

**CITY OF HAMILTON**

**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Planning Division**

<b>TO:</b> Chair and Members Planning Committee	<b>WARD(S) AFFECTED:</b> WARD 9
<b>COMMITTEE DATE:</b> July 10, 2012	
<b>SUBJECT/REPORT NO:</b> Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek) (PED12130) (Ward 9)	
<b>SUBMITTED BY:</b> Tim McCabe General Manager Planning and Economic Development Department	<b>PREPARED BY:</b> Greg Macdonald (905) 546-2424 Ext. 4283
<b>SIGNATURE:</b>	

**RECOMMENDATION:**

- (a) That approval be given to **Official Plan Amendment Application OPA-11-017, by 1507939 Ontario Inc., c/o Alex Kepecs, Owner**, for Amendment No. [REDACTED] to the Stoney Creek Official Plan, for changes in designation on Schedule “A” from “General Commercial” and “Residential” to “Institutional”, and for changes in designation on Schedule “A5” from “General Commercial” and “Low Density Residential” to “Institutional”, with a Special Policy, in order to permit a retirement home and secondary commercial uses, on the lands located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek), as shown on Appendix “A” to Report PED12130, on the following basis:
  - (i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED12130, be adopted by City Council.
  - (ii) That the proposed Official Plan Amendment is consistent with the Provincial Policy Statement and conforms to the Hamilton-Wentworth Official Plan.

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- (b) That approval be given to Urban Hamilton Official Plan Amendment No. [REDACTED] to amend Map B.7.2-1 - Old Town Secondary Plan from the “Local Commercial” and “Low Density Residential 2a” designations to the “Institutional” designation with a Site Specific Policy - Area E to permit secondary commercial uses; to be held in abeyance until a final decision has been made regarding the Urban Hamilton Official Plan, for lands known municipally as 135 and 137 King Street East and 42 Passmore Street (Stoney Creek), as shown on Appendix “A” to Report PED12130.
- (c) That approval be given to **Zoning Application ZAC-11-069, by 1507939 Ontario Inc., c/o Alex Kepecs, Owner**, for changes in zoning from the General Commercial “GC” Zone (Block “1”) and the Single Residential “R1” Zone (Block 2) in Stoney Creek Zoning By-law No. 3692-92 to the Major Institutional (I3, 449, H49) Zone, with a Special Exception and Holding Provision, in Hamilton Zoning By-law No. 05-200, in order to permit a retirement home and secondary commercial uses, for lands located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek), as shown on Appendix “A” to Report PED12130, on the following basis:
- (i) That the draft By-law, attached as Appendix “D” to Report PED12130, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.
- (ii) That the changes in zoning conform to the Hamilton-Wentworth Official Plan, and will conform to the Stoney Creek Official Plan upon finalization of Official Plan Amendment No. [REDACTED].
- (d) That upon finalization of the implementing By-law, the subject lands within the Olde Town Neighbourhood Plan be redesignated from “Commercial” (Block 1 on Appendix “A”) and “Low Density Residential” (Block 2 on Appendix “A”) to “Institutional”.

## **EXECUTIVE SUMMARY**

The purpose of this application is to amend the Stoney Creek Official Plan and Zoning By-law in order to permit the development of a 200 unit retirement home, with secondary commercial uses, on the property that currently contains the former Stoney Creek Dairy (see preliminary site plan and elevation plan at Appendix “E”).

The proposal has merit and can be supported, as the application is consistent with the Provincial Policy Statement and conforms to the Places to Grow Plan and the Hamilton-Wentworth Official Plan. The proposed development would allow for the appropriate redevelopment of a property last used for industrial and commercial purposes to an institutional use compatible with the mixed residential and commercial

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land uses in the immediate neighbourhood at a scale that preserves escarpment views, minimizes overview and shadowing, and which provides parking in accordance with the Zoning By-law.

*Alternatives for Consideration - See Page 20.*

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** N/A.

**Staffing:** N/A.

**Legal:** As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider applications for an Official Plan Amendment and Zoning By-law Amendment.

**HISTORICAL BACKGROUND**

**Proposal**

The applicant has applied to redesignate the lands on Schedule “A” of the Stoney Creek Official Plan from “General Commercial” and “Residential” to “Institutional”, and on Schedule “A5” of the Stoney Creek Official Plan from “General Commercial” and “Low Density Residential” to “Institutional” in order to permit the redevelopment of the site of the former Stoney Creek Dairy for a 200 unit retirement home, with secondary commercial uses. Changes in zoning from the General Commercial “GC” Zone (Block 1) and the Single Residential “R1” Zone (Block 2) to the Major Institutional (I3, 449, H49) Zone are required to implement the proposal (see Appendix “A”). A number of site-specific provisions are proposed to address side and rear yard setbacks, to permit additional commercial uses, to permit a pergola to encroach into a required rear yard, to address the location of a parking spot, and to require 32m of the Passmore Street façade length to be 1-storey in height.

**Chronology:**

January 13, 2011: Development Review Committee Meeting for Formal Consultation Application FC-10-116 to permit the development of a retirement home on the subject lands.

August 17, 2011: Neighbourhood Information Meeting hosted by the applicant’s planning consultants and Councillor Clark and attended by approximately 41 interested local residents.

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November 7, 2011: Applications OPA-11-017 and ZAC-11-069 are deemed complete.

November 18, 2011: Circulation of Notice of Complete Application for Applications OPA-11-017 and ZAC-11-069 to all property owners and residents within 120 metres of the subject lands.

November 29, 2011: Public Notice sign posted on the property.

June 22, 2012: Circulation of Notice of Public Meeting to all residents within 120 metres of the subject lands.

**Details of Submitted Applications:**

**Location:** 135 and 137 King Street East and  
42 Passmore Street (Stoney Creek)

**Owner/Applicant:** 1507939 Ontario Inc. (c/o Alex Kepecs)

**Agent:** IBI Group

**Property Description:**

<u>Area:</u>	1.03 hectares
<u>Frontage:</u>	75.42 metres (on King Street East)
<u>Depth:</u>	93.336 metres (along east property line)

**Servicing:** Full Municipal Services

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**EXISTING LAND USE AND ZONING:**

	<b><u>Existing Land Use</u></b>	<b><u>Existing Zoning</u></b>
<b><u>Subject Lands:</u></b>	Former Stoney Creek Dairy and Single Detached Dwelling	General Commercial "GC" Zone and Single Residential "R1" Zone
<b><u>Surrounding Lands:</u></b>		
<b>North</b>	Single Detached Dwellings	Single Residential "R1" Zone
<b>South</b>	Single Detached Dwellings	Single Residential "R2" Zone
<b>East</b>	Hair Salon and Single Detached Dwellings	General Commercial "GC-5" Zone and Single Residential "R1" Zone
<b>West</b>	Single Detached Dwellings and Masonic Lodge	Single Residential "R1" Zone and Small Scale Institutional "IS" Zone

<b>POLICY IMPLICATIONS</b>
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**Provincial Policy Statement:**

The application has been reviewed with respect to the Provincial Policy Statement (PPS). The application is consistent with Policy 1.1.3.1, which focuses growth in Settlement Areas. It also implements Policies 1.1.3.2, 1.1.3.3, 1.1.3.4, and 1.4.3 with respect to promotion of densities which efficiently use land and resources and provide a range of housing types, and promotion of opportunities for redevelopment that takes into account existing building stock.

However, Policy 1.1.1(c) outlines that healthy, liveable, and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Further, Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. Therefore, due to the former industrial/commercial use of the site (ice cream manufacturing facility and restaurant) and the proposed retirement home, Ontario Regulation 153/04 requires a mandatory filing of a Record of Site Condition (RSC). A RSC has not been received to date and, as such, the subject lands are being placed into an 'H' Holding Provision,

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which will prohibit any development until such time that the RSC has been submitted, to the satisfaction of the City of Hamilton, including acknowledgement of the RSC by the Ministry of the Environment.

In addition, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries, and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise and other contaminants, and to minimize risk to public health and safety. The subject lands are intended to be redeveloped for a retirement home, and are located adjacent to King Street East and approximately 107m from Gray Road. A preliminary Noise Study, titled "Proposed Retirement Facility 135-137 King Street East Preliminary Environmental Noise Assessment", dated August 12, 2011, and revised October 2011, prepared by MTE Consultants Inc., was submitted as part of the subject applications. This Study has been reviewed, and staff is generally satisfied with it, although further investigation at the Site Plan Control stage will be required in order to ensure Ministry of Environment noise guidelines are fully met and implemented.

Therefore, on the basis of the foregoing, the proposal is consistent with the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshoe (Places to Grow):**

The subject lands are located within a built-up area, as defined by Places to Grow. Policy 2.2.2.1 states that population and employment growth will be accommodated through the development of mixed-use urban environments, and encourages Cities to develop as complete communities. Places to Grow also promotes economic development by requiring municipalities to provide for an appropriate mix of employment uses including industrial, commercial, and institutional on employment lands. The proposal conforms to Places to Grow.

**Hamilton-Wentworth Official Plan:**

The subject lands are designated "Urban Area" in the Hamilton-Wentworth Official Plan. Policy C-3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

However, Policy B-2.3 states that the identification of contaminated sites is essential. Redevelopment must not occur until it has been demonstrated that a proposal will not put people in significant risk. As noted above, due to the former industrial/commercial use of the site (ice cream manufacturing facility and restaurant) and the proposed

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retirement home, Ontario Regulation 153/04 requires a mandatory filing of a Record of Site Condition (RSC). Through FC-10-116, staff had advised the applicant that a RSC must be submitted as part of the subject applications, or an 'H' Holding Provision will be required. A RSC has not been received to date and, as such, the proposed By-law includes an 'H' Holding Provision, which will prohibit any development until such time that the RSC has been submitted, to the satisfaction of the City of Hamilton, including acknowledgement of the RSC by the Ministry of the Environment.

**Stoney Creek Official Plan:**

The subject lands are designated "General Commercial" and "Residential" on Schedule "A" - General Land Use Plan and "General Commercial" and "Low Density Residential" on Schedule "A5" - Olde Town Secondary Plan. These designations reflect the previous use of the property as the Stoney Creek Dairy and the adjacent single detached dwelling at 42 Passmore Street, which was owned by the Dairy. The use of the property for the dairy has ceased, and the property is now proposed to be redeveloped for a retirement home along with a restaurant and office space. While the restaurant and office area would be permitted within the existing "General Commercial" designation, the retirement home would not and, therefore, an Official Plan Amendment to "Institutional" is proposed, along with a Special Policy to permit the additional commercial uses within the "Institutional" designation (which would be included as a policy within the Olde Town Secondary Plan). The property at 42 Passmore Street is also subject to an Official Plan Amendment, as it is currently designated "Residential", reflecting its use as a single detached dwelling. A redesignation to "Institutional" would be required.

The following "Institutional" designation policies, among others, are applicable to the subject lands:

"A.5.1 OBJECTIVES

A.5.1.1 To recognize Institutional Uses under the jurisdiction of local Boards or public and private agencies as valuable community assets.

A.5.1.2 To encourage the location of new Institutional Uses within the City in accordance with the needs of the residents.

A.5.2 POLICIES

A.5.2.1 The primary uses permitted in the areas designated on Schedule "A" as INSTITUTIONAL shall be for establishments of cultural, educational, health, welfare, religious, or governmental activities and related uses. Accessory uses clearly necessary and ancillary to such institutional uses may also be permitted.

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- A.5.2.3 Institutional uses other than those of a local type are to be located along highways or arterial roads, near transportation facilities, and be centrally located to the population to be served. Accordingly, such uses are to be prohibited within the interior of neighbourhoods.
- A.5.2.4 Institutional uses shall be preferably located on sites adjacent to other Institutional uses, open space areas and/or commercial uses to permit the sharing of parking, driveways, and other facilities.
- A.5.2.6 In the site design of Institutional Uses, the following policies shall be implemented:
- a) Sufficient off-street parking and loading will be required with particular consideration for their effective location on-site, appropriate buffering, efficient landscape treatment in order to effectively screen the development from surrounding uses; and,
  - b) Adequate provision is to be made for access by populations with special needs, such as the physically disabled and senior citizens.
- A.5.2.8 Notwithstanding the policies set out above, in areas designated Institutional and/or Elementary School, residential uses may be permitted without amendment to this Plan provided they are compatible with the surrounding area and are in keeping with the policies of this Plan.”

Based on the above, the proposed redevelopment to permit a retirement home is supported by the “Institutional” policies, as retirement homes provide cultural, health, and welfare services as part of their residential accommodations. It is an objective of the Stoney Creek Official Plan to encourage such uses in accordance with the needs of the residents, and there is demand for additional retirement home units as the population ages. King Street East is an arterial road, near transportation facilities, and is located centrally in Stoney Creek. There is also a mix of institutional and commercial uses adjacent to the subject lands. The proposed development provides all required on-site parking spaces, and adequate setbacks are provided in order to implement landscaping, fencing, and screening through the future Site Plan Control process. A special policy is required in order to permit the additional commercial uses (restaurant and office space). This can be supported, as these uses are currently permitted within the existing “General Commercial” designation and reflect the historic Stoney Creek Dairy use of the property. The uses would be secondary, although not accessory, to the principle use of the retirement home on the property.

The subject lands are within the Olde Town Secondary Plan, and the following policies of the Secondary Plan would apply:



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- "A.13.5.1 Schedule "A.5" and the policies of the Secondary Plan, in addition to other applicable policies of the Official Plan, constitute the Secondary Plan for the Olde Town Planning District. It is expected that the Olde Town will accommodate an ultimate population of approximately 10,500 persons based on full municipal services.
- A.13.5.3 The Secondary Plan establishes land use policies specific to the Olde Town Planning District. In accordance with Sub-section F.3, the Secondary Plan indicates in greater detail how the objectives, policies, and designations of this Official Plan are to be implemented in a particular area. As such, the Secondary Plan may establish more specific policies.
- A.13.5.6 Architectural and landscaping elements which are to encourage landscaped front yards, prevention of front yard parking, encouragement of underground parking, screening, and buffering of conflicting uses shall be implemented throughout the Olde Town, such as overall building and landscaping articulation, fencing, roof-lines, building materials and detailing and window and entrance features.
- A.13.5.7 Lands designated Commercial on Schedule A.5 shall include a broad range of commercial uses. Further, complementary non-commercial uses such as institutional, community services, and residential uses may be permitted within the designation.
- A.13.5.11 All development within the Olde Town must be in keeping with the objective of protecting and maintaining the economic viability of the City's downtown, and support its revitalization through conversion, infilling, and redevelopment.
- A.13.5.14 Mixed-use buildings should be encouraged, particularly at the northwest corner of Centennial Parkway and King Street West and along Queenston Road. A wide range of commercial uses should be allowed generally fronting onto King Street and limited to the ground and second floors of any mixed-use building. Buildings should not generally exceed 6-storeys in height."

The proposed development would be permitted on the portion of the subject lands designated "General Commercial" (Block 1 on Appendix "A") within the Olde Town Secondary Plan, as the retirement home would be complementary to this land use designation. An Official Plan Amendment is still required since, as noted above, under the overall "General Commercial" policies of the Stoney Creek Official Plan, permitted institutional uses must be 'local institutional'. The retirement home on the portion of the lands designated "Low Density Residential" (Block 2 on Appendix "A") in the Olde Town Secondary Plan would not be permitted as the retirement home is not small scale,

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serving only the local area, which is a policy requisite contained within the overall “Residential” designation policies of the Stoney Creek Official Plan. As an Official Plan Amendment is required for the development, and the principle use of the lands will be institutional, it would be prudent for the Olde Town Secondary Plan to be amended to “Institutional” to reflect its primary use. A special policy will be included to permit the secondary commercial uses.

Based on the above, subject to the Amendments to Schedules “A” and “A5” to redesignate the subject lands as “Institutional”, with a Special Policy to permit the secondary restaurant and office uses, the proposed development would be in conformity with the Stoney Creek Official Plan.

### **Urban Hamilton Official Plan**

The proposal has been evaluated against the policies of the new Urban Hamilton Official Plan, which was adopted by Council on July 9, 2009. The Minister of Municipal Affairs and Housing issued its decision on March 10, 2011, but the decision has been appealed by a number of parties and, at this time, the new Urban Hamilton Official Plan is not in effect. As such, Council-approved Official Plan Amendments made prior to the final decision will be held in abeyance until their incorporation into the Plan can be requested of the Ontario Municipal Board, or through a future housekeeping amendment.

It is prudent and part of natural justice to identify any changes to the Urban Hamilton Official Plan as part of the public notice, in the staff report, and notice of adoption.

The new Urban Hamilton Official Plan designates the subject lands as “Neighbourhoods” on Schedule “E” Urban Structure and Schedule “E-1” Urban Land Use Designations. Unlike the Stoney Creek Official Plan, where retirement homes are generally considered an institutional use, within the Urban Hamilton Official Plan they are considered a form of multiple dwelling, which is permitted within the “Neighbourhoods” designation. This designation permits high density residential uses on minor arterial roads (King Street East is a minor arterial road in the Urban Hamilton Official Plan) at a density of 100 to 200 units per hectare. The proposed development is within this density range. Local commercial uses, such as restaurants and offices, are also permitted in the “Neighbourhoods” designation and in the same building as a multiple dwelling. The proposed 5-storey design is not high-profile pursuant to Policy E.3.6.7, and has been designed to fit with the mixed residential, institutional, and residential character of the area through appropriate setbacks, building design, and landscaping. Therefore, the proposed development conforms with the “Neighbourhoods” designation.

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The Old Town Secondary Plan (Map B.7.2-1) of the Urban Hamilton Official Plan designates the subject lands “Local Commercial” (Block 1 on Appendix “A”) and “Low Density Residential 2a” (Block 2 on Appendix “A”). The “Local Commercial” designation would permit the secondary commercial uses, but not the retirement home. The “Low Density Residential 2a” designation also does not permit the retirement home. Redesignation to “Institutional”, to be consistent with both the Stoney Creek Official Plan and other retirement homes within the Stoney Creek Secondary Plans of the Urban Hamilton Official Plan that are also designated “Institutional”, would be prudent. However, as the “Institutional” designation within the Old Town Secondary Plan only references the Community Facilities/Services and Institutional policies from Volume 1 of the Urban Hamilton Official Plan, and a retirement home is not a use contemplated under said policies, a Site-Specific Policy must be added to recognize the proposed retirement home and secondary commercial uses. Subject to this amendment, the proposed development conforms with the Old Town Secondary Plan.

**Olde Town Neighbourhood Plan**

The subject lands are designated “Commercial” (Block 1 on Appendix “A”) and “Low Density Residential” (Block 2 on Appendix “A”) in the approved Olde Town Neighbourhood Plan. A change in designation to “Institutional” would be required in order to implement the proposal.

**RELEVANT CONSULTATION**

The following Departments and Agencies had no comments or objections:

- Source Water Protection, Public Works Department.
- Bell Canada.
- Horizon Utilities.

The following Departments and Agencies submitted the following comments:

**Forestry and Horticulture Section (Public Works Department)** has advised that there are municipal tree assets that could be impacted by the development, but that some existing municipal trees of insignificance could be removed. There are additional trees on private property that would likely be impacted by the development. Tree management and tree protection will be addressed through a tree preservation plan that would be required as a condition of the future Site Plan Control application.

**Operations and Waste Management Division (Public Works Department)** has advised that the proposed retirement home form of development as an institutional use is ineligible for municipal waste collection, and that recycling is strongly encouraged. However, as retirement homes can also be considered a residential use, the Operations and Waste Management Division has since advised that they will consider eligibility at the Site Plan Control stage of the development. Final design for waste collection for public or private haulers will be reviewed at the Site Plan Control stage of development.

**Traffic Engineering Section (Public Works Department)** has advised that there are no concerns with the Zoning and Official Plan Amendment applications, and surrounding streets have capacity for the traffic to be generated from the development. Further site design comments have been made, which will be addressed at the Site Plan Control stage of development.

**Tax Administration/Banking Section (Corporate Services Department)** has advised that there is outstanding municipal tax owing. Through the subsequent Site Plan Control stage of development, all taxes must be paid prior to issuance of any building permits.

**Hamilton Municipal Parking Systems** has provided comments on the submitted parking study, but has also advised that as long as on-site parking is provided in accordance with the Zoning By-law, there are no concerns with potential impacts from overflow parking. The proposal meets Zoning By-law requirements for parking.

## **PUBLIC CONSULTATION**

In accordance with the new provisions of the Planning Act and Council's Public Participation Policy, Notices of Complete Application and Preliminary Circulation were circulated to 134 property owners and tenants within 120 metres of the subject property on November 18, 2011. A Public Notice sign was also posted on the property on November 29, 2011, and Notice of the Public Meeting was given in accordance with the requirements of the Planning Act. To date, 10 letters have been received from neighbouring residents expressing concerns pertaining to traffic and parking, building height and design, and engineering/servicing matters (see Appendix "F"). A discussion of these concerns is contained in the Analysis/Rationale for Recommendation section of this Report below.

## **ANALYSIS / 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 Places to Grow;
  - (ii) It conforms to the Hamilton-Wentworth Official Plan;

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- (iii) Upon redesignation from “General Commercial” and “Residential” to “Institutional” on Schedule “A”, and from “General Commercial” and “Low Density Residential” to “Institutional” on Schedule “A5” and inclusion of a Special Policy, it conforms with the intent of the Stoney Creek Official Plan;
  - (iv) Upon redesignation from “Local Commercial” and “Low Density Residential 2a” to “Institutional” in the Old Town Secondary Plan, and inclusion of a Special Policy, it conforms with the intent of the new Urban Hamilton Official Plan;
  - (v) The proposed development provides for the redevelopment of the former Stoney Creek Dairy property for an institutional use on an arterial road serving the local and larger community, with a housing opportunity for residents to live in their community longer, while continuing to provide secondary commercial uses to reflect its historic use; and,
  - (vi) The proposal is compatible with the range of land uses surrounding the development and has been designed to minimize impacts from overview, preserving escarpment views, and provides all required on-site parking.
2. The subject lands currently contain the building that formerly housed the Stoney Creek Dairy, which included ice cream manufacturing, a dairy bar (ice cream retail sales), and a restaurant (Block 1 on Appendix “A”). The subject lands also include a single detached dwelling at 42 Passmore Street (Block 2 on Appendix A), which was previously owned by the dairy and sold as part of the proposed redevelopment.

The new owners are proposing to demolish the dairy building and single detached dwelling and construct one new building for a retirement home, a restaurant, and office space (see Appendix “E”). The proposed design consists of two 5-storey wings oriented north-south joined by a 1-storey link off Passmore Street. A single storey portion of the building abutting King Street East would be used for a restaurant to carry on the traditional dairy bar use that previously existed in this area, along with additional office space. The proposed retirement home would consist of 200 units for the accommodation of 220 residents, split between 120 units in the westerly wing oriented toward independent living, and 80 units in the easterly wing oriented toward assisted living (units with a greater level of health care options available). All of the units would have shared common amenity and dining areas. Ninety-seven (97) surface parking spaces are proposed for the combined uses, 24 of which would be primarily utilized for staff parking on a contained lot with access to Passmore Street, with the rest accessed from King Street East. A parking area to the west of the commercial portion of the development would be utilized primarily for the commercial component of the development, and the remainder of the spaces dedicated for

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residents and visitors of the retirement home use. The 97 proposed parking spaces meet the Zoning By-law requirement of 96 parking spaces for the combined retirement home and commercial uses.

3. Based on the review of the “Institutional” Official Plan policies, the proposed retirement home would conform with and implement this land use designation, as it is on an arterial road, in an area with other mixed-uses, and is central to the population it would serve. An institutional use, such as a retirement home in this location, would be beneficial to the local community, as it would allow local residents to age in place in an area close by to many amenities and transit. King Street East in Stoney Creek already contains a broad range of land uses including other local institutional uses, local commercial uses, and a range of residential densities. Mixed-use buildings on King Street are promoted by the Olde Town Secondary Plan

However, it is still important to ensure that the proposed use is compatible with the surrounding land uses with respect to massing, building height, overview, shading, architectural and landscape design, and off-street parking. The Stoney Creek Official Plan does have policy direction within the “Residential” designation to evaluate proposals for multiple family residential developments. While these policies would not apply to a retirement home within the “Institutional” designation, as the built form is quite similar, it is still important to address these matters in reviewing the appropriateness of the proposal.

In this regard, the design of the development (see Appendix “E”) has been undertaken in a manner sympathetic to the character of the area. While the proposed maximum 5-storey and 17.9m height is taller than surrounding, existing properties, it is within the maximum permitted 18.0m height of the (I3) Zone. The one-storey link between the two 5-storey wings is approximately 6m in height. The design is such that shading impacts would be minimal.

The development is separated from the existing single detached dwelling to the east on Passmore Street by a 23m setback on the subject lands, which includes space for a 3m planting strip and visual barrier to be implemented at the Site Plan Control stage of development. The retirement home will be setback considerably from the dwellings on the opposite side of Passmore Street, as a 6m setback from Passmore Street is proposed in addition to the 20m width of the road and the 6m front yards of the dwellings. This provides a separation of 32m between the building faces. A similar setback is provided to the dwellings on the opposite side of Dawson Avenue. To the east, on King Street East, is a commercial building. One single detached dwelling is surrounded on two sides by the subject lands that has frontage onto King Street East. This dwelling is situated toward the front of the property, and its rear wall would be set back a distance of approximately 21m from the closest portion of the retirement home.

The rear yard amenity area would not be shaded by the 5-storey retirement home. By maintaining most of the King Street East frontage with the lower, 1-storey commercial portion, the existing streetscape character of King Street East, which in this area is not taller than 2-storeys, is being maintained.

The design of the retirement home building has also been undertaken with care in order to maximize views of the escarpment to the south. The two 5-storey wings are relatively narrow (23m wide for the westerly wing and 20m wide for the easterly wing). The two wings are joined by a 37m wide, 1-storey link, which is less than 6m tall. This design ensures that views of the escarpment between the two taller wings would be preserved. By providing a 6m setback to the 5-storey wings and a 9m setback to the 1-storey link on Passmore, ample space is provided for a strong landscaped streetscape. The 4.5m westerly side yard is also wide enough to ensure proper street tree plantings in this area and other additional lower plantings to provide enhanced privacy. A sun-shadow study submitted by the applicant shows that it is only around the December Solstice that shading occurs, and that much of the shading would have occurred regardless due to the mature trees in the neighbourhood. Through the rest of the year, shadow effects are primarily limited to front yards, and only for a limited portion of the day.

4. In addition to the changes in zoning to the Major Institutional (I3) Zone, a number of modifications have been requested, including:

Modifications to Permit the Secondary Commercial Uses:

The Major Institutional (I3) Zone permits a broad range of institutional land uses such as educational establishments, day nurseries, Places of Worship, long term care facilities, and hospitals. Within these buildings, accessory commercial uses would be permitted (such as cafeterias, pharmacies, or gift shops in a hospital). The proposed restaurant and offices, while they would occupy a much smaller floor area than the retirement home, are not proposed as accessory uses but, rather, would be accessible to the public so that the development would be considered mixed-use (institutional and commercial). The addition of these uses can be supported, as the restaurant component recognizes the historic dairy bar use of the lands, and the office component would be small (i.e. 300 square metres) and not detracting from commercial development to the west in downtown Stoney Creek. These uses would also be permitted as-of-right under the current General Commercial zoning and Official Plan designations of the subject lands. The implementing By-law will restrict their sizes. All required parking is being met on-site for the commercial uses.

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek) (PED12130) (Ward 9) - Page 16 of 20**

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Modifications for Side Yard and Rear Yard Setback:

The Major Institutional (I3) Zone requires a minimum side yard and rear yard setback of 7m. In this regard, the yard abutting Passmore Street is considered the rear yard, the yard abutting King Street East the front yard (no minimum or maximum setbacks apply), and all other yards are considered side yards. The development would conform with the minimum required side yard to the east on Passmore Street, but all other side yard setbacks are proposed to be modified (the northerly rear yard to 6m, the westerly side yard to 4.5m, the southerly side yard to 5m, and the easterly side yard abutting the commercial property on King Street East to 6m). When the application was first submitted, the applicant had proposed a 3m rear yard setback to Passmore Street and a 3m side yard setback to Dawson Street. As a result of comments from the public and a review by staff, the applicant proposed to increase the northerly rear yard setback to 6m and the westerly side yard setback to 4.5m.

Northerly Rear Yard Setback Modification:

The reduction to 6m from 7m along Passmore Street can be supported since for most of that street frontage, the proposed setback is much greater at 9m, and the easterly side of the property along Passmore does not contain a building. It is only for 40% of the rear yard that a reduced setback would be needed, and a restriction limiting height to 1-storey for a portion of this frontage further mitigates the impact.

Easterly Side Yard Setback Modification (Yard Abutting Adjacent Property on King Street East):

With regard to the easterly side yard setback, the reduction can be supported, as it is minor, and the abutting property is commercial, not residential, and its rear yard contains parking, not outdoor amenity area.

Westerly Side Yard Setback Modification:

With regard to the westerly side yard setback, while a reduction to 4.5m from 7.0m is proposed, this setback has been increased from the originally proposed 3.0m setback so that sufficient space for streetscape plantings can be accommodated. This side yard also directly abuts Dawson Avenue, which only contains 3 single detached dwellings. A Masonic Lodge takes up a portion of this street. The 20m width of Dawson Avenue, and the substantial existing 9m front yard setbacks of the dwellings would provide ample separation. Whether a 7m setback was provided or not, the Dawson Avenue streetscape would still contain the prominent side façade of the retirement home. The dwellings on Dawson Avenue, due to their setbacks, would still have unimpeded views of the



**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek) (PED12130) (Ward 9) - Page 17 of 20**

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escarpment looking to the right (south) from the front of their dwellings. These homes also have substantial mature trees in their front yards as a further, existing buffer.

Southerly Side Yard Setback Modification:

The 5m southerly side yard setback can also be supported since the existing dwelling is located close to King Street East with a substantial existing rear yard. Fencing and landscaping will be provided as a further buffer. Since the retirement home at this location is 5-storeys in height, there will always be some overview of this property whether this setback is 5m or 7m. Even a major reduction in the height of the building would always have some overview of this yard, and it would be inappropriate to not permit windows facing the escarpment in a retirement home.

Modification for Building Height Restriction:

As noted above, only 40% of the Passmore Street frontage would contain a 5-storey building. In order to ensure that the 1-storey link, which is important to keep at a low height to preserve escarpment views, is not replaced with a higher building, it is proposed that the implementing By-law contain a restriction that a minimum of 37m of the length of the façade shall be 1-storey in height.

Modification for Parking Standards:

Zoning By-law No. 05-200 requires parking spaces abutting a street to be setback 3m and separated by a planting strip. The parking lot off Passmore Street would provide such a setback and landscaping. However, due to the angle of the parking spaces off King Street East, the corner of one parking space would encroach 1m into the required 3m setback so that only a 2m planting strip could be provided. The remainder of the King Street East streetscape would provide greater than 3m between parking and the street and between the building and the street. This minor encroachment can, therefore, be supported subject to a restriction that the reduction in landscaping applies only to one parking space.

Modification for Pergola Encroachment:

Zoning By-law No. 05-200 permits the encroachment of architectural features, ramps, decks, staircases, bays, and balconies into a required yard. The preliminary site plan (see Appendix "E") proposes a pergola structure, connected to the 1-storey link portion of the retirement home, to act as an architectural entrance feature for the rear door from Passmore Street. A pergola does not fall under any of the definitions within the Zoning By-law for structures that are

permitted to encroach. This encroachment can be supported since it is a small, non-intrusive structure that is open on all sides. It helps frame the entranceway and provides architectural interest without dominating the streetscape.

5. The Public Consultation section of this Report noted that 10 letters were received from area residents noting a number of concerns about the proposed change in zoning (see Appendix “F”). The letter writers generally expressed concerns regarding traffic and parking, building height and design, and engineering/servicing matters. A review of the concerns from the public is discussed below:

Traffic and Parking:

A number of area residents expressed concerns that the development has insufficient on-site parking and that too much traffic will be generated onto the surrounding local roads. In this regard, the applicant has submitted both a traffic study and a parking study that have been reviewed by staff. The traffic study notes that:

- The intersections in the study area are currently operating with satisfactory levels of service;
- The development is anticipated to generate 31 new vehicle trips during the AM peak hour, 42 trips in the PM peak hour, and 75 new trips during the Saturday peak hour;
- All intersections are forecast to continue to operate with satisfactory levels of service.

Staff has reviewed and concurs with the conclusions of the traffic study. The parking area off Passmore Street is self contained and does not link to the remainder of the parking area. It is proposed to function mostly for staff parking and will be signed and operated as such. With regard to parking, it is noted that the proposed development meets all required on-site parking requirements, which is 1 parking space for every 3 residents of the retirement home, 1 parking space per 8 square metres of restaurant use, and 1 parking space per 30 square metres of office space. This would require 96 parking spaces in total, and 97 parking spaces are proposed. The parking study compared the parking provided with utilization surveys at seven other retirement home sites of comparable size, and noted that the amount of proposed parking for the retirement home is consistent with these 7 other examples. The study also noted availability of on-street parking and, that through a parking management plan, an efficient use of the proposed parking can be made. While staff expressed some minor concerns with the methodology of some of the research completed for the

parking study, the overall conclusion is sound and, as all required parking is being provided on-site, there is no expectation of significant impacts from instances of overflow parking.

Building Height:

Some residents expressed concerns that the proposed 5-storey height would block escarpment views and result in shading of their properties. It should be noted that the proposed design is low-profile, in that average floor heights for the middle floors are only 3m tall, resulting in a total height for the 5-storey building of 17.9m, which is within the Zoning By-law height limit of 18m. This is only 7m taller than what the Zoning By-law permits on the adjacent residential properties and similar to the maximum 16.5m height which is already permitted as-of-right on the main portion of the subject property and on the adjacent commercial property on King Street East. The design of the building is such that escarpment views will be preserved, as the two 5-storey narrow tower wings are separated by a 1-storey, 6m tall link that is 37m in length. The implementing By-law includes a requirement for 37m of the length of the façade to contain such a link to ensure this design is implemented. The sun-shadow study did not identify any major shadowing due to the low profile nature of the building, and that 20m wide road allowances that abut the property to the north and west.

Engineering and Servicing:

Some residents expressed concerns about impacts from grading and drainage and lack of servicing capacity. In this regard, a detailed Preliminary Functional Servicing Report has been submitted by the applicant to review these matters. While staff continues to work with the applicant and their engineering consultants on further clarifications of the proposed servicing and stormwater management plans, staff is satisfied that the applicant has generally demonstrated that all municipal standards can be met. Through the future Site Plan Control process, the details of the erosion and sediment control plan, Stormwater Management Plan, lot grading, and servicing will be final reviewed. It is City policy that drainage cannot be directed, or otherwise impact the abutting properties.

6. It was noted under the analysis of the Provincial Policy Statement and Region of Hamilton-Wentworth Official Plan that a Record of Site Condition (RSC) is required due to the change in use from the previous industrial and commercial uses to the predominant retirement home proposed use. The applicant has advised that a Phase 1 and 2 Environmental Site Assessment has been completed, but that Phase 3 (remediation) cannot occur until after demolition, which would likely occur once the zoning is finalized. Therefore, an 'H' Holding Provision is recommended, which would prohibit development of the site until the RSC is finalized.

**SUBJECT: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 135 and 137 King Street East and 42 Passmore Street (Stoney Creek) (PED12130) (Ward 9) - Page 20 of 20**

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7. The Major Institutional (I3) Zone is subject to Site Plan Control, at which time all matters pertaining to grading and servicing, erosion and sediment controls, landscaping, fencing, tree preservation, waste collection, final façade design, parking layout, and access driveway design will be undertaken.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, the lands could be developed in accordance with the current General Commercial “GC” Zone and Single Residential “R1” Zone provisions. The industrial use of the property was a legally established non-conforming use, and other types of industrial uses would need a Minor Variance for a change-in-use. The range of General Commercial uses include arenas, clubs, bakeries, banks, banquet halls, commercial schools, car washes, retail, dry cleaning, funeral homes, gas bars, hotels, medical clinics, service stations, restaurants, and taverns. The existing zoning permits a maximum building height of 16.5m as-of-right, which would allow for a 4-storey building. A single detached dwelling is permitted in the “R1” Zone.

**CORPORATE STRATEGIC PLAN**

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

**Financial Sustainability**

- ◆ Effective and sustainable Growth Management.
- ◆ Generate assessment growth/non-tax revenues.

**Healthy Community**

- ◆ Plan and manage the built environment.

**APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Draft Official Plan Amendment to the Stoney Creek Official Plan
- Appendix “C” Draft Official Plan Amendment to the Urban Hamilton Official Plan
- Appendix “D”: Draft Zoning By-law Amendment
- Appendix “E”: Site Plan and Elevation Plan
- Appendix “F”: Public Comments

:GM

Attachs. (6)



● Site of the Application



Ward 9 Key Map

N.T.S.

## Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:  
ZAC-11-069/OPA-11-017

Date:  
May 17, 2012

Appendix "A"

Scale:  
N.T.S.

Planner/Technician:  
GM/AL

### Subject Property

135 & 137 King Street East and 42 Passmore Street



**Block 1:** Official Plan Amendment from "General Commercial" to "Institutional" and Change in Zoning from the General Commercial "GC" Zone to the Major Institutional (I3, 449, H49) Zone.



**Block 2:** Official Plan Amendment from "Residential" and "Low Density Residential" to "Institutional" and change in Zoning from the Single Residential "R1" Zone to the Major Institutional (I3, 449, H49) Zone.

**--DRAFT--**

**Amendment**

**to the**

**Official Plan of the City of Stoney Creek**

The following text, together with Schedule "A" - General Land Use Plan and Schedule "B" (Schedule "A5" - Secondary Plan Olde Town Planning District), attached hereto, constitutes Official Plan Amendment No. [REDACTED].

**Purpose:**

The purpose of this Amendment is to redesignate the subject lands from "General Commercial" and "Residential" to "Institutional", with a Special Policy, in order to permit the development of a retirement home with secondary commercial uses consisting of a restaurant and office space.

**Location:**

The lands affected by this Amendment, being approximately 1.03ha, are located at 135 and 137 King Street East, and 42 Passmore Street, on the north side of King Street East, east side of Dawson Avenue, and south side of Passmore Street, in the City of Stoney Creek.

**Basis:**

- It is consistent with the Provincial Policy Statement and conforms to Places to Grow and the Hamilton-Wentworth Official Plan;
- It provides for the redevelopment of the former Stoney Creek Dairy property for an institutional use on an arterial road serving the local and larger community with a housing opportunity to age-in-place, while continuing to provide secondary commercial uses to reflect its historic use; and,
- It is compatible with the range of land uses surrounding the development and in the local area, and has been designed to minimize impacts from overview, preserving escarpment views, and provides all required on-site parking.

**Actual Changes:**

Schedule Changes

1. Schedule "A" - Land Use Concept - be revised by changing from the "General Commercial" and "Residential" designations to the "Institutional" designation, as shown on the attached Schedule "A" to this Amendment; and,
2. Schedule "A5" - Secondary Plan Olde Town Planning District - be revised by changing from the "General Commercial" and "Low Density Residential" designations to the "Institutional" designation, as shown on the attached Schedule "B" to this Amendment.

Text Changes

3. That a new Policy be added to the City of Stoney Creek Official Plan as Policy No. A.13.5. [REDACTED]:

A.13.5. [REDACTED] On those lands designated Institutional by this Plan and located at 135 and 137 King Street East, and 42 Passmore Street, and also notwithstanding the Institutional policies of Section A.5, secondary commercial uses consisting of a restaurant and office space only in conjunction with an institutional use shall also be permitted under this designation.

**Implementation:**

An implementing Zoning By-law Amendment and Site Plan Application will give effect to the intended uses on the subject lands.

This is Schedule "1" to By-law No. [REDACTED] passed on the [REDACTED] day of [REDACTED], 2012.

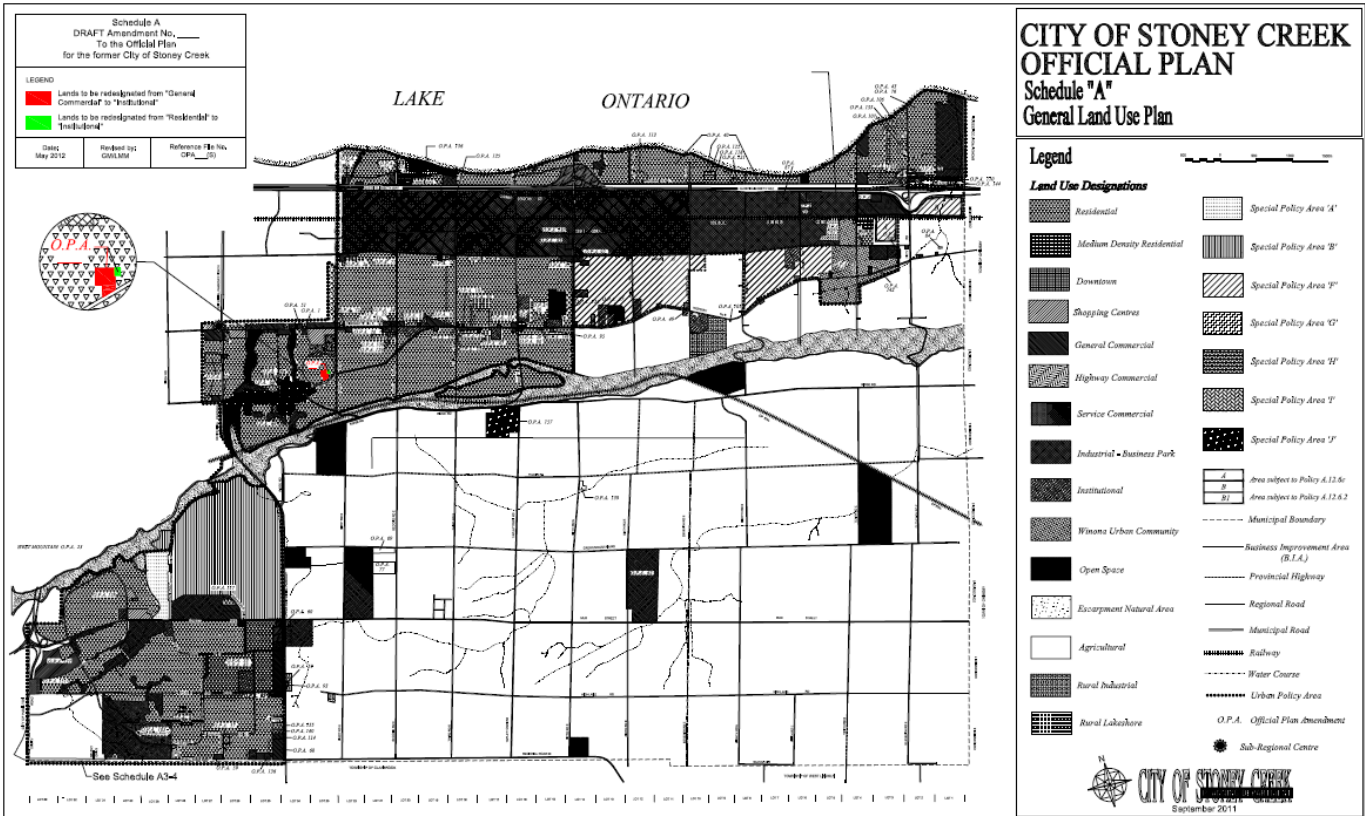
**The City of Hamilton**

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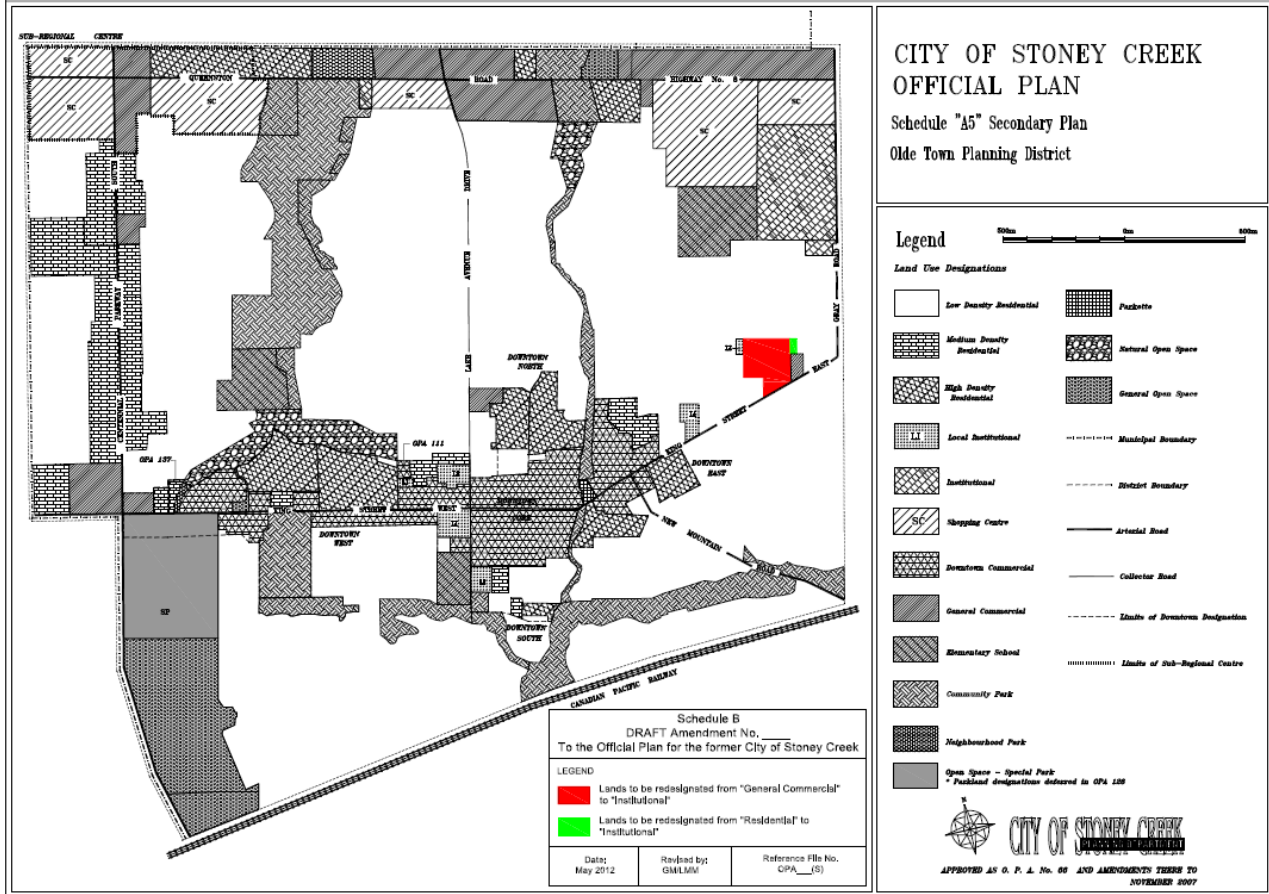
R. Bratina  
Mayor

---

Rose Caterini  
Clerk







**DRAFT Amendment No. [REDACTED]  
to the  
Urban Hamilton Official Plan**

The following text, together with Appendix "A" – Old Town Secondary Plan – Land Use Plan, Map B.7.2-1 attached hereto, constitutes Official Plan Amendment No. [REDACTED] to the Urban Hamilton Official Plan.

**1.0 Purpose:**

The purpose of this Amendment is to add a Site-Specific Policy to the Old Town Secondary Plan in order to permit a retirement home and an associated commercial component consisting of a restaurant and office space.

**2.0 Location:**

The lands affected by this Amendment are located at 135 and 137 King Street East, and 42 Passmore Street, in the former City of Stoney Creek.

**3.0 Basis:**

The basis for permitting this amendment is as follows; the Amendment:

- It is consistent with the Provincial Policy Statement, and conforms to Places to Grow and the Hamilton-Wentworth Official Plan;
- It provides for the redevelopment of the former Stoney Creek Dairy property for an institutional use on an arterial road serving the local and larger community with a housing opportunity to age-in-place, while continuing to provide secondary commercial uses to reflect its historic use; and,
- It is compatible with the range of land uses surrounding the development and in the local area, and has been designed to minimize impacts from overview, preserving escarpment views, and provides all required on-site parking.

**4.0 Changes:**

**4.1 Text Changes:**

4.1.1 Chapter B.7.2 Old Town Secondary Plan

- a. That Section B.7.2.8 – Area and Site-Specific Policies be amended to add a new Site-Specific Policy as follows:

**Site-Specific Policy - Area E**

7.2.8.4 Lands located at 135 and 137 King Street East, and 42 Passmore Street, designated Institutional and identified as Site-Specific Policy - Area E on Map B.7.2-1 – Old Town – Land Use Plan shall be developed according to the following:

- a) Notwithstanding Policy 7.2.6 Institutional Designation, a retirement home shall be permitted. A commercial component consisting of a restaurant and office space only in conjunction with a use permitted under this designation shall also be permitted.

**4.2 Mapping Changes:**

- 4.2.1 Urban Hamilton Official Plan Volume 2, Map B.7.2-1 – Stoney Creek Secondary Plans; Old Town Secondary Plan - Land Use Plan is amended by:

- a) Redesignating a portion of the subject lands from "Low Density Residential 2 a" to "Institutional";
- b) Redesignating a portion of the subject lands from "Local Commercial" to "Institutional"; and,
- c) Adding a Site-Specific Policy- Area E to the lands at 135 and 137 King Street East, and 42 Passmore Street,

as shown on Appendix "A", attached to this Amendment.

**5.0 Implementation:**

An implementing Zoning By-law Amendment and Site Plan will give effect to this Amendment.

This is Schedule "1" to By-law No. [REDACTED] passed on the [REDACTED] day of [REDACTED], 2012.

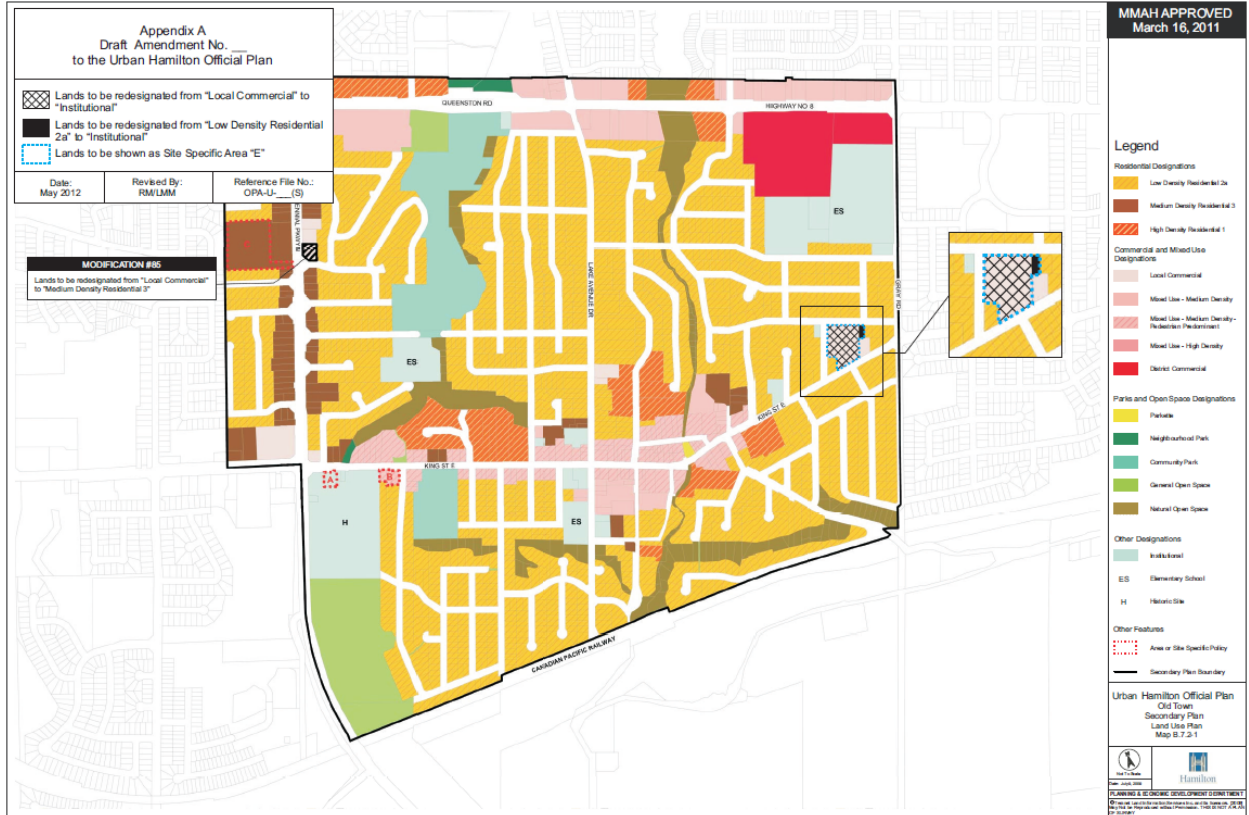
**The  
City of Hamilton**

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R. Bratina  
Mayor

---

Rose Caterini  
Clerk



**Authority:** Item [REDACTED]  
Planning Committee  
Report: 12-[REDACTED] (PED12130)  
CM: [REDACTED]  
  
Bill No. [REDACTED]

**CITY OF HAMILTON**

**BY-LAW No. [REDACTED]**

**To Amend Zoning By-law No. 05-200  
Respecting Lands Located at 135 and 137 King Street East and 42  
Passmore Street (Stoney Creek)**

**WHEREAS** the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

**AND WHEREAS** the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

**AND WHEREAS** it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

**AND WHEREAS** the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 12-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2012, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

**AND WHEREAS** this By-law will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former City of Stoney Creek) upon approval of Official Plan Amendment No. [REDACTED].

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

1. That Map 1249 of Schedule "A" to Zoning By-law No. 05-200 is amended by:
  - (a) Incorporating the Major Institutional (I3, 449, H49) Zone, boundaries for the lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Schedule "C" - Special Exceptions of By-law No. 05-200 is amended by adding an additional Exception as follows:

449. That notwithstanding Sections 8.3.1, 8.3.2.1(b), 8.3.2.1(c), 5.1(v)(a), 5.1(v)(b), 5.1(d)(i), and 4.6 of this By-law, on those lands zoned Major Institutional (I3) Zone, on Map 1249 of Schedule "A" - Zoning Maps and described as 135 and 137 King Street East and 42 Passmore Street (Stoney Creek), the following regulations shall also apply:

- (a) In conjunction with and attached to a use permitted in the Major Institutional (I3) Zone, a maximum 93 square metre restaurant and a maximum of 300 square metres of offices shall also be permitted;
- (b) A minimum northerly and easterly side yard of 6.0 metres; a minimum westerly side yard of 4.5 metres; and a minimum southerly side yard of 5.0 metres shall be provided and maintained;
- (c) One parking space off King Street East is permitted within 3.0 metres of a street line separated from the street line by a minimum 2.0 metre wide planting strip;
- (d) For the portion of the building abutting Passmore Street, a minimum of 37.0 metres of the façade length shall be a maximum of 1-storey in height; and,
- (e) A pergola may encroach into a rear yard.

3. That Schedule "D" - Holding Provisions, of By-law No. 05-200, be amended by adding the additional Holding Provision, as follows:

"49 Notwithstanding Section 8.3 of this By-law, within the lands zoned Major Institutional (I3, 449) Zone, on Map No. 1249 of Schedule "A" - Zoning Maps, and described as 135 and 137 King Street East and 42 Passmore Street (Stoney Creek), no development or change of use shall be permitted until such time:

- (a) That the owner/applicant has submitted a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the Manager of Development Planning, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton's current RSC administration fee."

4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.
5. That this By-law No. [REDACTED] shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

**PASSED and ENACTED** this [REDACTED] day of [REDACTED], 2012.

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R. Bratina  
Mayor

---

Rose Caterini  
Clerk

ZAC-11-069/OPA-11-017





This is Schedule "A" to By-Law No. 12-  
 Passed the ..... day of ....., 2012


-----  
 Mayor  
 -----  
 Clerk

**Schedule "A"**

Map Forming Part of  
 By-Law No. 12-\_\_\_\_\_

to Amend By-law No. 05-200  
 Map 1249

**Subject Property**  
 135 & 137 King Street East and 42 Passmore Street

 Lands to be Zoned Major Institutional (I3, 449, H49) Zone.

Scale:  
 N.T.S.

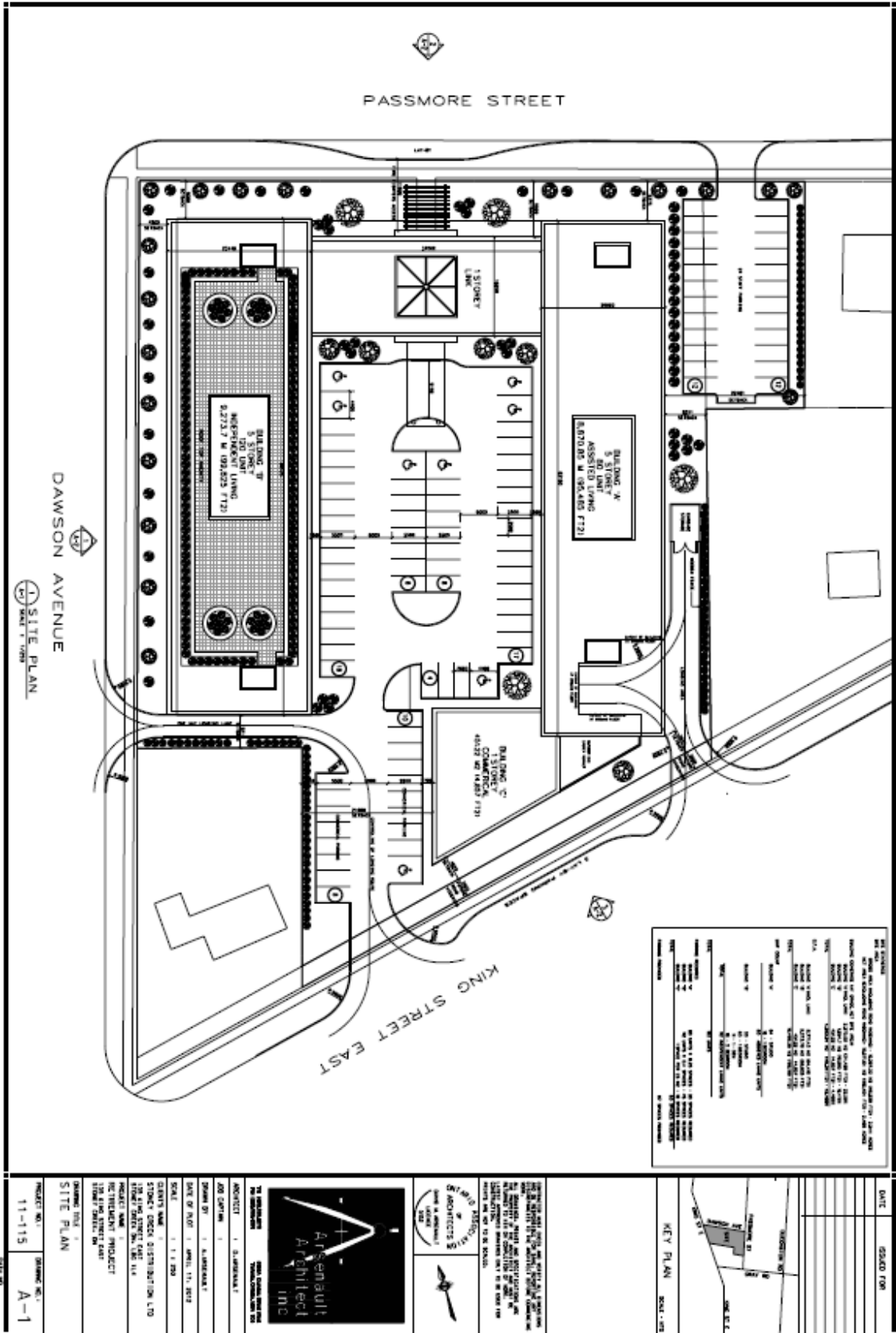
File Name/Number:  
 ZAC-11-069 / OPA-11-017

Date:  
 May 17, 2012

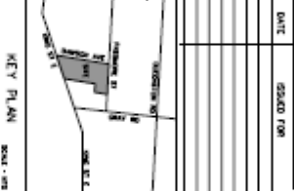
Planner/Technician:  
 GM / MB



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	11/15/11
2	ISSUED FOR PERMIT	11/15/11
3	ISSUED FOR PERMIT	11/15/11
4	ISSUED FOR PERMIT	11/15/11
5	ISSUED FOR PERMIT	11/15/11
6	ISSUED FOR PERMIT	11/15/11
7	ISSUED FOR PERMIT	11/15/11
8	ISSUED FOR PERMIT	11/15/11
9	ISSUED FOR PERMIT	11/15/11
10	ISSUED FOR PERMIT	11/15/11



**PROJECT NO.:** 11-115

**DRAWING NO.:** A-1

**DATE:** 11/15/11

**PROJECT NAME:** ASSISTED LIVING PROJECT

**CLIENT NAME:** ARSENHAULT ARCHITECT INC.

**PROJECT ADDRESS:** 1245 KING STREET EAST, WINDSOR, ONT. N9A 1K1

**DATE OF PLAN:** APRIL 11, 2011

**SCALE:** 1/8" = 1'-0"

**DESIGNER:** ARSENHAULT ARCHITECT INC.

**DATE OF PLAN:** APRIL 11, 2011

**PROJECT NO.:** 11-115

**DRAWING NO.:** A-1

**ARSENHAULT ARCHITECT INC.**

1245 KING STREET EAST, WINDSOR, ONT. N9A 1K1

TEL: 519-253-1111

WWW.ARSENHAULTARCHITECT.COM

CONCEPTUAL ELEVATIONS



PASSMORE ST ELEVATION



DAWSON AVE. ELEVATION



KING ST. ELEVATION

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DAIRY CREEK SENIORS RESIDENCE

135 & 137 KING STREET EAST  
STONE CREEK, ONTARIO  
PROJECT # 11-115  
AUG 16, 2011

5186A DUNDAS STREET WEST  
TORONTO, ONTARIO M9A 1C4  
TEL: 416 255-4378  
FAX: 416 255 4351



**From:** Barbara Reid  
**Sent:** Monday, December 05, 2011 4:08 PM  
**To:** Macdonald, Greg  
**Cc:** Clark, Brad  
**Subject:** Objection: File No:ZAC-11-069 & File No: OPA-11-017

Greg Macdonald, City of Hamilton  
Planning & Economic Development Department

We are writing to state **our objection** to the plans as drawn for the Official Plan & Zoning By-law Amendments outlined in **Files #OPA-11-017 & ZAC-11-069**.

This proposal as presented will create a significant increase in the number of residents within the neighbourhood and as a result the volume of traffic.

The proposed location is within a few blocks of 2 elementary schools. Since most of the streets in the surrounding area do not have sidewalks we have safety concerns about the increased traffic volume. Add to that the fact that the parking being provided while no doubt statistically adequate, doesn't appear to provide for visitor parking. That's going to increase street parking, making it even more treacherous for school children and residents walking in the area.

King Street and Gray Road are designed for such traffic volume but the drawings also show entrances off both Dawson & Passmore. All the residents will be seniors and they tend to avoid busy streets in favour of side streets so the traffic changes will occur on the streets least equipped to handle them.

Please consider making the only resident's vehicle entrance come off King Street for the safety of all the pedestrians.

**Sincerely yours,**  
**Barb & Dave Reid**  
11 Passmore Street  
Stoney Creek, Ontario

Doug & Judy Green

29 passmore st  
Stoney Creek

Dear Greg Macdonald

With reference to your letter dated Nov.18, 2011 File No. ZAC-11-069/OPA-11-017

Seeing as we are directly north of the new proposed buildings at the end of Dawson Ave we have several concerns re: the proposed plans for the old dairy property.

Are you planning on widening Passmore St. & Dawson Ave. to allow for off road parking ie: over night on both sides of the road ?

These five story buildings have approximately 56 parking spots in the centre section of their area to allow parking for 200 units and their visitors. Granted some of the people in the assisted bldg. will not be driving but there are 120 units in the west building where most of the people will still be able to drive, and if they can afford this high rent will certainly retain a car in many cases.

Don't existing By Laws require a minimum number of parking spots, as this west section should be considered an apartment dwelling ?

Our other personal concerns are having a five story building across the street from us.

Presently sitting in our living room we enjoy the uninterrupted view of the top half of the Niagara Escarpment, watching the cars drive along ridge road, and the train, as it travels along the side of the escarpment.

Another concern is, will we be in the shadow of the five story building during some of the winter months when the sun helps to heat our home ?

We know if we lived on Dawson Ave. we would certainly object, as the sun rises shining on their homes and a five story building would not give them sun until noon during the winter months

Our home will certainly be devalued by this complex with the loss of our view and possibly the sunshine. Are the owners of the complex offering any compensation to the residents directly affected?

We like the proposal of a senior's complex with assisted medical section, but would only be happy if it was restricted to a height of two floors, as are some of the present buildings.

This would allow us to maintain our current view and the parking may be adequate for 80 units not 200.

Regards

Doug & Judy Green

**From:** Brad Ackles  
**Sent:** Monday, December 05, 2011 3:17 PM  
**To:** Macdonald, Greg  
**Subject:** File# ZAC-11-069/OPA-11-017

Mr Macdonald;

I have questions and concerns with respect to the above file. As per the general notice of November 18<sup>th</sup>, I'd like this notice to be part of public record in your staff report to Council.

- (1) The letter says the proposed Plan and Zone Amendment is to "Institutional". The location map refers to the change as "Major Institutional". Is there a difference and what is it?
- (2) The application is for 2, 5 storey buildings, 200 units total excluding the restaurant/office. If the Official Plan & Zoning By-Law is changed to "Institutional" or "Major Institutional", can application then be re-submitted to increase the number of units, height or both?
- (3) I have concerns about Ingress & Egress from the property both during the construction process and after completion. Where will construction traffic be routed? I can't tell from the conceptual site plan where the entrance/exits will be located?
- (4) I have concerns about infrastructure. The storms & sanitary system for this area was not designed for this density. What assurance do we have that precautions are taken to prevent water & sewage problems?
- (5) The surrounding neighbourhood streets were never designed heavy traffic volume or on street parking. This project has the potential to adversely affect residents, in particular with respect to safety. The streets are not wide enough and there's no sidewalks.
- (6) We're already plagued with high speed traffic in the neighbourhood, vehicles using Passmore Ave to go East /West to avoid Queenston Road & King Street, Is there any traffic calming contemplated? Traffic Islands? Stop Signs?
- (7) Is the commercial delivery from King Street?

My concern is not with the class of occupancy. The issue is the impact to the surrounding neighbourhood. I question whether 5 storeys and 200 units is necessary. Is this planned footprint a good fit for the site?

I would like to be notified of any adoption to the Official Plan and will file this correspondence to the Planning Committee and yourself so that my entitlement to appeal any Council decision to the OMB remains.

Respectfully submitted;

Bradley Ackles  
30 Evergreen Ave  
Stoney Creek, Ontario  
L8G 3T1



December 1, 2011

City of Hamilton  
Planning and Economic Development Department  
Planning Division, Development Planning  
71 Main Street West  
5<sup>th</sup> Floor  
Hamilton, On. L8P 4Y5

Attention: Mr. Greg Macdonald

Re: File No. *ZAC-11-069j069jOPA-11-017*.  
Notice of Complete Application and Preliminary  
Circulation to amend the Official Plan and  
Zoning By-law for the land located at  
35 and 137 King Street East and  
42 Passmore Street (Stoney Creek)

Dear Sir:

Based on the information presented to us at the public meeting on August 17th, 2011 and by letter dated November 18, 2011, we the residents and owners at 33 Passmore Street do not object to the proposal of amending the Official Plan and Zoning By-law from its current designations to "institutional".

We do however have concerns and would like to make an observation on the proposed application, on the following grounds:

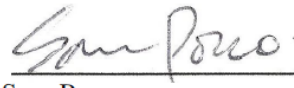
Appendix "F" to Report PED12130 (Page 5 of 12)

1. The proposed buildings are out of keeping with the visual appearance of the area. This is an established residential area and there is no precedent for this kind of development.
2. The size of the proposed project is out of scale with the existing and neighboring properties, both in terms of height and overall footprint.
3. The proposed project will overshadow the front garden of our property preventing the use and enjoyment of this amenity space.
4. The construction process presents potential hazards in the form of building dust, noise pollution and movement of heavy machinery in a small residential street, where there are a number of children resident.
5. The number of units proposed will generate a great demand on both the water supply and storm sewage discharge. Our current water pressure is already on the low side, and there has been flooding in the area on several occasions.
6. The proposed number of parking spaces is inadequate for the proposed number of units and restaurant ("nostalgic dairy") The lack of adequate parking will generate street parking and traffic issue due to the constraints on the narrow residential streets.
7. The proposed building footprint and parking areas will leave virtually no landscape area available which will mean the loss of trees and ecological habitats.
8. The proposed building setbacks from the property lines along Dawson Avenue and Passmore Street is not in keeping with those of the existing neighboring properties.
9. The disturbance of smells generated by the kitchen preparing meals for the more than 220 residents of the proposed buildings.

On this basis, we would not consider this proposal to be in keeping with proper development of the area and would ask that the proposed building layout and size be redesigned to better suit the neighborhood.



Luce Lavigne



Sam Porco



**From:** Pancoast, Arlene  
**Sent:** Tuesday, December 06, 2011 8:15 AM  
**To:** Macdonald, Greg  
**Subject:** Stoney Creek Dairy

Hello Greg,  
I want to voice a few concerns regarding the proposed retirement home which will be located on King St in Stoney Creek. Traffic and parking is one of my concerns. I am also concerned about the 5 storey building impeding the beautiful view of the escarpment. Please let me know how we will be notified of the next meeting? I will contact Brad Clark in the mean time.  
My address is 45 James Ave.  
Thank you,

Arlene Pancoast  
Impact Auto Auction  
Regional Manager, Southwestern Ontario  
406 Lake Avenue N  
Hamilton, Ontario  
L8E 3C2

## Appendix "F" to Report PED12130 (Page 7 of 12)

**From:** charles bigstuff  
**Sent:** Wednesday, December 07, 2011 5:38 PM  
**To:** Macdonald, Greg  
**Subject:** File NO. ZAC-11-069/OPA-11-017 -- the dairy

File No. ZAC-11-069/OPA-11-027 -- the Stoney Creek Dairy lands

Need for an encompassing hydro geological study:

I am writing for 86 Gray Road on the need for a hydro geological study, that encompasses the whole Dairy Lands, Passmore and Gray Rd. area. This should be completed and available prior to moving further on the revision of zoning process.

Under the north-east corner of the house on 86 Gray Rd., there passes an underground stream. During construction, it was traced back to the centre of the western front of the house, so it is known that the stream passes under a large portion of the house.

During the installation of the sewers on Gray Rd, during the early 1960's, the path of the underground stream was noted. The stream was traced back from the front of the house, across Gray Rd., to Gray and Passmore, along the north side of Passmore (next to 85 Gray), across Passmore to the front portion of 48 Passmore. As far as I know, no attempt was made then to trace back the path of the stream beyond 48 Passmore.

If you look at the Location Map for the above file, the size of the Dairy Lands project and its proximity to 48 Passmore and if you consider the known path between 86 Gray and 48 Passmore, one could easily expect to find this stream within the application area, the so-called Dairy Lands.

Since the diversion of underground streams often result in the ruin of buildings above them, and since the house at 86 Gray is heavy for its large size because it has an extra-thick basement floor (necessitated because of the stream flooded the original excavation in 1953), an encompassing hydro geological study is required.

The study should be done carefully, and should encompass the whole Dairy Lands - Passmore - Gray Rd. area, in order to detect any nearby back-feeders of the underground stream.

Please note that failure prevent diversion of the stream could result in more than harm to the house on 86 Gray Rd and the resulting expenses to repair it. Because of the rigid gas line installed in 1959, sink hole damage to the house's foundation and basement walls, could result in a rupture of the line (inside or outside the house). A subsequent explosion would harm not only the house and the neighbourhood, but also elementary and high school students who pass by frequently.

Because the construction of higher buldings requires deeper excavations and because the proposed height and corresponding excavation depth greatly exceeds anything ever built in the area, therefore the requested hydro geological study must be done with the utmost care. Otherwise, the result could be a literal disaster for the community.

Please forward any question you have on this memo to  
Charles Viola, 86 Gray Rd., Stoney Creek, Ont.

**From:** MacKinnon, Barbara L  
**Sent:** Wednesday, November 23, 2011 11:06 AM  
**To:** Macdonald, Greg  
**Subject:** File # ZAC-11-069/OPA-11-017

I would like to make a comment in regards to the proposed development of 2 retirement buildings on the Stoney Creek Dairy property. Looking at the blueprint provided, I have to ask where are the employees, residents & visitors etc. are supposed to park? There is no parking on King street, and the surrounding streets are quite narrow, with no sidewalks and parking on them would not be safe. I would not like to see traffic issues in the area because of insufficient parking.

Thanks

Barb MacKinnon

**From:** Wayne Black  
**Sent:** Tuesday, November 29, 2011 5:15 PM  
**To:** Macdonald, Greg  
**Subject:** File No. ZAC-11-069/OPA-11-017

Greg Macdonald:

As a long time resident of the Town of Stoney Creek I would like to register my concern about change of the by law to allow the building of the proposed Retirement Building on this site. I feel it would adversely effect traffic flow in a long time residential area surrounding the proposed site.

Thank you for your time.

Regards;

Wayne Black

Appendix "F" to Report PED12130 (Page 10 of 12)

William and Deborah Lockhart  
129 King St. E.  
Stoney Creek, Ontario  
L8G 1L4

December 6, 2011

Mr. Greg Macdonald  
City of Hamilton  
Planning and Economic Development Department  
Planning Division – Development Planning – East Section  
71 Main Street West, 5<sup>th</sup> Floor  
Hamilton, Ontario  
L8P 4Y5

Dear Mr. Macdonald:

Re: File No: ZAC-11-069/OPA-11-017  
Notice of Complete Applications and Preliminary Circulation  
to amend the Official Plan and Zoning By-law for lands located at  
135 and 137 King Street East and 42 Passmore Street (Stoney Creek)

We are in receipt of your letter dated November 18<sup>th</sup> 2011 in regards to the proposed zoning By-law change to institutional zoning. The proposal would negatively impact the neighbourhood in many ways because of added traffic congestion, noise and parking. It would also lessen ours and others privacy and cause traffic safety concerns.

We are opposed to the project. Our property adjoins the project on the North and East sides. Initially, Mr. Kepecs informed us building would be two or three stories and we now learn it is five or six stories. This drastically changes the impact on our property. With 200 Units, our privacy will be greatly affected and cause a steady volume of traffic around our home. Five story buildings would be totally out of character for the neighbourhood.

We would also like to voice these further concerns:

- 1) Parking spaces allotted to accommodate staff, residents and their company visiting on a weekly basis may not be sufficient. This will increase the congestion and parked cars on Dawson Avenue and surrounding neighbourhood streets. There is also concern for parking while the Masonic Hall is in use.

Mr. Greg Macdonald

-2-

December 6, 2011

- 2) Currently there is no exit onto King Street. Allowing a westbound exit will increase accidents currently taking place and make it increasingly difficult for me to exit my driveway safely.
- 3) Green space between project and my property needs to be maintained. Current hedge and roots on the west side of their property adjoining my lot must be removed and a new privacy fence erected at project's expense.
- 4 Sewer problems .

We hope our concerns will be taken into consideration when making this decision.

Thank you.

William and Deborah Lockhart

Dec 4/2011

Greg Macdonald  
City of Hamilton

RECEIVED DEC -7 2011

Dear Sir:

My husband and myself are opposed to the 5 storey apartment building for the corner of King St. East & Passmore Streets.

The traffic in front of our home, 145 King St. East is horrid and we have a hard time getting out of our driveway. This will be 10 times worse once you have completed the apartment complex.

We don't feel a 5 storey apartment is going to add any beauty to this residential area.

We would also lose any sun on the west side of our home, in the afternoon.

Many things could be done to make a piece of land rather than a 5 story complex.

Yours truly  
Claudia David  
Cairns