

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development and Real Estate Division

TO: Mayor and Members General Issues Committee	WARD(S) AFFECTED: WARD 10
COMMITTEE DATE: May 9, 2011	
SUBJECT/REPORT NO: Hamilton-Wentworth District School Board (HWDSB) Surplus Land - Located at 0 Frances Avenue, described as Part Lot 21, Concession Broken Front Saltfleet, former Township of Saltfleet, designated as Part 3, 62R-1236, except Part 2, Plan 62R-5033 now City of Hamilton (PED11071) (Ward 10)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: William Farkas (905) 546-2424, Ext. 7019
SIGNATURE:	

RECOMMENDATION

- (a) That the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to advise the Hamilton-Wentworth District School Board (HWDSB) that the City of Hamilton would only have an interest in acquiring the land located at 0 Frances Avenue for a nominal sum of \$1.00, legally described as Part Lot 21, Concession Broken Front Saltfleet, former Township of Saltfleet, designated as Part 3, 62R-1236, except Part 2, 62R-5033 now City of Hamilton, as shown on Appendix "A" attached to Report PED11071; and,
- (b) That the Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to advise the HWDSB of the City's requirements to the development of the site as contained in the "Relevant Consultation" Section, more particularly outlined in Appendix "B" attached to Report PED11071, should the HWDSB not

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be in agreement to the transfer of the land to the City of Hamilton for a nominal sum of \$1.00.

EXECUTIVE SUMMARY

The Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department is seeking Council's direction to advise the HWDSB that the City of Hamilton has an interest in acquiring the surplus lands located at 0 Frances Avenue, legally described as Part Lot 21, Concession Broken Front Saltfleet, former Township of Saltfleet, designated as Part 3, Plan 62R-1236, except Part 2, Plan 62R-5033, Stoney Creek, now City of Hamilton, shown on Appendix "A" to Report PED11071 for a nominal sum of \$1.00.

The subject property has been identified as a Core Area (Environmentally Significant Area) in the Urban Hamilton Official Plan; portion of the land has been identified as a locally significant wetland by the Ministry of Natural Resources and based on a previous Environmental Impact Statement, the property was identified as a significant Wildlife Habitat under the Provincial Policy Statement as a migratory bird stop over area. Any form of development or site alteration, proposed within or adjacent to the area, would not be permitted unless it can be demonstrated through an Environmental Impact Statement that there would be no negative impacts on the ecological features and functions of the Core Area. Further, the subject parcel is zoned "Small Scale Institutional (IS)" Zone in Stoney Creek Zoning By-law No. 3692-92. Any form of development, other than Small Scale Institutional, shall require a site specific zoning amendment and amendments to the Official Plan.

Given that the development potential for the subject lands is restricted due in part to the wetland features, the Core Area, woodlands, and wild life habitat, that the HWDSB consider conveying the land to the City of Hamilton at a nominal sum of \$1.00 to preserve the environmental features on the subject lands. In the event that the HWDSB is not in agreement to the transfer of the land at a nominal cost, that Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department be authorized to advise the Board that the City of Hamilton has no interest in acquiring the surplus land in keeping with the recommendation by Committee and Council approved in 2005.

Alternatives for Consideration - Page 9

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FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: N/A

HISTORICAL BACKGROUND

The information and recommendations contained in this Report primarily affect Ward 10.

City Council, on April 27, 2005, approved Item 5.2 of the Planning and Economic Development Committee Report 05-009. The Recommendation, in part, authorized and directed Real Estate staff to advise the HWDSB of the following:

- (a) That as a condition of development approval for Frances Avenue property, the City will require the dedication of a strip of land measuring approximately 20 metres (65.6 feet) wide by a depth of 100.75 metres (330.5 feet) to be located over the existing water course for storm water management purposes with the Confederation Beach Neighbourhood, composed of Part of Part 3 on Plan 62R-1236, as shown on Appendices “A” and “C” of Report PD05107, in the former City of Hamilton.

In regard to the above, correspondence and all relevant documentation had been sent to the HWDSB on May 2, 2005. City Council, on June 14, 2005, approved Item 6.2 of the Planning and Economic Development Committee Report 05-009. The Recommendation in part, as approved by City Council, is as follows:

- (b) That the City of Hamilton not bid on any further HWDSB sites other than what has been committed in Table 1, due to the declining capital reserves from which these purchases are funded.
- (c) That the Real Estate Section of the Development and Real Estate Division of the Planning and Economic Development Department be authorized and directed to notify the HWDSB that the City of Hamilton has no interest in any additional sites which may be deemed surplus, other than those referred to in Table 1.

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The sites referred to in Table 1 are as follows:

- Peace Memorial - Ward 6; completed June 2004;
- Fairfield Elementary School – Ward 4; completed November 2004;
- Tweedsmuir School – Ward 2; completed June 2005;
- Grange School – Ward 12; completed August 2005;
- University Gardens – Ward 13; parkette acquired as part of the subdivision process.

Notwithstanding the policy recommendations approved by City Council on June 14, 2005, that the City will not bid on any further HWDSB sites other than what had been committed due to declining capital reserves from which the purchases are funded, City Council at its meeting of December 10, 2008, directed staff to submit bonafide offers for 205 Berko Avenue and 00 DiCenzo Drive. These transactions had been completed in 2009.

City Council, at its meeting of January 28, 2009, approved Item 11.1 of the Audit and Administration Committee Report 09-002. The item approved was an information update report on the City Parkland Dedication Reserve. The conclusion, as outlined in the report, is as follows:

- (a) The Parkland Dedication Reserve commitments include \$1.5 to \$2.0 million in annual funding towards the park development 10-year masterplan. This amount is the amount of discretionary funding available to Council should they wish to deviate from the priorities set in the park development masterplan. Staff continuously monitors reserve activities and forecasts, adjusting future commitments accordingly.
- (b) The Parkland Dedication Reserve cannot fund any of the existing deficiencies of parkland in older neighbourhoods. Any future significant purchases of parkland in deficient areas would have to be funded from other sources such as area rating, legacy reserves, etc.
- (c) The Province's Planning Act sets a cap on the rates municipalities charge for the creation of parkland. As the Tables in this document show, the City's standard for parkland is on the lower end of the scale and yet Provincial constraints will not allow full cost recovery.

The subject vacant parcel, having an area of approximately 1.6 ha (3.95 acres), is located on the north side of Frances Avenue between Green Road and Teal Avenue in the Urban Lakeshore Planning District; its frontage measures approximately 158.7 metres (520 feet) along Frances Avenue having a depth of 100.7 metres (330 feet). The

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site contains a pond and a significant portion of the site is covered in woodlot. These lands are designated as Environmentally Significant in both the Hamilton-Wentworth and Stoney Creek Official Plans.

The Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department circulated the HWDSB's information internally to determine if there was municipal interest in acquiring the lands, and no interest was expressed.

POLICY IMPLICATIONS

City Council, at its meeting of November 24, 2004, adopted the City's Portfolio Real Estate Strategy Plan which established a formalized process to be consistently applied across all areas of the City to guide the management of the City's real property owned, leased, to be sold and acquired.

Section 4.3, "Acquisition" establishes criteria's and principles surrounding acquisition of real property. As noted under this Section, acquisitions of properties will primarily occur:

- (i) For a new municipal facility, through the capital budget planning process.
- (ii) As a dedication, through the development approval.
- (iii) As a result of tax arrears or donations.

The Council adopted principles for acquisition states that *"Property will only be acquired in support of approved programs only. A budget item must be approved for the program, including the costs of the real property and operational impact, before action is taken to acquire property"*.

The Real Estate Section of the Economic Development and Real Estate Division of the Planning and Economic Development Department undertook an internal circulation. Comments received from the internal circulation are noted under the "Relevant Consultation" section of this Report.

RELEVANT CONSULTATION

Pursuant to the City of Hamilton Real Property Sale Procedural By-law 04-299, the Real Estate Section circulated the request to all City Departments.

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The following comments were received:

Legislative Approvals Section:

“Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are located within approximately 200m from **Green Road** and 248m from **Queen Elizabeth Expressway**. As such, any future development applications for the subject lands, which contemplate a sensitive land use, will require the fulfillment of the following condition:

That the owner/applicant 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 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 City of Hamilton, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner/applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning.

Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Staff note that the subject lands are partially located within the Community Beach Ponds Environmentally Significant Area (**ESA #79**). As such, please refer to any comments/conditions provided by Natural Heritage Staff in this regard.

The subject property is designated as “**Urban Area**” within the Hamilton-Wentworth Regional Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. However, Map No. 4 of the Plan indicates that the subject lands are partially located within the Community Beach Ponds Environmentally Significant Area (**ESA #79**). As such, Section C-1.2, indicates that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the ESA has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features

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or on their ecological functions. Based on the foregoing, please refer to any comments/conditions provided by Natural Heritage Staff.

The property is designated "**Residential**" on Schedule 'A' - General Land Use Plan and "**Class 1 - Environmentally Sensitive Area**" and "**Class 2 – Core Areas**" on Schedule 'B' - Stoney Creek Open Spaces and Natural Environment System in the Stoney Creek Official Plan.

The property is identified as "**Separate Elementary School**" in the Lakeshore Neighbourhood Plan and zoned "Small Scale Institutional (**IS**)" Zone in Stoney Creek Zoning By-law No. 3692-92."

Development Engineering:

"Prospective purchasers must be advised that there is an existing watercourse and natural pond located on the subject lands and prior to developing any portion of the subject lands, an Environmental Impact Study would be required in order to delineate the flood plain and ecological features. In addition, comments outlined in Item 5.2 of the Planning and Economic Development Committee Report 05-009 approved by City Council on April 25, 2005 should be provided to all prospective purchasers."

Community Planning:

- **Neighbourhood Plan Designation:**
 - Lakeshore – **SCHOOLS- PUBLIC ELEMENTARY**

"The subject property is designated as a Core Area (Environmentally Significant Area) in the Urban Hamilton Official Plan. Core Areas are the most important components in terms of biodiversity, productivity, ecological and hydrological functions. It is the intent of the Core Area policies to enhance and preserve these areas and to ensure that any development or site alteration within or adjacent to these areas does not negatively impact their environmental features or ecological functions."

Community Planning – Archaeology:

"The subject property meets two of the 10 criteria used by the City of Hamilton and Ministry of Tourism and Culture for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,
- 2) In an area of sandy soil in areas of clay or stone.

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Therefore, the school board is advised to make any prospective purchasers aware of the following:

The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances, and an archaeological assessment should be conducted prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Tourism and Culture. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).”

Natural Heritage:

“The subject property has been identified as a Core Area (Environmentally Significant Area) in the Urban Hamilton Official Plan. The Ministry of Natural Resources has also identified a portion of the property as a locally significant wetland. During the preparation of a previous Environmental Impact Statement, the property was identified as Significant Wildlife Habitat under the Provincial Policy Statement because it is an important migratory bird stop-over area. Therefore, the School Board is advised to make any prospective purchasers aware that any development or site alteration proposed within or adjacent to this property would not be permitted unless it could be shown, through an Environmental Impact Statement, that there will be no negative impacts on the ecological features and functions of the Core Area”.

Community Services Department, Recreation Division:

“The Recreation Division of the Community Services Department advises that we have no interest in purchasing the Hamilton-Wentworth District School Board surplus land referred to as 0 Frances Avenue in the former City of Stoney Creek.

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Should the Board wish to transfer the lands to the City of Hamilton at a later date for \$1.00, the Recreation Division would support that.”

Public Works Department:

“No interest. Due to the current land use and environmental features, the storm water function will be preserved regardless of ownership.”

ANALYSIS / RATIONALE FOR RECOMMENDATION

Approval of the recommendation by Committee and Council will authorize Real Estate staff to advise the HWDSB that the City of Hamilton has an interest in acquiring the surplus land for a nominal sum of \$1.00 to protect the ecological features and functions of the Core Area. In the event that the HWDSB is not in agreement to the transfer of the land at a nominal cost, that Real Estate be authorized to advise the Board that the City of Hamilton has no interest in acquiring the surplus land in keeping with the recommendation by Committee and Council approved in 2005.

ALTERNATIVES FOR CONSIDERATION

HWDSB requires either a confirmation of interest or in the alternative, a declination. In this instance, the City has an interest in acquiring the property at a nominal cost of \$1.00.

CORPORATE STRATEGIC PLAN

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

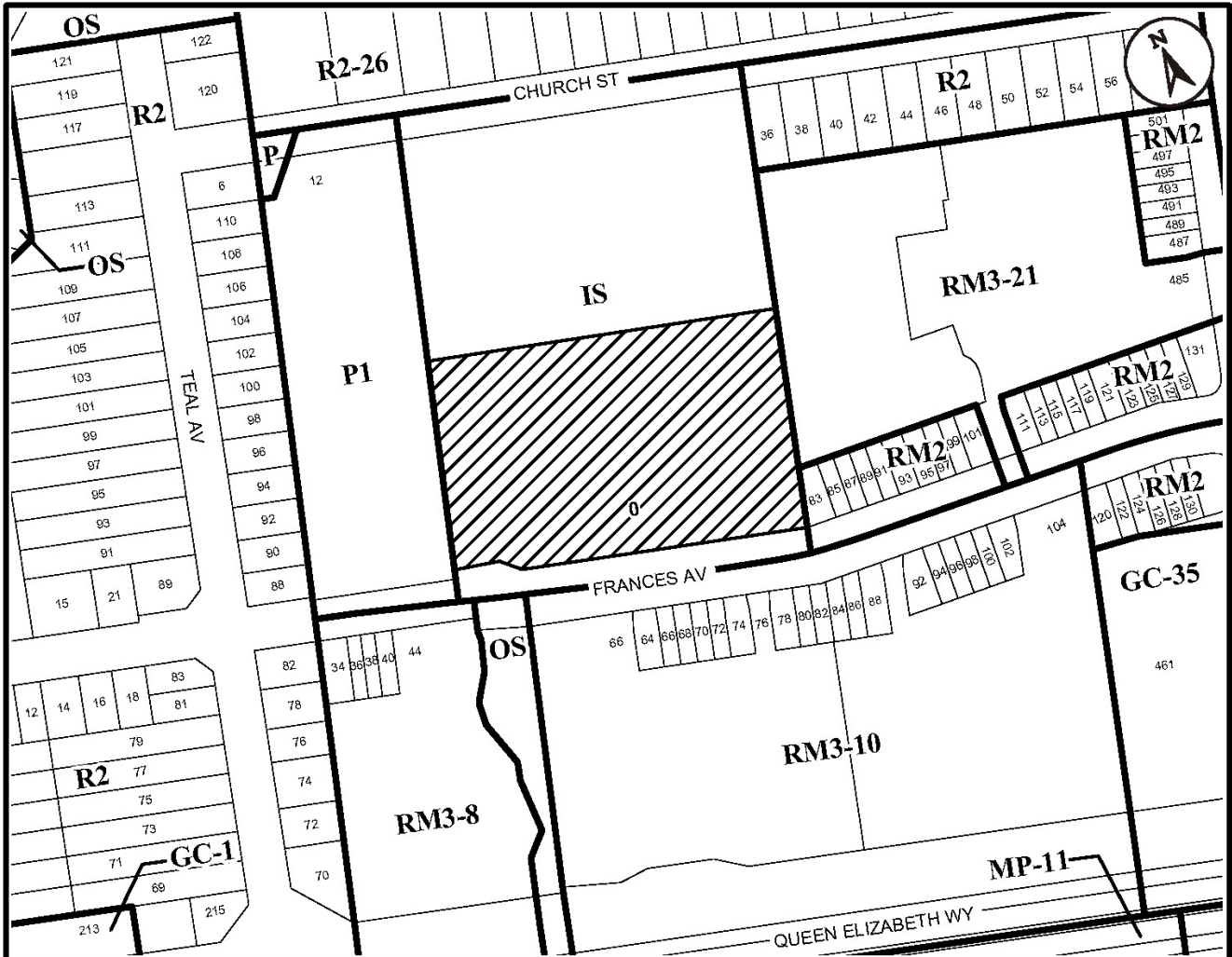
Intergovernmental Relationships

- ◆ Maintain effective relationships with other public agencies.

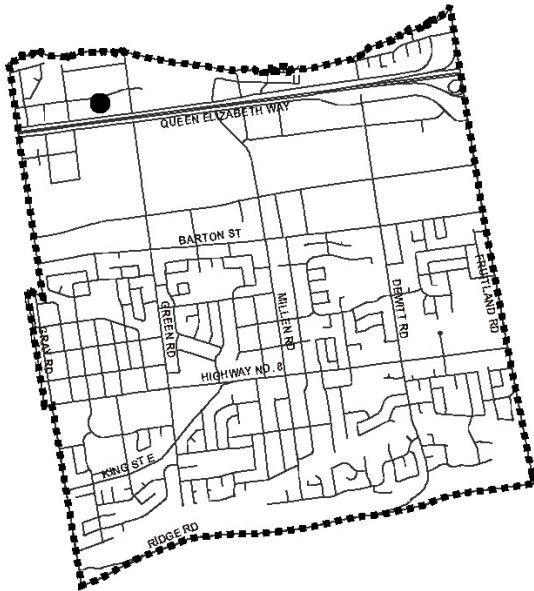
APPENDICES / SCHEDULES

Appendix “A” to Report PED11071 - Location Map
Appendix “B” to Report PED11071 - Conditions of Development

WF/sd



● Site Location



Ward 10 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
2005-013

Date:
April 6, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
BF/AL

Subject Property



0 Frances Avenue, Stoney Creek
CON BF PT LOT 21 SLT SC, RP 62R1236 PART 3

Hamilton Wentworth District School Board Surplus Lands
0 Frances Avenue
Pt. Lot 21, Broken Front Concession, designated as Part 3, Plan 62R-1236

CITY’S REQUIREMENTS TO THE DEVELOPMENT

Legislative Approvals Section:

“Policy 1.7.1 (e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered and separated from each other to prevent adverse effects from odour, **noise** and other contaminants, and minimize risk to public health and safety. Staff note that the subject lands are located within approximately 200m from **Green Road** and 248m from **Queen Elizabeth Expressway**. As such, any future development applications for the subject lands, which contemplate a sensitive land use, will require the fulfillment of the following condition:

That the owner/applicant 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 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 City of Hamilton, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner/applicant and shall be submitted to the satisfaction of the City of Hamilton, Director of Planning.

Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Staff note that the subject lands are partially located within the Community Beach Ponds Environmentally Significant Area (**ESA #79**). As such, please refer to any comments/conditions provided by Natural Heritage Staff in this regard.

The subject property is designated as “**Urban Area**” within the Hamilton-Wentworth Regional Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. However, Map No. 4 of the Plan indicates that the subject lands are partially located within the Community Beach Ponds Environmentally Significant Area (**ESA #79**). As such, Section C-1.2, indicates that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the ESA has been evaluated and it has been demonstrated that there

will be no negative impacts on the natural features or on their ecological functions. Based on the foregoing, please refer to any comments/conditions provided by Natural Heritage Staff.

The property is designated "**Residential**" on Schedule 'A' - General Land Use Plan and "**Class 1 - Environmentally Sensitive Area**" and "**Class 2 – Core Areas**" on Schedule 'B' - Stoney Creek Open Spaces and Natural Environment System in the Stoney Creek Official Plan.

The property is identified as "**Separate Elementary School**" in the Lakeshore Neighbourhood Plan and zoned "Small Scale Institutional (**IS**)" Zone in Stoney Creek Zoning By-law No. 3692-92."

Development Engineering:

"Prospective purchasers must be advised that there is an existing watercourse and natural pond located on the subject lands and prior to developing any portion of the subject lands, an Environmental Impact Study would be required in order to delineate the flood plain and ecological features. In addition, comments outlined in Item 5.2 of the Planning and Economic Development Committee Report 05-009 approved by City Council on April 25, 2005 should be provided to all perspective purchasers."

Community Planning:

- **Neighbourhood Plan Designation:**
 - Lakeshore – **SCHOOLS- PUBLIC ELEMENTARY**

Community Planning staff advise that previous comments dated Feb. 7, 2011 are still applicable:

"The subject property is designated as a Core Area (Environmentally Significant Area) in the Urban Hamilton Official Plan. Core Areas are the most important components in terms of biodiversity, productivity, ecological and hydrological functions. It is the intent of the Core Area policies to enhance and preserve these areas and to ensure that any development or site alteration within or adjacent to these areas does not negatively impact their environmental features or ecological functions."

Community Planning – Archaeology:

"The subject property meets two of the 10 criteria used by the City of Hamilton and Ministry of Tourism and Culture for determining archaeological potential:

- 1) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody; and,

- 2) In an area of sandy soil in areas of clay or stone.

Therefore, the school board is advised to make any prospective purchasers aware of the following:

The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances, and an archaeological assessment should be conducted prior to such impacts in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Testing and Stage 4 Mitigation may be required as determined by the Ontario Ministry of Tourism and Culture. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392)."

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Public Works Department:

"Due to the current land use and environmental features, the storm water function will be preserved regardless of ownership."