

ISSUE DATE:
July 31, 2007
 DECISION/ORDER NO:
2144



PL061169

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

07-264

Meadowcreek Properties Ltd. 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 on lands composed of 706 & 710 Stone Church Road East and 1437,1445,1457 Upper Sherman Avenue in the City of Hamilton
 (Approval Authority File No. 25T200607)
 OMB File No. S060101

Meadowcreek Properties Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law ZAC-06-43 of the City of Hamilton to rezone lands respecting 706 & 710 Stone Church Road East and 1437,1445,1457 Upper Sherman Avenue from "C" (Urban Protected Residential, etc.), "AA" (Agricultural), "C" – "H" (Urban Protected Residential, etc – Holding) to "C/S-1559" (Urban Protected Residential, etc.), "C/S-1560" (Urban Protected Residential, etc.) to facilitate the development of 32 lots for single detached dwellings, new courts and a street extension
 OMB File No. Z060175

APPEARANCES:

Parties

Meadowcreek Properties Ltd.
 City of Hamilton

Counsel

P. C. Pickfield
 N. Smith

OFFICE OF THE CITY CLERK
 AUG 03 2007

REC'D BY _____ DATE _____
 REFF'D TO N. Smith
 REFF'D TO L. Barroso
 REFF'D TO A. Raw
 ACTION: R. Lee
P. Mallard
T. McCabe

MEMORANDUM OF ORAL DECISION DELIVERED BY D. BARBIR ON JULY 10, 2007 AND ORDER OF THE BOARD

The matters before the Board are applications by Meadowcreek Properties Ltd. (the "Applicant") for Zoning By-Law Amendment (By-law Amendment) and Draft Plan of Subdivision to permit the development of 32 lots for single detached dwellings, two new courts, and a street extension.

The Applicant appealed for lack of decisions from the City Council. The City staff recommended approval of the applications; Council at the later date endorsed the applications. One individual, Vito Sgro, objected to the applications. Through several

meetings between the parties his concerns were addressed, and he withdrew his objections in writing on April 23, 2007.

The site is designated "Urban Area" in the Hamilton-Wentworth Official Plan, "Residential" in the City of Hamilton Official Plan, and "Single & Double Residential" in the Approved Eleanor Neighbourhood Plan.

The zoning is "C" & "C-H" Urban Protected Residential District and "AA" Agricultural District. A previously approved By-Law No. 03-180, rezoned a portion of the subject lands with a holding "H" provision requiring the owner or applicant to submit and receive final approval of a plan of subdivision. Approval of the subject applications will fulfill this requirement.

The surrounding land uses are predominantly single-detached residential land uses, and a commercial use is located at the southeast corner of Upper Sherman Avenue and Stone Church Road East.

At the commencement of the hearing, the Board was informed by the parties that they had reached a settlement. Mr. Pickfield, counsel for the Applicant, on consent of both parties, explained the nature of the application and the conditions of settlement. Mr. Fraser, planner for the Applicant, provided planning evidence in support of the settlement.

Mr. Fraser explained that the subject site has been assembled through severance applications. In order to accommodate the project, an amendment to the by-law is required to re-zone the site. The project is supported by the City and the residents.

Mr. Fraser stated that the applications are consistent with, and implement the Provincial Policy Statement. They conform to and implement the Regional and City Official Plans. The zoning amendment and draft plan approval will implement the residential designation currently on the property. The proposal represents good planning. All applicable criteria under section 51(24) of the *Planning Act* are met. The proposed conditions are appropriate.

Based on the evidence of the planner for the Applicant, and the agreement of the parties, the Board finds that the Applicant's proposal represents good planning and is in

the broader public interest. The Board is satisfied that the proposal conforms to the Provincial Policy Statement, the Regional and local Official Plan, and represents appropriate intensification.

The Board allows the appeals under subsection 51(34) and 34(11) of the *Planning Act*.

The Board Orders that Amending Zoning By-law, in the form shown in Exhibit 3, Tab 20, now Attachment 1 to this decision, is approved. The Board authorizes the municipal clerk to assign a number to this By-Law for record keeping purposes.

The Board Orders that draft plan of subdivision 25T200607, in the form shown in Exhibit 3, Tab 4, now Attachment 2 to this decision, and subject to conditions of approval as set out in Exhibit 3, Tab 21, now Attachment 3 to this decision, is approved.

The Board Orders that pursuant to subsection 51(56.1) of the *Planning Act*, the City of Hamilton shall have the authority to clear the conditions of draft plan approval and to administer final approval of the plan of subdivision for the purpose of subsection 51(58) of the *Act*. In the event that there are any difficulties implementing any of the conditions of draft plan approval, or if any changes are required to be made to the draft plan, the Board may be spoken to.

The Board so Orders.

"D. Barbir"

D. BARBIR
MEMBER

Attachment 1

PL061169

Authority: Item , Planning and Economic
Development Committee
Report 06- (PED06369)
CM:

Bill No.

CITY OF HAMILTON

BY-LAW NO. _____

**To Amend Zoning By-law No. 6593
Respecting a Portion of the Property Located at 706 and 710 Stone Church
Road East and the rear portions of 1437, 1445 and 1457 Upper Sherman
Avenue, Hamilton**

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 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 City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report 06- of the Planning and Economic Development Committee at its meeting held on the day of , 2006, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the Hamilton Planning Area, approved by the Minister under the Planning Act on June 1, 1982.

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

1. That Sheet No. W-37c of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by:
 - (a) changing the zoning from the "C" (Urban Protected Residential, etc.) District to the "C/S-1559" (Urban Protected Residential, etc.) District, Modified for the lands comprised in Block "1";
 - (b) changing the zoning from the "C" (Urban Protected Residential, etc.) District and the "AA" (Agricultural) District to the "C/S-1560" (Urban Protected Residential, etc.) District, Modified for the lands comprised in Block "2"; and,
 - (c) changing the zoning from the "C" – 'H' (Urban Protected Residential, etc. - Holding) District to the "C/S-1560" (Urban Protected Residential, etc.) District, Modified for the lands comprised in Block "3"

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

2. That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands identified as Block "1" in Section 1 of this By-law, be modified to the extent of the following special requirements:
 - a) That notwithstanding Section 9.(3)(i) a front yard depth of at least 4.5 metres to the face of a dwelling shall be provided.
 - b) That notwithstanding Section 9.(3)(i) a front yard depth of at least 6.0 metres to the face of a garage shall be provided.
 - c) That notwithstanding Section 9.(4) every lot or tract of land shall have a width of at least 10.6 metres.
 - d) That notwithstanding Section 9.(4) a minimum lot area of 320.0 square metres shall be provided.
3. That the "C" (Urban Protected Residential, etc.) District regulations as contained in Section 9 of Zoning By-law No. 6593, applicable to the subject lands identified as Block "2" and Block "3" in Section 1 of this By-law, be modified to the extent of the following special requirements:
 - a) That notwithstanding Section 9.(3)(i) a front yard depth of at least 4.5 metres to the face of a dwelling shall be provided.
 - b) That notwithstanding Section 9.(3)(i) a front yard depth of at least 6.0 metres to the face of a garage shall be provided.

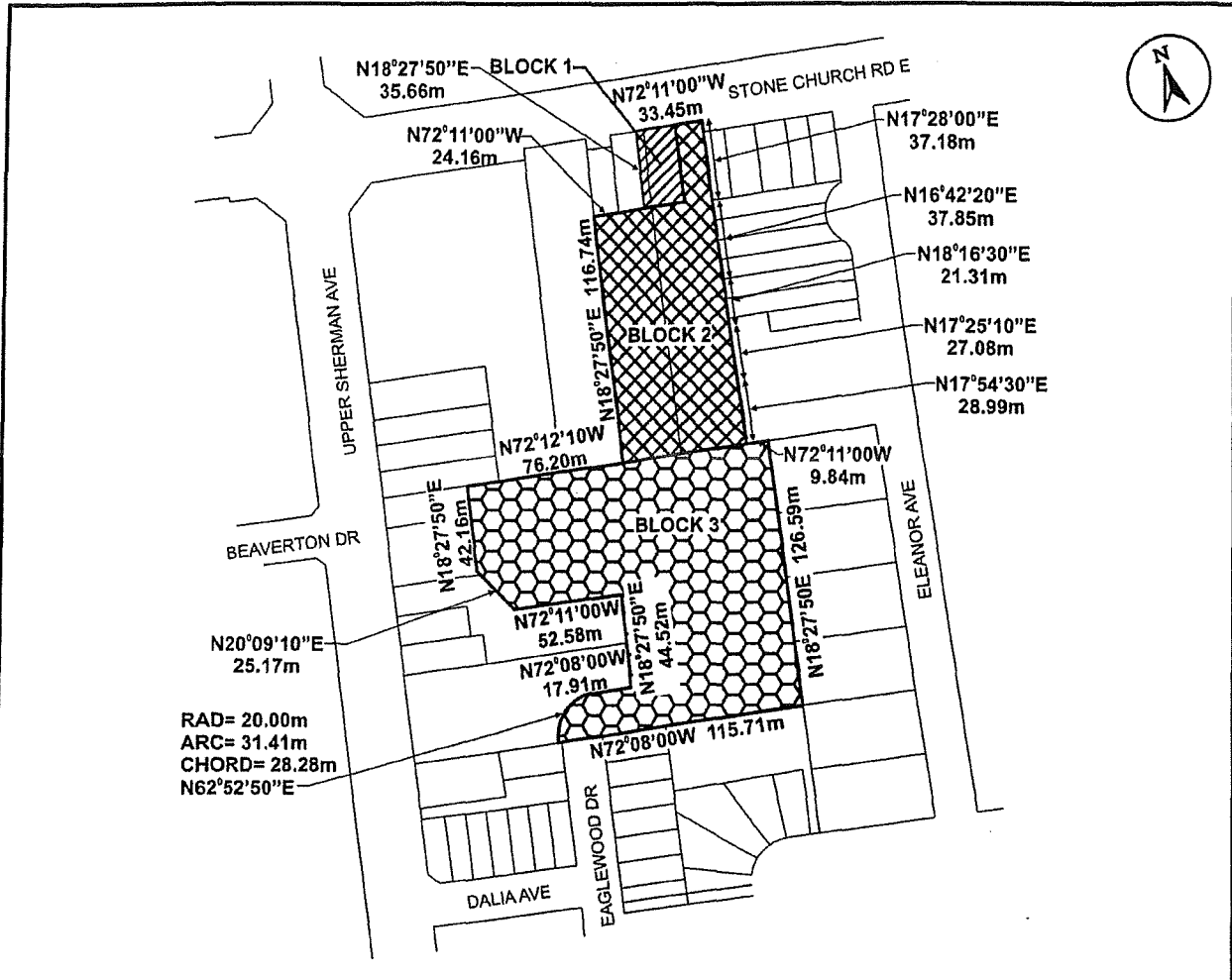
4. No building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the "C" (Urban Protected Residential, etc.) District provisions, subject to the special requirements referred to in Sections 2, and 3, applicable to the lands described in Section 1.
5. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1559 and Schedule S-1560.
6. Sheet No. W-37c of the District Maps is amended by marking the lands referred in Sections 1(a) of the By-law as S-1559.
7. Sheet No. W-37c of the District Maps is amended by marking the lands referred in Section 1(b) and (c) of the By-law as S-1560.
8. 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

ZAC-06-43/25T2000607



This is Schedule "A" to By-Law No. 06 —

Passed the day of 2006

Clerk




Mayor

Schedule "A"

Map Forming Part of
By-law No. 06- _____

to Amend By-law No. 6593

Subject Property

-  **Block 1** - Change in zoning from the "C" (Urban Protected Residential, etc.) District to the "C/S-1559" (Urban Protected Residential, etc.) District, Modified
-  **Block 2** - Change in zoning from the "C" (Urban Protected Residential, etc.) District and the "AA" (Agricultural) District to the "C/S-1560" (Urban Protected Residential, etc.) District, Modified.
-  **Block 3** - Change in zoning from the "C" - "H" (Urban Protected Residential, etc. - Holding) District to the "C/S-1560" (Urban Protected Residential, etc.) District, Modified.

Scale: Not to Scale	File Name/Number: ZAC-06-43/25T200607
Date: August 8, 2006	Planner/Technician: JT/NB



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT