

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

17-072 OMB
Exhibit 4C

17-073-OMB
Exhibit 4D



ISSUE DATE: April 27, 2015

CASE NO: PL140290

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

Applicant and Appellant: 2190557 Ontario Inc & 2197925 Ontario Inc
Subject: Application to amend Zoning By-law No. 6593
– Refusal or neglect of the City of Hamilton to
make a decision
Existing Zoning: "AA" Agricultural Districts and "C" Urban
Protected Residential
Proposed Zoning: "R-4" Small Lot Single Family Dwellings
District, Modified and "P2" Community Park
Purpose: To permit a development consisting of 141
single-detached residential homes.
Property Address/Description: 172 & 178 Rymal Rd. W. & 1204 West 5th St.
Municipality: City of Hamilton
Municipal File No.: ZAC-13-023
OMB Case No.: PL140290
OMB File No.: PL140290

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

Applicant and Appellant: 2190557 Ontario Inc & 2197925 Ontario Inc
Subject: Proposed Plan of Subdivision - Failure of the
City of Hamilton to make a decision
Purpose: To permit the subdivision of 7.88 hectares into
141 single detached residential homes.
Property Address/Description: 172 & 178 Rymal Rd. W. & 1204 West 5th St.
Municipality: City of Hamilton
Municipal File No.: #25T-2013-05
OMB Case No.: PL140290
OMB File No.: PL140372

Heard: April 16, 2015 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel

2190557 Ontario Inc. and
2107925 Ontario Inc.

Denise Baker

City of Hamilton

Dennis Perlin

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. HEFFERON ON APRIL 16,
2015 AND ORDER OF THE BOARD**

BACKGROUND

[1] 2190557 Ontario Inc., and 2107925 Ontario Inc. ("Applicants") propose to develop and build 141 single family detached dwellings on 7.88 hectares ("subject lands") with various future blocks also intended for single family detached homes. The proposal includes 0.284 hectares of parkland to be dedicated to the City of Hamilton ("City") and connected with the existing William Connell Park. William Connell Park is a community-level park.

[2] Lot frontages for the proposed new homes range from 9.1 metres ("m") to 13.48 m. The draft Plan of Subdivision, which was entered to the evidence as Exhibit 4B, identifies seven new local roads as well as new road connections at 1204 West 5th Street and 178 Rymal Road West.

[3] The existing use of the subject lands is residential/farmland. There are currently two single detached residences there.

PARTICIPANTS

[4] The Board recognized four local residents as well as Spallacci & Sons Limited, which owns the lands adjacent to the subject lands. The local residents recognized include:

- Edward Follows, Domenic Deptuck, Felicina Giraldi, and Helmut Rother

MATTERS BEFORE THE BOARD

[5] The Applicants have appealed the refusal or neglect of City Council to approve their application to amend Zoning By-law No. 6593, as amended, from "AA" Agricultural Districts and "C" Urban Protected Residential to "R 4" Small Lot Single Family Dwellings District, and "P2" Community Park.

[6] The Applicants have also appealed the refusal or neglect of the City to approve the draft plan of subdivision, which as noted above was entered to the evidence as Exhibit 4B.

EVIDENCE AND FINDINGS

[7] At the commencement of the hearing, the parties informed the Board that a settlement had been reached. The settlement was presented to the Board for its consideration.

[8] None of the participants appeared at the hearing.

[9] The Board qualified Glenn Wellings, a registered professional planner retained by the Applicant, to present opinion evidence on land use planning.

[10] Mr. Wellings advised that, through negotiation with the City, a number of revisions were made to the draft plan of subdivision, to ensure that the new streets

properly align with the existing streets and that there is adequate access to William Connell Park from the new subdivision. The solution was the creation of a “window”, by means of a land exchange between the Applicants and the City. The details of the exchange are shown on the draft Plan of Subdivision. The exchange implements the approved Sheldon Neighbourhood Plan (“SNP”).

[11] Mr. Wellings testified that the draft plan of subdivision is consistent with Provincial policy as provided for in the 2014 Provincial Policy Statement and conforms to Provincial policy as set down in the Growth Plan for the Greater Golden Horseshoe. He further testified that it conforms to the provisions of both the Urban Hamilton Official Plan (“UHOP”) and the SNP.

[12] He also testified that the proposed zoning by-laws conform to both the UHOP and the SNP and represent good planning.

[13] Mr. Wellings’ evidence was adopted by Cameron Thomas, a registered professional planner employed by the City. Mr. Thomas was earlier qualified by the Board to provide opinion evidence on land use planning.

[14] The Board accepts the un-opposed and un-contradicted evidence of Mr. Wellings and finds that the proposal has adequate regard to s. 51(24) of the *Planning Act*, is consistent with Provincial policy and conforms to the applicable official plan and neighbourhood plan.

CONCLUSION

[15] The Board accepts the proposed Settlement between the two parties.

[16] On the un-opposed and un-contradicted evidence of Mr. Wellings, the Board finds that the proposed residential development is an appropriate and compatible use of the subject lands. Mr. Wellings’ affidavit evidence was entered as Exhibit 4.

ORDER

[17] The Board orders that the draft plan of subdivision (Exhibit 4B) is approved subject to the conditions listed in Exhibit 4E.

[18] The Board further orders that the draft zoning by-law entered to the evidence as Exhibit 4D and which amends City-wide Zoning By-law No. 05-200 is approved.

[19] The Board further orders that the draft zoning by-law entered to the evidence as Exhibit 4C and which amends City-wide Zoning By-law No. 6593, is approved.

"C. Hefferon"

C. HEFFERON
MEMBER

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

Ontario Municipal Board

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

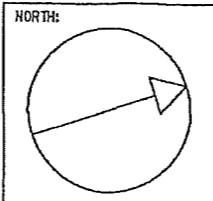
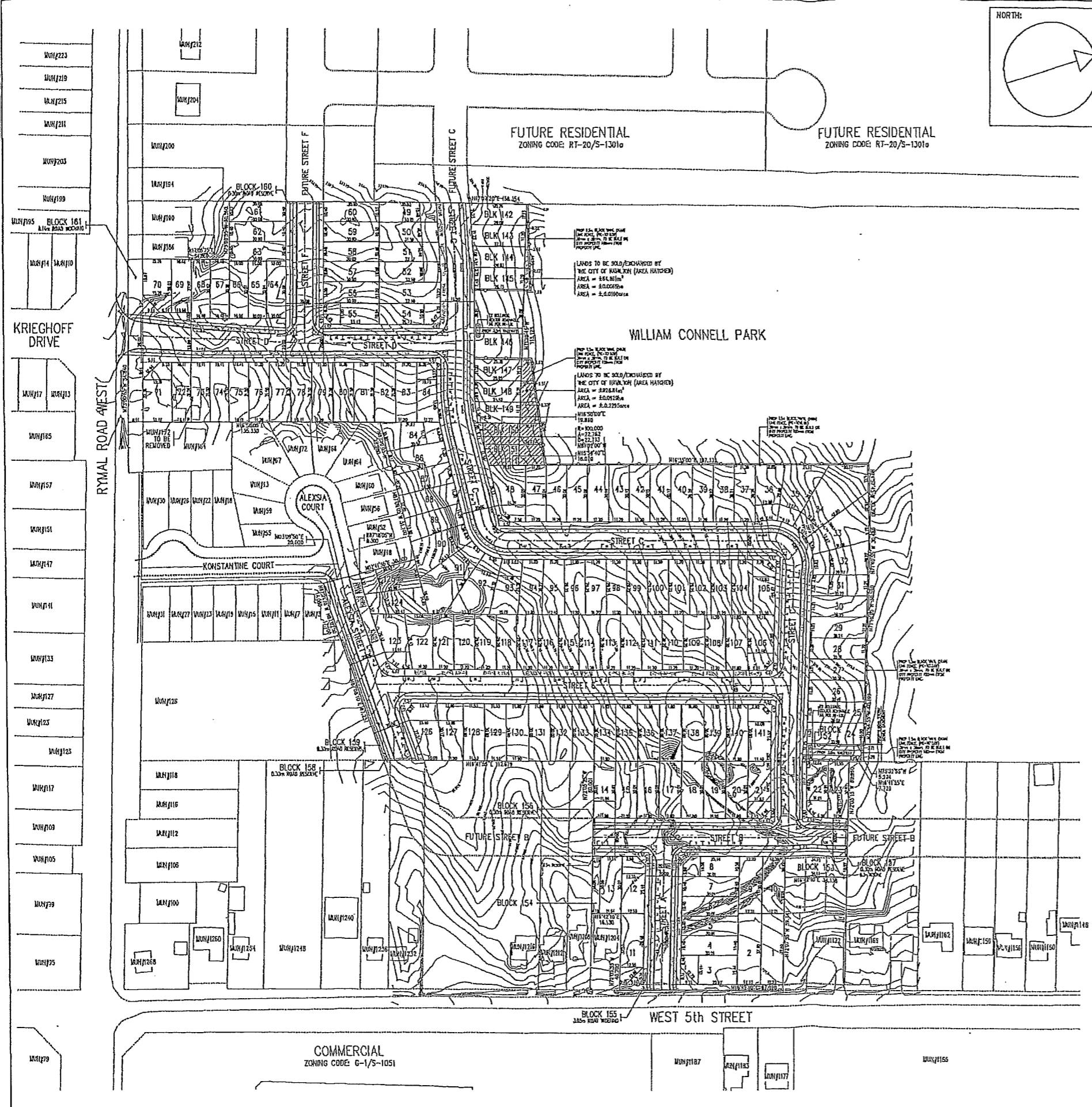
THIS IS EXHIBIT B TO THE AFFIDAVIT OF

GLENN J. WELLINGS

SWORN BEFORE ME THIS

10TH DAY OF APRIL, 2015


A COMMISSIONER FOR TAKING AFFIDAVITS



SINGLE DETACHED RESIDENTIAL		
LOT NUMBER	FRONTAGE (m)	AREA (m ²)
1	12.23	459.40
2	12.23	459.39
3	15.44	421.51
4	10.40	312.07
5	10.40	312.07
6	10.40	312.07
7	10.40	312.07
8	10.55	306.25
9	12.20	366.18
10	12.20	366.18
11	12.55	429.33
12	12.55	366.91
13	11.94	359.04
14	11.80	354.00
15	11.80	354.00
16	11.80	354.00
17	11.80	354.00
18	11.80	354.00
19	11.80	354.00
20	11.80	354.01
21	11.83	340.78
22	11.61	341.58
23	11.21	336.08
24	11.21	342.28
25	11.21	341.48
26	11.21	340.69
27	11.21	339.89
28	11.21	339.09
29	11.21	338.74
30	11.21	338.93
31	11.25	338.43
32	12.87	426.75
33	12.87	586.85
34	12.87	617.28
35	12.87	527.27
36	12.89	407.44
37	11.20	338.82
38	11.20	338.57
39	11.20	338.31
40	11.20	338.06
41	11.20	337.81
42	11.20	337.55
43	11.20	337.30
44	11.20	337.05
45	11.20	336.79
46	11.20	336.54
47	11.20	336.29
48	14.31	464.10
49	10.40	315.90
50	10.40	323.57
51	10.40	331.67
52	10.66	346.89
53	11.20	365.12
54	10.88	344.88
55	11.00	319.07
56	11.20	336.00
57	10.69	320.69
58	10.40	312.00
59	10.40	312.00
60	10.40	310.95
61	10.40	313.05
62	10.40	312.00
63	10.40	312.00
64	10.00	300.29
65	10.00	300.56
66	10.00	300.04
67	10.40	321.24
68	10.40	321.70
69	10.68	298.46
70	15.28	387.10
71	15.36	442.76
72	10.41	327.80
73	10.41	327.80
74	10.41	327.80
75	10.41	327.80
76	11.20	352.80
77	11.20	352.80
78	11.20	352.80
79	11.20	352.80
80	11.20	352.80
81	11.20	352.80
82	11.20	352.80
83	11.20	352.80
84	10.75	336.03
85	11.77	397.01
86	11.20	372.10

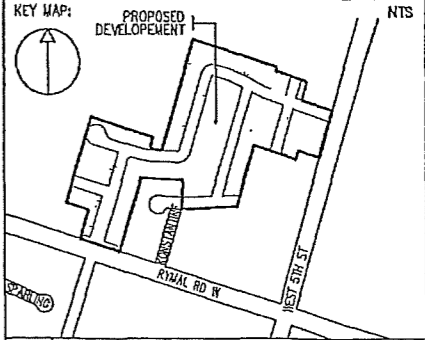
LOT NUMBER	FRONTAGE (m)	AREA (m ²)
87	11.20	341.60
88	11.20	359.90
89	11.20	368.00
90	12.63	470.52
91	12.63	656.28
92	12.63	527.25
93	12.40	390.07
94	11.20	351.00
95	11.20	345.15
96	11.20	327.60
97	11.20	327.60
98	11.20	327.60
99	11.20	327.60
100	11.20	327.60
101	11.20	327.60
102	11.20	327.60
103	11.20	327.60
104	11.20	327.60
105	12.03	335.96
106	13.48	398.77
107	11.80	344.56
108	11.20	327.04
109	11.20	327.04
110	11.20	327.04
111	11.20	327.04
112	11.20	327.04
113	11.20	327.04
114	11.20	327.04
115	11.20	327.04
116	11.20	327.04
117	11.20	327.04
118	11.20	327.04
119	11.20	327.04
120	11.20	327.04
121	11.20	327.04
122	11.20	383.33
123	13.14	410.35
124	12.35	386.58
125	12.35	398.46
126	15.80	410.16
127	13.06	375.91
128	11.53	345.99
129	11.53	345.99
130	11.80	354.00
131	11.80	354.00
132	11.80	354.00
133	11.80	354.00
134	11.80	354.00
135	11.80	354.00
136	11.80	353.96
137	11.80	354.00
138	11.80	354.00
139	11.80	354.00
140	11.80	354.01
141	12.09	346.14

DRAFT PLAN OF SUBDIVISION
SHELDON'S GATE
 HAMILTON, ONTARIO

PART OF LOT 16
 CONCESSION B
 (GEOGRAPHIC TOWNSHIP OF BARTON)
 IN THE
 CITY OF HAMILTON

(A) SHOWN ON PLAN (H) MUNICIPAL PIPED WATER AVAILABLE
 (B) SHOWN ON PLAN (I) SANDY SILT / SILTY CLAY
 (C) SHOWN ON PLAN (J) NOT SHOWN
 (D) SEE LAND USE SCHEDULE (K) MUNICIPAL SERVICES TO BE INSTALLED BY SUBDIVIDER
 (E) SHOWN ON PLAN (L) SHOWN ON PLAN
 (F) SHOWN ON PLAN

LAND USE SCHEDULE			
DESCRIPTION	LOT/BLOCK	AREA	PERCENT
SINGLE DETACHED RESIDENTIAL	1 TO 141	5,043ha	83.40%
BLOCKS (FUTURE RESIDENTIAL)	142 TO 145 147 TO 151 153 TO 154	0.259ha	3.26%
BLOCK (SEWER EASEMENT)	152	0.026ha	0.35%
ROADS	---	2.529ha	31.80%
ROADS (0.30m RESERVE)	156 TO 160		
ROADS (3.05m ROAD WIDTHING)	155		
ROADS (8.14m ROAD WIDTHING)	161		
PARK	146	0.095ha	1.19%
TOTALS		7.954ha	100.00%



No.	DATE	BY	REVISION

NOTE: THIS IS A DRAFT PLAN ONLY AND IS SUBJECT TO REVISION AND AMENDMENT.

METRIC: DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

OWNER'S CERTIFICATE: I HEREBY AUTHORIZE URBEX ENGINEERING LTD. TO PREPARE AND SUBMIT THIS DRAFT PLAN OF SUBDIVISION FOR APPROVAL.

JOHN CHUN, PRESIDENT DATE
 2190557 ONTARIO INC.
 I HAVE AUTHORITY TO BIND THE CORPORATION

JOHN CHUN, PRESIDENT DATE
 2197925 ONTARIO INC.
 I HAVE AUTHORITY TO BIND THE CORPORATION

SURVEYOR'S CERTIFICATE: I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED AS SHOWN ON THIS PLAN AND THEIR RELATIONSHIP TO ADJACENT LANDS ARE ACCURATELY SHOWN.

S.D. McLAREN, O.L.S. DATE
 A.T. McLAREN LIMITED

CONSULTANT: URBEX ENGINEERING LIMITED
 151 REBECCA STREET
 HAMILTON ON L8R 1B9
 TEL: 905-522-3328
 FAX: 905-522-8452
 EMAIL: info@urbex.ca


DATE: 2015-04-01 FILE NAME: 2015-04-01-GATE-DRAFT.DWG
 DRAWN: HARRY KHOLAS SCALE: 1:1000
 PROJECT No.: 00078-P00-07 SHEET No.: 1

THIS IS EXHIBIT C TO THE AFFIDAVIT OF

GLENN J. WELLINGS

SWORN BEFORE ME THIS

10TH DAY OF APRIL, 2015


A COMMISSIONER FOR TAKING AFFIDAVITS

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 6593 (Hamilton Zoning By-law), respecting lands located at 172, 178 and 186 Rymal Road West and 1204 West 5th Street, in the City of Hamilton

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

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Hamilton" and is the successor of 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 or the City of Hamilton;

AND WHEREAS the Council of The Corporation of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which By-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951 (File No. P.F.C. 3821);

AND WHEREAS authority is given to the Ontario Municipal Board by Subsection 34(26) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE, the Ontario Municipal Board HEREBY APPROVES as follows:

1. That Sheet No. W9d of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing the following:
 - a) That **Block 1** be rezoned from the "AA" (Agricultural) District to the "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified;

- b) That **Block 2** be rezoned from the "C" (Urban Protected Residential, etc.) District to the "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified; and,
- c) That **Block 3** be lands to be incorporated into By-law 6593 and zoned "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified

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

- 2. That the "R-4"-H' (Small Lot Single Family Dwelling) Holding District, Modified, as contained in Section 9A of Zoning By-law No. 6593, be modified to include the following special requirements for Blocks 1,2 and 3:
 - (a) That notwithstanding Section 9A(2)(b)(i), a front yard for a single detached dwelling shall be permitted to have a depth of not less than 4.0 metres to the façade of a dwelling and not less than 6 metres to an attached garage.
 - (b) That notwithstanding Section 9A(2)(b)(ii), a side yard for a single family dwelling shall be a minimum of 1.2m on one side and a minimum of 0.8m on the other side.
 - (c) That notwithstanding Section 9A(2)(b)(iv), a rear yard for a single family dwelling shall have a minimum depth of 6.0m for Lots 69 and 70, as shown on Draft Plan of Subdivision 25T-201305.
 - (d) That notwithstanding Section 9A(2)(d), no single family dwelling shall be situate less than 2.0 metres from a dwelling situated on an abutting lot, or tract of land, measured between the exterior walls of the building.
 - (e) That notwithstanding Section 18(14)(ii) and 18A(14)(a) (b) and (d), the minimum landscaped area requirement for front yards for single family dwellings shall be 40% to accommodate a hammerhead as part of the driveway for lots which have frontage onto West 5th Street.
 - (f) That a hammerhead shall be provided for lots which have frontage onto West 5th Street which shall have dimensions of a minimum of 2.75m in width and a minimum of 3.5m in length and located along a driveway having a minimum width of 5.48 metres.
 - (g) That notwithstanding Section 9A(3)(b)(i), a front yard for a semi-detached dwelling shall be permitted to have a depth of 4.5 metres to the façade of a dwelling and 6 metres to an attached garage.
- 3. That the amending Zoning By-law apply the Holding provisions of Section 36(1) of the Planning Act, R.S.O., 1990 to the subject lands identified in Section 1 of

this By-law by introducing the Holding symbol 'H' as a suffix to the proposed R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified;

The Holding provision shall apply until such time that:

- (1) The Storm Water Management Pond has been constructed in William Connell Park and is fully operational and the Owner has provided their proportional share for the operation and maintenance of the Storm Water Management Pond to the satisfaction of the Senior Director of Growth Management.
4. That this By-law No. [REDACTED] shall come into force and effect and be deemed to have come into accordance with Subsection 34(21) of the Planning Act, either upon the date of passage of this By-law or as provided by the said Subsection.

APPROVED this [REDACTED] day of [REDACTED], 2015.

Member, Ontario Municipal Board



This is Schedule "A" to By-law No. 15-

Passed the day of, 2015

Mayor





Clerk


Schedule "A"

Map Forming Part of
By-law No. 15-_____

to Amend By-law No. 6593

Subject Property
Part of 172 and 178 Rymal Road West and 1204 West 5th Street

-  Block 1 - Change from the "AA" (Agricultural) District to the "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified
-  Block 2 - Change from the "C" (Urban Protected Residential, etc) District to the "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified
-  Block 3 - Incorporate Lands into By-law No. 6593 and Zoned "R-4/S-1715"-H' (Small Lot Single Family Dwelling) Holding District, Modified
-  Block 4 - Refer to By-law No. 05-200

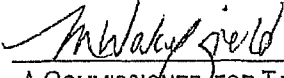
Scale: N.T.S.	File Name/Number: ZAC-13-023/25T-201305
Date: March 27, 2015	Planner/Technician: CT/NB
 PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	

THIS IS EXHIBIT D TO THE AFFIDAVIT OF

GLENN J. WELLINGS

SWORN BEFORE ME THIS

10TH DAY OF APRIL, 2015


A COMMISSIONER FOR TAKING AFFIDAVITS

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

**To Amend Zoning By-law No. 05-200, as Amended,
Respecting Lands Located at 172, 178 and 186
Rymal Road West and 1204 West 5th Street, in the
City of 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 05-200;

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

AND WHEREAS authority is given to the Ontario Municipal Board by Subsection 34(26) of the Planning Act, R.S. O. 1990, c.P. 13, as amended, to pass this By-law;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Ontario Municipal Board hereby approves as follows:

1. That Map No. 1342 of Schedule "A" , Zoning Maps of Zoning By-law No. 05-200 is amended by incorporating additional City-Wide (P3) Zone boundaries for the applicable lands, the extent and boundaries of which are shown as "Block 1" on a plan hereto annexed as Schedule "A".
2. That this By-law No. [REDACTED] shall come into force and be deemed to have 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 provided by the said Subsection.

APPROVED this [REDACTED] day of [REDACTED], 2015.

Member, Ontario Municipal Board



This is Schedule "A" to By-law No. 15-
 Passed the day of, 2015

 Mayor


 Clerk


Schedule "A"


Map Forming Part of
 By-law No. 15-_____


to Amend By-law No. 05-200
 Map 1341, 1342, 1393 & 1394

Subject Property
 Part of 172 and 178 Rymal Road West and
 1204 West 5th Street

 Block 1 - Lands to be Zoned (P3) "City Wide" Zone

 Block 2 - Lands to be Removed from By-law No. 05-200

 Block 3 - Refer to By-law No. 6593

Scale: N.T.S.	File Name/Number: ZAC-19-023/25T-201305	 Hamilton
Date: March 27, 2015	Planner/Technician: CT/NB	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		

THIS IS EXHIBIT E TO THE AFFIDAVIT OF

GLENN J. WELLINGS

SWORN BEFORE ME THIS

10TH DAY OF APRIL, 2015


A COMMISSIONER FOR TAKING AFFIDAVITS

That this approval apply to the Draft Plan of Subdivision, 25T-201305, prepared by Urbex Engineering Limited and certified by S.D. McLaren, O.L.S., dated April 1, 2015, on behalf of 2190557 Ontario Inc. and 2197925 Ontario Inc., as redlined, to allow for the development of 141 lots for single detached dwellings, 2 Blocks for assembly as future residential lots (Block 153 and 154), 1 block (Blocks 146) for dedication to the City for park, 1 Block (Block 152) for a walkway and servicing easement, 10 blocks for future land assembly as single detached residential lots (Blocks 142, 143, 144, 145, 147, 148, 149, 150, and 151), 6 blocks for 0.3m reserves (Blocks 156, 157, 158, 159 and 160), 2 blocks (Block 155 and 161) for required road widenings on West 5th Street and Rymal Road West, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by the Ontario Municipal Board, and with the following special conditions.

Development Engineering:

1. That, prior to registration, the William Connell SWM Pond must be constructed and in operation.
2. That, prior to registration of the final plan of subdivision, the owner agrees to secure his proportional share for the ongoing operation and maintenance of storm water management pond located downstream in William Connell Park throughout all phases of the development to the satisfaction of the Senior Director of Growth Management.
3. That, prior to registration, the owner agrees that the temporary storm water management pond constructed as part of Westview Estate subdivision must remain operational until the William Connell SWM pond has been constructed and is operational. Storm Water from Westview subdivision must always have an adequate outlet whereby quantity and quality control be provided.
4. That, prior to registration, the owner agrees to submit detailed engineering drawings confirming the system capacities and addressing the drainage and transitional grading to the satisfaction of the Senior Director of Growth Management
5. That, prior to registration, the owner agrees to include in the engineering design and cost schedule provisions for a 3m walkway within Block 152 and extending into William Connell Park with appropriate bollards at the entrance and exit to the satisfaction of the Senior Director of Growth Management. Said walkway shall have chain link fencing on both sides and be constructed with asphalt if it is to connect to a walkway within

William Connell Park and concrete if it not connecting to any walkway within the Park.

6. That, prior to registration, the owner agrees that retaining walls will not be permitted to address transition grading unless otherwise agreed to and if so, to the satisfaction of the Senior Director of Growth Management.
7. That, prior to registration, the owner agrees to include a warning clause in purchase and sale agreements for lots on West 5th indicating that on-street parking on West 5th Street will not be permitted, to the satisfaction of the Senior Director of Growth Management.
8. That, prior to registration, the Owner includes a certificate on the final plan dedicating all road allowances, daylight triangles, public walkways and road widenings to the City of Hamilton as public highway.
9. That, prior to registration, the owner agrees that the centrelines of Street "D" and Krieghoff Drive shall align to the satisfaction of the Senior Director of Growth Management.
10. That, prior to registration, the Owner agrees that phasing of the subject lands shall be to the satisfaction of the Senior Director of Growth Management.
11. That, prior to issuance of the first building permit for the construction of a dwelling, excluding any building permits issued for model homes, the owner agrees to install a 1.5m high black vinyl coated chain link fence around the perimeter of the development where residential lots abut City land.
12. That, prior to registration, the owner agrees that the cost to design and construct any pavement widenings, any changes in road elevations, pavement markings and signage on Rymal Road and West 5th Street required to accommodate traffic from the proposed development will be at the applicant's own expense.
13. That, prior to registration, the owner shall include in the engineering design and cost estimates, provision to install municipal sidewalks, in accordance with the current City of Hamilton Policy, and to the satisfaction of the Senior Director of the Growth Management. Notwithstanding the foregoing, only a single sidewalk is required to be provided by the Applicant on the east side of Street "E, on the south side of Alexsia Street west of Street "E", and on Street "C" west of Street "D".

14. That, prior to registration, the Owner pay its proportionate share for the future urbanization of Rymal Road West and West 5th Street based on the City's "New Roads Servicing Rate" in effect at the time of payment to the satisfaction of the Senior Director of Growth Management.
15. That, prior to registration, the Owner provides a cash payment to the City for the outstanding servicing cost for the installation of the existing sanitary sewer on West 5th Street as identified under By-law 07-281 for the subject lands.
16. That, prior to registration, the owner shall transfer to the City of Hamilton any easement over the subdivider's draft approved lands needed for municipal water or sewer services, or both, which easements will permit development to occur on adjacent property. Such easements are to be conveyed upon registration of the final plan of subdivision for any phase of that draft approved plan in accordance with the Council approved criteria.
17. That, prior to servicing, the owner shall submit a Geotechnical Report, prepared by a qualified professional, and shall implement the report's recommendations to the satisfaction of the Senior Director of Growth Management.
18. That prior to servicing, the owner shall submit a Hydrogeological Report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts during any construction within the subdivision, including but not limited to house construction, and to undertake the works, as recommended, including monitoring. The Report shall also provide a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:
 - i. An aquifer is breached during excavation;
 - ii. Groundwater is encountered during any construction within the subdivision including, but not limited to, house construction;
 - iii. Sump pumps are found to be continuously running; and,
 - iv. Water supply and sewage disposal systems, and any surface and groundwater related infrastructure, are negatively impacted,
19. That, prior to servicing, the owner shall complete a water distribution analysis of the water system to determine whether the existing water system can adequately service the proposed development, to the

satisfaction of the Senior Director of Growth Management. The Report shall also focus on the following issues:

- i. Tabularize the expected occupancy,
 - ii. Generate residential and institutional water demand and fire flow calculation for this development,
 - iii. Demonstrate how the proposal fits with GRIDS numbers,
 - iv. Confirm the water servicing layout based on field information and hydraulic models, and,
 - v. Provide the new hydrant locations on the Water Distribution Plan.
20. That, prior to registration, the Owner agree in writing to submit a Stormwater Management Report prepared by a qualified professional engineer to address the suitability of the outlet and to demonstrate how quality and quantity control criteria will be handled in accordance with the MOE Stormwater Management Planning & design Manual – 2003, the local Master Drainage Plans, and the City of Hamilton Stormwater Management Policies.
21. That prior to servicing, the owner shall provide a driveway location/on-street parking plan based on the premise of providing a total number of street parking spots to approximately 40% of the total single family units and semi-detached dwelling units. The plan shall show the following information, to the satisfaction of the Senior Director of Growth Management:
 - i. The location of driveways, driveway ramps, and curb openings for all lots;
 - ii. The pairing of driveways, except where considered impractical or unnecessary by the Senior Director of Growth Management;
 - iii. Where lots in the subdivision abut a park entrance or a public walkway, as the case may be; and,
 - iv. The location of transit pads, community mailbox pads, and fire hydrants, where the location has been determined by the appropriate authorities.
22. That prior to servicing, the owner shall submit, to the satisfaction of the Senior Director of Growth Management, a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the

source of water, and the contractor or agent to be used to undertake the works, as well as the contractor's/agent's contact information so that the City can direct works to be completed as necessary.

23. That, prior to registration, the Owner shall submit a detailed sump pump design to include a secondary relief/overflow on surface for all lots and Blocks within the subdivision. The pump design shall consider the weeping tile inflow based on the groundwater and severe wet weather conditions, to the satisfaction of the Senior Director, Growth Management Division.
24. That prior to registration, the Owner covenants and agrees to provide the Senior Director of Growth Management with evidence that satisfactory Planning and Engineering arrangements, have been made with Canada Post Corporation for the installation of Community Mail Boxes (CMB) in locations satisfactory to the City

Development Planning, Heritage and Design

25. That, prior to registration, the owner shall investigate the noise levels on the site and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment's recommended sound level limits. A revised acoustical report prepared by a qualified Professional Engineer containing the recommended control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be bore by the owner and shall be submitted to the satisfaction of the City of Hamilton Director of Planning.
26. That, prior to registration, the owner receive approval from the Ministry of Tourism, Culture and Sport for an Archaeological Assessment.
27. That, prior to registration, the owner provide a Tree Protection and Planting Plan in accordance with the City of Hamilton's Street Tree Protection Guidelines to the satisfaction of the Director of Planning and Chief Planner and the Hamilton Conservation Authority.
28. That prior to registration the applicant agrees to pay cash in lieu of plantings to enable off-site planting by the City, in Connell Park or elsewhere as the City determines, of 25 trees as compensation by the Applicant for the trees and vegetation removed prior to November 2012, to

the satisfaction of the Director of Planning and Chief Planner and the Hamilton Conservation Authority.

29. That, prior to registration, the Owner agrees to withdraw Subdivision Application 25T-95007, and acknowledge in writing that the Draft Approval issued on November 12, 1996 by the Commissioner of Planning and Development has no active status with the City of Hamilton once Subdivision Application 25T-201305 receives Draft Plan Approval, to the satisfaction of the Senior Director of Growth Management and the Director of Planning and Chief Planner.
30. That, prior to registration, the Owner provide a final plan, substantially in accordance with the conceptual plan, to show the location of a driveway and hammerhead for the lots which front onto West 5th Street, to the satisfaction of the Director of Planning and Chief Planner and the Manager of Corridor Management.
31. That, prior to registration the Owner shall engage an Ontario Land Surveyor to prepare a Reference Plan to the satisfaction of the Director of Planning and Chief Planner and Senior Director of Growth Management for the lands subject to exchange with the City of Hamilton. The plan must clearly define the extent of the lands being exchanged, and shall be forwarded to the Senior Project Manager, Surveys/Technical Services for approval prior to being deposited in the Land Registry Office.
32. That the Owner agrees to include the following clauses in the Development Agreement, all Purchase and Sale Agreements to the satisfaction of the Director of Planning and Chief Planner, and any rental or lease agreements required for occupancy:

Dwellings Abutting William Connell Park

"Purchasers are advised that William Connell Park is a City-wide Park and as a result the Park may occasionally experience higher volumes of noise and lighting due to outdoor activity levels within the Park, including amenities that have lighting to allow for evening use. Per By-law 01-219, no person shall encroach upon or take possession of any park, by any means whatsoever, including the construction, installation or maintenance of any fence, or structure, the dumping or storage of any materials, or planting, cultivating, grooming, or landscaping, thereon."

Single Sidewalks

"Purchasers are advised that Street "E", Alexsia Street, and Street "C" west of Street "D" will be developed with an 18m right-of-way which can only accommodate a sidewalk along one side of the street.

Hammerhead Driveways

"Purchasers are advised that Lots 1 and 2 which front directly onto West 5th Street require the use of a hammerhead driveway to ensure that vehicles can exit the property in a forward manner. The hammerhead driveway shall be maintained for vehicle maneuvering purposes by the owner."

Corridor Management

33. That, prior to registration, the applicant agrees to construct a northbound left turn lane on West 5th Street at Street "A" with 15m of storage. The required run-out taper for the left turn lane must align with the centre turn lane to be located approximately 35m north of Street "A" (Sonoma Homes). Note – The infrastructure improvements to West 5th identified in the Traffic Impact study are not scheduled in the Capital Budget for construction until 2021.)
34. That, prior to registration, the applicant shall provide a detailed Pavement Marking and Traffic Signs Plan for the northbound left turn lane on West 5th Street at Street "A". The plan must be in accordance with the City of Hamilton Traffic Signal and Pavement Marking Design Manual and submitted in micro station 8.
35. That, prior to registration, the applicant shall submit road elevation modifications for West 5th Street north of Street "A" to ensure minimum sightlines of 170m are achieved in accordance with TAC Manual standards.
36. That, prior to registration, the applicant shall provide a detailed Pavement Marking and Traffic Signs Plan for the eastbound left turn lane on Rymal Road West at Street "D". The plan must be in accordance with the City of Hamilton Traffic Signal and Pavement Marking Design Manual and submitted in microstation 8.

37. That prior to registration, the Applicant agrees to design and construct an eastbound left turn lane on Rymal Road West at Street "D" with 40m of storage.
38. That prior to registration, the applicant agrees to provide a 26 metre right of way on Street "D" at Rymal Road West which tapers down to 20 metres at Street "F" provided that such tapering will still permit Street "D" to properly align with Krieghoff Drive to the south at the Rymal Road West Intersection to the satisfaction of the Director Of Planning and Chief Planner and the Manager of Corridor Management.

Landscape Architectural Services

39. That, prior to registration, the applicant shall arrange for Block 152 to be allocated for a sewer easement and shall construct (at his own expense) a 3m wide asphalt or concrete walkway on Blocks 146 and 152 to provide pedestrian access to the park with fencing and one collapsible bollard in the centre line of the walkway for each block. This pathway must meet City standards and shall be to the satisfaction of the Manager of Landscape Architectural Services.

Hamilton Conservation Authority

40. That, prior to pre-grading or servicing, the Owner shall obtain a permit from the Hamilton Conservation Authority (HCA) pursuant to Ontario Regulation 161/06 for any works located within HCA's regulated Area associated with Red Hill Creek.
41. That prior to servicing, the Owner shall submit a detailed Stormwater Management Report, prepared by a qualified professional engineer that demonstrates how Enhanced (Level 1) quality control and quantity control criteria will be achieved in accordance with the recommendations of the Mewburn and Sheldon Neighbourhoods Master Servicing Plan to the satisfaction of the Hamilton Conservation Authority.
42. That, prior to pre-grading or servicing, the Owner shall prepare a detailed Lot Grading Plan to the satisfaction of the Hamilton Conservation Authority.
43. That, prior to pre-grading or servicing, the Owner shall prepare and implement an Erosion and Sediment Control Plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:

- (a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been re-vegetated;
- (b) All erosion and sediment control measures shall be inspected after each rainfall to the satisfaction of Authority staff;
- (c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of the particular phase of construction; and,
- (d) All disturbed areas shall be re-vegetated with permanent cover immediately following completion of construction.

Real Estate

- 44. Prior to registration, the Manager of Real Estate shall confirm that the lands comprising Block 146 are the equivalent to the parkland being exchanged with the Owner, in land or cash value.

Director of Planning and Chief Planner

- 45. That, prior to the signing of the final plan, the Director of Planning and Chief Planner must be satisfied that Conditions (1) to (44) inclusive, have been carried out to his satisfaction, with a brief but complete statement indicating how each condition has been satisfied.

CITY COST SHARING

Cost sharing for Street "D" will be in accordance with the City's Financial Policies.

NOTES TO DRAFT PLAN APPROVAL

Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received before the draft approval lapses.

A Holding Symbol will be recommended in the amending By-law in order to ensure the following:

- (1) The Storm Water Management Pond has been constructed in William Connell Park and is fully operational and the Owner has provided their proportional share for the operation and maintenance of the Storm Water Management Pond to the satisfaction of the Senior Director of Growth Management.

Warning clauses will be required to be provided in Purchase and Sale Agreements for the residents along Street "E" to advise that the right-of-way is 18m and that the road can only accommodate a sidewalk along one side of the street.

The following modifications to the Draft Plan are required:

- (i) The owner shall include on the Draft Plan and the Land Use Schedule the purpose of the Blocks for residential assembly, easement/walkway, 0.30m reserves and road widenings; and,
- (ii) The owner shall provide additional detail on the Draft Plan for the Schedule for Section 51 of the Planning Act concerning contours for Section (j) and to indicate the services that are available for Section (k) (i.e. water, sanitary and storm sewers), rather than who is responsible for the installation of the services;

CASH IN LIEU OF PARKLAND

That payment of Cash-in-Lieu of Parkland will be required for the development prior to the issuance of each building permit for the lots within the plan. The calculation of the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of the building permit; all in accordance with the Financial Policies for Development, and the City's Parkland Dedication By-law, as approved by Council. The exchange of lands with the City of Hamilton shall not affect the cash-in-lieu of parkland payment owed to the City by the Owner.

The conditions identified may be subject to further modification and refinement to address any new information.