

16-135
Attachment 1

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Attachment 2

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Attachment 3

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Attachment 4

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: May 3, 2016

CASE NO(S): PL140659

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

Applicant and Appellant: Chelten Developments 2012 Inc.
Subject: Application to amend Zoning By-law No 90-145-Z – Refusal or neglect of the City of Hamilton to make a decision
Existing Zoning: Neighbourhood Institutional.
Proposed Zoning: R6-modified and multiple dwelling building to be rezoned R8-modified. Site Specific (To be determined)
Purpose: To permit six (6) storey multiple dwelling
Property Address/Description: 70 Barton Street
Municipality: City of Hamilton
Municipal File No.: ZAC-13-046
OMB Case No.: PL140659
OMB File No.: PL140659
OMB Case Name: Chelten Developments 2012 Inc. v. Hamilton (City)

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

Subject: Site Plan
Referred by: Chelten Developments 2012 Inc.
Property Address/Description: 70 Barton Street
Municipality: City of Hamilton
OMB Case No.: PL140659
OMB File No.: PL141170

PROCEEDING COMMENCED UNDER subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Chelten Developments 2012 Inc.
Subject:	Consent
Property Address/Description:	70 Barton Street
Municipality:	City of Hamilton
Municipal File No.:	B-80/14
OMB Case No.:	PL140659
OMB File No.:	PL141331

Heard: April 4, 2016 in Hamilton, Ontario

APPEARANCES:

Parties

Counsel/Representative*

City of Hamilton

P. MacDonald

Chelton Development 2012 Inc.

A. Platt
M. Keating

Hamilton Conservation Authority

K. Harris*

MEMORANDUM OF ORAL DECISION DELIVERED BY J. ZUIDEMA ON APRIL 4, 2016 AND ORDER OF THE BOARD

[1] The reader is directed to my earlier decisions which set out the background and history of the appeals associated with this matter.

[2] The Board had scheduled a hearing to adjudicate the remaining issues and by the time the matter came to trial, the parties had resolved all of the outstanding issues. As such, I heard uncontested evidence from David McKay, who was qualified and accepted as an expert in land use planning.

[3] Mr. McKay methodically reviewed the planning instruments which remained and analysed them in relation to the 2014 Provincial Policy Statement ("2014 PPS") and the

City of Hamilton Official Plan ("City's OP"). Mr. McKay opined that both the draft Zoning By-Law Amendment and the Site Plan with Conditions were consistent with the 2014 PPS and conformed to the City's OP. He also testified that these instruments represented good planning and were in the public interest.

[4] Mr. McKay prepared and presented his evidence which was submitted and filed as Exhibit 19. Representatives from the City and the Conservation Authority supported Mr. McKay's evidence. Mr. McKay explained how the proposed development would fit with the surrounding area and that the proposed concept represented a new, creative and innovative design for the area.

[5] I provided an oral disposition allowing the appeal in order to bring into effect the settlement achieved. Minutes of Settlement were also filed and marked as Exhibit to the proceeding. This written decision reflects my oral decision.

[6] The parties are commended in working co-operatively to bring this matter to an expeditious conclusion satisfactory to all the parties concerned. For ease of reference, I have included the planning instruments which are amended and approved as amended. They were filed as Exhibits 13(a) and 13(b), 14(a) and 14(b) and 15(a) and 15(b).

ORDER

[7] Therefore, the Board orders that the appeal is allowed and Zoning By-Laws for the City of Hamilton and for the Town of Flamborough are hereby amended in accordance with Exhibits 13(a) and (b) and 14(a) and (b) respectively and as amended, are approved. These documents are appended to this decision and marked as Attachments 1 to 4.

[8] Further, the Site Plan as reflected in Exhibit 15(a) is approved subject to the conditions as reflected in Exhibit 15(b). These documents are also appended to this decision and marked as Attachments 5 and 6.

[9] In all other respects, the appeal is dismissed.

"J. Zuidema"

J. ZUIDEMA
VICE-CHAIR

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

Ontario Municipal Board

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

ATTACHMENT 1

Ex. 13(a)

ONTARIO MUNICIPAL BOARD

CITY OF HAMILTON

BY-LAW NO. 15-_____

To Remove a Portion of the Lands from Zoning By-law No. 05-200 and Amend Zoning By-law No. 05-200 Respecting Lands Located at 70 Barton Street (Flamborough)

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, Statutes of Ontario, 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the Zoning By-law, being By-law No. 05-200, came into force on May 25, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item __ of Report 15-____ of the Planning Committee at its meeting held on the ___ day of ___ 2015, recommended that By-law No. 05-200, be amended as hereinafter provided;

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

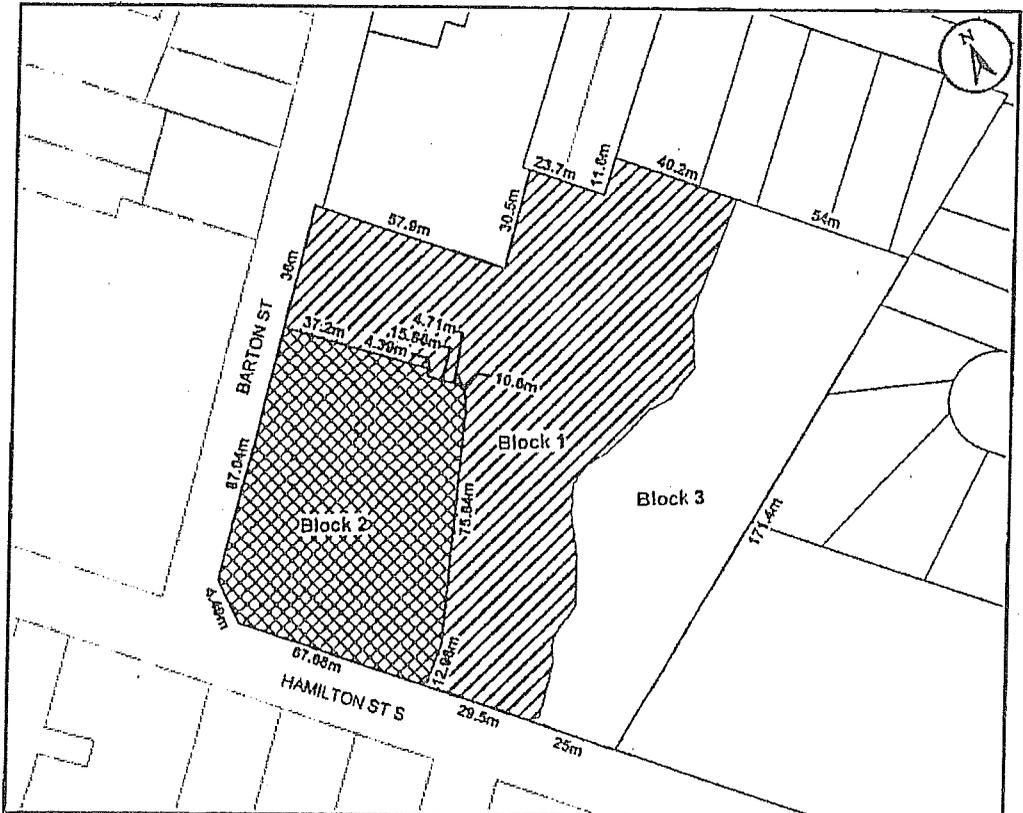
NOW THEREFORE the Ontario Municipal Board orders:

1. That Map 482 of Schedule "A" - Zoning Maps, of Hamilton Zoning By-law 05-200, be amended by deleting the lands, the extent and boundaries of which are shown as Block "1" on a plan hereto annexed as Schedule "A" to this By-law.
2. That Map 482 of Schedule "A" - Zoning Maps, to Zoning By-law 05-200, be amended by changing the zoning from the Neighbourhood Institutional (I1) Zone to the Conservation/ Hazard Lands (P5) Zone, on the lands the extent and boundaries of which are shown on Schedule "A" on Block "3" annexed hereto and forming part of this By-law.
3. That Schedule "C" of By-law 05-200 be amended by adding the following Special Exception:
 - "472. Notwithstanding Section 7.5.1 of Zoning By-law 05-200, on those lands zoned Conservation/ Hazard Lands (P5) Zone, identified on Map No. 482 of Schedule "A" - Zoning Maps the following special provision shall apply:

(a) Recreation, Passive shall be prohibited."

2. 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.

3. That this By-law No. ____ shall come into force and be deemed to have come into force in accordance with Subsection 34(30) of the Planning Act, either upon the date of passage of this By-law or as provided by the said Subsection.



This is Schedule "A" to By-law No. 16-

Pursuant to Decision/Order of the Ontario Municipal Board issued November 27, 2015 and _____ in Board Case No. PL140659

Schedule "A"

Map Forming Part of
By-law No. 16-_____

to Amend By-law No. 05-200
Map 482

Subject Property

70 Barton Street, Flamborough

-  Block 1 - Lands to be removed from Hamilton Zoning By-law No. 05-200
-  Block 2 - Lands to remain zoned Neighbourhood Institutional (I1) Zone of Hamilton Zoning By-law No. 05-200
-  Block 3 - Change in Zoning from the Neighbourhood Institutional (I1) Zone to Conservation/Hazard Lands (P5, 472) Zone, Modified

Scale: N.T.S	File Name/Number: ZAC-13-048
Date: April 1, 2016	Planner/Technician: DMVVS
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	



En 13(b)

ATTACHMENT 2

ONTARIO MUNICIPAL BOARD

CITY OF HAMILTON

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 70 Barton Street (Flamborough)

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

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

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

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

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan, approved by the Minister under the Planning Act on March 16, 2011;

NOW THEREFORE the Ontario Municipal Board orders:

1. Schedule No. "A-31" attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by zoning Block "1" to Medium Density Residential "R6-___" Zone and Block "2" to Medium Residential - "R6-___" Zone, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".

3 Section 11 - Medium Density Residential "R6" Zone of Zoning By-law No. 90-145-Z applicable to Block "1" is hereby amended by adding the following subsections:

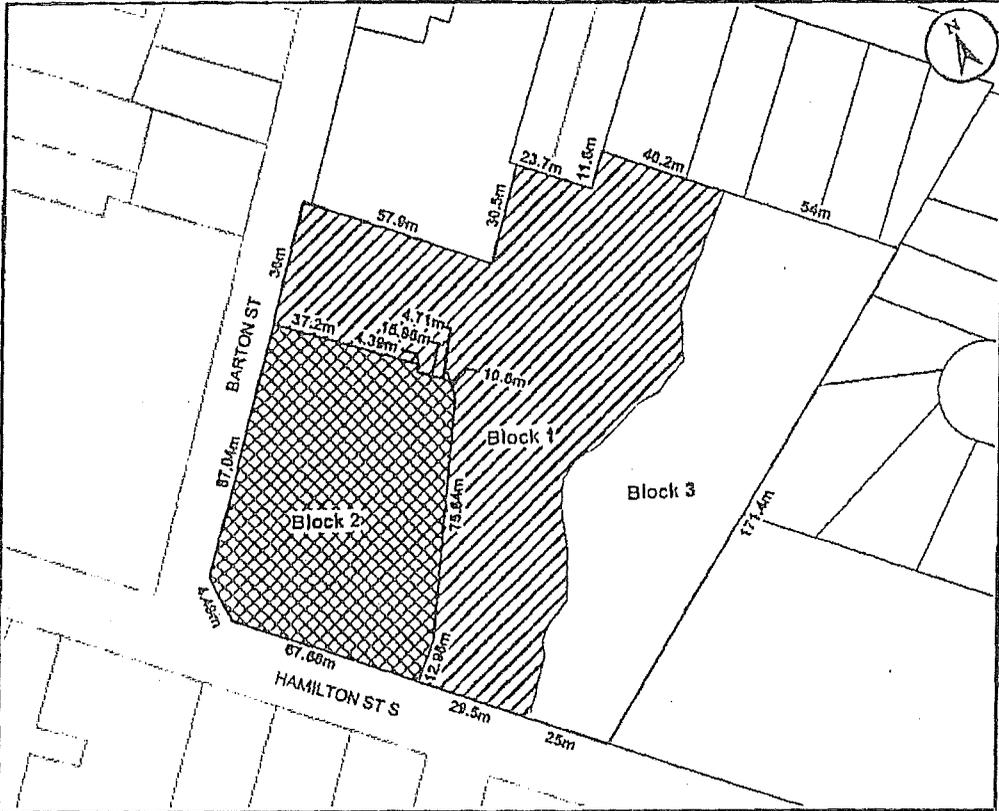
3.1 "11.3. ___" "R6- ___" (See Schedule A-31)

Zone Provisions (for Block Townhouse)

(a)	Front Yard (minimum)	4.5 m
(b)	Exterior Side Yard (minimum)	3.6 m
(c)	Height (maximum)	13 m
(d)	Planting Strip across all lot lines adjacent to a street	2.0 m

(e)	Planting strip adjacent to Block 2	0 m
(f)	Loading Space	Not required
(g)	Minimum Driveway Access Width	6.0 m
(h)	Yard Encroachments Permitted	Unenclosed porches may encroach into required front yard, required rear yard, required interior side yard, and required exterior side yard to a maximum of 1.5 metres

4. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Medium Density Residential "R6-__" Zone, subject to the special requirements referred to in Sections 2 and 3.
5. That this By-law No.XXXXXX shall come into force and be deemed to have come into force in accordance with Subsection 34(30) of the Planning Act, either upon the date of passage of this By-law or as provided by the said Subsection.



This is Schedule "A" to By-law No. 16-

Pursuant to Decision/Order of the Ontario Municipal Board issued November 27, 2015 and _____ in Board Case No. PL140659

Schedule "A"

Map Forming Part of
By-law No. 16-_____

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

Subject Property

70 Barton Street, Flamborough



Block 1 - Lands to be added to Zoning By-law No 90-145-Z and zoned Medium Density Residential "R6-43" Zone Modified



Block 2 - Lands to remain zoned Neighbourhood Institutional (I1) Zone of Hamilton Zoning By-law No. 05-200



Block 3 - Lands subject to Hamilton Zoning By-law No. 05-200

Scale: N T S	File Name/Number: ZAC-13-048
Date: April 1 2015	Planner/Technician: DMVS
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	



Ex. 14(a)

ATTACHMENT 3

ONTARIO MUNICIPAL BOARD

CITY OF HAMILTON

BY-LAW NO. 16-_____

**To Remove a Portion of the Lands from Zoning By-law No. 05-200,
Respecting Lands Located at 30 Hamilton Street South (formerly 70 Barton
Street) (Flamborough)**

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, Statutes of Ontario, 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the first stage of the Zoning By-law, being By-law No. 05-200, came into force on May 25, 2005;

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

NOW THEREFORE the Ontario Municipal Board orders:

1. That Map 482 of Schedule "A" - Zoning Maps, of Hamilton Zoning By-law 05-200, be amended by deleting the lands, the extent and boundaries of which are shown as Block "2" on a plan hereto annexed as Schedule "A" to this By-law.
2. That this By-law No. XXXX shall come into force and be deemed to have come into force in accordance with Subsection 34(30) of the *Planning Act*, either upon the date of passage of this By-law or as provided by the said Subsection.

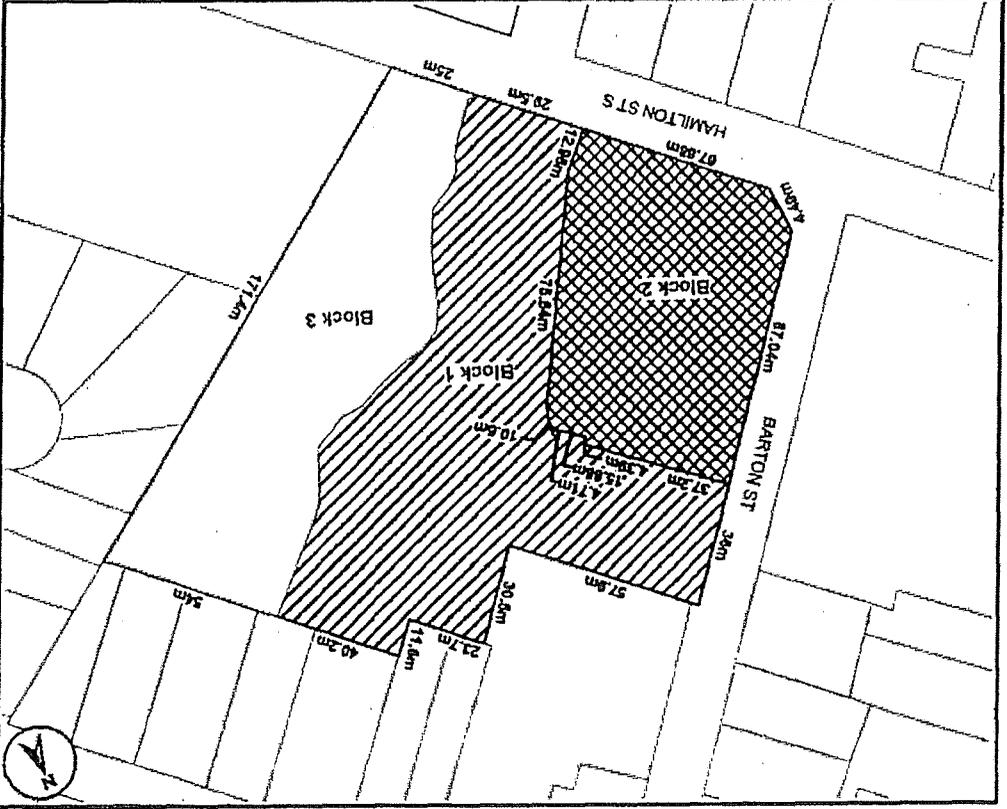
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT	
Scale: N.T.S.	File Name/Number: ZAC-13-048
Date: April 1, 2016	Planner/Technician: DMVS

Schedule "A"
 Map Forming Part of
 By-law No. 16-_____
 to Amend By-law No. 05-200
 Map 482

This is Schedule "A" to By-law No. 16-_____
 Pursuant to Decision/Order of the Ontario Municipal
 Board issued November 27, 2015 and _____ in
 Board Case No. PL140659

Subject Property
 30 Hamilton Street South (formerly 70 Barton Street), Fiamborough

 Block 1 - Additional lands of the owner
 Block 2 - Lands to be removed from Zoning
 By-law 05-200
 Block 3 - Additional lands of the owner



ATTACHMENT 4

ONTARIO MUNICIPAL BOARD

CITY OF HAMILTON

BY-LAW NO. 16-_____

To Amend Zoning By-law No. 90-145-Z (Flamborough),
Respecting Lands Located at 30 Hamilton Street South (formerly 70 Barton
Street), in the former Town of Flamborough, now in the City of Hamilton

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

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

AND WHEREAS the *City of Hamilton Act, 1999* provides that the Zoning By-laws 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 this By-law is in conformity with the Urban Hamilton Official Plan.

NOW THEREFORE the Ontario Municipal Board orders:

4. Schedule No. "A-31" attached to and forming part of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by zoning Block "2" to High Density Residential "R8-1" Zone, Modified, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A".
2. Section 13 - High Density Residential "R8" Zone of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby amended by adding the following subsections:
 - 13.1. "R8-1" (Block "2")

Permitted Uses:

- (a) Subsection 13.1 shall apply.

- (b) In addition to the uses permitted in Section 13.1, a retirement home, nursing home, or long-term care home shall also be permitted, together with accessory uses thereto, within the building or a part thereof, but only where such accessory uses are within a retirement home, nursing home, or long-term care home.

Definitions:

For the purposes of this By-law:

- (a) "Nursing home" shall mean any building where lodging, meals and "nursing care", as defined under the Long-Term Care Homes Act, 2007, S.O. 2007, c. 8, as amended from time to time, are provided for two or more persons;
- (b) "Long-term care home" shall mean a long-term care home as defined and licensed under the Long-Term Care Homes Act, 2007, S.O. 2007, c. 8.;
- (c) "Grade" shall be defined as an elevation of 226.4 m above sea level; and,
- (d) "Landscaped Open Space" may also contain signs, transformers and utility appurtenances.

Zoning Provisions:

Notwithstanding the requirements of Section 13.2, the following requirements shall apply:

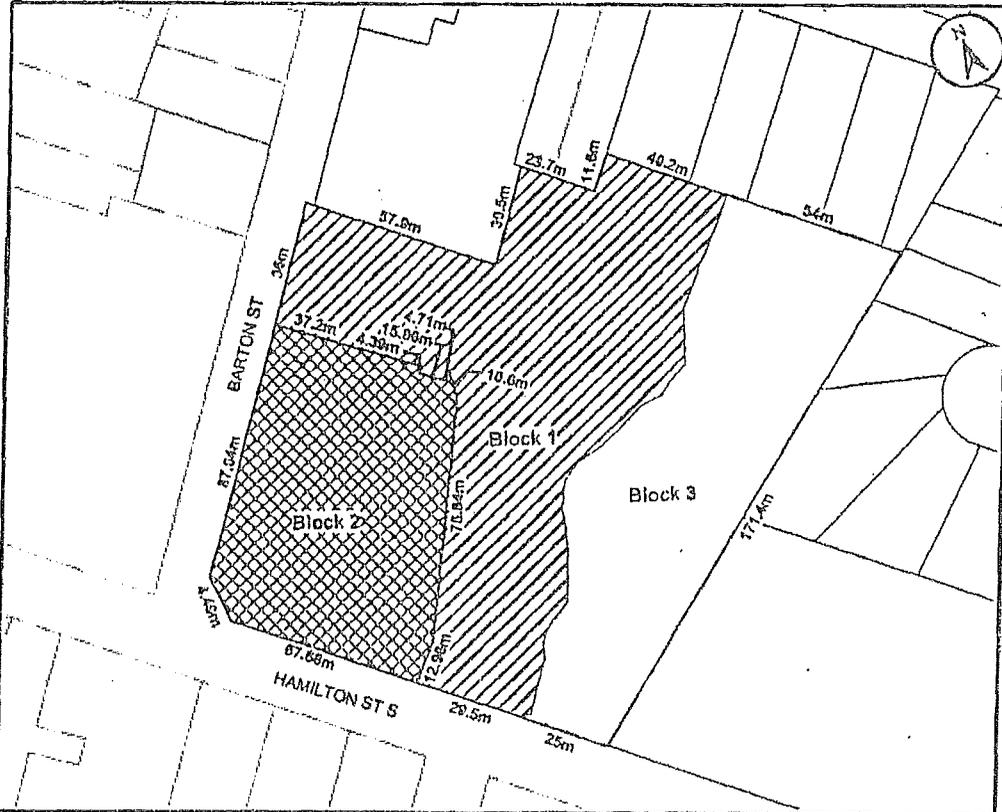
- (a) Lot Coverage (maximum): 45%
- (b) Front Yard (minimum):
- i. To a retaining wall: 2 metres
 - ii. To an enclosed parking structure: 4 metres
 - iii. To a principle building: 6 metres
- (c) Interior Side Yard Setback (minimum):
- i. At first and second storeys: 5 metres
 - ii. At fifth storey: 12 metres
 - iii. At the sixth and seventh storeys: 21 metres
 - iv. Notwithstanding c) (iii) above a six storey stairwell may be located 10 m from the Interior Side Yard

- (d) Exterior Side yard Setback (minimum)
 - i. To an enclosed parking structure: 1 metres
 - ii. To a principle building: 4 metres
- (e) Planting Strip (minimum): 0 metres
- (f) Density (maximum): 165 dwellings per net residential hectare for an apartment building
- (g) In addition to the requirements of Section 13.2, the following requirements shall also apply:
 - i. Landscaped Open Space Width (average)
 - 1. Between an enclosed parking structure and a street line: 2.5 metres
 - ii. Landscaped Open Space Width (minimum)
 - 1. Between an enclosed parking structure and a street line: 1.0 metres
 - iii. Landscaped Open Space Width (minimum)
 - 1. Adjacent to a residential and/or institutional use: 2.0 metres
- (h) Notwithstanding Section 5.30, steps shall be permitted to encroach into a required front yard or required interior side yard.
- (i) Section 5.12.2 shall not apply.
- (j) Notwithstanding Section 5.21, the following parking requirements shall apply to Block "2":
 - i. 1.25 parking spaces shall be required per dwelling unit;
 - ii. 0.25 parking spaces shall be required per dwelling unit for visitors;
 - iii. 1 parking space shall be provided per 3 beds accommodated in a retirement home, nursing home or long term care facility;

- iv. Tandem parking spaces are permitted up to a maximum of 8 spaces;
- v. Dimensions of Parking Spaces - all required parking spaces shall have minimum dimensions of 2.6m x 5.5m;
- vi. Dimensions of Parking Spaces for the disabled - all required parking spaces shall have minimum dimensions of 4.4m x 5.5m;
- vii. Driveways with two-way vehicular movement shall have a minimum width of 6 m; and,
- viii. Provision 5.21.11 shall not apply.

(k) All other zone provisions of Sub-section 13.2 shall apply.

- 3. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the High Density Residential "R8-1" Zone, subject to special requirements referred to in Section 2 of this By-law.
- 4. That this By-law No. 16-XX shall come into force and be deemed to have come into force in accordance with Subsection 34(30) of the *Planning Act*, either upon the date of passage of this By-law or as provided by the said Subsection.



This is Schedule "A" to By-law No 16-

Pursuant to Decision/Order of the Ontario Municipal Board issued November 27, 2015 and _____ in Board Case No. PL140659

Schedule "A"

Map Forming Part of
By-law No. 16- _____

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

Subject Property

30 Hamilton Street South (formerly 70 Barton Street), Fiamborough



Block 1 - Additional lands of the owner



Block 2 - Lands to be added to Zoning By-law 90-145-Z and zoned High Density Residential "R8-1" Zone Modified



Block 3 - Additional lands of the owner

Scale:
N T S

File Name/Number:
ZAC-13-046

Date:
April 1, 2016

Planner/Technician:
CMVS



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

LIST OF CONDITIONS

SITE PLAN

Special or Standard ?	Condition #	Description	Condition
STANDARD CONDITIONS			
Standard	1.(a)	Site Plan	To develop and maintain the site in compliance with the Site Plan as approved by the Ontario Municipal Board and hereinafter referred to as the "Site Plan". Minor changes to the Site Plan or condition(s) shall be permitted only upon written approval from the City's Manager of Development Planning, Heritage and Design.
Standard	1.(b)	Site Plan and Underground Parking Plan	To develop and maintain the site in compliance with the Site Plan and underground parking plan, attached as approved by the Ontario Municipal Board and hereinafter collectively referred to as the "Site Plan". Minor changes to the Site Plan or conditions shall be permitted only upon written approval from the City's Manager of Development Planning, Heritage and Design.
Standard	1.(c)	Approval Limitation	<p>That, in the event a building permit for the proposed development has not been issued within one (1) year from the date of site plan approval, the approval shall lapse. Prior to the approval lapsing, a request for an extension for a period up to, but not exceeding a one (1) year period, may be made directly to the Manager of Development Planning, Heritage and Design, with written justification and the required fee. The Manager of Development Planning, Heritage and Design will consider the request in light of current requirements and:</p> <ul style="list-style-type: none"> i) May deny the request; ii) May grant the request; or iii) May grant the request with revisions or additional conditions.

Special or Standard ?	Condition #	Description	Condition
Standard	1.(d)	Ground Cover to Prevent Soil Erosion	Where the construction or demolition of a building, or buildings, or site development works are, in the opinion of the City's Director of Building Services, substantially suspended or discontinued for more than 45 days the Owner shall forthwith provide suitable ground cover to prevent soil erosion by wind, rain and snow for the protection of adjoining lands to the satisfaction of the said Director.
Standard	1.(e)	Garbage Collection	The Owner acknowledges that garbage collection for the proposed development shall be in accordance with the applicable Municipal By-Law.
2.0 - Prior To The Commencement Of any Grading On The Site			
Standard	2.(a)	Erosion and Siltation Control	To show all erosion and siltation control features in detail on a Grading and Drainage Control Plan hereinafter described in Section 3(b); to the satisfaction of the City's Manager of Development Engineering Approvals; and to implement all such erosion and siltation control measures. The Owner further agrees to maintain all such measures to the satisfaction of the City's Manager of Development Engineering Approvals until the site has been fully developed as determined by the City's Manager of Development Planning, Heritage and Design.
Standard	2.(b)	Tree Management	To prepare a Tree Protection Plan as part of the required Landscape Plan hereinafter described in Section 3(e), showing the location of drip lines, edges and existing plantings, the location of all existing trees and the method to be employed in retaining trees required to be protected; to obtain approval thereof from the City's Manager of Development Planning, Heritage and Design; and to implement all approved tree savings measures.
3.0 - Prior To The Application For Any Building Permits			
Standard	3.(a)	Grading	Satisfy all pre-grading conditions set out in Section 2 above.

Special or Standard ?	Condition #	Description	Condition
Standard	3.(b)(i)	Grading and Drainage Control	To prepare a detailed Grading and Drainage Control Plan showing drainage details for the subject property, abutting properties and public rights-of-way so as to ensure compatible drainage, and to show thereon all existing and proposed connections to the municipal storm sewer to provide for that drainage i.e. catch basins/leads etc. to the satisfaction of the City's Manager of Development Engineering Approvals.
Standard	3.(b)(ii)	Grading and Drainage Control	To pay fee of \$290 for the final inspection all aboveground features, such as but not limited to, landscaping, drainage, roads, driveways, noise barriers/fencing, lighting, etc., to the satisfaction of the City's Manager of Development Engineering Approvals.
Standard	3.(c)	Storm Water Management Design	To submit to the satisfaction of the City's Manager of Development Engineering Approvals detailed engineering design for storm water management in accordance with the Preliminary Stormwater Management Report dated July 21, 2015 as amended by the Letter from S. Llewellyn & Associates Limited dated February 11, 2016
Standard	3.(d)	Road Widenings	INTENTIONALLY DELETED - ALREADY COMPLETED
Standard	3.(e)	Landscape Plan	To prepare a Landscape Plan showing planting and surfacing details for all areas not covered by buildings, structures, loading areas or parking areas; and to obtain approval thereof from the City's Manager of Development Planning, Heritage and Design failing which, the Board may be spoken to.

Special or Standard ?	Condition #	Description	Condition
Standard	3.(f)	Interior Garbage Storage/Outdoor Garbage Containers	<p>To show the following on the required Landscape Plan required by Standard Condition 3.(e):</p> <ul style="list-style-type: none"> i) The location of any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, including those which may be internal to a proposed or existing building; or ii) The location of any outdoor garbage and recycling containers and details for a supporting concrete pad and, if required by the City's Manager of Development Planning, a roofed enclosure having a height sufficient to conceal the containers
Standard	3.(g)	Fencing/Visual Barriers	To obtain approval of the details of all fencing and visual barriers as indicated on the Site Plan, from the City's Manager of Development Planning, Heritage and Design, as part of the approval of the Landscape Plan.
Standard	3.(h)	Boulevard Sodding	To show on the required Landscape Plan, planting and surfacing details for the portion of all adjacent public property located between the sidewalks, curbs or streets and the Owner's property line so as to ensure a contiguous landscaped area between the public streets and the Owner's proposed development.
Standard	3.(j)	Site Lighting-Design	To prepare a Site Lighting Plan, including lighting for any underground parking facilities, and to submit said plan with a signed certification from an Electrical Engineer stating that said plan complies with Section 3.9 "Lighting" of the City of Hamilton Site Plan Guidelines.
Standard	3.(k)	Multiple Unit Identification Sign	INTENTIONALLY DELETED
Standard	3.(l)	Cost Estimate and Letter of Credit	(i) To provide cost estimates for 100% of the total cost of all on-site works to be done by the Owner. Such cost estimates shall be in a form satisfactory to the City's Manager of Development Planning, Heritage

Special or Standard ?	Condition #	Description	Condition
			<p>and Design; or be prepared in accordance with the Guides for estimating security requirements for landscaping and engineering.</p> <p>(ii) Calculate the lump sum payment for exterior works using the City's Letter of Credit Policy to the satisfaction of the City's Manager of Development Planning, Heritage and Design.</p> <p>(iii) To provide an irrevocable Letter of Credit to the City's Manager of Development Planning, Heritage and Design for 75% of the total cost of all on-site development works in a form satisfactory to Finance (Development Officer, Budget, Taxation and Policy) to be held by the City as security for the completion of the on-site development works required in this Agreement.</p> <p>(iv) Alternatively, the owner may choose to provide a lump sum payment for on-site works in accordance with 3.(1)(iii) above.</p> <p>(v) The Letter of Credit shall be kept in force until the completion of the required site development works in conformity with the approved design and requirements, securities may be reduced in accordance with the City's Letter of Credit Policy. If the Letter of Credit is about to expire without renewal thereof and the works have not been completed in conformity with their approved designs, the City may draw all of the funds so secured and hold them as security to guarantee completion unless the City Solicitor is provided with a renewal of the Letter of Credit forthwith.</p> <p>(vi) In the event that the Owner fails to complete, to the satisfaction of the City's Manager of Development Planning, Heritage and Design, the required site development works in conformity with its approved design within the time required, then it is agreed by the Owner that the City, its employees, agents or contractors may, at the City's sole option and in addition to any other remedies that the City may have, enter on the</p>

Special or Standard ?	Condition #	Description	Condition
			<p>lands and so complete the required site development works to the extent of monies received under the Letter of Credit. The cost of completion of such works shall be deducted from the monies obtained from the Letter of Credit. In the event that there is a surplus, the City shall pay it forthwith to the Owner. In the event that there are required site development works remaining to be completed, the City may exercise its authority under (Section 446 of the Municipal Act) to have such works completed and to recover the expense incurred in doing so in like manner as municipal taxes.</p>
Standard	3.(m)(i)	Site Servicing Plan	<p>Provided, the Owner shall not be required to provide any security in respect of any site work for which the City is 100% responsible for the cost.</p>
Standard			<p>To submit to the City's Manager of Development Engineering Approvals a satisfactory Site Servicing Plan and pay the applicable drawing review fee (being \$780) based on the approved User Fees Schedule for the year that the Servicing Plans are submitted for review.</p>
Standard	3.(m)(ii)	Site Servicing Plan	<p>To pay for and obtain the required Site Servicing Permits, the cost of which will be calculated based on the approved servicing design.</p>
Standard	3.(p)	Cash-in-Lieu of Parkland	<p>To pay to the City of Hamilton Park Trust Fund Account the required cash-in-lieu of parkland contribution based on the value of the lands the day before the issuance of a Building Permit.</p>
Standard	3.(q)	Development Charges	<p>To pay to the City of Hamilton all applicable Development Charges in accordance with the Development Charges By-law, as amended, to the satisfaction of the City's Director of Building Services.</p>

Special or Standard ?	Condition #	Description	Condition
Standard	3.(r)	Building Elevations	To submit six (6) copies of final building elevations and one (1) reduced 11" x 17" copy for approval by the Manager of Development Planning, Heritage and Design failing which, the Board may be spoken to. Minor changes to the Building Elevations or condition(s) shall be permitted only upon written approval from the City's Manager of Development Planning, Heritage and Design.
Standard	3.(s)	Site Plan Drawings	To submit six (6) copies of the final site plan drawing and one (1) reduced 11" x 17" copy to the satisfaction of the Manager of Development Planning, Heritage and Design.
Standard	3.(t)	Taxes	To submit proof from the Taxation Division that the Municipal Taxes are current on the subject lands to the satisfaction of the Manager of Development Planning, Heritage and Design.
Standard	3.(u)	Tariff of Fees	To pay to the City of Hamilton the applicable additional charges as per the Tariff of Fees By-law for the proposed development type as follows: <ul style="list-style-type: none"> • Residential - \$520.00/unit for the first 10 units and \$315.00 for units 11 to a maximum of 50 units; • Industrial - \$5.00/m² of new gross floor area to a maximum of 5,000m², and; • Commercial - \$5.00/m² of new gross floor area to a maximum of 50,000m² to the satisfaction of the Manager of Development Planning, Heritage and Design.
Standard	3.(v)	Wastewater Assessment	To submit a wastewater generation assessment to the satisfaction of the City of Hamilton Public Works Department using Part 8 of the latest edition of the Code and Guide for Sewage Systems to establish an updated equivalent population density.
Standard	3.(w)	Water Service Assessment	To submit a water service assessment to the satisfaction of the City Public Works Department which tabularizes the expected occupancy and provides a water demand estimation, and needed fire flow calculation based on the "Water Supply for Public Protection, Fire Underwriters Survey, 1999".

Special or Standard ?	Condition #	Description	Condition
Standard	3(x)	Storm Drainage Area Plan	To submit a storm drainage area plan that clearly illustrates the extent of the property which will contribute surface water and ground water by direct connection to the existing systems. The plan must also illustrate where runoff from the remainder of the subject property if applicable, will be directed and/or collected. Appropriate runoff coefficients are to be assigned for the consideration and records of the Public Works Department.
4.0 - Prior To Occupancy			
Standard	4.(a)	Driveway Closures	To complete the closure of all redundant driveways to the City's standards.
Standard	4.(b)	Driveway Installation	To install, at the Owner's cost and to the City's standards, new driveway ramps at grade with the (existing, proposed or future) sidewalk. That the Owner must apply for and receive an Access Permit from the Public Works Department.
Standard	4.(c)	Relocation of Municipal and/or Public Utilities	That the relocation of any Municipal and/or Public Utilities, such as but not limited to, street furniture, transit shelters, signs, hydrants, utility poles, transformers, communication pedestals, wires or lines, required due to the location of buildings, structures, walkways, boulevards, driveways, curbing or parking, be arranged and carried out at the Owner's cost, to the satisfaction of the appropriate City Department or Public Utility.
Standard	4.(d)	Emergency/Fire Routes	That any required "Emergency/Fire Routes" shall be established by the City's Director of Building Services and that such signage shall be installed at the Owner's cost and to the satisfaction of the City's Director of Building Services.
Standard	4.(e)	Traffic Control Signs	To install, at the Owner's cost, all required traffic signs, including directional, visitor parking and barrier-free parking signs, to the satisfaction of the City's Senior Project Manager of Traffic Planning & Community Services.
Standard	4.(f)	Multiple Unit Identification	INTENTIONALLY DELETED

Special or Standard ?	Condition #	Description	Condition
Standard	4.(g)	Fire Hydrant	To install at the Owner's cost, any fire hydrant required by the Ontario Building Code as directed by the City's Director of Building Services.
Standard	4.(h)	Site Servicing	To complete site servicing to the satisfaction of the City's Manager of Development Engineering Approvals.
5.0 Within One Year of Occupancy (Prior to Release of Credit)			
Standard	5.(a)	Grading and Drainage Completion	To complete the site grading and drainage scheme in accordance with the Grading and Drainage Control Plan approval.
Standard	5.(b)	Storm Water Management Implementation	To complete any storm water management scheme and all related drainage control facilities in accordance with the approved Plan.
Standard	5.(c)	Tree Management	To complete the tree management requirements for the lands in accordance with the approved Tree Protection Plan.
Standard	5.(d)	Landscape Completion	To complete the landscaping in accordance with the approved Landscape Plan.
Standard	5.(e)	Interior Garbage Storage/Outdoor Garbage Container Installation	To install or demarcate on-site any vaults, central storage and collection areas, or other facilities for the storage of garbage and recyclable material, in accordance with the approved Landscape Plan.
Standard	5.(f)	Fencing/Visual Barriers Installation	To install all fencing and visual barriers as indicated on the Site Plan in accordance with the approved Landscape Plan.
Standard	5.(g)	Boulevard Sodding	To complete, at the Owner's cost, the landscaping on all adjacent public property in accordance with the approved Landscape Plan.
Standard	5.(h)	Curb Installation	To install 0.15 metre raised curbing in the locations shown on the Site Plan.

Special or Standard ?	Condition #	Description	Condition
Standard	5.(i)	Street Lighting Installation	To implement the approved Site Lighting Plan.
Standard	5.(j)	Paving	To pave all areas intended to facilitate on-site vehicular movement, parking and loading, as shown on the Site Plan with hot-mixed asphalt or equivalent and to demarcate the parking on said surface.
Standard	5.(k)	Certification of Site Development Works	To submit to the City's Director of Building Services, Site Development Works Certification Forms prepared by the appropriate consultants, certifying that the site development works required under this approval have been completed in accordance with the respective plans prepared by such consultant and accepted by the City.
SPECIAL CONDITIONS			
2.0 - Prior To The Commencement Of Any Grading On The Site			
Special	2.1.	N/A	INTENTIONALLY DELETED
Special	2.2.	N/A	INTENTIONALLY DELETED
Special	2.3.	N/A	INTENTIONALLY DELETED
Special	2.4.	N/A	INTENTIONALLY DELETED
Special	2.5.	N/A	INTENTIONALLY DELETED
Special	2.6.	N/A	INTENTIONALLY DELETED
Special	2.7.	N/A	INTENTIONALLY DELETED
Special	2.8.	N/A	INTENTIONALLY DELETED
Special	2.9.	N/A	INTENTIONALLY DELETED
Special	2.10.	N/A	INTENTIONALLY DELETED
Special	2.11.	N/A	INTENTIONALLY DELETED
Special	2.12.	N/A	INTENTIONALLY DELETED: Already completed
Special	2.13.	N/A	INTENTIONALLY DELETED: Already reflected on Approved Plan
Special	2.14.	N/A	INTENTIONALLY DELETED

Special or Standard ?	Condition #	Description	Condition
3.0 Prior To The Application For Any Building Permits Or As Otherwise Indicated			
Special	3.1.	N/A	INTENTIONALLY DELETED
Special	3.2.	N/A	That the Owner provide evidence it has entered into a "Joint Use Agreement" for access between the block townhome development and the multiple dwelling for the sharing of service(s) on lands under separate ownership.
Special	3.3.	N/A	INTENTIONALLY DELETED
Special	3.4.	N/A	<p><u>Prior to issuance of a site servicing permit</u>, the Owner enter into a Joint Servicing Agreement with the City and the owner of the Phase I (townhouse) lands with such agreement to be registered on title to both parcels; provided that such agreement generally conforms to the City's draft standard form of agreement as amended to reflect:</p> <ul style="list-style-type: none"> a. that the storm sewer is on the Owner's private property over which City has or shall have an easement; b. the terms of the current form of the Minutes of Settlement, the Storm Sewer Easement and the External Works agreement save and except for the Schedule of Costs and Security which the City has yet to complete and attach to the External Works Agreement; and c. cost sharing with the City as already agreed upon as related to future maintenance and repair obligations of the private and public parties to the agreement.
Special	3.5.	N/A	INTENTIONALLY DELETED
Special	3.6.	N/A	INTENTIONALLY DELETED
Special	3.7.	N/A	INTENTIONALLY DELETED
Special	3.8.	Stormwater Management	<u>Prior to issuance of a site servicing permit</u> for 30 Hamilton Street, the stormwater management for the site be implemented in conformity with the

Special or Standard ?	Condition #	Description	Condition
			Preliminary Stormwater Management Report, St. Thomas Walk Residential Development, 70 Barton Street (Waterdown) City of Hamilton, Cheltenham Developments, prepared by S. Llewellyn & Associates Limited, dated July 2015 reprinted July 21, 2015 as updated and amended by the Letter from S. Llewellyn & Associates Limited dated February 11, 2016, to the Satisfaction of the City of Hamilton and Conservation Halton.
Special	3.9.	Warning Clause	<p><u>The owner include within any agreement of purchase and sale for the purchase of one or more units within the building and/or any lease of any such unit, the following warning clause related to parking:</u></p> <p><u>“It is the responsibility of the property owner/tenant to ensure that the parking provided on site is sufficient for their needs. On-street parking is restricted in the area and cannot be used for long term overflow parking. It is provided on a ‘first come, first serve’ basis and cannot be guaranteed in perpetuity.”</u></p>
Special	3.10	Water Servicing Report	<p>The applicant shall provide, to the satisfaction of the City’s Manager of Development Engineering Approvals, a water servicing report, prepared by a licensed Professional Engineer, which shall include, but not be limited to the following issues:</p> <ul style="list-style-type: none"> • the anticipated peak water demand for the building, preferably calculated using the fixture-unit approach; • a calculation of the Required Fire Flow (RFF) for building, detailing total floor area, construction type, exposure, occupancy, which will represent an upper limit for any approvals granted; • a summary of the available fire flow in the area, based either on the two-hydrant flow tests conducted by the City or conducted by the applicant through a licensed private contractor, and a conclusion as to the adequacy of available flow for the proposal; and • in the event of inadequate capacity proposed mitigative measures to achieve adequate available flow should be identified.

Special or Standard ?	Condition #	Description	Condition
5.0 - Within Five Years Of Occupancy (Prior To Release Of Credit)			
Special	5.1.	N/A	INTENTIONALLY DELETED