

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: June 16, 2017

CASE NO(S): PL160498

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

Applicant and Appellant: Mikmada Development Group Inc.
Subject: Application to amend Zoning By-law No. 90-145-Z -Neglect of the City of Hamilton to make a decision
Existing Zoning: "HC-2" Highway Commercial
Proposed Zoning: "R6-x" Medium Density Residential and "R1" Urban Residential
Purpose: To permit a 79-unit townhouse development
Property Address/Description: 383 Dundas Street East
Municipality: City of Hamilton
Municipality File No.: ZAC-15-055
OMB Case No.: PL160498
OMB File No.: PL160498
OMB Case Name: Mikmada Development Group Inc. v. Hamilton (City)

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Subject: Site Plan
Referred by: Mikmada Development Group Inc.
Property Address/Description: 383 Dundas Street East
Municipality: City of Hamilton
OMB Case No.: PL160498
OMB File No.: PL170047

Heard: May 23, 2017, Dundas ON

APPEARANCES:

Parties

Mikmada Development Group Inc.

Waterdown Bay Ltd.

City Of Hamilton

Counsel

Russell Cheeseman

Scott Snider

Michael Kovacevic

MEMORANDUM OF ORAL DECISION OF SHARYN VINCENT AND ORDER OF THE BOARD

INTRODUCTION

[1] Mikmada Development Group Inc. has appealed Council's failure to decide on the application to rezone a portion of the Connon Nurseries property located at 383 Dundas Street East in Waterdown, within the City of Hamilton to permit a 79 unit townhouse development. As part of the same application, the Applicant seeks to rezone the existing single detached house on property known municipally as 4 First Street in order to legalize and allow the severance of the existing dwelling which is currently part of the commercially zoned parcel occupied by Connon Nurseries.

[2] A consent application was twice considered and granted, conditionally upon the rezoning of the parcel to be retained being in accordance with the frontage, setback and other provisions of the R1 zone of By-law No. 90-145Z.

[3] The Board heard un-contradicted evidence from two planners that the rezoning and continued use of the existing single detached residence represented good planning, and that there was no purpose served by having the consent approving the conditional severance lapse for again.

ORDER

[4] The Board therefore orders that the appeal against By-law No. 90-145-Z respecting lands located at 4 First Street and forming part of the Highway Commercial

“HC-2” Zone at 383 Dundas Street is allowed in part, and By-law No. 90-145-Z is amended as set out in Attachment 1 to this order. The parcel is to be zoned Urban Residential (Single Detached) R1 in accordance with Attachment 1.

[5] In all other respects to the appeal by Mikmada Development Group Inc., the Board reserves its decision.

“Sharyn Vincent”

*SHARYN VINCENT
MEMBER*

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

Ontario Municipal Board

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

ATTACHMENT 1

PL160498
May 9, 2017

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 90-145-Z (Flamborough),
Respecting Lands Located at 383 Dundas Street East, in the former Town of
Flamborough, now in the City of Hamilton**

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

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

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

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th day of November 1990, and approved by the Ontario Municipal Board on the 21st day of December, 1992;

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan approved August 16, 2013.

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

1. Schedule "A-31" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended:
 - i) By changing from the Highway Commercial "HC-2" Zone to the Urban Residential (Single Detached) Zone, for lands comprised in Block 1

the extent and boundaries of which more particularly shown on Schedule "A" attached hereto and forming part of this by-law.

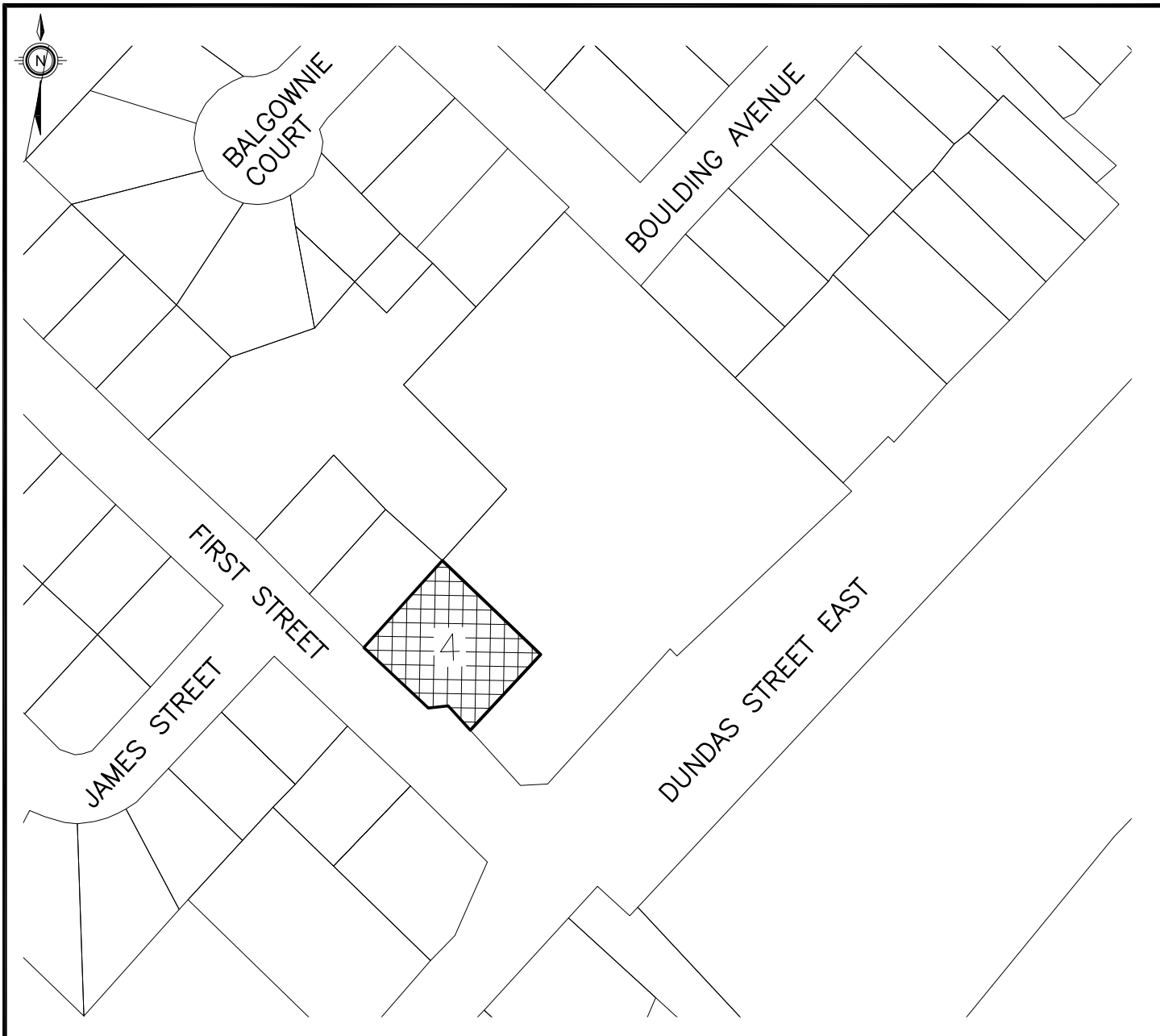
2. That the amended By-law be added to Schedule "A-█" of Flamborough Zoning By-law No. 90-145-Z.

3. The Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this day of , 2017.

F. Eisenberger
Mayor

R. Caterini
Clerk



This is Schedule "A" to By-Law No.17-
Passed the.....day of, 2017

Clerk

Mayor

Schedule "A"

Map Forming Part of
By-Law No. 17- _____

to Amend By-Law No. 90-145-Z

Subject Property

4 FIRST STREET



Block 1 - FROM Highway Commercial "HC-2," modified Zone
TO Urban Residential (Single Detached) "R1" Zone

Scale: N.T.S
Date: 2017

File Name/Number:
ZAR-15-055
4 FIRST STREET
CITY OF HAMILTON



200 East Wing
360 James Street North
Hamilton ON L8L 1H5
tel 905 546 1010
fax 905 546 1011
toll free 1 877 622 2798
www.ibigroup.com

Zoning By-law Amendment