

Local Planning Appeal Tribunal

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

Appellant: Harbour West Neighbours Inc. & Herman Turkstra
Appellant: Parrish & Heimbecker Ltd.
Subject: By-law No. BL 17-095
Municipality: City of Hamilton
LPAT Case No.: PL170742
LPAT File No.: PL170742
LPAT Case Name: Bunge Canada v. Hamilton (City)

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

Appellant: Harbour West Neighbours Inc. & Herman Turkstra
Subject: By-law No. BL 17-096
Municipality: City of Hamilton
LPAT Case No.: PL170742
LPAT File No.: PL170743

PROCEEDING COMMENCED UNDER subsection 51(39) of the Planning Act, R.S.O. 1990, c. P.13, as amended

Appellant: Harbour West Neighbours Inc. & Herman Turkstra
Appellant: Parrish & Heimbecker Ltd.
Subject: Proposed Plan of Subdivision
Property Address: 65 Guise St. E
Municipality: City of Hamilton
Municipal File No.: 25T201605
LPAT Case No.: PL170742
LPAT File No.: PL170744

MINUTES OF SETTLEMENT

B E T W E E N:

CITY OF HAMILTON

(“City”)

- and -

THE WATERFRONT SHORES CORPORATION

(“WSC”)

- and -

HARBOUR WEST NEIGHBOURS INC. & HERMAN TURKSTRA

(the “Appellants”)

WHEREAS the City is a municipal corporation within the meaning of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, and is responsible for making land use planning decisions within the City in accordance with and as authorized under the *Planning Act*, R.S.O. 1990, c. P.13, as amended;

AND WHEREAS in 2017 City Council enacted Zoning By-law No. 17-095 and approved a draft Plan of Subdivision (collectively the “**Planning Instruments**”) for the lands within the Waterfront area of the City known as Pier 8, for the intended purpose of implementing the approved and in-force West Harbour “Setting Sail” Secondary Plan (OPA 198) as it applies to the Pier 8 lands;

AND WHEREAS the Planning Instruments were appealed by various appellants including the incorporated residents’ association known as Harbour West Neighbours Inc. and Herman Turkstra (collectively the “**Appellants**”) to the Ontario Municipal Board, now known as the Local Planning Appeal Tribunal (“**Tribunal**”), under Case No. PL170742;

AND WHEREAS The Waterfront Shores Corporation (“**WSC**”) is a corporation duly incorporated under the laws of Ontario and was the successful proponent following a

Request for Proposals issue by the City for the redevelopment of Pier 8 in accordance with the Planning Instruments;

AND WHEREAS WSC is a party to the appeals before the Tribunal in respect of the Planning Instruments under Case No. PL170742;

AND WHEREAS following the commencement of the Tribunal hearing in April 2019 the City, WSC and the Appellants (collectively the “**Parties**”) engaged in direct negotiations and in July 2019, following the adjournment of the hearing, the Parties took part in a Tribunal-led mediation;

AND WHEREAS through further discussions the Parties have reached an agreement to resolve the Appellants’ appeals of the Planning Instruments, the substance of which agreement is contained in these Minutes of Settlement (the “**Minutes**”);

NOW THEREFORE FOR GOOD AND VALUABLE MUTUAL CONSIDERATION AS SET FORTH HEREIN, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

A. Settlement

1. The Parties hereto agree that the foregoing recitals are true and correct and, along with Schedules “A” and “B”, form part of the terms of these Minutes.
2. The Parties agree that the City shall direct staff to bring forward for Planning Committee and Council’s consideration and approval, in its sole and unfettered legislative discretion, an amendment to Setting Sail (the “**OPA**”) that would redesignate the existing Institutional block (“**Block 16**”) to permit residential or mixed use in a mid-rise or high-rise form, as well as an implementing zoning by-law (the “**Block 16 ZBL**”).

3. The City agrees to consider the OPA and Block 16 ZBL at Planning Committee and Council within 12 months of the full execution of these Minutes.
4. Based on the number of storeys that may be approved as part of the OPA and Block 16 ZBL, the following additional “family units” (defined to mean residential units comprised of two or more bedrooms) would be required to be provided:
 - (i) Where there is no change, zero additional family units;
 - (ii) Where four or fewer storeys are approved, 25 additional family units;
 - (iii) Where 5 to 11 storeys are approved, 50 additional family units;
 - (iv) Where 12 to 19 storeys are approved, 75 additional family units;
 - (v) Where 20-30 storeys are approved, 100 additional family units; or
 - (vi) Where 31 or more storeys are approved, 150 additional family units.
5. The additional family units that may be required by Clause 4 of these Minutes may be provided for within the Block 16 development or elsewhere within Pier 8, at the discretion of WSC.
6. The Parties agree that there will be no change in the maximum number of residential units currently permitted on Pier 8 (being 1645 units).
7. The Appellants agree not to appeal the OPA or Block 16 ZBL.
8. In the event that the City adopts an OPA and/or enacts a Block 16 ZBL and either instrument is appealed to the Local Planning Appeal Tribunal, the City will not repeal the instrument and has sole and unfettered discretion in responding to such an appeal.
9. The City agrees to make the following amendments to the Council-adopted Pier 7 + 8 Urban Design Study:
 - (a) That minimum ground floor façade heights of less than 4.5 metres will be permitted for residential uses, except on Blocks 4 and 9 which shall require minimum ground floor façade heights of 4.5 metres regardless of use;

- (b) That appropriate step-backs for upper floors will be determined at the time of site plan; and
 - (c) That the densities and heights contained within the modified Zoning By-law 17-095, attached as Schedule "A", are permitted.
10. Upon full execution of these Minutes, the Appellants shall write to the LPAT to withdraw the appeals of the draft plan of subdivision and the Parties shall request that the Tribunal convert the scheduled hearing days be to a settlement hearing for the appealed zoning. The Appellants further acknowledge and agree that they shall support and not contest, oppose, or in any way take issue with approval of the modified Zoning By-law 17-095 attached as Schedule "A".
11. As part of the settlement of the appeals of Zoning By-law 17-095, the City will direct staff to implement traffic calming and other traffic improvements in the existing residential neighbourhood, all in accordance with the City Staff Memorandum attached as Schedule "B" and with the intent that the gateway feature at James Street and Strachan Avenue will achieve the following:
- (a) To give drivers the message that they are potentially in conflict with children and must drive in a slower, more cautious manner to protect the safety of pedestrians, especially children; and
 - (b) To serve as a gateway feature into the neighbourhood and help identify it as a distinct residential community.

B. General

12. Each of the Parties hereto confirms that it has received independent legal advice from its counsel with respect to these Minutes and that it has entered into these Minutes freely and voluntarily and without any form of duress, and with the express purpose of a full settlement with respect to the matters addressed herein.

13. Each of the Parties hereto shall bear its own costs pertaining to the appeals and shall not seek costs against any of the other Parties.
14. These Minutes of Settlement, and all rights and obligations set out therein, constitute the entire agreement between the City/WSC on the one hand and the Appellants on the other hand as to the resolution of the appeals, and supersede all prior negotiations and understandings. Any amendment to these Minutes or waiver of any provision of these Minutes must be in writing and signed by all Parties.
15. If any provision in these Minutes or any portion thereof is held by any court of competent jurisdiction or administrative tribunal to be invalid or unenforceable, such holding shall not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion(s) thereof never been a part hereof.
16. The Parties covenant and agree that at all times and from time to time hereafter, upon every request to do so, each Party shall fully cooperate with the other Parties and shall use its best efforts to implement and carry out the true intent and meaning of these Minutes, including making, executing, delivering or causing to be made, executed and delivered, all such further acts, deeds, assurances and things as may be reasonably required to implement and carry out the true intent and meaning of these Minutes.
17. The Parties acknowledge and agree that nothing in these Minutes shall have the intent or effect of fettering the legislative discretion of City Council in a manner contrary to law.
18. Any notice required by these Minutes shall be sent by registered mail, by hand or courier, or by electronic transmission, as follows:

To the CITY OF HAMILTON at:

71 Main Street West
Hamilton, ON L8P 4Y5

Attn: City Clerk and City Solicitor
E-mail: clerk@hamilton.ca

To THE WATERFRONT SHORES CORPORATION at:

* 56 The Espalnade
* Toronto, ON M5E 1A7
*

Attn: * Giuseppe Valela

E-mail: jvalela@tercot.com

To HARBOUR WEST NEIGHBOURS INC. at:

c/o Hank Nyhof
469 Bay Street North
Hamilton ON L8L 1N2

To HERMAN TURKSTRA at:

500 Bay Street North
Hamilton ON L8L 1N5

19. The Parties agree that, should any party to these Minutes determine that another Party to these Minutes (the “**Notified Party**”) has failed to comply with any of its obligations pursuant to these Minutes, then such party shall give written notice to the Notified Party of such alleged non-compliance. If the Notified Party acknowledges the allegation, it shall have thirty (30) days or such time as the Parties may agree upon to cure the alleged non-compliance.

In the event that the Notified Party fails or refuses to cure the alleged non-compliance, and/or fails to cure the alleged non-compliance within the timeframe provided pursuant to the preceding paragraph above, the Parties agree that all Parties are contractually bound and that the provisions of these Minutes are immediately enforceable by civil action and/or by the Tribunal in accordance with the terms and conditions herein.

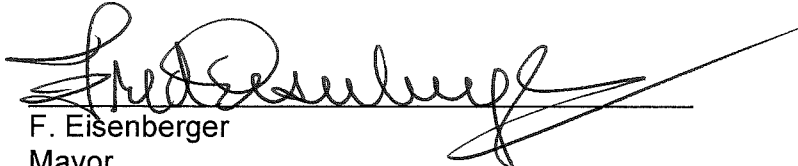
20. These Minutes may be executed in counterpart, which together shall constitute a complete set of these Minutes. Once executed by all Parties, these Minutes are of full force and effect.

21. The Parties agree these Minutes shall not be registered on title to the Pier 8 lands or any other property. Notwithstanding the foregoing, the Parties agree that all of the covenants, rights, duties, provisions, conditions and obligations herein contained shall enure to the benefit of and be binding upon each of the Parties and their respective successors and permitted assigns. For that purpose, WSC agrees that it shall duly provide notice and a copy of these Minutes prior to the completion of any agreement granting any right, title or interest in the Subject Property or any portion thereof.

IN WITNESS WHEREOF the Parties, by their duly authorized representatives, have executed these Minutes of Settlement, this 16th day of September, 2019.


CITY OF HAMILTON

Per:


F. Eisenberger
Mayor


APPROVED
AS TO FORM

LEGAL SERVICES


A. Holland
City Clerk

THE WATERFRONT SHORES CORPORATION

Per: Giuseppe Valela ASO


I have the authority to bind the corporation.

HARBOUR WEST NEIGHBOURS INC.

Per:

I have the authority to bind the corporation.

HERMAN TURKSTRA

OFFICE OF THE CLERK
APPROVED BY COUNCIL
DATE September 4, 2019
REPORT CT 19-015 ITEM 10
FILE 3 YEARFILE 2019-14319

IN WITNESS WHEREOF the Parties, by their duly authorized representatives, have executed these Minutes of Settlement, this 16th day of September, 2019.

CITY OF HAMILTON

Per:

F. Eisenberger
Mayor

A. Holland
City Clerk

THE WATERFRONT SHORES CORPORATION

Per:

I have the authority to bind the corporation.

HARBOUR WEST NEIGHBOURS INC.

Per:



I have the authority to bind the corporation.

Herman Turkstra

HERMAN TURKSTRA

CITY OF HAMILTON

BY-LAW NO. 17-095

To Amend Zoning By-law No. 05-200, Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

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 No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item 4 of Report 17-009 of the Planning Committee, at its meeting held on the 24th day of May, 2017, which recommended that Zoning By-law No. 05-200 be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the *Planning Act* on June 1, 1982.

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

1. That Section 2: INTERPRETATION of By-law 05-200 is hereby amended as follows:

a. That Section 2.1 is amended by adding the following new clause:

i) Waterfront Zones	
Multiple Residential	WF1
Mixed Use	WF2
Prime Retail Streets	WF3

2. That SECTION 14: WATERFRONT ZONES is added to By-law 05-200 by including the following new subsections:

“14.0 WATERFRONT ZONES

No person shall erect, or use any building in whole or in part, or use any land in whole or in part, within a Waterfront Zone for any purpose except in accordance with the following provisions which, in addition to other requirements of this By-law:

A) For the purpose of the Waterfront Zones, Figure 10 of Schedule F – Special Figures identifies the Blocks referenced in the Waterfront – Multiple Residential (WF1) Zone, Waterfront – Mixed Use (WF2) Zone and Waterfront – Prime Retail Streets (WF3) Zone.

B) For purposes of the Waterfront Zones only, the following additional or amended definitions shall apply:

i) ‘Live/Work Unit’ shall mean:

“A dwelling unit with an at grade entrance, containing one dwelling unit with only one of the following commercial uses: Office (excluding Medical Office), Personal Service, Retail or Studio, being permitted on the ground floor, except that access is permitted from the ground floor to the 2nd storey residential portion of the unit, and that the total Gross Floor Area of the commercial component of an individual Live/Work Unit shall not exceed 50.0 square metres.”

ii) Notwithstanding Section 3 – Definitions of Zoning By-law No. 05-200, the definition of building height shall mean:

“Any portion of a building designed to provide access to roof top amenity space shall be excluded from measured building height and shall not be considered as a storey, provided the floor area does not exceed 10% of the floor area of the storey directly beneath, the structure shall be setback a minimum of 3.0 metres from the exterior walls of the storey directly beneath, not greater than 3.0 metres in height and may include an enclosed amenity area.”

iii) **An interior balcony or mezzanine shall not be considered a storey.**

C) Section 4.23 d) of this By-law shall not apply to the Waterfront Zones.

D) Notwithstanding Section 5.6 of this By-law, Parking for the Waterfront Zones shall be provided in accordance with the following standards:

i)	Notwithstanding Section 5.6 c) the following parking standards shall apply for Waterfront Zones:	
	Residential Uses	
	Live/Work Unit	0.70 for each dwelling unit, except where a

To Amend Zoning By-law No. 05-200,
Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

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	Multiple Dwelling	dwelling unit is 50 square metres in gross floor area or less, in which case, parking shall be provided at a rate of 0.3 spaces for each unit.
	Institutional Uses	
	Art Gallery	0 spaces
	Day Nursery	1 for each 125.0 square metres unless located within an educational establishment where no parking will be required.
	Educational Establishment	1.25 per class room
	Library	0 spaces
	Long Term Care Facility	1 for each 3 patient beds
	Museum	0 spaces
	Place of Worship	0 spaces
	Social Services Establishment	1 for each 50.0 square metres of gross floor area.
	Commercial Uses	
	Beverage Making Establishment	3 spaces per 100 square metres
	Catering Service	
	Commercial Entertainment	
	Communications Establishment	
	Craftperson's Shop	
	Commercial School	1 space per 50 square metres in excess of 450 square metres.
	Financial Establishment	4 spaces per 100 square metres
	Office	2 spaces per 100 square metres in excess of 450 square metres.
	Medical Office	3 spaces per 100 square metres
	Repair Service	3 spaces per 100 square metres
	Place of Assembly	3 spaces per 100 square metres
	Restaurant	3 spaces per 100 square metres
	Retail	1.5 spaces per 100 square metres
	Studio	1 space per 50 square metres in excess of 450 square metres.
	Personal Services	1 for each 16.0 square metres
	Open Space Uses	
	Botanical Gardens	0 spaces
	Community Garden	
	Conservation	
	Nature Centres	

	Recreation	
	Recreational Equipment Rental and Maintenance Facility	
	Marina	
ii)	In addition to Section 5.1 a) ii) of By-law 05-200, any required parking within Pier 8 shall be permitted on a lot that is not the same lot as the use requiring such parking. Such parking facilities may be located on another lot within 300 metres of the lot containing the use requiring the parking.	
iii)	Bicycle Parking	0.5 long term, secure bicycle parking spaces shall be provided per dwelling unit and 10 short term bicycle parking spaces per multiple dwelling.

- E) All required parking must be provided within the geographic area comprised of Blocks 1 through 16, as indicated on Schedule A attached to this by-law.

Where the number of existing parking spaces exceed the maximum parking standard in Section D) above, the parking spaces provided in excess of the maximum parking standard may be eliminated. However, in no case may the number of parking spaces provided be less than the minimum parking requirements in Section D) above.

14.1 WATERFRONT – MULTIPLE RESIDENTIAL (WF1) ZONE

No person shall erect, or use any building in whole or in part, or use any land in whole or in part, within a WATERFRONT – MULTIPLE RESIDENTIAL (WF1) ZONE for any purpose other than one or more of the following uses, or uses accessory thereto. Such erection or use shall also comply with the prescribed regulations:

- 14.1.1 PERMITTED USES** Live/Work Unit
Multiple Dwelling
- 14.1.2 REGULATIONS**
- a) **Maximum Setback** Shall be in accordance with Figure 11 of Schedule F: Special Figures.
- b) **Maximum Setback to a Garage** Except where a visibility triangle is required, a maximum setback of 6.0 metres shall apply for that portion of a building providing an access driveway to a garage.
- c) **Building Height** Shall be provided in accordance with Figure 12 of Schedule F: Special Figures.
- d) **Built Form for New Development**
- i) The minimum width of the ground floor façade facing a street shall be provided in accordance with Figure 13 of Schedule F: Special Figures.
 - ii) All ground floor residential units which front a street shall have a principal entrance facing the street and be accessible from the building façade with direct access from the street.
 - iii)
 - 1. No parking, driveways, or aisles shall be located between a building façade and a street.
 - 2. In addition to 1. above, the following restrictions shall apply to Blocks 11 and 13:
 - i) Direct driveway access to individual units;
 - ii) Garages fronting streets;
 - iii) Front yard parking.
 - iv) All parking areas shall be provided at the rear of buildings, either in underground / or in above-grade structures or a combination thereof, with access from streets or laneways.
 - v) All above-grade parking structures shall be located within buildings and fronted on all levels by residential uses.
 - vi) A minimum of 40% of the ground floor façade facing a street shall be composed of windows

14.2 WATERFRONT – MIXED USE (WF2) ZONE

No person shall erect, or use any building in whole or in part, or use any land in whole or in part, within a Waterfront – Mixed Use (WF2) ZONE for any purpose other than one or more of the following uses, or uses accessory thereto. Such erection or use shall also comply with the prescribed regulations:

14.2.1 PERMITTED USES

Art Gallery
Beverage Making Establishment
Catering Service
Commercial School
Communications Establishment
Craftpersons Shop
Day Nursery
Educational Establishment
Financial Establishment
Library
Live/Work Unit
Multiple Dwelling
Museum
Office
Personal Services
Place of Assembly
Place of Worship
Repair Service
Restaurant
Retail
Social Services Establishment
Studio

14.2.2 PROHIBITED USES

- i) Motor Vehicle Collision Repair Establishment
Motor Vehicle Rental Establishment
Motor Vehicle Service Station
Motor Vehicle Gas Bar
- ii) In addition to i) above, a Drive-Through Facility is prohibited even as an accessory use.

14.2.3 REGULATIONS

- a) **Maximum Setback** Shall be in accordance with Figure 11 of Schedule F: Special Figures.
- b) **Maximum Setback to a Garage** Notwithstanding Figure 11 of Schedule F: Special Figures, and except where a visibility triangle is required, a maximum setback of

6.0 metres shall apply for that portion of a building providing an access driveway to a garage.

- c) **Building Height**
- i) Minimum 9.0 metres;
 - ii) In addition to i) above, a minimum 4.5 metre façade height for the first storey, for any portion of a building that is non-residential in use ,
 - iii) Maximum 6 storeys and up to 24.5 metres
- d) **Built Form for New Development**
- i) The minimum width of the ground floor façade shall be provided in accordance with Figure 13 of Schedule F: Special Figures.
 - ii) All at grade residential units which front a street shall have a principal entrance facing the street and be accessible from the building façade with direct access from the street.
 - iii) Parking shall be provided underground and/or in above grade parking structures.
 - iv) Above grade parking structures shall be located within buildings and fronted on all levels by commercial, cultural or residential uses, except for driveway access.
 - v) A minimum of 40% of the ground floor façade facing a street shall be composed of windows and glazing.
- e) **Restrictions for Commercial Uses**
- Shall only be permitted on the ground floor.
- f) **Restrictions for Institutional uses of a Cultural Nature**
- A Library, Art Gallery, or Museum shall only be permitted on the ground floor and second floor.
- g) **Restrictions for Non-Residential Floor Area**
- 20% of the total non-residential floor area will be permitted for commercial uses ancillary to a Library, Art Gallery, or Museum.
- h) **Additional Residential Unit Restrictions**
- Shall be in accordance with Figure 14 of Schedule F: Special Figures.

14.3 WATERFRONT – PRIME RETAIL STREETS (WF3) ZONE

No person shall erect, or use any building in whole or in part, or use any land in whole or in part, within a WATERFRONT – Prime Retail Streets (WF3) ZONE for any purpose other than one or more of the following uses, or uses accessory thereto. Such erection or use shall also comply with the prescribed regulations:

- 14.3.1 **PERMITTED USES**
- Beverage Making Establishment
 - Catering Service
 - Commercial School
 - Communications Establishment
 - Craftpersons Shop
 - Educational Establishment
 - Financial Establishment
 - Live/Work Unit
 - Multiple Dwelling
 - Office
 - Personal Services
 - Place of Assembly
 - Repair Service
 - Restaurant
 - Retail
 - Studio
- 14.3.1 **PROHIBITED USES**
- i) Motor Vehicle Collision Repair Establishment
 - Motor Vehicle Rental Establishment
 - Motor Vehicle Service Station
 - Motor Vehicle Gas Bar
 - ii) In addition to i) above, a Drive-Through Facility is prohibited even as an accessory use.
- 14.3.2 **REGULATIONS**
- a) **Maximum Setback** Shall be in accordance with Figure 11 of Schedule F: Special Figures.
 - b) **Maximum Setback to a Garage** Notwithstanding Figure 11 of Schedule F: Special Figures, and except where a visibility triangle is required, a maximum setback of 6.0 metres shall apply for that portion of a building providing an access driveway to a garage.
 - c) **Building Height**
 - i) Minimum 9.0 metres
 - ii) In addition to i) above, a minimum 4.5 metre façade height for the first storey, for any portion,

- iii) Maximum 6 storeys and up to 24.5 metres
- d) **Built Form for New Development**
- i) The minimum width of the ground floor façade shall be provided in accordance with Figure 13 of Schedule F: Special Figures.
 - ii) All at grade residential units which front a street shall have a principal entrance facing the street and be accessible from the building façade with direct access from the street.
 - iii) Commercial uses that front a street shall have a principal entrance facing the street and be accessible from the building façade with direct access from the street.
 - iv) No parking, driveways, or aisles shall be located between a building façade and a street.
 - v) Parking areas shall be provided at the rear of buildings, with access from streets or laneways.
 - vi) A minimum of 40% of the ground floor façade facing a street shall be composed of windows and glazing.
- e) **Restrictions for Commercial Uses**
- i) Shall only be permitted on the ground floor (except Office Uses and Personal Services);
 - ii) Shall be oriented to the southerly and easterly streets for Block 4;
 - iii) Shall be oriented to the southerly and westerly streets for Block 6; and,
 - iv) Shall be oriented to the northerly and westerly streets for Block 9.
- f) **Restriction for Residential Uses**
- A maximum of 30% of the ground floor façade shall be occupied by residential uses facing the following lot lines:
- i) Southerly lot line for Block 4.
 - ii) Southerly lot line for Block 6.

iii) Westerly lot line for Block 9.

g) Additional Residential Unit Restrictions Shall be in accordance with Figure 14 of Schedule F: Special Figures.

3. That Map No. 827 of Schedule "A" – Zoning Maps, to Zoning By-law No. 05-200 be amended by incorporating the following zones for lands municipally known as Pier 8, 65 Guise Street East:

- a) Waterfront - Multiple Residential (WF1, H94) Zone for the lands located within Block 1, Block 2, Block 5, Block 10, Block 11, Block 12, Block 13
- b) Waterfront – Multiple Residential (WF1, 483, H94) Zone for the lands located within Block 7
- c) Waterfront - Mixed Use (WF2, H94) Zone for the lands located within Block 3 and Block 8
- d) Waterfront - Prime Retail Streets (WF3, H94) Zone for the lands located within Block 4 and Block 9
- e) Waterfront - Prime Retail Streets (WF3, 484, H94) Zone for the lands located within Block 6
- f) Open Space (P4, 485) Zone for the lands located within Block 14
- g) Conservation/Hazard Land (P5) Zone for the lands located within Block 15
- h) Community Institutional (I2, 486, H94) Zone for the lands located within Block 16

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

4. That Schedule "C" of By-law 05-200 is amended by adding the additional exceptions as follows:

"483. In addition to Sections 14.1.1 and 14.1.2, on those lands zoned Waterfront - Multiple Residential (WF1) Zone, identified on Map 827 of Schedule "A" – Zoning Maps and Block 7 on Figure 10 to Schedule F – Special Figures to Zoning By-law 05-200, and described as Pier 8, 65 Guise Street, the following special provisions shall apply:

a) The following use shall also be permitted:

Commercial Parking Facility

b) the following regulations shall apply:

i) Location of Parking The parking gate of a

- | | |
|----------------------------------|---|
| Gate | commercial parking facility shall have a minimum distance of 6.5 metres from the street. |
| ii) Parking Structures | Above grade parking structures including a commercial parking facility shall be located within buildings and fronted on all levels and all sides by commercial or residential uses. |
| iii) Commercial Parking Facility | In addition to a) above, where a commercial parking facility is proposed, all permitted uses for Block 6 and Block 7 shall be allowed to front the parking facility on all sides and on all levels and a maximum 2,000 sq.m floor area of commercial uses shall be permitted for Blocks 6 and 7.” |

“484. In addition to Sections 14.3.1 and 14.3.2, on those lands zoned Waterfront - Prime Retail Streets (WF3) Zone, identified on Map 827 of Schedule “A” – Zoning Maps and Block 6 on Figure 10 to Schedule F – Special Figures to Zoning By-law 05-200, and described as Pier 8, 65 Guise Street, the following special provisions shall apply:

- a) the following use shall also be permitted:

Commercial Parking Facility

- b) the following regulations shall apply:

- | | |
|-----------------------------|--|
| i) Location of Parking Gate | The parking gate of a commercial parking facility shall have a minimum distance of 6.5 metres from the street. |
|-----------------------------|--|

- ii) Parking Structures Above grade parking structures including a commercial parking facility shall be located within buildings and fronted on all levels and all sides by commercial or residential uses.
- iii) Commercial Parking Facility In addition to a) above, where a commercial parking facility is proposed, all permitted uses for Block 6 and 7 shall be allowed to front the parking facility on all sides and on all levels and a maximum 2,000 sq.m floor area of commercial uses shall be permitted for Blocks 6 and 7.”

“485. In addition to Sections 7.4.1 and 7.4.2, on those lands Within the lands zoned Open Space (P4) Zone, identified on Map 827 of Schedule “A” – Zoning Maps and Block 14 on Figure 10 to Schedule F – Special Figures to Zoning By-law 05-200, and described as Pier 8, 65 Guise Street, the following special provisions shall apply:

a) the following uses shall also be permitted:

Botanical gardens
Conservation
Nature Centres
Recreation
Restaurant
Marina
Recreational equipment rental and maintenance facilities

b) the following regulations shall apply:

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Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

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- | | | |
|------|--|--|
| i) | Minimum Side and Rear Yard | 7.5 metres. |
| ii) | Maximum Building Height | 11.0 metres. |
| iii) | Parking | Notwithstanding Section 5.6 a) Parking shall be in accordance with Section 14.0 D) of this By-law. |
| iv) | Minimum Side and Rear Yard for Accessory Buildings | 7.5 metres in case of any building or structure abutting a Residential or Institutional Zone. |
| v) | Restaurant | Shall not exceed two storeys and up to 8.0 metres in height and shall not exceed a total floor area of 1,500 square metres.” |

“486. In addition to Sections 8.2.1 and 8.2.3 on those lands zoned Community Institutional (I2) Zone, identified on Map 827 of Schedule “A” – Zoning Maps and Block 16 on Figure 10 to Schedule F – Special Figures to Zoning By-law 05-200, and described as Pier 8, 65 Guise Street, the following special provisions shall apply:

a) the following uses shall also be permitted:

Day Nursery
Educational Establishment
Library
Medical Offices
Museum
Place of Worship
Recreation
Social Services Establishment
Long Term Care Facility

b) the following regulations shall apply:

- | | | |
|-----|-----------------------|-------------|
| i) | Minimum Lot Width | 30.0 metres |
| ii) | Minimum Side and Rear | 2.0 metres |

Yard Setbacks

- | | | |
|------|-------------------------|---|
| iii) | Building Height | 1. Minimum 2 storeys and up to 8.0 metres and maximum 4 storeys and up to 15 metres;

2. In addition to 1. above, minimum 4.5 metres façade height, for any portion of a building along a street line, and, |
| iv) | Minimum Landscaped Area | 10% of the Lot Area |
| iv) | Parking | Notwithstanding Section 5.6 a) Parking shall be in accordance with Section 14.0 D) of this By-law.” |
6. That Schedule “D” – Holding Provisions of By-law 05-200 be amended by adding the following Holding Provisions:
- “94. That notwithstanding Section 14 and Schedule “C” – Special Exceptions, of this By-law, on those lands zoned Waterfront – Multiple Residential (WF1, H94) and (WF1, 483, H94) Zone, and Waterfront – Mixed Use (WF2, H94) and Waterfront – Prime Retail Streets (WF3, H94) and (WF3, 484, H94) and Community Institutional (I2, 486, H94) on Map 827 of Schedule “A” – Zoning Maps, described as Pier 8, 65 Guise Street, no development shall be permitted until such time as:
- (i) The owner submits a signed Record of Site Condition (RSC) to the City of Hamilton and the Ministry of the Environment (MOE). The RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.
 - (ii) The owner investigates the noise, odour and dust levels on the site and determine and implement the noise, odour and / or dust control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environments recommended limits. An acoustical, odour and dust control report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the Director of Planning and Chief Planner.

Should a peer review of the acoustical, odour and dust report be warranted, all associated costs should be borne by the owner and shall be submitted to the satisfaction of the Director of Planning and Chief Planner.

- (iii) A sanitary pumping station and forcemain have been constructed and is operational to the satisfaction of the Senior Director of Growth Management.

7. That Schedule F – Special Figures, be amended by adding the following Special Figures:
 - a) Figure 10: Waterfront Block Plan, as attached to this By-law;
 - b) Figure 11: Waterfront Zones – Maximum Setbacks, as attached to this By-law;
 - c) Figure 12: Waterfront Zones – Building Heights as attached to this By-law;
 - d) Figure 13: Waterfront Zones – Ground Floor Façade, as attached to this By-law;
 - e) Figure 14: Waterfront Zones – Residential Unit Restrictions, as attached to this By-law;
8. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the *Planning Act*.
9. That this By-law No. 17-095 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.

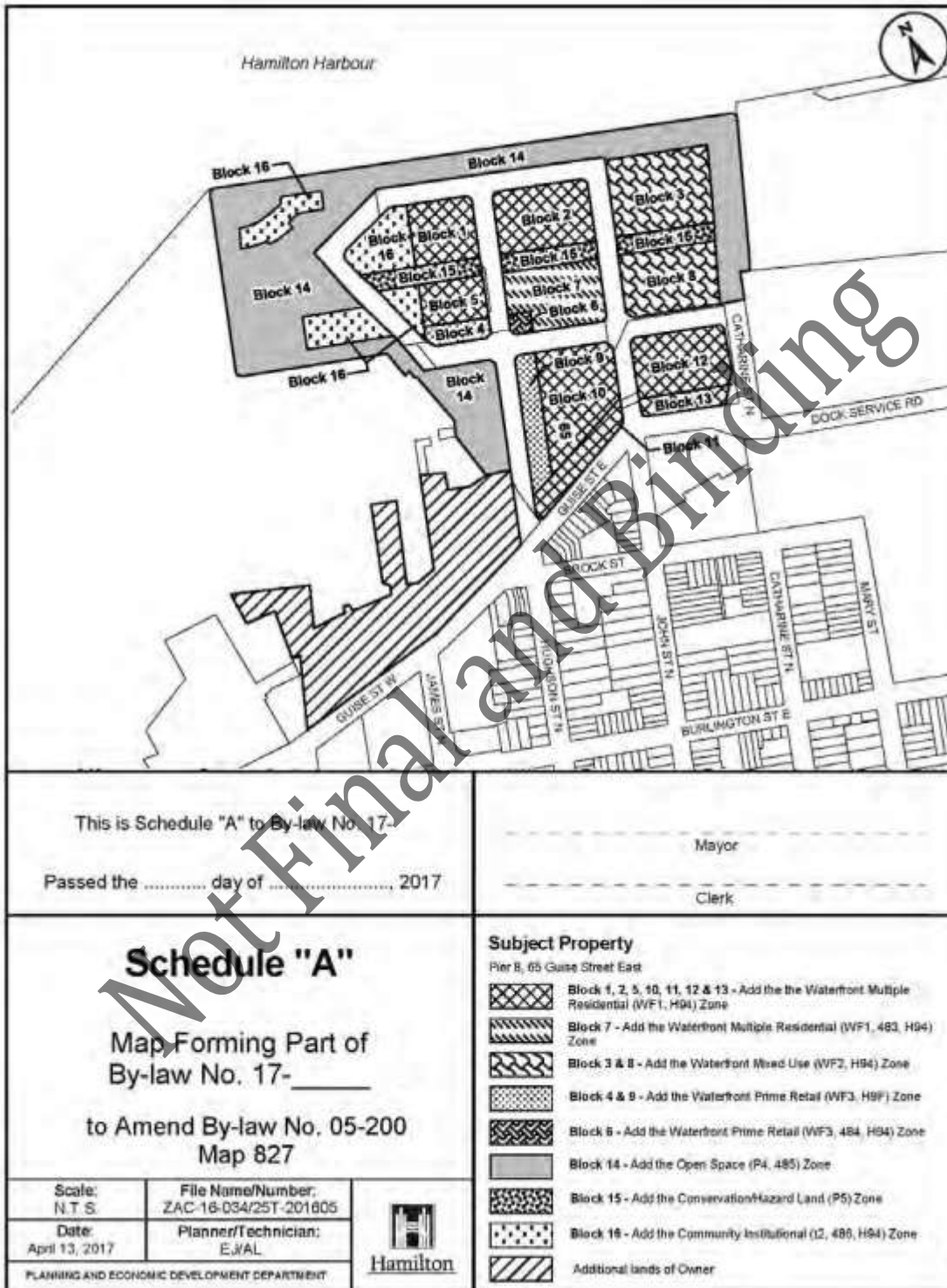
PASSED this 24th day of May, 2017.

F. Eisenberger
Mayor

R. Caterini
City Clerk

To Amend Zoning By-law No. 05-200,
Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

(Page 16 of 23)



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

Mayor

Clerk

Schedule "A"
Map Forming Part of
By-law No. 17-_____
to Amend By-law No. 05-200
Map 827

Subject Property
Pier 8, 65 Guise Street East

	Block 1, 2, 5, 10, 11, 12 & 13 - Add the Waterfront Multiple Residential (WF1, H94) Zone
	Block 7 - Add the Waterfront Multiple Residential (WF1, 483, H94) Zone
	Block 3 & 8 - Add the Waterfront Mixed Use (WF2, H94) Zone
	Block 4 & 9 - Add the Waterfront Prime Retail (WF3, H9F) Zone
	Block 6 - Add the Waterfront Prime Retail (WF3, 484, H94) Zone
	Block 14 - Add the Open Space (P4, 485) Zone
	Block 15 - Add the Conservation/Hazard Land (P5) Zone
	Block 16 - Add the Community Institutional (I2, 486, H94) Zone
	Additional lands of Owner

Scale: N.T.S.	File Name/Number: ZAC-16-034/25T-201605	
Date: April 13, 2017	Planner/Technician: E./AL	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

Figure 10: Waterfront Block Plan

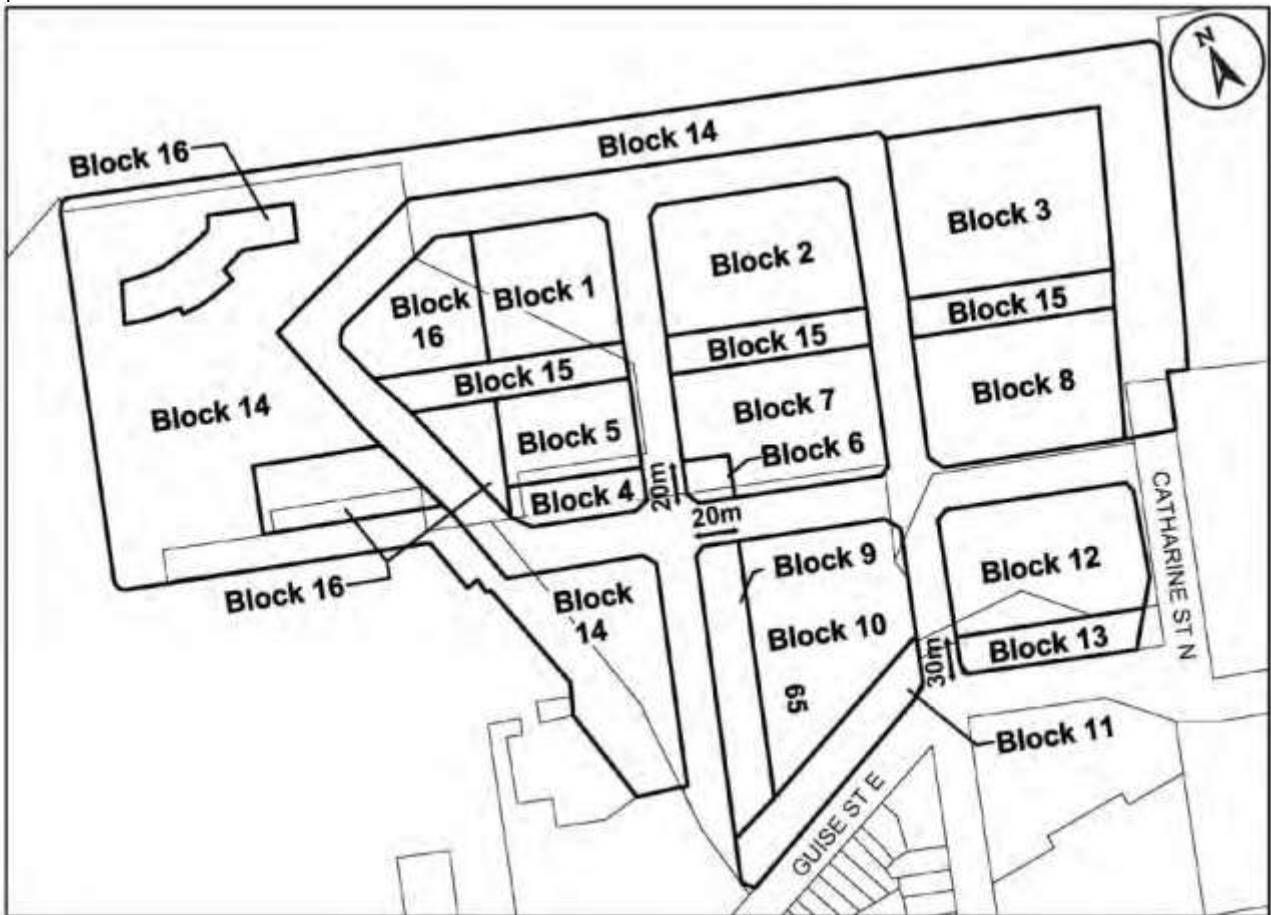


Figure 11: Waterfront Zones – Maximum Setbacks



Table WF.1		a)	b)	c)	d)	e)
		Northerly Lot Line	Easterly Lot Line	Westerly Lot Line	Southerly Lot Line	
1)	Block 1	3.0 metres	3.0 metres	None	None	
2)	Block 2	3.0 metres	3.0 metres	3.0 metres	None	
3)	Block 3	3.0 metres	3.0 metres	5.0 metres	None	
4)	Block 4	None	3.0 metres	None	1.5 metres	
5)	Block 5	None	3.0 metres	None	None	
6)	Block 6	None	None	3.0 metres	3.0 metres	
7)	Block 7	None	3.0 metres	3.0 metres	3.0 metres	
8)	Block 8	None	3.0 metres	3.0 metres	3.0 metres	
9)	Block 9	3.0 metres	None	3.0 metres	None	

To Amend Zoning By-law No. 05-200,
Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

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10)	Block 10	3.0 metres	3.0 metres	None	None	
11)	Block 11	None	3.0 metres	3.0 metres	1.5 metres	
12)	Block 12	3.0 metres	3.0 metres	3.0 metres	None	
13)	Block 13	None	3.0 metres	3.0 metres	1.5 metres	

Not Final and Binding

Figure 12: Waterfront Zones – Building Heights



Table WF.2		a)	b)	c)
		Minimum Building Height	Maximum Building Height	
1)	Block 1	9.0 metres	8 storeys and 32.0 metres	
2)	Block 2	9.0 metres	8 storeys and 32.0 metres	
3)	Block 5	9.0 metres	8 storeys and 32.0 metres	
4)	Block 7	9.0 metres	8 storeys and 32.0 metres	
5)	Block 10	9.0 metres	8 storeys and 32.0 metres	
6)	Block 11	6.0 metres	5 storeys and 21.0 metres	
7)	Block 12	9.0 metres	8 storeys and 32.0 metres	
8)	Block 13	6.0 metres	5 storeys and 21.0 metres	
<p>9) Building heights will not be calculated with any mechanical penthouse or any portion of a building designed, adapted or used for such features as a chimney, smokestack, fire wall, stair tower, fire tower, water tower, tank, elevator bulkhead, ventilator, skylight, cooling tower, derrick, conveyor, antenna, or any such requisite appurtenance, or a flagpole, display sign, ornamental figure, parapet, bell tower or other similar structure.</p>				

Figure 13: Waterfront Zones – Ground Floor Façade



Table WF.3		a)	b)	c)	d)
		Minimum Easterly Ground Floor Façade	Minimum Northerly Ground Floor Façade	Minimum Westerly Ground Floor Façade	Minimum Southerly Ground Floor Façade
1)	Block 1	75%	50%	None	None
2)	Block 2	75%	50%	75%	None
3)	Block 3	75%	50%	75%	None
4)	Block 4	75%	None	None	75%
5)	Block 5	75%	None	None	None
6)	Block 6	None	None	75%	75%
7)	Block 7	None	50%	75%	75%
8)	Block 8	75%	None	75%	50%
9)	Block 9	None	50%	75%	None
10)	Block 10	50%	50%	None	None
11)	Block 11	50%	None	50%	75%
12)	Block 12	75%	50%	75%	None
13)	Block 13	50%	None	75%	75%



Figure 14: Waterfront Zones – Residential Unit Restrictions

Table WF.4		a)	b)	c)
		Minimum Residential Unit Total	Maximum Residential Unit Total	
1)	Block 1	85 units	171 units	
2)	Block 2	183 units	267 units	
	Block 3	No Minimum	No Maximum	
	Block 4	74 units for Block 4 and 5	150 units for Blocks 4 and 5	
3)	Block 5	74 units for Blocks 4 and 5	150 units for Blocks 4 and 5	
	Block 6	125 units for Blocks 6 and 7	220 units for Blocks 6 and 7	
4)	Block 7	125 units for Blocks 6 and 7	220 units for Blocks 6 and 7	
	Block 8	No Minimum	No Maximum	
	Block 9	120 units for Blocks 9, 10 and 11	256 units for Blocks 9, 10 and 11	
5)	Block 10	120 units for Blocks 9, 10, and 11	256 units for Blocks 9, 10, and 11	
6)	Block 11	120 units for Blocks 9, 10, and 11	256 units for Blocks 9, 10, and 11	

To Amend Zoning By-law No. 05-200,
 Respecting Lands Located at Pier 8, 65 Guise Street East (Hamilton)

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7)	Block 12	115 units for Blocks 12 and 13	242 units for Blocks 12 and 13	
8)	Block 13	115 units for Blocks 12 and 13	242 units for Blocks 12 and 13	
<p>9) Notwithstanding there being no unit restrictions on Blocks 3, 4, 6, 9, and 8 as referenced in Figure 10 of this by-law, a maximum of 1,645 units are permitted within the geographic area comprised of Blocks 1 through 16 as illustrated on Schedule A.</p>				
<p>10) At least 15% of all units within the geographic area comprised of Blocks 1 through 16 as illustrated on Schedule A shall have 2 or more bedrooms.</p>				



Hamilton

Planning and Economic
Development

Memorandum

Date: Aug 6, 2019

To: Joanna Wice, Solicitor, Corporate Services, City of Hamilton

From: Brian Hollingworth, Director
Transportation Planning and Parking Division

Subject: **Mediation for Pier 8 Zoning By-law and Plan of Subdivision Appeals – Traffic Mitigation Measures**

On April 3, 2019, City of Hamilton staff, Legal Council and Appellants of the Pier 8 Zoning By-law and Plan of Subdivision met to discuss a potential settlement. The following general topics were raised by the Appellants:

- 1) Mitigating impacts of traffic on neighbourhood
- 2) Parking supply
- 3) Community facilities and sustainability of community services

Additional discussions were held as part of a mediation session on July 25th and 26th 2019.

The purpose of this memo is to address potential traffic mitigation enhancements.

At the April mediation session, the following issues were raised with respect to traffic:

- 1) Desire for restrictions on John Street at Guise Street
- 2) Re-instating planned round-about at James and Strachan
- 3) Gateway feature at James and Strachan
- 4) Traffic on Ferguson Avenue
- 5) Signage to indicate Child and Family Friendly Neighbourhood
- 6) Location of potential parking structure in terms of traffic patterns
- 7) Construction vehicle routing, and desire to avoid John Street
- 8) Use of term “Neighbourhood Mobility Street” to describe Bay Street (note: this term is no longer used by the City and the Official Plan designates Bay Street as a Collector Street)

Based on the above, staff have identified the following potential measures for consideration.

Measure 1: John Street Cycle Track Extension

The North End Traffic Management Plan recommended a conversion of John Street from one-way to two-way, along with a partial closure at Guise Street. In 2017, this change was in the process of being implemented, and it was decided based on public consultation, a two-way cycle track was preferable. In late 2018, the cycle track was implemented between Strachan Street and Burlington Street.

Extending the cycle track further North would serve to achieve the desired traffic mitigation by residents, while also providing a continuous connection to Pier 8 and the waterfront trail. See Exhibit 1 below.

Exhibit 1: Potential John Street Configuration (Staff Preferred Option)



It is possible to adopt the same configuration as the existing John Street cycle track (See Exhibit 2). This would require that the on-street permit parking be shifted from the west side of the street to east side.

Under this configuration, traffic exiting Pier 8 would not be permitted to travel south on John Street, given the one-way configuration. Traffic in the northbound direction from Downtown be relatively modest since John Street is now narrowed and relatively slow.

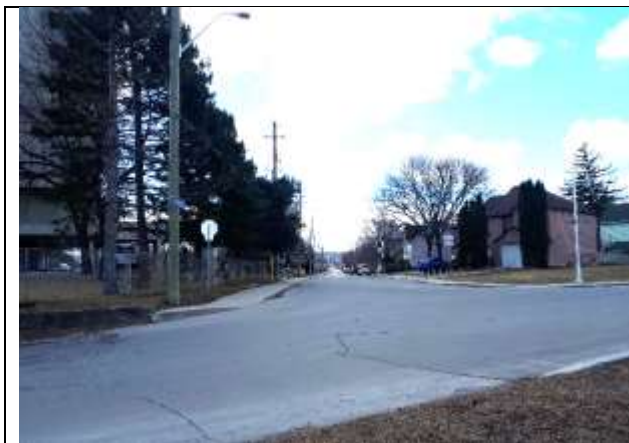
Another advantage is that construction traffic (e.g. dump trucks) would not use John Street to exit Pier 8.

From a traffic perspective, the Pier 7/8 TIS assumed 20% of the exiting traffic would travel southbound on John Street (84 vehicles in the AM, 63 in the PM). It is reasonable to assume this traffic could be accommodated on James Street and Dock Service Road/Ferguson.

Following the presentation of this option at the April settlement discussions, representatives of the appellants consulted with residents on John Street. It was reported that there was reluctant but universal acceptance of a solution that included one way traffic, parking on one side, and two way bike lanes. However, there was also universal comment that the one way should be South, not North.

While an option based on southbound only traffic is possible, there are a number of potential challenges. If the cycle track is on the west side, this would mean that northbound cyclists are closer to opposing traffic (a condition that less preferred than if cyclists adjacent to traffic are moving in the same direction). If the cycle track is moved to the east side, this means that the cycle track would need to shift sides at Burlington, a condition that introduces conflicts. Thus, staff's preferred option would be to maintain consistency of the cycle track and permit northbound traffic only.

Exhibit 2: Photos of John Street North



John Street looking South at Guise Street



Existing John Street cycle track south of Burlington Street

Implementation Considerations:

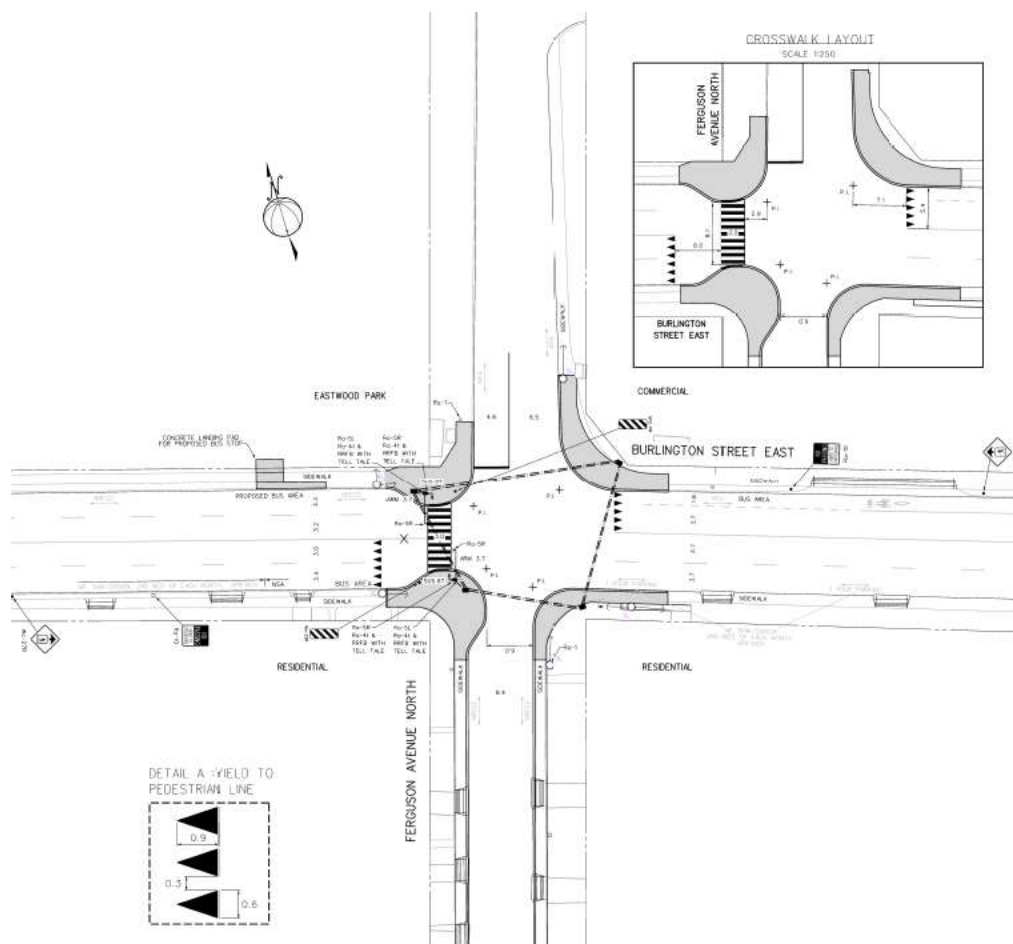
- Requires council approval
- Residents may resist changes to on-street parking
- Cost ~ \$50 K for signage and pavement markings
- Implementation is possible by Fall 2020

Measure 2: Ferguson Avenue Restrictions

The NETMP proposed a bicycle lane on Ferguson Avenue along with crossing enhancements and a traffic signal. With the implementation of the cycle track on John Street, the City has been working on options for the Ferguson/Burlington intersection. The current proposed design is shown in Exhibit 3.

The implementation of this design would reduce the attractiveness of Ferguson Avenue for vehicular traffic, as desired by the Appellants.

Exhibit 3: Concept for Ferguson Avenue and Burlington Street



Implementation Considerations:

- Generally consistent with NETMP, so no Council approval required
- Approximate cost \$50,000 (assuming implementation as part of Burlington Street Works project)
- Implementation is currently programmed in capital budget for 2022

Measure 3: Gateway Feature at James Street and Strachan Avenue

The NETMP proposed a roundabout at this location which would serve as a traffic calming feature and gateway feature. After further feasibility, the roundabout option was discontinued. Subsequently, curb extensions were installed as a traffic calming feature. Signage was also installed. See Exhibit 4.

At the April 2019 settlement discussions, and re-iterated at the July mediation session, appellants expressed the desire to maintain the original intent of the NETMP, which was a “gateway feature” which would alert drivers to the fact they are entering a neighbourhood with a different character. It was also suggested that the gateway needs to have a physical presence, and be more than signage (which currently exists).

Exhibit 4: Photo of James Street at Strachan Avenue



Due to the fact that some design will be required to develop a concept for the gateway feature, to ensure physical fit, it is suggested that for the purpose of settlement, a set of principles be agreed to. Suggested principles are as follows for the James Street gateway at Strachan:

- Gateway to announce entry into North End Neighbourhood
- Gateway to include some form of physical infrastructure, but not necessarily within the existing pavement width due to space constraints
- Concept and design for gateway will be determined as part of a public consultation process

- Implementation of gateway feature must be completed within a maximum upset budget of \$100,000 including design and consultation.

Implementation Considerations:

- Requires design and consultation with residents
- Upset budget of \$100,000 including design fees and consultation
- Design must respect basic parameters regarding safety and signage per Ontario guidelines and standards