

ISSUE DATE:

January 21, 2013

By-law No. 13-051



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL101121

Parkside Hills Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lot 8, Concession 4, municipally known as 619 Centre Road in the City of Hamilton

Approval Authority File No. 25T-201003

OMB File No. PL101121

Parkside Hills Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 90-145-Z (Flamborough), of the City of Hamilton, as amended to rezone lands respecting 619 Centre Road from Conservation Management "CM" Zone and Agriculture "A" Zone to Park Open Space "02" Zone, Urban Commercial "UC-X" Zone and Medium Density Residential "R6-16" Zone to permit the development of the proposed subdivision

OMB File No. PL101150

Parkside Hills Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate lands at 619 Centre Road from Urban Residential to Mixed-Use, Medium Density Residential 1 to permit the development of the proposed subdivision

Approval Authority File No. OPA-12-003

OMB File No. PL121013

APPEARANCES:

Parties

City of Hamilton

Parkside Hills Inc.

Counsel

B. Duxbury

M. McQuaid

MEMORANDUM OF ORAL DECISION DELIVERED BY C. HEFFERON ON DECEMBER 11, 2012 AND ORDER OF THE BOARD

BACKGROUND

[1] Parkside Hills Inc. ("Parkside") proposes a phased development of approximately 36.72 ha in the former Township of East Flamborough of the City of Hamilton ("City")

with a mix and range of residential units. Blocks 1, 2, 3, 4, 8, 10, 11 and part of Block 7 ("subject lands") were before the Board for approval in these proceedings. The subject lands, comprising approximately 5.6 ha, are shown in the Block Plan, which was exhibited to the evidence as Exhibit 24.

[2] In order to develop the subject lands as proposed, Parkside was required to apply for amendments to the City of Hamilton (Flamborough) Zoning By-law No. 90-145-Z of the City of Hamilton, as amended ("By-law"), and the Waterdown North Secondary Plan, which amended the City of Hamilton Official Plan. As well, the Parkside applied for approval of its current draft Plan of Subdivision, which was entered to the evidence as Exhibit 24.

[3] The subject proceedings, which were conducted on December 11, 2012, constituted the second hearing event of the Ontario Municipal Board ("Board") into this matter.

MATTER BEFORE THE BOARD

[4] Two matters were before the Board in the subject proceedings:

1. At the commencement of the subject hearing, the Board was informed that, with the exception of one item of contention involving certain parts of the subject lands, a settlement between the Parties had been reached. That settlement has been endorsed by City Council.

The disputed lands are in Blocks 1 and 8. The Board was asked to determine the minimum required rear yard setback on certain lots within those Blocks.

With the exception of the minimum rear yard setback, none of the other dimensions of the lots in question was disputed. Parkside proposed that the lots with a reduced rear setback will be developed with townhouse units with a gross floor area of approximately 138 sq m. These units are similar in gross floor area to the units proposed for the lots with the standard 7 m rear yard setback.

2. The second matter before the Board was the draft Plan of Subdivision and the required amendment to the Waterdown North Secondary Plan.

EVIDENCE AND FINDINGS

[5] The Board first turned its attention to the requested amendment to s. 11.3 of the By-law, which provides for minimum rear yard setback requirements.

[6] Mr. Ted Cymbaly, who was retained by Parkside, was qualified by the Board to give opinion evidence on land use planning.

[7] Testifying on behalf of Parkside, Mr. Cymbaly contended that even with a 5.05 m rear yard setback, Parkside will have sufficient flexibility to build a large enough home on these compact lots that will better satisfy the needs and wants of the target market for these homes. Mr. Cymbaly advised the Board that a typical new home proposed here would have a gross floor area of about 138 sq m. The 7 m rear yard setback would require a reduction in floor area of approximately 10 sq m in each of the three floors in the typical home, which will result in more crowding for a family with children. He also contended that the smaller rear yard will allow more of these relatively modest-sized homes to be built on less land which is both a goal of the City of Hamilton Official Plan and a requirement of the 2005 Provincial Planning Statement ("PPS").

[8] Mr. Edward John, who is employed as an urban planner by the City, was qualified to give opinion evidence on land use planning.

[9] Testifying on behalf of the City, Mr. John contended that with the current design of the townhouse units proposed for these lots, a 7 m rear yard setback will result in a more functional rear outdoor amenity space. He maintained that a home can be designed for these lots that will satisfy the needs and wants of the contemporary homebuyer and yet still fit within the general minimum rear yard setback requirements of s. 11.3 of the By-law. He testified that the target homebuyer is better served by having a larger rear yard. Mr. Cymbaly, on the other hand, contended that a greater public good would be realized with the smaller dimensioned rear yard.

[10] On the evidence, the Board finds that the greater public good will be achieved by the slightly smaller rear yard. In this Panel's view, the public interest is better served in the instance having more affordable homes on less land. While a few metres of extra space for outdoor storage may be welcomed by some families, the cost of this space in terms of reduced numbers of units in the same area is, in this Panel's view, too high.

The Board was told that there is ample green space in the immediate area. There will be, for example, a neighbourhood park within a few minutes' walk of any lot in this phase of the development. The park is coloured dark green in Exhibit 3. On a question from the Board, Mr. Cymbaly confirmed that even with the 5.05 m setback, there will still be ample space for a backyard deck as well as sufficient grass-covered outdoor amenity space for small children and dogs to play. This opinion was not contradicted by Mr. Hall.

[11] With respect to the disputed lands, Mr. Cymbaly took the Board to Exhibit 21(d), which shows the dimensions of one of the proposed townhouse lots with a reduced rear yard setback to be 5.5 m frontage and 20.37 m depth, with an area of 112 sq m. He pointed out that with the additional 1.95 m depth of the two upper levels of the home as well as on the basement level (as shown in Exhibit 21(c)), many of the features demanded by today's first time or downsizing homebuyer can be accommodated. It was his professional opinion that with the space required for the integral garage and the utilities room, a home built on such a lot would have little if any useable living space left on the basement level. He contended that the second and third levels of the home would also be very cramped without the extra 1.95 m of depth.

[12] He maintained that the proposed reduced rear yard setback allows development that is more compact and more efficient. This is consistent, he testified, with the PPS, particularly with policies 1.4.1 and 1.4.2, which encourage intensification.

[13] He testified that the proposed reduced rear yard conforms to City policy as expressed in the Waterdown North Secondary Plan policies A.8.1(i), A.8.1(ii) and A.8.2.1(i)(ii) and (iii).

[14] In his evidence, Mr. John spoke mainly to the need today for a functional rear yard – one that can accommodate not only the ubiquitous rear deck, al fresco eating area and gas barbeque – but which can also provide green space for children and pets to play as well as sufficient space for a storage shed for garden tools. He did not address the policies of the PPS or the policies of the Official Plan in his evidence.

[15] The Board accepts Mr. Cymbaly's undisputed evidence that in order to restrain urban sprawl with its attendant waste of natural and human resources both provincial and local policy encourage more compact communities with higher densities. The Board

finds that the requested rear yard setback of 5.05 m is consistent with provincial policy and with local policy as expressed in the Waterdown North Secondary Plan.

[16] Mr. Cymbaly advised that the developer has clearly determined that there is a market demand for larger homes on smaller lots. This Panel is of the opinion that the developer should, where it has been demonstrated to be both practical and advisable, be allowed some flexibility in the way it addresses both the Provincial requirement to provide a range and mix of housing as well as changing market needs.

[17] The Board accepts Mr. Cymbaly's evidence and finds that the requested amendments to the Waterdown North Secondary Plan and Zoning By-law are consistent with provincial policy and represent good planning.

CONCLUSION

[18] On the evidence, the Board finds that the requested 5.05 m rear yard setback for certain of the proposed townhouse lots is consistent with Provincial policy and represents good planning.

PLANNING ACT SECTION 2(1)

[19] Section 2(1) of the *Planning Act* requires the Board to have regard to the decision of City Council where Council has made its decision based on similar evidence that was before the Board. Nevertheless, the Board retains discretion to come to its own conclusion regardless of the conclusion arrived at by Council. In this case, the Board considered the same evidence as had been before Council and has come to a different conclusion respecting the requested 5.05 m rear yard setback on certain of the townhouse lots.

DRAFT PLAN OF SUBDIVISION AND OFFICIAL PLAN AMENDMENT

[20] The Board then turned its attention to the second matter, which was the requested approval of the draft Plan of Subdivision and the requested amendment to the Waterdown North Official Plan.

[21] Mr. Cymbaly presented unopposed testimony that the requested amendment to the Waterdown North Official Plan is consistent with the PPS and represents good

planning. He also testified that the requested amendment to the Waterdown North Official Plan had been endorsed by City Council. This evidence was adopted and relied on by Mr. John.

[22] The Board accepts the evidence of these two professional planners and finds that the requested amendment to the Waterdown North Official Plan is consistent with the PPS and represents good planning.

[23] Mr. Cymbaly then testified that the draft Plan of Subdivision has regard to the criteria in s. 51(24) of the *Planning Act* and represents good planning. He also testified that the draft Plan of Subdivision had been endorsed by City Council. This evidence was adopted and relied on by Mr. John.

[24] The Board accepts the evidence of these two professional planners and finds that the draft Plan of Subdivision has adequate regard to the criteria listed in s. 51(24) of the *Planning Act* and represents good planning.

ORDER

[25] With respect to the requested amendment to the s. 11.3.27 (e) of the By-law, the Board orders the appeal respecting the request for reduced minimum rear yard setback is allowed and orders that s. 11.2.27 of Zoning By-law No. 90-145-Z, as amended (Flamborough) is further amended to reflect this change.

[26] The Board orders that the appeal by Parkside against Zoning By-law No. 90-145-Z (Flamborough) of the City of Hamilton, as amended, is allowed in part, and this By-law is amended as set out in Attachment "1" to this Order, save and except the approval of the zoning for the area on Schedule "A" to Attachment "1" identified as "Area Subject to Deferral" is hereby deferred (the "Deferred Lands"). In all other respects, the Board orders that Parkside's appeal is dismissed.

[27] The Board further orders that the appeal by Parkside with respect to draft Plan of Subdivision (25T-201003) is allowed, and the revised draft Plan prepared by Metropolitan Consulting and certified by Metropolitan Consulting OLS dated October 22, 2012 composed of Lot 8, Concession 4 (Geographic Township of Flamborough), City of Hamilton, as set out in Attachment "2" to this order, is approved save and except the

approval related to Blocks 6 and 7 (the "Deferred Lands"), which is hereby deferred, subject to the fulfillment of the conditions as set out in Attachment "3" to this order. In all other respects, the Board orders the appeal is dismissed.

[28] And the Board further orders that the appeal by Parkside with respect to its request to City Council to amend the City of Hamilton Official Plan is allowed in part and the City of Hamilton Official Plan is amended as set out in Attachment "4" to this order, save and except the approval of the land use for an area on Schedule A-3 to the said Attachment "4" (being the Waterdown North Secondary Plan Area – Land Use Plan) is hereby deferred (the "Deferred Lands") to await the adjustment of the Urban Area boundary by the Panel of the Board dealing with OMB Case No. PL110331 (being the City of Hamilton Urban Official Plan appeals). In all other respects the Board orders that the appeal is dismissed.

[29] And the Board further orders that upon the adjustment of the Urban Area boundary, this Panel may be spoken to for final approval related to the Deferred Lands.

[30] And the Board further orders that pursuant to s. 51(56.1) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, the City shall have the authority to clear the conditions of draft approval and to administer the final approval of the draft Plan of Subdivision for the purposes of s. 51(58) of the *Planning Act*. In the event there are any difficulties in implementing any of the conditions of draft approval, or if any changes are required to be made to the draft Plan, the Board may be spoken to.

[31] And the Board further orders that in the event there are any issues arising in the implementation of its Decision and Order, this Board may be spoken to.

"C. Hefferon"

C. HEFFERON
MEMBER

EXHIBIT 25- ATTACHMENT #1

Authority:

Bill No.

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 90-145-Z (Flamborough),
Respecting Lands Located at 619 Centre Road,
Part of Lot 8, Concession 4 (Flamborough)**

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 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. 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 the Ontario Municipal Board has issued an Order that Zoning By-law No. 90-145-Z (Flamborough), be amended as hereafter provided;

AND WHEREAS this By-law will be in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Flamborough) upon approval of Official Plan Amendment No. 127, proposed by the City of Hamilton, but not yet approved in accordance with the provisions of the Planning Act;

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

1. Schedule "A-6" of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended;
 - (a) by changing from the Agriculture "A" Zone to the Medium Density Residential "R6-27" Zone, on the lands comprised in **Block "1"**;
 - (b) by changing from the Agricultural "A" Zone to the Urban Commercial "UC-10 (H)" Holding Zone, on the lands comprised in **Block "2"**;
 - (c) by changing from the Agricultural "A" Zone to the Urban Commercial "UC-11 (H)" Holding Zone, on the lands comprised in **Block "3"**;
 - (d) by changing from the Agricultural "A" Zone to the Urban Residential (Single-Detached) "R1-34" Zone, on the lands comprised in **Block "4"**;
 - (e) by changing from the Medium Density Residential "R6-16" Zone to the Medium Density Residential "R6-28" Zone, on the lands comprised in **Block "5"**;
 - (f) by changing from the Agricultural "A" Zone to the Urban Commercial "UC-10" Zone, on the lands comprised in **Block "6"**;
 - (g) by changing from the Agricultural "A" Zone to the Urban Commercial "UC-11" Zone, on the lands comprised in **Block "7"**;
 - (h) by changing from the Agriculture "A" Zone to the Medium Density Residential "R6-27 (H)" Holding Zone, on the lands comprised in **Block "8"**;
 - (i) by changing from the Agricultural "A" Zone to the Urban Residential (Single-Detached) "R1-34 (H)" Holding Zone, on the lands comprised in **Block "9"**;
 - (j) by changing from the Agricultural "A" Zone to the Park Open Space "O2-8" Zone on the lands comprised in **Block "10"**;
 - (k) by changing from the Agriculture "A" Zone to the Conservation Management "CM" Zone, on the lands comprised in **Block "11"**; and,
 - (l) by changing from the Park Open Space "O2-8" Zone to the Medium Density Residential "R6-27" Zone on the lands comprised in **Block "12"**;

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

2. Section 11 - Medium Density Residential Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

11.3 EXCEPTION NUMBERS

11.3.27 "R6-27" (Block 1)

Permitted Uses

- (a) Townhouse
- (b) Street Townhouse
- (c) Back-to-Back Townhouse
- (d) Stacked Townhouse
- (e) Apartment Building

Zone Provisions

- (a) Lot Area (minimum):
 - (i) Townhouse/Street Townhouse 112 sq. m.
 - (ii) Back-to-Back Townhouse 70 sq. m.
- (b) Lot Frontage (minimum):
 - (i) Townhouse/Street Townhouse 5.5m.
 - (ii) Back-to-Back Townhouse 6.0m.
- (c) Lot Coverage: N/A.
- (d) Front Yard (minimum): 4.5m, except 5.8m to an attached garage or attached carport.
- (e) Rear Yard (minimum):
 - (i) Townhouse/Street Townhouse 5 m.
 - (ii) Back-to-Back Townhouse 0.0m.

- (f) Interior Side Yard (minimum): 1.2m, except for the side yard related to the common wall of a dwelling, in which case a minimum of 0.0m shall be provided.
- (g) Exterior Side Yard (minimum): 2.4m.
- (h) Landscaped Open Space: N/A.
- (i) Building Height (maximum): 4-storeys.
- (j) Parking Spaces (minimum): 2 spaces per unit, one of which includes the garage. Visitor parking shall be provided at a rate of .25 per unit ONLY for those townhouse units fronting on a private road.
- (k) Density (maximum): N/A.
- (l) Number of units in a row (maximum): 10 dwelling units.
- (m) Yard Encroachments in accordance with the following:

Structure or Item	Yard Into Which Encroachment is Permitted	Maximum Encroachment Permitted into Required Yard
Sills, beltcourses, cornices, chimney breasts, pilasters, eaves, or gutters	All	0.65m
Bay windows with or without a foundation	Required front, rear, and required exterior side yard	1.00m

Steps and unenclosed porches	Required front, required rear, and required exterior side yard	Porches - 2.0m Steps - 0.60m from the streetline
Setback of all structures from site triangles	Required front and required exterior side yard	0.30m minimum setback from a site triangle

- (n) For the purpose of this section, a back-to-back townhouse unit shall mean a townhouse dwelling with two or more common walls, each of which has a minimum of one independent entrance directly from the outside.
- (o) For the purpose of this section, a street townhouse shall mean a townhouse with each dwelling unit having frontage onto a private road or public street.
- (p) Where a townhouse or a street townhouse has a garage being accessed from a private lane, the following provisions shall apply:
- Front Yard: Minimum 0.5m.
- Side Yard: Minimum 1.2m.
- Rear Yard: Minimum (from the lane) 5.8m.
- Amenity Area: Minimum of 15 s.q. m and shall include porches, decks, balconies, and verandahs.
- (q) For the purpose of this section, a stacked townhouse means a residential apartment building containing a minimum of four, and a maximum of twenty units, each of which has an independent entrance, provided that:
- i. Stacked townhouse buildings shall have a maximum length of 60m.
 - ii. Not more than half of all dwelling units shall be on the ground floor.

iii. Dwelling units shall be fully attached to adjoining units, and are attached vertically or horizontally.

iv. Access to all second level units shall be from an interior stairway within the stacked townhouse building.

(r) All other zone provisions of Sub-section 11.2 shall apply.

(s) For apartment buildings the zone provisions of Section 11.2 shall apply except that the maximum density shall not exceed 125 units per net hectare.

General Provisions

Other than contained herein, the provisions of Section 5 shall apply.

3. Section 17 - Urban Commercial Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

17.3 EXCEPTION NUMBERS

17.3.10 "UC-10 (H)" (Block 2) (Shopping Centre Block)

Prohibited Uses

(a) Hotels, motels, and automobile sales and service.

Zone Provisions

a) Height (maximum): 4-storeys.

b) A minimum of 1,858m² of the following uses identified in Section 17.1 (d), (f), (g), (h), (k), (m), (n), (o), (s), (t), (u), (v), (w), and gymnasium, fitness centre.

c) All other zone provisions of Section 17 shall apply.

17.3.11 "UC-11 (H)" (Block 3) (Commercial Block)

Permitted Uses

In addition to the uses permitted by Section 17.1, the following uses are permitted:

- (a) apartment buildings, stacked townhouses, and retirement apartments.

The following uses are not permitted:

- (b) hotels, motels, and automobile sales and service.

Zone Provisions

- c) Height (maximum): 4-storeys.
- d) All other zone provisions of Section 17 shall apply.
- e) For the purpose of this section, a stacked townhouse means a residential apartment building containing a minimum of four, and a maximum of twenty units, each of which has an independent entrance, provided that:
 - i) Stacked townhouse buildings shall have a maximum length of 60m.
 - ii) Not more than half of all dwelling units shall be on the ground floor.
 - iii) Dwelling units shall be fully attached to adjoining units, and are attached vertically or horizontally.
 - iv) Access to all second level units shall be from an interior stairway within the stacked townhouse building.
- f) Density (maximum) for residential uses, excluding those identified in Sub-section 17.1 (b) - shall be 125 units per net hectare.
- g) The zone provisions of "R6-27" (Block 1) shall apply for stacked townhouses.

4. Section 11 - Medium Density Residential Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

11.3 EXCEPTION NUMBERS

11.3.28 "R6-28" (Block 5)

Permitted Uses

The following uses are permitted in addition to the uses permitted by Sub-section 11.1:

- (a) Back-to-Back Townhouse
- (b) Duplex Dwelling
- (c) Stacked Townhouse
- (d) Live/Work Dwelling Unit

Zone Provisions for Back-to-Back Townhouse Units

- (a) Lot Area (minimum): 70 sq. m.
- (b) Lot Frontage (minimum): 6m.
- (c) Lot Coverage: N/A.
- (d) Front Yard (minimum): 0.5m, except 5.8m to an attached garage or attached carport.
- (e) Rear Yard (minimum): 0m.
- (f) Interior Side Yard (minimum): 1.2m, except for the side yard related to the common wall of a dwelling, in which case a minimum of 0.0m shall be provided.
- (g) Exterior Side Yard (minimum): 2.4m.

- (h) Landscaped Open Space: N/A.
- (i) Maximum Building Height: 4-storeys.
- (j) Parking Spaces (minimum): 2 spaces per unit, one of which includes the garage. Visitor parking shall be provided at a rate of .25 per unit ONLY for those townhouse units fronting on a private road.
- (k) Loading spaces: N/A.
- (l) Density (maximum): N/A.
- (m) Number of units in a row (maximum): 10 dwelling units.
- (n) Yard Encroachments in accordance with the following:

Structure or Item	Yard Into Which Encroachment is Permitted	Maximum Encroachment Permitted into Required Yard
Sills, beltcourses, cornices, chimney breasts, pilasters, eaves, or gutters	All	0.65m
Bay windows with or without a foundation	Required front, rear, and required exterior side yard	1.00m
Steps and unenclosed porches	Required front, required rear, and required exterior side yard	Porches - 2.0m Steps - 0.60m from the streetline

Setback of all structures from site triangles	Required front and required exterior side yard	0.30m minimum setback from a site triangle
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- (o) For the purpose of this section, a back-to-back townhouse unit shall mean a townhouse dwelling with two or more common walls, each of which has a minimum of one independent entrance directly from the outside.
- (p) For the purpose of this section, a street townhouse shall mean a townhouse with each dwelling unit having frontage onto a private road or public street.
- (q) For the purposes of this Section, a live/work dwelling unit shall mean a dwelling unit in a townhouse, a stacked townhouse or back-to-back townhouse where the ground floor, or part thereof, is used for commercial purposes and where the commercial and residential components are accessed by a common internal entrance.

Only the following uses may be incorporated into the unit and must be located on the ground floor:

- i. Retail establishment
 - ii. Personal service establishment
 - iii. Service shop
 - iv. Dry cleaning distribution station
 - v. Office
- (r) For the purposes of Section 9.4 of City of Hamilton By-law 03-294 "To Establish Site Plan Control" - all development within Block 5 shall be considered innovative housing and, therefore, be subject to Site Plan Control.
 - (s) All other zone provisions of Sub-section 11.2 shall apply.

General Provisions

Other than contained herein, the provisions of Section 5 shall apply.

5. Section 17 - Urban Commercial Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

17.3 EXCEPTION NUMBERS

17.3.10 "UC-10" (Block 6) (Shopping Centre Block)

Prohibited Uses

- (a) Hotels, motels, and automobile sales and service.

Zone Provisions

- b) Height (maximum): 4-storeys.
- c) A minimum of 1,858m² of the following uses identified in Section 17.1 (d), (f), (g), (h), (k), (m), (n), (o), (s), (t), (u), (v), (w), and gymnasium, fitness centre.
- d) All other zone provisions of Section 17 shall apply.

17.3.11 "UC-11" (Block 7) (Commercial Block)

Permitted Uses

In addition to the uses permitted by Section 17.1, the following uses are also permitted:

- (a) apartment buildings, stacked townhouses, and retirement apartments.

The following uses are not permitted:

- (b) hotels, motels, and automobile sales and service.

Zone Provisions

- c) Height (maximum) 4-storeys.
- d) All other zone provisions of Section 17 shall apply.

- e) For the purpose of this section, a stacked townhouse means a residential building containing a minimum of four and a maximum of twenty units, provided that:
 - i) Stacked townhouse buildings shall have a maximum length of 60m.
 - ii) Not more than half of all dwelling units shall be on the ground floor.
 - iii) Dwelling units shall be fully attached to adjoining units.
 - iv) Access to all second level units shall be from an interior stairway within the stacked townhouse building.
- f) Density (maximum) for residential uses, excluding those identified in Sub-section 17.1 (b) - shall be 125 units per net hectare.
- g) The zone provisions of R6-27 (Block "1") shall apply for stacked townhouses.

6. Section 11 - Medium Density Residential Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

11.3 EXCEPTION NUMBERS

11.3.27 "R6-27(H)" (Block 8).

Permitted Uses

- (a) Townhouse
- (b) Street Townhouse
- (c) Back-to-Back Townhouse
- (d) Stacked Townhouse
- (e) Apartment building

Zone Provisions

- (f) Lot Area (minimum):
 - (i) Townhouse/Street Townhouse 112 sq. m.
 - (ii) Back-to-Back Townhouse 70 sq. m.

- (g) Lot Frontage (minimum):
- (i) Townhouse/Street Townhouse 5.5m.
 - (ii) Back-to-Back Townhouse 6.0m.
- (h) Lot Coverage: N/A.
- (i) Front Yard (minimum): 4.5m, except 5.8m to an attached garage or attached carport.
- (j) Rear Yard (minimum):
- (i) Townhouse/Street Townhouse 5m.
 - (ii) Back-to-Back Townhouse 0.0m.
- (k) Interior Side Yard (minimum): 1.2m, except for the side yard related to the common wall of a dwelling, in which case a minimum of 0.0m shall be provided.
- (l) Exterior Side Yard (minimum): 2.4m.
- (m) Landscaped Open Space: N/A.
- (n) Building Height (maximum): 4-storeys.
- (o) Parking Spaces (minimum): 2 spaces per unit, one of which includes the garage. Visitor parking shall be provided at a rate of .25 per unit ONLY for those townhouse units fronting on a private road.
- (p) Density (maximum): N/A.
- (q) Number of units in a row (maximum): 10 dwelling units.

(r) Yard Encroachments in accordance with the following:

Structure or Item	Yard Into Which Encroachment is Permitted	Maximum Encroachment Permitted into Required Yard
Sills, beltcourses, cornices, chimney breasts, pilasters, eaves, or gutters	All	0.65m
Bay windows with or without a foundation	Required front, rear, and required exterior side yard	1.00m
Steps and unenclosed porches	Required front, required rear, and required exterior side yard	Porches - 2.0m Steps - 0.60m from the streetline
Setback of all structures from site triangles	Required front and required exterior side yard	0.30m minimum setback from a site triangle

(s) For the purpose of this section, a back-to-back townhouse unit shall mean a townhouse dwelling with two or more common walls, each of which has a minimum of one independent entrance directly from the outside.

(t) For the purpose of this section, a street townhouse shall mean a townhouse with each dwelling unit having frontage onto a private road or public street.

(u) Where a townhouse or a street townhouse has a garage being accessed from a private lane, the following provisions shall apply:

Front Yard: Minimum 0.5 m.

Side Yard: Minimum 1.2 m.

Rear Yard: Minimum (from the lane) 5.8m.

Amenity Area: Minimum of 15 sq.m, and shall include; porches, decks, balconies, and verandahs.

- (v) For the purpose of this section, a stacked townhouse means a residential apartment building containing a minimum of four, and a maximum of twenty units, each of which has an independent entrance, provided that:
 - i) Stacked townhouse buildings shall have a maximum length of 60m.
 - ii) Not more than half of all dwelling units shall be on the ground floor.
 - iii) Dwelling units shall be fully attached to adjoining units, and are attached vertically or horizontally.
 - v) Access to all second level units shall be from an interior stairway within the stacked townhouse building.
- (w) All other zone provisions of Sub-section 11.2 shall apply.
- (x) For apartment buildings, the zone provisions of Section 11.2 shall apply, except that the maximum density shall not exceed 125 units per net hectare.

General Provisions

Other than contained herein, the provisions of Section 5 shall apply.

7. (H) Holding Symbol

Where an (H) symbol is prefixed to a Zone identified in Schedule "A", the following conditions must be fulfilled, to the satisfaction of the City, prior to the lifting of the (H) Holding provision on any portion of the lands, as noted below:

- a. The final alignment of the East-West Corridor has been determined, to the satisfaction of the City of Hamilton.

- b. That no commercial uses be developed within Blocks 2 and 3 of Schedule "A" until such time that the East-West Corridor has been constructed adjacent Blocks 2 and 3 of Schedule "A".
- 8. That the amending By-law be added to Schedule "A-6" of Flamborough Zoning By-law No. 90-145-Z.
- 9. 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.

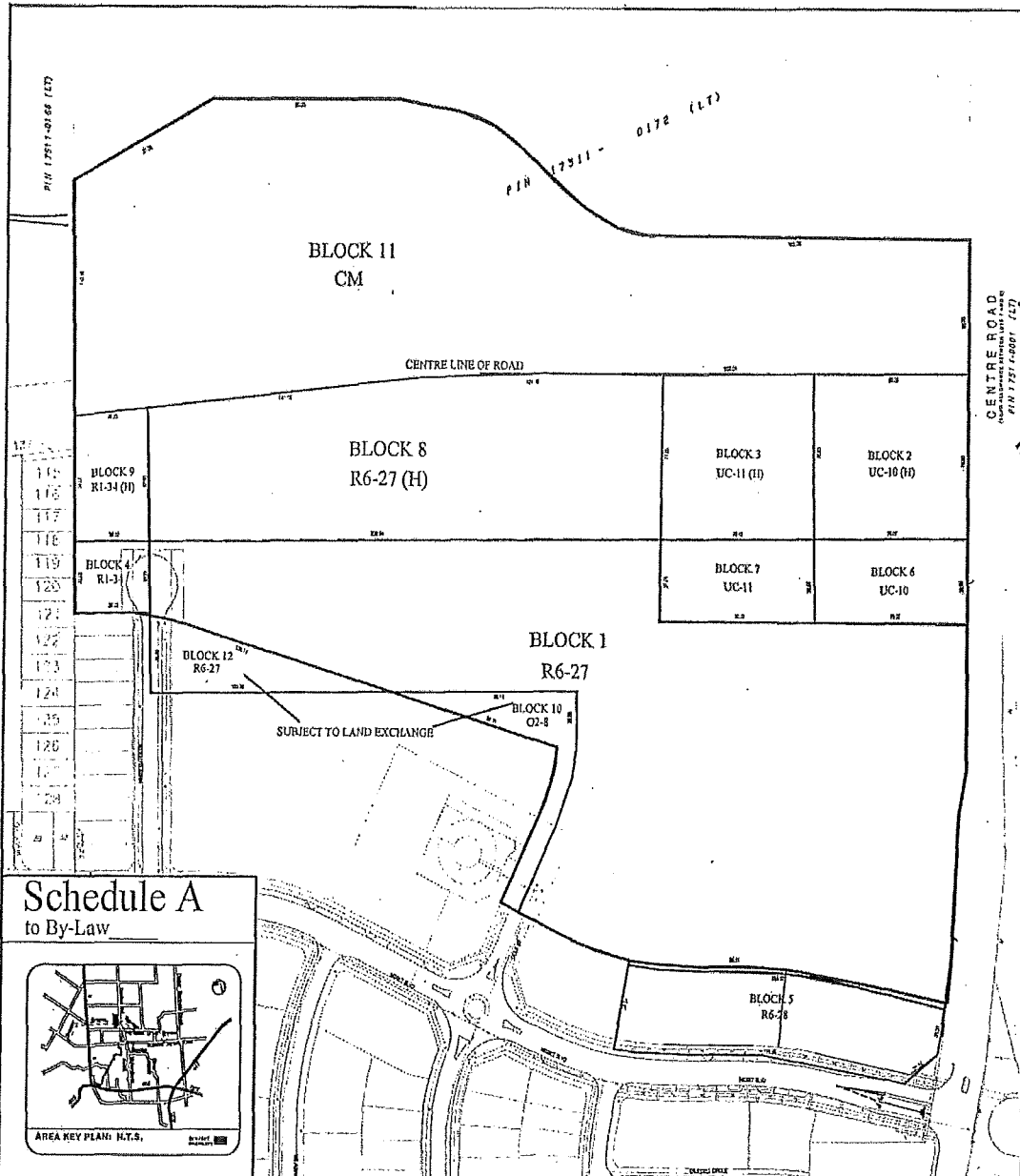
PASSED and ENACTED this [REDACTED] day of [REDACTED], 2012.

MAYOR

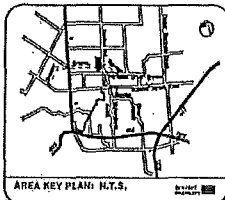
CLERK

ZAC-10-011 / OPA-12-003

SCHEDULE "A"



Schedule A
to By-Law



Part of Lot 8, Concession 4
Formerly in the Township of East Flamborough
Now in the City of Hamilton

SUBJECT PROPERTY
619 Centre Road

Block 1- change from the Agricultural "A" Zone to the Medium Density Residential "R6-27" Zone, Modified

Block 2- change from the Agricultural "A" Zone to the Urban Commercial "UC-10 (H)" Zone, Modified

Block 3- change from the Agricultural "A" Zone to the Urban Commercial "UC-11 (H)" Zone, Modified

Block 4- change from the Agricultural "A" Zone to the Urban Residential (Single-Detached) "R1-34" Zone, Modified

Block 5- change from the Medium Density Residential "R6-16" Zone, Modified, to the Medium Density Residential "R6-28" Zone, Modified

Block 6- change from the Agricultural "A" Zone to the Urban Commercial "UC-10" Zone, Modified

Block 7- change from the Agricultural "A" Zone to the Urban Commercial "UC-11" Zone, Modified

Block 8- change from the Agricultural "A" Zone to the Medium Density Residential "R6-27 (H)" Zone, Modified

Block 9- change from the Agricultural "A" Zone to the Urban Residential (Single-Detached) "R1-34 (H)" Zone, Modified

Block 10- change from the Agricultural "A" Zone to the Park Open Space "O2-8" Zone, Modified

Block 11- change from the Agricultural "A" Zone to the Conservation Management "CM" Zone

Block 12- change from the Park Open Space "O2-8" Zone, Modified, to the Medium Density Residential "R6-27" Zone, Modified