



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 9
COMMITTEE DATE: January 15, 2013	
SUBJECT/REPORT NO: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), "Penny Lane Estates", for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Melanie Pham (905) 546-2424 Ext. 6685
SIGNATURE:	

RECOMMENDATION

- (a) That approval be given to **Amended Official Plan Amendment Application OPA-12-015, by Parkside Developments, Owner**, for Amendment No. [REDACTED] to the Stoney Creek Official Plan, for a change in designation on Schedule "A3" from "Low Density Residential" to "Medium Density Residential", in order to permit 15 street townhouse units on the northerly portion of the lands located at 43 and 47 Mud Street West, and on lands east of 43 and 47 Mud Street West (Stoney Creek), as shown on Appendix "A" to Report PED13013, on the following basis:
 - (i) That the draft Official Plan Amendment, attached as Appendix "B" to Report PED13013, be adopted by City Council; and,
 - (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 Urban Hamilton Official Plan Amendment No. [REDACTED], to amend Map B.7.6-1-West Mountain Area (Heritage Green) Secondary Plan from “Low Density Residential 2b” to “Low Density Residential 3c” and to add a site-specific Policy B.7.6.8.X to permit residential development within 160m of the limits of a quarry under rehabilitation, attached as Appendix “C” to Report PED13013, be received and held in abeyance until such time as the relevant sections of the Urban Hamilton Official Plan come into force and effect; and following such final decision, Planning and Economic Development Department staff be directed and authorized to hold a Public Meeting pursuant to the provisions of the Planning Act to consider the proposed Urban Hamilton Official Plan Amendment, for lands located within the Draft Plan of Subdivision “Penny Lane Estates”, Part Lots 25 and 26, Concession 7 (Stoney Creek).
- (c) That approval be given to **Zoning Amendment Application ZAC-11-081, by Parkside Developments, Owner**, for a change in zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-19” Zone, to permit the development of 15 street townhouse dwelling units, for lands located at 43 and 47 Mud Street West (Stoney Creek), as shown on Appendix “D” to Report PED13013, on the following basis:
- (i) That the draft By-law, attached as Appendix “E” to Report PED13013, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;
- (ii) That the amending By-law be added to Map No. “16” of Zoning By-law No. 3692-92; and,
- (iii) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan, and will be in conformity with the City of Stoney Creek Official Plan upon approval of Official Plan Amendment No. [REDACTED].
- (d) That approval be given to a **Revision to Draft Approved Plan of Subdivision Application 25T-200808, by Parkside Developments, Owner, as redlined revised**, to incorporate into the draft plan of subdivision known as “Penny Lane Estates”, lands located at 43 and 47 Mud Street West (Stoney Creek), as shown on Appendix “D” to Report PED13013, subject to the following conditions:
- (i) That this approval apply to “Penny Lane Estates”, 25T-200808(R), prepared by IBI Group, and certified by S.D. McLaren, O.L.S., dated December 19, 2011, as redlined revised, showing 13 lots for street townhouses (Lots 267-272 and 274-280), 2 blocks for future development

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(Blocks 266 and 273), and showing lands to be used for “Street F”, attached as Appendix “F” to Report PED13013, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions attached as Appendix “G” to Report PED13013;

- (ii) Acknowledgement that there will be no City share for any municipal works associated with this development; and,
- (iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 42 of the Planning Act, prior to the issuance of each Building Permit. The calculation for the Cash-in-Lieu payment shall be based on the value of the land on the day prior to the issuance of the first Building Permit for each said Lot or Block. A parkland dedication, at a ratio of 0.6 ha per 300 dwelling units, will be required.

All in accordance with the Financial Policies for Development and the City’s Parkland Dedication By-law, as approved by Council.

- (e) That upon finalization of the implementing By-law, the subject lands be re-designated from “Low Density Residential” to “Medium Density Residential” in the Felker Neighbourhood Plan.

EXECUTIVE SUMMARY

The purpose of these applications is to amend the City of Stoney Creek Official Plan and Zoning By-law, and to revise the draft approved Plan of Subdivision, known as “Penny Lane Estates”, to permit the development of 13 street townhouse lots, and 2 partial lots, to be merged with lands already in the “Penny Lane” Subdivision, for a total of 15 lots, and to permit the connection of two portions of a proposed municipal street.

The proposal has merit and can be supported since the applications are consistent with the Provincial Policy Statement, and conform to the Growth Plan for the Greater Golden Horseshoe and the Hamilton-Wentworth Official Plan, and will conform to the City of Stoney Creek Official Plan upon approval of the change in designation for a portion of the lands. The proposed development is compatible with and complementary to the future development approved for the surrounding lands. The proposed development also represents good planning by, among other things, providing for the development of a complete community, and making efficient use of land and infrastructure within the urban boundary.

Alternatives for Consideration - See Page 23.

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FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

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 amendment to the Official Plan and Zoning By-law, and approval of a draft plan of subdivision.

HISTORICAL BACKGROUND (Chronology of events)

Proposal

The subject lands, totalling 0.4 hectares, and consisting of two properties, are located south of Mud Street West and have frontage on Mud Street Service Road (see Appendix “D”). Each property contains an existing single detached dwelling unit. The surrounding lands to the west, east, and south are part of the Draft Approved Plan of Subdivision “Penny Lane Estates”.

The applicant has submitted applications for an Official Plan Amendment, Zoning By-law Amendment, and a Revision to a Draft Approved Plan of Subdivision, which proposes to complete the extension of “Street F” in the Draft Plan (Waterbridge Street) and create 13 street townhouse lots, and 2 partial lots, to be merged with lands already in the “Penny Lane” Subdivision, for a total of 15 lots.

The applicant proposes to amend the West Mountain Area (Heritage Green) Secondary Plan within the City of Stoney Creek Official Plan by changing the designation of the north half of the lots at 43 and 47 Mud Street West from “Low Density Residential” to “Medium Density Residential”, to permit townhouses fronting on Mud Street Service Road. The change would split the existing low density designation (for a strip of lands fronting Mud Street) into two separate smaller parts west and east of the subject lands. As there are also approved townhouse lots in the low density area to the east, the change in designation will be extended to include these lots (see Appendix “B”). The southern half of the lands are already designated for “Medium Density Residential”, so a change is not needed for the proposed townhouses on the southerly portion (fronting on “Street F”).

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The applicant proposes to amend City of Stoney Creek Zoning By-law No. 3692-92, by changing the zoning on the subject lands from the Neighbourhood Development “ND” Zone to the established Modified Residential Multiple “RM2-19” Zone, to permit street townhouses.

The proposed revisions to the draft approved plan of subdivision (see Appendix “F”), as redlined revised, are intended to add the lands at 43 and 47 Mud Street West to the existing draft approved subdivision “Penny Lane”, to allow for the completion of the local road network, to create 6 lots for street townhouse units and 2 future development blocks with frontage on the proposed extension of “Street F” (Lots 267 - 272, Blocks 266 and 273), and to create 7 lots for street townhouse units with frontage on Mud Street West / Mud Street Service Road (Lots 274-280).

Chronology:

December 19, 2011: Submission of Applications ZAC-11-081 (Zoning By-law Amendment) and 25T-200808(R) (Revision to Draft Plan of Subdivision) by IBI Group, on behalf of Parkside Developments.

January 18, 2012: Applications ZAC-11-081 and 25T-200808(R) are deemed incomplete.

April 23, 2012: Applications ZAC-11-081 and 25T-200808(R) are deemed complete.

June 15, 2012: Circulation of Notice of Complete Application and Preliminary Circulation for Applications ZAC-11-081 and 25T-200808(R) to all residents within 120m of the subject lands.

July 5, 2012: Notification to Applicant that proposal requires an Official Plan Amendment.

October 3, 2012: Submission of Application OPA-12-015 (Official Plan Amendment) by IBI Group, on behalf of Parkside Developments.

October 11, 2012: Application OPA-12-015 is deemed complete.

October 24, 2012: Circulation of Notice of Complete Application and Preliminary Circulation for Application OPA-12-015 to all residents within 120m of the subject lands.

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December 21, 2012: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands and all residents who provided written comments.

Previous Applications:

Zoning Application ZAC-08-077:

The zoning of the surrounding lands to the west, east, and south of the subject lands was amended on November 3, 2010, pursuant to a decision issued by the Ontario Municipal Board. The zoning implements the draft Plan of Subdivision “Penny Lane Estates” (25T-200808).

Plan of Subdivision 25T-200808:

A plan of subdivision for the lands to the west, east, and south was draft approved on November 3, 2010, pursuant to the same decision of the Ontario Municipal Board. The plan of subdivision established a road layout and lotting pattern for the surrounding lands. The draft approved plan of subdivision contains a proposed road (Street “F”) abutting the westerly and easterly sides of the lands subject to the current application. Temporary turning circles were proposed abutting the subject lands until such time as the road could be extended through the subject lands. Lots for single detached dwellings and street townhouse dwellings were also approved abutting the westerly and easterly boundaries of the subject lands (see Appendix “F”).

Details of Submitted Application:

Location: 43 and 47 Mud Street West (Stoney Creek)
(see Appendix “A”)

Owner/Applicant: Parkside Developments

Agent: IBI Group

Property Description:

<u>Lot Frontage:</u>	48.77m
<u>Lot Depth:</u>	83m
<u>Lot Area:</u>	0.40 hectares
<u>Servicing:</u>	Full Municipal Services

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EXISTING LAND USE AND ZONING:

	<u>Existing Land Use</u>	<u>Existing Zoning</u>
<u>Subject Lands:</u>	Single Detached Residential	Neighbourhood Development “ND” Zone
<u>Surrounding Land Uses:</u>		
North	Vacant, Landfill (Newalta)	Neighbourhood Development “ND” Zone and Extractive Industrial “ME-1” Zone
South	Vacant (Draft Approved Subdivision 25T-200808), Block for Future Condominium Townhouse Development	Multiple Residential “RM3-37” Zone
West	Vacant (Draft Approved Subdivision 25T-200808), Single Detached Dwellings and Street Townhouse Dwellings Proposed and Under Construction	Residential “R4-24” Zone and Multiple Residential “RM2-19” Zone
East	Vacant (Draft Approved Subdivision 25T-200808), Street Townhouse Dwellings Proposed	Multiple Residential “RM2-19” Zone

POLICY IMPLICATIONS

Provincial Policy Statement

The Provincial Policy Statement (PPS) provides policy direction of provincial interest related to land use planning and development. The Planning Act requires that, in exercising any authority that affects planning matters, planning authorities shall be consistent with policy statements issued under the Act. The application is consistent with the Provincial Policy Statement since Policy 1.1.3.1 states that ‘Settlement Areas’

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shall be the focus of growth. and Policy 1.1.3.2 (a) states that land use patterns within Settlement Areas shall be based on densities and a mix of land uses which efficiently use land, resources, and infrastructure which is planned or available.

The re-development of the site for additional housing units also complies with Policy 1.1.3.3, which outlines that planning authorities shall identify and promote opportunities for intensification and re-development where this can be accommodated.

The application is also consistent with the housing policies of the Provincial Policy Statement, since Policies 1.4.3 (b), (c), and (d) state that planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements by permitting and facilitating residential intensification and re-development; directing new housing towards locations where appropriate levels of infrastructure and public service facilities are or will be available; and promoting densities for new housing which efficiently use land, resources, infrastructure, and public service facilities.

Policy 1.7.1(e) outlines that long-term economic prosperity will be supported by planning so that major facilities (such as transportation corridors and waste management systems) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants, and minimize risk to public health and safety. The subject lands are located adjacent to Mud Street West, an arterial road, and are approximately 100m from the Newalta Landfill, an active waste management site. The proximity of the site to these features triggers the requirement for a noise study and a landfill impact assessment.

A Noise Study, completed for the original subdivision application, and an addendum letter dated June 10, 2011, have been reviewed and accepted by City staff. However, in order to address the noise impacts on the additional lands, staff requires the submission of a Noise Study Addendum to address noise impacts on the additional lands and to update the recommendations of the original Noise Study. Therefore, Condition 2 of the original special conditions of approval (see Appendix “H”), requiring the investigation of noise levels on the site and the implementation of appropriate noise control measures, would still be applicable.

A Landfill Impact Assessment was completed by the applicant, and updated on December 7, 2011. The study was peer reviewed by an external consultant, who agreed with the findings. The Assessment concluded that the likelihood of impacts on the subject lands from the landfill is low, and that any impacts would be minor in nature. The study recommended that a warning clause be included in offers of purchase and sale to warn prospective purchasers of the potential for minor impacts from the landfill

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operations. The requirement for the warning clause is a new condition applicable to the draft plan of subdivision approval (see Appendix “G” - Condition 55).

Policy 2.6.2 requires that development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation on site. The subject lands have been determined as an area of archaeological potential. An Archaeological Assessment was submitted for the original subdivision and the archaeological interests were satisfied. However, the lands being added to the plan of subdivision are outside the scope of the previous assessment. Therefore, an Archaeological Assessment must be completed on the lands prior to any grading activities. The requirement to obtain clearance for the archaeological interest on all lands within the draft plan of subdivision is included as a condition in the existing Subdivision Agreement (Condition 4 - Appendix “H”), and would ensure that an Archaeological Assessment is completed on the subject lands prior to grading and development.

Based on 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 “Designated Greenfield Area”, as defined by the Growth Plan. As the proposal is providing for a compact residential development in an Urban Settlement Area in Hamilton, is contributing to the creation of a complete neighbourhood, and is utilizing existing and planned infrastructure, it conforms to the guiding principles found in Part 1.2.2 of the Plan. The proposed development for these lands also conforms to the general intensification policies of the Plan, specifically, Policies 2.2.2.1(c) and (i), which state that population growth will be accommodated by directing development to Settlement Areas, and by building compact, transit-supportive communities within designated Greenfield areas.

Policy 2.2.7(1) states that new development taking place in designated Greenfield areas will be planned, designated, and zoned in a manner that contributes to complete communities, and which creates street configurations, densities, and an urban form that encourages walking, cycling, and transit. Policy 2.2.7(2) establishes an overall minimum density target of 50 residents and jobs per hectare for Greenfield areas. As the proposal is an infill development providing for an increased density on the subject lands from 5 units per hectare to approximately 38 units per hectare (which will meet or exceed 50 residents per hectare), and completes the street connection along the future “Street F”, it conforms with these policies.

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Based on the foregoing, the proposal conforms to the Growth Plan for the Greater Golden Horseshoe.

Hamilton-Wentworth Official Plan:

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy C-3.1 of the Plan 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.

Policy B-9.2 states that the City shall consider the protection and preservation of regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and re-development. Where possible, these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. As outlined earlier, the applicant will be required to submit and obtain clearance for an Archaeological Assessment for the lands being added to the subdivision.

The proposal conforms to the policies of the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan:

The subject property is designated as “Residential” on Schedule “A” - General Land Use Plan, and “Low Density Residential” and “Medium Density Residential” on Schedule “A3” - West Mountain Planning District (Heritage Green) Secondary Plan, of the City of Stoney Creek Official Plan. An amendment to the Secondary Plan is required to change the “Low Density Residential” designation to “Medium Density Residential”, in order to permit townhouses in the area fronting Mud Street West/Mud Street Service Road (see Recommendation (a)). The change would split the existing low density designation (for a strip of lands fronting Mud Street) into two separate smaller parts west and east of the subject lands. As there are also approved townhouse lots in the low density area to the east, the change in designation will be extended to include these lots (see Appendix “B”).

The residential policies in the City of Stoney Creek Official Plan state that the primary uses permitted in areas designated for “Residential” shall be for dwellings, and that the location of various types and residential densities shall be outlined in the relevant Secondary Plans (Policy A.1.2.1). Council is directed to ensure that an adequate number of dwellings, parks, schools, and other community facilities are available, in part, by establishing appropriate designations and policies in the relevant Secondary

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Plans (Policy A.1.2.11). All new development must also be provided with full municipal services (Policy A.1.2.5).

The proposed lots satisfy the Policy requirements, as they will maintain the general intent of the Secondary Plan to provide a mix of residential uses and a variety of housing types and tenures, and will permit a form of development that is compatible with the planned and existing development in the immediate area. The proposed zoning regulations will ensure that the scale, size, and arrangement of buildings are appropriate.

Policy 1.2.12(b), outlines that the “Medium Density Residential” designation identified in applicable Secondary Plans shall permit densities of approximately 30 to 49 units per Net Residential Hectare, and shall permit predominantly townhouse dwellings and walk-up apartments. The policy also outlines that, generally, these types of dwellings are to be located at the periphery of the Residential Neighbourhoods adjacent to arterial roads and/or collector roads. The proposal is for the development of street townhouse dwellings and would establish a density of 38 units per hectare on the lands. As the proposal is for residential uses, and conforms to the designation established in the Secondary Plan, it conforms with the above policies.

Policy A.1.2.17 notes that in the evaluation of any proposal for multiple family residential development, Council should be satisfied that:

- “(a) Schools and neighbourhood commercial facilities will be adequate for the increased residential density resulting from the proposal;
- (b) The height, bulk, and arrangement of buildings and structures will achieve harmonious design and will not conflict with the existing and/or expected development of the surrounding area;
- (c) Appropriate off-street parking, landscaped areas, protection for abutting residential uses, where warranted, and other accepted site planning features can be satisfactorily accommodated on the proposed site; and,
- (d) Ingress and egress to the property will be so designed as to minimize traffic hazards and congestion on surrounding streets.”

Policy A.1.2.19 also notes that “in the development of new residential areas, and as far as practical in the infilling or re-development of established areas, Council may undertake or require the following in order to achieve high standards of residential amenity:

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- “(a) Provision and maintenance of adequate off-street parking;
- (b) Provision, improvement and/or maintenance of on-site landscaping; and,
- (c) Provision, improvement and/or maintenance of adequate separation distances and the placement of buffering features between residential uses of differing densities, as well as other land uses.”

The proposed layout of the development is considered to be appropriate for the site, as the units are maintaining appropriate landscaping, setbacks, and parking standards, and the street townhouses contribute to the creation of a complete streetscape along the Mud Street Service Road and the future Street “F”. An off-street parking plan was a condition of the original Subdivision Agreement (see Appendix “H” - Condition 30) and would, therefore, also be applicable to the revised subdivision plan. In addition, School Boards have not identified any concerns with the proposed development. Therefore, the proposal conforms with Policies A.1.2.17 and A.1.2.19 of the Official Plan.

Based on the above-noted policies, and the change in designation from “Low Density Residential” to “Medium Density Residential”, the proposal would conform to the policies of the City of Stoney Creek Official Plan.

Felker Neighbourhood Plan:

The subject properties are designated as “Low Density Residential” and “Medium Density Residential” in the Felker Neighbourhood Plan. An update to the Neighbourhood Plan is required to reflect the change in designation from “Low Density Residential” to “Medium Density Residential” (see Recommendation (e)).

New Urban Hamilton Official Plan:

The Urban Hamilton Official Plan was adopted by Council on July 9, 2009, and was approved, with modifications, by the Ministry of Municipal Affairs and Housing on March 16, 2011. A number of appeals have been filed with the Ontario Municipal Board; therefore, the plan is not yet in effect.

The subject lands are designated as “Neighbourhoods” on Schedule “E” - Urban Structure and on Schedule “E-1” - Land Use Designations. The subject lands are also designated as “Low Density Residential 2b” and “Low Density Residential 3c” in the West Mountain Area (Heritage Green) Secondary Plan, which forms part of the Urban Hamilton Official Plan. An amendment to the Secondary Plan is required to change the “Low Density Residential 2b” designation to “Low Density Residential 3c” in order to

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permit townhouses in the area fronting Mud Street West/Mud Street Service Road (see Recommendation (b)).

The subject lands are considered to be partially located in a “Greenfield” area of Hamilton. “Greenfield” areas must be planned to achieve an overall minimum density of 50 people and jobs per hectare, overall. Residential areas will need to achieve a minimum average density of 70 persons and jobs per hectare (Vol.1, A.2.3.3.3). As the proposal is increasing density in an area where it can be supported, the proposed development would help the City to meet these requirements.

The proposal is also consistent with the Urban Housing goals outlined in the Plan to provide for a range of housing types, forms, and densities in the Urban Area to meet the social, health, and well-being requirements of current and future residents (Vol. 1, B.3.2.1.1, B.3.2.4.1), and with the Urban Design policies of Section B.3.3 (Vol.1) of the Plan, in that it respects previously approved development patterns, and contributes to sustainability by achieving a compact development.

The “Low Density Residential 3c” designation of the West Mountain Area (Heritage Green) Secondary Plan permits townhouse dwellings and low rise apartments with a density range of 30 to 49 units per hectare (Vol. 2, B.7.6.2.2(b)). The proposal is consistent with this designation, and has a density of 38 units per hectare.

Policy 7.6.1.2 (Vol.2, Chapter B) of the Plan states that lands intended for residential use within 160m of the working licensed limits of an active quarry, or the limits of a former quarry under rehabilitation, shall be placed in a Holding zone, which should not be removed until the completion of mining and the completion of rehabilitation on quarry lands adjacent to the residential Holding zone. The subject lands are located approximately 100m from the limits of a former quarry currently under rehabilitation (Newalta Landfill), and approximately 135m from the limits of the active landfill area. Therefore, the proposal would not conform with this policy, and a special site-specific policy is required to permit development on the subject lands, prior to the finalization of landfill activities within 160m (Policy 7.6.8.X, Recommendation “b”). As part of the original “Penny Lane Estates” Subdivision, the applicant initially submitted a Dust and Odour Report (Ortech Environmental, 2008) and a Noise Impact Study (Ortech Environmental, 2009), which indicated no significant impacts from the landfill operation. However, the City requested that a Comprehensive Landfill Impact Assessment be completed and approved as a condition of the subdivision, prior to any development taking place (see Appendix “H” - Condition 3). The Landfill Impact Assessment was completed in 2011, and was peer reviewed on behalf of the City by a qualified consultant (AMEC). The Assessment reviewed such items as landfill generated gases, leachate, groundwater impacts, surface water impacts, odour, litter, vehicular traffic, visual impacts, dust, noise, fire hazards, and vectors and vermin. The review indicated

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that nuisance impacts on future residents would be minimal (i.e. possibility of occasional infrequent odours, minor background noise from trucks, etc.), and that the Ministry of Environment’s Guidelines for land uses on or near landfills were being met.

To ensure that purchasers had full information about the landfill, a statement was required on all agreements of purchase and sale advising the prospective purchaser that a landfill operation exists nearby and is in operation, the location of the landfill site relative to the proposed development, and the expected date of closure or lifespan of the landfill operation. Based on the findings of the Landfill Impact Assessment, a warning clause is also recommended in all agreements of purchase and sale, to identify that minor impacts from the landfill operations, such as odour, dust, and noise may at times occur (see Appendix G - Special Condition #55).

In addition, it was noted that landfilling has been completed, or was near completion, for the areas of the landfill closest to the subject property, with activities moving northward. Once the capping of these areas is complete, the proposal would comply with the Urban Hamilton Official Plan, since all lands within approximately 350m of the “Penny Lane” Subdivision would be inactive.

Since the impacts of the landfill have been comprehensively assessed, and the landfill operations on all lands within 160m of the subject property are near completion, it is appropriate to permit the development of the subject lands without establishing a Holding zone.

Policy 7.6.1.3 (Vol.2, Chapter B) states that “Proponents of development proposals for residential and other sensitive land uses located within 500m of the Taro East Quarry/Landfill site and former Taro West Quarry/Landfill site shall be required to submit studies demonstrating there are no adverse effects on the development, or that the effects can be mitigated. These studies may include, but not be limited to, ground and surface water, leachate migrating onto the subject lands, traffic, air quality, noise, soil contamination and hazardous waste and landfill generated gases, subject to the requirements of the City.”

As noted above, the applicants completed a Comprehensive Landfill Impact Assessment, as well as a dust and odour study and noise study, as part of the original draft plan of subdivision, in order to assess the impacts of the landfill to the north on the subject lands. A statement was also required in all agreements of purchase and sale, advising the prospective purchaser that a landfill operation exists nearby and is in operation, the location of the landfill site relative to the proposed development, and the expected date of closure or lifespan of the landfill operation. A warning clause is also recommended in all agreements of purchase and sale, to identify that minor impacts

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from the landfill operations, such as odour, dust, and noise may at times occur (see Appendix G - Special Condition #55).

Based on the above-noted policies, the change in designation from “Low Density Residential 2b” to “Low Density Residential 3c”, and the addition of a site-specific amendment 7.6.8.X (Vol.2, Chapter B) to address conformity with Policy B.7.6.1.2 (see Recommendation (b)), the proposal would conform to the policies of the new Urban Hamilton Official Plan.

Staging of Development:

The proposal is consistent with the Criteria for Staging of Development, in that utilities and services are available, there are no budgetary impacts, it supports a healthy growing economy, provides for additional assessment and Development Charges revenue, provides housing opportunities, and conforms to the Official Plan.

RELEVANT CONSULTATION

Agencies/Departments that did not Respond or Have no Concerns or Objections:

- Taxation Division, Corporate Services Department.
- Municipal Property Assessment Corporation.
- Hydro One.
- Bell Canada.
- Cogeco Cable.
- French Public School Board.
- French Catholic School Board.
- Hamilton-Wentworth District School Board.
- Hamilton-Wentworth Separate School Board.
- Hamilton Police Services.
- Hamilton Emergency Services.
- Hamilton Conservation Authority.

Agencies/Departments that Submitted Comments:

Traffic Engineering Section (Public Works Department) has recommended that as a condition of draft plan approval for the subdivision, the temporary access roadway constructed from the Mud Street Service Road (Penny Lane) to Mud Street will be removed, and the ditch/curb line reinstated, to the satisfaction of the Manager of Engineering Design and Construction. It is also recommended that as a condition of

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draft plan approval for this phase of development that an updated Parking Plan be provided to ensure that adequate site and on-street parking is provided.

The approved engineering drawings and cost schedules in the existing Subdivision Agreement address the removal of the temporary access roadway; therefore, a specific condition is not necessary. The applicant is required to provide a parking plan for each phase of development, and has already provided an updated parking plan for the area around the subject lands. Therefore, comments from Traffic Engineering have been addressed.

Operations and Waste Management (Public Works Department) has advised that the lands are eligible for municipal waste collection. Road layouts must be designed to permit the continuous forward movement of collection vehicles. Waste collection will commence when the development is substantially completed and there is free and clear access. The developer or owner is required to contact the Operations and Waste Management Division to require the start of waste collection service. A site visit by staff is required prior to the start of service. Prior to the commencement of City waste collection, the developer is responsible for all waste collection for all occupied units. Construction material will not be collected. Individual waste containers, blue boxes, and green carts will be collected curb-side in front of each property.

Environment and Sustainable Infrastructure (Public Works Department) has advised that a Cash-in-Lieu of parkland charge will be applicable prior to development. It is also advised that the developer follow the recommendations in the City’s Urban Hamilton Official Plan with regards to providing appropriate road widenings. The City of Hamilton is also developing a pedestrian master plan, and this development needs to provide appropriate pedestrian amenities, including sidewalks.

Forestry and Horticulture Section (Public Works Department) has advised that there are no Urban Forestry tree conflicts with the application(s). There are no significant trees located on the road allowance fronting these two sites. Internally, there are no Private trees regulated under the Stoney Creek Tree By-law No. 4401-96. A Tree Management Plan is not required; however, this does not exclude the applicant from conforming to the City of Hamilton Tree By-law No. 06-151. All internal plant material (i.e. within Townhouse Blocks) is to be installed under the direction of the developer, at their expense. Street tree planting may be completed by the Forestry and Horticulture Section once appropriate fees are received.

A payment for the planting of street trees is a requirement of the City’s Standard Form Subdivision Agreement, Clause 2.8.

SUBJECT: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), “Penny Lane Estates”, for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9) - Page 17 of 24

Recreation Division (Community Services Department) has advised that the following opportunities for recreation are available in the area: Heritage Green Community Park, Highbury Meadows North and South Proposed Parks, and Felker Neighbourhood Park. The applicant should be advised that Cash-in-Lieu of parkland dedication will be payable at the Building Permit stage.

Hamilton Municipal Parking System has advised that there is no objection to the application(s) as long as it does not preclude the applicant from providing adequate parking for these units. On-site parking spaces and garages must be suitably dimensioned, without encumbrances, to ensure the continued use of these facilities for parking purposes. Driveways (fronting onto a future public roadway) should be aligned in such a way that will maximize the availability of on-street parking (where applicable), by allowing a minimum of 6.5m of curb space between two residential driveway approaches.

All proposed units will be provided with two suitably dimensioned parking spaces, one in a driveway, and one in a garage. Therefore, adequate parking will be available. A standard requirement included in the subdivision conditions is that the applicant must develop a parking plan providing an amount of on-street parking equal to 40% of the required parking for the dwelling units (see Appendix “H” - Condition 30). To ensure that provided parking is utilized appropriately, staff recommends a standard warning clause be included in the conditions of the subdivision, stating that:

“Garages provided are intended for use as parking. It is the responsibility of the owner/tenant to ensure that their parking needs (including those of visitors) can be accommodated on site. Public on-street parking is provided on a ‘first come, first serve’ basis, and cannot be guaranteed in perpetuity.” (See Appendix “G” - Condition 56)

Union Gas has requested that as a condition of final approval, the owner/developer provide to Union Gas Limited the necessary easements and/or agreements required by Union Gas Limited for the provision of gas services for this project, in a form satisfactory to Union Gas Limited. This condition is addressed through Clause 1.21 of the City of Hamilton’s Standard Form Subdivision Agreement.

Canada Post has advised that this subdivision will receive mail service to centralized mail facilities through the Community Mailbox program. The following conditions are requested:

1. That the owner shall, to the satisfaction of the Director of Engineering of the City of Hamilton and Canada Post, include on all offers of purchase and sale a statement that advises the prospective purchaser:

SUBJECT: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), “Penny Lane Estates”, for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9) - Page 18 of 24

- (i) That the home/business mail delivery will be from a designated Centralized Mail Box.
- (ii) That the developer/owner is responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.

The owner further agrees to:

- (i) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post, until the curbs, boulevards, and sidewalks are in place in the remainder of the subdivision.
- (ii) Install a concrete pad in accordance with the requirements of, and in locations to be approved by Canada Post, to facilitate the placement of Community Mail Boxes.
- (iii) Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
- (iv) Determine the location of all centralized mail receiving facilities in co-operation with Canada Post, and to indicate the location of the centralized mail facilities on appropriate maps, information boards, and plans. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

The conditions requested by Canada Post are addressed through Clause 1.22 of the City of Hamilton’s Standard Form Subdivision Agreement.

Horizon Utilities has advised that, if required, relocation, modification, or removal of any existing hydro facilities shall be at the owner’s expense.

Public Consultation

In accordance with the Bill 51 changes to the Planning Act and the Council-approved Public Participation Policy, Notice of Complete Applications and Preliminary Circulation for the Zoning By-law Amendment and Draft Plan of Subdivision applications was circulated to 119 property owners within 120m of the subject property on June 15, 2012. A Public Notice Sign for the Zoning By-law Amendment and Draft Plan of Subdivision applications was also posted on the subject lands on June 25, 2012. An amended sign

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reflecting the Official Plan Amendment application was posted on the subject lands on November 15, 2012.

As a result of the preliminary circulation and notice, staff received one letter from the adjacent landowner, Paletta International Corporation, which is included in Appendix “I”. The letter requested that the City confirm that appropriate capacity was available to allow the new units, and that there would not be an impact on the future development and servicing capacity of the lands belonging to Paletta International Corporation, which are part of an adjacent draft approved plan of subdivision. Staff has not identified any engineering issues which would cause a shortage of servicing capacity as a result of the proposed 15 townhouses.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act on December 21, 2012.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

1. The proposal has merit and can be supported for the following reasons:
 - (i) It is consistent with the Provincial Policy Statement and conforms with the Growth Plan for the Greater Golden Horseshoe, as it represents an opportunity for growth in Settlement Areas.
 - (ii) It implements the Hamilton-Wentworth Official Plan and will conform to the City of Stoney Creek Official Plan, including the West Mountain Planning District (Heritage Green) Secondary Plan, upon approval of the proposed Official Plan Amendment.
 - (iii) The proposed development is considered to be compatible with proposed land uses in the immediate area.
 - (iv) The proposed development represents good planning by, among other things, providing for the development of a complete community and making efficient use of land and infrastructure within the urban boundary.

SUBJECT: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), “Penny Lane Estates”, for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9) - Page 20 of 24

2. Official Plan Amendments:

Prior to the submission of the original subdivision application, “Penny Lane Estates”, a row of existing, large lot residential properties fronted onto a service road parallel to Mud Street West in the location of the subdivision. The West Mountain Planning District (Heritage Green) Secondary Plan designated the north half of these lots as “Low Density Residential”, recognizing what existed, and designated the south half of the lots as “Medium Density Residential”, anticipating future development. The owner subsequently purchased most of these existing lots and re-developed the lands designated as low density for single detached dwellings, and one 8 unit block of street townhouses. As the applicants are now proposing to use additional lands in the low density area for street townhouses, a change in designation is required to “Medium Density Residential”.

The applicants have applied to change the designation only for the lots located at 43 and 47 Mud Street (on Mud Street Service Road). Staff has no concerns with this change in designation. The appropriate infrastructure is available to service the proposed lots, and the lot sizes are consistent with the street townhouse lots to the south and east of the subject lands. The change will permit a more compact and efficient development that is compatible with the already approved development pattern, and is consistent with Provincial Policy direction for increasing density. However, the change in designation will split the low density designation into two separate smaller parts west and east of the subject lands. As the low density area to the east contains 8 lots approved for street townhouses, the change in designation will be extended to include these lots. The extension of the “Medium Density Residential” designation to include these additional lands has been incorporated into the proposed Official Plan Amendment (see Recommendation (a)).

A corresponding change is required from “Low Density Residential 2b” to “Low Density Residential 3c” in the Urban Hamilton Official Plan (equivalent to the “Low Density Residential” and “Medium Density Residential” designations in the Stoney Creek Official Plan).

3. Zoning Amendment:

The applicant has requested an amendment to City of Stoney Creek Zoning By-law No. 3692-92 in order to provide development regulations for the proposed lots. The amendments would change the Neighbourhood Development “ND” Zone on the lands and establish a modified Multiple Residential “RM2” Zone across the entire site. The developer is proposing to use the existing Residential

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Multiple “RM2-19” Zone, which is the same zone applied to the street townhouse lots in the surrounding draft approved plan of subdivision. No further modifications to the Zone are proposed. Since the same street townhouse Zone is being used, the proposed lots will be compatible with adjacent lands, and the zoning standards are appropriate.

4. Draft Plan of Subdivision:

The “Penny Lane” Subdivision abuts the subject lands on two sides, and required the extension of “Street F” (which is located on 43 and 47 Mud Street West) to complete the street pattern. The proposed revisions to the Draft Approved Draft Plan of Subdivision (see Appendix “F”) will consist of 13 additional lots for street townhouses (Lots 267-272 and Lots 274-280), 2 blocks for future development which will form part of 2 additional street townhouse lots (Blocks 266 and 273), and lands to be used for “Street F”.

Staff has had consideration for the criteria contained in Sub-section 51(24) of the Planning Act to assess the appropriateness of the proposed subdivision. Staff advises that:

- (a) It is consistent with the Provincial Policy Statement, and conforms with the Growth Plan for the Greater Golden Horseshoe (Places to Grow).
- (b) It is not premature and is in the public interest, since the surrounding lands have been approved for development and it will be providing housing opportunities.
- (c) It will conform with the policies of the Stoney Creek Official Plan upon approval of the proposed Official Plan Amendment (Recommendation (a)), and is compatible with the existing adjacent plan of subdivision.
- (d) The lands can appropriately be used for residential purposes.
- (e) The existing road network abutting the property and road linkages to the neighbourhood are adequate to service the proposed units.
- (f) The dimensions and shape of the proposed lots are appropriate.
- (g) There are no existing restrictions on the land which would prevent its proposed use. The proposed conditions of approval are appropriate.

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- (h) No natural resources will be impacted, and stormwater management has been accounted for.
- (i) Adequate municipal services are available, the particulars of which are determined as part of the standard conditions of draft plan approval and the Subdivision Agreement.
- (j) School Boards did not express any concerns with the proposed development.
- (k) No land will be dedicated to the City of Hamilton for public purposes, but the owner will be required to pay Cash-in-Lieu of Parkland at a rate of 0.6 hectares for each 300 dwelling units proposed (see Recommendation (d)(iii)).
- (l) The design of the development provides for land use efficiencies.
- (m) The proposed lots will not be subject to Site Plan Control.

One redline revision has been made to the plan, as follows:

- Street townhouse Lots 266 and 273 have been redlined as blocks for future development, and the Land Use Schedule has been updated to reflect the change.

Lots 266 and 273 are required to be shown as blocks for future development on the plan because they are not complete lots. They must be merged with adjacent parcels of land within the registered “Phase 2” of the original draft plan of subdivision, to the west and east of the property boundaries of 43 and 47 Mud Street, to form the proposed townhouse lots. As such, the plan has been redline revised accordingly.

5. Engineering:

Full municipal services will be available for the proposed lots. The applicant will be required to amend the existing Penny Lane Subdivision Agreement to address the changes to the Draft Plan of Subdivision. Note 4 of the original conditions of approval for the subdivision stipulated that the City agreed to cost share for works along the frontage of these lands only if they remained existing development. Since the subject lands are to be assembled as a subsequent phase of the subdivision, the City is absolved of this obligation.

SUBJECT: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), “Penny Lane Estates”, for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9) - Page 23 of 24

Both of the streets that the lands will have frontage on are presently under construction/being urbanized as part of the “Penny Lane Estates” Subdivision, Phase 2, which has been registered. A second access to the subdivision is required for safety reasons, as per Condition 20 of the Penny Lane Draft Plan conditions, in order to allow the construction of more than 100 units within the subdivision. In accordance with this requirement, Phase 2 includes a temporary second access to Mud Street, a portion of which extends onto the northerly portion of the subject lands at 43 and 47 Mud Street. Subsequent to the submission of the subject applications, the lands required for the temporary second access were deeded to the City, along with the lands needed for the extension of “Street F”, through a reference plan, to allow for the construction and opening of these roads to proceed (see Reference Plan - Appendix “J”). All securities and costs associated with these roadways have been dealt with through the registration of Phase 2. When the temporary roadway is no longer needed, the lands will be deeded back to the developer to allow for the units abutting Mud Street to be developed.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

If the applications are denied, the applicant would not be able to develop the lands for street townhouses, and these lands could only be used for the existing use of a single detached dwelling. The applicant would be required to construct temporary turning circles on “Street F” on either side of the subject lands, as shown in the draft approved Plan of Subdivision “Penny Lane Estates”, until the lands can be divided to allow for the completion of the street connection.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

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.

The proposal makes efficient use of available land and proposed infrastructure.

SUBJECT: Applications for an Official Plan Amendment, Zoning By-law Amendment, and for Approval of a Revision to a Draft Approved Plan of Subdivision (25T-200808), “Penny Lane Estates”, for Lands Located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane) (Stoney Creek) (PED13013) (Ward 9) - Page 24 of 24

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

The proposal provides quality housing for the area.

Environmental Stewardship

- ◆ Natural resources are protected and enhanced.

No significant natural resources are impacted by the proposal. Trees will be planted at the development stage.

Healthy Community

- ◆ Plan and manage the built environment.
- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services).

The development pattern is compatible with the surrounding lands, and the proposed dwellings will help to provide adequate shelter for residents.

APPENDICES / SCHEDULES

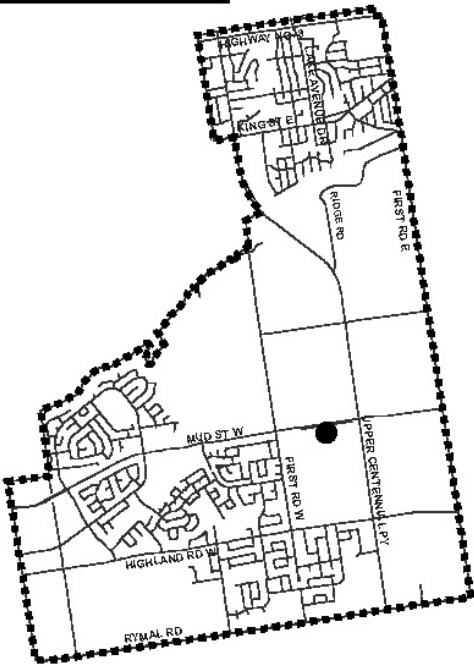
- Appendix “A”: Location Map: Area Subject to Official Plan Amendment
- Appendix “B”: Official Plan Amendment to the City of Stoney Creek Official Plan
- Appendix “C”: Official Plan Amendment to the Urban Hamilton Official Plan
- Appendix “D”: Location Map: Area Subject to Zoning Amendment
- Appendix “E”: Implementing Zoning By-law Amendment
- Appendix “F”: Revised Draft Plan of Subdivision
- Appendix “G”: Draft Plan of Subdivision Conditions
- Appendix “H”: Existing Draft Plan Conditions for “Penny Lane” Subdivision
- Appendix “I”: Public Comment Submission
- Appendix “J”: Reference Plan 62R-19277

:MP

Attachs. (10)



● Site of the Application



Ward 9 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
OPA-12-015/ZAC-11-081/25T-200808(R)

Date:
November 5, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
MP/NB

Subject Property

43 and 47 Mud Street West



Lands Subject to Official Plan Amendment and Revision of Draft Approved Plan of Subdivision 25T-200808 (R)



Other Lands Owned by Applicant and Subject to Revision of Draft Approved Plan of Subdivision 25T-200808 (R)



Other Lands Owned by Applicant

--DRAFT--

Amendment

to the

Official Plan of the City of Stoney Creek

The following text, together with Schedule "A" - Schedule "A3" - Secondary Plan West Mountain Planning District (Heritage Green), attached hereto, constitutes Official Plan Amendment No. [REDACTED].

Purpose:

The purpose of this Amendment is to redesignate the subject lands from "Low Density Residential" to "Medium Density Residential" in the West Mountain Planning District (Heritage Green) Secondary Plan, in order to permit the development of the lands for street townhouses.

Location:

The lands affected by this Amendment are located on the northerly portion of 43 and 47 Mud Street West (now 93 and 99 Penny Lane), and on Part of Lots 25 and 26, Concession 7 (Lots 222 to 229, Draft Approved Plan of Subdivision "Penny Lane Estates" (25T-200808)), in the City of Stoney Creek.

Basis:

The Amendment can be supported for the following reasons:

- It is consistent with the Provincial Policy Statement, and conforms to Places to Grow and the Hamilton-Wentworth Official Plan;
- It provides for efficient, compact development.
- The proposal is compatible with the development pattern approved for the surrounding lands.

Actual Changes:

Schedule Changes:

1. Schedule "A3" - Secondary Plan West Mountain Planning District (Heritage Green) - be revised by changing from the "Low Density Residential" to the "Medium Density Residential" designation, as shown on the attached Schedule "A" to this Amendment.

Implementation:

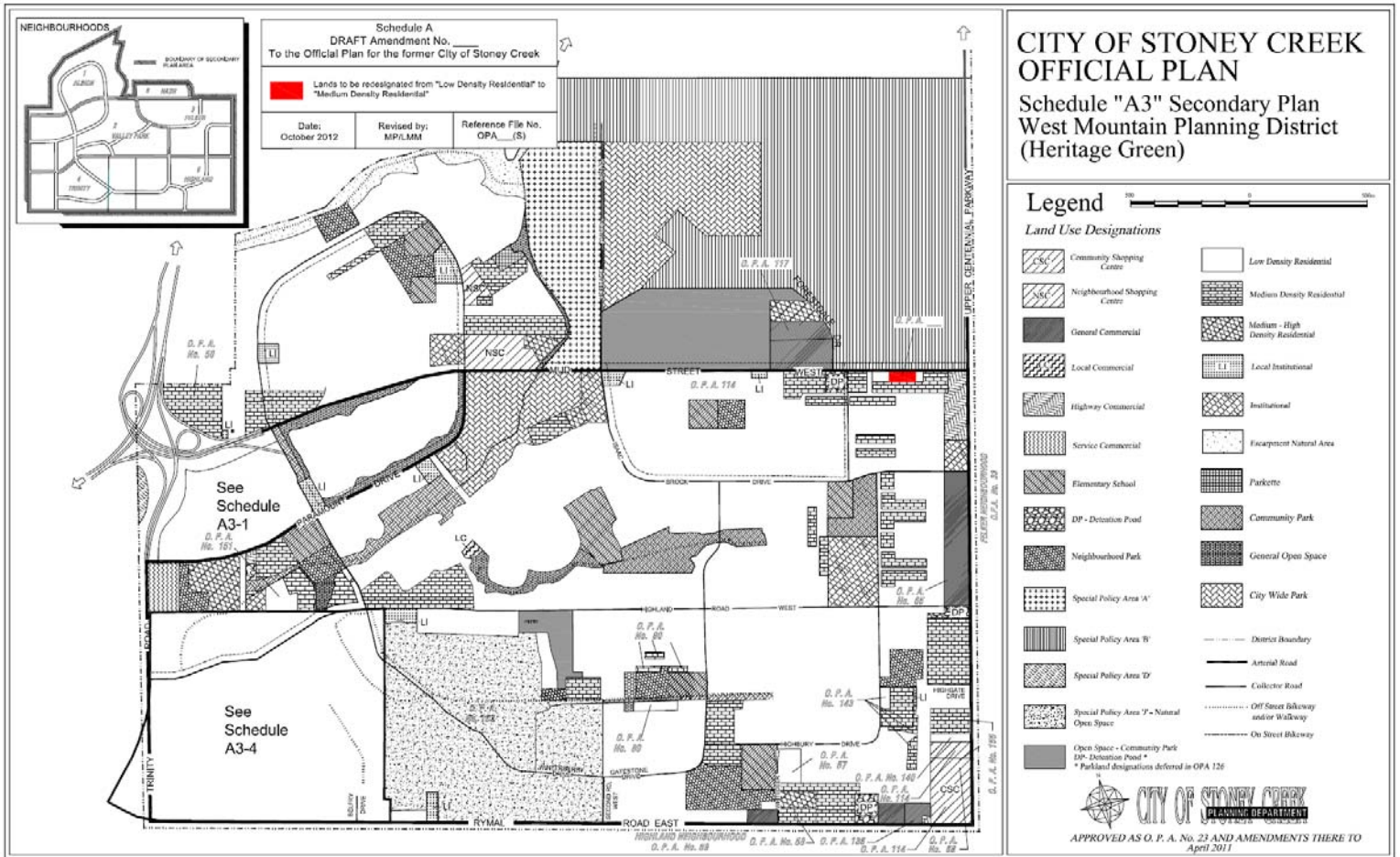
An implementing Zoning By-law Amendment will give effect to the intended uses on the subject lands.

This is Schedule "1" to By-law No. [REDACTED] passed on the [REDACTED] day of [REDACTED], 2013.

The City of Hamilton

R. Bratina
Mayor

Rose Caterini
Clerk



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

The following text constitutes Official Plan Amendment No. [REDACTED] to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose of this Amendment is to redesignate a portion of the subject lands to "Low Density Residential 3c" to allow for townhouse development.

2.0 Location:

The lands affected by this Amendment are part of the "Penny Lane Estates" subdivision, located at Part of Lots 25 and 26, Concession 7, and are in the vicinity of 43 and 47 Mud Street West (now 93 and 99 Penny Lane), in the former City of Stoney Creek.

3.0 Basis:

The basis for this Amendment is as follows;

- The Amendments are consistent with the Provincial Policy Statement.
- The change in designation promotes efficient, compact development that is compatible with the development pattern approved for the surrounding lands.
- The change in designation permitting townhouses allows for a cohesive development within the "Penny Lane Estates" Subdivision.
- The impacts of the adjacent landfill have been comprehensively assessed, and the subject lands meet the Ministry of Environment's Guidelines for land uses near landfills. The lands are greater than 100m from the limits of the landfill, and landfilling is near completion for all lands within 160m of the subject lands.

4.0 Changes:

Urban Hamilton Official Plan Amendment No. x	Page 1 of 3	
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4.1 Text Changes:

4.1.1 Volume 2, Chapter B – Stoney Creek Secondary Plans is revised as follows:

- a) That Section 7.6.8, Site and Area Specific Policies, be amended to add a new Site-Specific Policy, as follows:

Site-Specific Policy – Area [REDACTED]

7.6.8. [REDACTED] Notwithstanding Policy 7.6.1.2 of this Secondary Plan, for lands located at 43 and 47 Mud Street West (now 93 and 99 Penny Lane), a Holding Zone shall not be required.

4.2 Mapping Changes:

4.2.1 Urban Hamilton Official Plan Volume 2 - Map B.7.6-1, West Mountain Area (Heritage Green) Secondary Plan, is revised by:

- a) re-designating lands from "Low Density Residential 2b" to "Low Density Residential 3c"; and,
b) showing the subject lands as Site-Specific Policy Area [REDACTED];
as shown on Appendix "A", attached to this Amendment.

5.0 Implementation:

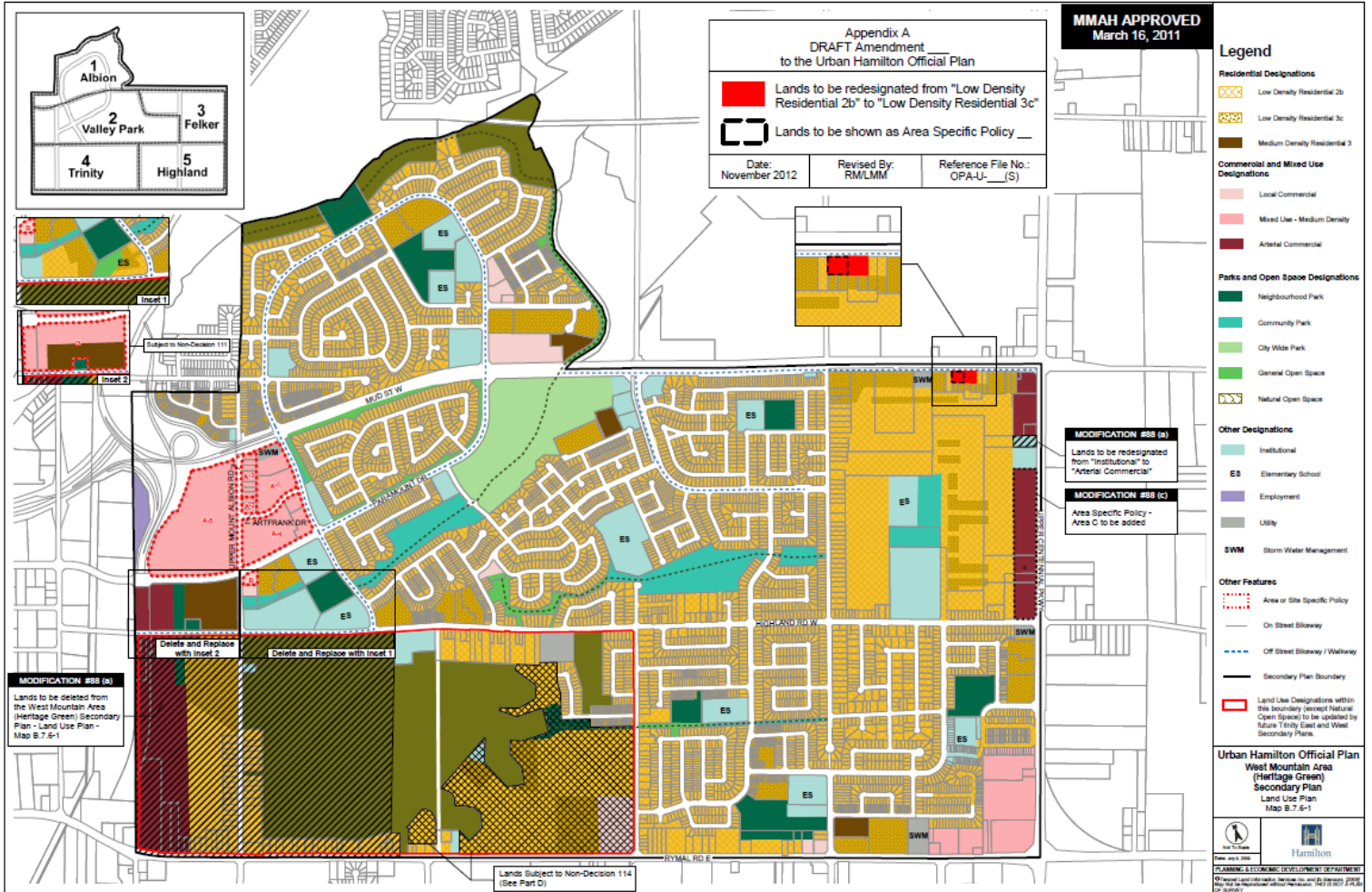
An implementing Zoning By-law Amendment will give effect to this Amendment.

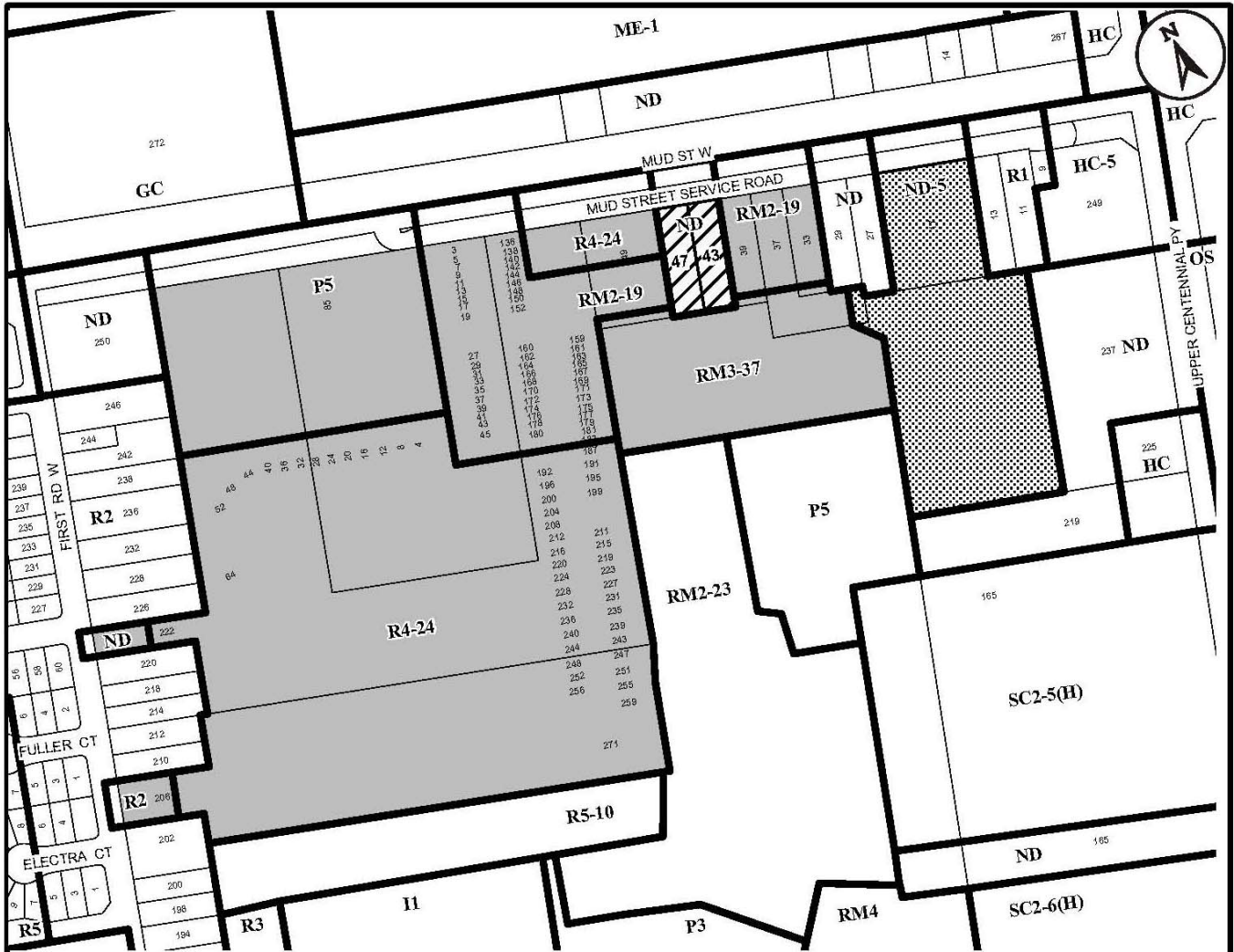
This is Schedule "1" to By-law No. [REDACTED] passed on the [REDACTED] day of [REDACTED], 2013.

The
City of Hamilton

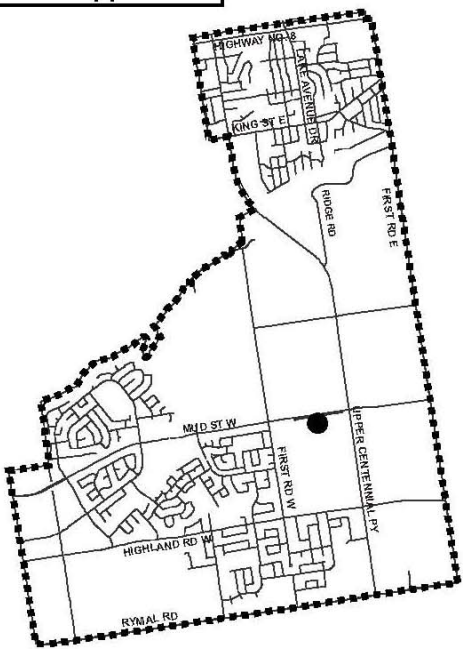
R. Bratina
MAYOR

Rose Caterini
CLERK






● Site of the Application



Ward 9 Key Map

N.T.S. 

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
ZAC-11-081

Date:
May 23, 2012

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
PD/KA

Subject Property

43 and 47 Mud Street West



Lands Subject to Rezoning and Revision of Draft Approved Plan of Subdivision 25T-200808 (R)



Other Lands Owned by Applicant and Subject to Revision of Draft Approved Plan of Subdivision 25T-200808 (R)



Other Lands Owned by Applicant

Authority: Item [REDACTED]
Planning Committee
Report 13-[REDACTED] (PED13013)
CM: [REDACTED]

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 3692-92 (Stoney Creek) Respecting the Property Located at 43 and 47 Mud Street West

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C. did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

AND WHEREAS the City of Hamilton Act, 1999 provides that the Zoning By-laws of the former area municipalities continue in force in the City of Hamilton until subsequently amended or repealed by the Council of the City of Hamilton;

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 13-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2013, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

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

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

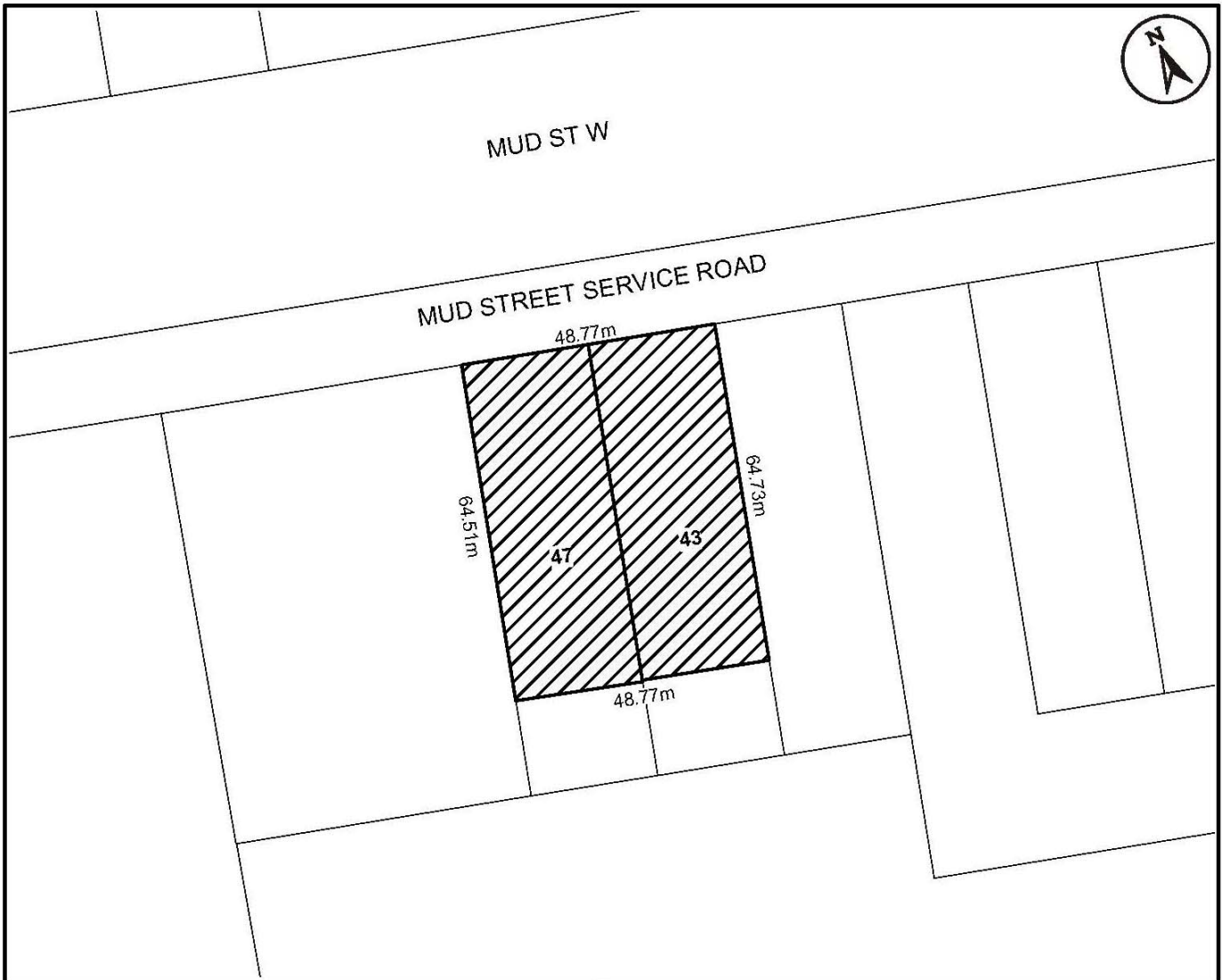
1. That Map No. 2 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by changing from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-19" Zone, the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Multiple Residential "RM2-19" Zone provisions.
3. 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.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2013.

R. Bratina
Mayor

R. Caterini
Clerk

ZAC-11-081



This is Schedule "A" to By-Law No. 13-

Passed the day of, 2013

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-Law No. 13-_____

to Amend By-law No. 3692-92

Subject Property

43 and 47 Mud Street West



Lands to be rezoned from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM2-19" Zone.

Scale:
N.T.S.

File Name/Number:
ZAC-11-081

Date:
Dec. 6, 2012

Planner/Technician:
PD/AL



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Special Conditions of Draft Plan of Subdivision Approval
for "Penny Lane Estates"

- (a) That Condition 1 of revised Schedule 1, dated September 22, 2011, be deleted and replaced with the following:
- 1) That this approval apply to the Revised Draft Plan of Subdivision, "Penny Lane Estates", 25T-200808(R), as redlined revised, prepared by IBI Group, certified by S. D. McLaren, O.L.S. on November 25, 2011, and signed by IBI Group on December 19, 2011, showing 169 lots for single detached dwellings (Lots 14-139, 159-194, and 215-221), 94 lots for street townhouse dwellings (Lots 1-13, 140-158, 195-214, 222-250, 267-272, and 274-280), 1 group townhouse block (Block 251), 1 stormwater management block (Block 252), 6 blocks for future development (Blocks 253-256, 266, and 273), 9 blocks for 0.3m reserves (Blocks 257-265), and the creation of 9 public roads (Streets A, B, C, D, E, F, G, H, and I), subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, with the following special conditions."
- (b) That Condition 55 of the original Schedule 1, dated November 3, 2010, be deleted and replaced with the following:
- 55) That the following warning clause is to be ***identified in the Subdivision Agreement and in all offers of purchase and sale agreements***, for all units:

"Purchasers/tenants are advised that due to the proximity of the Newalta Landfill site, minor impacts from the landfill operations such as odour, dust, and noise may at times be of concern to dwelling occupants."
- (c) That the following new conditions (56 and 57) to the original Schedule 1, dated November 3, 2010, be added as follows:
- 56) That the following warning clause is to be ***identified in the Subdivision Agreement and in all offers of purchase and sale agreements***, for all units:

"Garages provided are intended for use as parking. It is the responsibility of the owner/tenant to ensure that their parking needs (including those of visitors) can be accommodated on site. Public on-street parking is provided on a 'first come, first serve' basis and cannot be guaranteed in perpetuity."
 - 57) That, ***prior to signing of the final plan***, the Director of Planning must be satisfied that Conditions 1) to 56), inclusive, have been carried out to his satisfaction, with a brief but complete statement indicating how each condition has been satisfied.

REVISED SCHEDULE 1
(Amendment to ATTACHMENT "3", dated November 3, 2010)
(September 22, 2011)

As authorized by By-law No. 07-323, I, Tony Sergi, hereby revise the draft plan approval for "Penny Lane Estates", Parkside Developments (Albion) Limited, owner, in the City of Hamilton under File No. 25T200808(R), as follows:

- (i) That Condition No.'s 1, 16, 18, 19, 22, 24, 25, 27, 30, 31, 46, 51 and 52 of Attachment "3", be deleted and replaced with the following.
 - 1) That this approval apply to the Draft Plan of subdivision 25T-200808, "Penny Lane Estates", prepared by IBI Group, and certified by S. Dan McLaren, O.L.S., dated September 22, 2011, and amended as Revision 9, dated July 28, 2011; showing 169 lots for single detached dwellings (Lots 14-139, 159-194 and 215-221), 81 lots for street townhouse dwellings (Lots 1-13, 140-158, 195-214, and 222-250), 1 group townhouse block (Block 251), 1 stormwater management block (Block 252), 4 blocks for future development (Blocks 253-256), 11 blocks for 0.3m reserves (Blocks 257-267), 2 temporary turning circle blocks (Blocks 268 and 269) and the creation of 9 public roads (Streets A, B, C, D, E, F, G, H, and I), are subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, with the following special conditions.
 - 16) That, prior to registration of the final plan of subdivision, the Owner shall submit the necessary transfer deeds to the City's Legal Department to convey Block 252 of the draft plan to the City for the stormwater management quality and quantity control pond, to the satisfaction of the Senior Director of Growth Management.
 - 18) That, prior to registration of the final plan of subdivision, 4.5m x 4.5m daylight triangles or 4.5m radii shall be established on Lots 1, 17, 18, 88, 104, 105, 121, 194, 195, 205, 206, 230, 250 and Blocks 253, 254, 255 and 256, to the satisfaction of the Senior Director of Growth Management.
 - 19) That, prior to registration of the final plan of subdivision, 7m x 7m daylight triangles shall be established on Lots 37, 38, 122, 148, 149, 176 and 229 to the satisfaction of the Senior Director of Growth Management.
 - 22) That, prior to registration of the final plan of subdivision, the Owner shall be responsible for the design and construction of the storm water management quality and quantity control facility to be located on Block 252, to the satisfaction of the Senior Director of Growth Management.

REVISED SCHEDULE 1
(Amendment to ATTACHMENT "3", dated November 3, 2010)
(September 22, 2011)

- 24) That, prior to registration of the final plan of subdivision, the Owner shall transfer to the City, a varying 5.0m to 4.5m for both a sanitary sewer and a watermain easement over part of Lots 60 and 61, to the satisfaction of the Senior Director of Growth Management.
- 25) That, prior to registration of the final plan of subdivision, the Owner shall provide an adequate road system or overland flow channel within a municipal easement to convey the 100 year storm flows to the Stormwater Management Facility on Block 252, since the Street "A" right-of-way in itself may be insufficient, to the satisfaction of the Senior Director of Growth Management.
- 27) That, prior to servicing, the Owner shall indicate all driveway locations on the engineering drawings for all lots, and further, that the driveways for the following lots shall be established, as follows, and be outside of the daylight triangles, to the satisfaction of the Senior Director of Growth Management:

Street "A" – the driveways for Lots 122, 148, 158 and 176 be established on the north side of the lot and the driveway for Lot 149 be established on the south side of the lot;

Street "B" – the driveway for Lot 37 be established on the east side of the lot, the driveways for Lots 17, 177, 195 and 206 be established on the north side of the lot, and the driveways for Lots 1, 18, 194 and 205 be established on the south side of the lot;

Street "C" – the driveways for Lots 104 and 105 be established on the south side of the lot, and the driveways for Lots 88 and 121 be established on the north side of the lot;

Street "D" – the driveway for Lot 87 be established on the north side of the lot, the driveway for Lots 38, 71 and 139 be established on the west side of the lot, the driveway for Lot 72 be established on the south side of the lot;

Street "F" – the driveway for Lot 230 be established on the west side of the lot, and the driveway for Lot 250 be established on the east side of the lot;

Street "E" – the driveways for Lot 159 be established on the east side of the lot; and,

REVISED SCHEDULE 1
(Amendment to ATTACHMENT "3", dated November 3, 2010)
(September 22, 2011)

Mud Street Service Road – the driveway for Lot 229 be established on the west side of the lot, and the driveway for Lot 215 be established on the east side of the lot.

- 30) That, prior to servicing, the Owner prepare an on-street parking plan for Streets "A", "B", "C", "D", "E", "F", "G", "H", "I" and on the Mud Street Service Road adjacent to Lots 215-229 inclusive, based on the premise of achieving on-street parking for 40% of the total number of single detached units, to the satisfaction of the Senior Director of Growth Management.
 - 31) That, prior to servicing, the Owner shall include in the engineering design, a minimum 1.5m high chain link fence along the south and west sides of the Stormwater Management Block 252, to the satisfaction of the Senior Director of Growth Management.
 - 46) That, prior to registration of the final plan of subdivision, the applicant shall install chain link fencing, or other acceptable type, between the woodlot/wetland and the condominium block (Block 251) and any other lands abutting the woodlot/wetland, to the satisfaction of the Hamilton Conservation Authority.
 - 51) That, the Owner shall agree in the subdivision agreement to provide all purchasers of lots or dwelling units within Block 251 an information pamphlet that explains the sensitivities of the natural features of the wetland/woodlot adjacent to the east of Block 251 and the pamphlet shall also list actions residents can take to minimize their potential impact on the wetland/woodlot, all to the satisfaction of the Director of Planning.
 - 52) That Blocks 253 to 256, shall be undevelopable until: the Owner acquires the lands necessary to complete the cul-de-sacs for Street "G" and "H"; or alternatively makes arrangements with the abutting landowners to sell the lands necessary to allow for the completion of Street "G" and "H"; or the lands necessary for the completion of the cul-de-sac for Streets "G" and "H" are acquired by another party, to the satisfaction of the Director of Planning. Street "G" and "H" shall not be constructed until one of the foregoing circumstances have been fulfilled.
- (ii) That Note to Approval No. 5 of Attachment "3", be deleted and replaced with the following:
- 5) NOTE: In the event that the necessary property for the completion of Streets "G" and "H" are not acquired by either the Owner or another party or parties within five (5) years subsequent to registration of the plan of subdivision or any phase thereof as approved by the Director of Planning, then the Owner

REVISED SCHEDULE 1
(Amendment to ATTACHMENT "3", dated November 3, 2010)
(September 22, 2011)

may apply to the City to close the street and may make such applications as necessary pursuant to the Planning Act R.S.O., c.P.13, as amended, for the purpose of creating one or more building lots in accordance with the applicable Zoning for the lands made up of Street G and Blocks 253 and 254 and Street H and Blocks 255 and 256.

Prior to an application(s) to close Streets "G" or "H" or both streets, and prior to any applications under the Planning Act for the purpose of creating one or more building lots as described above the Owner shall demonstrate to the satisfaction of the Director of Planning that reasonable efforts have been made to acquire the necessary lands and that the Owner will be unable to acquire the necessary lands and it is unlikely that property necessary for the completion of Streets "G" or "H" will be assembled.

The City of Hamilton will process the applicable Planning Act application(s) and road closure applications in good faith. However, as with any process involving a decision by Council no particular outcome can be guaranteed and this note to draft plan approval cannot fetter Council's decision in any way.

Signed:



Tony Sergi, P. Eng.
Senior Director, Growth Management

Date: 2011 September 22

ATTACHMENT "3"

LANDMART PROPOSED DRAFT PLAN CONDITIONS

Special Conditions of Draft Plan of Subdivision Approval for "Penny Lane Estates"

1. That this approval apply to the Draft Plan of subdivision 25T-200808, "Penny Lane Estates", prepared by IBI Group, and certified by B.J. Clarke, O.L.S., originally dated October 30, 2008, and amended as Revision 7, dated August 18, 2010, showing 171 lots for single detached dwellings (Lots 14-140, 161-197 and 218-224), 82 lots for street townhouse dwellings (Lots 1-13, 141-160, 198-217, and 225-253), 1 group townhouse block (Block 254), 1 stormwater management block (Block 255), 4 blocks for future development (Blocks 256-259), 11 blocks for 0.3m reserves (Blocks 260-270), 2 temporary turning circle blocks (Blocks 271 and 272) and the creation of 9 public roads (Streets A, B, C, D, E, F, G, H and I), subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, with the following special conditions.

Development Planning:

2. That, prior to registration of the final plan of subdivision, the Owner shall investigate the noise levels on the site, and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment's recommended sound level limits. An acoustical report, prepared by a qualified Professional Engineer containing the recommended control measures, shall be submitted, to the satisfaction of the Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner, and shall be submitted, to the satisfaction of the Director of Planning.
3. That, prior to registration of the final plan of subdivision, the Owner shall provide a landfill impact assessment, completed by qualified experts, to the satisfaction of the Director of Planning. Should peer reviews of the assessment or any separate reports prepared as part of the assessment be warranted, all associated costs shall be borne by the Owner, and shall be submitted, to the satisfaction of the Director of Planning.
4. That, prior to preliminary grading or servicing, the Owner shall conduct an archaeological assessment of the entire development property and mitigate, through preservation or resource removal and documentation, adverse

impacts to any significant archaeological resources found. No demolition, grading, or soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.

5. That, prior to preliminary grading or servicing, the Owner shall submit a tree preservation study and plan, prepared by a certified arborist or landscape architect, for review and approval by the Director of Planning, and provide written certification from the Owner's landscape architect/arborist to the Director of Planning that all measures for the protection of isolated trees, tree clusters, and woodlands, in accordance with the Detailed Tree Preservation Plan approved by the Director of Planning, have been implemented and inspected, prior to any clearing or grubbing of the lands within the draft plan, to the satisfaction of the Director of Planning.
6. That, prior to registration of the final plan of subdivision, the Owner shall initiate a street name change to rename the portion of Mud Street West used as an access lane by the residents, by submitting the required processing fee for a "Change of Street Name" to the Legislative Approvals Section, Planning Division, to the satisfaction of the Director of Planning.

Traffic Engineering:

7. That, prior to the registration of the final plan of subdivision, the Owner shall construct a full movement signalized intersection at Street A and Mud Street West. The traffic signal and intersection pavement marking design drawings must be approved and signed by the Manager of Traffic Engineering. Further, the Owner is hereby advised that signal design and pavement marking drawings must be prepared by a traffic consultant approved by the City.
8. That, prior to registration of the final plan of subdivision, the construction of a neighbourhood roundabout on Street "A" at Street "D" and Street "E" be incorporated into the plan, and constructed by the Owner, to the satisfaction of the Manager of Traffic Engineering
9. That, prior to servicing, the driveway locations at the bend in Street "B" and Street "D", for Lots 30-33 and 48-52, be located to the satisfaction of the Manager of Traffic Engineering. The driveways must be shown on approved engineering drawings. The Owner must ensure that the accesses to each lot are maintained within the limits of the property frontage and not encroach over onto neighboring lots in the corner areas.

Development Engineering:

10. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for modifications and costs related to the existing median island on Mud Street at Street "A", and also at existing Mud Street Service Road, to the satisfaction of the Director of Development Engineering.
11. That, prior to registration of the final plan of subdivision, Street "A" shall be established at a 26m ROW with painted bike lanes, to the satisfaction of the Director of Development Engineering.
12. That, prior to the registration of the final plan of subdivision, Street "A" must align centerline-to-centerline with the collector road on the adjacent draft plan of subdivision to the south (25T-200908), to the satisfaction of the Director of Development Engineering.
13. That prior to registration of the final plan of subdivision, Street "I" must align centerline-to-centreline with the local road on the adjacent draft plan of subdivision to the east (25T-200908), to the satisfaction of the Director of Development Engineering.
14. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for reconstructing the connection of the Mud Street Service Road with the proposed alignment at Street "B", to the satisfaction of the Director of Development Engineering. This includes removing the existing asphalt roadway not required and re-instating with sod, appropriate drainage, concrete sidewalk, etc. The new connection must be completed simultaneous to construction of Street "A" connection to Mud Street.
15. That, prior to registration of the final plan of subdivision, the Owner agrees to:
 - i) Design the SWM facility in accordance with Ministry of Environment (MOE) Guidelines, City of Hamilton guidelines, and recommendations of the Davis Creek Subwatershed Study as further refined in the Felker Neighbourhood Drainage Assessment, prepared by AMEC Earth and Environmental, dated March 5, 2010.
 - ii) Inspect and monitor the storm water management facility upon commencement of construction or pre-grading of the Land;
 - iii) Create an operation and maintenance manual, and keep detailed logs concerning storm water management facility performance and maintenance, including costs for cleaning and removal of sediment,

and submit such logs to the City during pre-grading and construction activities in accordance with the operational manual;

- iv) Construct, operate, and maintain, at the Owner's expense, the storm water management facility, in a manner acceptable to the City, including any changes to conditions of the MOE's approval, throughout servicing of all stages of draft plan registration and development of all registered lots and blocks, or until such time as determined by the Director of Development Engineering;
 - v) Remove sediment from the storm water management facility attributed to development, carry out a bathymetric survey, and verify volumetric capacity of the storm water management facility, prior to release of the Owner's operation and maintenance responsibilities for the storm water management facility; and,
 - vi) Submit an operation and maintenance manual, as per City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009), for approval by the Director of Development Engineering, prior to release of the Owner's operation and maintenance responsibilities for the storm water management facility.
16. That, prior to registration of the final plan of subdivision, the Owner shall submit the necessary transfer deeds to the City's Legal Department to convey Block 255 of the draft plan to the City for the stormwater management quality and quantity control pond, to the satisfaction of the Director of Development Engineering.
17. That, prior to registration of the final plan of subdivision, 12m x 12m daylight triangles shall be established on the final plan of subdivision at the widened limits of the intersections of Street "A", Street "D" (north leg) and Street "E", to the satisfaction of the Director of Development Engineering.
18. That, prior to registration of the final plan of subdivision, 4.5m x 4.5m daylight triangles or 4.5m radii shall be established on Lots 1, 17, 18, 88, 104, 105, 121, 197, 198, 208, 209, 233, 253 and Blocks 256, 257, 258 and 259, to the satisfaction of the Director of Development Engineering.
19. That, prior to registration of the final plan of subdivision, 7m x 7m daylight triangles shall be established on Lots 37, 38, 122, 149, 150, 179 and 232 to the satisfaction of the Director of Development Engineering.
20. That, prior to registration of the final plan of subdivision, a maximum of 100 units shall be allowed to be developed utilizing a single road access, to the satisfaction of the Director of Development Engineering.

21. That, prior to registration of the final plan of subdivision, all bends in the road on the north/south segment of Street "D" shall be established with a 90m minimum centerline radius, to the satisfaction of the Director of Development Engineering.
22. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for the design and construction of the storm water management quality and quantity control facility to be located on Block 255, to the satisfaction of the Director of Development Engineering.
23. That, prior to registration of the final plan of subdivision, sanitary sewers, storm sewers, watermains, and road access shall be available to service the lands of the draft plan or, alternatively, the Owner shall acquire the necessary land and/or easements and pay the full cost, less over-sizing, to construct sanitary sewers, storm sewers, watermains, and road access to service the lands of the draft plan, to the satisfaction of the Director of Development Engineering:
24. That, prior to registration of the final plan of subdivision, the Owner shall transfer to the City, a 4.5m sanitary sewer easement over part of Lots 60 and 61, to the satisfaction of the Director of Development Engineering.
25. That, prior to registration of the final plan of subdivision, the Owner shall provide an adequate road system or overland flow channel within a municipal easement to convey the 100 year storm flows to the Stormwater Management Facility on Block 255, since the Street "A" right-of-way in itself may be insufficient, to the satisfaction of the Director of Development Engineering.
26. That, prior to servicing, the Owner shall include in the engineering design and schedules, provisions for urbanizing the Mud Street Service Road, at their expense, from Street "B" easterly to the east limit of the lands within the plan of subdivision including the restoration of the part to be closed west of Street B, to the satisfaction of the Director of Development Engineering.
27. That, prior to servicing, the Owner shall indicate all driveway locations on the engineering drawings for all lots, and further, that the driveways for the following lots shall be established, as follows, and be outside of the daylight triangles, to the satisfaction of the Director of Development Engineering:

Street "A" - the driveways for Lots 71, 122, 149 and 179 be established on the north side of the lot and the driveway for Lot 150 be established on the south side of the lot

Street "B" - the driveway for Lot 37 be established on the east side of the lot, the driveways for Lots 17, 180, 198 and 209 be established on the north

side of the lot, and the driveways for Lots 1, 18, 197 and 208 be established on the south side of the lot.

Street "C" - the driveways for Lots 104 and 105 be established on the south side of the lot, and the driveways for Lots 88 and 121 be established on the north side of the lot.

Street "D" - the driveways for Lot 87 be established on the north side of the lot, the driveway for Lot 38 and Lot 140 be established on the west side of the lot, the driveways for Lot 72 be established on the south side of the lot.

Street "F" - the driveway for Lot 233 be established on the west side of the lot, and the driveway for Lot 253 be established on the east side of the lot.

Street "E" - the driveways for Lots 160 and 161 be established on the east side of the lot.

Mud Street Service Road - the driveway for Lot 232 be established on the west side of the lot, and the driveway for Lot 218 be established on the east side of the lot.

28. That, prior to servicing, the Owner shall prepare a Groundwater Study, which shall assess the impact that the proposed development would have on the water supply and the sewage disposal systems on the adjacent properties. Pending the outcome of the Study, the Owner shall propose appropriate mitigative measures to address the concerns, and provide municipal water and sewer services, as required, at the developer's expense, to any property that may be negatively impacted, to the satisfaction of the Director of Development Engineering.
29. That, prior to servicing, the Owner shall construct municipal sidewalks on both sides of Street "A", on one side of Street "B" (west and north sides), on one side of Street "C" (west side), on one side of Street "D" (inner loop), on one side of Street "E" (south side), on one side of Street "F" (north and west sides), on one side of the Mud Street Service Road to the east limit of the lands within the plan of subdivision (south side), on the north side of Street "I", and on one side of Mud Street from First Road West easterly to the Mud Street Service Road (south side), to the satisfaction of the Director of Development Engineering.
30. That, prior to servicing, the Owner prepare an on-street parking plan for Streets "A", "B", "C", "D", "E", "F", "G", "H", "I" and on the Mud Street Service Road adjacent to Lots 218-232 inclusive, based on the premise of achieving on-street parking for 40% of the total number of single detached units, to the satisfaction of the Director of Development Engineering.

31. That, prior to servicing, the Owner shall include in the engineering design, a minimum 1.8m high chain link fence along the south and west sides of the Stormwater Management Block 255, to the satisfaction of the Director of Development Engineering.
32. That prior to servicing, the Owner shall submit a detailed stormwater management report and plan. Sufficient information will be required to verify that the area designated for the SWM facility will accommodate the proposed facility designed in accordance with current / applicable storm water management guidelines, provincial drainage, and storm water quality guidelines, and the approved Davis Creek Subwatershed Study as further refined in the Felker Neighbourhood Drainage Assessment, prepared by AMEC Earth and Environmental, dated March 5, 2010, to the satisfaction of the Director of Development Engineering, and the Hamilton Conservation Authority.
33. That, prior to servicing, the Owner shall provide, to the satisfaction of the Director of Development Engineering, a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works, as well as the contractor/agent contact information so that the City can direct works be completed, as necessary.
34. That, prior to servicing, the Owner shall engage a qualified professional to investigate and determine whether Karst features exist in relation to the subject lands. In the event that a Karst feature or sinkhole is determined to exist, or otherwise be encountered, appropriate construction techniques to stabilize the area to avoid negative impacts shall be undertaken, to the satisfaction of the Director of Development Engineering, and the Hamilton Conservation Authority.
35. That, prior to servicing, the Owner shall include in the engineering design for the draft plan lands, removal of all dead or diseased trees within the City's road allowance, as required by reconstruction on existing streets to the satisfaction of the Director of Development Engineering and the Director of Planning.
36. That prior to registration of the final plan of subdivision, the Owner construct the works necessary to remediate the 450mm sanitary sewer on Branthaven Drive, including road restoration, as a requirement of the first phase of development to the satisfaction of the Director of Development Engineering.

37. That, prior to servicing, the Owner shall be required to initiate and pay all associated costs associated with the stop up and closure of the section of Mud Street Service Road from Street "A" to Street "B", to the satisfaction of the Director of Development Engineering.
38. That, prior to servicing, the Owner shall complete a water distribution analysis of the H7 Zone water system to determine whether the existing water system can adequately service the proposed development, to the satisfaction of the Director of Development Engineering. The report shall also focus on the following issues:
 - a. Tabularize the expected occupancy;
 - b. Generate residential and institutional water demand and fire flow calculation for this development;
 - c. Demonstrate how the proposal fits with GRIDS numbers;
 - d. Confirm the water servicing layout based on field information and hydraulic models; and,
 - e. Provide the new hydrant locations on the Water Distribution Plan.
39. That the Owner shall agree, in writing, to grant any additional easements or land required for roadway or services, etc., that may be required so as not to inhibit orderly development of the abutting lands, to the satisfaction of the Director of Development Engineering.
40. That prior to registration of a Subdivision Agreement, the Owner agree in writing that those portions of the subdivision agreement dealing with grading and drainage issues will not be released from title, so that they will bind subsequent owners.
41. That prior to registration of the final plan of subdivision, the Owner shall agree to include in all offers of purchase and sale a statement that advises the prospective purchaser that there is an approved grading plan and that the purchaser agrees not to alter the approved grading plan without approval from the City of Hamilton.

Hamilton Conservation Authority:

42. That, prior to preliminary grading or servicing, the applicant shall prepare and implement an erosion and sediment control plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan shall include the following notes:

- a) All erosion and sediment control measures shall be installed prior to development, and maintained throughout the construction process, until all disturbed areas have been revegetated;
 - b) All erosion and sediment control measures shall be inspected after each rainfall, to the satisfaction of Authority staff;
 - c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,
 - d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.
44. That, prior to registration of the final plan of subdivision, the Davis Creek stormwater management facility must be designed such that it does not negatively impact the features and functions of the existing woodlot/wetland, a natural heritage feature, situated on the east side of the subject property, within the Stoney Creek subwatershed area, to the satisfaction of the Hamilton Conservation Authority.
45. That, prior to registration of the final plan of subdivision, the applicant shall prepare and implement a lot grading plan, to the satisfaction of the Hamilton Conservation Authority.
46. That, prior to registration of the final plan of subdivision, the applicant shall install chain link fencing, or other acceptable type, between the woodlot/wetland and the condominium block (Block 254) and any other lands abutting the woodlot/wetland, to the satisfaction of the Hamilton Conservation Authority.
47. That, prior to registration of the final plan of subdivision, the applicant shall obtain a permit from the Hamilton Conservation Authority, under its *Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04*, prior to any construction and/or grading activities associated with the construction of the storm water management facility and any watercourse alteration, to the satisfaction of the Hamilton Conservation Authority.
48. That, prior to registration of the final plan of subdivision, the applicant shall obtain approval from Fisheries and Oceans Canada, under the Federal Fisheries Act, prior to any watercourse alteration, to the satisfaction of the Hamilton Conservation Authority.

Health Protection Division:

49. That, the Owner agrees to include in all agreements of purchase and sale, a statement that advises the prospective purchaser: That a landfill operation exists nearby and is in operation, the location of the landfill site relative to the proposed residential development, and the expected date of closure or lifespan of the landfill operation, to the satisfaction of the Director of Planning.

Finance:

50. That, prior to the registration of the final plan of subdivision, the Owner shall pay the outstanding Mud Street Storm Water amount owing as of the date of payment, in respect of the local improvement charge applicable to properties of the Owner, resulting from Stoney Creek By-law No. 4486-96, to the satisfaction of the Director of Development Engineering.

Forestry:

51. That, the Owner shall agree in the subdivision agreement to provide all purchasers of lots or dwelling units within Block 254 an information pamphlet that explains the sensitivities of the natural features of the wetland/ woodlot adjacent to and east of Block 254 and the pamphlet shall also list actions residents can take to minimize their potential impact to the wetland/woodland, all to the satisfaction of the Director of Planning.

Director of Planning

52. That Blocks 256 to 259, shall be undevelopable until: the Owner acquires the lands necessary to complete the cul-de-sacs for Street "G" and "H"; or alternatively make arrangements with the abutting landowners to sell the lands necessary to allow for the completion of Street "G" and "H"; or the lands necessary for the completion of the cul-de-sacs for Streets "G" and "H" are acquired by another party, to the satisfaction of the Director of Planning. Street "G" and "H" shall not be constructed until one of the foregoing circumstances have been fulfilled.
53. The Owner agrees to secure the future construction of Street "G" and "H" including but not limited to the construction of sewers, watermains, curbs, boulevards and pavement, to the satisfaction of the Director of Development Engineering.
54. If the owner applies for a closing of Street "G" and "H" in the circumstances as set out in the Note 5 to these conditions and the street(s) is/are closed, Street "G" and/or "H" will be deemed surplus to the City and transferred back to the owner for nominal consideration but the

Owner shall be responsible for all costs associated with road closing application, the transfer as well as the removal and capping of any servicing laterals extending into the street(s).

55. That prior to the signing of the final plan, the Director of Planning must be satisfied that the conditions 2) to 54) inclusive, have been carried out to his/her satisfaction with a brief but complete statement indicating how each condition has been satisfied.

NOTES TO APPROVAL

1. **NOTE:** Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses.
2. **NOTE:** In accordance with the Staging of Development Program, the City of Hamilton will monitor on an annual basis the progress for development within the Felker Neighbourhood, and in particular, the progress of adjacent subdivision applications. If it can be demonstrated by Landmart to the City by way of consultation with Council, the neighbourhood residents and submission of a neighbourhood traffic study acceptable to the Manager of Traffic Engineering that a temporary local road to allow for more than 100 units to develop, then the City of Hamilton will permit a temporary road from the subject lands to 1st Road West, subject to the applicant obtaining all required approvals for the design, construction and subsequent removal of the temporary road to the satisfaction of the Director of Development Engineering.
3. **NOTE:** In respect of the works described in condition 36 the City will contribute to 25% of the total cost of the works subject to an approved budget source and will recover the remaining 25% shares (plus indexing) from the two parties (Paletta and Fieldgate) using the City's Best Efforts provisions.
4. **NOTE:** In respect of the works described in Condition 26, the City will cost share for the works along the frontage municipal addresses 43 and 47 Mud Street Service Road if they remain existing development. If the two properties subsequently form part of the Parkside Developments, then the City will not cost share. If a development application comes forward on the two properties in advance of the urbanization of the road then the City will not cost share and will collect the proportionate share for the works using the City's Best Efforts provisions.
5. **NOTE:** In the event that the necessary property for the completion of Streets "G" and "H" are not acquired by either the Owner or another party

or parties within five (5) years subsequent to registration of the plan subdivision or any phase thereof as approved by the Director of Planning, then the Owner may apply to the City to close the street and may make such applications as necessary pursuant to the Planning Act R.S.O.,c.P.13, as amended, for the purpose of creating one or more building lots in accordance with the applicable Zoning for the lands made up of Streets G and Blocks 256 and 257 and Street H and Blocks 258 and 259.

Prior to an application(s) to close Streets "G" or "H" or both streets, and prior to any applications under the Planning Act for the purpose of creating one or more building lots as described above the Owner shall demonstrate to the satisfaction of the Director of Planning that reasonable efforts have been made to acquire the necessary lands and that the Owner will be unable to acquire the necessary lands and it is unlikely that property necessary for the completion of Streets "G" or "H" will be assembled.

The City of Hamilton will process the applicable Planning Act application(s) and road closure applications in good faith. However, as with any process involving a decision by Council no particular outcome can be guaranteed and this note to draft plan approval cannot fetter Council's discretion in any way



**PALETTA INTERNATIONAL
CORPORATION**

June 27, 2012

Peter De Iulio
City of Hamilton
Development Planning – East Section
71 Main Street West, 5th Floor
Hamilton, ON
L8P 4Y5

Dear Mr. De Iulio

**Re: Notice of Complete Application – 43 & 47 Mud Street West
File No. ZAC-11-081 & 25T-200808(R)**

We are in receipt of the "*Notice of Complete Applications and Preliminary Circulation to amend the Zoning By-law and for approval of a Revision to a Draft Approved Plan of Subdivision*" for the lands located at 43 and 47 Mud Street West, and wish to provide the following comment.

Our concern relates to our nearby property at 272 First Road West, and how these additional 15 townhouse units may impact the available servicing capacity for our property. While we suspect the impact will be negligible, we simply request written confirmation from the City of Hamilton confirming that these applications will not in any way alter or interfere with our ongoing discussions with City staff around the future development of our property, and that there is sufficient servicing capacity to allow both developments to proceed.

We would appreciate hearing from you as soon as possible.

Yours truly,
PALETTA INTERNATIONAL CORPORATION



Dave Pitblado

Cc: Melanie Pham
Gavin Norman

