

ISSUE DATE:

May 6, 2013

By-law 13-130



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL120721

1800615 Ontario Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Hamilton to redesignate lands at 339 and 347 Fifty Road and 1317 and 1329 Barton Street from "Special Policy F" to "Medium Density Residential" to permit the proposed draft plan of subdivision.

Approval Authority File No. OPA-11-005

OMB File No. PL120721

1800615 Ontario Inc. 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 refusal or neglect to enact a proposed amendment to Zoning By-law 3692-92 of the City of Hamilton to rezone lands respecting 339 and 347 Fifty Road and 1317 and 1329 Barton Street from Agricultural Specialty Zone to site specific R5 Zone, site specific RM2 Zone and block-specific Multiple Residential RM2 Zone to permit the development of the proposed draft plan of subdivision

Approval Authority File No. ZAC-11-042

OMB File No. PL120722

1800615 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 on lands at 339 and 347 Fifty Road and 1329 Barton Street, in the City of Hamilton

Approval Authority File No. 25T201107

OMB File No. PL120750

APPEARANCES:

Parties ("Parties")

Counsel

1800615 Ontario Inc. ("Applicant")

Steven Zakem

City of Hamilton ("City")

Michael Minkowski
Lia Magi

DECISION DELIVERED BY STEVEN STEFANKO AND ORDER OF THE BOARD

BACKGROUND

[1] The Applicant is seeking approval for a residential development (i.e. street townhouses, multiple residential units and single detached homes) on lands located at 339 and 347 Fifty Road and 1317 and 1329 Barton Street, in the former City of Stoney Creek, now in the City of Hamilton.

[2] In that regard the Parties have agreed on an official plan amendment (“OPA”) which annexed hereto as Attachment 1, a zoning by-law amendment (except for one issue hereinafter referred to), a draft plan of subdivision (“Draft Plan”) annexed hereto as Attachment 3 and conditions (“Draft Plan Conditions”) related to the Draft Plan which are annexed hereto as Attachment 4.

ISSUE

[3] The only issue in dispute between the Parties is the lot frontage for Blocks 1, 2 and 3 (“Blocks 1, 2 and 3”) as shown on Schedule A of the City zoning by-law amendment (“City ZBA”) which was filed in this proceeding as Exhibit 4 and which is annexed hereto as Attachment 2. The proposed single detached lots will be backing onto existing single detached lots immediately to the west in the area known as Phase 1 of the Foothills of Winona (“Phase 1”) which is part of the Winona Community (“Winona Community”).

POSITIONS OF THE PARTIES

[4] The Applicant’s position is that the lot frontage for the single detached lots to be created should be 10 metres (“m”). Glen Scheels, a planner with GSP Group, provided expert land use testimony to support this view. In his opinion, the 10 m frontage conforms with the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”), is consistent with the Provincial Policy Statement, 2005 (PPS), conforms with the Hamilton Wentworth Official Plan (“HWOP”) and conformed with the Stoney Creek Official Plan (“SCOP”) including s. 1.1.3 thereof.

[5] City Council and City planning staff (“Staff”) reject the 10 m proposed. The recommendation from Staff in this matter is that Blocks 1, 2 and 3 should have frontage of 12 m. City Council, at its meeting on April 10, 2013, approved frontage of 12 m for

Blocks 2 and 3 but increased the frontage for Block 1 to 15 m. The City ZBA reflects City Council's position in this matter.

[6] Heather Travis, a Senior Planner with the City gave evidence in support of the position of Staff and City Council in this matter. In her view, the 12 m or 12 m and 15 m frontage is more compatible with existing development, namely, Phase 1. Ms. Travis also opined that the City's position (both Staff and Council) was in conformity with the Growth Plan, the HWOP, the SCOP and was consistent with the PPS.

[7] Brad Scott, a property owner who resides at 60 Benziger Lane, gave evidence in this proceeding as a participant. He is opposed to the development and believes it is too intense and is not compatible with Phase 1.

ANALYSIS AND DISCUSSION

[8] The Applicant argues that it is not unusual to have different size lots backing onto each other particularly when those lots have the same depth or rear yard, that the 10 m frontage provides for efficient use of land and that the proposed frontages are indeed compatible with Phase 1 because the new development will not have a physical or functional adverse impact on the lands to the west. I do not agree for a number of reasons.

[9] First, s. 1.1.3 of the SCOP requires that new development be compatible with surrounding existing development. It is true that Ontario Municipal Board jurisprudence has established, as has the new Urban Hamilton Official Plan ("UHOP") in its definition of "compatibility", that compatible does not mean the same but rather existing together in harmony. However, it is equally true that the lots in Phase 1 adjacent to Block 1 have frontages of 15 m. In my view, it is appropriate to maintain, if possible, the same lot frontages for lots backing onto each other. In this case, I did not hear any compelling evidence to deviate from this approach.

[10] Second, although the UHOP is not currently in effect, it does, as acknowledged by the planners who testified in this proceeding, represent the current planning philosophy of the City. Section 3.4.6 (c) of the UHOP is, therefore, of particular relevance to the case at hand. It states that development in areas dominated by low density residential uses shall be designed in accordance with a number of criteria

including a “mix of lot widths and sizes compatible with streetscape character.” In my opinion, the City ZBA with its frontage requirements for Blocks 1, 2 and 3 better achieves compatibility with the existing streetscape character.

[11] Third, the frontages in Blocks 1, 2 and 3 of the City ZBA also achieve, in my estimation, the appropriate transition from Phase 1 and the proposed single detached lots in the westerly limit of the Draft Plan to the semi-detached dwellings and townhouses of differing forms, farther to the east. From a transition perspective, the Applicant’s position is simply not as compelling or persuasive.

[12] Fourth, the historical character of the Winona Community is, in general terms, one of larger lots. To the extent smaller lots exist within this community, they are located to the rear of the development or closer to the CN railway line and are therefore less visible from Barton Street. The City ZBA represents a logical, coherent transition from the Winona Community at large to the new residential development proposed.

[13] And lastly, s. 2.1 of the *Planning Act* (“Act”) requires that I have regard to City Council’s decision in this matter. Based on the evidence presented, I am satisfied that Council’s decision was correct when it created the frontages which it did and I see no reason to overturn or vary that decision.

[14] In summary, I believe the City ZBA better establishes the degree of compatibility and the level of transition required in the circumstances of this case.

DISPOSITION AND ORDER

[15] Based on all of the foregoing, it is ordered that:

- (a) The OPA is hereby approved;
- (b) By-law 3692-92 (Stoney Creek) is hereby amended in accordance with the City ZBA;
- (c) The Draft Plan is hereby approved and, pursuant to s. 51 (56.1) of the Act, final approval thereof for purposes of s.51 (58), is to be given by the approval authority in which the land is situate; and

- (d) The Draft Plan Conditions are hereby approved.
- [16] The Applicant's appeal in relation to the lot frontage issue is therefore dismissed.

"Steven Stefanko"

STEVEN STEFANKO
VICE-CHAIR

ATTACHMENT 2

REVISED ZONING BY-LAW

Authority:

Bill No. [REDACTED]

CITY OF HAMILTON

BY-LAW NO. [REDACTED]

To Amend Zoning By-law No. 3592-92 (Stoney Creek)
Respecting the Property Located at 339 and 347 Fifty Road and 1317 and
1329 Barton Street

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap.14, Sch. C, did incorporate, as of January 1st, 2001, the municipality "City of Hamilton";

AND WHEREAS the City of Hamilton is the successor to certain area municipalities, including the former area municipality known as "The Corporation of the City of Stoney Creek" and is the successor to the former Regional Municipality, namely, The Regional Municipality of Hamilton-Wentworth;

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

AND WHEREAS Zoning By-law No. 3692-92 (Stoney Creek) was enacted on the 8th day of December, 1992, and approved by the Ontario Municipal Board on the 31st day of May, 1994;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [REDACTED] of Report 13-[REDACTED] of the Planning Committee, at its meeting held on the [REDACTED] day of [REDACTED], 2013, recommended that Zoning By-law No. 3692-92 (Stoney Creek), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), upon approval of Official Plan Amendment No. [REDACTED];

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

1. That Map No. _____ of Schedule 'A', appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended:
 - (a) By changing from the Rural Residential "RR" Zone and the Agricultural Specialty "AS" Zone to the Single Residential "R2-81" Zone, Modified, the lands comprised of "Block 1";
 - (b) by changing from the Rural Residential "RR" Zone and the Agricultural Specialty "AS" Zone to the Single Residential "R3-39" Zone, Modified, the lands comprised of "Block 2";
 - (c) by changing from the Agricultural Specialty "AS" Zone to the Single Residential "R3-40" Zone, Modified, the lands comprised of "Block 3";
 - (d) by changing from the Agricultural Specialty "AS" Zone to the Residential Five "R5-11" Zone, Modified, the lands comprised of "Block 4";
 - (e) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM2-37" Zone, Modified, the lands comprised of "Block 5";
 - (f) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM2-38" Zone, Modified, the lands comprised of "Block 6";
 - (g) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM2-39" Zone, Modified, the lands comprised of "Block 7";
 - (h) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-47" Zone, Modified, the lands comprised of "Block 8";
 - (i) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-48" Zone, Modified, the lands comprised of "Block 9";
 - (j) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential (Holding) "RM3-48 (H)" Zone, Modified, the lands comprised of "Block 10"; and,

- (k) by changing from the Agricultural Specialty "AS" Zone to the Multiple Residential "RM3-49" Zone, Modified, the lands identified as "Block 11";

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

- 2. That Sub-section 6.3.7, "Special Exemptions", of Section 6.3 Residential "R2" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new Special Exemption "R2-61", as follows:

"R2-61" - Schedule "A", Map No. 9

Notwithstanding the provisions of Paragraph (c) of Section 6.3.3, of Zoning By-law No. 3692-92, on those lands zoned "R2-61" by this By-law, the following shall apply:

(c) Minimum Front Yard:	4.5m to the dwelling, except 6.0m to an attached garage.
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- 3. That Sub-section 6.4.7, "Special Exemptions", of Section 6.4 Residential "R3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new Special Exemption "R3-39", as follows:

"R3-39" - Schedule "A", Map No. 9

Notwithstanding the provisions of Paragraph (c) of Section 6.4.3, of Zoning By-law No. 3692-92, on those lands zoned "R3-39" by this By-law, the following shall apply:

(c) Minimum Front Yard:	4.5m to the dwelling, except 6.0m to an attached garage.
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- 4. That Sub-section 6.4.7, "Special Exemptions", of Section 6.4 Residential "R3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new Special Exemption "R3-40", as follows:

"R3-40" - Schedule "A", Map No. 9

Notwithstanding Section 4.13.1 "Special Setbacks - Daylight Triangles" and paragraphs (b) and (d) of Section 4.19.1 - "Yard Encroachments", the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 2 metres for a building; 0.5 metres for a porch, including porch foundation walls; and 0.0 metres for eaves and gutters.

Notwithstanding the provisions of Paragraphs (c) and (e) of Section 6.4.3, of Zoning By-law No. 3692-92, on those lands zoned "R3-40" by this By-law, the following shall apply:

(c)	Minimum Front Yard:	4.5m to the dwelling, except 8.0m to an attached garage.
(e)	Minimum Rear Yard:	7.0m.

- 5. That Sub-section 6.6.7, "Special Exemptions", of Section 6.6 Residential "R6" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding a new Special Exemption "R5-11", as follows:

"R5-11" - Schedule "A", Map No. 9

Notwithstanding the uses permitted in Section 6.6.2 of the Residential "R5" Zone, Single Detached Dwellings shall also be permitted on those lands zoned "R5-11". The provisions of Sections 6.6.3, 6.6.4, and 6.6.5 of Zoning By-law No. 3692-92, shall also apply to Single Detached Dwellings on those lands zoned "R5-11" by this By-law.

Notwithstanding Section 4.13.1 "Special Setbacks - Daylight Triangles" and paragraphs (b) and (d) of Section 4.19.1 - "Yard Encroachments", the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 2 metres for a building; 0.5 metres for a porch, including porch foundation walls; and 0.0 metres for eaves and gutters.

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d 3.), (e), and (g) of Section 6.6.3, of Zoning By-law No. 3692-92, on those lands zoned "R5-11" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	(1) Undivided Semi-Detached Lot: 480 sq. m., except 520 sq. m. for a corner lot.
		(2) Divided Semi-Detached Lot: 240 sq. m., except

		280 sq. m. for a corner lot.
		(3) Single Detached Dwelling: 275 sq. m., except 340 sq. m. for a corner lot.
(b)	Minimum Lot Frontage:	Single Detached Dwelling: 9.5m, except 12.5m for a corner lot. Semi-Detached Dwelling: the provisions of Section 6.6.3 shall apply.
(c)	Minimum Front Yard:	Single Detached Dwellings and Semi-Detached Dwellings: 4.5m to the dwelling, except 6.0m to an attached garage.
(d)	Minimum Side Yard:	Single Detached Dwellings and Semi-Detached Dwellings: on a corner lot, the minimum side yard abutting the flankage lot line shall be 2.0m, except that an attached garage or attached carport which fronts on the flankage lot line shall not be located within 4.5m for the flankage lot line.
(e)	Minimum Rear Yard:	Single Detached Dwellings and Semi-Detached Dwellings: 7.0m.
(g)	Maximum Lot Coverage:	Single Detached Dwellings and Semi-Detached Dwellings: N/A.

6. That Sub-section 6.9.8, "Special Exemptions", of Section 6.9 Multiple Residential "RM2" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM2-37", as follows:

"RM2-37" Schedule "A", Map No. 10

Notwithstanding Section 4.13.1 "Special Setbacks – Daylight Triangles" and paragraphs (b) and (d) of Section 4.19.1 – "Yard Encroachments", the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 2 metres for a building; 0.5 metres for a porch, including porch foundation walls; and 0.0 metres for eaves and gutters.

Notwithstanding Section 4.13.3, or any other yard provision of this By-law, the minimum setback from a railway right-of-way shall be 28m in conjunction with a berm.

Notwithstanding the provisions of Paragraphs (c), (d), and (i), of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM2-37" by this By-law, the following shall apply:

(c)	Minimum Front Yard:	4.5m to the dwelling, except 6.0m to an attached garage.
(d)	Minimum Side Yard:	End Unit: 1.2m. Corner Unit 2.0m.
(i)	Maximum Lot Coverage:	N/A.

- 7. That Sub-section 6.9.6, "Special Exemptions", of Section 6.9 Multiple Residential "RM2" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM2-38", as follows:

"RM2-38" Schedule "A", Map No. 10

Notwithstanding Section 4.13.1 "Special Setbacks – Daylight Triangles" and paragraphs (b) and (d) of Section 4.19.1 – "Yard Encroachments", the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 2 metres for a building; 0.5 metres for a porch, including porch foundation walls; and 0.0 metres for eaves and gutters.

Notwithstanding the provisions of Paragraphs (c), (d), (e), and (i), of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM2-38" by this By-law, the following shall apply:

(c)	Minimum Front Yard:	4.5m to the dwelling, except 6.0m to an attached garage.
(d)	Minimum Side Yard:	End Unit: 1.2m. Corner Unit: 2.0m.
(e)	Minimum Rear Yard:	7.0m.
(f)	Maximum Lot Coverage:	N/A.

8. That Sub-section 6.9.6, "Special Exemptions", of Section 6.9 Multiple Residential "RM2" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM2-38", as follows:

"RM2-38" Schedule "A", Map No. 10

Notwithstanding Section 4.13.1 "Special Setbacks – Daylight Triangles" and paragraphs (b) and (d) of Section 4.19.1 – "Yard Encroachments", the following shall apply:

Any lot located at the intersection of two or more roads will require a minimum yard to the hypotenuse of the daylight triangle of 2 metres for a building; 0.5 metres for a porch, including porch foundation walls; and 0.0 metres for eaves and gutters.

Notwithstanding the provisions of Paragraphs (a), (c), (d), (e), and (f), of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM2-38" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	Interior Unit: 175 sq m.
(c)	Minimum Front Yard:	4.5m to the dwelling, except 6.0m to an attached garage.
(d)	Minimum Side Yard:	End Unit: 1.2m. Corner Unit: 2.0m.
(e)	Minimum Rear Yard:	7.0m.
(f)	Maximum Lot Coverage:	N/A.

9. That Sub-section 6.10.7, "Special Exemptions", of Section 6.10 Residential "RM3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM3-47", as follows:

"RM3-47" Schedule "A", Map No. 9

Notwithstanding the provisions of Section 4.10.3 "Dimensions of Parking Spaces" and Section 4.10.4 "Requirement for Parking Designated for Vehicles of Physically Challenged" of Zoning By-law No. 3692-92, on those lands zoned "RM3-47" by this By-law, the following shall apply:

Dimensions of Parking Spaces

Parking shall have minimum rectangular dimensions of 2.6 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

Requirement for Parking Designated for Vehicles of Physically Challenged

Parking for the physically challenged shall have minimum rectangular dimensions of 4.4 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

The following regulations apply to the "RM3-47" Zone, should the development proceed as a Standard Condominium:

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (f), and (h), (m 1.), and (m 4.), of Section 6.10.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-47" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	2500 sq. m.
(b)	Minimum Lot Frontage:	30.0m.
(c)	Minimum Front Yard:	3.0m.
(d)	Minimum Side Yard:	7.0m.
(f)	Minimum Rear Yard:	2.0m.
(h)	Minimum Distance Between Buildings on the Same Lot:	2.0m between end walls and 8m between an end wall and a rear wall.
(m)	Minimum Landscaped Open Space:	Not less than 40% of the lot area shall be landscaped including privacy areas. A landscaped strip having a

	minimum width of 2.0m shall be provided and maintained adjacent to every portion of any lot that abuts a street except for points of ingress and egress.
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The following regulations apply to the "RM3-47" Zone, should the development proceed as Freehold Street Townhouse Units tied to a Common Element Condominium road:

For the purposes of this By-law, a common element condominium road shall be deemed to be a street.

Notwithstanding the provisions of Paragraphs (a), (b), (d), (e), and (f) of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-47" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	Interior Unit: 150 sq. m. End Unit: 175 sq. m. Corner Unit: 200 sq. m.
(b)	Minimum Lot Frontage	End Unit: 7.0m. Corner Unit: 8.0m.
(d)	Minimum Side Yard	End Unit: 1.2m. Corner Unit: 2.0m.
(e)	Minimum Rear Yard:	6.0m.
(f)	Maximum Lot Coverage:	N/A

Notwithstanding the provisions of Section 6.9.4 "Regulations for Parking" of Zoning By-law 3692-92, on those lands zoned "RM3-47" by this By-law, the following additional requirement shall apply:

(c) That a minimum of 0.5 visitor parking spaces per unit shall be provided and maintained.

10. That Sub-section 6.10.7, "Special Exemptions", of Section 6.10 Residential "RM3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM3-48", as follows:

"RM3-48" Schedule "A", Map No. 9

Notwithstanding the uses permitted in Section 6.10.2 of the Multiple Residential "RM3" Zone, Apartment Dwellings shall not be permitted on those lands zoned "RM3-48".

Notwithstanding the provisions of Section 4.10.3 "Dimensions of Parking Spaces" and Section 4.10.4 "Requirement for Parking Designated for Vehicles of Physically Challenged" of Zoning By-law No. 3692-92, on those lands zoned "RM3-48" by this By-law, the following shall apply:

Dimensions of Parking Spaces

Parking shall have minimum rectangular dimensions of 2.6 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

Requirement for Parking Designated for Vehicles of Physically Challenged

Parking for the physically challenged shall have minimum rectangular dimensions of 4.4 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

The following regulations apply to the "RM3-48" Zone, should the development proceed as a Standard Condominium:

Notwithstanding the provisions of Paragraphs (c), (d), (h), (l 1.), and (m 1.), of Section 6.10.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-48" by this By-law, the following shall apply:

(c)	Minimum Front Yard:	5.0m.
(d)	Minimum Side Yard:	4.0m, except for 5.0m for a flankage yard, 7.5m abutting a zone for single detached, semi-detached, or duplex dwellings, and 3.0m where an end unit abuts a lot line of a street townhouse.
(h)	Minimum Distance Between Buildings on the Same Lot:	12 metres, except 2.0m between end walls and 9m between an end wall and a rear wall.
(l)	Maximum Density:	41 units per hectare
(m)	Minimum Landscaped Open	Not less than 35% of the lot

	Space:	area shall be landscaped including privacy areas.
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The following regulations apply to the "RM3-48" Zone, should the development proceed as Freehold Street Townhouse Units tied to a Common Element Condominium road:

For the purposes of this By-law, a common element condominium road shall be deemed to be a street.

Notwithstanding the provisions of Paragraphs (a), (b), (d), (e), and (i) of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-48" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	Interior Unit: 150 sq. m. End Unit: 175 sq. m. Corner Unit: 200 sq. m.
(b)	Minimum Lot Frontage	End Unit: 7.0m. Corner Unit: 8.0m.
(d)	Minimum Side Yard	End Unit: 1.2m. Corner Unit: 2.0m.
(e)	Minimum Rear Yard:	6.0m.
(i)	Maximum Lot Coverage:	N/A

Notwithstanding the provisions of Section 6.9.4 "Regulations for Parking" of Zoning By-law 3692-92, on those lands zoned "RM3-47" by this By-law, the following additional requirement shall apply:

(c) That a minimum of 0.5 visitor parking spaces per unit shall be provided and maintained.

11. That Sub-section 6.10.7, "Special Exemptions", of Section 6.10 Residential "RM3" Zone, of Zoning By-law No. 3692-92 (Stoney Creek), be amended by adding Special Exemption "RM3-49", as follows:

"RM3-49" Schedule "A", Map No. 9

Notwithstanding the provisions of Section 4.10.3 "Dimensions of Parking Spaces" and Section 4.10.4 "Requirement for Parking Designated for Vehicles of Physically Challenged" of Zoning By-law No. 3692-92, on those lands zoned "RM3-47" by this By-law, the following shall apply:

Dimensions of Parking Spaces

Parking shall have minimum rectangular dimensions of 2.8 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

Requirement for Parking Designated for Vehicles of Physically Challenged

Parking for the physically challenged shall have minimum rectangular dimensions of 4.4 metres by 5.5 metres exclusive of any lands used for access, manoeuvring, driveways, or a similar purpose.

Notwithstanding Section 4.13.3 or any other yard provision of this By-law, the minimum setback from a railway right-of-way shall be 28m in conjunction with a berm.

The following regulations apply to the "RM3-49" Zone, should the development proceed as a Standard Condominium:

Notwithstanding the provisions of Part 2 of Zoning By-law 3692-92 for the definition of Lot Line - Front, on those lands zoned "RM3-49" by this By-law, in the case of a through lot, only the lot line along the future Street "C" shall be deemed to be the front lot line. Therefore, Fifty Road shall be considered the rear lot line, and all other lot lines shall be considered side lot lines.

Notwithstanding the provisions of Paragraphs (b), (d), (h), and (m 1.), of Section 6.10.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-49" by this By-law, the following shall apply:

(b)	Minimum Lot Frontage:	8.5m.
(c)	Minimum Rear Yard:	6.0m.
(d)	Minimum Side Yard:	3.0m.
(h)	Minimum Distance Between Buildings on the Same Lot:	12 metres, except 2.0m between end walls and 9m between an end wall and a rear wall.
(m)	Minimum Landscaped Open Space:	Not less than 35% of the lot area shall be landscaped including privacy areas.

The following regulations apply to the "RM3-49" Zone, should the development proceed as Freehold Street Townhouse Units tied to a Common Element Condominium road:

For the purposes of this By-law, a common element condominium road shall be deemed to be a street.

Notwithstanding the provisions of Paragraphs (a), (b), (d), (e), and (i) of Section 6.9.3 of Zoning By-law No. 3692-92, on those lands zoned "RM3-49" by this By-law, the following shall apply:

(a)	Minimum Lot Area:	Interior Unit: 150 sq. m. End Unit: 175 sq. m. Corner Unit: 200 sq. m.
(b)	Minimum Lot Frontage	End Unit: 7.0m. Corner Unit: 8.0m.
(d)	Minimum Side Yard	End Unit: 1.2m. Corner Unit: 2.0m.
(e)	Minimum Rear Yard:	8.0m.
(i)	Maximum Lot Coverage:	N/A

Notwithstanding the provisions of Section 6.9.4 "Regulations for Parking" of Zoning By-law 3692-92, on those lands zoned "RM3-47" by this By-law, the following additional requirement shall apply:

(c) That a minimum of 0.5 visitor parking spaces per unit shall be provided and maintained.

12. That on those lands zoned "RM3-48(H)" by this By-law, the "H" symbol may be removed by a further amendment to this By-law, at such time as:

(i) The subject lands are merged with adjacent lands to the west to permit the orderly development of the lands.

Council may remove the "H" symbol and thereby give effect to the Zone provisions by enactment of an amending By-law once the conditions are fulfilled.

13. 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 Single Residential "R2" Zone, Single Residential "R3" Zone, Residential "R5" Zone, Multiple

Residential "RM2" Zone, and Multiple Residential "RM3" Zone provisions, subject to the special requirements referred to in Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11.

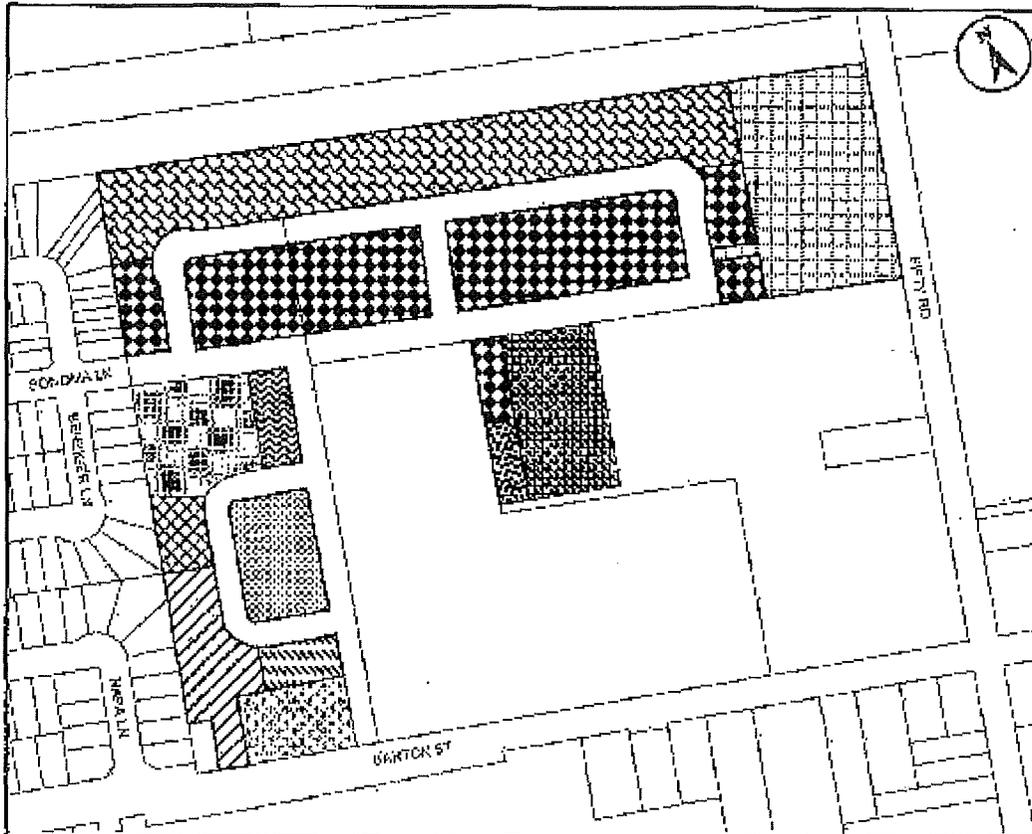
14. That the Clerk is hereby authorized and directed to proceed with the giving of notice of the passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this day of , 2013.

R. Bratina
Mayor

R. Caterini
Clerk

ZAC-11-042



This is Schedule "A" to By-Law No. 13.
 Passed the day of 2013

Mayor _____
 Clerk _____

Schedule "A"

Map Forming Part of
 By-Law No. 13-_____

to Amend By-law No. 3692-92

- Subject Property: 308 - 341 City Road and 317 - 323 Barrie Street
 Change in Zoning from the Rural Residential "RR" Zone and
 Agricultural Specialty "AS" Zone to:
- Block 1: Single Residential "R2-61" Zone
 - Block 2: Single Residential "R3-38" Zone
 - Change in Zoning from the Agricultural Specialty "AS" Zone to:
 - Block 3: Single Residential "R3-40" Zone, Modified
 - Block 4: Residential "R5-1" Zone, Modified
 - Block 5: Multiple Residential "R2-37" Zone, Modified
 - Block 6: Multiple Residential "R2-38" Zone, Modified
 - Block 7: Multiple Residential "R2-38" Zone, Modified
 - Block 8: Multiple Residential "R2-4" Zone, Modified
 - Block 9: Multiple Residential "R2-45" Zone, Modified
 - Block 10: Multiple Residential "R2-45-4" Zone, Modified
 - Block 11: Multiple Residential "R2-49" Zone, Modified
 - Block 12: Refer to By-law 65-210

Scale: N.T.S.	File Name/Number: 2013-09-09-13-0011-2013	
Date: March 15, 2013	Planned/Technician: H/T/H	
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT		