

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 26, 2015

CASE NO(S): PL120666

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Greater Ottawa Home Builder's Association
Appellant:	Haslett Construction Inc.
Appellant:	Marino Group (Ottawa) Ltd.
Appellant:	Prestwick Building Corp.; and others
Subject:	By-law No. 2012-147
Municipality:	City of Ottawa
OMB Case No.:	PL120666
OMB File No.:	PL120666

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Appellant:	Greater Ottawa Home Builder's Association
Appellant:	Haslett Construction Inc.
Appellant:	Marino Group (Ottawa) Ltd.
Appellant:	Prestwick Building Corp.; and others
Subject:	By-law No. 2012-347
Municipality:	City of Ottawa
OMB Case No.:	PL120666
OMB File No.:	PL121279

Heard: May 4, 2015 in Ottawa, Ontario

APPEARANCES:

Parties

City of Ottawa

Counsel

T. Marc

Peter Hargadon and Zhaida Uddin J. Bradley

Greater Ottawa Home
Builders' Association
Haslett Construction Inc.
Marino Group (Ottawa) Ltd.
Surface Real Estate
Developments Inc.
Uniform Urban Developments
Prestwick Building Corp.

M. Polowin

MEMORANDUM OF ORAL DECISION DELIVERED BY M. C. DENHEZ ON MAY 4, 2015

[1] This case was about regulating the “character” of infill construction. The City of Ottawa (“the City”) and representatives of the local development community settled their longstanding dispute over the City's sweeping new zoning By-law which, the City said, would do so on a more methodical basis.

[2] In 2012, City Council had adopted Zoning By-law No. 2012-147 (then called the “Infill By-law”). In central mature neighbourhoods, it codified large parts of the City's *Urban Design Guidelines for Low-Rise Infill Housing*, applying them to the zoning for new homebuilding – though apparently not to renovations or additions.

[3] Two appeals were filed with the Ontario Municipal Board (“Board”). One was a site-specific appeal, later withdrawn. The other was from the Greater Ottawa Home Builders' Association, Haslett Construction Inc., Marino Group (Ottawa) Ltd., Surface Real Estate Developments Inc., Uniform Urban Developments and Prestwick Building Corp. (“the developers”).

[4] On a preliminary Motion, prior to the main hearing on the planning merits, the developers challenged the City's statutory jurisdiction to enact various parts of this By-law. At the core of that debate was the nature and extent of municipal powers under the “character” provision of s. 34(1) 4. of the *Planning Act* (“the Act”). The Motion called for a

Board “determination of law that certain provisions of By-law 2012-147 of the City of Ottawa are beyond the authority of the City pursuant to the *Planning Act*.” The Board counted jurisdictional challenges to municipal zoning powers under twelve rubrics, combined into three broad categories – methodology, subject-matter and intent.

[5] The Board issued its Interim Decision on the Motion on March 8, 2013. It found that most of the impugned By-law provisions were within the City's zoning jurisdiction. It found one provision to be outside that jurisdiction. There was also one provision for which the Board found insufficient evidence; so the Board stated: “That question is therefore referred for further discussion at the main hearing on the merits.”

[6] The Board specified, however, that this Motion – and the Board's decision thereon – were strictly about whether the By-law was jurisdictionally legal, and not about whether it had sound planning merits:

This Motion invited the Board to return to basics, about permissible (i) content and (ii) intent for zoning in Ontario. It is not on whether that content or intent here were unwise, but illegal, as being beyond municipal jurisdiction. The question was whether – at law – zoning authority existed at all, not whether its exercise was a policy mistake.

[7] The Board also expressed some concerns about the By-law's wording. In particular, it recommended clarification:

On several questions, By-law provisions might have been sustainable under the rubric of “character”, if worded so as to reinforce an existing streetscape pattern (or other pattern specified in the OP); but they were not structured that way (they appeared instead to apply independently of any existing pattern). The Board was not satisfied of proper statutory authority, and they are sent back for City reconsideration.

[8] The Board also proposed that the City address its corporate mind to major renovation projects.

[9] At the suggestion of the City, the Board gave the City five months to produce a revised version of the By-law:

The Board's expectation is that Council will treat this as the revision of an existing file, of which the Board remains seized. Counsel for the City would be expected to return to the Board with a recommendation and request to the Board that the zoning be amended accordingly. Counsel for the developers remains at liberty, of course, to dispute the planning merits.

[10] There were later requests to extend that timeline, to allow further consultation. The Board agreed.

[11] In May, 2014, City Council endorsed a revised version of the By-law, now renamed the "Mature Neighbourhoods By-law", with various clarifications. The new version was substantially more specific in its treatment of streetscape "character." In the course of ten months, the City held 30 meetings. It also created a "stakeholders group", and conducted two design charrettes. Editorial changes extended to the very eve of the current hearing. The updated draft appears at "Attachment 1" hereto.

[12] During that time, the planning merits of that By-law nonetheless remained under appeal. In January, 2015, with Board-assisted mediation, the parties reached consensus on the substantive content of the new By-law. Today's proceedings were convened to present that outcome for the Board's consideration. The City and the developers requested that their Minutes of Settlement be entered as an exhibit and reproduced as an Attachment. The Board has no objection; they appear at "Attachment 2" hereto.

[13] At the present hearing, the City was represented by counsel, with the support of Planner Elizabeth Desmarais. The developers were also represented by counsel; they had an expert planner in attendance, but he was not called to testify.

[14] In addition to the City and the developers, the Board heard from two other quarters. First, there was a request for party status from Peter Hargadon and Zhaida Uddin, who were represented by counsel. This request was made out of an abundance of caution: they were seeking confirmation that they were exempted from the By-law, because a Board order had already addressed their property specifically (*Hobin v. City of*

Ottawa, issued on February 27, 2014). They sought confirmation that the above 2014 Board Order took precedence. There was no objection from the other parties, and the Board agreed.

[15] The Board also heard from two participants, Joanna Gualtieri and Serge Landry, who do some real estate development themselves, and are currently building their own home in one of the neighbourhoods targeted by the By-law. Their concerns were procedural and substantive.

[16] Procedurally, Ms. Gualtieri had heard that the current hearing might proceed by teleconference. She had apparently argued that this would provide little opportunity for participants to come forward from the public. In that regard, Ms. Gualtieri apparently got her wish: the hearing was by appearance at City Hall, and she and her husband had a full opportunity to express their views.

[17] She also argued that there had been insufficient consultation on the By-law. On that point, the City provided an exhibit chronicling the numerous public meetings and mechanisms for consultation. Although even the most laudable consultation program may have occasional gaps, the Board is entirely satisfied that the City, with the cooperation of the developers, has done its best in that regard.

[18] Substantively, another concern was about below-grade garages. The City replied, however, that this issue pertained to the City's Comprehensive Zoning By-law, not to this By-law under appeal.

[19] The participants' main concern, however, was that the City's proposed approach, involving survey/analysis of streetscape character, would be too difficult to understand. There was discussion of a one-page form which might be used (though the City insisted that it was a preliminary draft only). Ms. Gualtieri also argued that the By-law would be difficult to administer. "How will this discretion be exercised? Who will make the decision

about dominant characteristics?” Mr. Landry added that the process would be open to too much subjective interpretation.

[20] The question of “subjectivity”, “discretion”, and “interpretation” of “streetscape character” is a complex one. It is not only reminiscent of concerns that had been raised by the developers earlier in this appeal; it is also a question which the Board itself faces, in other appeals – essentially every business day. For example, at any given time across Ontario, the Board has hundreds of pending variance appeals under s. 45 of the Act, focusing on whether a project “fits” with the existing streetscape character, as understood in the local Official Plan.

[21] To give themselves leverage over this sometimes-amorphous topic, some municipalities respond with sweeping Site Plan control provisions, to invest themselves with authority to review every application ad hoc. However, that can be an onerous process for all involved.

[22] The Board finds that the City's approach in this By-law is fundamentally different. The City undertook to put the entire question of streetscape “character” onto a more methodical footing.

[23] The City's By-law had two main aspects. One was to revolutionize parking. The more controversial part, however, was to enact zoning provisions which purported to systematize “character.”

[24] This zoning authority stems directly from the Act. Under s. 34(1) 4., municipalities may enact zoning by-laws

for regulating the type of construction and the height, bulk, location, size, floor area, spacing, *character* and use of buildings or structures. [Emphasis added]

[25] The Board's Interim Decision on the Motion addressed what the above statutory provision about “character” meant:

The City has statutory authority to zone for “character”. The definition of “character” has two levels. At the basic level, on a close reading of *Planning Act* terminology, the Board concludes that it refers to prominent visual patterns in the streetscape. Additionally, it can refer to patterns elsewhere, if so specified in the Official Plan (OP). The Board also finds that the City's alternative authority to zone for the “using” of property extends to activities normally incidental to those uses.

[26] To put the question of “character” onto a systematic footing, the City's planner outlined how the City had followed up on that Interim Decision.

[27] First, this approach would continue to apply specifically to residential buildings of four storeys or less, located in established neighbourhoods, as defined in the By-law. This would be done by overlay. The neighbourhoods specified in the By-law tend to be in the older areas of the pre-amalgamation City of Ottawa. Most of those areas are not subject to Site Plan control.

[28] Next, planning staff produced a “matrix of 22 attributes of streetscape character.” These 22 attributes were then condensed down to “the four that were the most significant.” Those four became the foundations of what the City called its “Streetscape Character Analysis Approach.” The four elements were:

- use of the front yard and corner or side yard;
- orientation of the front door;
- walkways and driveway; and
- type and the location of parking.

[29] The above factors were in no particular order. Some staff documents combined the question of walkways/driveways with the information about the type/location of parking.

[30] Under the new By-law, a written “Streetscape Character Analysis” (probably in the format of a standard checklist) would address those four points. This form would then

need to be submitted before the application could be deemed complete. This analysis would seek to identify the “dominant land use pattern” for each of those four attributes. In the words of City staff, “your street gives you your rules.”

[31] The City’s planner explained that the overarching purpose was to “simplify and standardize the rules while maintaining architectural diversity.” She said the most important elements were at the front of properties and on corners, i.e. the locations most visible from the street.

[32] She added that staff was under specific instruction to monitor the progress of the By-law for two years, and to report back to the Planning Committee of Council during that time.

[33] The Board is satisfied with the By-law, as explained in the expert testimony and as revised pursuant to the agreement between the City and the developers. Although the topic can often sound amorphous, the very purpose of this By-law is to take the Act’s statutory provision about “character”, and operationalize it systematically – with less “interpretation” and “discretion”, and more methodical and analytical rigour.

[34] The Board finds that objective entirely consistent with the fundamental objectives of the planning process, notably improving the objectivity and predictability of provisions of this kind.

[35] The Board disposes of the above matters as follows:

1. The Board orders that the appeal against By-law No. 2012-147 of the City of Ottawa is allowed in part, and By-law No. 2008-250 is amended by the said By-law as set out in Attachment 1 to this Order. In all other respects, the Board orders that the appeal is dismissed.

2. By common agreement of the parties, the Board withholds this Order for a period of one week from the date of issue of this Decision.

"M. C. Denhez"

M. C. DENHEZ
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

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ATTACHMENT 1

MATURE NEIGHBOURHOODS BY-LAW 2012-147

A by-law of the City of Ottawa to amend By-law No. 2008-250 of the City of Ottawa to provide regulations for the control of low-rise residential development in mature neighbourhoods.

The Council of the City of Ottawa, pursuant to Section 34 of the Planning Act, R.S.O.1990, enacts as follows:

1. Part 5, Residential Provisions of By-law No. 2008-250, is amended by adding two new Sections, being Sections 139 and 140 as follows:

“Section 139.Low-Rise Residential Development in the Mature Neighbourhoods Overlay

The purpose of the Mature Neighbourhoods Overlay is to regulate the **character** of low-rise residential development in order to recognize and reflect the established **character** of the streetscapes within the area of the Overlay. The local streetscape **character** is the key consideration in determining how a) a new **dwelling** on a new lot, b) a new dwelling on an existing **lot**, c) a conversion of a **residential use building** from one dwelling type to another permitted dwelling type, d) an addition, to an existing **residential use building**, that **abuts** the **front yard** or **corner side yard**, and e) the **incidental use of lands** within **front, interior side** and **corner side yards** on residential **lots**, will be permitted to develop, so that it complements and reinforces the established neighbourhood **character** as seen along each street.

139. The following subsections take precedence over any other provision in Parts 3 to 14 or of this by-law to the contrary and over any provision in Part 15 to the contrary enacted prior to this by-law, save and except: a) Part 4, Section 100, other than Subsection 100 (3) (ii), Section 105, Section 106, other than Subsection 106 (1) (a), Subsection 107 (1) (b) and (c) and Table 107, Section 108, Section 110, Section 111, Section 112 and Section 113; b) all of Part 5, other than section 123; and c) all of Part 6, other than subsections 157 (7), 159 (8), 161 (10) and 163 (10), and apply on a lot in any zone where a **residential use building** of four or fewer storeys is permitted, within the boundaries shown on the Mature Neighbourhoods Overlay. The regulations apply to any **lot**

developed with, or to be developed with, a permitted low-rise **residential use building** within the area identified by the Mature Neighbourhoods Overlay.

Definitions

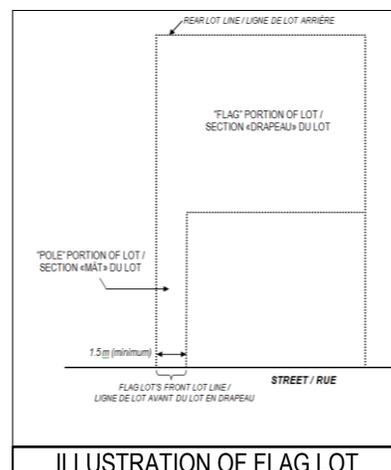
- (1) For the purposes of Sections 139 and 140, the following definitions apply:
- (i) **Attribute** means a land use quality or feature, regarded as a characteristic of, and an inherent part of, the streetscape **character**, inclusive of the use, **incidental use of lands**, buildings and associated uses, and includes building and entrance orientation with respect to the street; treatment of yards abutting a street; the location and type of access to a site for pedestrians and vehicles; and the location of parking.
 - (ii) **Carport** means an area for a parking space having a roof supported by columns, piers or walls and in which the total area of all closures around the perimeter thereof does not exceed 50% of the total area of all sides of said carport, from the floor to the underside of the wall plate or beams supporting the roof.
 - (iii) **Character** means the recurrence or prevalence of **patterns** of established building setbacks, site layouts, orientation of the **principal** entranceway to the street, **incidental use of lands**, and landscapes that constitute a streetscape, based on identified and confirmed land use **attributes**.
 - (iv) **Dominant** means:
 - In the case of **patterns**, the **dominant pattern** is the most frequently occurring **pattern** as set out in Section 140 for each of the **attributes** being documented in a Streetscape Character Analysis; and
 - In the case of Character Groups, the **dominant** Character Group is the most frequently occurring Group as detailed in Section 140, inclusive of the various patterns that constitute it, for each of the **attributes** being documented in a Streetscape Character Analysis.
 - (v) **Double driveway** means a **driveway** designed to be no wider than necessary to accommodate two motor vehicles side by side.

(vi) **Existing** means: as of the date that a Streetscape Character Analysis is submitted to the Department of Planning and Growth Management, in the case of determining the existence of a building, dwelling, driveway, walkway or parking space on a lot and to the actual yard setbacks of that building or dwelling, and in the case of the **existing average grade** means, as of the date that a Streetscape Character Analysis has been approved by the Department of Planning and Growth Management;

(vii) **Existing Average Grade** refers to the manner in which grade is calculated under subsection 139 (24) for purposes of determining building height.

(viii) **First Floor** means the floor of the **dwelling or dwelling unit**, other than an area used for parking, that:

- i. is closest in elevation to the elevation of **existing average grade**; and
- ii. must include, within it, a minimum amount of prescribed **habitable floor space**, as regulated in this By-law.



(ix) **Flag lot** means a lot with two distinct parts: the flag, which is the only building site; and the pole, which connects the flag to the street and provides the only street frontage for the lot.

(x) **Habitable floor space** means any space within a **residential use building**, measured from the outside surfaces of exterior walls, that is intended for use year-round, excluding a garage.

(xi) **Immediately opposite** means across the street, and may be used in both the context of a lot located most directly across the street from the subject lot, or of a development located most directly across the street from the subject or proposed development.

(xii) **Incidental use of land** means how the land is treated or used, including land within **front, interior side** and **corner side yards**, for purposes such as landscaping, vehicular access or pedestrian access.

- (xiii) **Long semi-detached dwelling** means a **residential use building** that contains two **dwelling units**, where the **dwelling units** are attached and arranged one behind the other.
- (xiv) **Pattern** means a specific arrangement of each of the land use **attributes**.
- (xv) **Single driveway** means a **driveway** designed to be no wider than for one motor vehicle.

General Provisions

- (2) The following provisions apply to any lot developed with, or to be developed with, a **low-rise residential use building** of four storeys or less, in any **zone** where residential use buildings are permitted.
 - (a) For the purposes of this section and section 140, **diplomatic missions** are considered to be **residential use buildings**.
 - (b) A Streetscape Character Analysis must be approved on a **lot**, within the Mature Neighbourhood Overlay, prior to any development application approval, including building permit approval of a residential land **use**, or prior to a change in the **incidental use of lands** that impacts an **attribute** such that the **attribute** changes from being in one Character Group to being in another Group by virtue of the Character Group's requirement, as detailed in Section 140. A Streetscape Character Analysis will also be required where approval of a Private Approach permit is required to establish a new, or relocate an existing, driveway that was not undertaken at the same time as development approval and building permit approval of the dwelling.
 - (c) Despite clause (b), a Streetscape Character Analysis is not required:
 - (i) If a lot is part of a Plan of Subdivision and faces a new public street on which there is no established streetscape, for any building permit issued within five years of subdivision registration;
 - (ii) If the area on which a dwelling is located fronts onto a **private way** within a Planned Unit Development;
 - (iii) For any part of an **apartment dwelling, mid-rise or apartment dwelling, high-rise** that is four storeys or 14.5 metres or less;

- (iv) For an addition to an existing **residential use building** that does not **abut** the **front yard** or **corner side yard**, and,

in such cases, the applicable zoning requirements are those of the underlying **subzone**.

- (d) For the purposes of clause (b), development application approval includes any zoning by-law amendment, minor variance approval, site plan control approval, or building permit approval; and development application approval applies to all of the following:
 - i. a new **dwelling** on a new **lot**,
 - ii. a new dwelling on an **existing lot**,
 - iii. a change in use from one type of **residential use building** to another permitted dwelling type,
 - iv. an addition to an **existing residential use building** that **abuts** the **front yard** or **corner side yard**, and
 - v. the **incidental use of lands** within **front, interior side** and **corner side yards**, including the creation of a new driveway or parking space.
- (e) A Streetscape Character Analysis, once approved, is valid for a period of eighteen months from the date of approval.

Yard Setbacks for Yards Abutting Streets

- (3) The minimum required **yard setback** for a **yard abutting** a street must be:
 - (a) In the case where there are **residential use buildings** on the **lots abutting** each **side lot line** of the affected **lot**, the **setbacks** for those **yards** that **abut** a street must align with the setbacks of **abutting lots**, such that
 - (i) on an **interior lot**, the average of the **existing** setbacks of the **abutting lots** on which the **dwelling**s face the same street as the affected **lot**;
 - (ii) on a **corner lot**, the **front yard setback** of the abutting residential **lot** that faces the same street as the affected **lot**, or

- (iii) on a **corner lot**, where more than one **dwelling unit** is proposed and where one or more **units** will face one frontage, while one or more **units** will face the other frontage, the **existing front yard setback** of each **abutting residential lot** whose **principal entranceway** faces the corresponding street frontage of the affected **lot**;
- (iv) on an interior **lot** abutting a corner **lot** where the dwelling on the corner **lot** faces a different street, the **front yard setback** of the abutting residential **lot** that faces the same street as the affected **lot**,

but in no case does the **yard abutting** the street need to exceed a setback of 6 metres.

- (b) In the case of either a **corner lot** or an **interior lot**, where one or both of the **abutting lots** contains a non-residential use **building** or a **mixed use building**, the average of the **existing setbacks** of the **buildings** on the **abutting lots**, but in no case does the **yard** abutting the street need to exceed 6 metres.
- (c) In the case where there is a vacant **lot abutting** the affected **lot**, the **setback** for the **yard abutting** the street will be averaged based on the actual **front yard setback** of the closest **building** on the next adjacent **lot**, which must be no more than 30 metres from the affected **lot's** closest **side lot line**.
- (d) In all other cases, the provisions of the underlying **zone** with respect to **setbacks** apply.

Zoning Provisions for Attributes that Define Streetscape Character

- (4) (a) The regulations affecting the following **attributes** are based on the **dominant character** as identified through a Streetscape Character Analysis in accordance with clause (2) (b):
 - (i) **Landscaping** of the **front yard, interior yard, interior side yard, and corner side yard**,
 - (ii) location and width of driveways;

- (iii) location and size of all parking spaces, garages and **carports**; and
 - (iv) orientation of **principal** entranceways.
- (b) **Attribute patterns** are grouped into Character Groups in Section 140. The **dominant** Character Group identified in a Streetscape Character Analysis, which may be comprised of more than one **pattern** within the same Character Group, establishes the requirement and creates the permissions for each of the **attributes** identified in clause (4) (a).
- (c) The Character Groups in each of the Tables in Section 140 include a specific requirement that must be met, prior to determining which type of **pattern**, identified in the Table rows, will be permitted in the case of any new development application approval as specified in subsection 139 (2) clause (d). One or more of the types of **patterns** may be found in the Streetscape Character Analysis, but will only be permitted in the case of a development application approval as described in subsection 139 (2) clause (d), provided it meets the specific requirement of the **dominant** Character Group.

Provisions for Streetscape Character Analysis

- (5) (a) A Streetscape Character Analysis must record, for the **attributes** listed in subsection 139 (4) clause (a), the **patterns** as set out in Section 140, as provided below.
- (b) The **attributes** listed in subsection 139 (4) clause (a) must be recorded for 21 lots located on the same street as the affected **lot**, as follows:
- (i) the ten **lots** nearest the affected **lot** abutting the same side of the street and located within the same block;
 - (ii) the lot **immediately opposite** and across the street from the affected **lot**, and
 - (iii) the ten **lots** nearest the **lot** specified in (ii) herein, located within the same block as the affected **lot**.
- (c) Despite clause (b), where the affected **lot** is located on a block between two intersections where:

- (i) there are more than five but less than eleven **lots** on the same block and the same side of the street as the affected **lot**, documenting every one of those **lots** is deemed to satisfy subclause (5) (b) (i);
 - (ii) there are more than five but less than eleven **lots** on the same block, but on the opposite side of the street as the affected **lot**, documenting every one of those **lots** is deemed to satisfy subclauses (5) (b) (ii) and (5) (b) (iii).
- (d) Despite clauses (b) and (c), where the affected **lot** is located on a block between two intersections where:
- (i) the total number of **lots** between the two intersections on either side of the **lot** is less than 21 but more than 11, documenting all the **lots** on the block on both sides of the street is deemed to satisfy clause 5(b);
 - (ii) the street on which the affected **lot** is located consists of only one block or is only developed on one side, documenting all the **lots** on the block on both sides of the street is deemed to satisfy clause 5(b).
- (e) Despite clauses (b), (c) and (d), where the affected **lot** is located on a block between two intersections where:
- (i) there are five or fewer **lots** on the same block and the same side of the street as the affected **lot**; and/or
 - (ii) there are five or fewer **lots** on the same block, but on the opposite side of the street as the affected **lot**; and
 - (iii) there are five or more **lots** located on either side of the same street beyond either intersection,
 - (iv) documenting 21 **lots** on both sides of the street within the same block as the affected **lot** and beyond either intersection is deemed to satisfy clause 5 (b).

- (f) When documenting **lots** beyond either intersection from the block on which the affected **lot** is located, despite the requirement to document 21 **lots** in paragraph (iv) of clause (e) above, such documentation need not extend more than one block further on either side of each intersection.
- (g) Despite clauses (b), (c), (d) (e) and (f), where:
 - (i) the street on which the affected lot is located terminates at the end of the block, but is at least one more block in length in the other direction; and
 - (ii) the next block has five or more **lots** on the same street; and
 - (iii) there are fewer than 21 **lots** on the block on which the affected **lot** is located,

lots located beyond the said intersection must be included as part of the 21-lot analysis undertaken pursuant to subclauses 5 (b) (i) and (ii).

- (h) Despite clauses (b), (c), (d), (e), (f) and (g), where the street on which the affected **lot** has fewer than five, or no other, **lots** facing it, the Streetscape Character Analysis must include up to 21 **lots** closest to the affected **lot** located within the same city block without crossing intersections but facing other streets, in the manner provided by Subsection 139 (5), clauses (b) through (g).
- (i) Where a **lot** among the set of **lots** specified in clauses (b) to (h), as applicable,
 - (i) is vacant; or
 - (ii) is developed with institutional, office or open space uses;that **lot** must be documented in the Streetscape Character Analysis, but may not be counted towards the **dominant character** of the streetscape.
- (j) Where a **lot** among the set of **lots** specified in clauses (b) to (h), as applicable, has front yard parking whose legal status has not been established, that front yard parking must be recorded as **hard landscaping** for the purposes of documenting the **incidental use of lands** as required by subsection 139 (4) (a). Where no front yard parking

is proposed, there is no requirement to establish the legal status of any such space that may exist within the lots documented in a Streetscape Character Analysis.

- (k) In the case of a **corner lot**, only where **dwellings** will be fronting on both streets as the affected **lot**, must the 21-lot analysis be undertaken along both streets, with the documenting of 21 lots fronting on the same street as the **principal** entranceway of the affected lot documented, and 11 lots fronting on the same street as the affected lot's **corner side lot line** documented. Where there are fewer than the required number of lots to be documented herein, clauses (5) (c) through (i) above apply.

Incidental use of Lands

- (6) The **incidental use of lands** of the **front yard** and **corner side yard** may only consist of a **pattern** identified within the **dominant** Character Group as described in Subsection 140 (1) and as confirmed in a Streetscape Character Analysis.

Parking

- (7) Except in the case of an **apartment dwelling, low-rise, stacked dwelling, apartment dwelling, mid-rise** or **apartment dwelling, high-rise** with more than 12 **dwelling units**, no parking is required and sections 101, 102, 107 and subsections 109 (4) to (12) inclusively, do not apply.
 - (a) In the case of an **apartment dwelling, low-rise, stacked dwelling, apartment dwelling, mid-rise** or **apartment dwelling, high-rise** with more than 12 **dwelling units**, the parking required is calculated based on the total number of **dwelling units**, excluding the first 12 **dwelling units**.
- (8) Where parking is provided, it must be of a **pattern** that is listed within the Character Group in Subsection 140 (2) that has been confirmed as being the **dominant** Character Group, through a Streetscape Character Analysis, subject to the provisions of subsections 139 (9) through (14) below.
- (9) Despite subsection 139 (8), where the **lot** abuts a rear lane:

- (a) If the lane is a travelled lane, a provided **parking space** must not be located in a **front yard, interior side yard, or corner side yard** and must be accessed only by a driveway from the rear lane.
- (b) If the lane is untravelled, any provided parking may be:
 - (i) accessed by a driveway from the rear lane, subject to the lane or a section thereof being reinstated as a travelled lane; or
 - (ii) provided in accordance with subsection 139 (8).

Driveways

- (10) (a) Where driveways are permitted, the maximum driveway width is:

For lot widths, or in the case of dwelling unit parcels that are not severed, for street frontage widths, of	Maximum width, shared driveway	Maximum width, single driveway	Maximum width, double driveway
Under 6 m	3.0 m	Not permitted	Not permitted
Between 6 m and 7.49 m	3.0 m	2.4 m	Not permitted
Between 7.5 m and 8.24 m	3.0 m	2.75 m	Not permitted
Between 8.25 m and 14.99 m	3.0 m	3.0 m	Not permitted
Between 15 m and 17.99 m	3.0 m	3.0 m	5.5 m
18 m and more	3.0 m	3.0 m	6.0 m

- (b) In the case of an **apartment dwelling, low-rise, a stacked dwelling, an apartment dwelling, mid-rise** or an **apartment dwelling, high-rise**, the maximum permitted width for a driveway that leads to:

- (i) less than 20 parking spaces: 3.6 metres
 - (ii) 20 or more parking spaces: 6 metres.
- (11) A driveway may be shared by two or more **dwelling**s or **dwelling units** on the same **lot** or on **abutting lots**.
- (12) A driveway loses its function as a vehicular access when it no longer provides access to a legal parking space, which is a parking space located outside of the **front yard** or **corner side yard**, and must be considered to be a **front yard** parking space.

Garages, Carports and Front Yard Parking

- (13) Despite Subsection 139 (8), no part of a garage or **carport** may be located closer to the **front lot line** than the **front wall** of the **residential use building**, nor closer to the **corner lot line** than the affected side wall of the **residential use building**.
- (14) Where permitted, the maximum width, of one or both doors of an attached garage, and the entrance of a **carport** is:
- (a) for a single attached garage or **carport**: 3 metres
 - (b) for a double attached garage or **carport**: 6 metres
- (15) The following are prohibited unless they are determined to be the **dominant pattern** along the streetscape:
- (a) garages or **carports** that are set back the same distance from the **front lot line** as the **front wall** of the **residential use building**;
 - (b) legally-established front yard parking;
 - (c) front yard **parking spaces** created when a driveway no longer functions as an access to a legal **parking space** located outside the **front yard** or **corner side yard**.

Pedestrian Access – Walkways

- (16) A walkway located in a **front yard** or **corner side yard** is permitted only:

- (a) where it provides access between a driveway and an entranceway to the dwelling, or
 - (b) where extending from the right-of-way back to the dwelling and it is not abutting the **driveway**, and
 - (c) if it does not exceed 1.25 metres in depth, in the case of subsection (16) (a), or in width, in the case of subsection (16) (b).
- (17) No person may park a motor vehicle on a walkway, or portion of a walkway.

Entranceways

- (18) Principal Entranceway(s)
- (a) must be of a **pattern** that is listed within the Character Group in Subsection 140 (3) that has been confirmed as being the **dominant** Character Group through a Streetscape Character Analysis.
 - (b) In the case of **detached dwellings, linked detached dwellings, and townhouse dwellings**, clause (a) applies to each **dwelling unit**.
 - (c) In the case of **long semi-detached dwellings**, clause (a) applies only to the **principal** entranceway to the **dwelling unit** closest to the street.
 - (d) In the case of **semi-detached dwellings, duplex dwellings and three-unit dwellings**, at least one **principal** entranceway must face the front lot line.
 - (e) In the case of **stacked dwellings**, subsection (18), clause (a) applies to each attached pair of dwelling units.
- (18.1) The **first floor** of a **dwelling** or **dwelling unit** must contain at least 40 m² of **habitable floor space**.

Long Semi-detached Dwellings

- (19) A **long semi-detached dwelling** is permitted in any zone where a **semi-detached dwelling** is permitted within the Mature Neighbourhood Overlay, in accordance with the following:

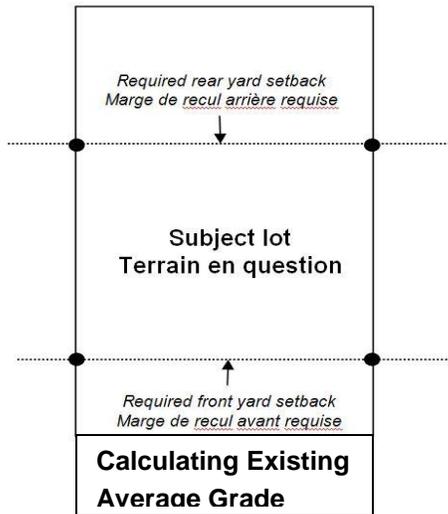
- (a) All provisions that apply to a **semi-detached dwelling** also apply to a **long semi-detached dwelling**, except that the minimum **lot area** required for a **detached dwelling** in the applicable **zone** or **subzone applies** to the whole of the **long semi-detached dwelling** including both **dwelling units**, and subsections 139 (20), (21) and (22) do not apply.
- (b) Despite clause (a), and any future severance, the lands on which a **long semi-detached dwelling** is located are considered one lot for zoning purposes, except that:
 - (i) the minimum **lot width** must be 10 metres, and where a **long semi-detached dwelling** is severed in a **flag lot** configuration, the minimum **lot width** of the pole portion of the **flag lot** must be 1.5 metres, and must be measured a distance of 1.5 metres from the original **lot's interior side lot line**.

Dwellings on Corner Lots

- (20) In the case of **semi-detached dwellings** or **townhouse dwellings** on a **corner lot**, where a **principal** entranceway of one of the **dwelling units** is located along one street **frontage**, and a **principal** entranceway of the other **dwelling unit** is located along the other street **frontage**, the development is to be treated as one lot for zoning purposes only insofar as:
 - (a) determining the location of the **front lot line**, and for determining how to apply the minimum required **lot width**, and
 - (b) determining the location of the **interior side yards** and **rear yards**.
- (21) In the case of **semi-detached dwellings** or **townhouse dwellings** located on a **corner lot**, where one or more **principal** entranceways, as the case may be, is located on a separate street **frontage**, the requirements are as follows:
 - (a) The minimum **lot width** required along the **front lot line** is 10 metres.
 - (b) The minimum required **front yard setback** and **corner side yard setback** is the **existing front yard setback** of each **abutting** residential **lot** whose **principal** entranceway is located along the corresponding street **frontage** of the affected **lot**; and clauses 3 (b), (c) or (d) apply as the case may be,

where there is an **abutting vacant lot**, non-residentially-zoned **lot** or **mixed use-zoned lot**.

- (c) Where the **interior side yard abuts** an **interior side yard** on the abutting **lot**, it must be a minimum of 1.2 m.
 - (d) Where the **lot abutting** the **corner lot** is vacant, the minimum required **interior side yard setback** on the **corner lot** is the minimum required for the **use** in the applicable **zone**.
 - (e) An **interior yard** must be provided, and created by extending a parallel line from the **minimum required rear yard setback** of the **abutting lot**, across the longest shared common **lot line**, into the affected **lot** for a distance from that shared **lot line** equal to 30% of the affected **lot's** actual **lot width**, after which the **rear yard** may be reduced to 1.2 m.
 - (f) Where no **interior yard** is provided, the **rear yard setback** must be a minimum of 4 metres.
- (22) In the case of a **semi-detached dwelling** or a **townhouse dwelling** on a **corner lot**, whether it is to be severed or not, and where all of the **principal** entranceways are facing the street with the longer frontage, the **lot line** abutting the longer frontage is considered to be the **front lot line**, and the **yard abutting** the longer frontage is considered to be the **front yard**, and all corresponding **yards** and regulations affecting **yard setbacks** are based on the location of the **front yard**, and the following applies:
- (a) The minimum **front yard setback** is per Section 139 (3) (a) (ii), Section 139 (3) (b), or Section 139 (3) (c), as the case may be,
 - (b) No yard setback is required along the shared common wall between a pair of **semi-detached dwelling units**, a pair of **long semi-detached dwelling units**, nor along the shared walls between attached **townhouse dwelling units** and attached **stacked dwelling units**,
 - (c) The minimum **interior side yard** setback is 1.2 metres, and
 - (d) The **minimum rear yard** setback may be reduced to 4 metres where it provides access to permitted parking.



Building Height and Existing Average Grade

(23) Where this Section applies, building **height** must be measured using the **existing average grade** as determined under subsection 139(24).

- (24) **Existing average grade** must be calculated prior to any site alteration and based on the average of grade elevations taken along both **side lot lines** at the minimum required **front yard setback**, and at the minimum required **rear yard setback** of the zone in which the **lot** is located.

Area Specific Exemptions

- (25) Sections 139 and 140 do not apply to:
- (a) a residential use building constructed after April 24, 2012 at 570, 572, 574, 576, 578 and 580 Athlone Avenue
 - (b) 914 and 946 Colonel By Drive.

Section 140. Front Yard Patterns, Parking Patterns and Entranceway Patterns

(1) The following **incidental uses** of the **front yard** are permitted, subject to the provisions of Subsections 139 (4) clauses (b) and (c) and 139 (6).

- a. **Front yard** provisions are set out in Table 140 A, where each Character Group, listed in Columns I, II, III and IV, permits a number of compatible patterns, listed in the Table rows, which have been identified by an (▪).
- b. No type of **pattern** listed in the rows is permitted if it does not meet the **dominant** Character Group’s requirement.
- c. Patterns without an (▪) are not permitted.

Table 140 (A)- Front Yard Patterns and Provisions

FRONT YARD PATTERNS				
Condition	Column I Character Group A	Column II Character Group B	Column III Character Group C	Column IV Character Group D
Character Group Requirement	Fully landscaped front yard	Landscaped front yard in front of the principal dwelling	Landscaped front yard in front of a portion of the principal dwelling	Small or no landscaped front yard
(i) Entire front yard , from side lot line to side lot line across the frontage, consists of soft landscaping , and may also contain a walkway	▪	▪	▪	▪

FRONT YARD PATTERNS				
Condition	Column I Character Group A	Column II Character Group B	Column III Character Group C	Column IV Character Group D
Character Group Requirement	Fully landscaped front yard	Landscaped front yard in front of the principal dwelling	Landscaped front yard in front of a portion of the principal dwelling	Small or no landscaped front yard
(ii) Entire front yard , from side lot line to side lot line across the frontage, consists of a mix of soft landscaping and hard landscaping , and may also contain a walkway.	▪	▪	▪	▪
(iii) The front yard consists of soft landscaping across the entirety of the front wall of the principal dwelling , except for a driveway, where a driveway is permitted, and may also contain a walkway	Not permitted	▪	▪	▪
(iv) The front yard consists of a mix of soft landscaping and hard landscaping across the entirety of the front wall of	Not permitted	▪	▪	▪

FRONT YARD PATTERNS				
Condition	Column I Character Group A	Column II Character Group B	Column III Character Group C	Column IV Character Group D
Character Group Requirement	Fully landscaped front yard	Landscaped front yard in front of the principal dwelling	Landscaped front yard in front of a portion of the principal dwelling	Small or no landscaped front yard
the principal dwelling , except for a driveway, where a driveway is permitted, and may also contain a walkway				
(v) The front yard consists of soft landscaping across the entirety of those parts of the front wall of the principal dwelling that do not contain a garage, or covers the entirety of the front yard not occupied by a legally-established front yard parking space, and may also contain a walkway.	Not permitted	Not permitted	▪	▪
(vi) The front yard consists of a mix of soft landscaping and hard	Not permitted	Not permitted	▪	▪

FRONT YARD PATTERNS				
Condition	Column I Character Group A	Column II Character Group B	Column III Character Group C	Column IV Character Group D
Character Group Requirement	Fully landscaped front yard	Landscaped front yard in front of the principal dwelling	Landscaped front yard in front of a portion of the principal dwelling	Small or no landscaped front yard
landscaping across the entirety of those parts of the front wall of the principal dwelling that do not contain a garage, or covers the entirety of the front yard not occupied by a legally-established front yard parking space, and may also contain a walkway				
(vii) A projection extends beyond the distance permitted by Section 65 of the Zoning By-law between the front lot line and the principal dwelling .	Not permitted	Not permitted	Not permitted	▪
(viii) The principal dwelling extends to the front lot line .	Not permitted	Not permitted	Not permitted	▪

(2) The following locations and sizes of driveways and of parking spaces are permitted, subject to the provisions of Subsection 139 (4), clauses (b) and (c) and Subsections 139 (7) through (15) inclusive.

(a) Access and parking provisions are set out in Table 140 B, where each Character Group, listed in Columns I, II, III and IV, permits a number of compatible **patterns**, listed in the Table rows, which have been identified by an (▪);

(b) Driveway width is subject to Subsection 139 (10). Where driveway widths are lesser or greater than those noted in Columns II through IV, Subsection 139 (10) prevails; and

(c) Patterns without an (▪) are not permitted.

Table 140 (B) - Parking Access and Parking Space Patterns and Provisions

PARKING ACCESS AND PARKING SPACE PATTERNS				
Condition	Column I	Column II	Column III	Column IV
	Character Group A	Character Group B	Character Group C	Character Group D
	No Streetscape Impact from On-Site Parking	Low Streetscape Impact from On-Site Parking	Medium Streetscape Impact from On-Site Parking	High Streetscape Impact from On-Site Parking

<p>Character Group Description</p> <p>Where provided, location and size restrictions for driveway and parking spaces</p> <p>(Note: Maximum driveway width subject to Subsection 139 (10)).</p>	<p>There are no driveways along lot lines abutting a street</p>	<p>Driveways are less than or equal to one-third in width than the actual lot width</p>	<p>Driveways are more than one-third but no more than half of the actual lot width</p>	<p>Driveways measure half or more of the actual lot width</p>
(i) No on-site parking	▪	▪	▪	▪
(ii) Surface parking or garage (single or double) off travelled rear lane	▪	▪	▪	▪
(iii) On a corner lot , a single driveway that provides access to parking located beyond the minimum required yard setback for the yard abutting the street, to interior side yard , or rear yard surface parking or garage (s)	▪	▪	▪	▪
(iv) Single driveway that provides access to rear yard surface parking or detached or attached garage.	Not permitted	▪	▪	▪
(v) Single driveway that provides access to interior side yard surface parking, garage or carport.	Not permitted	▪	▪	▪
(vi) A driveway that no longer leads to a legal parking space in a side yard or rear yard , resulting in front yard	Not permitted	Subject to Subsection 139 (15)		

PARKING ACCESS AND PARKING SPACE PATTERNS				
Condition	Column I	Column II	Column III	Column IV
	Character Group A	Character Group B	Character Group C	Character Group D
	No Streetscape Impact from On-Site Parking	Low Streetscape Impact from On-Site Parking	Medium Streetscape Impact from On-Site Parking	High Streetscape Impact from On-Site Parking
<p>Character Group Description</p> <p>Where provided, location and size restrictions for driveway and parking spaces</p> <p>(Note: Maximum driveway width subject to Subsection 139 (10)).</p>	There are no driveways along lot lines abutting a street	Driveways are less than or equal to one-third in width than the actual lot width	Driveways are more than one-third but no more than half of the actual lot width	Driveways measure half or more of the actual lot width
parking that is not in front of any part of the principal dwelling				
(vii) Shared single driveway , that may pass under a carriageway and provides access to interior yard, interior side yard, or rear yard surface parking, garage(s) or carport(s)	Not permitted	▪	▪	▪
(viii) Shared double driveway that may pass under a carriageway and provides access to rear yard surface parking,	Not permitted	Not permitted	▪	▪

PARKING ACCESS AND PARKING SPACE PATTERNS				
Condition	Column I	Column II	Column III	Column IV
	Character Group A	Character Group B	Character Group C	Character Group D
	No Streetscape Impact from On-Site Parking	Low Streetscape Impact from On-Site Parking	Medium Streetscape Impact from On-Site Parking	High Streetscape Impact from On-Site Parking
<p>Character Group Description</p> <p>Where provided, location and size restrictions for driveway and parking spaces</p> <p>(Note: Maximum driveway width subject to Subsection 139 (10)).</p>	There are no driveways along lot lines abutting a street	Driveways are less than or equal to one-third in width than the actual lot width	Driveways are more than one-third but no more than half of the actual lot width	Driveways measure half or more of the actual lot width
garage(s) or carport(s).				
(ix) Single driveway to attached garage set back from front lot line further than principal dwelling .	Not permitted	▪	▪	▪
(x) Attached garage that is set back the same distance as the front wall of principal dwelling	Not permitted	Subject to subsection 139(15)		
(xi) Legally-established front yard parking pad	Not permitted	Subject to subsection 139(15)		
(xii) Attached garage located closer to the front lot line	Not permitted	Subject to subsection 139 (15)		

PARKING ACCESS AND PARKING SPACE PATTERNS				
Condition	Column I	Column II	Column III	Column IV
	Character Group A	Character Group B	Character Group C	Character Group D
	No Streetscape Impact from On-Site Parking	Low Streetscape Impact from On-Site Parking	Medium Streetscape Impact from On-Site Parking	High Streetscape Impact from On-Site Parking
Character Group Description Where provided, location and size restrictions for driveway and parking spaces (Note: Maximum driveway width subject to Subsection 139 (10)).	There are no driveways along lot lines abutting a street	Driveways are less than or equal to one-third in width than the actual lot width	Driveways are more than one-third but no more than half of the actual lot width	Driveways measure half or more of the actual lot width
than the principal dwelling accessed from a driveway				
(xiii) Double driveway to attached garage set back from front lot line further than principal dwelling	Not permitted	Lots under 15 m in width: Not permitted Lots 15 m and wider (Subject to 139(10)(a))	▪	▪

(3) The following entranceway locations are permitted, subject to the provisions of Subsections 139 (4), clauses (b) and (c) and 139 (18).

- a. Entranceway provisions are set out in Table 140 C, where each Character Group, listed in Columns I and II, permits compatible **patterns**, listed in the Table rows, which have been identified by an (▪).
- b. No type of **pattern** listed in the rows is permitted if it does not meet the **dominant** Character Group's requirement.
- c. **Patterns** without an (▪) are not permitted.

Table 140 C- Entranceway Patterns and Provisions

ENTRANCEWAY PATTERNS		
Condition	Column I Character Group A	Column II Character Group B
Character Group Requirement	Principal entranceway is located along the front wall of the dwelling	Principal entranceway is not located along the front wall of the dwelling
(i) The principal entranceway faces the front lot line .	▪	▪
(ii) The principal entranceway is part of a permitted projection located along the front wall of the dwelling, but does not face the front lot line .	▪	▪

ENTRANCEWAY PATTERNS		
(iii) The principal entranceway does not face the front lot line .	Not permitted	▪

(3) (a) Table 140 C applies to **dwelling**s on **corner lots** where one or more **principal** entranceways are located on separate street frontages with all necessary modifications.

Transition

2. (a) If a **completed application** for any one or more of :

- (i) Committee of Adjustment approval;
- (ii) site plan control approval, including an extension of site plan control approval;
- (iii) part lot control approval; or
- (iv) building permit

was received on or after February 1, 2011 and prior to May 9, 2012 the **complete application**, as well as any subsequent application listed in (i) to (iv) above submitted prior to the issuance of a building permit, are exempt from the provisions of Sections 139 and 140 and will be processed in accordance with the zoning regulations and provisions in place prior to May 9, 2012.

(b) If a **completed application** for any one or more of:

- (i) Committee of Adjustment approval;
- (ii) site plan control approval, including an extension of site plan control approval;
- (iii) part lot control approval; or
- (iv) building permit

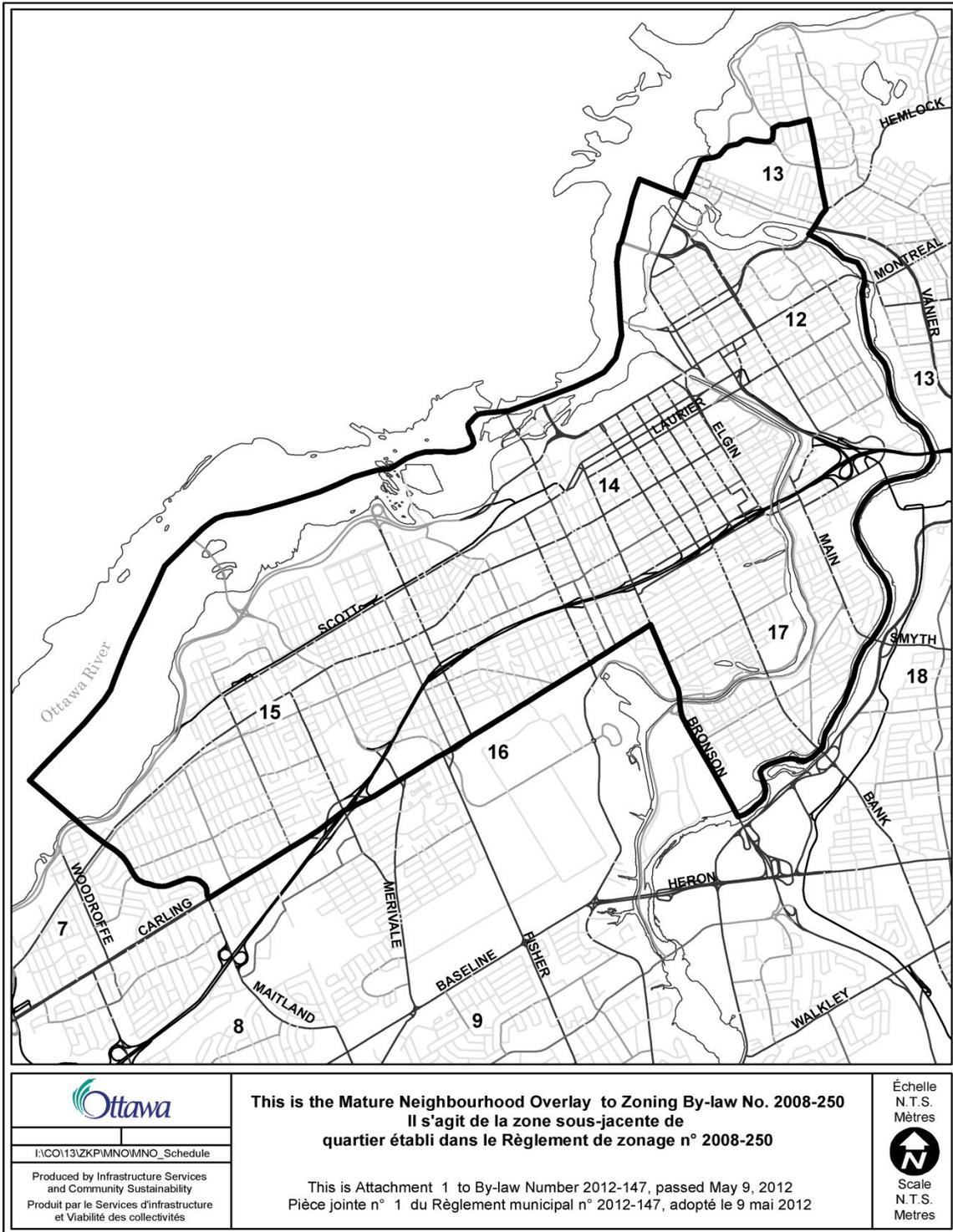
was received on or after May 9, 2012 and prior to *May 11*, 2015, the complete application, as well as any subsequent application listed in (i) to (iv) above submitted prior to the issuance of a building permit, are exempt from the provisions of Sections 139 and 140 and will be processed in accordance with the zoning regulations and provisions of the Council-adopted by-law that shall be deemed to have been in force from May 9, 2012 to *May 11*, 2015.

- (c) For the purposes of Section 2 (a) and (b), “**completed application**” means an application which would have been approved or granted on *May 11*, 2015 had it been processed or disposed of on that day.
 - (d) Nothing in this by-law applies so as to continue the exemption provided by this subsection beyond the issuance of the approval upon which the exemption is founded; and in no case does the exemption continue beyond the repeal of this subsection.
 - (e) Once the permit or approval resulting from the processing of the application noted in clauses (a) or (b) has been granted, the provisions of this by-law in place on or after *May 11*, 2015 apply to the land in question.
 - (f) Section 2 is repealed on *May 11*, 2017.”
3. Part 17 - Schedules of Zoning By-law No. 2008-250 is amended by deleting Schedule 279, and replacing it with an overlay on the Zoning By-law Map, per Attachment 1 to this by-law, that is to be identified as “the Mature Neighbourhoods Overlay”.
 4. Section 133 of Zoning By-law No. 2008-250 is amended by adding a new subsection (14) after subsection (13) as follows, and by renumbering all subsequent subsections accordingly:

“(14) Where a **secondary dwelling unit** is located on a **lot** subject to Section 139 – Low-Rise Residential Development in Mature Neighbourhoods, no parking is required for the **secondary dwelling unit**.”
 5. This by-law may be cited by the name “Mature Neighbourhoods Zoning By-law”.

ENACTED AND PASSED _____

LANDS AFFECTED – Mature Neighbourhoods Overlay



ATTACHMENT 2

Ex. 5

OMB CASE NO. PL120666

MINUTES OF SETTLEMENT

BETWEEN:

CITY OF OTTAWA
(the "City")

- And -

GREATER OTTAWA HOME BUILDERS ASSOCIATION, HASLETT CONSTRUCTION INC., MARINO GROUP (OTTAWA) LTD., SURFACE REAL ESTATE DEVELOPMENTS INC. AND UNIFORM URBAN DEVELOPMENTS AND PRESTWICK BUILDING CORP

(collectively the "Appellants")

Whereas the City and the Appellants attended an Ontario Municipal Board mediation with respect to OMB Case No. PL120666, Zoning By-law 2012-147 as amended; and

Whereas a resolution of the appeals was reached at such mediation, subject to ratification by the parties; and

Whereas all parties have ratified such resolution;

NOW THEREFORE the City and the Appellants hereby set forth the agreement that has been reached by the parties:

1. Each of the City and the individual entities that comprise the Appellants agree to support before the Ontario Municipal Board the modifications to By-law 2012-147 set forth and attached to these Minutes of Settlement as Attachment "A".
2. Should a further modification be sought to By-law 2012-147 to provide recognition to the changes made through the Ontario Municipal Board order issued in PL130951 on February 27, 2014 and the City agree to support such modification, the Appellants acknowledge that such will not be deemed to be inconsistent with clause 1 above.
3. In establishing the presence of front yard parking, any person may offer as evidence aerial photographs taken for the City and predecessor municipalities in 1965, 1976, 1981, 1983, 1985, 1987, 1988, 1990, 1991, 1999, 2002, 2005, 2007 and 2011.

4. The municipal aerial photograph from 1965 can be considered as evidence of establishment of front yard parking prior to the enactment of the first comprehensive Zoning By-law AZ-64 by the former pre-amalgamation City of Ottawa. Similarly, a City of Ottawa or Regional Municipality of Ottawa-Carleton aerial photograph from 1985 and 1999 can be considered as evidence of establishment of front yard parking prior to the enactment of comprehensive Zoning By-laws Z-2K in 1984 and 93-98 in 1998.
5. The City will establish a zoning history by neighbourhood in order to assist proponents in providing evidence to establish legality of front yard parking with the goal of such establishment being complete by December 31, 2016.
6. The City will create a registry of Committee of Adjustment decisions related to front yard parking with the goal of the registry being complete by December 31, 2016.
7. Each of the proponent and the City may utilize methods other than in clauses 3 to 6 above to establish legality of front yard parking.
8. The City agrees that it hereby waives payment by the Appellants of the cost award in the Ontario Superior Court of Justice, Divisional Court file 13-1901.
9. It is acknowledged that each of the Appellants have the ability to seek amendments, in accordance with the *Planning Act*, to City's comprehensive zoning by-law, as proposed to be amended by Attachment "A" and the City has the authority to amend, in accordance with the *Planning Act*, the comprehensive zoning by-law, as proposed to be amended by Attachment "A".
10. This Agreement shall enure to the benefit of, and be correspondingly binding upon, the Parties and their respective successors and assigns, and to all legal persons, regardless of whether they are parties to these Minutes.
11. The Parties covenant and agree that at all times and from time to time hereafter upon every reasonable written request to do so, they shall make, execute, deliver or cause to be made, done, executed and delivered, all such further acts so as to effectively implement and carry out the true intent and meaning of these Minutes of Settlement.
12. If any covenant or provision of these Minutes of Settlement, including all or any part of this clause, is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision, and all other provisions hereof shall continue in full force and effect.
13. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of these Minutes of Settlement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be

possible and be legal, valid and enforceable in order to effectively implement and carry out the true intent and meaning of these Minutes of Settlement.

14. These Minutes of Settlement shall be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the Province of Ontario and of Canada applicable thereto, and the Parties submit to the jurisdiction of the courts of the Province of Ontario.

15. Any reference in these Minutes of Settlement to any law, by-law, rule, regulation, order or act of any government, governmental body or other regulatory body shall be construed as a reference thereto as amended or re-enacted from time to time, or as a reference to any successor thereto

16. These Minutes may be signed in counterparts.

IN WITNESS WHEREOF the Parties have affixed the hands of their officers duly authorized in that regard.

EXECUTED at Ottawa, this 4th day of May, 2015.

Greater Ottawa Home Builders Association

– and –

Haslett Construction Inc.

– and –

Marino Group (Ottawa) Ltd.

– and –

Surface Real Estate Developments Inc.

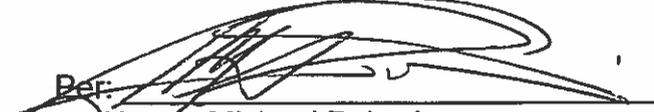
– and –

Uniform Urban Developments

– and –

Prestwick Building Corp.

Each by its solicitors, Gowling, Lafleur, Henderson LLP

Per: 

Name: Michael Polowin

City of Ottawa

Per: 

Name: John L. Moser

Title: Acting Deputy City Manager, Planning and Infrastructure Portfolio

Per: 

Name: Timothy C. Marc

Title: Solicitor for the City of Ottawa

We have authority to bind the City