

Barristers & Solicitors

April 23, 2024

Denise Baker
 Managing Partner
 t. 416-947-5090
 dbaker@weirfoulds.com

VIA EMAIL AND COURIER

File No. 16090.00008

City of Hamilton
 City Clerks Dept.
 Attention: Janet Pilon, Acting City Clerk
 71 Main Street West
 1st floor
 Hamilton, ON L8P 4Y5

Dear Ms. Pilon:

**Re: Notice of Appeal of Zoning By-law Amendments pursuant to sections 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended
 West End Home Builders' Association**

We are counsel for the West End Home Builders' Association ("**WE HBA**" or "**Client**") regarding their interest in the amendments to Section 5: Parking of City of Hamilton Zoning By-law 05-200. Since 1942, the WE HBA has provided support, guidance, resources and advocacy to members working in all aspects of the new home construction industry in the Hamilton and Halton regions, including the City of Hamilton (the "**City**").

Background

On February 23, 2024, City staff prepared a staff report with respect to various amendments to the City's Zoning By-law 05-200, including amendments to the city-wide Parking. On February 27, 2024, WE HBA submitted a letter to Council to express its concerns with the proposed amendments, particularly with respect to Section 5: Parking as it relates to the requirements for Electric Vehicle Parking.

On March 27, 2024, City Council approved the changes recommended by City staff, including Section 5: Parking of the City's Zoning By-law 05-200. Among other things, the City is implementing provisions which consist of a 100% requirement for all residential spaces to be Electric Vehicle Parking.

WE HBA is supportive of the City's initiative to update its Parking Standards through eliminations in the most urban and transit-supportive areas of the City, and reductions city-wide. However, WE HBA is concerned with the rapid move to a 100% requirement for all residential parking spaces to be Electric Vehicle Parking, and how the term is defined.

As such, please accept this correspondence as WE HBA's Notice of Appeal pursuant to section 34(19) of the *Planning Act* with respect to the City's proposed zoning by-law amendment to by-law 05-200. WE HBA is particularly concerned about the following amendments introduced to the City's Zoning By-law 05-200:

1. Clause 2, as it relates to the definition of "Parking Space, Elective Vehicle";
2. Clause 4, that Section 5: Parking be deleted and replaced by Schedule "B" – Section 5: Parking attached to this By-law, but only in so far as the sections identified below; and
3. Schedule "B", Section 5: Parking and in particular section 5.1.4 and 5.7.4 as follows:
 - **5.1.4 MINIMUM REQUIRED NUMBER OF ELECTRIC VEHICLE PARKING SPACES**
 - a) Minimum Required Number of Electric Vehicle Parking Spaces

Where parking spaces are provided, Electric Vehicle Parking Spaces shall be provided in accordance with:

 - i) The minimum rates in accordance with the Parking Schedule in Section 5.7.4; and,
 - ii) Any eligible exception in this Section.

...
 - c) Exception for Existing Buildings in All Zones

...

 - i) where an addition or expansion of an existing building is proposed, the Electric Vehicle Parking requirements of Section 5.7.4 shall only apply to such addition or expansion.

...
 - **5.7.4 MINIMUM ELECTRIC VEHICLE PARKING RATE SCHEDULE**
 - a) Minimum Electric Vehicle Parking Rate Schedule

Of the parking spaces provided on a lot, a minimum percentage shall be provided as Electric Vehicle Parking Spaces, as specified in Column 2 hereunder for each associated use listed in Column 1, and any such Electric Vehicle Parking shall be subject to Section 5.6.7:

<u>Column 1</u>	<u>Column 2</u>
i. Residential Uses	
Single Detached Dwelling; Semi-Detached Dwelling; Street Townhouse Dwelling; Duplex Dwelling; Triples Dwelling; Fourplex Dwelling;	100% of all parking spaces.
Dwelling Unit; Dwelling Unit, Mixed Use; Multiple Dwelling	100% of all parking spaces, excluding any visitor parking space.

Reasons for Appeal

As mentioned, WE HBA is generally supportive of the City's initiatives to update its Parking Standards. However, WE HBA is concerned that a 100% requirement for all residential parking spaces to be Electric Vehicle Parking is not feasible at this point, nor capable of being implemented for the following reasons:

The Parking Standards Amendments and Schedule "B" Amendments fail to have regard for section 1.1 and section 2 of the Planning Act, are inconsistent with the Provincial Policy Statement and Fail to Conform with Growth Plan and the City's Official Plan

For the foregoing reasons, the Parking Standards Amendments and Schedule "B" Amendments fail to have regard for sections 1.1 and 2 of the *Planning Act* and are inconsistent with the PPS, including policies 1.1.1 and 1.6 of the Provincial Policy Statement, 2020. In addition, the amendments being appealed fail to conform with A Place to Growth: Growth plan for the Greater Golden Horseshoe, including policies 1.2.1, 3.1 and 3.2.1, and the City's Official Plan policies, including policies 1.4 and 2.0 of the Urban Hamilton Official Plan.

The Parking Standard Amendments and Schedule B Amendments Do Not Represent Good Planning

The rapid move to a 100% requirement for all residential parking spaces to be Electric Vehicle Parking is not feasible to implement due to servicing capacity constraints on Hamilton's electric grid. Builders already face challenges meeting current market demand for electric vehicle charging infrastructure at around 15-25% of all parking stalls. In addition, requiring the provision of 100% of all residential parking spaces to be equipped with electric vehicle charging equipment adds unnecessarily to the cost of housing in the City of Hamilton.

It is the position of the WE HBA that the amendments to the definition of "Parking Spaces Electric Vehicle" should be revised as follows:

"Shall mean a Parking Space designed to accommodate future conduit rough-ins, wiring, and charging infrastructure for future electric vehicle charging."

In addition, as currently drafted all residential parking spaces are required to be Electric Vehicle Parking. This would therefore include not only the required parking spaces but any unrequired parking spaces that are provided. So, for example if a single detached dwelling has 4 parking spaces even though only 1 or 2 are required, then as currently drafted the proposed Zoning By-law amendment would require all 4 parking spaces to be equipped with electric vehicle charging equipment. Such a requirement is neither reasonable nor sustainable.

As noted above, the costs associated with equipping 100% of all residential parking spaces with electric vehicle charging equipment would be passed on to unit owners irrespective of whether or not they choose to own an electric vehicle or not. However, if, as is proposed by the WE HBA, the zoning requirement was simply to have rough ins for future electric vehicle charging, for a lower percentage of residential units, the costs to the homeowner who may choose to never own an electric vehicle are substantially reduced.

It is, therefore, submitted that the requirements imposed by the new amendments are not representative of good land use planning since these additional costs being mandated through zoning will render certain residential developments cost-prohibitive, thereby discouraging development in the City and undermining the Province's intensification and housing affordability

objectives. WE HBA appreciates the City's initiative to update its' parking standards and prepare for an Electric Vehicle future. This must be balanced with the equally pressing planning objectives of intensification and housing affordability as well as with all the factors involved, including servicing capacity constraints and capabilities, for such a degree of electrification.

Finally, WE HBA has taken the time to ensure that it is only appealing very specific sections of the proposed Zoning By-law amendment. As such we would like to request that, to the extent that a section of the by-law has not been appealed, the Tribunal uses its power under subsection 34(31) of the *Planning Act* to make an order under its own initiative providing that any part of the Zoning By-law amendment that has not been appealed, be deemed to have come into force on the day the by-law was passed.

Filing Requirements

In satisfaction of the Tribunal's filing requirements, enclosed please find the following:

1. One completed and duly signed OLT Appellant Form (A1); and
2. Our firm cheque in the amount of \$1,100.00 payable to the Minister of Finance.

Please kindly acknowledge receipt of this letter and confirm when the appeal has been forwarded to the Ontario Land Tribunal.

CONCLUSION

Despite the unfortunate need to file this appeal, WE HBA remains prepared to engage in discussions with the City. We are also open to Tribunal-facilitated mediation if there is also a willingness on the City's part.

Barristers & Solicitors

Thank you for your attention to this matter. Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Yours truly,

WeirFoulds LLP



Per: Denise Baker
Partner

DB/KA

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Cc Client

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