

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



23-193-OLT Schedule 1  
23-194-OLT Schedule 2

**ISSUE DATE:** August 2, 2023

**CASE NO(S):** OLT-22-003075

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

Applicant and Appellant: Losani Homes (1998) Ltd.  
Subject: Application to amend Zoning By-law No 3692-92 – Neglect or Refusal of application by City of Hamilton  
Existing Zoning: Agricultural Specialty AS  
Proposed Zoning: Multiple Residential RMS  
Purpose: To permit a range of residential units (townhouses, maisonette townhouses, and stacked townhouse)  
Property Address/Description: 860 & 884 Barton Street  
Municipality: City of Hamilton  
Municipal File No.: ZAC-18-049  
OLT Lead Case No.: OLT-22-003075  
OLT Case File No.: OLT-22-003075  
OLT Case Name: Losani Homes (1998) Ltd. v. Hamilton (City)

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

Applicant and Appellant: Losani Homes (1998) Ltd.  
Subject: Proposed Plan of Subdivision - Failure of City of Hamilton to make a decision  
Purpose: To permit a range of residential units (townhouses, maisonette townhouses, and stacked townhouse)  
Property Address/Description: 860 & 884 Barton Street  
Municipality: City of Hamilton  
Municipal File No.: 25T-202109  
OLT Lead Case No.: OLT-22-003075  
OLT Case No.: OLT-22-003076

**Heard:** July 24, 2023 by video hearing

**APPEARANCES:**

**Parties**

**Counsel**

Losani Homes (1998) Ltd.

J. Meader

City of Hamilton

P. MacDonald

**MEMORANDUM OF ORAL DECISION DELIVERED BY S. BRAUN ON JULY 24, 2023 AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] The following decision and Order arises out of the settlement of appeals pursuant to s. 34(11) and 51(34) of the *Planning Act*<sup>1</sup> (“Act”) by Losani Homes (1998) Ltd. (“Losani”/“Applicant”) against the failure of the City of Hamilton (“City”) to make decisions within the legislated timeframes on applications for a Zoning By-law Amendment (“ZBA”) and approval of a draft plan of subdivision (“Draft Plan”) in relation to the property located at 860 and 884 Barton Street East (“subject lands”/“site”).

[2] The matters were originally scheduled to come before the Tribunal as a 7-day contested hearing. However, an agreement was reached to settle the appeals in their entirety due, in large part, to the diligent efforts put forth by the Parties and their subject-matter experts. Dave Aston, a Registered Professional Planner, whom the Tribunal qualified to provide land use planning opinion evidence, provided a sworn Affidavit and delivered a comprehensive contextual and planning rationale in support of the settlement. He opined that the Draft Plan, conditions of draft plan approval and ZBA

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<sup>1</sup> R.S.O. 1990, c. P. 13, as amended.

before the Tribunal satisfy all requisite legislative tests and are, overall, representative of good planning in the public interest.

### **LEGISLATIVE TESTS**

[3] The Tribunal must be satisfied that the proposed Draft Plan and ZBA: are consistent with the Provincial Policy Statement, 2020 (“PPS”), conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe Area (“GP”) and with the Hamilton Urban Official Plan (“OP”). With regard to the Draft Plan, the Tribunal must be satisfied that it has appropriate regard for the criteria set out in s. 51(24) of the Act, and that the proposed conditions of draft plan approval are reasonable and appropriate given the nature of the development proposed.

[4] Overall, the ZBA and Draft plan must be found to be representative of good land use planning in the public interest. Finally, in making a decision on these appeals, the Tribunal must have regard to matters of Provincial interest and have regard to the information and materials that City Council received in relation to the applications.

### **PLANNING EVIDENCE**

[5] Mr. Aston provided an overview of the subject lands and surrounding area, the proposed development and the instruments currently before the Tribunal. The subject lands are generally shaped like an inverted “L” and are located on the southwest corner of the intersection of Barton Street East and Glover Road in Stoney Creek. They have approximately 299 metres (“m”) of frontage along Barton Street East and 146 m of frontage along Glover Road. Although previously used for agricultural purposes, the site is presently vacant, save and except for two existing single detached dwellings adjacent to Barton Street – one of which is proposed to be retained, the other is to be demolished. Surrounding land uses include low-rise, single-family dwellings and agricultural uses to the west; Barton Steet and various commercial and light industrial uses to the north; Glover Road and low-rise residential dwellings and a medium density

townhouse development to the east; and Winona Vine Estates Banquet Hall, agricultural and low-density residential uses to the south.

[6] The proposed settlement contemplates the development of a maximum of 290 dwelling units of differing sizes and types, including the retained single detached dwelling, townhouses, maisonette townhouses and stacked townhouses. The Draft Plan also contemplates a stormwater management block, open space block, road widening block and a future development block.

[7] Mr. Aston noted that there are actually two ZBAs before the Tribunal, explaining that the City is currently in the process of updating to a comprehensive By-law. One of the ZBAs relates to the update that has been completed so far and the other relates to the existing By-law that is still being updated. The two ZBAs are required to ensure that the appropriate zoning is in place to allow for the development of a residential Plan of Subdivision. Accordingly, the application for ZBA proposes to rezone a portion of the site from Agricultural Zone (AS) to Special Exception Multiple Residential Zone (RM3-xxa) and Special Exception Multiple Residential Zone (RM3-xxb) under the Stoney Creek Zoning By-law No 3692-92 and to rezone a portion of the site from Agricultural Zone (AS) to Special Exception Low Density Residential Zone R1-xxa, Special Exception Low Density Residential Zone R1-xxb, Neighbourhood Park Zone (P1), Conservation/Hazard Land Zone (P5) under the City's Comprehensive Zoning By-law No 05-200.

[8] The Tribunal's attention was drawn to four separate Agreed Statements of Facts ("ASF", Exhibit 1, Tabs 19-22) which pertain to land use; natural heritage; engineering; and transportation, respectively. Mr. Aston explained that these ASFs resulted from a number of meetings between the Parties' subject matter experts and represent the successful efforts of the Parties to arrive at an agreement to resolve the appeals in their entirety.

[9] Mr. Aston opined that the proposed development has appropriate regard for matters of Provincial interest, including but not limited to: efficiently using existing and planned infrastructure, providing for the orderly development of safe and healthy communities and assisting in the adequate provision of a full range of housing in an area planned for growth.

[10] He further opined that the ZBAs and Draft Plan are consistent with the PPS and conform with the GP, noting that the lands are within an urban area with existing municipal sewage and water services that is designated for future residential development. The proposal is for compact development that will achieve a number of policy directives within both the PPS and GP and will assist the City in achieving growth targets and supporting complete communities through the provision of a range and mix of housing options and densities which leverage existing and planned transit as well as opportunities for active transportation.

[11] Mr. Aston noted that a number of OP policies were identified on the proposed Issues List for the hearing and explained that ASFs (referred to in paragraph 8 above) confirm that all of those policies have been addressed. For the Tribunal's benefit, Mr. Aston briefly explained how the proposal demonstrates conformity with the OP. He noted that the site is located within a Designated Greenfield Area, which is planned for future development and is designated Neighbourhoods, which permits a range of housing types and densities. He further noted that the OP identifies Barton Street as a future pedestrian promenade and Barton Street and Glover Road are both identified as Minor Arterial roads and he explained that due consideration has been given to the function of those roads and the pedestrian promenade in the Draft Plan and conditions of draft plan approval.

[12] Mr. Aston explained that the Fruitland Winona Secondary Plan ("Secondary Plan"), which is part of the OP, applies to the subject site and provides more detailed direction for its development. The Secondary Plan designates portions of the site as Low Density Residential 2 and Medium Density Residential 2. The low and medium

density provide for differing housing types and densities. Mr. Aston opined that the development proposed for the site is supported by and conform with the policy framework as set out in the Secondary Plan.

[13] He noted that further direction for the development of the subject lands is found in the Block 2 Servicing Strategy, which is not a policy document but rather a framework document referenced within the Secondary Plan. The Block 2 Servicing Strategy represents a general concept for development and servicing of development in the area which establishes a series of roads, stormwater management pond locations and parks. Mr. Aston opined that in general, the proposed Draft Plan, conditions of draft plan approval and ZBA maintain the intent of the Block 2 Servicing Strategy.

[14] Finally, with reference to paragraph 24 of his Affidavit, which provides a detailed evaluation of the proposed Draft Plan against each of the applicable criteria set out in s. 51(24) of the Act, Mr. Aston opined that these criteria have been addressed through the Draft Plan and conditions of approval. He provided a brief overview of the conditions of draft plan approval and opined that such conditions are reasonable and appropriate for the nature of the development.

[15] Overall, Mr. Aston opined that the proposal is representative of good planning in the public interest. He recommended the Tribunal approve the proposed instruments, reiterating that the Draft Plan and ZBAs are consistent with the PPS, conform with the GP and the OP, and appropriate regard has been given to matters of Provincial interest, subdivision criteria and conditions of approval, as set out in the Act.

## **ANALYSIS AND DISPOSITION**

[16] On the strength of the uncontradicted land use planning testimony and sworn Affidavit evidence of Mr. Aston, the Tribunal finds the ZBAs, Draft Plan and draft plan implementing conditions meet the requisite legislative tests and are representative of good planning in the public interest. The development they will ultimately permit will be

an efficient use of land, resources and infrastructure and will achieve important local, regional and provincial policy objectives, including providing for a range of housing and leveraging proximity to existing and planned transit and will aid the City in achieving growth targets. In coming to this decision, the Tribunal gave regard to the decision of the City, noting that this matter came before it on consent as a settlement and has also given regard to the materials and information that were received by the City.

## **ORDER**

[17] **THE TRIBUNAL ORDERS** that the appeals by Losani Homes (1998) Ltd. are allowed, in part, and:

- (a) City of Hamilton By-law No. 05-200 is hereby amended as set out in Schedule 1 to this Order;
- (b) City of Hamilton By-law No. 3692-92 is hereby amended as set out in Schedule 2 to this Order;
- (c) The Tribunal authorizes the Municipal Clerk of the City of Hamilton to assign numbers to these By-laws for record keeping purposes;
- (d) The Draft Plan of Subdivision prepared by MHBC Planning Urban Design & Landscape Architecture dated May 18, 2023 (attached to this Order as Schedule 3) is approved subject to the fulfillment of the conditions of draft plan approval (attached to this Order as Schedule 4);
- (e) Pursuant to subsections 51(56.1) of the *Planning Act*, the City of Hamilton is granted authority to clear the conditions of draft plan approval and to administer final approval of the plan of subdivision under s. 51(58) of the *Planning Act*; and

- (f) The Tribunal may be spoken to should any issues arise with respect to the implementation of this Order.

*“S. Braun”*

S. BRAUN  
MEMBER

### **Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.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.



## Schedule 1

**CITY OF HAMILTON**  
**BY-LAW NO. 23-193-OLT**

**To amend Zoning By-law No. 05-200 with respect to lands located at 860 and 884  
 Barton Street, Stoney Creek**

**WHEREAS** this By-law conforms to the Urban Hamilton Official Plan;

**NOW THEREFORE** Council amends Zoning By-law No. 05-200 as follows:

1. That Schedule "A" – Zoning Maps, Map Nos. 1255 and 1308 is amended by adding the following zones to the lands known as 860 and 884 Barton Street, the extent and boundaries of which are shown on Schedule "A" to this By-law:
  - (a) Adding the Low Density Residential (R1, 856) Zone to the lands described as Block 1;
  - (b) Adding the Low Density Residential (R1, 857) Zone to the lands described as Block 2;
  - (c) Adding the Neighbourhood Park (P1) Zone to the lands described as Block 3; and,
  - (d) Adding the Conservation/Hazard Land (P5) Zone to the lands described as Block 4.
  
2. That Schedule "C": Special Exceptions is amended by adding the following new Special Exceptions:
  - "856. Within the lands zoned Low Density Residential (R1, 856) Zone, identified on Map Nos. 1255 and 1308 of Schedule "A" – Zoning Maps and described as 860 and 884 Barton Street, Stoney Creek, the following special provisions shall apply:
    - a) Notwithstanding Section 4.35 the following regulations shall apply:
      - i) Landscape Requirements                      On lots containing a single detached dwelling, semi-detached dwelling, duplex dwelling, or street townhouse

dwelling in all zones, a minimum of 17% landscaped area in the Front Yard shall be provided and may include steps.

a) Notwithstanding Section 5.1. c) ii), iii) and vi) the following regulations shall apply:

- |  |   |
|--|---|
| i) Parking Location – Street Townhouse Dwellings | A) A minimum width of 2.5 metres shall apply.   |
|  | B) A driveway may be maximum 70% of the lot width or 6.0 metres, whichever is the lesser. |
| ii) Finished Floor Level                         | A minimum of 0.15 metres above grade shall apply.   |

a) Notwithstanding Section 15.1.2.3 a), b), c), f), and g), the following regulations shall apply:

- |   |   |
|---|---|
| i) Minimum Lot Area for each Dwelling Unit    | 99.0 square metres                                      |
| ii) Minimum Unit Width for each Dwelling Unit | 4.5 metres  |
| iii) Minimum Setback from the Front Lot Line  | 4.4 metres, except for 6.0 metres to an attached garage |
| iv) Minimum Setback from the Rear Lot Line    | 4.5 metres  |
| v) Maximum Building Height                    | 12.0 metres   |

3. That Schedule “C”: Special Exceptions is amended by adding the following new Special Exception:

“857. Within the lands zoned Low Density Residential (R1, 857) Zone, identified on Map Nos. 1255 and 1308 of Schedule “A” – Zoning Maps and described

as 860 Barton Street, Stoney Creek, the following special provisions shall apply:

a) Notwithstanding Section 4.8.1. a) the following regulations shall apply:

- |  |   |
|--|---|
| i) Buildings Accessory to Residential Uses | For buildings in existence prior to the adoption of this by-law, the aggregate Gross Floor Area of all Accessory Buildings shall not exceed 85 square metres or 7.5% total lot coverage, whichever is the lesser. |
|--|---|






4. That 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 provisions of the Low Density Residential (R1) Zone, the Neighbourhood Park (P1) Zone, and the Conservation/Hazard Land (P5) Zone, subject to the special requirements referred to in Section Nos. 2 and 3 of this By-law.



This is Schedule "A" to By-law No. 23-  
 Passed the ..... day of ....., 2023

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 Mayor  
 -----  
 Clerk

**Schedule "A"**  
 Map forming Part of  
 By-law No. 23-\_\_\_\_\_  
 to Amend By-law No. 05-200  
 Map 1255 & 1308

- Subject Property**  
 860 and 884 Barton Street, Stoney Creek (Ward 10)
-  Block 1 - Lands to be added to the Low Density Residential (R1, 856) Zone
  -  Block 2 - Lands to be added to the Low Density Residential (R1, 857) Zone
  -  Block 3 - Lands to be added to the Neighbourhood Park (P1) Zone
  -  Block 4 - Lands to be added to the Conservation/Hazard Land (P5) Zone
  -  Refer to By-law No. 3692-92

Scale:  
 N.T.S

File Name/Number:  
 ZAC-18-049/25T-200109

Date:  
 June 1, 2023

Planner/Technician:  
 TV/NB



## Schedule 2

**CITY OF HAMILTON****BY-LAW NO. 23-194-OLT****To Amend Zoning By-law No. 3692-92, Respecting Lands Located at 860 and 884 Barton Street, Stoney Creek**

**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 Hamilton" 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 Council of the City of Hamilton enacts as follows:

1. That Map No. 7 of Schedule "A", appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended by:
  - a. changing the zoning from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-73" Zone, Modified, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" (Block 1); and,
  - b. changing the zoning from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-74" Zone, Modified, the extent and boundaries of which are shown on a plan hereto annexed as Schedule "A" (Block 2).
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 "RM3-73", as follows:

**“RM3-73” 860 and 884 Barton Street, Schedule “A” Map No. 7 (Block 1)**

In addition to Subsection 6.10.2, Stacked Townhouses shall be a permitted use.

In addition to Part 2, Definitions, on those lands zoned “RM3-73” by this By-law, the following definition shall apply:

**Stacked Townhouses**

Means a building other than a townhouse dwelling, or apartment dwelling containing more than three (3) attached dwelling units that are divided horizontally and/or vertically, each with an entrance that is independent or through a common vestibule.

Notwithstanding the provisions of Part 2 as it relates to the definition of Lot Line - Front, the lot line adjacent to Barton Street shall be deemed the front lot line.

For the purposes of regulations contained within Sections 6.10 and 4.19 and within this By-law, the boundary of the subject lands zoned “RM3-73” shall be deemed to be the lot lines for this purpose and the regulations of the “RM3-73” Zone, and not from individual properties or boundaries created by registration of a condominium plan or created by Part Lot Control.

Notwithstanding Subsections 6.10.3 (c), (d), (f), (h), (i), (j), (l) and (m) of the Multiple Residential “RM3” Zone, the following regulations shall apply:

- |     |  |   |
|-----|--|---|
| (c) | Minimum Front Yard                                   | 6.0 metres  |
| (d) | Minimum Side Yard                                    | 1.8 metres  |
| (f) | Minimum Rear Yard                                    | 5.5 metres  |
| (h) | Minimum Distance Between Buildings on the Same Lot – | 12 metres, except 3 metres between end walls and 9 m between an end and a rear wall |
| (i) | Maximum Density                                      | 75 units per hectare  |
| (j) | Maximum Building Height                              | 12.0 metres   |
| (l) | Privacy Area   | No privacy area shall be required for maisonette or stacked townhouse uses.         |
| (m) | Minimum Landscaped Open Space                        |   |

- i) Not less than 35 percent, including privacy areas;
- ii) No requirement for a landscaped strip between any privacy area and any lot line for maisonettes; and,
- iii) No requirement for a landscaped strip between adjacent to every portion of any lot that abuts a street.

Notwithstanding Section 4.13.1 "Daylight Triangles" the following shall apply:

- (a) Any lot located at the intersection of two or more roads or railway rights-of-way will require a minimum yard of 1.8 m from the hypotenuse of the daylight triangle. Stairs and walkways shall be permitted to project no closer than 0.5 m from the lot hypotenuse of the daylight triangle.

Notwithstanding Subsection 4.19 (d), the following shall apply:

- (a) Balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any yard 2.0 metres; and,
- (b) Stairs may project into any required front yard and flankage yard a distance of not more than 3.0 metres.

Notwithstanding Subsection 6.10.5 (a)(1) of the Multiple Residential "RM3" Zone, the following regulations shall apply:

- (a) Minimum Number of Parking Spaces
  - i) 2 parking spaces for each maisonette and townhouse dwelling unit, 1 parking space for each stacked townhouse, and 0.2 visitor parking spaces for each maisonette, stacked townhouse and townhouse dwelling unit.
  - ii) Tandem parking is permitted for non-visitor parking spaces.

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 "RM3-74", as follows:

**"RM3-74" 860 and 884 Barton Street, Schedule "A" Map No. 7 (Block 2)**

In addition to Subsection 6.10.2, Stacked Townhouses shall be a permitted use.

In addition to Part 2, Definitions, on those lands zoned “RM3-74” by this By-law, the following definition shall apply:

**Stacked Townhouses**

Means a building other than a townhouse dwelling, or apartment dwelling containing more than three (3) attached dwelling units that are divided horizontally and/or vertically, each with an entrance that is independent or through a common vestibule.

For the purposes of regulations contained within Sections 6.10 and 4.19 and within this By-law, the boundary of the subject lands zoned “RM3-74” shall be deemed to be the lot lines for this purpose and the regulations of the “RM3-74” Zone, and not from individual properties or boundaries created by registration of a condominium plan or created by Part Lot Control.

Notwithstanding Subsections 6.10.3 (c), (d), (f), (h), (i), (j), (l) and (m) of the Multiple Residential “RM3” Zone, the following regulations shall apply:

- |  |   |
|--|---|
| (c) Minimum Front Yard                                   | 4.5 metres, except for 6.0 metres to an attached garage                             |
| (d) Minimum Side Yard                                    | 6 metres, except for 4.5 metres for a flankage yard                                 |
| (f) Minimum Rear Yard                                    | 5.5 metres  |
| (h) Minimum Distance Between Buildings on the Same Lot – |   |
|  | 14 metres, except 3 metres between end walls and 9 m between an end and a rear wall |
| (i) Maximum Density                                      | 75 units per hectare  |
| (j) Maximum Building Height                              | 12.0 metres   |
| (l) Privacy Area   | No privacy area shall be required for maisonette or stacked townhouse uses.         |
| (m) Minimum Landscaped Open Space                        |   |
| i)   | Not less than 35 percent, including privacy areas;                                  |



- ii) No requirement for a landscaped strip between any privacy area and any lot line for maisonettes; and,
- iii) No requirement for a landscaped strip between adjacent to every portion of any lot that abuts a street.

Notwithstanding Subsection 4.19 (d), the following shall apply:

- (a) Balconies, canopies, unenclosed porches and decks, including a cold cellar underneath same, may project into any yard 1.0 metres.

Notwithstanding Subsection 6.10.5 (a)(1) of the Multiple Residential "RM3" Zone, the following regulations shall apply:

- (a) Minimum Number of Parking Spaces
  - i) 2 parking spaces for each maisonette and townhouse dwelling unit, 1 parking space for each stacked townhouse, and 0.2 visitor parking spaces for each maisonette, stacked townhouse and townhouse dwelling unit.
  - ii) Tandem parking is permitted for non-visitor parking spaces.

Subsection 6.1.12 of the By-law shall also apply to maisonette and Stacked Townhouse dwellings.

- 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 Multiple Residential "RM3" Zone provisions, subject to the special requirements referred to in Sections 2 and 3 of this By-law.



This is Schedule "A" to By-law No. 23-

Passed the ..... day of ....., 2023

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 Mayor


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 Clerk


**Schedule "A"**


**Map forming Part of**  
**By-law No. 23-\_\_\_\_\_**

**to Amend By-law No. 3692-92**

**Subject Property**  
 860 and 884 Barton Street, Stoney Creek (Ward 10)

 Block 1 – Change in zoning from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-73" Zone, Modified

 Block 2 – Change in zoning from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-74" Zone, Modified

 Refer to By-law No. 05-200

Scale:  
N.T.S

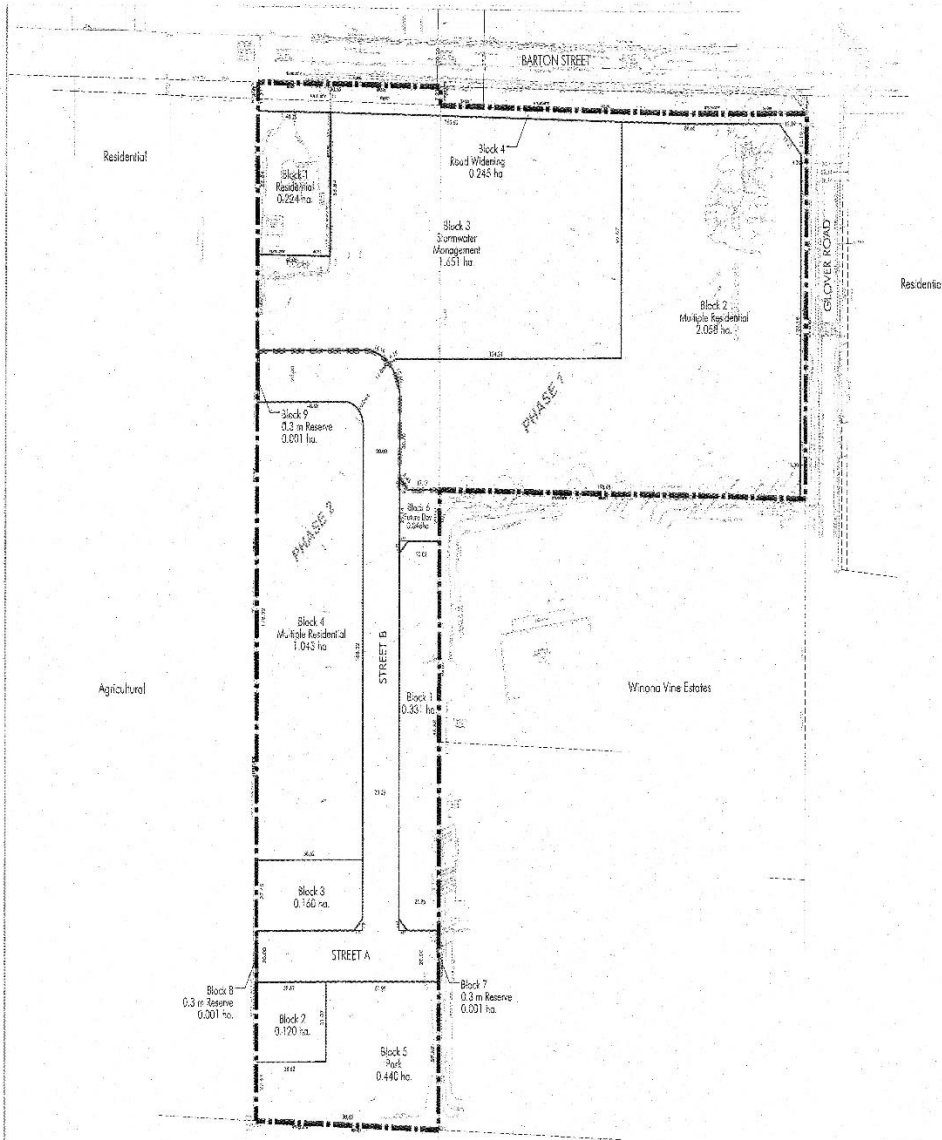
Date:  
June 1, 2023

File Name/Number:  
ZAC-18-049/25T-200109

Planner/Technician:  
TV/NB



Schedule 3



**Legal Description**  
 LOT 11  
 COMMISSION 2  
 SUBDIVISION TOWNSHIP OF GALTFRIST  
 IN THE CITY OF WINDSOR

**Owner's Certificate**  
 I hereby certify that the above described land is the land and not less than the area shown on the plan and is not less than the area shown on the plan.

Date: July 21, 2023

**Area Schedule**

Category	Block #	Area (ha)	Area (ac)	Total
Residential	1	0.224	0.055	0.224
Multiple Residential	2	2.088	0.517	2.088
Stormwater Management	3	1.651	0.408	1.651
Road Widening	4	0.245	0.061	0.245
Park	5	0.440	0.108	0.440
Stormwater Canals	6	0.000	0.000	0.000
0.3 m Reserve	7, 8, 9	0.201	0.050	0.201
0.3 m Reserve	10	0.001	0.000	0.001
<b>TOTAL</b>		<b>4.599</b>	<b>1.132</b>	<b>4.599</b>

**Notes**  
 1. All blocks are to be subdivided as shown.  
 2. The total area of the subdivision is 4.599 hectares (11.32 acres).

**MHSC**  
 May 18, 2023  
 Date: May 18, 2023  
 File #: 11122  
 Project: Barton & Glover  
 Applicant: DVM

**Draft Plan of Subdivision**  
 1 of 1  
 Scale Bar: 0 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100

## Schedule 4

**Special Conditions for Draft Plan of Subdivision Approval for 25T-202109  
Updated July 17, 2023**

- 1) That this approval apply to Draft Plan of Subdivision 25T-202109, prepared by MHBC, and certified by D. McLaren, O.L.S., dated May 18, 2023 consisting of one block for single detached dwellings, two blocks for multiple residential and three blocks for street townhouses, one block for parks, one block for stormwater management, one block for future development, one block for the purpose of a right-of-way widening, and 3 blocks for the purpose of 0.3 metre reserves, subject to the owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the following Special Conditions.

**Staging of Development / Legislative Approvals, Growth Planning**

- 1) Prior to registration, the Owner and Agent should work with Legislative Approvals / Staging of Development Staff to finalize street naming and municipal addressing for the proposed Blocks, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

**Development Planning**

- 1) That, prior to registration of the plan of subdivision, the Owner shall submit a Revised Environmental Noise Assessment to the satisfaction of the Director of Planning and Chief Planner.
- 2) That, prior to registration, the required warning clauses shall be included within all offers and agreements of purchase and sale or lease and noted within the Subdivision Agreement to the satisfaction of the Director of Planning and Chief Planner. That such warning clause(s) will include a warning clause associated with the uses on the Winona Vine Estates lands and identify that noise levels due to indoor or outdoor activities may on occasion interfere with some activities of the dwelling occupants.
- 3) That, prior to registration of the plan of subdivision, the Owner agrees to convey Block 4 (Phase 2) of the plan to the City for park purposes, to the satisfaction of the Senior Director, Growth Management.
- 4) That, prior to registration of the plan of subdivision, the Owner agrees to convey 0.3 metre reserves to the satisfaction of the Director, Growth Management.

## Development Engineering

### **Part 1 of the Subdivision Agreement – General Conditions to be included**

1. The Owner shall agree to include in all agreements of purchase and sale and/or lease of residential units, the following warning clauses:
  - i) “Purchasers of units in Block 2(Phase 1) abutting the stormwater management facility block and Winona Vine Estates (269 Glover Road) property are advised that their lot/block may include a retaining wall and drainage swale within the rear yard amenity spaces which will be the purchaser’s responsibility to maintain in perpetuity.”
  - ii) "Purchasers of units fronting on the most northerly private road in phase 1 extending from Glover Road to the Stormwater Management facility are advised that despite the inclusion of an adequate storm pipe outlet between the stormwater management facility and Glover Road, the private road is designed to accommodate an emergency spillway for upstream storm water management pond and flooding on this private road is expected during a severe storm event. Purchasers are further advised that the storm pipe will be the responsibility of all purchasers to maintain in perpetuity.”

### **Part 2, 3 and 4 of the Subdivision Agreement – Conditions**

#### **Prior to Registration Conditions**

2. That, ***prior to registration of the final plan of subdivision***, the Owner agrees, at their expense, to remove, relocate, as may be required, all affected utility poles, hydrants, pedestals, hydro vaults, etc., on Barton Street and Glover Road, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
3. That, ***prior to registration of the final plan of subdivision***, the Owner agrees to provide the City with an easement of minimum 9 metres width for the proposed storm sewer and overland flow route between the east limit of the subdivision and the storm water management facility(Block 3), to the satisfaction of the Director, Growth Management & Chief Development Engineer.
4. That, ***prior to registration of the final plan of subdivision***, the Owner agrees to dedicate adequate lands for the Stormwater Management Facility (Block 3 in Phase 1) subject to an approved stormwater management design, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

5. That, ***prior to registration of the final plan of subdivision***, the Owner agrees to provide as approved by the City, a temporary easement over the entire width of an interim swale through Block 4 (Phase 2) to convey minor and major system flows

from the abutting Winona Vine Estates (269 Glover Road). The Owner will be responsible to operate and maintain this interim swale until the ultimate stormwater conveyance system through Block 6(Phase 2) and Street B (Phase 2) have been constructed, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

6. That, ***prior to registration of the final plan of subdivision***, the Owner agrees to establish 0.3 m reserves in the following locations:

- a) Block 7
- b) Block 8
- c) Block 9
- d) Both sides of future Street A
- e) Both sides of future Street B

all to the satisfaction of the Director, Growth Management & Chief Development Engineer.

7. That, ***prior to registration of the final plan of subdivision***, the Owner shall pay for the future urbanization of Barton Street and Glover Road based on the City's "New Road Servicing Rate" in effect at the time of payment in accordance with the City's financial policies, along Barton Street, from the west limit of Block 1 ( Phase 1) to the east limit of Block 2( Phase 1) and along Glover Road (from the north limit of Block 2(Phase 1) to the south limit of Block 2( Phase 1) , to the satisfaction of the Director, Growth Management & Chief Development Engineer.

8. That, ***prior to registration of the final plan of subdivision***, the Owner shall pay any outstanding charges/best efforts recoveries, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

9. That ***prior to registration of the final plan of subdivision***, the Owner agrees that there is a suitable sanitary outlet with sufficient capacity available including, but not limited to, a sanitary sewer capacity analysis(to the intersection of Glover Road and Glover Access Road) and improvements to the existing sanitary sewer on Barton Street and Glover Road to service the proposed development for phase 1 and phase 2, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

10. That, ***prior to registration of the final plan of subdivision***, the Owner shall include in the engineering design and cost estimate schedule provisions for the full construction of Street A and Street B including park grading & servicing, all at the Owner's expense, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
11. That, ***prior to registration of the final plan of subdivision***, the Owner agrees that in the event the abutting lands to the west develop the City may request the Owner to construct Street A, Street B or Block 6. If the Owner does not agree to construct the roads within 60 days of a written notice by the City of Hamilton, the City may proceed to cash the Owner's Letter of Credit to complete the required works, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
12. That, ***prior to registration of the final plan of subdivision***, the Owner agrees that once the existing family residential use on Block 1 ceases that access for Block 1 will be provided to Street "B" in accordance with the Block 2 Servicing Study to satisfaction of the Director, Growth Management & Chief Development Engineer.

#### Preliminary Grading Conditions

13. That, ***prior to preliminary grading***, the Owner shall submit a detailed stormwater management report prepared by a qualified Professional Engineer including the following parameters:
  - a) Demonstrate how stormwater quality, quantity including erosion controls for the subject development will be handled through a centralized storm water management facility in accordance with the Block 2 Servicing Study for Fruitland Winona Secondary Plan Policy, City of Hamilton Drainage policy, City of Hamilton Current Comprehensive Development Guidelines and the MECP Stormwater management Planning and Design Manual (2003).
  - b) Verify that the proposed storm water management facility Block 3 (Phase 1) shall be of sufficient size with shape/geometry acceptable to the City to adequately accommodate an ultimate facility, including maintenance access road and decanting areas as per City of Hamilton current Comprehensive Guidelines and Financial Policies Manual.
  - c) The stormwater management facility shall be designed to control post development flow rates up to and including a 100-year design storm to the capacity of the existing culvert on Barton Street. The design shall not create any standing water within upstream storm sewers during minor and major system events.

- d) Demonstrate an appropriate minor and major system storm outlet in the interim and ultimate conditions for all external drainage areas along the entire perimeter of the subject development.
- e) The storm water management design shall demonstrate a suitable storm outlet including an emergency spillway from the storm water management facility to Watercourse # 6.1 located north of Barton Street in accordance with the Block 2 Servicing Study and the Fruitland Winona Sub-Watershed Master Plan.
- f) The storm water management design shall include a filter media-landscaped based Low Impact Development (LID) techniques on Block 2(Phase 1) and Block 4(Phase 2) shown on the draft plan to achieve water balance targets in accordance with Fruitland Winona Sub-watershed Master Plan and MECP guidelines. The Owner will be responsible to maintain, develop and implement a compliance and performance monitoring plan for all LID systems proposed within Block 2 (Phase 1) and Block 4(Phase 2) for a minimum of 5 years.
- g) Include within the engineering design drawings and cost estimate schedules, a landscape design of the Stormwater Management Facility as per City of Hamilton Landscape Design Guidelines for stormwater management facilities (May 2009).

Furthermore, that prior to assumption, the Owner agrees:

- i) To submit an operation and maintenance manual, as per the City of Hamilton Operation and Maintenance Report for Stormwater Management Facilities (May 2009), for approval by the Director and Chief Development Engineer, Growth Management, and inspect and monitor the stormwater management facility upon commencement of construction or pre-grading of the subject lands through to assumption of the facility;
- ii) To keep detailed logs concerning stormwater management facility performance and maintenance, including costs for cleaning and removal of sediment, and submit such logs to the City during pre-grading and construction activities in accordance with the operation manual;
- iii) To construct, operate, and maintain at the Owner's expense, the stormwater management facility, in a manner acceptable to the City, including any changes to conditions of the Ministry of Environment's approval, throughout servicing of all stages of the registration of the draft plan and development of all registered lots and blocks, or until such time as determined by the Director, Growth Management & Chief Development Engineer; and,



- iv) To remove sediment from the stormwater management facility attributed to the development, carry out a survey and verify volumetric capacity of the stormwater management facility, prior to release of the Owner's operation and maintenance responsibilities for the stormwater management facility.

all to the satisfaction of the Director, Growth Management & Chief Development Engineer.

14. That, ***prior to preliminary grading***, the Owner agrees that the proposed units along the west and south perimeter of Block 2 (Phase 1) shall remain undevelopable until such time as the storm water management facility design including shape, footprint, access and the outlet structure have been approved by the City, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
15. That, ***prior to preliminary grading***, if the Owner proposes to grade within the Vine Estates (269 Glover Road) property, a letter of permission from the Owner of Winona Vine Estates (269 Glover Road) property shall be provided to the City. The letter of permission to allow grading on 269 Glover Road must be accompanied by a drawing showing the encroachments which must be signed by the Owner of 269 Glover Road for both Phase 1 and Phase 2, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
16. That, ***prior to preliminary grading***, the Owner shall submit a Hydrogeological Report to the City, prepared by a qualified professional, to assess impacts, identify any significant recharge and discharge zone, provide recommendations to mitigate the groundwater impacts during any construction within the subdivision including, but not limited to, house construction, address the impacts of the pond bottom elevation below the groundwater table, and to undertake any mitigative works, as recommended, including monitoring. The report shall include a groundwater contingency plan to ensure that an appropriate mitigation strategy is available to be implemented in the case whereof:
  - i) An aquifer is breached during construction.
  - ii) Groundwater is encountered during any construction within the subdivision including but not limited to, house and pond construction.
  - iii) Sump pumps, if requires, are fund to be continuously running; and,
  - iv) Water supply and sewage disposal systems, and any surface and groundwater related infrastructure, are negatively impacted.

all to the satisfaction of the Director, Growth Management & Chief Development Engineer.

17. That, ***prior to preliminary grading***, the Owner, through a Geotechnical Engineer or other qualified professional, shall: check if any existing wells which provide potable water supply to other properties located within 500 m radius of the subject lands to establish the existing depth of water within wells prior to the commencement of construction; monitor these wells during construction; and monitor wells for a period of one year after the completion of construction. If any problem arises, the monitoring program shall be extended, and the Owner shall address and resolve all issues, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
18. That, ***prior to preliminary grading***, the Owner shall demonstrate that the interim and ultimate conditions grading plan is consistent with the Block 2 Servicing Study for the Fruitland Winona Secondary Plan to the satisfaction of the Director, Growth Management & Chief Development Engineer.
19. That, ***prior to registration of the final plan of subdivision***, the Owner agrees that development of Phase 2 (Blocks 1-6 inclusive) cannot proceed until the North-South Collector Road extending to the south limit of the subject lands including the connections to Street A and Street B and a secondary access through a public road to an existing abutting public road have been constructed, in accordance with the Fruitland-Winona Secondary Plan and the Block 2 Servicing Study recommendations, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
20. That, ***prior to preliminary grading***, the Owner agrees to monitor drainage across the lands from Barton Street to Arvin Avenue to ensure that the existing lands are not negatively impacted by the subject development. The monitoring plan shall occur throughout the construction of the subdivision and for a period of not less than 2 years after all lot/blocks are fully developed. In the event a problem arises, the Owner further agrees to take the necessary remedial action as per the monitoring report at their cost. The security for the storm water management facility shall not be reduced below \$100,000 until it has been demonstrated that there are no impacts as a result of the development for a period of not less than 2 years after full buildout of the subject development, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
21. That, ***prior to preliminary grading***, the Owner shall notify the abutting and downstream land Owner(s) whose properties are traversed by Watercourse 6.1 from Barton Street to Arvin Avenue, of a proposed storm water management outfall, and impending storm water management facility construction, in

accordance with the Block 2 Servicing Study and the Fruitland Winona Sub-Watershed Master Plan, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

**22.** That, ***prior preliminary grading***, the Owner acknowledges that the watermain and sanitary servicing for Phase 2 lands shall be designed and serviced through the North-South Collector road between Barton Street and Highway 8 subject to an approved watermain hydraulic analysis as shown on the Fruitland-Winona Secondary Plan in accordance with Block 2 Servicing Study recommendation. The Owner further acknowledges that the existing sanitary sewer on Barton Street may require an upgrade to accommodate Phase 2 lands and agrees to complete the upgrades at the Owner's expense, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

**23.** That, ***prior to preliminary grading***, the Owner agrees to provide an updated Functional Servicing Report a minimum of 90 days prior to the first submission of the detailed engineering design, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

**24.** That, ***prior to preliminary grading***, the Owner agrees to provide an Excess Soil Management Plan to demonstrate how the development will comply with O.Reg. 406/19, addressing registration, assessment, sampling and analysis, characterization, source/destination reporting and tracking requirements to the satisfaction of the Director, Growth Management & Chief Development Engineer.

**25.** That, ***prior to preliminary grading***, the Owner shall prepare and provide a Construction Management Plan that provides:

- a) Details on any construction activity that will encroach into the municipal road allowance such as construction staging, scaffolding, cranes etc;
- b) Location and maximum dimensions of stockpiling;
- c) Identification of any required sidewalk and/or lane closures and the estimated length of time for such closures;
- d) Details on heavy truck routing;
- e) Alternate arrangements of any City or school bus routing and stop locations that may be impacted;

all to the satisfaction of the Director of Development Engineering, Growth Management Division.

Prior to Servicing Conditions

- 26.** That, ***prior to servicing***, the Owner shall include in the engineering design and cost estimate schedules provision for the installation of a 1.8 m concrete sidewalk on both sides of Street A, Street B and Block 6, all to the satisfaction of the Director, Growth Management & Chief Development Engineer.
- 27.** That, ***prior to servicing***, the Owner shall include in the engineering design and cost estimate schedules provision for installation of a 13.0 m pavement radii along the inside curb line and 15 m radii along the outside curb line at the 90- degree bend of Street B, all to the satisfaction of the Director, Growth Management & Chief Development Engineer.
- 28.** That, ***prior to servicing***, the Owner shall prepare and submit an on-street parking plan showing:
- i) the location of driveways based on achieving on-street parking for 40% of the total dwelling units on Street B and Street A;
  - ii) the driveway aprons and curb openings for all lots;
  - iii) the pairing of driveways (where required);
  - iv) where lots in the subdivision abut a park entrance or a public walkway, as the case may be;
  - v) the location of transit pads, community mailbox pads and fire hydrants, where the location has been determined by the appropriate authorities;
  - vi) parking on one side of the street only;
- all to the satisfaction of the Director, Growth Management & Chief Development Engineer.
- 29.** That, ***prior to servicing***, the Owner shall indicate all driveway locations on the engineering drawings for all lots and blocks and that no driveway shall be located within a daylight triangle. Further, all driveway locations at bends and corners shall be situated to ensure that the driveways are completely located within their own lot frontages and the driveway aprons shall not cross in front of adjacent lots. Further, all end units with daylighting triangles shall have the driveway located on the internal side of the lot or block, all to the satisfaction of the Director, Growth Management & Chief Development Engineer.
- 30.** That, ***prior to servicing***, the Owner shall daylight sanitary sewer, watermain and all other utilities on Barton Street and Glover Road within the limits of the development which are likely to be impacted by the proposed development, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

31. That, ***prior to servicing***, the Owner agrees to provide a plan or procedure for dealing with issues concerning dust control and street cleaning (external roads included) throughout the construction within the subdivision, including homes. This document will also include, first point of contact, a schedule for regular cleaning of streets that is specific to the methods to be used, the source of water, and the contractor or agent to be used to undertake the works as well as the contractor/agent contact information so that the City can direct works to be completed as necessary, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
32. That, ***prior to servicing***, the Owner shall include in the engineering design and cost estimate schedules provision for the construction of a 1.5 m high black vinyl coated heavy duty chain-link fence along the entire perimeter of the storm water management facility except where the pond abuts Barton Street and Street B, and the entire perimeter of the park (Block 5 in Phase 2) except where the park abuts street A (Phase 2), all to the satisfaction of the Director, Growth Management & Chief Development Engineer.
33. That, ***prior to servicing***, the Owner agrees to construct a temporary 1.5 m wide concrete sidewalk from the west limit of Block 1 (Phase 1) to the east limit of Block 1(Phase 1) along the south side of Barton Street and along the west side of Glover Road from Barton Street to the existing terminus located approximately 200m south of Barton Street, at the Owner's expense, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
34. That, ***prior to servicing***, the Owner acknowledges that Block 2(Phase 2) will remain undeveloped until such time as the grading and servicing for the park (Block 5 in Phase 2) has been completed at the Owner's cost and accepted by the City. In addition, Block 2 shall not drain into the park land, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
35. That, ***prior to servicing***, the Owner prepares a geotechnical report and implements the report's recommendations, to address any previous City comments and to confirm the design of the proposed liner within the stormwater management pond, to the satisfaction of the Director, Growth Management & Chief Development Engineer.
36. That, ***prior to servicing***, the Owner agrees to include in the engineering design and cost estimates, provision for all temporary works at the Owner's expense, to the satisfaction of the Director, Growth Management & Chief Development Engineer.

## Natural Heritage

1. That, **prior to preliminary grading and servicing**, the Owner/Developer shall complete a presence/absence survey for the Provincially Significant and locally rare Hairy Green Sedge (*Carex hirsutella*) to the satisfaction of the Director of Planning and Chief Planner. This survey will be completed by a qualified botanist during the appropriate growing season and will include a written letter outlining the methodology and findings of the survey.
2. That, **prior to preliminary grading and servicing**, the Owner/Developer shall prepare and implement a Transplant Plan to the satisfaction of the Director of Planning and Chief Planner.

Species that are to be considered within the Transplant Plan are: Hairy Green Sedge (*Carex hirsutella*) (if species is found on site) as well as Downy Hawthorn (*Crataegus mollis*) and native seedlings/saplings found on site (i.e., Oak sp.). The Transplant Plan will include:

- Transplant Plan: This will outline the following:
    - Methodology
    - Timing of re-location
    - GPS co-ordinates and mapping of candidate stems within the subject properties
    - GPS co-ordinates and mapping of “donor” areas
    - Photographic records of both the subject sites and “donor” sites
  - Written Letter indicating the completion of the work: Once the candidate stems have been transplanted, a written letter from a qualified botanist is to be submitted.
  - Monitoring Plan: Monitoring of the health of the transplanted stems is to occur for a period of two years. Two monitoring reports are required to be submitted (1st report to be submitted by December 31 after first full year of monitoring; 2nd report to be submitted by December 31 after second year of monitoring).
3. That, **prior to preliminary grading and servicing**, the Owner/Developer shall complete an assessment of the subject lands, using appropriate protocols, to determine use by Eastern Meadowlark to the satisfaction of the Director of Planning and Chief Planner. This assessment will include a written letter outlining the methodology and findings of the survey.
    - i) If required, the Owner/Developer shall follow the relevant Exemptions and Conditions outlined in Ontario Regulation 830/21. The Owner/Developer shall provide written correspondence (i.e., e-mail, written letter, notice of activity) to demonstrate compliance to the satisfaction of the Director of Planning and Chief Planner.

4. That, **prior to preliminary grading and servicing**, the Owner/Developer shall complete an assessment of potential bat roosting habitat using appropriate protocols to the satisfaction of the Director of Planning and Chief Planner. This assessment will include a written letter outlining the methodology and findings of the survey. Any required tree removal shall be completed in conformance with the Endangered Species Act.
5. That, **prior to preliminary grading and servicing**, the Owner/Developer shall prepare and implement a Tree Protection Plan (TPP) to the satisfaction of the Director of Planning and Chief Planner. The TPP is to be prepared by a tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010). Removal of trees is not to occur until this condition has been satisfied.
  - i. In addition to the 1 for 1 compensation required for 10 cm DBH or greater trees proposed to be removed, 2 to 1 compensation is required for the removal of White Oak, Shagbark Hickory, Red Oak, Bur Oak, and Chinquapin Oak.
  - ii. Prior to the approval of the Tree Protection Plan, permission to remove trees from the adjacent property is to be provided.
  - iii. A Verification of Tree Protection Letter, prepared by a recognized tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) is to be provided. This is to confirm that all tree protection measures have been installed in accordance with the approved Tree Protection Plan.
6. That, **prior to preliminary grading and servicing**, the Owner the Owner/Developer is to be aware of the Migratory Birds Convention Act, 1994 and the Endangered Species Act, 2007 and agrees that the removal of any vegetation on the subject lands is to occur during October 1 to March 31 by placing notations relating to breeding birds and bat roosting habitat on the Tree Protection Plan (TPP):
  - i. Birds: In the event that vegetation removal is proposed during the restricted breeding period, the Owner/Developer shall have a qualified biologist conduct a nest search of the vegetated area with City of Hamilton Natural Heritage Planning staff, prior to any work commencing. Accordingly, removal may occur if it is determined that active nests are not present in the proximity of the removal area, to the satisfaction of the Director of Planning and Chief Planner.
  - ii. Bats: In the event that vegetation removal is proposed during the restricted bat roosting period, the Owner/Developer shall contact the Ministry of Environment, Conservation, and Parks (MECP) to determine permitting requirements

7. That, **prior to registration**, the Owner/Developer shall prepare a Landscape Plan by a certified Landscape Architect showing the placement of compensation trees for any tree removals, completed in accordance with the Tree Protection Plan to the satisfaction of the Director of Planning and Chief Planner. White Oak, Shagbark Hickory, Red Oak, Bur Oak, and Chinquapin Oak as well as Downy Hawthorn and plants supporting the life-cycle needs of the Monarch butterfly are to be included in the Landscape Plan. Native species are to originate from a native seed source (within a 250 km radius).

### **Transportation Planning**

- 1) That, prior to servicing, the Owner shall dedicate all required right-of-way and daylighting triangle dedications, including for proposed "Street A" as per the Council Approved Urban Official Plan and Fruitland-Winona Secondary Plan, to the satisfaction and approval of the Manager, Transportation Planning.
- 2) That prior to servicing, the Owner shall reserve Block 6 for the future Phase 1 connection to Street B. The Owner shall dedicate all required right-of-way and daylighting triangles for this connection as per the Council Approved Urban Official Plan, to the satisfaction and approval of the Manager, Transportation Planning.
- 3) That, prior to Phase 1 registration, the Owner agree that the temporary Barton Street access will be removed upon a second road connection becoming available to the subject lands, to the satisfaction of Transportation Planning, Planning and Development Engineering.

### **Source Protection Planning**

- 1) That, prior to servicing, the Owner shall present peak dewatering rates, representative groundwater/discharge quality, and discharge location in order to comply with a future discharge permit from Environmental Monitoring and Enforcement Group, Hamilton Water for their construction dewatering.
- 2) That, prior to servicing the applicant shall clarify whether groundwater will intercept foundation drains, regularly draining the local aquifer and conveying groundwater to municipal stormwater infrastructure.

### **Canada Post**

- 1) That **prior to registration**, the Owner shall include on all offers of purchase and sale, a statement that advises the prospective purchaser:



- a) That the home / business mail delivery will be from a designated Centralized Mail Box.
  - b) That the developers / owners be responsible for officially notifying the purchasers of the exact Centralized Mail Box locations prior to the closing of any home sales.
- 2) That **prior to registration**, the Owner agrees to:
- a. Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision.
  - b. Install a concrete pad in accordance with the requirements of and in locations to be approved by Canada Post to facilitate the placement of Community Mail Boxes.
  - c. Identify the pads above on the engineering servicing drawings. Said pads are to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision.
  - d. Determine the location of all centralized mail receiving facilities in co-operation with Canada Post and to indicate the location of the centralized mail facilities on appropriate maps, information boards and plans.
  - e. Maps are also to be prominently displayed in the sales office(s) showing specific Centralized Mail Facility locations.

**Canadian Radio and Telecommunication Commission and Bell Canada:**

- 1) That **prior to registration**, the Owner provide the Manager of Development Approvals with evidence that satisfactory arrangements, financial and otherwise, have been made with a telecommunication service provider approved by the Canadian Radio and Telecommunication Commission (CRTC) that adequate telecommunication service will be provided to the subdivision including 9-1-1 emergency calling service that identifies, at a minimum, the callers name and location information.
- 2) That **prior to registration**, the Owner shall agree in the Subdivision Approval Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Bell Canada facilities or easements, the Owner / Developer shall be responsible for the relocation of such facilities or easements.
- 3) That **prior to registration of the plan of subdivision**, the Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

**Enbridge Gas Inc.:**

- 1) That, **prior to registration**, the owner / developer shall provide to Enbridge Gas Inc., operating as Union Gas (“Union”), the necessary easements and / or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Union.

**Alectra:**

- 1) That **prior to registration**, the Owner shall agree, in words satisfactory to Alectra Utilities Corporation, to grant to Alectra Utilities Corporation any easements that may be required for electrical services. Easements may be required subject to final servicing decisions. In the event of any conflict with existing Alectra Utilities Corporation facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.

**That the following be added as a Note to the Draft Approval Conditions:****NOTES:**

1. Pursuant to Section 51(32) of the Planning Act, draft approval shall lapse if the plan is not given final approval within 3 years. However, extensions will be considered if a written request is received two months before the draft approval lapses.
2. The developer is responsible for all waste removal up until the time that an “Agreement for On-site Collection of Solid Waste” is finalized, and municipal collection services are initiated.
3. The developer must provide a signed letter from a professional engineer certifying that the road base along the access route can support at least 35,000 kilograms.
4. Prior to the start of municipal waste collection service, the development must be free of construction debris and construction related activities.
5. If the development is not designed according to specifications identified herein, the developer must:
  - i. Arrange a private waste hauler for the removal of all waste materials.
  - ii. As part of the Purchase and Sale Agreement the developer, owner, property manager or agent for the development must disclose in writing to a prospective buyer of a unit within the development that the property is not serviceable for municipal waste collection.
6. All cost sharing provisions shall be in accordance with the City’s Financial Policy.