

ISSUE DATE:

Nov. 23, 2006

DECISION/ORDER NO:

3294



Ontario

PL060065

07-204

Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

998153 Ontario Inc. has appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 05-360 of the City of Hamilton  
OMB File No. R060017

998153 Ontario Inc. has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Hamilton to make a decision respecting a proposed plan of subdivision (condominium) on lands composed of 114 Pleasant Ave - Dundas, Block A, Registered Plan No. 1325 - in the City of Hamilton  
(Approval Authority File No. 25CDM200509)  
OMB File No. S060023

998153 Ontario Inc. has appealed to the Ontario Municipal Board under subsection 51(43) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from condition(s) imposed [or the lapsing provision imposed] by the City of Hamilton with respect to a proposed plan of subdivision on lands composed of 114 Pleasant Ave - Dundas, Block A, Registered Plan No. 1325 - in the City of Hamilton  
(Approval Authority File No. 25T-200508)  
OMB File No. S060022

998153 Ontario Inc. has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands composed of 114 Pleasant Ave - Dundas, Block A, Registered Plan No. 1325 - in the City of Hamilton  
OMB File No. M060051

**APPEARANCES:**

**Parties**

**Counsel**

998153 Ontario Inc.

R. D. Cheeseman

City of Hamilton

A. Zuidema

**MEMORANDUM OF ORAL DECISION FROM TELEPHONE CONFERENCE  
CALL DELIVERED BY G. O'CONNOR AND D. BARBIR ON AUGUST 18,  
2006 AND ORDER OF THE BOARD**

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This was a hearing conducted by telephone conference call. At the first hearing held on July 11, 2006, the site plan matters were deferred in order to give the parties more time to come to an agreement.

The matter before the Board is an application by 998153 Ontario Inc. (the "Applicant") for a site plan approval respecting the property at 114 Pleasant Avenue in the City of Hamilton.

Mr. R. D. Cheeseman, counsel for the Applicant, on consent of all parties explained that the site plan details had been finalized as per the Minutes of Settlement filed as Exhibit 1, now Attachment 1 to this decision, and Conditions of Draft Plan Approval filed as Exhibit 2, now Attachment 2 to this decision. Mr. J. Ariens, planner for the Applicant, stated that the Minutes of Settlement and the Conditions of Draft Plan Approval have been agreed upon by the residents, the City, and the Applicant. The Site Plan, as agreed upon by all parties, represents good planning, represents proper intensification, and complies with the Official Plan and the Zoning By-law. It is consistent with Provincial Policy Statement. It also meets the tests under section 51(24) of the *Planning Act*.

Ms N. Friday, planner for the City of Hamilton, concurred in all aspects with Mr. Ariens' evidence.

The Board finds that the proposal is consistent with the Provincial Policy Statement, and implements the intent of the applicable official plans. The Board further finds that the proposal meets all the tests as set out in section 51(24) of the *Planning Act*, and represents appropriate intensification.

The Board will allow the appeal under subsection 41(12) of the *Planning Act*, and the details of the Site Plan are approved as per the Minutes of Settlement filed as Exhibit 1, now Attachment 1 to this decision, and the Conditions of Draft Plan Approval filed as Exhibit 2, now Attachment 2 to this decision.

The Board so Orders.

"G. O'Connor"

G. O'CONNOR  
MEMBER

"D. Barbir"

D. BARBIR  
MEMBER

OFFICE OF THE CITY CLERK	
NOV 27 2006	
REC. BY <i>A. Rawlings</i>	DATE .....
REF'D TO .....	DATE .....
REF'D TO <i>A. Rawlings</i>	DATE .....
REF'D TO <i>P. Mallard</i>	DATE .....
ACTION: _____	
_____	

**CITY OF HAMILTON**

**BY-LAW NO. 05-360**

**To Amend Zoning By-law No. 3581-86  
Respecting Lands Located at 114 Pleasant Avenue, Dundas,  
Block 'A, Registered Plan No. 1325**

**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 Town of Dundas" and is the successor to the former regional municipality, namely, "The Regional Municipality of Hamilton-Wentworth";

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

**AND WHEREAS** the Council of The Corporation of the Town of Dundas passed Zoning By-law No. 3581-86 (Dundas) on the 22<sup>nd</sup> day of May 1986, which by-law was approved by the Ontario Municipal Board by Order dated the 10<sup>th</sup> day of May 1988;

**AND WHEREAS** this by-law is in conformity with the Official Plan of the City of Hamilton (the Official Plan of the former Town of Dundas), approved by the Minister under the Planning Act on June 21, 1999.

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

1. Schedule "K" of zoning By-law No. 3581-86 (Dundas) is hereby amended.
  - (a) by changing the zoning from Public and Private Service "PPS" Zone to Single Detached Residential "R2/S-106 Zone, the lands composed of Block 1; and,
  - (b) by changing the zoning from Public and private Service "PPS" Zone to Single Detached Residential R2/S-107 Zone, the lands composed of Block 2;

- (c) by changing the zoning from Public and Private Service "PPS" Zone to Park and Recreation "PR1" Zone, the lands composed of Block 3;

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

- 2. SECTION 32: EXCEPTIONS of Zoning By-law No. 3581-86 (Dundas), is hereby further amended by adding the following new subsections:

**SINGLE DETACHED RESIDENTIAL R2/S-106**

Notwithstanding the provisions of SUBSECTION 6.16 ONE DWELLING PER LOT of SECTION 6: GENERAL REGULATIONS and of SUBSECTION 9.1: PERMITTED USES, and SUBSECTION 9.2: REGULATIONS FOR SINGLE-DETACHED DWELLINGS, of SECTION 9: SINGLE-DETACHED RESIDENTIAL ZONE (R2), the following uses and regulations shall apply on the lands shown as "R2/S-106" on Schedule "K".

(a) PERMITTED USES

- (i) Single-Detached Dwelling Units
- (ii) Parks and Playgrounds
- (iii) ~~(ii)~~ Accessory Uses to the uses identified above.



(b) REGULATIONS FOR ALL SINGLE-DETACHED DWELLING UNITS

- (i) Minimum Lot Area - 1.2 hectares.
- (ii) Minimum Lot Frontage - 17.0 metres.
- (iii) Minimum Front Yard - 6.0 metres.
- (iv) Minimum Side Yard and Rear Yard - 7.5 metres except the minimum yard abutting lands zoned Park and Recreation "PR1" Zone shall be 2.0m and the minimum yard abutting the rear lot line of Municipal No. 7 Princess Court shall be 4.86 metres.
- (v) Maximum Building Height - 10.5 metres, maximum 2 storeys.

- (vi) Maximum Number of Dwelling Units - 19 Dwelling Units.
- (vii) Minimum Landscaped Area - 50%.
- (viii) Maximum Floor Area of a Second Floor - 60% of the Floor Area of the ground floor, including garage.
- (ix) Off-Street Parking - minimum 4.0 parking spaces per dwelling unit which may be arranged in tandem and 2 spaces of which may be included in a garage plus a minimum of 6 visitor parking spaces.
- (x) Notwithstanding the provisions of subsection 7.14.1 "Dimensions For The Design Of Parking Areas" the minimum width and length of any parking space within an attached garage shall be 2.7 metres and 5.8 metres and may include the encroachment of one step.

(c) Subsection 9.5: REGULATIONS FOR ACCESSORY BUILDINGS AND STRUCTURES shall continue to apply.

**SINGLE-DETACHED RESIDENTIAL R2/S-107**

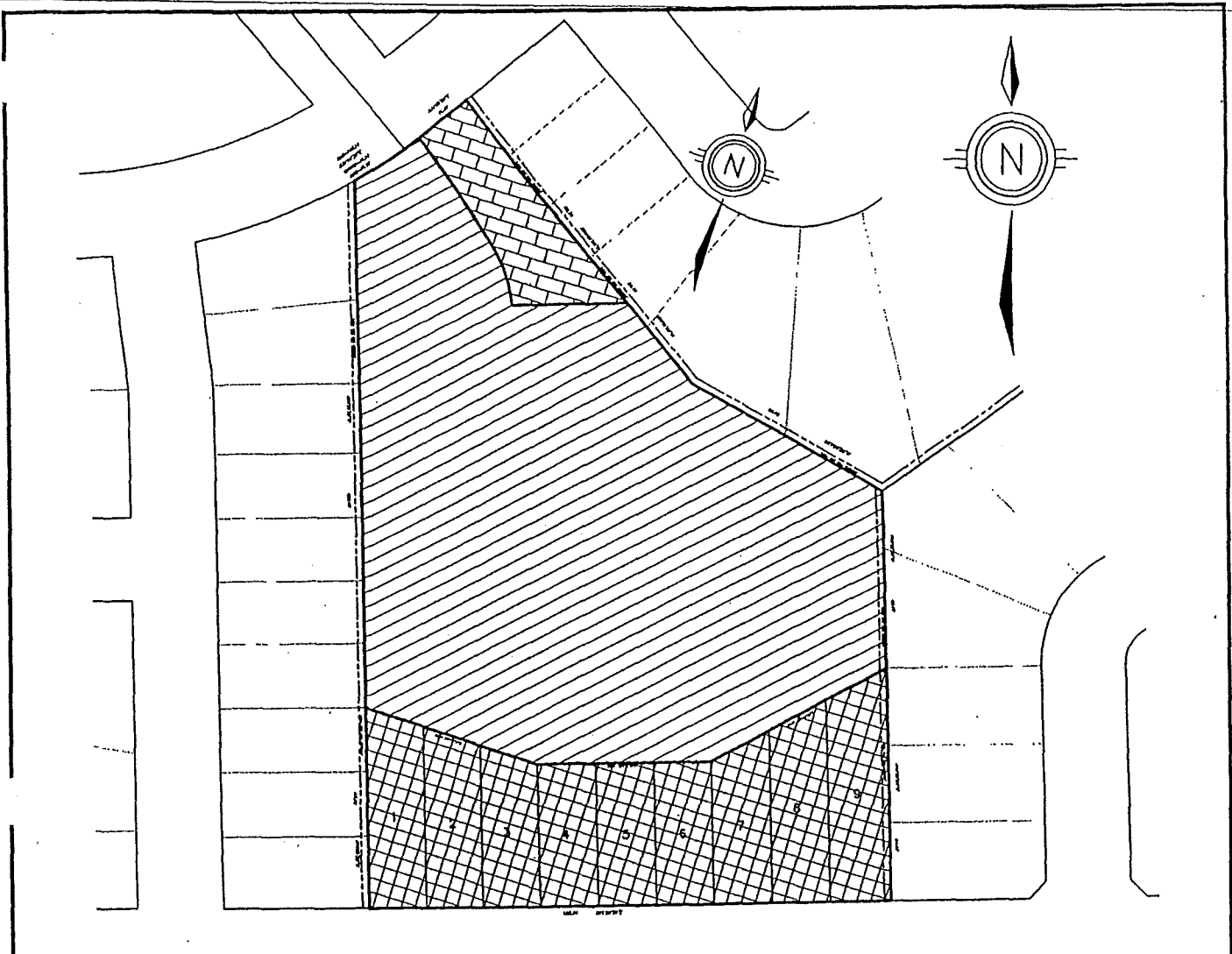
Notwithstanding the provisions of SUBSECTION 9.2.1.2 LOT FRONTAGE, a minimum lot frontage of 13.5 metres shall apply on the lands shown as "R2/S-107" on SCHEDULE 'K'.

3. All other provisions of Zoning By-law No. 3581-86 (Dundas) as applicable shall continue to apply.
4. 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 and ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

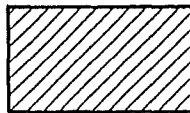
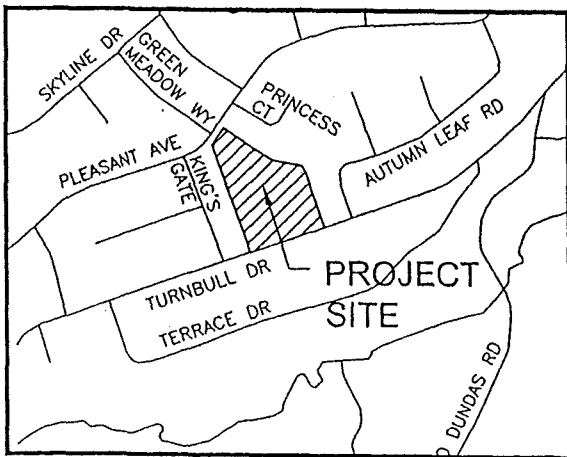
\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK



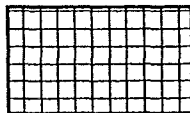
SCHEDULE 'A' TO ZONING BY-LAW  
NO. 05-360

SUBJECT PROPERTY  
114 PLEASANT AVENUE, DUNDAS



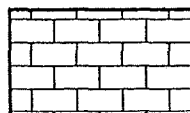
BLOCK 1

CHANGE FROM "PPS" (PUBLIC AND PRIVATE SERVICE) ZONE TO "R2/S-106" (SINGLE DETACHED RESIDENTIAL) ZONE, MODIFIED.



BLOCK 2

CHANGE FROM "PPS" (PUBLIC AND PRIVATE SERVICE) ZONE TO "R2/S-107" (SINGLE DETACHED RESIDENTIAL) ZONE, MODIFIED.



BLOCK 3

CHANGE FROM "PPS" (PUBLIC AND PRIVATE SERVICE) ZONE TO "PR1" (PARK AND RECREATION) ZONE.

SCALE	1:750
DATE	JULY 4, 06
PROJECT No.	HP 1079