

ISSUE DATE:

January 18, 2008



PL070386

By-law No. 07-042

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. and Trinity Property Investments Inc.  
Subject: Proposed Official Plan Amendment No. 210  
Municipality: City of Hamilton  
OMB Case No.: PL070386  
OMB File No.: O070052

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. and Trinity Property Investments Inc.  
Subject: Zoning By-law No. 07-043  
Municipality: City of Hamilton  
OMB Case No.: PL070386  
OMB File No.: R0070071

**APPEARANCES:**

**Parties**

Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. and Trinity Property Investments Inc.

The Gore District Land Trust Corporation  
(McMaster Innovation Park)

City of Hamilton

**Counsel**

Joel Farber

Eric Nanayakkar

Nancy Smith

**MEMORANDUM OF ORAL DECISION DELIVERED BY R. ROSSI ON 15 JANUARY 2008 AND ORDER OF THE BOARD**

This is the fifth Pre-hearing conference related to these appeals. At the December 2007 Pre-hearing conference, the Municipality reached a settlement with the Gore District Land Trust Corporation (known as the McMaster Innovation Park).

Specifically, the West Hamilton Innovation District is the entire piece of land that the City has envisioned as a research and development park. A portion of these lands comprises the McMaster Innovation Park and this is the portion of land that was dealt with in the December Pre-hearing conference settlement. At that time and on consent, the Board approved both Official Plan Amendment 210, as amended, and the Zoning By-law Amendment 07-043 as it related to the City and Gore. At that Pre-hearing conference, Mr. Farber, on behalf of the "Trinity" group, expressed no objection to the settlement that the City and Gore had reached.

Mr. Farber advised the Board at today's fifth Pre-hearing conference that the owners of Aberdeen (Hamilton) Holdings Inc. and Hamilton Metal Trading Corp. wrote to Mr. Farber to dispute details of Mr. Farber's retainer. Mr. Farber provided the Board with their letter, his letter of response to the principals and a related Agreement of Purchase and Sale binding Trinity Properties Investments Inc. and Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. The Board received those documents and it placed the items on the file but they are not exhibits to these proceedings.

The Board met privately with the Parties to consider the matter of the disputed retainer and to determine the impact of that matter on these proceedings. After fruitful discussions, the Board determines that at the time of the December 2007 pre-hearing and the presentation of settlement details, all Parties were in agreement regarding the resolution of the Gore (McMaster) appeal. At that time, the principals in Aberdeen and Hamilton Metal had not expressed a concern with Mr. Farber's retainer. The Board determines that his clients' concern and resolution of the retainer issue are matters clearly beyond the purview of the Board's jurisdiction and do not affect the agreement reached in December 2007.

The Board also agrees with Ms Smith that the City must know with whom it is dealing and the Board is satisfied that the components of the "Trinity" group and its representing Counsel, Mr. Farber, were known to all Parties in December 2007 and that no objection to the resulting McMaster settlement was raised. The Board will provide the "Trinity" group with a period of up to four weeks to meet with Mr. Farber to discuss how they intend to proceed with the balance of the pre-hearing and hearing processes so that the City, and by extension, interested participants and the general public might

know who will represent Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. in respect of the balance of the appeals and these entities' relationship with Trinity Property Investments Inc. The Board also directs Mr. Farber to advise the Board on the precise nature of Trinity Property Investments Inc.'s status in these and subsequent proceedings. Mr. Farber will provide the Board with as much information as possible in this regard and furnish all relevant supporting documentation.

Mr. Farber provided some contextual information regarding the Parties he has represented during the Pre-hearing conferences. He advised the Board that the implementing planning instruments for the subject lands were approved in February 2007. The impact of that approval on the Hamilton Metal Trading Corp. and Aberdeen (Hamilton) Holdings Inc. renders the existing uses as legal nonconforming. Mr. Farber submitted that the approval hampered the development potential of those lands by removing existing uses that would have been allowed in the broader underlying K zoning that currently exists. The aforementioned two Parties have appealed those planning instruments to the board in their entirety.

In November 2007, Trinity Property Investments Inc. entered into an agreement of purchase and sale (on file) with these two vendors, at which time it assumed carriage of the appeals. The Parties' intention was to pursue a mixed-use proposal including an office component and a retail commercial component on the vendors' lands – something that would not be permitted by the planning instruments. The Board reaffirms its direction for Mr. Farber to inform all Parties as to the status of Trinity in respect of the Aberdeen and Hamilton Metal appeals.

Mr. Farber noted that there was an apparent sense of urgency on the City's and McMaster's parts to at least have the McMaster Innovation Park proposal proceed as soon as possible, which is why an April 2008 hearing date was set. However, with today's Order approving the December 2007 settlement (approving the zoning the permit the McMaster Innovation Park scheme to proceed), there is no need for the April 2008 hearing.

Could the Board reasonably require the Trinity group to proceed on the April date? The Board notes that the Trinity group joined these proceedings in November 2007, representing Aberdeen and Hamilton Metals in their appeals. With the Parties'

proximity to the McMaster lands, Mr. Farber advised the Board that there is a substantial amount of background work for the Trinity group to complete in order to justify its project. In addition to determining the feasibility of the development itself regarding environment issues, traffic, engineering, etc, there is also work to be done on the justification for the proposed land use. The Board appreciates that the Trinity group would be unable to have a complete package ready to proceed in April. Further, the City advised the Board that its planning department also requires sufficient time to review the Trinity materials and time to allow for public consultation on what they will propose.

In this regard, the Board determines that the timeframes are not feasible for all Parties to meet and it hereby cancels the April 2008 hearing date. However, the Board directs the three components of the Trinity group to have their completed materials filed with the City of Hamilton on or before June 15, 2008 and to furnish electronic copies to persons listed on the attached mailing list.

A sixth Pre-hearing conference will be held on Monday, September 15, 2008 at 10:00 a.m. in Hamilton. The Parties will keep the Board fully apprised of ongoing discussions and developments. In respect of the retainer issue, the Board may be spoken to insofar as that matter results in confirmation of Mr. Farber's status or retention of alternate counsel. The Parties must also advise the Board whether there is the potential for settlement discussions. Should such an opportunity not present itself, the Board intends to set a subsequent date for submission of a consolidated issues list shortly after the September 15<sup>th</sup> date with a hearing date set for late-Fall 2008. Parties are hereby notified through this Order to make themselves available for the Board-assigned dates. No further notice will be given.

Having now received the finalized settlement document presented at the December 2007 Pre-hearing conference, the Board orders that the appeal of The Gore District Land Trustee Corporation on behalf of The Gore District Land Trust be allowed in part. The Board amends the former City of Hamilton Official Plan with the attached Official Plan Amendment (Attachment 1) in relation to 270 and 175 Longwood Road South as shown on the Location Map (Attachment 2). The Board amends the City of Hamilton Zoning By-law with Zoning By-law No. 07-043 (Attachment 3) in relation to 270 and 175 Longwood Road South as shown on the Location Map. The Board orders that

Interim Control By-law 05-041, as extended by 06-028, be repealed over 270 and 175 Longwood Road as shown on the Location Map but will remain in full force and effect in relation to the balance of the lands to which it applies.

The Member continues to be seized for the administrative management of this file for the balance of the Trinity appeals.

So Orders the Board.

"R. Rossi"

R. ROSSI  
MEMBER

**MAILING LIST**

Alexandra Rawlings  
Planning & Economic Development  
Committee  
City of Hamilton  
City Clerk's Office, Corporate  
Services  
71 Main Street West, 7<sup>th</sup> Floor, City  
Hall  
Hamilton ON L8P 4Y5

Sergio Manchia  
Principal & Senior Planner  
Planning & Engineering Initiatives Ltd.  
360 James Street N, Ste 200  
Hamilton ON L8L 1H5

The Gore District Land Trustee  
Corporation  
c/o Randall Bocock and Eric  
Nanayakkara  
Solicitors  
Evans, Philp LLP  
One King Street West, Suite 1600  
Hamilton ON L8P 1A4

Hamilton Metal Trading Corp.  
c/o Joel D. Farber  
Fogler Rubinoff – LLP  
95 Wellington Street W.,  
Suite 1200 TD Centre  
Toronto ON M5J 2Z9

Karen Partanen  
Senior OMB & Information Coordinator  
Municipal Programs & Education Branch  
Ministry of Municipal Affairs & Housing  
777 Bay Street, 3rd Floor  
Toronto ON M5G 2E5

Director  
Provincial Planning & Services Branch  
Ministry of Municipal Affairs & Housing  
777 Bay Street, Floor 14  
Toronto ON M5G 2E5

Clerk  
City of Hamilton  
12-21 King St W  
Hamilton ON L8P 4W7

***The following are Participants:***

Jeff Bush  
Director, Main West Esplanade BIA  
459 Main St. W.  
Hamilton, ON L8P 1K3

Tony Greco  
Director, Lock Street BIA  
230 ½ Locke Street South  
Hamilton, ON L8P 4B7

Adam Stewart  
President, Kirkendall Neighbourhood  
Association  
P.O. Box 25  
180 James Street South  
Hamilton, ON L8P 4V1

Sean Burak  
456 Herkimer Street  
Hamilton, ON

Keith Birch  
702-24 Tisdale Street South  
Hamilton, ON L8N 2V9

***The following wish only to receive a  
copy of the order:***

Kim Wachta  
39 Kipling Road  
Hamilton, ON L8S 3X2

Dale Brown  
203-77 James Street N.  
Hamilton, ON L8R 2K3

Amanda Hobbins for  
Ted McMeekin, MPP  
299 Dundas Street E.  
PO Box 1240  
Waterdown, ON L0R 2H0

John Wigle  
President, Ainslie Wood/Westdale  
Community Association of Resident  
Homeowners Inc.  
221-1063 King Street West  
Hamilton, ON L8S 4S3

David Simpson  
Westdale Village BIA  
950 King Street W.  
Hamilton, ON L8S 1K8

Stephanie Hilson  
26 Beulah Avenue  
Hamilton, ON L8P 4G9

Neville Humm  
23 Rossmore Avenue  
Hamilton, ON L8P 2N2

Joseph Rosati  
4 Vinehill Drive  
Stoney Creek, ON L8G 4Y5i

**Attachment 1**

**Official Plan Amendment No.  
to the former City of Hamilton Official Plan**

The following text, together with:

- Schedule "A" (Schedule "A" - Land Use Concept, City of Hamilton Official Plan);
- Schedule "B" (Schedule "B" - Special Policy Areas, City of Hamilton Official Plan);
- Schedule "C" (Schedule "G" - Planning Units, City of Hamilton Official Plan);
- Schedule "D" (Schedule "O-1" - Land Use Plan, West Hamilton Innovation District); and,
- Schedule "E" (Schedule "O-2" - Design Elements, West Hamilton Innovation District).

attached hereto, constitutes Official Plan Amendment No. 210 to the City of Hamilton Official Plan.

**Purpose and Effect:**

The purpose of the Amendment is to:

- Add the West Hamilton Innovation District Secondary Plan to the former City of Hamilton Official Plan to identify the land uses, the types of permitted uses, urban design, transportation and servicing policies, and provide for protection of existing natural features and heritage resources; and,
- Amend various policies and the land use and special policy area schedules to reflect the principles and policies contained in the Secondary Plan.

The effect of the Amendment is to establish the policy framework to guide the development and redevelopment of the subject lands as a research and innovation district.

**Location:**

The lands affected by this Amendment comprise 15 hectares ( 37 acres) located east and west of Longwood Road South, north of Aberdeen Avenue and south of Highway 403 in the City of Hamilton.

**Basis:**

The Amendment can be supported on the following basis:

- The Secondary Plan is consistent with the City's Economic Development Strategy to encourage the development of economic clusters, including various clusters for research



- The Secondary Plan conforms to the general intent and objectives of the Places to Grow Plan and the Provincial Policy Statement by maintaining and enhancing existing employment land; promoting the rehabilitation of brownfield sites; improving the level of compatibility with neighbouring residential uses; encouraging excellence in urban design; and promotes sustainable development and improvements to the natural environment.
- The Secondary Plan conforms with the general intent and objectives of the City of Hamilton Official Plan;
- The servicing of this area is subject to the Area-specific Master Servicing Plan which is to be completed through the Environmental Assessment process. Therefore, it is desirable to establish a land use pattern at this time through the adoption of the Secondary Plan;
- Secondary Plan policies will guide transportation improvements that are consistent with the recommendations of the Kirkendall Neighbourhood Master Transportation Study.

**Actual Changes:**

- (a) Schedule "A" - Land Use Concept is revised by redesignating:
  - (i) the lands on the west side of the CPR Railway line, south of Chatham Street from "Utilities" to "Industrial" and;
  - (ii) the lands on the west of Dundurn Street from Main Street West to Chatham Street from "Industrial" to "Commercial";as shown on the attached Schedule "A" to this amendment
- (b) Schedule "B" – Special Policy Areas is revised by deleting Special Policy Area 11 from the lands south of Main Street West, west of Dundurn Street South and the Canadian Pacific Railway line, north of Aberdeen Avenue and east of Highway 403, as shown on the attached Schedule "B" to this amendment.
- (c) Schedule "G" – Planning Units is revised by incorporating the lands south of Main Street West, west of Dundurn Street South and the Canadian Pacific Railway line, north of Aberdeen Avenue and east of Highway 403 as part of the new planning area, as shown on the attached Schedule "C" to this amendment
- (d) The City of Hamilton Official Plan is amended by adding a new Schedule "O-1" - Land Use Plan, to the Official Plan as shown on the attached Schedule D" to this amendment.

- (e) The City of Hamilton Official Plan is amended by adding a new Schedule "O-2" - Design Elements, to the Official Plan as shown on the attached Schedule "E" to this amendment.
- (f) Section A.6 is amended by adding a new Subsection A.6.5 as follows:

**"6.5 WEST HAMILTON INNOVATION DISTRICT SECONDARY PLAN**

**6.5.1 Vision**

*The West Hamilton Innovation District Secondary Plan Area will function as a centre of innovation for corporate, academic and government research in science and technology and will be recognized as a major entry point into the City. This prestige employment community will establish architectural presence along Highway 403 and a street-oriented design along the interior public roads. The development of knowledge-based activities will allow for the eventual production of goods and materials enabling companies to remain and grow within the Innovation District.*

*The establishment of partnerships between education, the City, other levels of government and the business community will spark the development of a dynamic community and create synergies that will encourage innovation, economic growth and new business opportunities. The Innovation District will be enhanced by supportive commercial, educational and residential uses which will contribute to the transformation of the area into an integrated first rate research community. Pedestrian activity and interaction will be encouraged through the creation of attractive streetscapes, innovative building design and the provision of publicly accessible spaces. The improvement and development of existing and new linkages will enhance access to accommodate motorists, pedestrians, cyclists, public transit and goods movement within, through and around the Innovation District.*

**6.5.2 Objectives**

The following objectives constitute the fundamental guidelines which will direct the development of the West Hamilton Innovation District:

- i) To encourage the redevelopment of brownfield lands to a prestige research district comprised mainly of uses related to research, science and technology which are remediated to a high standard to ensure public health and safety.
- ii) To encourage the development of the McMaster Innovation Park generally identified on Schedule "O-2", Design Elements as an integrated and comprehensive research community and employment area in a campus-like setting.
- iii) To support and recognize the benefits of partnerships between McMaster University, various levels of government and the

business community in the creation of synergies and economic development opportunities in the development of the Innovation District.

- iv) To enhance linkages and connections between West Hamilton Innovation District and McMaster University, the adjacent residential neighbourhoods and the Hamilton Trail System.
- v) To recognize and encourage the transition of existing uses to research, science and technology uses over time.
- vi) To promote compatible development adjacent to existing residential uses.
- vii) To recognize the continued importance of the Canadian Pacific Railway to existing and future uses within the West Hamilton Innovation District as a provider of the regional transportation of goods and materials.
- viii) To promote supportive commercial, education and residential activities to serve the needs of the Innovation District.
- ix) To foster the economic growth of biosciences, advanced manufacturing and other research sectors consistent with the City's Economic Development Strategy.















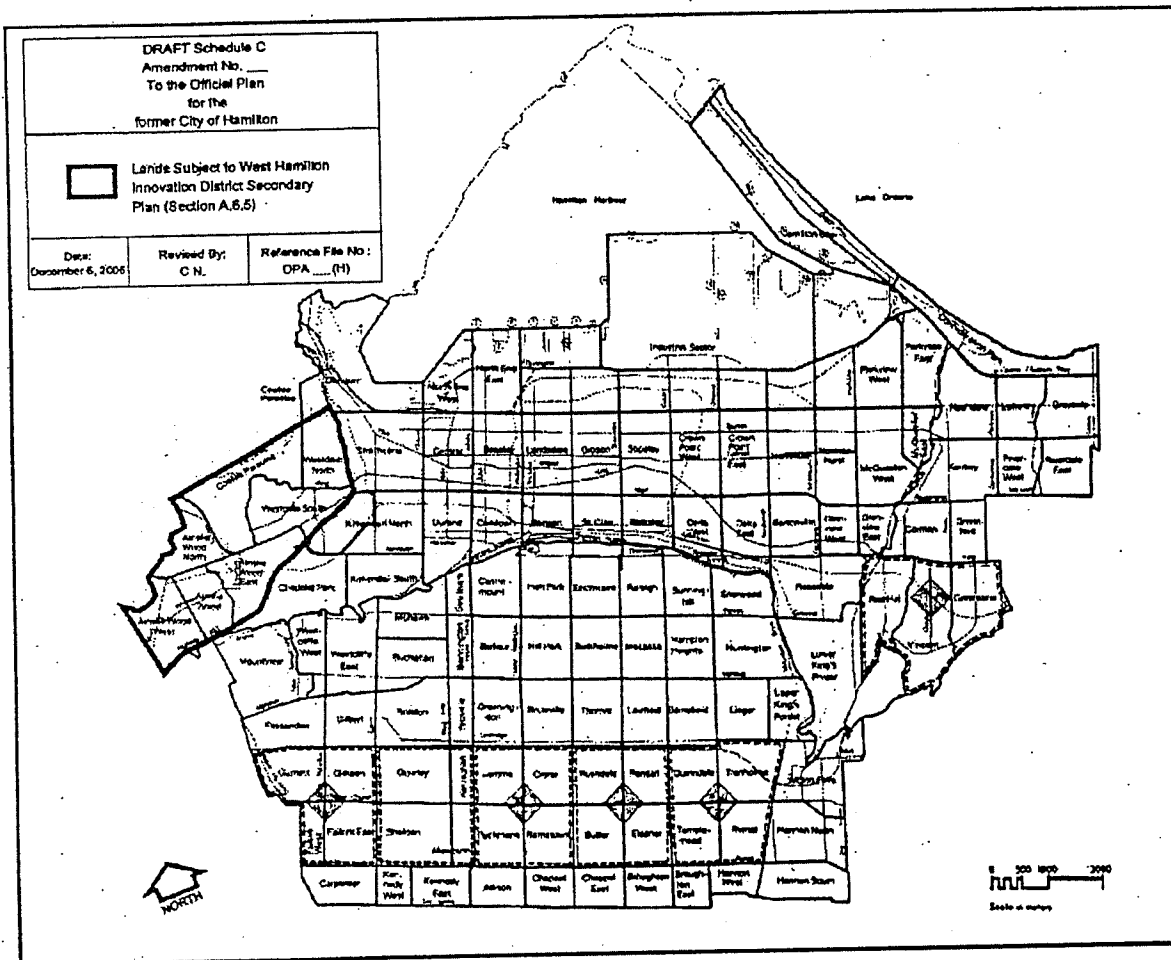










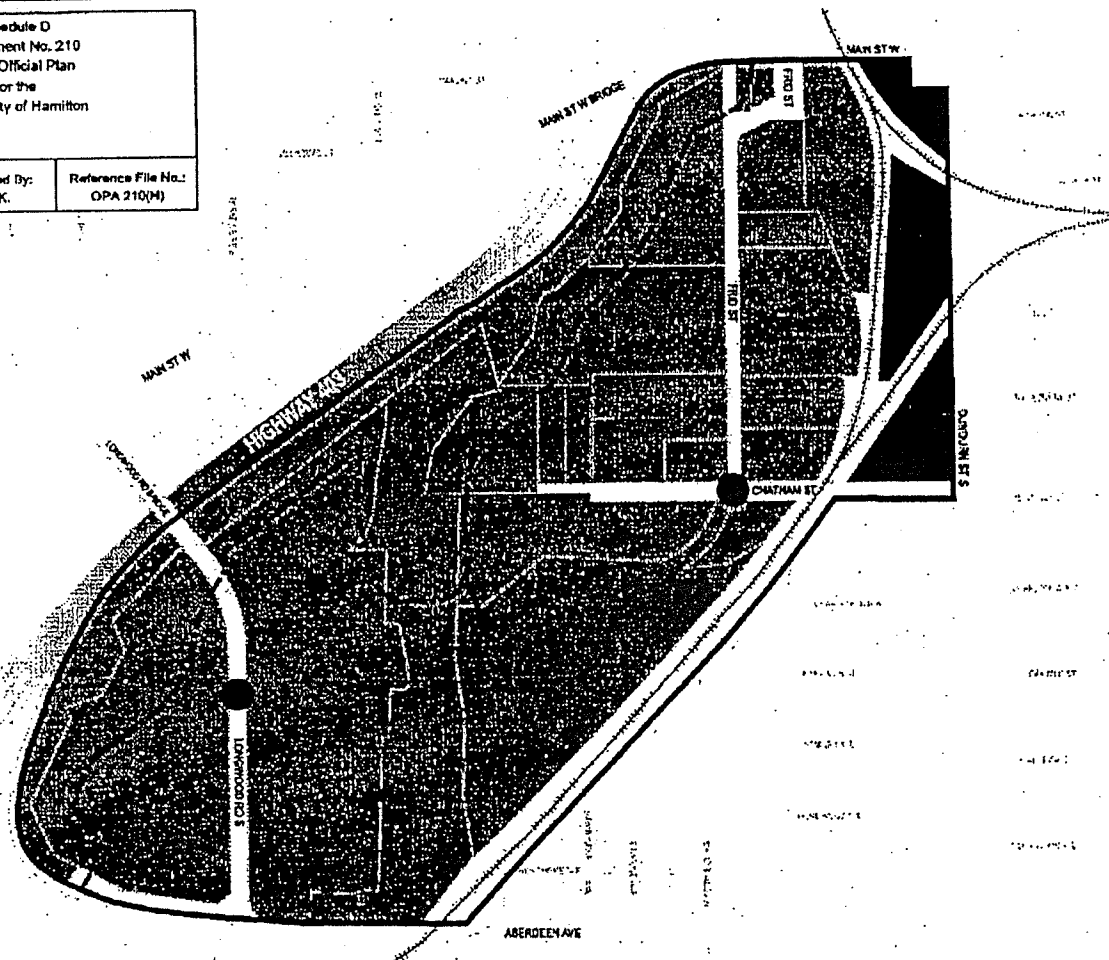


Schedule D  
Amendment No. 210  
To the Official Plan  
for the  
former City of Hamilton

Date:  
August 29, 2007

Revised By:  
B.K.

Reference File No.:  
OPA 210(M)



West Hamilton  
Innovation District  
Secondary Plan

Legend

- Research District
- Future Road Extension  
(Exact location to be determined  
through Environmental Study  
Report)
- Land Use Plan
- Secondary Plan Area Boundary
- CP Rail
- Future Road Extension  
(Exact location to be determined  
through Environmental Study  
Report)

Schedule "O-1"

Land Use Plan





Schedule E  
Amendment No. 210  
To the Official Plan  
for the  
former City of Hamilton

Date:  
August 29, 2007

Revised By:  
B.K.

Reference File No.:  
OPA 210(H)

West Hamilton  
Innovation District  
Secondary Plan

Legend

- Buildings of historical interest
- Former Warehouse
- Office Building
- Boiler / Power House
- Landscape Buffer
- Landmark Midrise Building
- Entrance Features
- Connection Opportunity to  
Chesapeake Nature Trail System
- Future Roundabout
- Open Space
- Streetscape Master Plan
- Midlester Innovation Park
- Views to Escarpment
- Views from Local Streets
- Views from Hwy 403  
and Main West Bridge
- Secondary Plan Area Boundary
- CP Rail
- Future Fild Street Extension  
(based on proposed to be approved  
through Environmental Study Report)

Schedule "O-Z"

Design Elements



Attachment 2