



City of Hamilton Report for Information

To: Chair and Members
Planning Committee

Date: March 18, 2025

Report No: PED25065

Subject/Title: Appeal of Draft Plan of Subdivision Application 25T-202102 to the Ontario Land Tribunal for Lack of Decision for Lands Located at 370, 378, 412, and 436 Garner Road East, Ancaster

Ward(s) Affected: Ward 12

Recommendations

- 1) That Report PED25065 respecting appeal of Draft Plan of Subdivision application for lands located at 370, 378, 412, and 436 Garner Road East, Ancaster **BE RECEIVED** for information.

Key Facts

- The appeal of the Draft Plan of Subdivision application, filed by AJ Clarke & Associates c/o Stephen Fraser on behalf of First Gulf Real Estate Corporation, was received by the City Clerk's Office on November 1, 2024, 1,379 days after the receipt of the initial application and 29 days after the October 3, 2024, resubmission.
- The proposed Draft Plan of Subdivision consists of a 17 Block industrial subdivision with seven blocks (Blocks 1 to 6 and 13) to be used for future development, one woodlot block (Block 7), two blocks (Blocks 8 and 9) for a stormwater management facility, one easement block (Block 10), two blocks (Blocks 11 and 12) for right-of-way widenings, one additional woodland buffer block (Block 17) and three 0.3 metre reserve blocks (Blocks 14 to 16). Two streets are being proposed, Street 'A' is a north south street connecting Garner Road to the proposed blocks and Street 'B' is an east west street connecting Southcote Road to the proposed blocks, as shown in Appendix D attached to Report PED25065.

- The subject lands are designated “Airport Employment Growth” and “Open Space” in the Urban Hamilton Official Plan and designated “Airport Prestige Business” and “Natural Open Space” in the Airport Employment Growth District Secondary Plan.
- Blocks 1 to 6 and 8 to 16 are zoned Airport Prestige Business (M11, H37) Zone and Block 7 is zoned Conservation/Hazard Lands (P5) Zone under Hamilton Zoning By-law No. 05-200.

Financial Considerations

Not applicable.

Background

In accordance with Subsection 51(34) of the *Planning Act*, a Draft Plan of Subdivision application may be appealed to the Ontario Land Tribunal after 120 days if Council has not made a decision on the application.

This Information Report has been prepared in accordance with Council’s motion dated May 18, 2010, directing staff to advise the Planning Committee and City Council of appeals for non-decision to the Ontario Land Tribunal.

The subject lands are municipally known as 370, 378, 412, 436 Garner Road East (refer to Appendix A attached to Report PED25065) and are located on the south side of Garner Road East, between Highway 6 and Southcote Road in Ancaster. The property is 48.57 hectares in area with 280.65 metres of frontage along Garner Road East and 584.50 metres of frontage along Southcote Road. The subject lands have no frontage or direct access along Highway 6. The subject lands are currently utilized for agricultural purposes and accompanying residential uses and contain a 7.5 hectare significant woodlot.

The application was originally submitted by A.J. Clarke & Associates c/o Stephen Fraser on December 18, 2020, and deemed complete on January 22, 2021.

The appeal of the application, filed by McMillan LLP c/o Marc Kemerer, on behalf of First Gulf Real Estate Corporation, was received by the City Clerk’s Office on November 1, 2024, 1,379 days after the receipt of the initial application and 29 days after the October 3, 2024, resubmission, included as Appendix B attached to Report PED25065.

Proposed Development

The initial application was received on December 18, 2020, and circulated on January 26, 2021, and is included in Appendix C attached to Report PED25065. The proposal was for an industrial Draft Plan of Subdivision with 11 blocks identified. There were five

blocks proposed to be used for future development, one block for a stormwater management facility, one block for a woodlot, two blocks for right-of-way widenings and two blocks for 0.3 metre reserves. The proposal included a 26 metre wide municipal street (Street 'A').

The second submission was received on July 29, 2022, and circulated on July 29, 2022. The application was amended to respond to staff comments and proposed a 14 block industrial Draft Plan of Subdivision. The amended proposal included six blocks for future development, three blocks for a stormwater management facility, one block for a woodlot, two blocks for right-of-way widenings and two blocks for 0.3 metre reserves, and a 26 metre wide municipal right-of-way (Street 'A'). This submission included additional blocks to accommodate the stormwater management facility and introduced an additional development block.

A third submission was received on January 4, 2024, and circulated on January 8, 2024. The proposal was further amended and proposed a 17 block industrial Draft Plan of Subdivision consisting of six blocks for future development, one block for a woodlot, three blocks for a stormwater management facility, two blocks for right-of-way widenings and three blocks for 0.3 metre reserves. The subdivision would be serviced by two 30 metre wide public streets (Street 'A' and 'B'). This submission responded to staff comments regarding the transportation network and included two 30 metre wide municipal streets.

The fourth submission, which is the proposal before the Ontario Land Tribunal, was received on October 4, 2024, and circulated on October 8, 2024. The concept is similar to the third submission and added a seventh development block and a block for an easement. The proposed 17 block industrial subdivision, which is attached in Appendix D to Report PED25065, consists of seven blocks for future development (Blocks 1 to 6 and 13), one block for a woodlot (Block 7), two blocks for a stormwater management facility (Blocks 8 and 9), one easement block (Block 10), two blocks for right-of-way widenings (Blocks 11 and 12), one additional woodland buffer block (Block 17), and three blocks (Blocks 14 to 16) for 0.3 metre reserves. The subdivision would be serviced by public streets (Street 'A' and 'B'), both 30 metres in width.

Analysis

The subject lands are designated "Airport Employment Growth District" on Schedule E-1 Urban Land Use Designation and "Core Areas" on Schedule B Natural Heritage System. Within the Airport Employment Growth District, the subject lands are designated "Airport Prestige Business," and a portion is designated "Natural Open Space" on Map B.8-1. Map B.8-3 of the Airport Employment Growth District Secondary Plan indicates that a minor collector road is required through the subject lands to connect Southcote Road to Garner Road East.

The Airport Employment Growth District is intended to offer a range of employment and employment-related land uses in the context of an eco-industrial park. The “Airport Prestige Business” designation permits uses such as, but not limited to, manufacturing, warehousing, repair service, transportation terminals, office, training facilities, trade schools, outdoor storage and small scale accessory uses that support employees.

The subject lands are zoned Airport Prestige Business (M11, H37) Zone under Zoning By-law No. 05-200. A variety of industrial uses are permitted ranging from a building and lumber supply establishment, office, and warehouse. Holding Provision 37 requires that the lands have access to servicing to provide adequate municipal water, wastewater, and transportation infrastructure in accordance with the Airport Employment Growth District master plans.

Issues identified as a result of the circulation and technical review for the revised proposal in Appendix D to Report PED25065 include, but are not limited to:

- The Draft Plan of Subdivision includes a separate block for the woodlot and buffer which the owner has agreed to dedicate to the City of Hamilton at no cost following discussions with the Ward Councillor. There is a lack of clarification around the details regarding the City’s ownership of the proposed woodlot and buffer and who will be responsible for mitigation and monitoring. Conveyance of this area will not be considered as contributing towards the parkland dedication requirements under *the Planning Act*;
- The City requires confirmation that Block 7 is not considered landlocked. Block 7 abuts Blocks 10 and 17, which are intended to be dedicated to the City for stormwater management purposes;
- The Environmental Impact Statement states that the unevaluated wetland community, headwater drainage features, linkages (hedgerows), and existing vegetation will be removed, which will result in loss of canopy cover, wildlife habitat loss, increasing vulnerability to invasive species, and decreased biodiversity. The application has not demonstrated adequate mitigation measures to address these concerns;
- The Tree Management Plan does not establish the ownership of all boundary trees through a legal survey and the preservation of existing trees has not been taken into consideration as a total of 1,200 trees have been inventoried on the subject property and 816 trees have been proposed to be removed;
- The Landscape Plan focused on the significant woodland vegetation protection zone and stormwater management facility and did not include plantings within the entire development. Amendments to the Landscape Plan are required to address these concerns;
- The Wetland Compensation Planting Plan is not supported by staff as the type of wetland has not been clearly identified within the Environmental Impact Statement and it is unclear if an ecologist was consulted in determining the strategy in the plan;

- A traffic control signal drawing, photometric plan, pavement marking, and signage drawing has not been submitted to depict the necessary infrastructure improvements required by Transportation Planning;
- The proposed storm water management facility dedication conflicts with the Ministry of Transportation's requirement for a triangular land dedication along Highway 6;
- The Functional Servicing Report does not propose a minimum detention duration that complies with the requirement for no open water storage exceeding periods of 48 hours to be proposed due to wildlife hazard. This was noted through comments provided by the John C. Munro Hamilton International Airport;
- The Functional Servicing and Storm Water Management Report proposes infiltration galleries that do not meet the water quality targets and objectives of the Airport Employment Growth District and surface-based green low impact development infrastructure is required to address them;
- The Functional Servicing and Storm Water Management Report does not include the correct wastewater design calculations consistent with the Airport Employment Growth District master servicing guidelines;
- The design of the proposed bioswale is required to be amended to meet the design standards of the Airport Employment Growth District; and,
- The Preliminary Hydrogeological Investigation Report sites dewatering needs, given that the development is near the edge of the urban boundary and a small number of nearby properties rely on private water servicing. A water well survey has not been submitted to assess the potential impacts.

Relationship to Council Strategic Priorities

- Priority 3: Responsiveness and Transparency
 - 1.2: Prioritize customer service and proactive communication.

Consultation

In accordance with the provisions of the *Planning Act* and the Council Approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation for the applications were sent to 144 property owners within 120 metres of the subject lands on January 22, 2021. An Open House was not held for this proposal.

To date staff have received four submissions from the public who were inquiring whether an Open House was planned to occur or were requesting updates on the progress of the application.

Appendices and Schedules Attached

Appendix A: Location Map

Appendix B: Letter of Appeal

Appendix C: Original Draft Concept Plan

Appendix D: Draft Plan of Subdivision and Concept Plan

Prepared by: Jennifer Catarino, Area Planning Manager
Planning and Economic Development Department,
Development Planning West Team

**Submitted and
recommended by:** Anita Fabac, Acting Director of Planning and Chief Planner
Planning and Economic Development Department