

Ontario Land Tribunal
 Tribunal ontarien de l'aménagement
 du territoire
 23-037-OLT Attachment 1
 23-038-OLT Attachment 2



ISSUE DATE: February 27, 2023

CASE NO(S).:

OLT-22-004414

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

Applicant/Appellant:	FGL Pirie Inc
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit 16 bungalow townhouses and a 4- storey retirement home containing 84 dwelling units with 100 residents
Reference Number:	ZAC-21-003
Property Address:	125 Pirie Drive
Municipality/UT:	Hamilton/Hamilton
OLT Case No.:	OLT-22-004414
OLT Lead Case No.:	OLT-22-004414
OLT Case Name:	FGL Pirie Inc. v. Hamilton (City)

Heard: January 27, 2023, by video hearing

APPEARANCES:

Parties

FGL Pirie Inc.

City of Hamilton

Counsel

Denise Baker
Alyssa Clutterbuck

Patrick MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID BROWN ON JANUARY
 27, 2023, AND ORDER OF THE TRIBUNAL**

INTRODUCTION AND BACKGROUND

[1] This matter involves an appeal filed by FGL Pirie Inc. (the “Appellant”) against the City of Hamilton’s (the “City”) failure to make a decision on an application for Zoning By-Law Amendments (the “ZBA”) pursuant to s. 34(11) of the *Planning Act*, R.S.O. 1990, c.P.13 (the “Act”) within the prescribed timeframe. The application affects the lands known municipally as 125 Pirie Drive (the “Subject Lands”) located at the north-easterly corner of Governor’s Road and Pirie Drive.

[2] The ZBA was submitted to facilitate the redevelopment of the Subject Lands to permit a four-storey seniors’ residence and retirement home fronting on Governors Road and to permit seventeen bungalow townhouse dwellings fronting on Pirie Drive.

[3] The Subject Lands are approximately 1.43 hectares in area located at the northeast corner of Governors Road and Pirie Drive at the westerly limit of the former Town of Dundas. The Subject Lands are currently vacant and slope from north to south down to the Governors Road frontage. The Subject Lands are surrounded by a mix of low and medium density residential uses comprised of one storey single-detached dwellings located on the north side of Pirie Drive, two storey townhouses and single-detached dwellings abutting to the east, townhouses and single-detached dwellings located on the opposite side of Governors Road to the south, and two storey townhouses located on the west side of Pirie Drive.

[4] The ZBA was filed with the City on December 23, 2020. The ZBA submission was deemed complete by the City on February 5, 2021. In response to the comments received from the circulation of the ZBA, the ZBA was revised reducing the number of townhouse units fronting onto Pirie Drive from 17 to 16 units and the retirement home access location on Governors Road was relocated towards the easterly property limit. The revised submission was filed with the City on December 17, 2021. It is the December 17, 2021, submission that is before the Tribunal.

[5] The senior’s residence will include 84 residential units and a retirement home with a capacity for 100 residents. A driveway on Governors Road will provide access to the front

entrance and visitor parking area with a second driveway on Pirie Drive which will access the below grade parking and service areas associated with the building. The northern portion of the Subject Lands is to be developed with 16 townhouse dwellings with each unit having an attached garage and private driveway access to Pirie Drive (collectively the “Development Proposal”). The ZBA proposes amendments to the former Town of Dundas Zoning By-law No. 3581-86 (the “Dundas ZBL”) to permit the townhouse use along Pirie Drive and also proposes to amend the City Zoning By-law 05-200 (the “City ZBL”) to add the southerly portion of the Subject Lands to the City ZBL and create a site-specific zoning to permit the proposed retirement home and seniors residence use.

[6] The Tribunal received correspondence from the Appellant in advance of the hearing advising that the City is not opposing the appeal and the Appellant requested that the Tribunal convert the proceedings to a Settlement hearing. The City confirmed that it is not opposing the appeal and consented to the conversion of the proceedings.

[7] In accordance with Rule 12 of the Rules, the Tribunal convened these proceedings as a hearing on the terms of the settlement.

PRELIMINARY MATTERS

[8] This hearing was originally scheduled as a Case Management Conference. An Affidavit of Service dated December 20, 2022, was filed with the Tribunal as Exhibit 1 confirming that the Notice of the Proceedings was provided in accordance with the Tribunal’s direction.

[9] The Tribunal received requests for Party status from Alan Tucker, Allison Gorecki, Michele Gunn, and Carol Shogilev.

[10] The Tribunal reviewed the Party Status Request Forms filed by Mr. Tucker, Ms. Gorecki, and Ms. Gunn and reviewed Rule 8.0 of the Tribunal’s Rules of Policy and Procedure (the “Rules”) with the individuals seeking status. The Tribunal noted the differences between a Participant and a Party and outlined the expectations of a Party as

set out in Rule 8.1. Ms. Shogilev was not in attendance at the commencement of the proceedings.

[11] Mr. Tucker advised that he is seeking Party status as he wishes to challenge the opinions of the Appellant's Planner, Mr. Wellings, set out in Mr. Welling's Affidavit which was circulated to him prior to the hearing. He submitted that the neighbours have issues with the Development Proposal that have not been adequately addressed by the City or the Appellant, and he wishes to raise those issues before the Tribunal. He indicated that as a Participant he will not be afforded that opportunity.

[12] Ms. Gunn advised the Tribunal that she is seeking Party status to allow her the opportunity to make a presentation before the Tribunal as the City has not held a public meeting in respect of the Development Proposal and, as such, the neighbours were not able to make representations before City Council to have their concerns considered.

[13] Ms. Gorecki, in consideration of the expectations of a Party as described in the Rules, requested to convert her status request from Party to Participant.

[14] Ms. Baker, in response to the requests and the submissions for status before the Tribunal, noted that Mr. Tucker does not intend to call any expert witnesses in response to the opinions offered in Mr. Welling's Affidavit and is not proposing to tender any new evidence beyond that which is included in his written statement to the Tribunal. In respect to the submissions of Ms. Gunn, Ms. Baker responded that the City held a public meeting on September 6, 2022, prior to which a City staff report was circulated recommending approval of the ZBA and the City staff report included a review and responses to the comments received from the area residents.

[15] Ms. Baker advised that her client opposes granting Party status to Mr. Tucker and Ms. Gunn as it is her client's position that the threshold for their requests has not been met. Her client does not oppose granting Participant status to Ms. Gorecki and would not object to Participant status being granted to Mr. Tucker or Ms. Gunn.

[16] Mr. MacDonald advised that the City does not oppose the requests. He did advise that a Statutory Public Meeting was scheduled for September 6, 2022; however, the agenda item relating to the Development Proposal was adjourned at the outset of the meeting and no submissions were made in respect of the application and City Council did not consider the matter.

[17] Prior to the Tribunal's consideration of the requests, Ms. Gunn requested that her status request be revised to Participant status.

[18] The Tribunal conferred Participant Status to Michele Gunn and Allison Gorecki. The Tribunal received the written statements filed by Ms. Gunn and Ms. Gorecki as Exhibits 3B and 4 respectively.

[19] The Tribunal, in consideration of the request for Party status from Mr. Tucker, reviewed Rule 8.1 of the Tribunal's Rules which sets out the role and obligations of a party which allows a person conferred Party status to participate fully in the proceedings. Full participation anticipates that there will be some form of evidence presented to the Tribunal in support of the position taken by the party. The written submission filed with the Tribunal by Mr. Tucker does not refer to or contemplate any new or contrary evidence to be presented to the Tribunal. Mr. Tucker's oral submissions suggest his involvement will be to challenge the opinions of the Appellant's experts and he does not intend to present any contrary evidence before the Tribunal.

[20] The Tribunal reviewed Rule 8.2 which states:

The Tribunal may add or substitute a party to a proceeding when that person satisfies any applicable legislative tests necessary to be a party and their interest may be transferred or transmitted to another party to be added or substituted provided their presence is necessary to enable the Tribunal to adjudicate effectively and completely on the issues in the proceeding.

[21] Further, the Tribunal reviewed Rule 1.6 which states:

The Tribunal may grant all necessary exceptions from these Rules or from any procedural order, or grant other relief as it considers necessary and appropriate, to ensure that the real questions in issue are determined in a fair, just, expeditious and cost-effective manner.

[22] The Tribunal's Rules are established to ensure the real questions in issue are determined in a fair, just, expeditious, and cost-effective manner. The Tribunal finds that granting status to Mr. Tucker will not impact the real questions in issue and the Tribunal finds that Mr. Tucker's participation as a Party will not assist in the Tribunal's ability to adjudicate effectively and completely the issues in this proceeding. The Tribunal denies the request for Party status from Mr. Tucker. The Tribunal will grant Participant status to Mr. Tucker should he wish to have his written submissions considered by the Tribunal.

[23] The Tribunal denies the request for Party status from Ms. Shogilev as she was not in attendance to speak to her request and is not available to participate in the proceedings.

[24] Mr. Tucker advised that he wishes to be granted Participant status. The Tribunal granted his request for Participant status and received his written submission as Exhibit 2B.

LEGISLATIVE FRAMEWORK

[25] When considering an appeal of an application to amend a zoning by-law filed pursuant to s. 34 of the Act, the Tribunal must have regard to matters of provincial interest as set in s. 2 of the Act. Section 3(5) of the Act requires that decisions of the Tribunal affecting planning matters be consistent with the Provincial Policy Statement, 2020 (the "PPS") and conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020, (the "Growth Plan"). The Tribunal must also be satisfied that the ZBA conforms with the Official Plan in effect and in this matter that plan is the Urban Hamilton Official Plan (the "UHOP").

[26] In consideration of the statutory requirements set out above, the Tribunal must be satisfied that the request represents good planning and is in the public interest.

EVIDENCE AND SUBMISSIONS

[27] The Appellant filed a Document Book that was marked as Exhibit 6. The Document Book included an Affidavit sworn by Glenn Wellings, dated January 16, 2023, in support of

the proposed settlement. Mr. Wellings is a Land Use Planner and the Tribunal qualified Mr. Wellings to provide opinion evidence as an expert in the area of land use planning.

[28] Mr. Wellings opined that the ZBA has proper regard for matters of provincial interest pursuant to s. 2 of the Act. The Development Proposal will efficiently utilize existing infrastructure and services, contribute to a range of housing opportunities, promote a well-designed built form, and is an appropriate location for growth and development. Mr. Wellings noted that a retirement home and seniors' residence should be located within a neighbourhood area as it provides a mix of housing as directed by the Province and also creates an opportunity for seniors to remain in their neighbourhood as they age, promoting a complete community.

[29] In consideration of the PPS, Mr. Wellings proffered that the PPS encourages planning authorities to permit and facilitate a range of housing options including new development and residential intensification to respond to current and future housing needs and specifically referring to housing needs of older persons. Mr. Wellings stated his opinion that the ZBA is consistent with the PPS. The Development Proposal represents an efficient land use pattern that contributes to a mix of housing options, including housing for older persons. The ZBA is an appropriate intensification and redevelopment of an underutilized property and takes advantage of existing available infrastructure that responds to the directives of the PPS.

[30] In consideration of the Growth Plan, Mr. Wellings directed the Tribunal to the Introduction of the Growth Plan at Section 1.1 where it outlines several challenges expected over the coming decades, including:

People over the age of 60 are expected to comprise over 25% of the population by 2041, which will result in the need for more age-friendly development that can address their unique needs and circumstances. This will include a more appropriate range and mix of housing options, easier access to health care and other amenities, walkable built environments, and an age-friendly approach to community design that will meet the needs of people of all ages.

[31] Mr. Wellings opined that the Development Proposal responds to this challenge directly.

[32] Mr. Wellings reviewed the Guiding Principles of the Growth Plan which include the efficient use of land and infrastructure, supporting transit viability, development of compact, vibrant, and complete communities that meet people's daily needs throughout an entire lifetime, and support for a range and mix of housing types.

[33] Mr. Wellings stated that the Growth Plan sets out that, within settlement areas, growth will be focused in delineated built-up areas and identifies Delineated Built-up Areas, which includes the City, where minimum intensification targets of 50% apply for all residential development occurring annually. The Subject Lands are within the "Built Boundary" and "Built-up Area" as outlined in the UHOP.

[34] The Managing Growth policies in section 2.2.1 of the Growth Plan support the achievement of complete communities that improve social equity and overall quality of life, including human health, for people of all ages, abilities, and income levels and provide a diverse range and mix of housing options, including additional residential units and affordable housing, to accommodate people at all stages of life, and to accommodate the needs of all household sizes and incomes.

[35] Mr. Wellings opined that the ZBA conforms to the Growth Plan.

[36] The UHOP designates the Subject Lands as Neighbourhoods. Section 2.6.4 states:

The Neighbourhoods element of the urban structure shall permit and provide the opportunity for a full range of housing forms, types and tenure, including *affordable* housing and *housing with supports*.

[37] The UHOP defines Housing with Supports as follows:

Housing with Supports means public, private or non-profit owned housing with some form of support component, beyond economic support, intended for people who need support services to live independently in the community, where providers receive funding for support services. The tenure may be long term. Housing with supports includes special needs housing as defined by the Provincial Policy Statement (2005).

[38] Mr. Wellings submitted that Special Needs Housing is defined in the PPS as follows:

Special needs: means any housing, including dedicated facilities, in whole or in part, that is used by people who have specific needs beyond economic needs, including but not limited to, needs such as mobility requirements or support functions required for daily living. Examples of special needs housing may include, but are not limited to long-term care homes, adaptable and accessible housing, and housing for persons with disabilities such as physical, sensory or mental health disabilities, and housing for older persons.

[39] Mr. Wellings proffered that the ZBA proposes a form of Housing with Supports, and is therefore, a permitted use within the Neighbourhoods designation. Further he proffered that the bungalow townhouse units are also a permitted use within the Neighbourhoods designation.

[40] The UHOP states that the residential intensification target specified in the UHOP policies shall generally be distributed through the built-up area and that 40% of the residential intensification target is anticipated to occur within areas that are designated Neighbourhoods on Schedule E – Urban Structure of the UHOP. Mr. Wellings opined that the Development Proposal represents an appropriate form of residential intensification that facilitates the development of vacant lands within a Neighbourhoods designated area.

[41] Mr. Wellings reviewed UHOP policy 2.4.2.2 that states:

When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

- a) the matters listed in Policy B.2.4.1.4;
- b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;
- c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
- d) the consideration of transitions in height and density to adjacent residential buildings;
- e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;
- f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;
- g) the ability to respect and maintain or enhance the streetscape patterns including block lengths, setbacks and building separations;
- h) the ability to complement the existing functions of the neighbourhood;

[42] Mr. Wellings opined that the ZBA conforms with the above policies and advised that the ZBA was reviewed by City staff in the context of the above criteria. City staff are satisfied that the Development Proposal conforms to the policies for residential intensification.

[43] Mr. Wellings noted that compatibility is a defined term in the UHOP as follows:

Compatibility/compatible means land uses and building forms that are mutually tolerant and capable of existing together in harmony within an area. Compatibility or compatible should not be narrowly interpreted to mean “the same as” or even as “being similar to”.

He submitted that compatibility of the Development Proposal has been focused on the adjacent residential uses to the east of the Subject Lands. Compatibility has been addressed by providing a built form and design that avoids adverse impacts of shadow and overlook using a 45-degree angular plane applied along the east property line combined with a minimum 7.5m setback along the easterly boundary. The resultant transition in heights and separation will result in a built form that complements the existing residential function of the neighbourhood.

[44] In conclusion, Mr. Wellings advised that the UHOP states in the introductory paragraph of the Neighbourhoods policies in Section 2.6 that:

Hamilton’s neighbourhoods are, by and large, regarded as stable. However, that does not mean these areas are static. These neighbourhoods will see some physical change over time. Neighbourhoods will evolve as older residents move out, younger residents and families move in, homes are renovated or rebuilt, infill development occurs, commercial areas are invigorated, or underutilized commercial areas redeveloped.

[45] Mr. Wellings opined that the UHOP anticipates the evolution and intensification of neighbourhoods, and he opined that the ZBA conforms to the policies of the UHOP.

[46] The Dundas ZBL currently zones the Subject Lands with two different zones. The northern portion of the property is zoned Single Detached Residential (R2), and the larger southerly portion is zoned Urban Reserve (UR). The Tribunal was provided with draft instruments for consideration with respect to the ZBA. Mr. Wellings reviewed the draft instruments explaining that the northern portion will remain in the Dundas ZBL and the ZBA proposes to amend the Dundas ZBL to a Medium Density Multiple Dwelling (RM1/S-

140) Zone to permit the bungalow townhouse units. The southerly portion will be removed from the Dundas ZBL and the ZBA proposes to rezone the southerly portion under the City ZBL to a Community Institutional (I2, 814, H126) Zone to permit the retirement home and seniors apartment building use. A Holding provision has been included to ensure that Site Plan Approval and Fire Protection matters have been satisfactorily addressed as part of the ZBA.

[47] The Tribunal received 3 Participant Statements and Mr. Wellings reviewed these submissions and offered the following responses.

[48] With respect to parking concerns, the Development Proposal provides parking that is in excess of the minimum requirements of the City ZBL for the bungalow townhouse dwellings, the retirement home, and the seniors apartment use. Mr. Wellings advised that a Transportation Impact Assessment, Parking Study, and Transportation Demand Management Study prepared by Paradigm Transportation Solutions marked as Tribunal Exhibit 7 (the "Paradigm Report") has been accepted by the City supporting the Development Proposal and confirming that the proposed parking is sufficient.

[49] With respect to traffic concerns, the Paradigm Report reviewed anticipated traffic volumes and concluded that no negative traffic impacts will result from the Development Proposal. The Paradigm Report did make road improvement recommendations; those recommendations will be addressed through the Site Plan Approval process. It was noted that the City has reviewed the Paradigm Report and accepted the conclusions therein.

[50] With respect to land use compatibility concerns, Mr. Wellings referred to his earlier testimony in which he reviewed the setback to the easterly property boundary, the application of the angular plane, the grade changes, and the design features that are proposed to address compatibility. The proximity of the amenity areas and the orientation of the dwellings abutting the Subject Lands also mitigate any impact in respect to privacy or overlook. The City has reviewed a site grading plan that addresses storm water management issues and confirmed that the Development Proposal will not create any grading impacts on adjacent lands. Mr. Wellings opined that the Development Proposal will complement and enhance the neighbourhood character.

[51] It was noted that there have been opportunities for the public to provide input to the City in respect to the ZBA. A Notice Sign has been posted on the Subject Lands inviting public comment since January of 2021. An informal information meeting was held virtually in May of 2021, and the Statutory Public Meeting was scheduled in September of 2022. It was recognized that no consideration of the matter occurred at the September 21, 2022, meeting; however, a City Staff Report was available prior to the hearing and written submissions were accepted leading up to the Meeting.

[52] Mr. Wellings proffered that the Development Proposal is in the public interest and represents good planning. He recommended that the Tribunal approve the ZBA as set out in the draft instruments found at Exhibit D of his Affidavit included in Tribunal Exhibit 6.

ANALYSIS AND FINDINGS

[53] The Tribunal accepts the uncontroverted planning opinion evidence of Mr. Wellings in support of the ZBA. The Tribunal further acknowledges the City is in attendance and not opposing the ZBA.

[54] As required in s. 2 of the Act, the Tribunal has had regard to matters of provincial interest and concludes that the Development Proposal will efficiently use existing infrastructure and services, will contribute to providing a range of housing opportunities, and will promote a well-designed built form. It also concludes that the Subject Lands are an appropriate location for growth and development.

[55] The Tribunal, in consideration of the PPS, notes that the PPS promotes land use patterns, densities, and a mix of land uses within settlement areas that support efficient use of land, resources and infrastructure, active transportation, and transit-supportive development. Further, the PPS states that healthy, livable, and safe communities are sustained by accommodating an appropriate affordable and market-based range and mix of residential types including single-detached, additional residential units, multi-unit housing, affordable housing, and housing for older persons. The Tribunal finds that the Development Proposal is consistent with the PPS as it contributes to the range and mix of

residential unit types in the City and provides an appropriate form of housing, specifically housing for older persons.

[56] The Tribunal further notes that the PPS states that the vitality and regeneration of settlement areas is critical to the long-term economic prosperity of communities and the PPS directs Planning authorities to identify appropriate locations and promote opportunities for transit-supportive development accommodating a significant supply and range of housing options through intensification and redevelopment. Further, the PPS directs Planning authorities to provide an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs. This is to be achieved by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements and needs arising from demographic changes. The Tribunal finds that the Development Proposal is transit-supportive and will contribute to a range of housing options through intensification. The ZBA proposes housing options and opportunities that respond to an aging population.

[57] The Tribunal finds that the ZBA is consistent with the PPS.

[58] In consideration of the Growth Plan, the Tribunal finds that the ZBA conforms to the policies of the Growth Plan. The Development Proposal represents an appropriate level of intensification in a Built-up Area that will contribute to the City meeting its growth and intensification targets. The Development Proposal will result, in part, in the creation of age-friendly development meeting the needs of the current and future residents, thereby contributing to a complete community.

[59] The Tribunal finds that the ZBA supports Provincial directives and policies, including growth expectations in settlement areas and the delineated built-up area, prioritizes intensification, and is transit supportive. The Tribunal is satisfied that the ZBA will appropriately optimize the use of land and infrastructure and contribute to the range and mix of housing types and options in the neighbourhood.

[60] The Tribunal finds that the ZBA conforms to the UHOP. The Tribunal concurs with the Appellant's Planner that the ZBA satisfies the criteria for intensification within the

Neighbourhoods designation. The Development Proposal is a permitted use and will contribute to the achievement of the intensification target within the Neighbourhoods designation.

[61] The Tribunal acknowledges that the UHOP envisions and contemplates intensification and infill developments and has established criteria to evaluate compatibility and impact. The Tribunal finds that the Development Proposal represents a built form that is compatible with the existing area. The proposed townhouse dwellings are one storey and will complement the existing development along Pirie Drive with an appropriate scale and relationship. Similarly, the proposed retirement home and seniors' residence represents an appropriate scale that transitions through design and separation to the abutting residential uses. The Tribunal finds that the Development Proposal will not result in an unacceptable shadow impact, will not create an unacceptable overlook condition, and will complement the existing functions of the neighbourhood.

[62] In consideration of the evidence of the Appellant's Planner, the submissions of counsel to the Appellant and the City, the Tribunal finds that the ZBA represents good planning and will result in a redevelopment that is in conformity with the UHOP and therefore is in the public interest.

[63] The Tribunal allows the appeal and grants the amendments to the Dundas ZBL and the City ZBL as set out in the instruments provided in the evidence of the Appellant's Planner and included as attachments to this decision.

ORDER

[64] **THE TRIBUNAL ORDERS** that the appeal is allowed in part and Zoning By-Law No. 3581-86 is hereby amended in the manner as set out in Attachment 1 to this Order.

[65] **THE TRIBUNAL ORDERS** that the appeal is allowed in part and Zoning By-Law No. 05-200 is hereby amended in the manner as set out in Attachment 2 to this Order.

[66] The Tribunal authorizes the municipal clerk to assign numbers to these by-laws for record-keeping purposes.

“David Brown”

DAVID BROWN
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1

CITY OF HAMILTON

BY-LAW NO. ~~3581-86~~ 23-067-OLT

To Amend Zoning By-law No. 3581-86 Respecting Lands Located at 125 Pirie Drive, Dundas

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 municipality known as the "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. 3581-86 (Dundas) was enacted on the 22nd day of May, 1986, and approved by the Ontario Municipal Board on the 10th day of May, 1988;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan approved by the Ontario Municipal Board on August 16, 2013.

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 22 - of the Planning Committee, at its meeting held on the 6 day of September, 2022, recommended that Zoning By-law No. 3692-92, be amended as hereinafter provided;

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

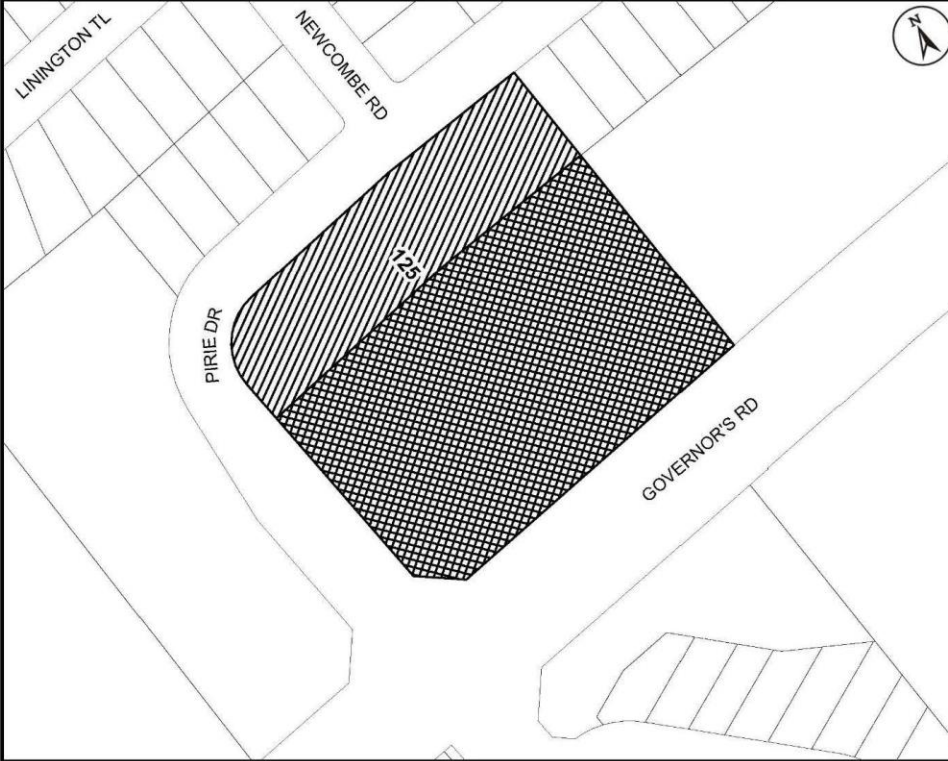



- 1) That Schedule "A" appended to and forming part of Dundas Zoning By-law No. 3581-86 be amended by deleting the lands known as 125 Pirie Drive, Dundas, the boundaries of which are shown on plans hereto annexed as Schedule "A", to this By-law;
- 2) That Schedule "A" appended to and forming part of By-law No. 3692-92 (Dundas), be amended is as follows:
 - a) Notwithstanding Section 3 of this By-law, for purposes of the definition of the Front Lot Line shall mean the portion of Pirie Drive extending 118 metres from the easterly property line of the subject lands shall be considered the front lot line;

- b) Notwithstanding Section 12.5.2.1 of this By-law, the minimum front yard shall be 2.8 metres;
 - c) Notwithstanding Section 12.5.6.1 of this By-law, a minimum 35% of the site area shall be landscaped.
 - d) Notwithstanding Section 12.5.6.2 of this By-law, a 3.0 metre wide a buffer strip within the landscape area shall not apply to any portion of a lot line that abuts a residential zone;
 - e) Notwithstanding Section 7.2.1, 7.2.2 and 7.14.1 of this By-law, tandem parking between garage parking space and front yard driveway shall be permitted with a 0.0 metre manoeuvring space for the front yard driveway parking space; and,
 - f) Notwithstanding Section 7.12.1.3 of this By-law, 0.30 spaces per dwelling unit for visitor parking shall not apply.
- 3) 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*; and,
- 4) That this By-law No. ^{23-037-OLT}~~22-~~ shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the *Planning Act*, either upon the date of passage of this by-law or as otherwise provided by the said Sub-section.

PASSED this _____ , _____

F. Eisenberger
Mayor

A. Holland
City Clerk

	
<p>This is Schedule "A" to By-law No. 22-</p> <p>Passed the day of, 2022</p>	
<p>----- Mayor -----</p> <p>----- Clerk -----</p>	
<p>Schedule "A"</p> <p>Map forming Part of</p> <p>By-law No. 22-_____</p> <p>to Amend By-law No. 3581-86</p>	
<p>Subject Property</p> <p>125 Pirie Drive, Dundas (Ward 13)</p> <p> Block 1 - Change in Zoning from the Single-Detached Residential Zone (R2) Zone to Low To Medium Density Multiple Dwelling (RM1/S-140) Zone, Modified</p> <p> Block 2 - Lands to be added to Zoning By-law 05-200 as Community Institutional (I2, 800) Zone</p>	
<p>Scale: N.T.S.</p>	<p>File Name/Number: ZAC-21-003</p>
<p>Date: April 22, 2022</p>	<p>Planner/Technician: AB/AL</p>
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>	
	

ATTACHMENT 2

CITY OF HAMILTON

BY-LAW NO. ~~05-200~~ 23-038-OLT

To Amend Zoning By-law No. 05-200, with respect to lands located at 125 Pirie Drive, Dundas

WHEREAS Council approved Item ___ of Report _____ of the Planning Committee, at its meeting held on September 6, 2022;

WHEREAS the Council of the City of Hamilton, in adopting Item ___ of Report 22___ - ___ of the Planning Committee, at its meeting held on the 6 day of September 2022, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND this By-law conforms with the Urban Hamilton Official Plan;

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

1. That Map No. 941 and 942 of Schedule "A" – Zoning Maps appended to and forming part of Zoning By-law No. 05-200 be amended by adding the lands known as 125 Pirie Drive, Dundas, the boundaries of which are shown on plans hereto annexed as Schedule "A", to this By-law.
2. That Schedule "C" – Special Exceptions is amended by adding the following new Special Exception:
 - "800. Within the lands zoned Community Institutional (I2, 814, H126) Zone, identified on Maps 941 and 942 of Schedule "A" – Zoning Maps and described as 125 Pirie Drive, the following special provisions:
 - a) Notwithstanding Section 3: Definitions of Front Lot Line, Governor's Road shall be deemed the Front Lot Line;
 - b) In addition to uses permitted in Section 8.2.1, a Multiple Dwelling with a maximum of 84 dwelling units shall be permitted in conjunction with the development of a Retirement Home;
 - c) Notwithstanding Section 8.2.3.1 e) and g, the following regulations shall apply to a Retirement Home and a Multiple Dwelling:

- | | | |
|------|------------------|---|
| (i) | Maximum Height | 21.5 metres for a Retirement Home and Multiple Dwelling; and, |
| (ii) | Maximum Capacity | Shall not exceed 100 residents for a Retirement Home. |

3. That Schedule "D" – Holding Provisions be amended by adding the additional Holding Provision as follows:

126. Notwithstanding Section 8.2 of this By-law, within lands zoned Community Institutional (I2, 814) Zone, identified on Maps 941 and 1942 of Schedule "A" – Zoning Maps and described as 125 Pirie Drive, development shall be restricted in accordance with the following:



- a) The Holding Provision shall, upon application by the landowner, be removed by way of an amending Zoning By-law, from all or part of the lands subject to this provision when the following condition have been satisfied:
- (i) That the Owner shall receive conditional site plan approval for the site to the satisfaction of the Manager of Heritage and Design;
 - (ii) The Owner shall enter into with the City and register on title a development agreement and/or site plan agreement to the satisfaction of the Manager of Heritage and Design;
 - (iii) That the Owner shall submit and received approval of a Fire Protection Design and Analysis Report to demonstrate that the system complies with the Ontario Building Code and applicable National Fire Protection Association (NFPA) 13 and NFPA 14 standards, all to the satisfaction of the Chief Building Official and Chief Fire Protection Officer;
 - (iv) That the Owner shall submit and receive approval of a Risk Assessment Report to demonstrate how the proposed fire protection system will have no negative impact to the existing municipal system to the satisfaction of Public Works;
 - (v) That the Owner shall submit and received approval of an Operational and Maintenance Report/Plan that demonstrates how the proposed fire protection system will be maintained and outline the specific inspection details for the system, and that the proposed system complies with the *Building Code Act* and *Fire Protection and Prevention Act*, 1997 all to the satisfaction of the Chief Fire Protection Officer and Chief Building Official;

- (vi) The Owner shall submit and received approval of a Fire Safety Plan to the satisfaction of the Chief Building Official and Chief Fire Protection Officer; and,
 - (vii) That the Owner shall provide increased capital reserve funds in order to cover the costs of yearly maintenance records, all to the satisfaction of the Chief Fire Protection Officer and the Chief Building Official.
4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law in accordance with the *Planning Act*.

PASSED this _____, _____, _____

F. Eisenberger
Mayor

A. Holland
City Clerk

	
<p>This is Schedule "A" to By-law No. 22-</p> <p>Passed the day of, 2022</p>	
<p>----- Mayor -----</p> <p>----- Clerk -----</p>	
<p>Schedule "A"</p> <p>Map forming Part of</p> <p>By-law No. 22-_____</p> <p>to Amend By-law No. 05-200</p> <p>Maps 941 & 942</p>	
<p>Subject Property</p> <p>125 Pirie Drive, Dundas (Ward 13)</p> <p> Lands to be added to Zoning By-law No. 05-200 as Community Institutional (I2, 814, H126) Zone</p>	
<p>Scale: N.T.S</p>	<p>File Name/Number: ZAC-21-003</p>
<p>Date: July 8, 2022</p>	<p>Planner/Technician: AB/AL</p>
<p>PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT</p>	
