

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario

**17-159-OMB**  
**Attachment 1**

**17-160-OMB**  
**Attachment 2**



**ISSUE DATE:** July 17, 2017

**CASE NO(S):** PL160485

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**Applicant and Appellant:** Branthaven Homes Fruitland Inc.  
**Subject:** Request to amend the Official Plan - Refusal of request by the City of Hamilton

**Existing Designation:** Neighbourhoods  
**Proposed Designated:** Site specific to permit the proposed development

**Purpose:** To permit the development of a 77-unit condo townhouse development

**Property Address/Description:** 288 Glover Road  
**Municipality:** City of Hamilton  
**Approval Authority File No.:** UHOPA-16-03  
**OMB Case No.:** PL160485  
**OMB File No.:** PL160485  
**OMB Case Name:** Branthaven Homes Fruitland Inc. v. Hamilton (City)

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

**Applicant and Appellant:** Branthaven Homes Fruitland Inc.  
**Subject:** Application amend Zoning By-law No. 3692-92 - Refusal of Application by the City of Hamilton

**Existing Zoning:** IS – Small Scale Institutional  
**Proposed Zoning:** Site specific to permit the proposed development

**Purpose:** To permit the development of a 77-unit condo townhouse development

**Property Address/Description:** 288 Glover Road  
**Municipality:** City of Hamilton  
**Municipality File No.:** ZAC-16-012  
**OMB Case No.:** PL160485  
**OMB File No.:** PL160486

Heard: July 7, 2017 by telephone conference call

**APPEARANCES:**

<u>Parties</u>	<u>Counsel</u>
Branthaven Homes Fruitland Inc. ("Applicant")	N. Smith
City of Hamilton ("City")	P. MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY BLAIR S. TAYLOR ON  
JULY 7, 2017 AND ORDER OF THE BOARD**

---

**INTRODUCTION**

[1] This matter arises out of a Pre-hearing held on April 20, 2017.

[2] At that time the Board was advised that settlement discussions were continuing. In the event that settlement discussions were not successful, the Board was requested to set a five day hearing, which it did for September 25, 2017.

[3] If the settlement discussions were successful, today's Pre-hearing could be converted to a settlement hearing with affidavit evidence to be provided in advance.

[4] The Board was advised that the parties had reached a settlement, and the Board was provided with an Affidavit of Mark Bradley, Land Use Planner which included a draft Official Plan Amendment ("OPA") and a draft Zoning By-law Amendment ("ZBA").

**BACKGROUND AND CONTEXT**

[5] The Applicant owns the property known municipally as 288 Glover Road ("Subject Lands") and had made a development proposal to the City to amend the Official Plan ("OP") and amend Zoning By-law No. 3692-92 to permit a 77 unit condominium townhouse development.

[6] The development proposal was denied by the City, and appealed to the Board by the Applicant.

### **PROPOSED SETTLEMENT**

[7] The Affidavit of Mark Bradley (Exhibit 1) provides that the development application has been amended to now provide for 78 units at a higher density.

[8] The Affidavit discloses that the Subject Lands are located immediately adjacent to a planned pedestrian promenade on Barton Street, which street is also identified as a potential rapid transit line in the City's OP.

[9] The Subject Lands are also located in proximity to the Queen Elizabeth Highway and a future multi-modal hub to be located at South Service Road and Fifty Road.

[10] The Subject Lands are found within the Fruitland-Winona Secondary Plan and designated Low Density Residential 3 which permits a variety of residential uses including townhouses within a density range of 40-60 units per hectare.

[11] The settlement proposed a 78 condominium townhouse, semi-detached and maisonette units at 42.39 units per hectare.

### **DECISION**

[12] The Board having read the Affidavit of Mark Bradley, and having read the draft OPA (Exhibit 2) and the draft ZBA (Exhibit 3), finds that the settlement: appropriately considers the matters of Provincial Interest as set out in s. 2 of the *Planning Act*, is consistent with the Provincial Policy Statement, 2014, conforms to the Growth Plan for the Greater Golden Horseshoe, conforms to the intent of the OP, constitutes good planning and is in the public interest.

[13] Accordingly the Board allows the appeals in part, and approves the development application as amended and reflected in the OPA and the ZBA .

[14] The OPA and ZBA are appended herewith as Attachment 1 and Attachment 2 respectively and form part of this decision.

[15] The Board directs counsel for the Applicant to contact the Case Coordinator to cancel the five day hearing set for September 25, 2017.

[16] This is the Order of the Board.

*"Blair S. Taylor"*

BLAIR S. TAYLOR  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

A constituent tribunal of Environment and Land Tribunals Ontario

Website: [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

Exhibit: <u>2</u>
File #:

## Urban Hamilton Official Plan Amendment No. 68

The following text, together with Appendix "A", constitutes Official Plan Amendment No. 68, of the Urban Hamilton Official Plan.

### 1.0 Purpose and Effect:

The purpose of the Amendment is to amend Fruitland-Winona Secondary Plan Land Use Plan by establishing a Site Specific Policy to permit the proposed development of 16 Semi-Detached Dwellings, 41 Block Townhouse Dwellings and 10 Maisonette Dwellings on a private road, as well as 3 Townhouse Dwellings and 8 Semi-Detached Dwellings on a public road, to proceed upon City of Hamilton approval of a site-specific functional servicing and stormwater management report.

### 2.0 Location:

The lands affected by this Amendment are located at 288 Glover Road, within the City of Hamilton (former City of Stoney Creek).

### 3.0 Basis:

The basis for permitting the Amendment is, as follows:

- It is consistent with the PPS and conforms to Places to Grow (Growth Plan for the Greater Golden Horseshoe);
- It implements the intent of the "Low Density Residential 3" designation in the Fruitland-Winona Secondary Plan, which promotes a mix of housing types and densities;
- It maintains the intent of the Block Servicing Strategy for the coordinated and comprehensive development of lands within the Fruitland-Winona Secondary Plan Area, and,
- It maintains the intent of the Barton Street Pedestrian Promenade for the provision of a safe multi-use paved trail system to connect public spaces to future transit services.

**4.0 Actual Changes:**

**4.1 Text Changes:**

**Urban Hamilton Official Plan Volume 2 – Secondary Plans**

4.1.1 Volume 2: Chapter B, Stoney Creek Secondary Plans, Section B.7.4 Fruitland-Winona Secondary Plan is amended by adding a new Site Specific Policy – Area L as follows:

**“B.7.4.18.12 Site Specific Policy – Area L**

For the lands located at 288 Glover Road and designated Low Density Residential 3, as shown as Site Specific Policy – Area L on Map B.7.4-1 – Fruitland-Winona Secondary Plan – Land Use Plan, the following policies shall apply:

- a) In addition to the uses permitted in Policy B.7.4.4.5 – Low Density Residential 3 designation, Maisonette Dwellings shall also be permitted; and,
- b) In accordance with Policy B.7.4.14.1 e), development of the lands may proceed upon the completion of a site-specific Block Servicing Strategy, consisting of a Functional Servicing and Stormwater Management Report, to the satisfaction of the Senior Director of Growth Management.”

**4.2 Mapping Changes**

**Urban Hamilton Official Plan Volume 2**

4.2.1 Map B.7.4-1 – Fruitland-Winona Secondary Plan Land Use Plan is amended by identifying the subject lands as Site-Specific Policy – Area L as shown on Appendix “A”, attached to this amendment.

**5.0 Implementation:**

An implementing Zoning By-Law Amendment will give effect to the intended uses on the subject lands.

This Official Plan Amendment is Schedule "1" to By-law No. \_\_\_\_\_, pursuant to Decision / Order of the Ontario Municipal Board issued in Case No. PL160485.



Authority:  
Ward: 11  
Bill No.

CITY OF HAMILTON  
BY-LAW NO.

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

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 Stoney Creek" 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. 3692-92 (Stoney Creek) was enacted on the 8th day of December 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

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

NOW THEREFORE the Ontario Municipal Board orders:

1. That Map No. 8 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended as follows:
  - (a) by changing from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59a" Zone, Modified, on the lands comprised of Block "1";
  - (b) by changing from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59b" Zone, Modified, on the lands comprised of Block "2";  
and,
  - (c) by changing from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59c" Zone, Modified, on the lands comprised of Block "3";

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

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

2. That Subsection 6.10.7, "Special Exemptions" of Section 6.10, Multiple Residential "RM3" Zone, of Zoning By-law No. 3692-92, be amended by adding Special Exemption "RM3-59", as follows:

**"RM3-59" 288 Glover Road, Schedule "A" Map No. 8**

For the purposes of this By-law, the property line abutting Glover Road shall be deemed to be the front lot line; the easterly property line shall be considered the rear lot line; and all other lot lines shall be deemed to be side lot lines.

Notwithstanding the provision of Paragraphs (h), (i) and (m) of Subsection 6.10.3 "Zone Regulations" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-59a", "RM3-59b" and "RM3-59c" and identified as Blocks "1", "2" and "3" by this By-law, the following shall apply:

- (h) Minimum Distance Between Buildings on the Same Lot – 14 metres, except 2.5 metres between end walls and 9 metres between an end wall and a rear wall.
- (i) Maximum Density – 42.5 units per hectare
- (m) Minimum Landscaped Open Space

Not less than 25 percent of the lot area shall be landscaped including privacy areas.

In addition to the provisions of Subsection 6.10.3 "Zone Regulations" of the Multiple Residential "RM3" Zone, the following shall apply:

- (n) Minimum Density – 40 units per hectare

Notwithstanding Subsection 4.19.1 (a), "Yard Encroachments – General Application", for bay windows only, on those lands zoned "RM3-59a", "RM3-59b" and "RM3-59c" by this By-law, the following regulations shall apply, specifically:

A bay window may project into a front yard or rear yard a distance of not more than 1.5 metres and into a side yard a distance of not more than 0.5 metres.

In addition to the regulations of Subsection 4.19.1 "Yard Encroachments – General Application", on lands zoned "RM3-59a", "RM3-59b" and "RM3-59c" by this By-law, stairs may project in their entirety into a required yard.

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

Notwithstanding Paragraph (a) of Subsection 6.10.5 "Regulations for Parking" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-59a", "RM3-59b" and "RM3-59c" by this By-law, the following shall apply:

A minimum of 2 parking spaces and 0.21 visitor parking spaces shall be provided for each semi-detached, townhouse, and maisonette dwelling unit. Tandem parking is permitted for non-visitor parking spaces.

All other regulations of the Multiple Residential "RM3" Zone shall apply, except as provided, below.

3. That Subsection 6.10.7, "Special Exemptions" of Section 6.10, Multiple Residential "RM3" Zone, of Zoning By-law No. 3692-92, be amended by adding Special Exemption "RM3-59a", as follows:

**"RM3-59a" 288 Glover Road, Schedule "A" Map No. 8**

No direct access shall be provided to individual townhouse or maisonette dwelling units from Glover Road or Barton Street, with the exception of a private condominium road.

Notwithstanding Subsection 6.10.2, "Permitted Uses for Each Lot", on lands zoned "RM3-59a" and identified as Block "1" by this By-law, only the following uses shall be permitted:

- (a) Townhouse
- (b) Maisonette
- (c) A private or public stormwater management facility

Notwithstanding the provisions of Paragraphs (c), (d), (f), (j) and (l) of Subsection 6.10.3 "Zone Regulations" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-59a" by this By-law, the regulations of the Multiple Residential "RM3-59" Zone, Modified, as established under this By-law, shall apply on those lands zoned Multiple Residential "RM3-59a" Zone by this By-law and the following additional regulations shall apply:

- (c) Minimum Front Yard – 2.0 metres
- (d) Minimum Northerly Side Yard – 20.0 metres
- Minimum Southerly Side Yard – 30.0 metres
- (f) Minimum Rear Yard – 10.0 metres

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

- (j) Maximum Building Height – 14.5 metres
- (l) Privacy Area – Notwithstanding the yard requirements above, each townhouse dwelling unit shall have at least one area which serves as a privacy area which shall be adjacent to the dwelling unit with a minimum depth of 7.0 m, except for a townhouse dwelling unit that is adjacent to Glover Road or Barton Street and maisonette dwelling unit, in which cases the privacy areas shall be provided on attached balconies with a minimum area of 5.0 square metres.

Notwithstanding Subsections 4.19.1 (d), “Yard Encroachments – General Application”, on those lands zoned “RM3-59a” by this By-law, the following regulations shall apply:

Balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any required front yard or side yard not more than 2.6 metres. Balconies, canopies, unenclosed porches and decks may project into any required rear yard not more than 4.5 metres. Balconies and decks may project into any privacy area of this development not more than 4.5 metres. Notwithstanding the foregoing, any deck or patio which is less than 0.3 metres in height may be located in any required yard.

Notwithstanding Subsection 4.13.1, “Daylight Triangles”, on those lands zoned “RM3-59a” by this By-law, the following regulations shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard of 10.0 metres from the hypotenuse of the daylight triangle.

Notwithstanding Subsections 6.1.8 (c), “Parking Restrictions in Residential Zones” and Subsections 6.10.5 (d) and (e), “Regulations for Parking”, on lands zoned “RM3-59a”, “RM3-59b” and “RM3-59c” by this By-law, the following regulation shall apply:

Where there is a grouping of three or more parking spaces, no parking space shall be provided closer than 1.5 metres to any dwelling unit located on the same lot, except that the provisions of this clause shall not apply to any parking space located within a private garage.

4. That Subsection 6.10.7, “Special Exemptions” of Section 6.10, Multiple Residential “RM3” Zone, of Zoning By-law No. 3692-92, be amended by adding Special Exemption “RM3-59b”, as follows:

**“RM3-59b” 288 Glover Road, Schedule “A” Map No. 8**

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

No direct access shall be provided to individual semi-detached dwelling units from Barton Street, with the exception of a private condominium road.

Notwithstanding Subsection 6.10.2, "Permitted Uses for Each Lot", on lands zoned "RM3-59b" and identified as Block "2" by this By-law, only the following use shall be permitted:

(a) Semi-Detached

Notwithstanding the provisions of Paragraphs (d), (f), (j) and (l) of Subsection 6.10.3 "Zone Regulations" of the Multiple Residential "RM3" Zone, on those lands zoned "RM3-59b" by this By-law, the regulations of the Multiple Residential "RM3-59" Zone, Modified, as established under this By-law, shall apply on those lands zoned Multiple Residential "RM3-59b" Zone by this By-law and the following additional regulations shall apply:

- (d) Minimum Northerly Side Yard – 2.0 metres
- Minimum Southerly Side Yard – 60.0 metres
- (f) Minimum Rear Yard – 7.5 metres
- (j) Maximum Building Height – 11 metres
- (l) Privacy Area – Notwithstanding the yard requirements above, each semi-detached dwelling unit shall have at least one area which serves as a privacy area which shall be adjacent to the dwelling unit with a minimum depth of 7.5 m.

Notwithstanding Subsections 4.19.1 (d), "Yard Encroachments – General Application", on those lands zoned "RM3-59b" by this By-law, the following regulations shall apply:

Balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any required front yard or side yard not more than 2.6 metres. Balconies, canopies, unenclosed porches and decks more than 0.3m in height may not project into any required rear yard. Notwithstanding the foregoing, any balcony, deck or patio which is less than 0.3 metres in height may be located in any required yard, including the rear yard.

5. That Subsection 6.10.7, "Special Exemptions" of Section 6.10, Multiple Residential "RM3" Zone, of Zoning By-law No. 3692-92, be amended by adding Special Exemption "RM3-59c", as follows:

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

**“RM3-59c” 288 Glover Road, Schedule “A” Map No. 8**

That direct access may be provided to semi-detached and townhouse dwelling units facing Willow Lane.

Notwithstanding Subsection 6.10.2, “Permitted Uses for Each Lot”, on lands zoned “RM3-59c” and identified as Block “3” by this By-law, only the following uses shall be permitted:

- (a) Semi-Detached
- (b) Townhouse

Notwithstanding the provisions of Paragraphs (c), (d), (f), (j), and (l) of Subsection 6.10.3 “Zone Regulations” of the Multiple Residential “RM3” Zone, on those lands zoned “RM3-59c” by this By-law, the regulations of the Multiple Residential “RM3-59” Zone, Modified, as established under this By-law, shall apply on those lands zoned Multiple Residential “RM3-59c” Zone by this By-law and the following additional regulations shall apply:

- (c) Minimum Front Yard – 6.0 metres
- (d) Minimum Northerly Side Yard – 150.0 metres
- Minimum Southerly Side Yard – 4.5 metres
- (f) Minimum Rear Yard – 15.0 metres
- (j) Maximum Building Height – 11 metres
- (l) Privacy Area – Notwithstanding the yard requirements above, each semi-detached dwelling unit and townhouse dwelling unit shall have at least one area which serves as a privacy area which shall be adjacent to the dwelling unit with a minimum depth of 7.0 m.

In addition to the provisions of Subsection 6.10.3 “Zone Regulations” of the Multiple Residential “RM3” Zone, the following shall apply:

- (o) Number of Dwelling Units – A Townhouse shall be restricted to only one (1) block containing no more than three (3) dwelling units.

Notwithstanding Subsections 4.19.1 (d), “Yard Encroachments – General Application”, on those lands zoned “RM3-59c” by this By-law, the following regulations shall apply:

To Amend Stoney Creek Zoning By-law No.3692-92  
Respecting Lands Located at 288 Glover Road (Stoney Creek)  
Owned by Branthaven Homes Fruitland Inc.

Balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any required front yard or side yard not more than 2.6 metres. Balconies, canopies, unenclosed porches and decks may project into any required rear yard not more than 4.5 metres. Balconies and decks may project into any privacy area of this development not more than 4.5 metres. Notwithstanding the foregoing, any deck or patio which is less than 0.3 metres in height may be located in any required yard.

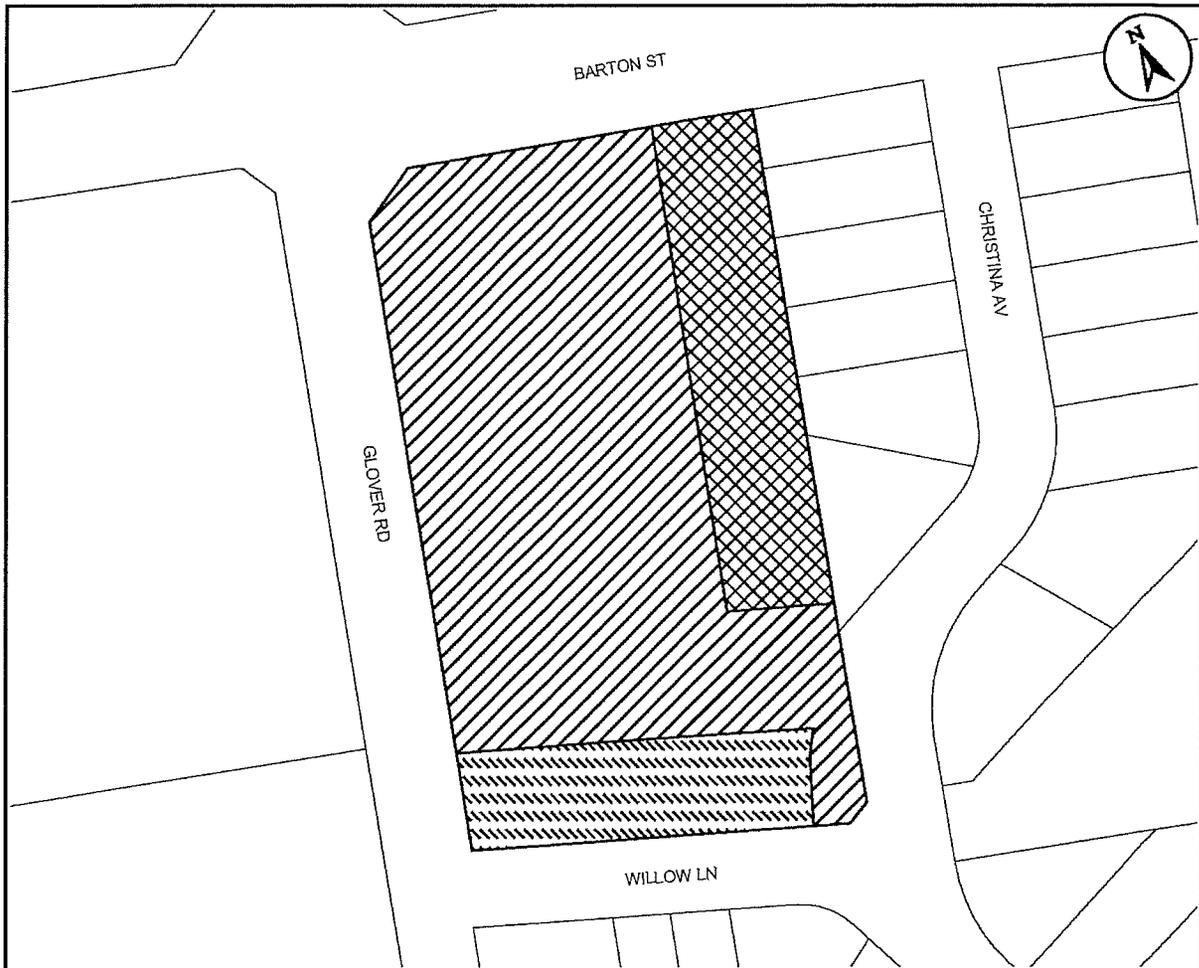
Notwithstanding Subsection 4.13.1, "Daylight Triangles", on those lands zoned "RM3-59c" by this By-law, the following regulations shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard of 0.0 metres from the hypotenuse of the daylight triangle.

Notwithstanding Subsections 6.1.8 (c), "Parking Restrictions in Residential Zones" and Subsections 6.10.5 (d) and (e), "Regulations for Parking", on lands zoned "RM3-59c" by this By-law, the following regulation shall apply:

Where the required minimum number of parking spaces is four or more, no parking space shall be provided closer than 3.0 metre to any lot line or closer than 5.0 metres to any dwelling unit located on a lot other than the said lot, except that the provisions of this clause shall not apply to any parking space located on a private driveway providing direct access to Willow Lane or within a private garage.

6. 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 Multiple Residential "RM3" Zone, subject to the special requirements referred to in Sections 2, 3, 4 and 5 of this By-law.
7. That this By-law No. 17-XX 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.



This is Schedule "A" to By-law No. 17-

Pursuant to Decision/Order of the Ontario Municipal Board issued \_\_\_\_\_ in Board Case No. PL160485.

## Schedule "A"

Map Forming Part of  
By-law No. 17-\_\_\_\_\_

to Amend By-law No. 3692-92

### Subject Property

288 Glover Road

-  Block 1 - Change in Zoning from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59a" Zone, Modified.
-  Block 2 - Change in Zoning from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59b" Zone, Modified.
-  Block 3 - Change in Zoning from the Small Scale Institutional "IS" Zone to the Multiple Residential "RM3-59c" Zone, Modified.

Scale:  
N.T.S.

File Name/Number:  
ZAC-16-012/UHOPA-16-03

Date:  
May 16, 2017

Planner/Technician:  
DM/NB



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT