TO: Chair and Members Planning Committee

COMMITTEE DATE: February 4, 2014

SUBJECT/REPORT NO: Applications for an Official Plan Amendment and Zoning By-law Amendment for Lands Located at 1670 Garth Street (Hamilton) (PED14017) (Ward 8)

WARD(S) AFFECTED: Ward 8

PREPARED BY: Greg Macdonald (905) 546-2424 Ext. 4283

SUBMITTED BY: Joe-Anne Priel
Acting General Manager
Planning and Economic Development Department

SIGNATURE:

RECOMMENDATION

(a) That approval be given to Urban Hamilton Official Plan Amendment Application OPA-13-011, by Valery Homes, c/o Rob Ostrowercha (Owner), for a change in designation on Schedule B – Natural Heritage System, to delete the "Linkages" designation from a portion of the subject lands, in order to permit the development of a 14-storey, 192 unit multiple dwelling, for lands located at 1670 Garth Street (Hamilton), as shown on Appendix “A” to Report PED14017, on the following basis:

(i) That the draft Official Plan Amendment, attached as Appendix “B” to Report PED14017, be adopted by City Council.

(b) That approval be given to Zoning By-law Application ZAC-12-063, by Valery Homes, c/o Rob Ostrowercha (Owner), for a change in zoning from the “AA” (Agricultural) District to the “E/S-1701” (Multiple Dwellings, Lodges, Clubs, etc.) District, with a Special Exception (Block “1”) and the Conservation/Hazard Land (P5) Zone (Block “2”), in order to permit the development of a 14-storey, 192 unit multiple dwelling, for lands located at 1670 Garth Street (Hamilton), as shown on Appendix “A” to Report PED14017, on the following basis:

(i) That the draft By-laws, attached as Appendices “C” and “D” to Report PED14017, which have been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

OUR Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.
OUR Mission: WE provide quality public service that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Values: Accountability, Cost Consciousness, Equity, Excellence, Honesty, Innovation, Leadership, Respect and Teamwork.
(ii) That the amending By-law, attached as Appendix "D" to Report PED14017, be added to Map No.'s 1340 and 1392 of Schedule “A” of the City of Hamilton Zoning By-law No. 05-200; and,

(iii) That the proposed change in zoning is in conformity with the Urban Hamilton Official Plan (UHOP) upon finalization of Official Plan Amendment No. [Blank].

(c) That upon finalization of the implementing By-law, the subject lands within the Carpenter Neighbourhood Plan be redesignated from "Attached Housing” and “Low Density Residential” to “High Density Residential” (Block “1” on Appendix “A”) and “Open Space” (Block “2” on Appendix “A”).

EXECUTIVE SUMMARY

The purpose of the application is to amend the Urban Hamilton Official Plan and the Hamilton Zoning By-law No. 6593 to permit the development of a 14-storey, 192 unit apartment building. Small-scale local commercial uses are proposed on the ground floor of the building. A total of 234 parking spaces are proposed. An existing open space feature south of the proposed building will be retained and protected by rezoning it, along with a buffer, into an open space zone. See Appendix “E” for a preliminary site plan and elevation plans of the proposed development. An Official Plan Amendment (OPA) is also required as the Natural Heritage System policies are now in effect as part of the UHOP, and the Environmental Impact Study (EIS) submitted by the applicant has refined the “Linkages” feature boundary which is reflected in Appendix “B”.

Certain zoning modifications are required for the apartment building which are mostly to address setbacks from Rymal Road West and Garth Street, due to the design and location of the building being proposed close to the road. The location will both improve the streetscape character, and by having the highest point of the building located as far as possible from existing low density residential uses to the west, will ensure compatibility with the adjacent residential uses. Other modifications are needed, as the portion of the property to be zoned (P5) Zone cannot be used for calculating minimum landscaped area and the maximum floor area ratio. A minor reduction in parking is also proposed from 240 required parking spaces to 234 parking spaces.

The proposal can be supported, as it is consistent with the Provincial Policy Statement (PPS), and conforms to Places to Grow: Growth Plan for the Greater Golden Horseshoe, and implements the “Neighbourhoods” designation of the UHOP. It is appropriately located at the corner of two major roads with design characteristics to ensure compatibility with surrounding existing and future land uses.

Alternatives for Consideration – See Page 22
FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A.
Staffing: N/A.
Legal: As required by the Planning Act, Council shall hold at least one Public Meeting to consider applications for an Official Plan Amendment and Zoning By-law Amendment.

HISTORICAL BACKGROUND

Proposal:

The applicant has applied for an OPA to remove a portion of the “Linkages” designation from Schedule B – Natural Heritage System of the UHOP, and for a change in zoning from the “AA” (Agricultural) District to the “E/S-1701” (Multiple Dwellings, Lodges, Clubs, etc.) District, with a Special Exception (Block “1”) and the Conservation/Hazard Land (P5) Zone (Block “2”), in order to permit the development of a 14-storey, 192 unit apartment building (see Appendix “E” for a preliminary site plan).

Certain zoning modifications are required for the apartment building which are to address setbacks from Rymal Road West and Garth Street. The modifications are due to the design of the building being proposed close to the road to both improve streetscape character, and to have the highest point of the building located as far as possible from existing low density residential uses to the west. Other modifications are needed as the portion of the property to be zoned (P5) Zone cannot be used when calculating either minimum landscaped area and maximum floor area. A minor reduction in parking is also proposed from 240 required parking spaces to 234 parking spaces.

Chronology:

March 2, 2011: Development Review Committee Meeting for Formal Consultation Application FC-11-010.

January 11, 2013: Zoning Application ZAC-12-063 deemed complete.

January 29, 2013: Notice of Complete Application and Preliminary Circulation for Zoning Application ZAC-12-063 sent to all property owners and residents within 120 m. of the subject lands.

November 21, 2013: Zoning Application ZAC-12-063 amended to include Official Plan Amendment Application OPA-13-011.

January 17, 2014: Circulation of Notice Complete Application for OPA-13-011 and Circulation of Public Meeting to all residents within 120 m. of the subject lands.

### Details of Submitted Applications:

**Location:** 1670 Garth Street (Hamilton)

**Owner/Applicant:** Valery Homes (c/o Rob Ostrowercha)

**Agent:** IBI Group (c/o George Zajak)

**Property Description:**
- **Area:** 1.48 ha.
- **Frontage:** 90.48 m. (along Rymal Road West)
- **Depth:** 170 m. (along westerly property line)

**Servicing:** Full Municipal Services

### EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td><strong>Vacant and open space</strong></td>
<td>&quot;AA&quot; (Agricultural) District</td>
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<tr>
<th>Surrounding Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Retirement Home (under construction)</td>
<td>Major Institutional (I3) Zone in Zoning By-law 05-200</td>
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<tr>
<td>South</td>
<td>Single Detached Dwelling</td>
<td>&quot;AA&quot; (Agricultural) District</td>
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<tr>
<td>East</td>
<td>Retirement Community (range of housing forms)</td>
<td>&quot;DE/S-664, 664a, 664b, and 664c&quot; (Low Density Multiple Dwellings) District, Modified</td>
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<tr>
<td>West</td>
<td>Single Detached Dwelling and Elementary School</td>
<td>&quot;AA&quot; (Agricultural) District and Neighbourhood Institutional (I1) Zone (in Zoning By-law 05-200)</td>
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POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement:

The application has been reviewed with respect to the PPS. The application is consistent with the policies that focus on growth in Settlement Areas 1.1.3.1. It also implements Policies 1.1.3.2, 1.1.3.4, and 1.4.3 with respect to promotion of densities, which efficiently use land and resources, and appropriate intensification and redevelopment.

Policy 2.6.2 requires that development and site alteration shall only be permitted on lands containing archaeological resources, or areas of archaeological potential, if the significant archaeological resources have been conserved by removal and documentation, or by preservation onsite. A Stage 1 and 2 Archaeological Report was submitted to the Ministry of Tourism and Culture, and the City of Hamilton. Upon review, City staff concur with the findings of the Report, and therefore the Provincial interest has been satisfied.

Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities (such as airports, transportation corridors, sewage treatment facilities, waste management systems, industries and aggregate activities) and sensitive land uses are appropriately designed, buffered, and separated from each other to prevent adverse effects from odour, noise, and other contaminants, and minimize risk to public health and safety. The subject lands are intended to be developed for residential purposes and are located adjacent to Rymal Road West and Garth Street. The proximity of the proposed sensitive land use to road noise sources, triggers the requirement for a noise study. The noise study submitted indicates that residential development is feasible on the subject lands subject to further information, as to outdoor living areas. Once the design of the proposed development is more fully detailed at the Site Plan Control stage of development, an addendum to the noise study will be required in order to finalize any mitigation measures or warning clauses needed.

Places to Grow: Growth Plan for the Greater Golden Horseshoe:

The subject lands are located within a built-up area, as defined by Places to Grow. Policy 2.2.3.1 states that by the year 2015, and for each year thereafter, a minimum of 40 percent of all residential development occurring annually within each upper- and single-tier municipality, will be within the built-up area. The proposal also implements Policy 2.2.2.1 with respect to directing new growth to the built-up areas through intensification, and by contributing to complete communities with a diverse mix of land uses, including providing for a mix of housing types.

Based on the foregoing, the proposal conforms to the policies of the Growth Plan for the Greater Golden Horseshoe (Places to Grow).
Urban Hamilton Official Plan:

The new UHOP designates the subject lands as “Neighbourhoods” on Schedule “E-1” - Urban Land Use Designations and “Linkages” on Schedule “B” - Natural Heritage System. The following policies, among others, are applicable to the subject lands:

“B.2.4.1.3 The residential intensification target specified in Policy A.2.3.3.4 shall generally be distributed through the built-up area as follows:

c) 40% of the residential intensification target is anticipated to occur within the Neighbourhoods as illustrated on Schedule E – Urban Structure.

B.2.4.1.4 Residential intensification developments shall be evaluated based on the following criteria:

b) the development’s contribution to maintaining and achieving a range of dwelling types and tenures;

c) the compatible integration of the development with the surrounding area in terms of use, scale, form, and character. In this regard, the City encourages the use of innovative and creative urban design techniques;

d) the development’s contribution to achieving the planned urban structure as described in Section E.2.0 – Urban Structure;

e) infrastructure and transportation capacity; and,

f) the ability of the development to comply with all applicable policies.

B.2.4.2.2 When considering an application for a residential intensification development within the Neighbourhoods designation, the following matters shall be evaluated:

a) the matters listed in Policy B.2.4.1.4;

b) compatibility with adjacent land uses including matters such as shadowing, overlook, noise, lighting, traffic, and other nuisance effects;

c) the relationship of the proposed building(s) with the height, massing, and scale of nearby residential buildings;
d) the consideration of transitions in height and density to adjacent residential buildings;

e) the relationship of the proposed lot(s) with the lot pattern and configuration within the neighbourhood;

f) the provision of amenity space and the relationship to existing patterns of private and public amenity space;

h) the ability to complement the existing functions of the neighbourhood;

i) the conservation of cultural heritage resources; and,

j) infrastructure and transportation capacity and impacts.

E.3.2.3 The following uses shall be permitted on lands designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations:

a) Residential dwellings, including second dwelling units and housing with supports;

E.3.3 Residential Uses - General Policies

Three categories of residential land use are described in this section, but are not designated on Schedule E-1 - Urban Land Use Designations. These residential categories provide general location, scale, and design directions for the purposes of secondary planning and zoning. These categories may also be applied in the redevelopment of larger sites.

E.3.3.1 Lower density residential uses and building forms shall generally be located in the interiors of neighbourhood areas with higher density dwelling forms and supporting uses located on the periphery of neighbourhoods on or in close proximity to major or minor arterial roads.

E.3.3.2 Development or redevelopment adjacent to areas of lower density shall ensure the height, massing, and arrangement of buildings and structures are compatible with existing and future uses in the surrounding area.

E.3.6 High Density Residential
Function

E.3.6.1 High density residential areas are characterized by multiple dwelling forms on the periphery of neighbourhoods in proximity to major or minor arterial roads.

E.3.6.2 Uses permitted in high density residential areas include multiple dwellings, except street townhouses.

E.3.6.3 Local commercial uses may also be permitted on the ground floor of buildings containing multiple dwellings, provided the provisions of Section E.3.8 – Local Commercial are satisfied.

E.3.6.4 High density residential uses shall be located within safe and convenient walking distance of existing or planned community facilities/services, including public transit, schools, and active or passive recreational facilities.

E.3.6.5 Proximity to the Downtown Urban Growth Centre, Sub-Regional Nodes or Community Nodes, and designated Employment Areas shall be considered desirable for high density residential uses.

Scale

E3.6.6 In high density residential areas, the permitted net residential densities, identified on Appendix G – Boundaries Map shall be:

b) greater than 100 units per hectare and not greater than 200 units per hectare in all other Neighbourhoods designation areas.

Design

E.3.6.7 Development within the high density residential category shall be evaluated on the basis of the following criteria:

a) Development should have direct access to a collector or major or minor arterial road. If direct access to such a road is not possible, the development may be permitted direct access to a collector or major or minor arterial roads via a local road upon which abut only a small number of low density residential category dwellings.

b) High profile multiple dwellings shall not generally be permitted immediately adjacent to low profile residential uses. A separation distance shall generally be required and may be in the form of a
suitable intervening land use, such as a medium density residential use. Where such separations cannot be achieved, transitional features such as effective screening and/or design features shall be incorporated into the design of the high density development to mitigate adverse impact on adjacent low profile residential uses.

d) Development shall:

i) provide adequate landscaping, amenity features, on-site parking, and buffering where required;

ii) be compatible with existing and future uses in the surrounding area in terms of heights, massing, and an arrangement of buildings and structures; and,

iii) provide adequate access to the property, designed to minimize conflicts between traffic and pedestrians both on-site and on surrounding streets.

e) In accordance with the policies of Section B.3.3 – Urban Design Policies, development shall contribute to an attractive public realm by minimizing the view of the following elements from the abutting public streets (excluding public alleys):

i) surface parking areas;

ii) parking structures;

iii) utility and service structures such as garbage enclosures; and,

iv) expanses of blank walls.

f) The City may require studies, in accordance with Chapter F - Implementation Policies, completed to the satisfaction of the City, to demonstrate that the height, orientation, design and massing of a building or structure shall not unduly overshadow, block light, or result in the loss of privacy of adjacent residential uses.”

The “Neighbourhoods” designation permits a range of residential uses that are compatible with the existing character of established neighbourhoods. The proposed development is located on the periphery of the neighbourhood in proximity to major roads, in accordance with Policy E.3.3.1. The high-density residential policies are meant to guide future secondary planning exercises and in the creation of new Zoning...
By-laws, but can also be used as guidelines to evaluate development proposals. In this regard, the proposed development generally meets these locational guidelines with respect to its prominent location as the corner of two major roads, and the design criteria with respect to provision of amenity, landscaping, and contribution to an attractive public realm as most parking is either inside a parking structure or at the rear of the building. It is also located nearby to community services including being directly adjacent to an elementary school and having direct access to two bus routes. It is also not distant from the planned Community Node at Upper James Street and Rymal Road to the east, which provides ample shopping for area residents.

Policies are also in place in the UHOP with respect to ensuring height and massing are compatible with surrounding uses. Policy E.3.6.7(b) also states that high profile multiple dwellings shouldn’t be located next to low profile residential uses, unless certain mitigation measures are included. In this regard, the proposed building provides a minimum 22 m. westerly side yard setback to a 1-storey parking garage, and more than 30 m. to the nearest portion of the main building. The design of the building is such that it steps up in height closest to the corner of Rymal Road West and Garth Street. The 30 m. setback is to a 3-storey portion of the building, measuring only 9 m. in height, and a minimum 40 m. setback is provided to where the building is 7-storeys in height (21 m.), a minimum 50 m. setback is provided to where the building is 10-storeys in height (30 m.), 60 m. to where the building is 14-storeys in height (44m). This substantial building setback ensures that no shading will occur on the property to the west, and overview impacts would be minimal with such a large setback. A visual barrier, and a 2.7 m. to 4.0 m. wide planting strip is also provided, abutting the lands to the west providing increased buffering. Therefore, the intent of the policy is being maintained.

A redesignation to delete the “Linkages” designation from a portion of the subject lands on Schedule “B” is also required, now that the Ontario Municipal Board has issued its decision bringing the Natural Heritage System policies and designation into effect on October 30, 2013. The EIS submitted by the applicant has provided clarification for the geographic boundaries of the linkage which consists of the stream, pond, and associated open space buffer features on the south side of the property only. The north side of the property where the proposed building and parking area is proposed is not a linkage, and the redesignation serves only to refine the linkage designation boundary based on a scientific assessment of the existing feature. The OPA is attached to this Report as Appendix “B”.

**Neighbourhood Plan:**

The northerly portion of the subject property is designated “Attached Housing”, and the southerly portion is designated “Single and Double Residential” in the Carpenter Neighbourhood Plan. A redesignation to “High Density Residential” and “Open Space” would thus be prudent to reflect the proposed development. Policy F.1.2.8 of the UHOP
permits amendments to a Neighbourhood Plan evaluated against Policies F.1.1.3 and F.1.1.4. In this regard, the proposed amendment does not conflict with these policies, as it implements a form of development at a location consistent with that contemplated within the “Neighbourhoods” designation.

RELEVANT CONSULTATION

The following Departments and Agencies had no comments or objections:

- Operations and Waste Management Division, (Public Works Department).
- Taxation Division, (Corporate Services Department).

The following Departments and Agencies submitted the following comments:

Traffic Engineering Section (Public Works Department) has provided comments on minor alterations to the plan to be addressed at the Site Plan Control stage of development and have encouraged additional commercial uses to avoid automobile trips. Comments pertaining to requiring a site-line study have subsequently been addressed through meetings between Traffic Engineering staff and the applicant’s engineering consultants. With regards to the provision for more commercial, the implementing By-law will permit commercial uses on the ground floor but capped at 312 sq. m. of floor area, to ensure the 10 proposed commercial parking spaces are sufficient. If at the subsequent Site Plan Control stage of development additional commercial floor area is proposed and additional parking is provided, a Minor Variance may be sought to permit increased commercial floor area. No other issues pertaining to traffic generation or intersection safety have been identified.

Forestry and Horticulture Division (Public Works Department) has advised that no municipal trees would be impacted by the development and that a landscape plan should be submitted at the Site Plan Control stage of development to determine appropriate street tree planting requirements.

Hamilton Street Railway has advised that the #35 College and #44 Rymal bus routes provide direct service to this development and that mixed uses, direct entrances to the street with pedestrian connections, higher densities, and the building being located at the street, are transit supportive.

Hamilton Municipal Parking System has commented on some minor design aspects with regards to the parking layout, which will be addressed at the Site Plan Control stage of development, and have also advised that it appears that the proposal does not meet parking requirements in Zoning By-law No. 6593 but does meet the requirements of Zoning By-law No. 05-200. In this regard, further review of the proposal showed that all required parking for Zoning By-law No. 6593 was being provided. However, due to
an increase in the width of the buffer from the pond and creek feature, some previously proposed parking was lost. The current proposal is now for 234 parking spaces, whereas 240 are required. This reduction of only 6 spaces is minor and constitutes only a 2.5 percent deficiency, and good bus service is also available. It should be noted that the proposed amount of parking exceeds the new standard of one space per unit for multiple dwellings in Zoning By-law No. 05-200.

Recreation Division (Public Works Department) has advised that the subject lands are not closely located a public park (although the adjacent school would have outdoor recreational opportunities available) and thus that interior and exterior building amenities should be provided. In this regard, the roof of the proposed 1-storey parking garage is proposed to be provided for outdoor amenity for the building. Various internal amenity rooms would also be provided.

Niagara Peninsula Conservation Authority reviewed the EIS and recommended that a 5 m. buffer be provided from the top-of-bank to the pond, and that other mitigation measures will be implemented through the future Site Plan Control stage of development. In addition, the 223.3 m. elevation shall be used as the 100 year flood elevation, with all lands lower than this elevation needing to be zoned as hazard land. These comments from the Niagara Peninsula Conservation Authority have been addressed as the minimum 5 m. buffer has been provided and all floodplain areas will be zoned Conservation/Hazard Land (P5) Zone.

PUBLIC CONSULTATION

In accordance with the provisions of the Planning Act and Council’s Public Participation Policy, Notice of Complete Application and Preliminary Circulation was circulated to 632 property owners within 120 m. of the subject property on January 29, 2013, requesting public input on the application. A Public Notice sign was also posted on the property on February 7, 2013, and Notice of the Public Meeting was given, in accordance with the requirements of the Planning Act. This Notice of Public Meeting also included Notice of Complete Application for the Urban Hamilton Official Plan Amendment. To date, 14 letters have been received from local residents expressing concerns pertaining to traffic, property values, height and shadow impacts, flooding, school capacity, nature of the people that could live in the building, preservation of the creek and pond, and construction impacts. A review of these concerns is contained in the Analysis/Rationale for Recommendation section this Report.
ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. The proposal has merit and can be supported for the following reasons:

   (i) It is consistent with the Provincial Policy Statement and conforms to Places to Grow (Growth Plan for the Greater Golden Horseshoe);

   (ii) It conforms with and implements the “Neighbourhoods” designation of the UHOP;

   (iii) It protects the existing creek and pond feature of the subject lands; and,

   (iv) The proposal is designed in such a way so as to be compatible with the surrounding mixed residential and institutional land uses through an innovative step-back design, contributes to creating a complete community, provides sufficient parking and amenity area, and is an example of appropriate intensification at the corner of two major roads.

2. The proposed development consists of a maximum 14-storey, 192 unit multiple dwelling with commercial uses on a portion of the ground floor, to primarily serve the residents of the building, but to also provide local commercial (i.e. small scale retail and office uses) oriented toward surrounding residential developments. The building design is such that it contains numerous step backs so that portions of the building are actually 3-, 7-, 10-, 12- and 14-storeys in height, along with a single storey parking structure with rooftop amenity area on top. Additional surface parking is also provided such that 234 total parking spaces are proposed. The existing natural feature consisting of a stream and pond that crosses the southerly limits of the property, in addition to a natural buffer, will be preserved and protected.

3. In evaluating the planning merits of the appropriateness of the proposed development, the overriding issue is essentially the scale of the development. As discussed in the policy review section, the “Neighbourhoods” designation permits a range of residential uses (as well as local commercial uses). In addition, the existing Neighbourhood Plan also provides for attached housing on the lands. The evaluation is therefore not whether residential is appropriate (in place of commercial or institutional uses per se) but rather, whether a 14-storey building is appropriate at this location:

   • As discussed in the policy review section of this Report, the subject lands are in a location generally contemplated for higher density residential development, based on the fact that they are within the built-boundary, are at the intersection of two major streets, and are in an area that already contains a mix of existing and planned residential densities and institutional uses.
No comments or concerns from either a safety or level-of-service perspective were raised by the Public Works Department about the capacity of Rymal Road West or Garth Street, or the ability of the intersection to handle increased traffic. These are major roads planned and expected to handle higher traffic volumes.

While the height of the building is marginally taller than permitted in the “E” District (maximum height of 42-44 m. instead of 39 m. permitted) the design of the building is such that less than 50 percent of the building’s footprint is actually at that height. The rest of the building includes sections with a height of 1-storey (the parking garage), 3-storeys, 7-storeys, 10-storeys and 12-storeys, which would all conform to the Zoning By-law. The modification in height is only required for the two sections of building 14-storeys in height. These areas are located approximately 65 m. from the lot containing a single detached dwelling to the west (and much further from the existing dwelling to the south on Garth Street). The highest portions of the building are closest to the intersection of Rymal Road West and Garth Street, at the point furthest from sensitive land uses. In addition, the building would be located over 100 m. to existing single detached dwellings to the north on Lynnette Drive (with a 3-storey retirement home providing an immediate visual buffer to the subject lands) and approximately 80 m. from the nearest seniors’ retirement units within St. Elizabeth Village.

A sun/shadow study completed by KNY Architects Inc. illustrates that regardless of the time of year or the time of day, the proposed building does not create any shading of any existing outdoor amenity area of either the abutting lots to the west and south containing single detached dwellings, or of the rear yard of dwellings on Lynnette Drive (behind the new retirement home at the Northwest corner of Rymal Road West and Garth Street). Also, the shadows will not negatively impact any outdoor amenity areas of the retirement home, in that no shadows would ever reach these areas.

The subject lands are in an area with a mix of community and public services available in close proximity. A public (Catholic) elementary school is located abutting the property to the southwest, a commercial plaza is located one major intersection to the west at the northwest corner of Rymal Road West and Upper Paradise Road, major commercial shopping areas are located to the east off Rymal Road West just before Upper James Street, and finally, substantial services for seniors are located in the immediate area including medical services at Rymal Road West and Glancaster Road, the new 3-storey retirement home on the Northwest Corner of Rymal Road West and Garth Street, and St. Elizabeth Village to the east. This would allow seniors or retirees who may purchase units in the building to age in place.
• The existing natural open space on the property consisting of a pond and creek with landscaped buffer will be preserved. This provides a buffer from the existing dwelling to the south (which was previously severed from the subject lands). In addition a 2.7 m. to 4.0 m. wide landscaped strip is provided along the westerly side lot line, along with a visual barrier. This landscaped strip may retain some of the existing natural vegetation where possible and will likely also include additional plantings of trees and shrubs to buffer the parking lot from the property to the west.

Based on the above, staff are satisfied that the subject lands are an appropriate location for a high profile multiple dwelling and that sufficient buffering, building setbacks, and the building design (with various building step backs to push the height away from sensitive lands uses) will be in place to ensure compatibility with existing and future land uses in the area.

4. A small creek traverses the subject lands along the southerly portion of the property through an online man-made storm water management pond. This pond is considered fish habitat and as part of the review of the proposed development application, an EIS was submitted. The study noted that the main environmental features on the subject lands are the pond, creek, and vegetative buffer area surrounding it. The final delineation of the geographic area of an expanded buffer area has been completed, therefore, the remainder of the property, which is designated as a “Linkage” in the UHOP, can be removed and developed. The Niagara Peninsula Conservation Authority also reviewed the EIS and determined that a 5 m. buffer from the top-of-bank is sufficient, however, Natural Heritage staff have worked with the applicant to increase this buffer to achieve a variable buffer size ranging from 5 m. up to 15 m. from the top-of-bank. In order to ensure no development can occur in the environmental feature or the buffer area, it will be zoned Conservation/Hazard Land (P5) Zone as part of this application (see Appendix “D”).

5. The development of lands for multiple residential uses is subject to Site Plan Control, in accordance with Site Plan Control By-law No. 03-294. Final review of matters such as grading, drainage, storm water management, servicing, landscaping, tree preservation, final driveway locations and parking layout, fencing, and final architectural design will be addressed at the Site Plan Control stage of development. Subsequent to or concurrent with the Site Plan Control Application, the proponent will likely submit an application for a Draft Plan of Condominium (Standard Form), to establish condominium tenure for the building. As part of this application, implementation of any necessary warning clauses with respect to noise from adjacent roadways will be undertaken.
6. In order to implement the development, as proposed (see Appendix “E”), a number of zoning modifications are required, many of which relate to provisions to ensure that the highest portion of the building is located appropriately on the property. A review of the required modifications is as follows:

Minimum Front Yard and Easterly Side Yard:

The proposed development provides a minimum 1.2 m. front yard setback (to Rymal Road West) and 1.2 m. easterly side yard setback (to Garth Street) but only 0.9 m. to the daylight triangle. The Zoning By-law requires a minimum front yard setback of 12 m. and a 3 m. easterly side yard setback. A modification to eliminate minimum front yard and easterly side yard setback provisions is appropriate, as this implements design objectives from the “Neighbourhoods” designation of the UHOP and from the City of Hamilton’s Council Adopted Site Plan Guidelines, which both speak to having prominent buildings located close to the streets with parking to the side and rear. This also provides design flexibility to ensure the building is located as far from abutting lower density forms of development as possible. Overall streetscape character in this area varies due to the mixed forms of development occurring in the area. Therefore, the reduction in the setbacks can be supported. It should be noted that the proposed building complies with the minimum westerly side yard and rear yard setback requirement of approximately 22 m. (the requirement for which is based on the height and length of the building).

However, in order to ensure the final built form generally respects the step backs as indicated in the preliminary site plan (see Appendix “E”), it is suggested that in order to regulate height, the following special setback requirements be established in the Zoning By-law:

- Minimum westerly side yard of 30 m. for the portion of the building 3-storeys in height;
- Minimum westerly side yard of 40 m. for the portion of the building 7-storeys in height;
- Minimum westerly side yard of 50 m. for the portion of the building 10-storeys in height; and,
- Minimum westerly side yard of 60 m. for the portion of the building 14-storeys in height.
Maximum Height:

The “E” District permits a maximum height of 12-storeys (39 m.) for all buildings setback at least 30 m. from a low density residential district. The 3-storey portion of the apartment building is setback 32 m. from the westerly property line that abuts a residential district. However, the attached 1-storey apartment garage is located approximately 22 m. from the westerly property line (in compliance with the Zoning By-law), therefore the Zoning By-law would only permit a maximum height of 8-storeys or 26 m., regardless of how far away from the abutting residential lands the actual apartment tower is. Therefore, a modification to permit an increase in height to a maximum of 14-storeys (44 m.) is required. The scale of the actual increase is more accurately an increase from 12-storeys (39 m.) to 14-storeys (44 m.), due to the technicality of the 1-storey parking garage being located closer than 30 m. from the westerly side lot line. As discussed earlier in the Analysis/Rationale for Recommendation section of this Report, the height and scale of the proposal is appropriate for this location, in that the location of the building and its massing is such that the highest portions of the building are located at the major intersection, furthest from abutting residential land uses. The previously noted zoning restrictions on minimum westerly side yard, depending on the height of the building, will also ensure that the building's tallest portion is located as close to the intersection as possible.

Number of Parking Spaces and Loading Spaces:

A 192 unit multiple dwelling requires 240 parking spaces (one parking space per unit, plus 0.25 visitor spaces per unit, which equals 48 required visitor parking spaces). The preliminary site plan for the development provides 234 parking spaces. Each dwelling unit should be provided with at least one parking space. Therefore, the proposed development provides the required number of parking spaces per unit, but is six short of the required visitor parking (42 visitor parking spaces instead of 48 spaces). This equates to approximately a parking ratio of 1.2 total spaces per unit, instead of the 1.25 required by the Zoning By-law. Staff are satisfied that the minor reduction in parking is minimal and will have no impact on surrounding streets. It is some distance to the nearest local street, and it is unlikely that overflow parking would infiltrate any surrounding neighbourhood. As previously noted, two bus routes also directly serve the development.

Based on the number of dwelling units proposed, the Zoning By-law would require two loading spaces, one 18 m. in length and one 9 m. in length. The applicant is only proposing to provide one 9 m. long loading space. The proposed development will contain one and two bedroom units. These apartment sizes do not typically need a full transport-truck sized moving van. Condominium corporations can also heavily regulate the bookings of times
available for unit owners to move in and out of their units, and elevator booking
times, to ensure that multiple apartment moves or deliveries of furniture do not
occur at the same time. Therefore, the proposed reduction in the number of
loading spaces can be supported.

A modification to permit a minimum parking space size of 2.6 m. wide and 5.5 m.
long can be supported (instead of 2.7 m. wide and 6.0 m. long), as this is the new
City of Hamilton standard within Zoning By-law No. 05-200.

Zoning By-law No. 6593 contains various parking requirements depending on the
type of commercial uses proposed. The applicant has advised that 10 dedicated
parking spaces (in addition to providing 1.2 parking spaces per dwelling unit for
the residential component), can be provided for the commercial component of the
development, and that in order to achieve this amount of parking, the final
number of dwelling units in the building may be reduced, if the amount of onsite
parking cannot be increased. In this regard, the implementing By-law will be
structured such that the ten spaces must be provided regardless of which uses
occupy the 312 sq. m. of commercial leasable space on the ground floor. This is
a reasonable amount of parking in order to provide flexibility for the final uses
that may occupy the space, as ten parking spaces for 312 sq. m. of floor area
exceeds By-law requirements for retail, general offices, and personal services,
but is less than normally required for a medical office. Since it is unlikely that no
single type of use would occupy all three small commercial units, ten parking
spaces are sufficient. All of the remaining parking spaces in excess of the one
parking space per tenant/owner parking (0.2 spaces per unit) are dedicated as
residential visitor parking.

Modification to Minimum Landscaped Open Space:

The “E” District requires that a minimum of 25 percent of the lot area consist of
landscaped areas. When considering the entirety of the property at 1670 Garth
Street, 36 percent of the lot is landscaped and/or open space area. However, in
order to protect the major open space feature on the southerly portion of the
property (the pond, creek, and buffer area), it will be zoned Conservation/Hazard
Land (P5) Zone. Because the requirement for the 25 percent landscaped area is
a provision within a separate Zoning By-law (Zoning By-law No. 6593 instead of
05-200), the portion of the property that is landscaped within the (P5) Zone
cannot count toward the minimum 25 percent landscaped area requirement. For
the portion of the property that will be rezoned to the “E” District, 15 percent is
landscaped. This reduction from 25 percent can be supported, as it is a
technicality in that all of the landscaped areas within the (P5) Zone cannot be
counted. Otherwise, the proposed development would comply with the Zoning
By-law. It should also be noted that the applicant is proposing that the roof of the
1-storey parking garage be amenity space for the tenants of the building. While
the applicant has not indicated whether the roof will be a “green roof”, landscaping on top of portions of the building also cannot be counted toward the required 25 percent landscaped area. Therefore, the modification can be supported.

Floor Area Ratio:

Zoning By-law No. 6593 regulates the scale, massing and size of development in the “E” District through a maximum floor area ratio requirement. This means that the total floor area of the building cannot be more than 1.7 times greater than the total lot area. The floor area of the proposed building conforms to this provision and is less than 1.7 times the area of 1670 Garth Street’s total lot area (combined “E” District and (P5) Zone). However, similar to the regulation in the Zoning By-law for minimum landscaped open space of 25 percent of the lot (see above), the floor area ratio requirement also only applies to the portion of the property to be zoned “E” District. Since the implementing By-law will rezone the southerly portion of the property to the (P5) Zone, in order to protect the environmental features of the property, the maximum floor area ratio must be calculated using only the portion of the property to be rezoned to the “E” District. Therefore, a modification to permit a maximum floor area ratio of 2.0 times the lot area is required. This can be supported as it is a technicality in that the overall built form and building size would have conformed to the maximum 1.7 floor area ratio, should the entire property be included.

Modification for Expanded Commercial Uses:

As part of the Planning Justification Report the applicant has proposed that the range of permitted commercial uses in the “E” District be expanded. The “E” District does permit commercial uses (such as a barber shop and variety store) in the same building as a multiple dwelling, but they can only have access internal to the building, not to the public. The applicant is only proposing three small commercial units totalling 312 sq. m combined, which would have access both internally to the multiple dwelling and to the public, via doors that open to Rymal Road West. The “Neighbourhoods” designation of the UHOP does permit local commercial uses within the designation, and local commercial uses on the ground floor of high density residential developments accessible to the local residential area are also promoted by the plan.

In order to ensure that the range of possible future commercial uses are actually “Local Commercial” as per the UHOP, it is proposed that the implementing By-law permit only on the ground floor of the multiple dwelling commercial uses that are permitted within the “G’” (Neighbourhood Shopping Centre, etc.) District. This includes small scale office uses, personal service establishments such as spas and hair cutting establishments), restaurants, retail stores, dry-cleaning
establishments, etc. The applicant has also requested that commercial schools be included in the list of permitted possible future commercial uses. It is therefore appropriate to include commercial schools as permitted in the implementing By-law, as the UHOP does specifically include commercial schools as being permitted as a “Local Commercial” use. The actual final uses within the building are not known at this time, and will depend on lease deals. Finally, as the amount of parking proposed to be provided by the applicant is being enshrined into the Zoning By-law at ten spaces, it would be prudent to cap the amount of commercial floor area at the 312 sq. m., proposed by the applicant.

7. The Public Consultation section of this Report noted that 14 letters were received from area residents. The letters expressed concerns pertaining to traffic, property values, height and shadow impacts, flooding, school capacity, nature of the people that could live in the building, and preservation of the creek and pond. A review of the comments from the public is discussed below.

Traffic and Parking:

Local residents expressed concerns that the proposal would generate too much traffic and may impact safety of the intersection at Rymal Road West and Garth Street. The Public Works Department (Geomatics and Corridor Management Section) have reviewed the level-of-service of the intersection and the major roads compared to what traffic is expected to be generated by the development. No issues with the capacity of the roads or intersection to handle an increase in traffic were identified. The driveway locations were also evaluated to ensure adequate site lines are available for safety purposes when vehicles exit the driveways.

School Capacity:

One letter writer expressed concerns that area schools are at capacity and cannot accommodate more students, and that the building would add too many children into the area. The development application was circulated to all school boards and no letters of concern from the school boards were received pertaining to capacity.

Open Space Preservation:

A number of letter writers wrote that the proposed development should retain the major open space on the subject lands. In this regard, the pond and creek system and associated vegetative buffer from the top-of-bank, will be retained and protected on the south portion of the property. In addition, as much as possible of the existing hedgerow area along the westerly property line will be preserved, as a 2.7 m. to 4.0 m. wide landscaped strip is proposed in this area.
Height and Density:

The most commonly raised concern from area residents was the height and density of the proposal. Some of the concerns were very specific about possible overview and shadow impacts, while other concerns were more general in nature about the building being out-of-character with the area. With regards to specific impacts on individual properties, as discussed throughout this Report, the design of the building is such that it contains step backs in height so that its lowest point is closest to the existing low density homes to the west, with the highest point directly at the corner of Garth Street and Rymal Road West. A shadow study has also been submitted which shows that no surrounding property will be impacted by any shading. With respect to the overall visual impact of the development, certainly it is valid that some lower density residential homes may be able to see the proposed apartment building out of one or more windows, or from a front or rear yard. However, the substantial distance to the subject property means that actual overview impacts, such as loss of privacy, would not occur. The actual act of being physically able to see the building does not equate to an absolute tangible negative impact.

The property is at the corner of two major roads at the corner of four different neighbourhoods (Carpenter, Falkirk East, Sheldon, and Kennedy West), and it is expected and contemplated in the UHOP that even within the “Neighbourhoods” designation, that intersections at arterial roads, at the periphery of neighbourhoods and which already contains a mix of land uses and residential densities, is expected for higher density residential development. Finally, the surrounding neighbourhoods are predominantly flat in topography and there are no significant views that would be lost through the introduction of the building.

Property Values:

A few letter writers expressed concerns that property values could be lowered in the area, should the proposed development occur. Staff are not aware of any evidence that would suggest that simply being able to view an apartment building in the distance would impact property values, particularly as there would be no shadowing, overview or direct traffic impacts from the development.

Type of Unit Purchasers:

One local resident expressed concern regarding future residents of the building. Under the Planning Act, one cannot zone for the type of people who may be purchasing, renting, or otherwise occupying a dwelling unit, nor can the zoning impose restrictions or mandates on the tenure of the development. However, the applicant has advised that it is intended that the development will form part of a future Condominium Corporation.
Flooding:

Some residents expressed concerns that the proposed development may contribute to flooding impacts in the neighbourhood. In this regard, the existing stream and pond (which functions as an online storm water management pond) will be retained with a full vegetative buffer provided between the parking lot and top-of-bank. An easement to the City of Hamilton exists to ensure the City of Hamilton has access to the pond to adequately maintain it, and a 6 m. wide access driveway is provided to ensure future pond maintenance access. At the Site Plan Control stage of development, detailed Storm Water Management plans will be received to further ensure that the proposed development would not contribute to any neighbourhood flooding.

ALTERNATIVES FOR CONSIDERATION

If the application is denied, the lands could be developed in accordance with the current “AA” (Agricultural) District provisions, which would permit a single detached dwelling.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1:
A Prosperous & Healthy Community

*WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.*

Strategic Objective:

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

APPENDICES AND SCHEDULES ATTACHED

- Appendix “A”: Location Map
- Appendix “B”: Official Plan Amendment
- Appendix “C”: Draft Zoning By-law Amendment (Zoning By-law No. 6593)
- Appendix “D”: Draft Zoning By-law Amendment (Zoning By-law No. 05-200)
- Appendix “E”: Preliminary Site Plan and Elevation Plans
- Appendix “F”: Public Comments

:GM
Attachs. (6)
Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-12-063/OPA-13-011
Date: November 14, 2013

Appendix "A"

Scale: N.T.S.
Planner/Technician: GM/NB

Subject Property

1670 Garth Street, Hamilton

Block 1 - Change in Zoning form the "AA" (Agricultural) District to the "E/S-1701" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified

Block 2 - Change in Zoning form the "AA" (Agricultural) District to the Conservation/ Hazard Land (P5) Zone
The following text constitutes Official Plan Amendment No. to the Urban Hamilton Official Plan.

1.0 **Purpose and Effect:**

The purpose of this Amendment is to amend Schedule B - Natural Heritage System of the Hamilton Urban Official Plan by removing a portion of the “linkage” feature from the subject property in order to permit a multiple dwelling.

2.0 **Location:**

The property affected by this Amendment is located at 1670 Garth Street, within the City of Hamilton.

3.0 **Basis:**

The basis for permitting this Amendment is as follows; the Amendment:

- Reflects that an Environmental Impact Study (EIS) has refined the boundary of the “linkage” feature; and,
- Will allow for the development of a residential use in keeping with the intent of the “Neighbourhoods” designation.

4.0 **Changes:**

4.1 **Mapping Changes:**

4.1.1 Volume 1, Schedule B - Natural Heritage System is amended by removing a portion of the linkage from property at 1670 Garth Street, as shown on Appendix “A”, attached.
5.0 **Implementation:**

An implementing Zoning By-law Amendment will give effect to this Amendment.

This is Schedule “1” to By-law No. [number] passed on the [date] day of [month], 2014.

__________________________________  ____________________________________
R. Bratina                                Rose Caterini
MAYOR                                    CLERK

The
City of Hamilton
CITY OF HAMILTON

BY- LAW NO. 

To Amend Zoning By-law No. 6593 Respecting Lands Located at 1670 Garth Street (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 Item of Report 14- of the Planning Committee, at its meeting held on the day of 2014, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. .
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. That Sheet No. W-27e of the District maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended as follows:

   (a) By changing the zoning from the “AA” (Agricultural) District to the “E/S-1701” (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule ‘A’.

2. That the “E” (Multiple Dwellings, Lodges, Clubs, etc.) District provisions, as contained in Section 11 of Zoning By-law No. 6593, be modified to include the following special requirements:

   (a) That notwithstanding Sub-section 11.(1) of Zoning By-law No. 6593, a maximum of 312 square metres of Commercial Uses permitted in Sub-section 13.(1) of Zoning By-law No. 6593 shall be permitted on the ground floor of a mixed-use building and further notwithstanding Sub-section 13.(1) of Zoning By-law No. 6593 a commercial school shall also be permitted;

   (b) That notwithstanding Sub-section 11.(2) of Zoning By-law No. 6593, no building or structure shall exceed 14-storeys or 44.0m in height;

   (c) That Sub-section 11.(3)(i)(b) of Zoning By-law No. 6593 shall not apply;

   (d) That notwithstanding Sub-section 11.(3)(ii)(b) of Zoning By-law No. 6593, no easterly side yard is required; a minimum westerly side yard of 30m is required for any portion of the building that is at least 3-storeys in height except that a minimum westerly side yard of 40m is required for any portion of the building at least 7-storeys in height and a minimum westerly side yard of 50m is required for any portion of the building at least 10-storeys in height and a minimum westerly side yard of 60m is required for any portion of the building 14-storeys in height shall be provided and maintained;

   (e) That notwithstanding Sub-section 11.(5) of Zoning By-law No. 6593 that no building or structure in an “E” District shall have a gross floor area greater than the area within the district of the lot on which it is situate, multiplied by the floor area ratio factor of 2.0;

   (f) That notwithstanding Sub-section 14.(6) of Zoning By-law No. 6593, for every building or structure there shall be provided and maintained on the same lot within the district an amount not less than 15% of the area of the lot on which the building or structure is situate, as landscaped area;
(g) That notwithstanding Sub-section 18A.(1)(c) of Zoning By-law No. 6593, one 9.0m by 3.7m x 4.3m loading space shall be required;

(h) That notwithstanding Sub-section 18A.(1)(a) and 18A.(1)(b) of Zoning By-law No. 6593, 1.20 parking spaces per Class A dwelling unit shall be provided which shall include 0.20 of a space per Class A dwelling unit for visitor parking;

(i) That notwithstanding Sub-section 18A.(1)(a) of Zoning By-law No. 6593, 10 parking spaces shall be provided for the combined maximum 312 square metres of commercial uses permitted by Sub-Section 2.(a) of this By-law; and,

(j) That notwithstanding Sub-section 18A.(7) of Zoning By-law No. 6593, every required parking space, other than a parallel parking space, shall have dimensions not less than 2.6m wide and 5.5m long.

(k) That Sub-section 18A.(20) of Zoning By-law No. 6593 shall not apply

3. That By-law No. 6593 (Hamilton) is amended by adding this By-law to Section 19B as Schedule S-1701.

4. That Sheet No. W-27e of the District Maps is amended by marking the lands referred to in Section 1 of this By-law as S-1701.

5. 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 “E” (Multiple Dwellings, Lodges, Clubs, Etc.) District provisions, subject to the special requirements referred to in Section 2 of this By-law.

6. 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 __, 2014.

__________________________       ____________________________
R. Bratina                     Rose Caterini
Mayor                          Clerk

ZAC-12-063/OPA-13-011
Appendix “C” to Report PED14017 (Page 4 of 4)

This is Schedule “A” to By-Law No. 14-
Passed the .......... day of ....................., 2014

Schedule "A"
Map Forming Part of
By-Law No. 14-_____ to Amend By-law No. 6593

Subject Property
1670 Garth Street, Hamilton
Change in Zoning form the "AA" (Agricultural) District to the "E/S-1701" (Multiple Dwellings, Lodges, Clubs, etc.) District, Modified

Refer to the Zoning By-law 05-200

Scale: N.T.S.
File Name/Number: ZAC-12-063/OPA-13-011
Date: November 14, 2013
Planner/Technician: GM/NB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

Mayor
Clerk
CITY OF HAMILTON

BY-LAW No.

To Amend Zoning By-law No. 05-200,
Respecting Lands Located at 1670 Garth Street (Hamilton)

WHEREAS the City of Hamilton has in force several Zoning By-laws which apply to the different areas incorporated into the City by virtue of the City of Hamilton Act, 1999, S.O. 1999, Chap. 14;

AND WHEREAS the City of Hamilton is the lawful successor to the former Municipalities identified in Section 1.7 of By-law No. 05-200;

AND WHEREAS it is desirable to enact a new Zoning By-law to comprehensively deal with zoning throughout the City;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 14- of the Planning Committee, at its meeting held on the day of , 2014, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND WHEREAS this By-law will be in conformity with the Urban Hamilton Official Plan upon approval of Official Plan Amendment No. .

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

1. That Map Nos. 1340 and 1392 of Schedule “A” to Zoning By-law No. 05-200 is amended by incorporating the Conservation/Hazard Land (P5) Zone, on the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.
2. 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.

3. That this By-law No. [redacted] shall come into force and be deemed to come into force in accordance with Sub-section 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said Sub-section.

PASSED and ENACTED this [redacted] day of [redacted], 2014.

______________________________  ______________________________
R. Bratina  Rose Caterini
Mayor  Clerk

ZAC-12-063/OPA-13-011
This is Schedule "A" to By-Law No. 14-
Passed the .......... day of ...................., 2014

Schedule "A"

Map Forming Part of By-Law No. 14-_____
to Amend By-law No. 05-200
Map 1340, 1392

Subject Property
1670 Garth Street, Hamilton

- Refer to the Zoning By-law 8593
- Lands to be Zoned Conservation/Hazard Land (P5) Zone

Scale: N.T.S.
File Name/Number: ZAC-12-083/OPA-13-011
Date: November 14, 2013
Planner/Technician: GMNB

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Good afternoon Mr. Bell,

I'm writing in regards to the application to amend the Zoning By-law (File No: ZAC-12-063) in order to allow for the possible construction of a multi-level (3-14 storeys), mixed-used (residential and commercial) building on a property located at 1670 Garth Street. As a home owner near the indicated site, I have concerns with respect to the implications that such a structure would have on traffic, property value and the 'general (physical) landscape' of the area. My hope is that the City's Planning and Economic Development Department will decline the application and maintain the current Zoning By-law as it applies to this address on Garth Street. Thank you.

Sincerely,

David Thorne
123 Lynette Drive
Hamilton, Ontario
L0B-2P7
Mr. Chris Bell, City of Hamilton
Planning and Economic Development Department
Development Planning, Heritage and Design – West Section
71 Main Street West, 5th Floor, Hamilton, Ontario L8P 4Y5
Email: Chris.Bell@hamilton.ca

File No: ZAC-12-063

Amending of Zoning By-Law

Dear Sir:

While I applaud the plan for building on this site, I do not see the need to consider anything being built higher than six to eight storeys in height. This area is basically residential and to build higher than six with a maximum of eight storeys would be out of place. Buildings this high tend to block the sun from some areas surrounding the site and depending upon the location of the structure, it could affect the residential properties nearby.

From what I have observed there will be a need for some major services including the widening of both Rymal Road and Garth Street which in itself will require a few years of planning before commencing the actual construction project.

I would like to be kept on the list for updated reports of progress on this project.

Respectfully yours

Vern Nelligan
33 Father Hitter Terrace
Hamilton ON L9B 2S4
RE: Zoning Amendment Application (File No. ZAC-12-063)

From: Suzy McIlveen, Resident 132 Lynnette Dr. Hamilton, ON L9B2P7

I am writing because I heartily disapprove of a 14 storey structure being built at Garth and Rymal Rd. and I have many concerns:

1. The area is supposed to be residential, but a 3 storey retirement home and whatever is being built on the northeast corner of Garth and Rymal defy that definition. The area's drainage cannot support the structures. The northwest corner of Garth and Rymal repeatedly floods every time there is water - rain or snow. This has not been addressed since the retirement village started and it appears as if the city will continue to let it flood.

2. The proposed building (14 storey) is out of sync with other buildings - there is not one that size in the area - an area that serves Hamilton International Airport as a flight pattern.

3. The property will overshadow an elementary school - literally blocking out the sun for children in the playground at 14 storeys. As well, adding 192 residential units will add students to this school which is already over capacity at over 750 children. In the first weeks of school, there were numerous safety incidents as too many children added to unsafe conditions. The school has implemented separate lunch periods, but cannot do separate class times to accommodate the number of students this property will bring. I have several concerns about apartments that can overlook children playing on school property.

4. The property would also have residents feeding into the Catholic high school - St. Thomas More. At almost 1900 students, this building cannot accommodate more students.

5. The streets cannot handle the congestion - one lane traffic with one set of lights. The increase in traffic would totally jam the roads, especially with a commercial aspect to the property - cars cannot easily enter onto Rymal (Highway 53) or Garth from a driveway. It is tough enough no dealing with the number of buses that turn around at St. Elizabeth's village.

The Area

I had my child in daycare in the area for 6 years and decided to move into the area 1½ years ago. I really looked at the area. I knew of the proposed retirement home, but thought I could live with that. Surprising how close it is to my backyard and how much lower it is (will erode my back fence?).

I knew these moving in, but am disappointed at the direction you want this area to go. It is not supposed to be downtown on the mountain. With the number of children in the area, it is unwise to add so much congestion to the area. It is a highway after all.

I worked hard to make my way into a residential area where my child could play safely with her friends on the streets and now you plan to turn this quiet area into a commercial centre. I am not happy with that. I would like you to reconsider this re-zoning. Please do not put a 14 storey building in my backyard, as I am sure you would not want one in yours.

Suzy McIlveen
Appendix “F” to Report PED14017 (Page 4 of 15)

To the attention of Chris Bell,

This email is to serve as notice to my objection to the amendment of zoning of the property contained within File ZAC-12-063. This objection will cover a multitude of subjects that Council should require to answer, prior to allowing of such zoning amendments.

Type of Structure
The structure indicated in the "Notice of Complete Application and Preliminary Circulation to amend the Zoning By-Law", from here after simply "Notice" is too vague on the actual size of the structure. It states that it will be anywhere from 3 stories to 14 stories. This is quite a discrepancy. Let's be honest, with the stated building comprised of 192 residential units, there is no way for this to be achieved in only 3 stories. The builder should be honest with council, and disclose the true plans for this structure. It will be greater than 3 stories...most likely close to the 14 story max indicated in the Notice.

Council needs to question if such a structure of great magnitude is required or wanted, in an area that is already densely populated.

Privacy
I don't think resident's in the immediate area would appreciate looking out of their windows in the morning, or trying to enjoy privacy on their properties, only to have a massive 14 story structure in their backyards and people looking in on them. I would assume that most individuals have bought homes in the area for just this reason, privacy. If this structure is granted, individual's privacy may now have been violated. Council should request an independent study as to how individuals rights to privacy could be violated with this sort of structure.

Economics
It is my concern that the property in which this structure will be built on is not a prime piece of property. I have not seen any assessment to convince me otherwise. Meaning that when one looks out their proposed 14 story structure, they will not enjoy a million dollar view. There is nothing in the area which would equate for this dwelling to offer prime living. It is to my assumption that the dwelling proposed will be for low-income, or worse, welfare housing. Usually with this stereotype of individual comes the darkness of people with drugs and other unlawful activities. This is a good area, with an old age residence, a Catholic elementary school, a Catholic high school not to far away and mid- to high income earners. Residents in the area will not take kindly to welfare living in the area, increasing crime, and discouraging our equity by lowering our property value. Our homes are some peoples biggest investment. Low-income housing will lower the value of this assessment. Council should review how low-income housing has really benefited the area to which it has been "forced" upon. This structure will back onto the Catholic elementary school indicated above, how will Council assure the individuals of the children that go to that school that they will remain safe from the evils in which come from low-income/welfare housing? The blood will be on your shoulders, Council, because you have the opportunity to stop this now.
Appendix “F” to Report PED14017

Page 2 of 3

Congestion
The intersection that this dwelling will be built at, on the corner of Rymal Road and Garth is already congested during the rush hour times of the day. Now with the addition/extension of the old age home, that is currently being built, and with this proposed structure, this intersection is for sure to become more of a bottleneck than what it already is. Worst case scenario, there could be an additional 192 or greater cars going to and from that structure during peak times. 192 more vehicles that will fill that intersection, spewing toxins as they sit idle as they wait their turn to go through this bottleneck. What is Council going to do to assure that this intersection does not turn into a greater mess, than what it already is? How is the builder going to address this issue? He/she most likely isn’t going to, and will walk away leaving us, the taxpayer to clean up the mess, raising our taxes to pay for the intersection to re-structured.

Builder
I want to touch on who exactly this builder is that we are to deal with, both directly and indirectly. I’ve looked up records on this builder, and have come to realize that this builder is not in good standing. There are many complaints about his companies performance that can be found on the internet. Independent reviews such as: http://www.complaintsboard.com/complaints/valery-homes-ontario-c75817.html indicate a poor builder with sub-standard manners, and choices of tradesmen. If this to be a low-income development, what assurances does Council have from the builder that issues will be dealt with in a timely manner, and this development does not turn into an eyesore, a stain, that will lower everyone’s property value. I also don’t like the way that if you type in the address of Valery Homes into Google map (2140 King Street East, Hamilton, Ontario L8K 1W6, from their website), you are not presented with their office, but some apartment with some commercial space filling the ground floor (Royal Bank, convenience store). There is an unmarked business at the end of this commercial dwelling, which may be their office branch, but there are no identifying signs that indicate this. What is this builder hiding? Is that the sort of apartment complex that we will be expecting to see be constructed in the area covered by this Notice? A complete eyesore.

In Conclusion
I hope that Council will review the concerns within this email. I hope that others who have objected to this Notice have voiced their opinions, and have touched on the topics I have listed above, and ones that I have not thought about.

I do understand that this property is already zoned as commercial, and should remain as such. Small business can only help bring additional revenue to Hamilton. A practicing medical doctor would be welcome to addition, especially one that can help treat the elderly across the street. I don’t see how a structure that would be required for that amount of residence would be/could be a welcome addition, especially if the dwelling is to be low income, welfare housing.

Residents in the area do not want this, but it is up to Council to hear our voices and react accordingly.

Thank you
David Mayerle

Phone:    
email:    

The Art Of Emotional Creation
Mayhem Creations
Appendix “F” to Report PED14017 (Page 6 of 15)

Dear Sir,

We are opposed to the building of a fourteen storey apartment block. The height in this area is supposed to be no more than four storeys, preferably three. It is way too tall for the area and completely out of place. The traffic at the corners of Rymal and Garth is bad enough now. What will it be like with a building that size, with all the extra vehicles it will bring? Even Garth St, south of Rymal, is busy now. With all the construction that has taken place, for once, don't give the developers everything they ask for, and take the concerns of the residents into consideration.

Yours truly,

John Parkinson
Hi Chris,

We just received the attached notice of a complete application for lands at 1670 Garth Street. These lands are immediately to the south of lands where Chartwell is presently building a retirement residence.

It appears that the proposal for the site, now subject to a rezoning application, will have a building, or buildings, with 3 to 14 floors and be mixed use - residential above with at-grade commercial.

Before providing comments I would appreciate having an opportunity to review additional details of the proposal, including:

- preliminary or formal site plan drawings related to how the building will be situated on the site, sidewalk details and elevations (including details on windows and any balconies)
- any traffic/parking study and site plan drawing showing points of vehicular access
- shadow impact drawings
- the list of at-grade commercial uses being requested as permitted uses
- any planning justification report

We may ask for additional items after having had an opportunity to review the above materials.

If you could email these materials to me, that would be appreciated - or have the applicant send them to me. Alternatively, if you have a location on the city web site where I can access these materials, please point me there.

thanks,
Christian Fisker

Christian E. Fisker, PhD, MOIP | Vice President, Development
Chartwell Retirement Residences
100 Millerton Drive, Suite 750, Mississauga, Ontario, Canada L5R 4H1

Making People's Lives Better; Guided by our values of RESPECT

This message is confidential and may be privileged. If you are not the intended recipient, please notify me and permanently delete this message and any attachments without reading it or making a copy.
Bell, Chris

From: Verna Rapchuk
Sent: Wednesday, February 06, 2013 11:10 AM
To: Bell, Chris
Subject: re 1670 Garth Street Hamilton Lets make it a Green Space

There are so many large buildings going up in that area, unbelievable. Lets make it a Green Space. Many families in that area, would be Beautiful Green Space for a walk in the Park. A Space also for our Feathered Friends.

Verna Rapchuk
Re: 1670 Garth Street

Hamilton

RECEIVED
FEB - 6 2013

- Garth & Rymal will become a major, high traffic intersection once the construction is completed. Please ensure entrances & exits are located in such a way as to support heavy traffic flow.

- Please ensure the creek running along the south edge of 1670 Garth is incorporated into the site plans so as to allow residents to enjoy the natural greenery along the creek.

Regards

Janis Peters
St. Elizabeth Village
10 Gates Lane L9B 1T8
February 1, 2013

Mr. Chris Bell, City of Hamilton,
Planning and Economic Development DEPARTMENT,
71 Main Street West, 5th Floor,
Hamilton, On.
L8P 4Y5

Re: File #ZAC-12-063

Sir:

This letter is to advise you of my opposition to the construction of the building cited in your advisory dated 29 January, 2013 for the following reasons:

1] I am concerned about the children who attend the school which is adjacent to described property.
2] The flow of traffic is bad enough now. With the addition of 257 additional parking spaces, this will only add to the said traffic problem.
3] As my property is located at 136 Lynnette Dr. and my TV is dependent upon a dish located at the rear of our home, my TV signal will probably be blocked.
4] Also, the sunlight coming into our home will also probably be blocked.
5] The road condition on Garth, North of Rymal Road is very poor now, what will the extra traffic do to it, especially the heavy delivery vehicles to the commercial property proposed in the request for rezoning?
6] Lastly, I am concerned about the devaluation of our property. Who would purchase a home so close to a morning and evening traffic jam?

Respectfully,

Howard J. Marsh
136 Lynnette Dr.
Hamilton, On.
L9B 2P7
February 4, 2013.

Attention:
Chris Bell, City of Hamilton
Planning and Economic Development Department
Development Planning, Heritage and Design - West Section
71 Main Street West, 5th Floor, Hamilton, Ontario
L8P 4R5

First of all, I'd like to address the recent changes to our neighbourhood. The Bishop Tonnes Park was re-zoned to residential and there has been constant construction, excessive noise, and dust. There has also been the construction of a Retirement Home which has caused the above noted problems. The building of a high-rise would cause even more problems associated with construction.

I am concerned a high-rise building would significantly alter the character of our neighbourhood. The additional people in our neighbourhood would cause greater traffic and congestion. Garth Street only has single lanes in each direction between Stonechurch and Rymal and there are no traffic lights between these roads for residents in our current neighbourhood to have safe and easy access to Garth Street.
Bell, Chris

From:  Rosanne Ferretti
Sent:  Monday, February 04, 2013 7:32 PM
To:  Bell, Chris
Subject: New Zoning

Dear Chris Bell,

I am emailing you in regards to File No. ZAC-12-063. Though I am against such a building as most probably are, my main concern is the pond located on the area you wish to build on. It runs east-west and it faces Rymal Road. Since we are on septic, if this is filled in, the first 4-5 houses on Rymal Rd. will experience severe flooding the moment it rains. Our drainage is that pond and many workers and those responsible for this project may not be aware of that. The houses in this area are older and still use that pond as drainage.

Please let me know the course of action, or if this the right person I should be contacting. Nevertheless, we are very concerned that the pond will be covered up.

Thank you,
Rosanne and Mario Ferretti
Good morning Mr. Bell, I am forwarding you the email that I sent to Mr. Whitehead on February 1st. Please accept this letter as our opposition to the proposed zoning change.

Begin forwarded message:

From: Liberty
Date: February 1, 2013, 4:43:43 PM EST
To: terry.whitehead@hamilton.ca
Subject: Serious Concern

Good afternoon Mr. Terry Whitehead, we have a grave concern with the proposed zoning change from commercial to allow a commercial buil. Our concerns are further complicated with the fear that the proposed site. We carefully selected the neighbourhood to raise our family and invest our. Further, I cannot imagine the addition of 257 parking spots - the traffic. We hope that you represent us and our concerns to council and bring abr. Regards,

Liberty Orfanoudakis
Mauro Bianco
Mr. Chris Bell, City of Hamilton,
Planning and Economic Development Department
71 Main Street West, 5th Floor,
Hamilton, On.
L8P 4Y5

February 3, 2013

Re: File #ZAC-12-063 BY EMAIL.

Dear Mr. Bell,

Please accept this letter as a notice of our opposition to the construction of the building cited in your advisory dated 29 January, 2013 for the following reasons:

Our property is located at 148 Lynnette Dr. As such, we DO NOT want to be overshadowed by a towering apartment building complex. In addition it can and will hinder our satellite dish reception which has challenges at the best of times.

It is bad enough that our property is directly behind the new Deerview Retirement complex which has caused a significant loss of direct sunlight into not only our back yard, but the house itself.

Our property, one that we take pride in will more than likely devaluate due to the addition of this 14 story mixed-use building.

If the amendment and Zoning By-law changes are allowed, what type of residents will be offered the opportunity to purchase / rent the residential units? Will it be geared to income?

Currently there are always challenges trying to exit out of our neighborhood survey via Garth and Giselle. This headache will only increase with the addition flow of traffic, commercial or otherwise generated from a structure that houses 192 residential units, commercial spaces and 257 proposed parking spaces.

It is also our concern that with the airport so close to us, this proposed structure could hinder the flight paths due to low flying aircraft?

And finally what impact will this building have on the adjacent elementary school.

Respectfully,

Alex & Marilyn Nicholson
148 Lynnette Dr., Hamilton, ON

Cc: Councillor Whitehead Ward 8
February 2, 2013

Mr. Chris Bell, City of Hamilton,
Planning and Economic Development DEPARTMENT,
71 Main Street West, 5th Floor,
Hamilton, On.
L8P 4Y5

Re: File #ZAC-12-063

Sir:

This letter is to advise you of my opposition to the construction of the building cited in your advisory dated 29 January, 2013 for the following reasons:

1) I am concerned about the children and my grand children who attend the school which is adjacent to described property.
2) The flow of traffic is bad enough now when I exit Giesle, and with the increase in new residents in the new survey just east of us, we don’t need an apartment in this area.
3) As my property is located at 135 Lynnette Dr. and I don’t want a towering viewing spot for people to watch all my moves.
4) There are no apartments within miles of here, telling you we don’t want to start having them here.
5) The road condition on Garth, North of Rymal Road is very poor now, what will the extra traffic do to it, especially the heavy delivery vehicles to the commercial property proposed in the request for rezoning?
6) I believe the apartment is too close to the airport with all the low flying planes and helicopters flying around.
7) I do not oppose the commercial zoning as it stands, put a strip mall there as its zoned.

Respectfully,

Craig H McIntyre,
135 Lynnette Dr.
Hamilton, On.
L9B 2P7