Plan Amendment relating to Growth Plan conformity and implementation of the Municipal Comprehensive Review.
- (d) That notwithstanding Recommendations (b) and (c), as part of the current Coordinated Provincial Plan Review, the City of Hamilton requests the Province to give consideration to the following modifications to Greenbelt Plan Protected Countryside area as follows:
 - (i) remove the Lower Stoney Creek lands (104 ha) and the lands north of Parkside Drive, east of Centre Road in Waterdown (28 ha) from the Greenbelt Plan, as shown on Appendix "B", identified in *Greenbelt Plan Boundary Review Report* prepared by Dillon Consulting, and attached as Appendix "C"; and,
 - (ii) ***add the lands south of Twenty Mile Creek, east of Miles Road, north of Airport Road, and west of Trinity Church Road (approximately 430 ha) to the Greenbelt Plan;***
- (e) That City Council reconfirms Recommendation 22 from Report PED15078, Item 8 of Planning Committee Report 15-010 approved by Council on June 23, 2015, that requests the Province to work with Hamilton staff to further revise the Natural Heritage System map to reflect the core areas and natural heritage system of the City;

Options for Greenbelt Boundary Refinement

Below are the areas considered for potential addition to or removal from the Greenbelt.

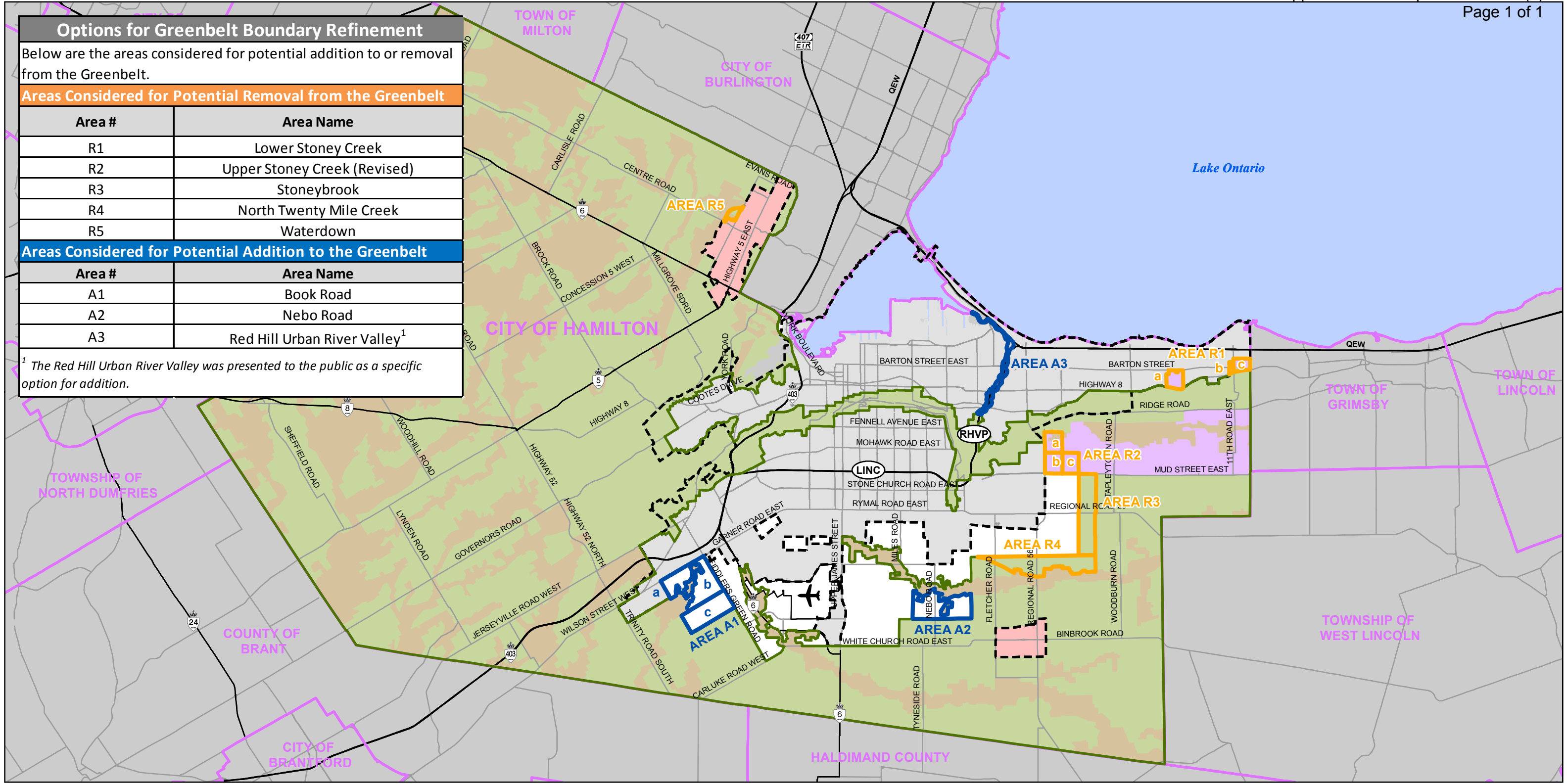
Areas Considered for Potential Removal from the Greenbelt

Area #	Area Name
R1	Lower Stoney Creek
R2	Upper Stoney Creek (Revised)
R3	Stoneybrook
R4	North Twenty Mile Creek
R5	Waterdown

Areas Considered for Potential Addition to the Greenbelt

Area #	Area Name
A1	Book Road
A2	Nebo Road
A3	Red Hill Urban River Valley ¹

¹ The Red Hill Urban River Valley was presented to the public as a specific option for addition.



CITY OF HAMILTON Greenbelt Boundary Review Report

Areas for Consideration for Options 2 to 4

Figure 9



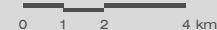
Area R2 reflects a revised configuration of the original area presented to the public.
Area R5 was added for consideration after the public consultation.
Areas A1, A2, A3, R1, R3, and R4 are the same configuration that was presented to the public.



MAP DRAWING INFORMATION:
DATA PROVIDED BY THE CITY OF HAMILTON &
THE MINISTRY OF NATURAL RESOURCES AND FORESTRY

MAP CREATED BY: SFG
MAP CHECKED BY: AJ
MAP PROJECTION: NAD 1983 UTM Zone 17N

*Shows recently approved Airport Employment
Growth District Secondary Plan urban boundary expansion



SCALE 1:185,000



FILE LOCATION: I:\GIS\115318 - Hamilton AEGD\Greenbelt
Transition Discussion Paper\Mapping\Project Location.MXD

PROJECT: 151970 STATUS: FINAL DATE: 10/19/2015

permissions have not been fully implemented and based on site characteristics and other considerations the land will not revert to agricultural uses;

- (vi) The Greenbelt Plan policies should be amended to allow municipalities the flexibility to alter the size of the Vegetation Protection Zone (VPZ) on the basis of scientific studies;
 - (vii) The definition of intermittent stream in the Greenbelt Plan should be clarified as the current definition is very broad and can include features such as agricultural ditches and swales;
 - (viii) Additional or expanded definitions of natural heritage terms such as core area, linkage area, natural heritage system, vegetation protection zone, urban river valley, natural heritage evaluation and hydrologic evaluation should be added to the Greenbelt Plan to improve clarity and consistency amongst the Plans;
 - (ix) Policy direction regarding severances and/or adaptive re-use of cultural heritage resources should be added to the Greenbelt Plan to provide for alignment between the consent policies of the NEP and the Greenbelt Plan with regard to designated heritage buildings;
 - (x) The conflict between the NEP and the Growth Plan regarding intensification policies versus viewshed protection should be addressed to ensure that not only the policies within individual plans are reviewed, but also the policies between plans, to ensure a balanced approach is achieved;
 - (xi) Clarification should be provided in the NEP regarding the use of landscaping businesses and whether or not this use would be permitted and at what scale;
- (g) That the City of Hamilton re-affirms its previous recommendations on revisions to the Greenbelt boundaries from the December, 2015 Staff Report (Report PED15078(a)), as follows:
- (i) to revise the applicable Greenbelt Plan policies in order to allow municipalities to request changes to Greenbelt Plan designations and boundaries at the conclusion of a municipal comprehensive review, provided the review is completed in accordance with the Provincial Policy Statement (2014), the Growth Plan for the Greater Golden Horseshoe and meets the goals and objectives of the Provincial Policy Statement and all other applicable Provincial Plans;
 - (ii) to defer any decisions on potential changes to the Greenbelt Plan boundaries in the City of Hamilton to allow the City to complete a



PLANNING COMMITTEE

REPORT 17-002

9:30 a.m.

Tuesday, January 31, 2017

Council Chambers

Hamilton City Hall

71 Main Street West

Present:	Councillors M. Pearson (Chair), A. Johnson (1 st Vice Chair), Councillors C. Collins, D. Conley, M. Green, B. Johnson, D. Skelly, and J. Partridge.
Absent with regrets	Councillor R. Pasuta and J. Farr (2nd Vice Chair), Personal
Also present:	Councillors L. Ferguson and S. Merulla

THE PLANNING COMMITTEE PRESENTS REPORT 17-002 AND RESPECTFULLY RECOMMENDS:

- 1. Coordinated Provincial Plan Review (Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Niagara Escarpment Plan) - Comments on Greenbelt Plan Minor Boundary Changes (PED15078(c)) (City Wide) (Item 5.1)**

That Report PED15078(c) respecting Coordinated Provincial Plan Review (Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Niagara Escarpment Plan) - Comments on Greenbelt Plan Minor Boundary Changes, be received.

- 2. Request for Removal of Certain Lands in the Lower Stoney Creek Area from the Greenbelt Plan**

WHEREAS, certain lands in the Lower Stoney Creek area are within the Greenbelt Plan and are designated as Specialty Crop;

WHEREAS, the Agricultural Assessment prepared by AgPLan (March 2003) concluded that the Lower Stoney Creek lands identified in the Stoney Creek Urban Boundary Expansion study area were not Specialty Crop lands;

WHEREAS, the Province is undertaking the Coordinated Provincial Plan review for the Growth Plan, Greenbelt Plan, Niagara Escarpment Plan and the Oak Ridges Moraine Plan;

WHEREAS, City Council, as part of the public consultation process on the Plans, approved Item 1, as amended, of Planning Committee Report 15-020 on December 9, 2015 requesting the Province to remove the land in the Lower Stoney Creek area (104 ha) from the Greenbelt Plan;

WHEREAS, the lands recommended for removal from the Greenbelt Plan in Lower Stoney Creek are remnant parcels of rural land surrounded to the east, west and north by the lands contained in the Greenbelt Plan and are designated Urban in the Urban Hamilton Official Plan;

WHEREAS, City Council, as part of the second round of public consultations on the Plans, reaffirmed its position requesting the Province to remove Lower Stoney Creek lands from the Greenbelt Plan by approving Item 5 of Planning Committee Report 16-015 on September 14, 2016; and,

WHEREAS, the Province on January 11, 2017, released their proposed changes to the Greenbelt Plan and did not include the removal of the Lower Stoney Creek lands;

THEREFORE BE IT RESOLVED:

- (a) That the Lower Stoney Creek lands are not considered as Specialty Crop, in accordance with the 2003 Agricultural Assessment prepared by AgPLan for the City of Hamilton;
- (b) That in accordance with the December 9, 2015 and September 14, 2016 Council recommendations to the Province of Ontario that the Province is requested to remove the Lower Stoney Creek lands from the Greenbelt Plan;
- (c) That the Mayor forward a copy of this resolution to the Minister of Municipal Affairs; and
- (d) That the General Manager of the Planning and Economic Development Department and appropriate staff be requested to meet with the Ministry of Municipal Affairs to reiterate City Council's multiple requests to remove the lower Stoney Creek lands from the Greenbelt Plan.

