

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 3, 2016

CASE NO(S): PL150880

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Empire Communities (Caterini) Ltd.
Subject: Request to amend the Official Plan - Failure of the City of Hamilton to adopt the requested amendment

Existing Designation: Low Density 2E, Low Density 2H, Institutional and Neighbourhood Park

Proposed Designated: Same designation, however, mapping will change to reflect the subdivision layout

Purpose: To permit the development of approximately 307 residential units, including detached multiple attached residential dwellings

Property Address/Description: Lot 5, Concession 3
Municipality: City of Hamilton
Approval Authority File No.: OPA-06-015
OMB Case No.: PL150880
OMB File No.: PL150880
OMB Case Name: Empire Communities (Caterini) Ltd. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Empire Communities (Caterini) Ltd.
Subject: Application to amend Zoning By-law No. 464 and 05-200 - Neglect of the City of Hamilton to make a decision

Existing Zoning: Institutional, Park and Residential
Proposed Zoning: Residential (R4) – Exception Zone XXX, Residential Multiple (RM2) – Exception Zone YYY, Residential Multiple (RM2) – Exception Zone ZZZ, Community Institutional (I2) Zone, Neighbourhood Park (P1) Zone, Open Space (P4) Zone

Purpose: To permit the development of approximately 307 residential units, including detached multiple attached residential dwellings

Property Address/Description: Lot 5, Concession 3

Municipality: City of Hamilton

Municipality File No.: ZAC-06-056

OMB Case No.: PL150880

OMB File No.: PL150881

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Empire Communities (Caterini) Ltd.

Subject: Proposed Plan of Subdivision - Failure of the City of Hamilton to make a decision

Purpose: To permit the development of approximately 307 residential units, including detached multiple attached residential dwellings

Property Address/Description: Lot 5, Concession 3

Municipality: City of Hamilton

Municipality File No.: 25T200610

OMB Case No.: PL150880

OMB File No.: PL150882

Heard: March 22, 2016 in Hamilton, Ontario

APPEARANCES:

Parties

Empire Communities (Caterini) Inc.

City of Hamilton

Counsel

Paul DeMelo

Joanna Wice

MEMORANDUM OF ORAL DECISION BY JAMES R. McKENZIE ON MARCH 22, 2016, AND ORDER OF THE BOARD

INTRODUCTION

[1] Empire Communities (Caterini) Inc. (“Empire”) owns a vacant property in the southeast area of the City of Hamilton (“City”), located at the northeast corner of

Fletcher Road and Binbrook Road West, for which it is seeking approvals to develop with a residential subdivision. It submitted three applications for, respectively, an amendment to the City's Urban Official Plan, an amendment to the City's zoning by-laws, and draft approval of a plan of subdivision. It subsequently appealed each application on the basis of Council's failure to make a decision within the statutory time period for each.

[2] At the outset of the hearing, Mr. DeMelo reported that Empire had resolved all its issues with the City's staff. Ms. Wice reported that she did not have instructions from Council with respect to the resolution of issues worked out through staff, and asked for an adjournment to seek instructions. She added, however, that she was not elevating the request to a formal motion.

[3] The Board directed that the hearing would proceed as scheduled.

THE SUBJECT LANDS, PLANNING CONTEXT, AND PROPOSAL

[4] Empire's property ("subject lands") comprises 20.8 hectares and is situated in Binbrook Village Planning Area ("Binbrook"). Binbrook was established in the 1850s and was amalgamated into the City of Hamilton in 2001. It has experienced substantial residential growth in recent years, consisting of mostly low density residential development. The proposed applications will facilitate the realisation of the City's planning function for the subject lands.

[5] The subject lands are designated "Neighbourhoods" and "Open Space" in the City's Urban Official Plan. They are more particularly designated "Low Density Residential 2e," "Low Density Residential 2h," "Elementary School," "General Open Space," and "Natural Open Space" in the Binbrook Village Secondary Plan. Empire's application to amend the Urban Official Plan maintains those designations, but seeks a modest adjustment to the intensity of development for residential purposes and a reorganisation of the designations to provide a compact form of development that synchronises with adjacent land use patterns.

[6] The subject lands are zoned “Restricted Agricultural (A2)” in Zoning By-law No. 464, as amended, of the former Township of Glanbrook, and in Zoning By-law No. 05-200, as amended, of the City of Hamilton. Empire’s zoning amendment application proposes amending both by-laws: the former to rezone those portions of the subject lands intended for residential uses; the latter to rezone those portions intended as conservation and hazard lands (including the existing woodlot), a neighbourhood park, and the proposed school. For a reason not explained to the Board, the City relies on different zoning by-laws to zone for different uses, and Empire is respecting that arrangement in the zoning amendments it is proposing.

[7] Empire is proposing a residential plan of subdivision consisting of a total of 259 dwelling units, as well as blocks for an existing woodlot, a future school and park, and a future stormwater management pond. The plan extends two roads—Pumpkin Pass and Kinsman Drive—in an existing, adjacent planning subdivision and proposes several other internal roads, two of which provide access from Fletcher Road.

EVIDENCE

[8] George Zajac provided planning evidence in support of the proposed amendments and draft plan of subdivision. Mr. Zajac is a registered professional planner and Member of the Ontario Professional Planners Institute.

[9] Mr. Zajac testified that the proposed planning instruments and draft plan of subdivision advance a number of provincial interests set out in s. 2 of the *Planning Act* (“Act”), and are consistent with the Provincial Policy Statement, 2014 and conform to the Growth Plan for the Greater Golden Horseshoe as required by s. 3(5) of the Act. He also testified that the planning instruments and draft plan conform to the City’s Urban Official Plan and the Binbrook Secondary Plan. He described how the proposed planning instruments facilitate intensification through an efficient land use pattern and compact form of development, and contribute to the provision of a complete community in Binbrook. He also explained how the pattern of development respects natural features of the subject property. With respect specifically to the proposed draft plan of

subdivision, Mr. Zajac testified that it satisfies the criteria set out in s. 51(25) of the Act. He also provided the Board with proposed conditions of draft plan approval and testified that they were appropriate. He concluded his evidence stating that the proposed planning instruments and draft plan of subdivision represent good land use planning.

[10] Mr. Zajac was not cross-examined. No other witnesses were called. Mr. Zajac's evidence stands unchallenged and uncontradicted.

[11] The Board accepts and relies on Mr. Zajac's professional planning opinions to support the orders set out below.

ORDER

[12] The appeals are allowed.

[13] The Board orders the approval of Exhibit 3, the amendment to the Urban Official Plan, and Exhibits 4A and 4B, the former an amendment to Zoning By-law 464, as amended, and the latter an amendment to Zoning By-law 05-200, as amended. The three are appended to this decision as Attachment 1, 2, and 3, respectively.

[14] The Board also order the approval of the draft plan of subdivision filed in Exhibit 2, Tab 3. It is also appended to this decision as Attachment 4.

[15] Finally, the Board orders that the draft approval set out in paragraph 14 shall be subject to the conditions set out in Exhibit 5, appended to this decision as Attachment 5. Pursuant to s. 5(56.1) of the Act, the Board orders that the final approval of the plan of subdivision is given to the approval authority is given to the City of Hamilton.

"James R. McKenzie"

JAMES R. MCKENZIE
VICE-CHAIR

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

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Exhibit:	3
File #:	A150880

Urban Hamilton Official Plan Amendment No. [REDACTED]

The following text constitutes Official Plan Amendment No. __ to the Urban Hamilton Official Plan.

1.0 Purpose and Effect:

The purpose of this Amendment is for the following changes to the Binbrook Village Secondary Plan:

- A realignment of blocks and roads within the Secondary Plan to provide for a compact development pattern;
- A redistribution of land use designations;
- A shift in the location of the Institutional (Elementary School) and Neighbourhood Park block;
- Addition of a stormwater management block; and,
- Addition of special policy areas to allow additional density within the Low Density Residential 2e and 2h designations.

The effect of this amendment is to permit the development of a Draft Plan of Subdivision containing residential, institutional and parkland uses.

2.0 Location:

The lands affected by this Amendment are located at the northeast corner of Binbrook Road and Fletcher Road, and are known municipally as 2515 Fletcher Road, in the former Township of Glanbrook.

3.0 Basis:

The basis for permitting this Amendment is as follows:

- The proposed amendment will permit a development which is compatible with existing land uses in the immediate area and represents good planning by, among other things, providing for the development of a complete community, containing various types residential dwellings, as well as park and institutional land uses.
- The proposed amendment will provide for the density required to meet the intent of the Secondary Plan.
- The proposed amendment is consistent with the Provincial Policy Statement, and conforms to the Growth Plan for the Greater Golden Horseshoe, as it

represents an opportunity for growth in the Settlement Area, in a compact form providing for a range of density and housing forms.

4.0 Actual Changes:

4.1 Text Changes:

Volume 2: Secondary Plans – Chapter B – Binbrook Village Secondary Plan

4.1.1 Volume 2, Chapter B – Binbrook Village Secondary is amended by adding a new site specific policy, as follows:

“Area Specific Policy – Area X2

5.1.13.X Notwithstanding Policy B.5.1.4.5b)ii), for the lands known municipally as 2515 Fletcher Road, designated Low Density Residential 2e and identified as Area Specific Policy – Area X on Map B.5.1-1 Binbrook Village Secondary Plan, the density shall not exceed 35 units per net hectare.

Area Specific Policy – Area X3

5.1.13.8 Notwithstanding Policy B.5.1.4.5c)ii), for the lands known municipally as 2515 Fletcher Road, designated Low Density Residential 2h and identified as Area Specific Policy – Area X on Map B.5.1-1 Binbrook Village Secondary Plan, the density range shall be from 26 to 50 units per net hectare.”

4.2 Mapping Changes:

Urban Hamilton Official Plan Volume 2 – Chapter B.5.1 – Binbrook Village Secondary Plan

4.2.1 Urban Hamilton Official Plan Volume 2: Map B.5.1-1 - Binbrook Village Secondary Plan - Land Use Plan, be amended by deleting and replacing the proposed land use designations and road network with those shown in “Inset 1”, as shown on Appendix “A” attached to this amendment.

4.2.2 Urban Hamilton Official Plan Volume 2: Map B.5.1-2 - Binbrook Village Secondary Plan - Open Space Linkages, be amended by deleting and replacing the proposed road network, with those shown in “Inset 1”, as shown on Appendix “B” attached to this amendment.

5.0 Implementation:

An implementing Zoning By-Law Amendment and Draft Plan of Subdivision will give effect to the intended uses on the subject lands.

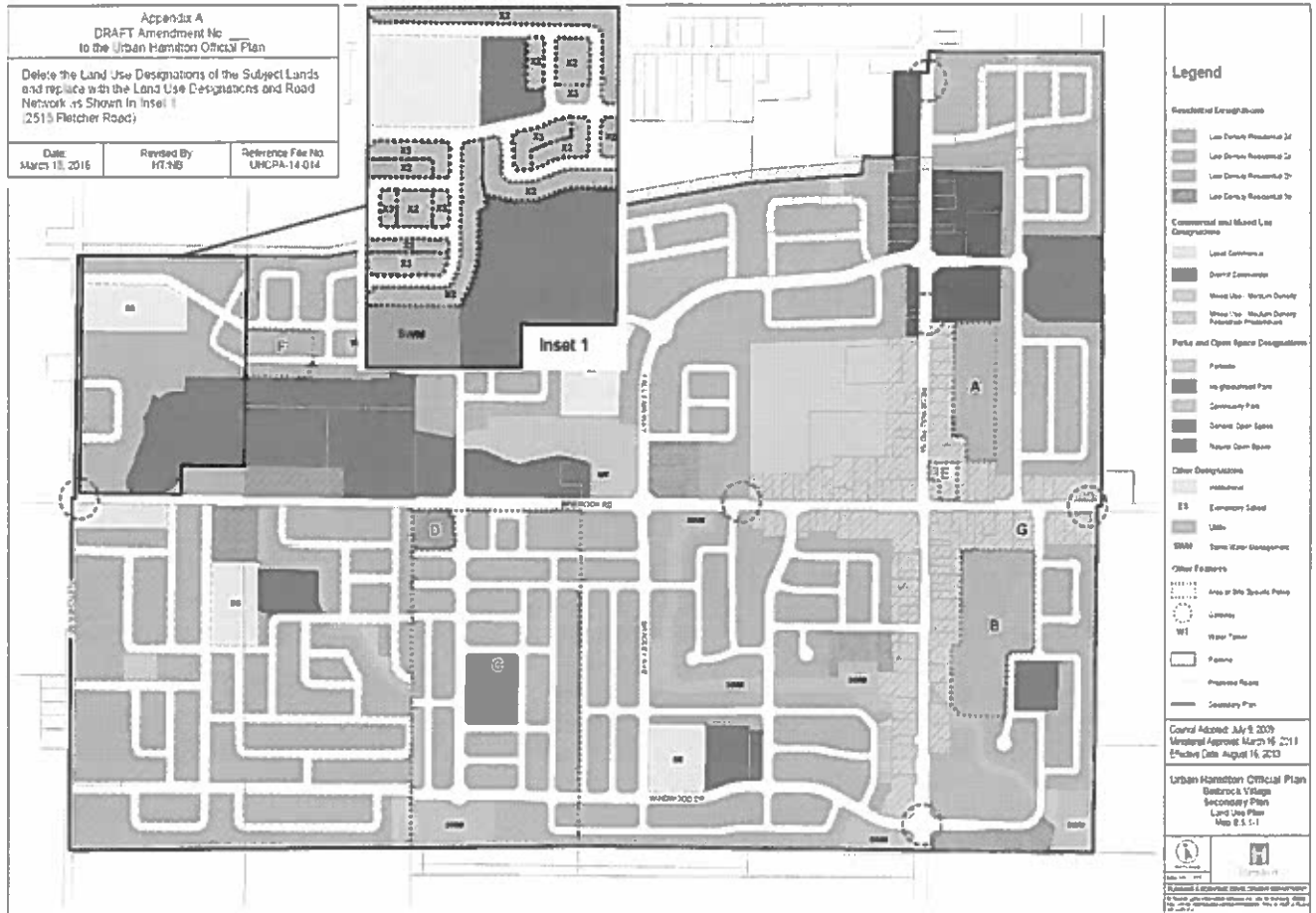
This is Schedule "X" to By-law No. [REDACTED] passed on the day of [REDACTED], 201X.

**The
City of Hamilton**

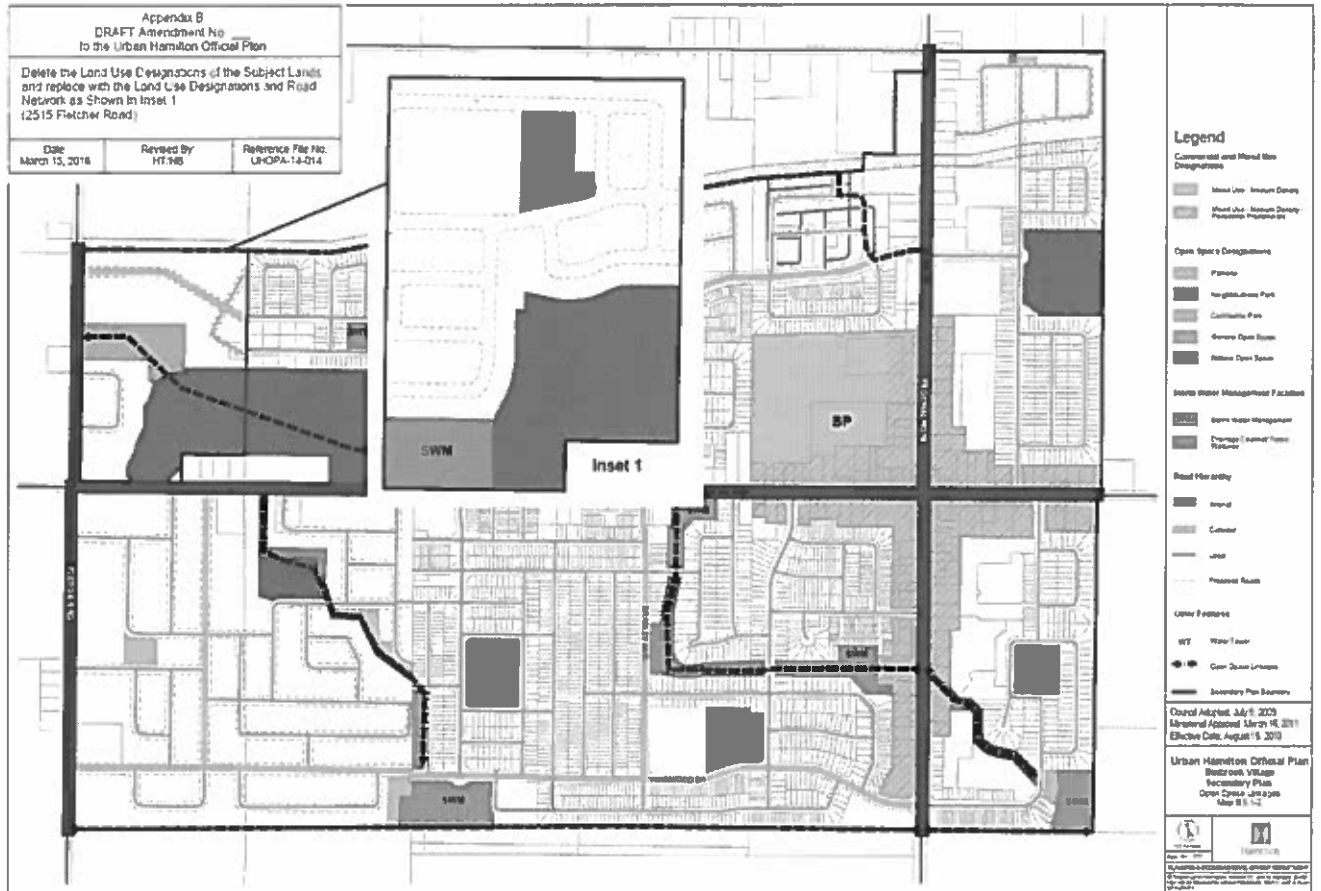
F. Eisenberger
MAYOR

R.Caterini
CITY CLERK

Appendix "A"



Appendix "B"



ATTACHMENT 2

Authority:

Exhibit: 4-A.

File #: A132880.

CITY OF HAMILTON

BY-LAW NO. ████████

To Amend Zoning By-law No. 464 (Glanbrook) Respecting Lands located at 2515 Fletcher Road

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former municipality known as the "The Corporation of the Township of Glanbrook" 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 and Official Plans of the former area municipalities, and the Official Plan of the former regional municipality, 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. 464 (Glanbrook) was enacted on the 16th day of March, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1993;

AND WHEREAS this by-law is in conformity with the Urban Hamilton Official Plan, upon approval of Official Plan Amendment No.

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

1. That Schedule "H", appended to and forming part of by-law No. 464 (Glanbrook), is amended by changing from the:
 - (a) Restricted Agricultural "A2" Zone to the Residential "R4-XXX" Zone, Modified, the lands identified as Block "1";
 - (b) Restricted Agricultural "A2" Zone to the Residential "R4-XXX" Zone, Modified, the lands identified as Block "2"
 - (c) Restricted Agricultural "A2" Zone to the Holding - Residential "H-R4-XXX" Zone, Modified, the lands identified as Block "3";

- (d) Restricted Agricultural "A2" Zone to the Residential Multiple "RM2-XXX" Zone, Modified, the lands identified as Block "4"; and,
- (e) Restricted Agricultural "A2" Zone to the Holding - Residential Multiple "H-RM2-XXX" Zone, Modified, the lands identified as Block "5".

the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

2. That Section 44, "Exceptions to the Provisions of this By-law", of Zoning By-law No. 464 (Glanbrook), be amended by adding Special Exception "R4-XXX", as follows:

"R4-XXX" – 2515 Fletcher Road, Schedule "H"

Notwithstanding the regulations of **SECTION 16: RESIDENTIAL "R4" ZONE, Subsection 16.2 - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUBSECTION 16.2**, Clauses (a), (b), (c), (d), (e), (f) and (g), the following regulations shall apply to the lands zoned "R4-XXX":

- (a) Minimum Lot Frontage..... 11 m
- (b) Minimum Lot Area.....290 sq m
- (c) Maximum Lot Coverage.....n/a
- (d) Minimum Front Yard..... 4.5 m to the dwelling, except 6.0 m to the attached garage.
- (e) Minimum Side Yard
 - (i) 1.2 metres on the garage side and 0.6 metres on non-garage side, subject to a maintenance easement registered on title for any minimum side yard that is less than 1.2 metres, with said maintenance easement permitting encroachment for maintenance purposes only for no more than 0.6 metres into the side yard with a side yard setback less than 1.2 metres. A 0.6 metre side yard setback shall not be permitted adjacent to any side lot line less than 1.2 metres.
 - (ii) On a lot where an emergency/overland flow route shall be located or where back-to-front drainage is proposed, a minimum 2.0 metre side yard separation between buildings shall be provided and maintained along one common lot line.
 - (ii) On a corner lot, the minimum side yard abutting the flankage street shall be 2.4 m, except that an attached garage or attached carport which fronts on the flankage street shall not be located within 6 m of the flanking street line. On a corner lot with a

daylight triangle, a minimum setback to the hypoteneuse of the daylight triangle of 1.0 m for a building or porch, including porch foundation walls, and 0.5 m for eaves or gutters will be required

- (f) Minimum Rear Yard7.0 m
- (g) Minimum Floor Area Per Dwelling.....n/a

Notwithstanding subsection 7.25, **SPECIAL SETBACK REQUIREMENTS FROM TRANSMISSION PIPELINE RIGHTS-OF-WAY**, all principal buildings shall be setback a minimum distance of 7.0 m from the boundary of a transmission pipeline right-of-way.

In addition to the provisions of paragraphs (a) and (b) of Subsection 7.26, **ENCROACHMENT INTO YARDS**, on those lands zoned "R4-XXX", the following regulations shall apply:

- (i) Covered porches may project into any required front yard a distance of not more than 3 m;
- (ii) Bay windows, either with or without foundations may project into any required front, rear or flankage yards a distance of not more than 0.9 m;
- (iii) Stairs may project into any required front yard a distance of not more than 4.5 m or into any required flankage yard of not more than 2.4 m;
- (iv) A cantiliver and/or alcove, either with or without foundations, may project into any required front, rear or garage side yard a distance of not more than 0.6 m; and,
- (v) A covered porch may encroach into a required flankage yard a distance of not more than 1.8m.

3. That Section 44, "Exceptions to the Provisions of this By-law", of Zoning By-law No. 464 (Glanbrook), be amended by adding Special Exception "R4-XXX", as follows:

"R4-XXX and H-R4XXX" – 2515 Fletcher Road, Schedule "H"

Notwithstanding the regulations of **SECTION 16: RESIDENTIAL "R4" ZONE, Subsection 16.2 - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUBSECTION 16.2**, Clauses (a), (b), (c), (d), (e), (f) and (g), the following regulations shall apply to the lands zoned "R4-XXX":

- (a) Minimum Lot Frontage.....9.2 m, except on 11 m for a corner lot
- (b) Minimum Lot Area.....250 sq m, except 290 sq m for a corner lot

- (c) Maximum Lot Coverage.....n/a
- (d) Minimum Front Yard..... 4.5 m to the dwelling, except 6.0 m to the attached garage.
- (e) Minimum Side Yard
 - (i) 1.2 metres on the garage side and 0.6 metres on non-garage side, subject to a maintenance easement registered on title for any minimum side yard that is less than 1.2 metres, with said maintenance easement permitting encroachment for maintenance purposes only for no more than 0.6 metres into the side yard with a side yard setback less than 1.2 metres. A 0.6 metre side yard setback shall not be permitted adjacent to any side lot line less than 1.2 metres.
 - (iii) On a lot where an emergency/overland flow route shall be located or where back-to-front drainage is proposed, a minimum 2.0 metre side yard separation between buildings shall be provided and maintained along one common lot line.
 - (ii) On a corner lot, the minimum side yard abutting the flankage street shall be 2.4 m, except that an attached garage or attached carport which fronts on the flankage street shall not be located within 6 m of the flanking street line. On a corner lot with a daylight triangle, a minimum setback to the hypoteneuse of the daylight triangle of 1.0 m for a building or porch, including porch foundation walls, and 0.5 m for eaves or gutters will be required
- (f) Minimum Rear Yard7.0 m
- (g) Minimum Floor Area Per Dwelling.....n/a

In addition to the provisions of paragraphs (a) and (b) of Subsection 7.26, **ENCROACHMENT INTO YARDS**, on those lands zoned "R4-XXX", the following regulations shall apply:

- (i) Covered porches may project into any required front yard a distance of not more than 3 m;
- (ii) Bay windows, either with or without foundations may project into any required front, rear or flankage yards a distance of not more than 0.9 m;
- (iii) Stairs may project into any required front yard a distance of not more than 4.5 m or into any required flankage yard of not more than 2.4 m;
- (iv) A cantilver and/or alcove, either with or without foundations, may project into any required front, rear or garage side yard a distance of not more than 0.6 m; and,

- (v) A covered porch may encroach into a required flankage yard a distance of not more than 1.8m.

The "H" Holding symbol may be removed by a further amendment to this By-law at such time as the following has been satisfied:

- (a) The downstream channel located on the south side of Binbrook Road is constructed and operational to the satisfaction of the Senior Director of Growth Management; and,
- (b) the Applicant has reviewed current traffic distribution patterns in the Binbrook Village area with specific attention to Fletcher Road at Street 'A', Binbrook Road at Fletcher Road, and Fall Fair Way at RR 56. A review of the signalized intersection level of service at RR 56 and Fall Fair Way may be required as part of the Phase 2 approvals, to the satisfaction of the Corridor Management.

- 4. That Section 44, "Exceptions to the Provisions of this By-law", of Zoning By-law No. 464 (Glanbrook), be amended by adding Special Exception "RM2-XXX", as follows:

"RM2-XXX and H-RM2-XXX – 2515 Fletcher Road, Schedule "H"

Notwithstanding the regulations of **SECTION 18: RESIDENTIAL MULTIPLE "RM2" ZONE, Subsection 18.2 - REGULATIONS FOR USES PERMITTED IN PARAGRAPH (a) OF SUBSECTION 18.2**, Clauses (a), (b), (c), (d), (e), (f), and (i), the following regulations shall apply to the lands zoned "C3-287":

- (a) Minimum Lot Frontage.....6 m except 9 m for a corner lot
- (b) Minimum Lot Area.....150 sq m, except 195 sq m for end unit not abutting a flankage street and 240 sq m for end unit abutting a flankage street
- (c) Maximum Lot Coverage..... n/a
- (d) Minimum Front Yard.....4.5 m to the dwelling, except 6.0 m to the attached garage.
- (e) Minimum Side Yard
 - (i) 1.2 m on an end unit not abutting a flanking street; and,
 - (ii) 2.4 m on an end unit on a corner lot abutting a flanking street, except that an attached garage which fronts on the flankage street shall not be located within 6 m of the flankage street line.

- (iii) On a corner lot with a daylight triangle, a minimum setback to the hypoteneuse of the daylight triangle of 1.0 m for a building or porch, including porch foundation walls, and 0.5 m for eaves or gutters will be required.
- (f) Minimum Rear Yard.....7 m
- (i) Minimum Landscaped Area.....20 percent

In addition to the provisions of paragraphs (a) and (b) of Subsection 7.26, **ENCROACHMENT INTO YARDS**, on those lands zoned "RM2-XXX", the following regulations shall apply:

- (i) Covered porches may project into any required front yard a distance of not more than 3 m;
- (ii) Bay windows, either with or without foundations may project into any required front, rear or flankage yards a distance of not more than 0.9 m;
- (iii) Stairs may project into any required front yard a distance of not more than 4.5 m or into any required flankage yard of not more than 2.4 m;
- (iv) A cantilver and/or alcove, either with or without foundations, may project into any required front, rear or garage side yard a distance of not more than 0.6 m; and,
- (v) A covered porch may encroach into a required flankage yard a distance of not more than 1.8m.

The "H" Holding symbol may be removed by a further amendment to this By-law at such time as the following has been satisfied:

- (a) The downstream channel located on the south side of Binbrook Road is constructed and operational to the satisfaction of the Senior Director of Growth Management; and,
- (b) the Applicant has reviewed current traffic distribution patterns in the Binbrook Village area with specific attention to Fletcher Road at Street 'A', Binbrook Road at Fletcher Road, and Fall Fair Way at RR 56. A review of the signalized intersection level of service at RR 56 and Fall Fair Way may be required as part of the Phase 2 approvals, to the satisfaction of the Corridor Management.

4. 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 Residential "R4" Zone provisions, subject to the special requirements referred to in Sections 2 and 3 and the Residential

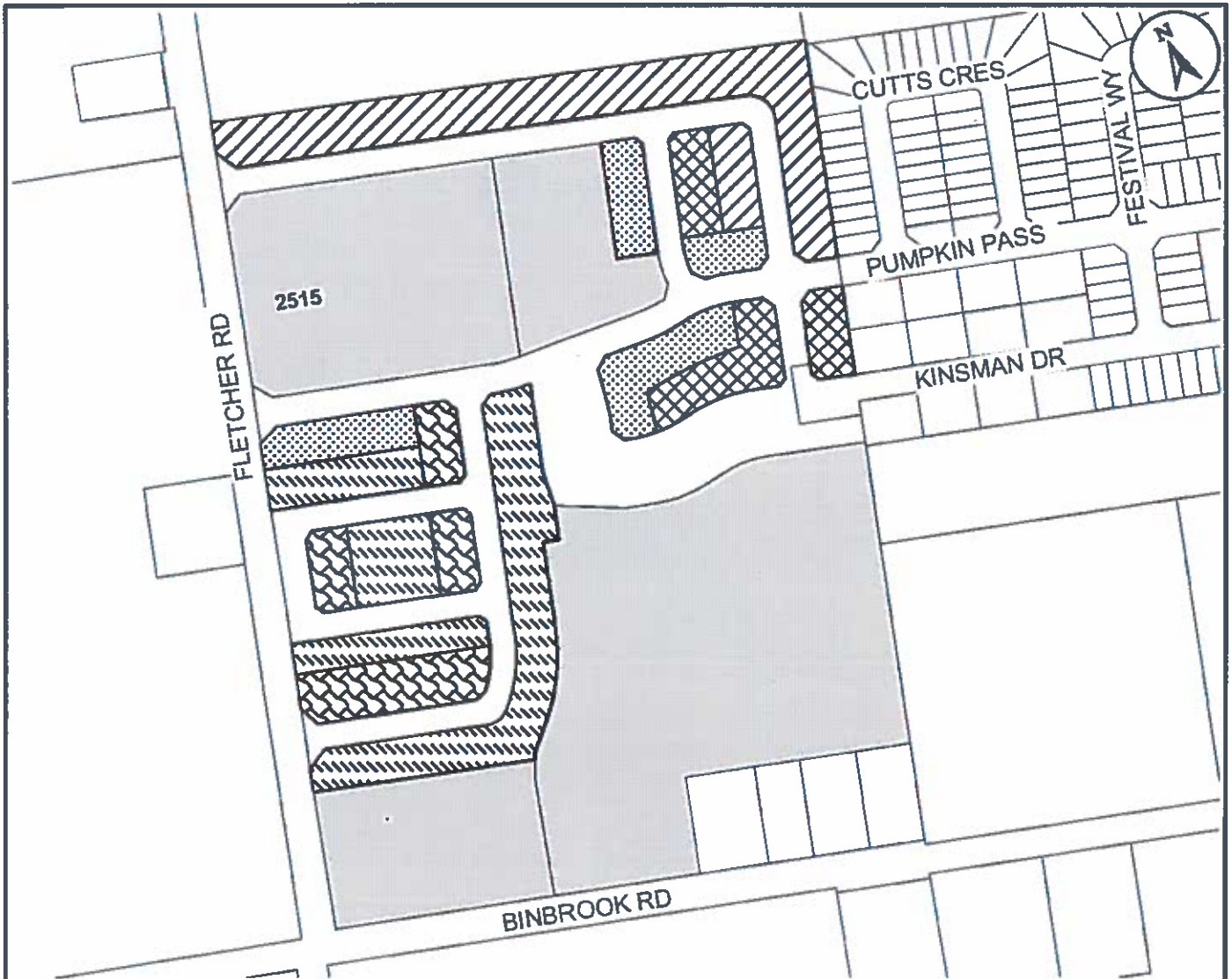
Multiple "RM2" Zone provisions, subject to the special requirements referred to in Section 4.

PASSED and ENACTED this [REDACTED] day of [REDACTED], 2016.

F. Eisenberger
Mayor

R. Caterini
Clerk

ZAC-06-056
UHOPA-14-004
25T200610






This is Schedule "A" to By-law No. 16-
 Passed the day of, 2016

 Mayor

 Clerk

Schedule "A"
 Map Forming Part of
 By-law No. 16-_____
 to Amend By-law No. 464

- Subject Property**
 2515 Fletcher Road
-  Block 1 - Change in Zoning from Restricted Agricultural "A2" Zone to Residential "R4-xx" Zone, Modified
 -  Block 2 - Change in Zoning from Restricted Agricultural "A2" Zone to Residential "R4-xx" Zone, Modified
 -  Block 3 - Change in Zoning from Restricted Agricultural "A2" Zone to Holding-Residential "H-R4-xx" Zone, Modified
 -  Block 4 - Change in Zoning from Restricted Agricultural "A2" Zone to Residential Multiple "RM2-xx" Zone, Modified
 -  Block 5 - Change in Zoning from Restricted Agricultural "A2" Zone to Holding-Residential Multiple "H-RM2-xx" Zone, Modified
 -  Refer to By-law 05-200

Scale: N.T.S.	File Name/Number: ZAC-08-056/UHOPA-14-004/25T200810
Date: March 15, 2016	Planner/Technician: HT/NB
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	



ATTACHMENT 3

Exhibit: 4-B
File #: PL150880

Authority:

Bill No.

CITY OF HAMILTON

BY-LAW NO.

To Amend Zoning By-law No. 05-200 (City of Hamilton) Respecting Lands located at 2515 Fletcher Road

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

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

AND WHEREAS Zoning By-law, being By-law No. 05-200, was enacted on the 25th day of May, 2005;

AND WHEREAS this by-law is in conformity with the Urban Hamilton Official Plan, upon approval of Official Plan Amendment No.

NOW THEREFORE the City of Hamilton enacts as follows:

1. That Map Nos. 1884, 1885, 1909, and 1910 of Schedule "A" – Zoning Maps, to Zoning By-law No. 05-200 are amended by incorporating additional Conservation/Hazard Land (P5) Zone boundaries for the applicable lands, the extent and boundaries of which are shown as Block 1 on a plan hereto annexed as Schedule "A".
2. That Map Nos. 1884, 1885, 1909, and 1910 of Schedule "A" – Zoning Maps, to Zoning By-law No. 05-200 are amended by incorporating additional Neighbourhood Park (P1) Zone boundaries for the applicable lands, the extent and boundaries of which are shown as Block 2 on a plan hereto annexed as Schedule "A".
3. That Map Nos. 1884, 1885, 1909, and 1910 of Schedule "A" – Zoning Maps, to Zoning By-law No. 05-200 are amended by incorporating additional Community Institutional (I2) Zone boundaries for the applicable lands, the extent and boundaries of which are shown as Block 3 on a plan hereto annexed as Schedule "A".

4. That this By-law No. _____ shall come into force and be deemed to come into force in accordance with Subsection 34(21) of the *Planning Act*, either upon the date of passage of this By-law or as otherwise provided by the said subsection.

PASSED and ENACTED this [] day of [], 2016.

F. Eisenberger
Mayor

R. Caterini
Clerk

ZAC-06-056
UHOPA-14-004
25T200610



This is Schedule "A" to By-law No. 16-

Passed the day of, 2016

Mayor

Clerk

Schedule "A"

Map Forming Part of
By-law No. 16-_____

to Amend By-law No. 05-200
Map 1884, 1885, 1909, 1910

Subject Property

2515 Fletcher Road



Block 1 - Lands to be Zoned Conservation/Hazard
Lands (P5) Zone



Block 2 - Lands to be Zoned Neighbourhood Park
(P1) Zone



Block 3 - Lands to be Zoned Community Institutional
(I2) Zone



Refer to By-law 464

Scale:
N.T.S.

File Name/Number:
ZAC-06-056/UHOPA-14-004/ZST200610

Date:
March 15, 2016

Planner/Technician:
HT/NB



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

ATTACHMENT 5

Exhibit:

5

File #:

PL15880

That this approval apply to the Draft Plan of Subdivision, 25T200610, prepared by Armstrong Planning & Project Management and certified by Bryan Jacobs OLS, dated March 18, 2016, to allow for the development of 13 blocks for single detached dwellings (Blocks 1-3, 7-10, 13, 14, 16, 18, 20, 21), 9 blocks for street townhouses (Blocks 4-6, 11, 12, 15, 17, 19, 33), 1 block for a school (Block 22); 1 block for a park (Block 23), 1 block for a woodlot (Block 24), 1 block for stormwater management (Block 25), 1 block for road widening (Block 26), 1 block for servicing and overland flow route (Block 27), 5 blocks for 0.3 m reserves (Blocks 28-32) and the construction of 7 public streets (Streets A through G), subject to the owner entering into a Standard Form Subdivision Agreement, as approved by the Ontario Municipal Board, and with the following special conditions.

Development Planning, Heritage and Design:

1. That, prior to registration, the owner shall provide a Tree Protection Plan in accordance with the City of Hamilton's Street Tree Protection Guidelines to the satisfaction of the City of Hamilton, Director of Planning and the Forestry and Horticulture Section.
2. That, prior to registration, the owner shall provide a Landscape Plan showing the placement of all trees on internal and external City property, to the satisfaction of the City of Hamilton, Forestry and Horticulture Section.
3. That, prior to registration, that the owner shall provide updated Architectural and Urban Design Guidelines, to the satisfaction of the City of Hamilton, Director of Planning.
4. That, at the owner's expense, a "Control Architect", independent of the "Design Architect" firm or individual, shall be retained to the satisfaction of the City of Hamilton, Director of Planning, and whose function shall be:
 - i) to ensure, amongst other matters, the appropriate development of each lot with respect to siting, built form, materials, colours and landscaping in compliance with the approved Architectural and Urban Design Guidelines; and,
 - ii) to certify, through stamping and signing, all drawings for the development of each lot and or block subject to the architectural guidelines prior to the issuance of any building permit(s).
5. The City of Hamilton may undertake periodic reviews of certified drawings to ensure compliance with the Architectural and Urban Design Guidelines. Where inadequate compliance is evident the City of Hamilton may cease to accept certified drawings by the Control Architect and the owner shall

retain another Control Architect satisfactory to the City of Hamilton, Director of Planning.

6. That, prior to registration of each Phase, that the owner shall provide a streetscape plan to be implemented to the satisfaction of the Director of Planning detailing enhanced boulevard landscaping treatment, fencing and lighting for the required streets, details of the gateway features and roundabout design (as applicable to each Phase) and that implementation of the construction of these features be included as part of the subdivision costs, to the satisfaction of the Director of Planning
7. That, prior to registration, 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 Environment's recommended sound level limits. A revised 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 bore by the owner and shall be submitted to the satisfaction of the City of Hamilton Director of Planning.
8. That, prior to pre-grading, the applicant will prepare a storm water management plan, including a water balance, that demonstrates that surface water quantity and quality into the Significant Woodland will be maintained at pre-development levels. To show no negative impacts to the Significant Woodland, the applicant must demonstrate that the amount and seasonal fluctuations of water draining into the Significant Woodland will remain the same after development, to the satisfaction of the City of Hamilton, Director of Planning.

Engineering Approvals:

9. That, ***prior to registration of the plan of subdivision***, the Owner pay to the City any outstanding commutation charges assessed against the lands in the draft plan, which amount represents the Owner's share of the Binbrook Village Stormwater Management Pond in accordance with a sewer rate established by the City for the Binbrook Village Urban Drainage Area under By-law No. 607-00 to the satisfaction of the Senior Director, Growth Management.
10. That, ***prior to registration of the plan of subdivision***, 7.0 metre by 7.0 metre daylight triangles be established on the final plan of subdivision at the intersections of Street 'A' (Pumpkin Pass Extension) and Streets 'B', 'C', 'E', 'F' and 'G' to the satisfaction of the Senior Director, Growth Management.

11. That, ***prior to registration of the plan of subdivision***, a 15.0 metre by 15.0 metre daylight triangle be established on the final plan of subdivision at the widened limits of the intersection at Binbrook Road West and Fletcher Road to the satisfaction of the Senior Director, Growth Management.
12. That, ***prior to registration of the plan of subdivision***, a 12.0 metre by 12.0 metre daylight triangles be established on the final plan of subdivision at the intersection of Street 'A' (Pumpkin Pass) and Fletcher Road and at the intersection of Street 'F' and Fletcher Road to the satisfaction of the Senior Director, Growth Management.
13. That, ***prior to registration of the plan of subdivision***, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the intersections of Street 'B' and Street 'E', Street 'C' and Street 'D', corner of block 2 on street 'F', street 'F' and street 'G', corner of block 6 on street 'B', street 'D' (south) and street 'C', corner of block 19 on street 'C', Block 21 and street 'D' (north and south) to the satisfaction of the Senior Director, Growth Management.
14. That, ***prior to registration of the plan of subdivision***, the Owner dedicate sufficient land necessary to the City to establish an ultimate road allowance of 30.48 metres on Binbrook Road West, to the satisfaction of the Senior Director, Growth Management.
15. That, ***prior to registration of the plan of subdivision***, the Owner dedicate sufficient land necessary to the City to establish an ultimate road allowance of 30.48 metres on Fletcher Road, to the satisfaction of the Senior Director, Growth Management.
16. That, ***prior to registration of Phase 2 of the plan of subdivision***, the Owner submits the necessary transfer deeds to the City's Legal Department to transfer SWM Facility (Block 25) and a separate SWM channel block of the draft plan to the City, to the satisfaction of the Senior Director, Growth Management.
17. That, ***prior to registration of the plan of subdivision***, the Owner agrees that Block 21 will remain undevelopable until such time as the SWM Facility (Block 25) shape and size is confirmed to the satisfaction of the Senior Director, Growth Management.
18. That, ***prior to registration of the plan of subdivision***, the final plan of subdivision include a minimum 6.0 m block within Blocks 10 and 20 in favour of the City, to provide access to the Woodlot (Block 24), to the satisfaction of the Senior Director, Growth Management.
19. That, ***prior to registration of the plan of subdivision***, the final plan of subdivision include a 12.0 m block between blocks 20 & 21 in favour of the

City, to accommodate a sewer, overland flow route and maintenance access to the SWMP (Block 25), to the satisfaction of the Senior Director, Growth Management. A block less than 12.0 m may be permitted, subject to approval from the Senior Director, Growth Management.

20. That, ***prior to registration of the plan of subdivision***, the Owner shall provide a minimum 6.0 m pedestrian access block from Street "C" to Binbrook Road West, to the satisfaction of the Senior Director, Growth Management.

21. That, ***prior to issuance of Building Permit***, the Owner may proceed with registration, preliminary grading and servicing. No connection to the existing sanitary outlet will be permitted until there is sufficient sanitary capacity available including, but not limited to upgrades at the Binbrook Sanitary Sewer Pumping Station and the existing sanitary forcemain to service the increased flows from the proposed development to the satisfaction of the Senior Director, Growth Management.

22. That, ***prior to servicing***, the Owner include in the engineering design and cost estimates, provision for construction of a 1.5 metre high black vinyl coated heavy duty chain link fence:

- A) along the rear yards of Block 1 abutting the easement of the interprovincial pipeline company
- B) along the rear yard of Block 33 and the south limit of Block 33, abutting the park(Block 23),
- C) along the rear yards of Block 21 abutting Block 25 (SWMP)
- D) along the rear yards of Blocks 10 and 20 abutting Block 24(Woodlot),

all to the satisfaction of the Senior Director, Growth Management.

23. That, ***prior to servicing***, the Owner provides, to the satisfaction of the Senior Director of Growth Management, 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.

24. That, ***prior to servicing***, the Owner shall prepare a plan showing the design and location of siltation and erosion control measures including a ESC pond in accordance with the "Erosion and Sediment Control Guidelines for Urban Construction December 2006" manual, to the satisfaction of the Senior Director, Growth Management.
25. That, ***prior to servicing***, the Owner shall include in the engineering design all road geometric to City Of Hamilton standards. The minimum urban residential horizontal centreline road radius excluding 90 deg. Curves shall be; 90m for local roads, 95m for minor collectors and 160m for major collectors, to the satisfaction of the Senior Director, Growth Management.
26. That, ***prior to servicing***, the Owner, through a soil consultant or other qualified consultant, shall: check existing wells which provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells, prior to commencement of construction; monitor these wells during construction and continue monitoring and checking the wells after completion of construction until full buildout of the subdivision. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Senior Director, Growth Management
27. That, ***prior to servicing***, the Owner shall submit a Hydrogeological Report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, provide recommendations to mitigate the groundwater impacts during any construction within the subdivision including, but not limited to, house construction, addressing the impacts of the pond bottom elevation below the groundwater table, and to undertake any mitigative works, as recommended, including monitoring. The report shall include a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:
- i) an aquifer is breached during construction;
 - ii) groundwater is encountered during any construction within the subdivision including but not limited to , house construction;
 - iii) sump pumps, if required, are found to be continuously running; and,
 - iv) water supply and sewage disposal systems, and any surface and groundwater related infrastructure, are negatively impacted.
28. That, ***prior to servicing***, the owner shall include in the engineering design and cost schedules, provision for a minimum of 2.0m separation between foundation walls, in order to accommodate the requirement of an overland flow route to the municipal road allowance with a maximum water surface

depth of 0.30m on the rear lot catch basin, to the satisfaction of the Senior Director, Growth Management.

29. That, ***prior to servicing***, the Owner shall submit a detailed sump pump design to include a secondary relief/overflow to the surface. The pump design shall consider the weeping tile inflow based on the groundwater and severe wet weather conditions, to the satisfaction of the Senior Director of Growth Management.
30. That, ***prior to servicing***, the Owner shall indicate all driveway locations on the engineering drawings for all lots, and that no driveway shall be located within a daylight triangle. Further, all driveway locations at bends and corners shall be situated to ensure that the driveways are within their own lot frontages, to the satisfaction of the Senior Director, Growth Management.
31. That, ***prior to servicing***, the Owner prepare an on-street parking plan for Streets "A", "B", "C", "D", "E", "F" & "G" to provide on-street parking for 40% of the total number of units to the satisfaction of the Senior Director, Growth Management.
32. That, ***prior to servicing of each Phase***, the Owner include in the engineering the engineering design and cost estimate schedules for the draft plan lands installation of sidewalks, subject to City sidewalk policies as applicable to each Phase of development at the time of engineering approvals, on streets "A", "B", "C", "D", "E", "F" & "G", to the satisfaction of the Senior Director, Growth Management including sidewalks on the east side of Fletcher Road from the north limit of the subject lands to Binbrook Road West and along Binbrook Road West from Fletcher Road to Royal Winter Drive (in Phase 2), to the satisfaction of the Senior Director, Growth Management.
33. That, ***prior to servicing of each Phase, respectively***, the Owner shall submit a detailed stormwater management report (as applicable to each Phase) prepared by a qualified professional engineer, in accordance with the updated Binbrook Master Drainage Plan, City of Hamilton Stormwater Infrastructure Guidelines and the MOECC Stormwater Management Planning and Design Manual (2003), all to the satisfaction of the Senior Director of Growth Management:
 - i) Demonstrating that the hydraulic gradeline for the post-development 100-Year storm event is located at or below the top of grate elevation at all inlet locations and the 5 year HGL shall not exceed the obvert of the sewers;
 - ii) Verifying that the proposed SWM Facility, Block 25, shall be of sufficient size and shape to adequately accommodate the ultimate SWM facility, including and adequate decanting area as

per City standards. Until such time as the size and shape are confirmed the adjacent block 21 shall be considered as undevelopable. The SWM facility design geometry shall be as per City of Hamilton Criteria and Guidelines for Stormwater Infrastructure Design (2007), and facility landscaping as per City of Hamilton Landscape Design Guidelines for SWM facilities (2009);

Furthermore, that ***prior to assumption***, the Owner shall agree:

- a) To submit an operation and maintenance manual, as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (2009), for approval by the Senior Director of Growth Management;
- b) To keep detailed logs concerning stormwater 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 operation manual;
- c) To construct, operate and maintenance, at the owner's expense, the stormwater management facility, in a manner acceptable to the City, including any changes to conditions of the MOE's Environmental Compliance Approval, throughout the servicing of all stages of draft plan registration and development of all registered lots and blocks, and external developments contributing runoff to the SMW facility or until such time as determined by the Senior Director of Growth Management; and,
- d) To remove sediment from the stormwater management facility attributed to development, carry out a bathymetric survey and verify volumetric capacity of the stormwater management facility, prior to release of the Owner's operation and maintenance responsibilities for the stormwater management facility.

34. That, ***prior to preliminary grading of Phase 2***, the Owner shall demonstrate that they have a suitable storm outlet and the right to drain to it, to the satisfaction of the Senior Director, Growth Management.

35. That, ***prior to preliminary grading***, the Owner acknowledges that the preliminary grading for Phase 2 lands shall not commence until the downstream channel located south of Binbrook Road is designed and approved by the City of Hamilton and the Niagara Peninsula Conservation Authority (NPCA). The proposed SWM facility design and the storm sewer design on Binbrook Road shall be designed in accordance with the downstream channel inverts, to the satisfaction of the Senior Director, Growth Management.
36. That, ***prior to preliminary grading of Phase 2***, the Owner agrees to monitor drainage across the lands from Binbrook Road to Kirk Road West to ensure that the existing lands are not negatively impacted by the development. The monitoring plan will occur throughout the construction of the subdivision and for a period of not less than 2 years after all lot/blocks within Phase 2 lands are fully developed. In the event, that a problem arises, the Owner further agrees to take the necessary remedial action as per the monitoring report at their cost. The security for the SWM pond in Phase 2 shall not be reduced below \$100,000 until it has been demonstrated that there are no impacts as a result of development for a period of not less than 2 years after full buildout of Phase 2 lands, to the satisfaction of the Senior Director, Growth Management.
37. That, ***prior to preliminary grading***, the Owner agrees to design and construct an open channel to convey the greater of the 100 year or Regional event for external flow by-passing the proposed SWM facility at his own cost, to the satisfaction of the Senior Director, Growth Management.
38. That, ***prior to servicing the Phase 2 lands***, the Owner shall update the Binbrook Master Drainage Plan to cover the following items:
- calibrated Hydrologic model in consideration with the Hydrometeorologic and Fluvial Geomorphologic data downstream which shall demonstrate erosion flow exceedance and pre-development peak flow targets for the Caterini lands, McNally lands and the B2 ponds, based on a geomorphologic and hydraulic assessment of downstream creeks from Binbrook Road to Kirk Road West.
 - develop a baseline condition for the existing creek systems from Binbrook Road to 4165 Kirk Road West.
39. That ***prior to servicing of Phase 2***, the Owner include in the engineering design and cost estimates provision for urbanization of Binbrook Road West from approx. 55 m west of Royal Winter Drive to Fletcher Road, including but not limited to watermain, sanitary and storm sewers,

sidewalks, utilities and intersection improvements, to the satisfaction of the Senior Director, Growth Management.

40. That ***prior to servicing of Phase 2***, the Owner include in the engineering design and cost estimates provision for urbanization of Fletcher Road from Binbrook Road West to the northerly limit of the subject lands, including but not limited to watermain, sanitary and storm sewers, sidewalks and utilities, to the satisfaction of the Senior Director, Growth Management.
41. That ***prior to servicing***, the Owner 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 and pay all costs for replacement of such street trees East to the satisfaction of the Senior Director, Growth Management.
42. That, ***prior to servicing***, the Owner be required to relocate, as required, all affected utility poles, hydrants, pedestals, hydro vaults, etc. at his expense, on Binbrook Road West and Fletcher Road to the satisfaction of the Senior Director, Growth Management.
43. That, ***prior to servicing***, the Owner shall agree that a maximum of 100 residential units of the final plan of subdivision shall be permitted to be constructed with only one (1) public road access to service each phase of the development. A second public road access to the subject lands is required, prior to development, beyond the initial one hundred (100) residential units, to the satisfaction of the Senior Director, Growth Management.
44. That, ***prior to servicing***, where services are to be constructed in rock, the Owner shall conduct a pre-condition survey of residences within 100 metres and notify residents of rock removal within 200 metres of that phase of construction, to the satisfaction of the Senior Director, Growth Management.
45. That ***prior to servicing***, the Owner will shall submit a rock removal protocol and vibration monitoring plan and associated cost estimates, prepared by a licensed Professional Engineer. The cost to implement the Owner's blasting protocol and vibration monitoring plan shall be included in the engineering cost schedules, to the satisfaction of the Senior Director, Growth Management.

Corridor Management:

46. That prior to servicing, the owner install traffic calming features in the Phase 1 lands, to the satisfaction of the Senior Director, Growth Management. The form of calming features will be confirmed at the draft plan engineering stage, however staff from the Public Works Community Traffic section have assisted with input as they are actively involved in the Safe Routes to School Charter. Recommended traffic calming features include:
- To physically reduce the speed of drivers on Fletcher Road entering the urban area the construction of short sections of raised median islands will be constructed on the north and south legs of Fletcher Road at Street 'F' and Fletcher Road at Street 'A'
 - A raised intersection with all-way stop control at Street 'A' and Street 'B' and at Street 'A' and Street 'C'.
 - A raised intersection with all-way stop control at Street 'F' and Street 'G'.
47. That prior to servicing, the applicant will contribute financially towards the installation of traffic calming measures in the form of reduced speed limit 40 km/h flashing school zone beacons (solar) to be posted on Fletcher Road. All costs associated with the provision of this measure will be expense of the applicant, dedicated to the City of Hamilton. The anticipated cost for purchase and installation is \$17,000. The location of the installations will be determined by the City and the School Board and to the satisfaction of the Senior Director, Growth Management.
48. That prior to servicing, the owner construct in Phase 2 a single lane roundabout at the intersection of Fletcher Road at Binbrook Road as identified in the 'Binbrook Road and Regional Road 56 Municipal Class Environmental Assessment', to the satisfaction of the Senior Director, Growth Management.
49. That prior to servicing, the applicant provide a centerline profile of Fletcher Road from a point minimum 250 m north of the intersection with Street 'F' extending as far to the south as required to ensure required sightline and street lighting standards have been met, to the satisfaction of the Senior Director, Growth Management. The applicant must determine from that profile what the sightlines are for motorists turning into and out of Street 'F', Street 'A' and Street 'C'. The applicant must incorporate Transportation Association of Canada methods in the calculations ie. driver height at the subdivision roads looking north and south to headlight of vehicle on Fletcher Road, 20 km/h over posted speed, sight lines for left and right turns to attain 85% of design speed, etc. If acceptable sightlines are not available given the existing road profile then road elevation modifications will be required at the developer's expense.

50. That prior to servicing, the applicant must review the requirements for a southbound left turn lane on Fletcher Road at Street 'A' in Phase 1. If a left turn lane is required based on full build out of the site, including School Block 22 and the residential lands to the east, then storage and taper lengths must be calculated in accordance with TAC standards, and to the satisfaction of the Senior Director, Growth Management.
51. That prior to servicing, all residential driveways must be constructed outside of intersection daylight triangles, to the satisfaction of the Senior Director, Growth Management. We note that the Block 11 and Phase 2 Block 19 corner units may need to be wider than a 6.0 m frontage to accommodate the driveway locations adjacent to Fletcher Road.
52. That prior to servicing, on street parking restrictions be considered in the required Parking Plan for Street 'A' between Fletcher Road and Street 'C', to the satisfaction of the Senior Director, Growth Management. We want to ensure full pavement width is available for school bus and passenger vehicle access through the school zone area on Street 'A'. Street 'A' is identified as a Collector Road with parking to be provided on one side only in the Binbrook Village Transportation Master Plan.

Niagara Peninsula Conservation Authority

53. That, prior to construction, the applicant circulate to the Niagara Peninsula Conservation Authority detailed grading, storm servicing, stormwater management, and construction sediment control drawings for review and approval.
54. That the above noted condition be incorporated into the Subdivision Agreement between the Developer and the City of Hamilton to the satisfaction of the Niagara Peninsula Conservation Authority. The City of Hamilton shall circulate the draft Subdivision Agreement to the Niagara Peninsula Conservation Authority for its review and approval.

Enbridge

55. That, prior to construction, the owner/developer shall erect a permanent fence along the south edge of the Enbridge right-of-way to prevent future encroachments and ensure heavy equipment does not cross the pipeline during construction. Enbridge Inspector must be present during fence installation.
56. That the owner/developer shall obtain written approval from Enbridge prior to any grading or placing fill on Enbridge's right-of-way.

57. That the owner/developer shall ensure the presence of an Enbridge Inspector for any works within Enbridge's right-of-way.
58. That the owner/developer shall obtain written approval prior to any heavy machinery being permitted to cross Enbridge's right-of-way.
59. That the owner/developer shall obtain written approval prior to any landscaping within Enbridge's right-of-way.

Hamilton Wentworth District School Board

60. That the owner, at their expense, place adequate signage on site based on Hamilton-Wentworth District School Board specifications advising that "Students from this development are likely to be redirected to schools outside of the area with available capacity and that students may be transported as governed by the Board's Transportation Policy";
61. That the owner include, in all agreements of purchase and sale, notice to purchasers advising that "Students from this development are likely to be directed to schools outside of the area with available capacity and that students may be transported as governed by the Board Transportation Policy.";
62. That the owner agree that any rental or lease agreement required for occupancy include, in all agreements to renters or leasers, a clause advising that "Students from this development are likely to be directed to schools outside of the area with available capacity and that students may be transported as governed by the Board Transportation Policy."

Hamilton Wentworth Catholic District School Board

63. That, prior to final approval, the applicant shall make arrangements satisfactory to the Hamilton-Wentworth Catholic District School Board for:
 - a) The acquisition or reservation for future acquisition of Block 22 designated in the plan for elementary school purposes.
 - b) The clearing, grubbing, engineered filling where required and grading of Block 22 be carried out to the satisfaction of the Hamilton Wentworth Catholic District School Board. This includes the removal of any and all buildings and structures, tanks and utility structures.
 - c) A clause be included in the subdivision agreement which prohibits the stockpiling of any soils or material on Block 22 and guarantees any existing stockpiled material be removed.
 - d) That the designation of Block 22 as an elementary separate school site is subject to the completion of a soils report, of which the findings will be

addressed by the applicant to the satisfaction of the Hamilton-Wentworth Catholic District School Board.

64. Director of Planning

65. That, prior to the signing of the final plan, the Director of Planning must be satisfied that Conditions (1) to (14) inclusive, have been carried out to his satisfaction, with a brief but complete statement indicating how each condition has been satisfied.

CITY COST SHARING

According to the Functional Servicing report the City will cost share for underground and above ground services adjacent to parkland. However, while the underground works are based upon the percentage of street frontage abutting Park (Block 23) the aboveground works (excluding oversizing) costs are based upon a flat rate detailed in our New Roads Servicing Rate.

While not mentioned in the FSR cost schedules Binbrook Road West from approx. 120m west of Royal Winter Drive to Fletcher Road and Fletcher Road from Binbrook Road West to Street "F" will need to be urbanized. Also, the FSR incorrectly indicates that the City share for sanitary sewer and watermain on Binbrook Road West and Fletcher Road is 100%.

The Owner will contribute their proportionate share to the cost of these works according to City's Financial policy.

NOTES TO DRAFT PLAN APPROVAL

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.

CASH IN LIEU OF PARKLAND