



City of Hamilton Report for Consideration

To: Chair and Members
Planning Committee

Date: June 10, 2025

Report No: PED25147

Subject/Title: Application to Deem Lands Being Lot 5 of Registered Plan 62M-671, known as 30 Parkmanor Drive, Stoney Creek, not to be Part of a Registered Plan of Subdivision for the Purposes of Subsection 50(3) of the *Planning Act*

Ward(s) Affected: Ward 10

Recommendations

- 1) That the application to deem Lot 5 of Registered Plan 62M-671, known as 30 Parkmanor Drive, Stoney Creek, as shown on Appendix "A" to Report PED25147, not to be Part of a Registered Plan of Subdivision for the purposes of Subsection 50(3) of the *Planning Act*, **BE APPROVED**; and,
- 2) That the draft By-law, attached as Appendix "D" to Report PED25147, which has been prepared in a form satisfactory to the City Solicitor, **BE ENACTED**.

Key Facts

- The purpose of the application is to deem Lot 5 of Registered Plan 62M-671 (also known as 30 Parkmanor Drive) not to be part of a Registered Plan of Subdivision.
- The *Planning Act* allows lands within a Plan of Subdivision that has been registered for 8 years or more to be deemed not to be part of a Registered Plan.
- Consent application SC/B-24:45, approved on January 28, 2025, severed a portion of land from the rear of the property known as 1335 Highway 8 with the intent to merge the severed lands with 30 Parkmanor Drive (merger is required as a condition of consent approval).

- To allow for the merger to occur, 30 Parkmanor Drive (Lot 5 of 62M-671) must be deemed not to be part of a Registered Plan of Subdivision to facilitate the legal merger of the parcels.

Financial Considerations

Not applicable.

Background

Consent Application SC/B-24:45

Consent application SC/B-24:45 for the lands located at 1335 Highway 8, Stoney Creek was conditionally-approved by the Committee of Adjustment on January 28, 2025.

1335 Highway 8 is located immediately south of 30 Parkmanor Drive (the subject lands of this Report), as shown on Appendix "A" to Report PED25147. The consent application severed a parcel of land from the rear of 1335 Highway 8 (identified as Part 2 on Appendix "B" to Report PED25147) to be added to 30 Parkmanor Drive (identified as Part 3 on Appendix "B" to Report PED25147). The consent application noted that the lands identified as Part 2 are already used and accessed by the owners of 30 Parkmanor Drive (Part 3), and therefore the addition of the lands through the consent application is recognizing an existing situation.

As a condition of approval of the consent application, the severed lands (Part 2) must be merged in title with the lands at 30 Parkmanor Drive (Part 3). The current application to de-register the lands at 30 Parkmanor Drive (Lot 5 on Plan 62M-671) will facilitate this merger. It is noted that the de-registration of 30 Parkmanor Drive should not occur until after the consent application is final approved (i.e. all conditions have been cleared and the final consent certificate is issued), as the de-registration would not be warranted or required if the consent does not proceed to finalization. As such, the by-law attached as Appendix "D" to Report PED25147 includes the requirement that the by-law will not come into force and effect until after the consent is final approved and the by-law is registered at the land registry office. The applicant concurs with this order of operations.

Analysis

Proposal

The subject lands are located on the southwest corner of Parkmanor Drive and Maple Gate Drive, Stoney Creek, as identified on Appendix "A" to Report PED25147.

The Owner / Applicant has submitted an application pursuant to Subsection 50(4) of the *Planning Act*, for approval of a By-law to deem Lot 5 of Registered Plan 62M-671 (as shown on Appendix "C" to Report PED25147) not to be part of a Registered Plan of Subdivision for the purposes of Subsection 50(3) of the *Planning Act*.

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The effect of the application to de-register the lands is to allow for the parcel of land (being Lot 5 of Registered Plan 62M-671) to merge with adjacent lands which were severed from the rear of 1335 Highway 8, in order to facilitate the legal merger of the parcels of land and satisfy the required condition of Consent Application SC/B-24:45.

The de-registration is required because full Lots or Blocks within a Registered Plan of Subdivision cannot legally merge with other lands as per section 50(3) of the *Planning Act* (see below).

Legislative / Policy Review

Planning Act

As prescribed under Subsection 50(4) of the *Planning Act*, the Council of a Municipality may, by By-law, designate any Plan of Subdivision, or part thereof, that has been registered for eight years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*. The subject lands are located within Registered Plan 62M-671 which was registered on September 12, 1990, therefore meeting the *Planning Act* requirement of being registered for eight years or more.

Per the *Planning Act*, a Public Meeting is not required to consider a By-law to designate any Plan of Subdivision, or part thereof, that has been registered for eight years or more, and deem it not to be a Registered Plan of Subdivision for the purpose of the subdivision control provisions of Subsection 50(3) of the *Planning Act*.

The *Planning Act* requires that a copy of the By-law (Appendix "D" to Report PED25147) be lodged with the Minister of Municipal Affairs and Housing. Staff will ensure the By-law is sent to Ministry upon enactment by Council and registration.

Additionally, a certified copy or duplicate copy of the deeming By-law must be registered against the title to the lands in the Land Registry Office. This By-law shall come into force and take effect when registered in the Land Registry Office. The applicant will be required to register the By-law and provide a registered copy to the City.

Lastly, notice of passing of the By-law must be given within 30 days of the date of passing to each person appearing on the last revised assessment roll to be the owner of land to which the By-law applies.

Provincial Planning Statement (2024)

The application has been reviewed with respect to the Provincial Planning Statement.

As the proposal will facilitate the merging of the subject lands, which are developed with a single detached dwelling within the urban area, with adjacent lands which are also

developed with a single detached dwelling, the proposal is consistent with the Provincial Planning Statement and is supported by staff.

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule “E” – Urban Structure and are designated as “Neighbourhoods” on Schedule “E-1” – Urban Land Use Designations of Volume 1 of the Urban Hamilton Official Plan. Further, the subject lands are designated “Low Density Residential 1” within the Fruitland Winona Secondary Plan.

As noted above, the proposal is to facilitate the merger of the subject lands with adjacent lands to the south, as required by the condition of consent application SC/B-24:45.

Policy F.1.14.1.5 of Volume 1 of the Urban Hamilton Official Plan (UHOP) states:

“If a plan of subdivision or part thereof has been registered for eight years or more and does not conform to the policies of this Plan, the City may use its authority under the *Planning Act* to deem it not be a registered plan of subdivision.”

Accordingly, the UHOP recognizes the City’s ability, in accordance with the *Planning Act*, to deem lands not to be a registered plan of subdivision provided the Plan has been registered for eight years or more. Registered Plan No. 62M-671 was registered in September 1990 and therefore conforms to the requirement of eight years or more of the plan having been registered.

Therefore, the proposal to deem Lot 5 of Registered Plan 62M-671 not to be part of a Registered Plan for the purposes of Subsection 50(3) of the *Planning Act*, in order to accommodate the merger of the subject lands with the adjacent parcel, conforms with the Urban Hamilton Official Plan and is supported by staff.

Servicing / Access Restrictions

There is an existing easement for a 300mm storm sewer and rear yard catch basin on 30 Parkmanor Drive (Lot 5 on Plan 62M-671) which is to be maintained. This easement shall be maintained with no obstructions or future proposed structures that would conflict with the easement. There are no proposed changes to the existing grading or drainage on the site as the severance is recognizing an existing situation (the lands identified as Part 2 on Appendix “B” to Report PED25147 are already used and accessed by the owners of 30 Parkmanor Drive (Part 3)).

Further staff note that the existing reserves along Maple Gate Drive (adjacent to both 30 Parkmanor Drive and 1885 Highway 8) must be maintained to limit access onto Maple

Gate as it is a temporary road to be decommissioned when Parkmanor Drive is extended east.

Rationale for Recommendation

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

- (i) It is consistent with the Provincial Planning Statement (2024);
- (ii) It complies with the policies of the Urban Hamilton Official Plan; and,
- (iii) The proposed By-law will facilitate the merging of the subject lands with adjacent lands in order to satisfy the condition of consent application SC/B-24:45.

Alternatives

If the application is denied, Lot 5 would remain within the existing Registered Plan of Subdivision 62M-671. The Lot would be unable to legally merge with the adjacent parcel. The condition of consent application SC/B-24:45 applicable to the lands at 1885 Highway 8 could not be cleared and the consent would not be finalized.

Relationship to Council Strategic Priorities

- 2. Safe & Thriving Neighbourhoods
 - 2.1 Increase the supply of affordable and supportive housing and reduce chronic homelessness

Consultation

Legal Services Division

Planning Division

Growth Management Division

Appendices and Schedules Attached

Appendix A: Location Map

Appendix B: Severance Sketch - Consent Application SC/B-24:45

Appendix C: Registered Plan 62M-671

Appendix D: By-law to Deem Lands not to be Part of a Registered Plan

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**Submitted and
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