TO: Community Development Committee

SUBJECT: Response to Hamilton Regarding the Waterdown South Secondary Plan, Urban Design Guidelines, Transportation Study and Subwatershed Study.

Report Number: PB-66/10  File Number(s): 160-19
Report Date: August 9, 2010  Ward(s) Affected: 1 x 2 □ 3 □ 4 □ 5 □ 6 □ All □
Date to Committee: August 30, 2010  Date to Council: September 7, 2010

Recommendation: That the City of Burlington support the Official Plan Amendment to the Official Plan of The Town of Flamborough Planning Area regarding the Waterdown South Secondary Plan, subject to the following:

1. Add a policy in Section A.9.4.6 (Character Roads) that requires an open space buffer of approximately 3.5 meters in width along the north side of Mountain Brow Road and approximately 14 metres in width along the west side of Kerns Road between Dundas Street and Collector Road D; and

2. Add a policy in Section A.9.8.5 (Collector Roads) that states Collector Road D will be designed to restrict southbound traffic onto Kerns Road; and

3. Recognise Burlington’s recommendations regarding Kerns Road, specifically the widening of Kerns Road and restricting southbound traffic from Collector Road D to Kerns Road; and

4. Provide Burlington with written assurance that the stormwater management pond at the south end of the community abutting the east side of Arterial Road A will be sized and designed to provide the level of stormwater management outlined in the subwatershed study given Hamilton’s proposal to reduce the 30 metre open space buffer along north side of Mountain Brow Road to approximately 3.5 metres.
Purpose:

- Address goal, action or initiative in strategic plan
- Establish new or revised policy or service standard
- Respond to legislation
- Respond to staff direction
- Address other area of responsibility

Identify recommended changes to the City of Hamilton's proposed Official Plan Amendment to the Official Plan of the Town of Flamborough Planning Area regarding the Waterdown South Secondary Plan.

Reference to Strategic Plan:

- Managed Growth: 3.1.B, 3.2.A
- Environmental Stewardship: 5.5
- Financial Management: 7.0, 7.3
- Transportation and Transit: 8.0, 8.1, 8.2, 9.3
- Excellence in Government 11.1

Executive Summary:

The concerns previously expressed by Burlington regarding storm water drainage and planning issues have been resolved through the provision of storm water management ponds and specialized streetscape treatment of character roads. Some issues remain regarding the widening and restriction of southbound traffic on Kerns Road.

Background:

Waterdown Urban Expansion Areas:

Flamborough Council adopted Official Plan Amendment No. 28 (OPA 28) in 1992 to allow expansion of the Waterdown urban area into three new areas that would accommodate approximately 6,500 residential units (see Appendix A):

- Upcountry Estates (54 ha)
- Waterdown North (133 ha)
- Waterdown South (180 ha)

OPA 28 was appealed to the OMB.

A Joint Board decision was issued on March 10, 1997. Two landowners in the urban expansion area (Paletta International and Upcountry) appealed the Joint Board’s decision to the Ontario Cabinet.

A settlement was reached and the details were confirmed in a
signed Memorandum of Agreement (Memorandum).

On June 19, 2002 the Ontario Cabinet:

i) rescinded the Joint Board’s decision;  
ii) approved a modified OPA 28; and  
iii) approved the Memorandum.

Waterdown South Background:

Hamilton is preparing a secondary plan for Waterdown South that will contain various details including land use designations, transportation network and community facilities. Land use policies will address matters such as housing, employment, schools, commercial and environmental constraints. The Waterdown South secondary plan will be implemented through an Official Plan Amendment.

The Waterdown South secondary plan process began in 2003. Detailed studies and various options were prepared and released. A preferred concept was presented to the public on January 23, 2008. A revised secondary plan, urban design guidelines and subwatershed study were presented at a public meeting on November 10, 2009 that was attended by Burlington staff.

On November 25, 2009 Burlington received the documents presented at the November 10, 2009 public meeting, as well as the draft Official Plan Amendment policies that would implement the secondary plan. Burlington advised Hamilton that final comments could not be provided until the Waterdown South transportation study was made available to Burlington and reviewed by staff.

Burlington received the Waterdown South transportation study on February 26, 2010.

A meeting was held April 9, 2010 that was attended by Hamilton, Burlington and the Niagara Escarpment Commission staff to address the following matters:

1. Whether the proposed changes are in keeping with the intent of Cabinet’s 2002 Memorandum of Understanding  
2. Traffic study  
3. Environmental concerns.
A second meeting was held on June 11, 2010 attended by Hamilton and Burlington staff to discuss outstanding issues.

Burlington staff provided preliminary comments to Hamilton staff on July 19, 2010 regarding the Waterdown South Secondary Plan.

**Strategy/Process**

The Ontario Cabinet approved the Memorandum in 2002, which established a strategy to resolve issues among various parties concerning the Waterdown urban expansion area, including the Town of Flamborough (now Hamilton) and Burlington. The Memorandum also contained land use principles that were incorporated into OPA 28 which represent the current planning strategy for the Waterdown urban expansion area. The approval of these documents also avoided a potentially lengthy and costly hearing before the OMB.

Burlington Council must consider whether the proposed Waterdown South planning policies, urban design guidelines and supporting studies address Burlington’s interests that were identified through the Cabinet-approved Memorandum and OPA 28. If Council believes Burlington’s interests are protected then the Waterdown South Official Plan Amendment and Secondary Plan can be endorsed.

City staff recommends Burlington Council respond to the City of Hamilton regarding planning, transportation and environmental matters regarding Waterdown South.

**Discussion:**

Staff’s comments and recommendations on various documents being considered by Hamilton Council are discussed below.

**Waterdown South Secondary Plan**

Burlington staff recognizes that the OPA 28 policies were prepared at a general level and not supported by technical studies. In comparison, the proposed Waterdown South Secondary Plan policies are supported by detailed technical studies.

Burlington staff support in principle the introduction of updated planning policies and new urban design guidelines for Waterdown South provided the underlying principles of the Memorandum and OPA 28 are carried forward. Burlington’s key interests regarding Waterdown South are stormwater management, transportation and open space buffers along Mountain Brow Road and Kerns Road.
The Secondary Plan is generally acceptable to staff subject to the following amendments:

1. Open Space Buffers Abutting Mountain Brow Road

Hamilton staff initially proposed removal of the 30 metre open space buffer along the north side of Mountain Brow Road and the west side of Kerns Road. Burlington expressed its opposition to the deletion of these buffers. Hamilton staff subsequently provided a design strategy for the easterly section of Mountain Brow Road that will be defined as a Character Road, which addresses the Burlington concerns in part. Design details for the westerly section of Mountain Brow Road will be guided by the Waterdown Road EA Study. This revised design along with other storm water management measures, e.g. storm water management pond, should resolve the past concerns expressed by Burlington, regarding the need for a 30 metre buffer along Mountain Brow Road.

City staff recommends that the 3.5 metre open space buffer indicated in Hamilton’s urban design guidelines be incorporated into the Official Plan policies to ensure an open space strategy is required along the easterly section of Mountain Brow that will be implemented through zoning in the future.

2. Kerns Road

An 18 metre pipeline easement exists along the west side of Kerns Road to accommodate a gas pipeline, which is subject to development constraints. Burlington staff has had very preliminary discussions with the pipeline owner (Enbridge Inc.) who controls the easement concerning a possible widening of Kerns Road and the impacts this may have on the easement. Enbridge advised it may consider encroachment into the easement for public road widening purposes. However, it appears further discussions with Enbridge and the City of Hamilton staff will be needed to determine the exact extent and future land needs to accommodate this pipeline.

A four meter road widening on the west side of Kerns road would result in a 14 metre open space buffer along the west side of Kerns Road. City staff recommends an open space buffer of approximately 14 metres be provided along the west side of Kerns Road between Dundas Street and Collector Road D. This would ensure an open space strategy is implemented, as envisioned by the Cabinet approved Memorandum of Understanding, and implemented through zoning in the future.

Burlington staff recommended that Kerns Road be widened in report E 4-10, which was approved by Council on February 22, 2010. The widening is required in order for turn restrictions to be implemented to and from both the Waterdown South development and City Park. The widening will allow a centre island to be constructed which will more effectively prohibit traffic from traveling southbound on Kerns Road from both developments. The staff report was circulated to City
of Hamilton staff prior to sign-off and the concept of the turn restrictions and widening of Kerns Road was supported in principle by City of Hamilton senior staff.

3. Restricted Access To Kerns Road

Burlington Council approved the closure of southbound traffic on Kerns Road (located entirely within the City of Burlington) in February 2010 for operational and safety reasons. Hamilton staff agreed to this restriction in January 2010.

On July 15, 2010 Council approved a revised Engineering Department report E-64-10 to stop up and close a part of Kerns Road to implement southbound traffic restrictions.

City of Hamilton staff recommended that there be no turning restrictions into Waterdown South from Kerns Road in their letter, dated August 5, 2010, (Appendix No. “C”).

City staff recommends that a policy be included in Section A.9.8.5 (Collector Roads) of the Waterdown South Draft Official Plan amendment stating that Collector Road D will be designed to restrict southbound traffic onto Kerns Road.

4. Kerns Road Widening and Design

Burlington staff is concerned with recent comments from Hamilton staff suggesting Hamilton considers Kerns Road to be a local road, in terms of land use, and Hamilton does not see any benefit to widening Kerns Road, notwithstanding that Kerns Road is designated as a collector road in the Burlington Official Plan. Kerns Road is shown in the Waterdown South OPA and secondary plan as a collector road having a width of 20 metres. Hamilton staff’s comments seem to be contradictory to the draft Hamilton Official Plan amendment and Hamilton’s position provided in January 2010.

Immediately adjacent to the west side of Kerns Road is an 18 metre wide pipeline easement which must be encroached into by 4 metres in order to satisfy the Kerns Road collector designation in the draft Waterdown South Official Plan amendment and secondary plan. The 4 metres would be added to the existing 12 metre right of way and the 7 metre widening on the Burlington side of Kerns Road resulting in an overall road allowance of 23 metres. It is Burlington staff’s opinion that a 23 metre wide road allowance could accommodate a 3 lane cross section for Kerns Road as well as the road works recommended by Burlington.

Hamilton and Burlington agreed at the June 11, 2010 meeting that further discussion is required with Enbridge regarding the easement along the west side of Kerns Road. These discussions have not taken place and staff are concerned that Hamilton staff is
proceeding with a report on September 7, 2010 prior to the Kerns Road easement, design, timing and funding issues being resolved.

**Waterdown South Urban Design Guidelines**

Staff found the Waterdown South Urban Design Guidelines to be comprehensive, well organized and very detailed. City staff supports the proposed design guidelines provided the policy amendments outlined above are adopted by Hamilton.

Design guidelines are intended to implement the Official Plan policies and zoning regulations for a specific area. Design guidelines are not considered to be ‘applicable law’. Therefore, it is imperative that the policy amendments recommended above are implemented to ensure that “character road” guidelines have a strong Official Plan basis.

**Waterdown South Traffic Study**

iTrans Consulting Ltd carried out the Traffic Study for the Waterdown South Secondary Plan, however, the report failed to recognize the City of Burlington’s concern with Kerns Road related to cut through traffic and Council’s resolution to close this roadway to southbound traffic, as indicated in Report E4-10. As a result, Burlington staff recommends that the traffic study submitted by iTrans, be revised and that the restriction of traffic in the southbound direction on Kerns Road as well as the implementation of turn restrictions from Collector Road ‘D’ and City Park be taken into account in the overall conclusions.

**Subwatershed Study**

North Aldershot is located at the westerly end of Burlington and situated directly south of the Waterdown South planning area. A significant amount of stormwater from Waterdown South flows into North Aldershot. North Aldershot experienced significant stormwater flows in recent years that resulted in damage to private and public lands.

The 2002 Memorandum and OPA 28 recognized the relationship between Waterdown South and North Aldershot and both documents require future development in Waterdown South to address stormwater impacts upon North Aldershot.

Technical research has been undertaken to understand the stormwater issues in Waterdown South, which includes environmentally sensitive areas and Karst topography.

Burlington staff has been a participant in the review of the subwatershed study. Burlington staff agrees the proposed stormwater pond at the south end of the study area appears to be acceptable and should resolve storm water problems coupled with the buffering proposed on the “character roads”. However, Burlington staff request written assurance the pond will be sized and designed to provide the level of stormwater
management outlined in the subwatershed study if the 30 metre buffer along north side of Mountain Brow Road is reduced.

Public Consultation
Burlington residents were provided with the opportunity to respond directly to the City of Hamilton through the various open house and public meetings hosted by Hamilton staff.

Other Resource Impacts
Staff will attend the Hamilton planning committee and council meetings to answer questions that may arise regarding Burlington Council's position.

Communication Matters:
Council will be apprised of Hamilton Council's recommendation on these matters.

Conclusion:

The following modifications to the Waterdown South Official Plan Amendment should satisfy Burlington's concerns and allow the City to support the proposed Official Plan Amendment to The Official Plan of The Town of Flamborough Planning Area for the Waterdown South Secondary Plan.

1. Two amendments to the draft Waterdown South Official Plan Amendment regarding open space buffers along the easterly section of Mountain Brow Road and the northerly section of the west side of K erns Road. These amendments would recognize these buffers in the proposed Official Plan Amendment and would be in keeping with the intent of the Ontario Cabinet's 2002 approval of the Memorandum of Understanding and Official Plan Amendment No. 28 to the Flamborough Official Plan.

2. That the Waterdown South Secondary Plan be revised to reflect Burlington's recommendations regarding K erns Road, specifically the widening and treatment of K erns Road and restricting southbound traffic from Collector Road D to K erns Road; and

3. Burlington be provided with written assurance that the stormwater management pond at the south end of the community abutting the east side of Arterial Road A will be sized and designed to provide the level of stormwater management outlined in the subwatershed study given Hamilton's proposal to reduce the 30 metre open space buffer along north side of Mountain Brow Road to approximately 3.5 metres.
Respectfully submitted,

Greg Simon  
Senior Planner  
Planning & Building Department  
905-335-7600 Ext. 7824

Vito Tolone  
Senior Transportation Planner  
Transportation Department  
905-335-7600 Ext. 7800

Appendices:  
A. Waterdown Urban Expansion Areas  
B. Waterdown Urban Expansion Area Developments  
C. Letter from Hamilton staff, dated Aug. 5, 2010

Notifications:  
(after Council decision)

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Appendix A - Waterdown Urban Expansion Areas

Waterdown North / Waterdown South / Upcountry
Sketch No. 1

Appendix B - Waterdown Developments - Location Sketch

SUBMITTED APPLICATIONS
APPROVED APPLICATIONS
REMAINING LANDS NOT UNDER APPLICATION

File No.: 160.19

DATE: August 17, 2010
Appendix C

Letter from Hamilton Staff, Dated Aug. 5, 2010
August 5, 2010

City of Burlington
426 Brant Street, P.O. Box 5013
Burlington, ON
L7R 3Z6
Attention: Greg Simon, Planner
Sent Via Email

Dear Greg:

Subject: Waterdown South Secondary Plan – City of Burlington comments

Further to your letter of July 19, 2010 regarding the final draft of the Waterdown South Secondary Plan, I offer the following response in the items you raised.

Timing

Thank you for your succinct summary of the Memorandum of Agreement. Based on discussions at our meeting on June 11, 2010, it was my understanding that Burlington City staff endorses the approach to the removal of the buffers from the Secondary Plan and that a favourable report would be prepared and presented to Burlington’s Community Development Committee (BCDC) on August 30, 2010. As you state in your letter, the BCDC is comprised of all members of Council. Since all members of Council would be present and likely the majority of the discussion would happen on August 30th, City of Hamilton staff would be able to advise on the BCDC position at our Economic Development and Planning Committee meeting on September 7th. If the BCDC does not support Burlington’s staff position, this information would be presented and would allow Hamilton Economic Development and Planning Committee to table the item, if they so choose, to provide opportunity for further discussion between the municipalities. Hamilton City Council would not make a decision on this item until its meeting on September 15, 2010.

Kemps Road Buffer, Widening and Character Road

Further to our meeting of June 11, 2010, it was Hamilton staff’s understanding that additional meetings would be organized by the City of Burlington to discuss Kemps Road widening following consultation with Enbridge. It does not appear that any Hamilton staff have been contacted regarding a meeting. Based on Hamilton staff comments at this meeting, Hamilton staff can see no foreseeable benefit to the City of Hamilton to widen Kemps Road. Additionally, staff has noted that the majority of the widening would be on private property (Church). It is staff’s understanding that this property is not intending to develop until municipal services are available. Therefore there is no
mechanism under which the City can acquire a road widening without resorting to expropriation.

Hamilton staff is also concerned with the Enbridge gas pipeline that runs within an 18 metre wide easement along the west side of Kerns Road. Further information is required from Enbridge to determine the exact location of the pipeline within the easement. Based on preliminary research, the easement/right-of-way was created in 1957 and there appear to be two active 20" gas pipes and one abandoned 30" pipe in that corridor based on the plan / profile drawings we were able to retrieve from Enbridge. The pipes are difficult to plot from the records but we have attempted to do so and they appear to be quite close the edge of Kerns Road (see attached drawing).

Going forward the idea of widening Kerns Road requires involvement with the adjacent landowner on the Hamilton side (PIN 17501-0132) Kerncliffe Heights Corp. as the land required to widen is in their ownership. If additional lands are required by Enbridge in order to maintain the current easement width, compensation should be provided to the land owner as it may impact the amount of developable lands.

To accurately determine what land is required an engineering grade topographic survey is required, with a hydro-vac type excavation of the existing pipes to locate them correctly. From that data a more comprehensive picture can be compiled. Hamilton has no data along that corridor beyond what we have available on our internal mapping files so we are unable to further comment on physical locations. If Burlington has such data available it may be worth reviewing and commenting upon, but is beyond the scope of my role (and City resources) to do field data acquisition at this time.

The principle proponent (Burlington) will have to enter into negotiations with both Enbridge and Kerncliffe holdings to facilitate this project. Since there is no clearly identifiable benefit to the City of Hamilton, it is staff’s opinion that the cost associated with surveying the pipeline (if this has not already been done), to purchase the lands, to move the pipe (if required) and compensating the land owners should all be paid for by the City of Burlington. The City of Hamilton will need to be involved and you can contact myself or Gord McGuire (or Dave Lamont in his absence) to review any incoming data.

In regards to the intersection configuration, if and when it happens, it is Community Planning staff’s recommendation that there be no turn restrictions into Waterdown South from Kerns Road. This was clearly stated in comments from Community Planning and Design addressed to Vito Tolone (City of Burlington, Engineering) on December 10, 2009. This memo has been attached for information.

Stormwater management

Stormwater management was reviewed and addressed as part of the South Waterdown Subwatershed Study. As discussed at our meeting on June 11, 2010, the stormwater management ponds will be appropriately sized to accommodate water from the site. The Character Road concept also promotes Low Impact Design techniques such as ditches and swales to aid in stormwater management.
iTrans Report

The iTrans report has been finalized and was based on current conditions. The recommendations contained in this report are independent recommendations from a professional traffic consultant. Since the report has been finalized, it will not be amended to reflect the Burlington's recommendation on Kems Road. Hamilton City staff has some concerns regarding this section of your letter as this information was not discussed at our meeting on June 11, 2010 and therefore staff is unaware of what further discussions are required.

Environmental matters

As you have indicated in your letter, there is one outstanding issue related to environmental matters. Hamilton City staff has met with the Ministry of Natural Resources to discuss the Jefferson Salamander habitat and has reviewed the draft mapping of salamander locations and buffer radii. Hamilton City staff is of the understanding that the habitat location and protection measures will not affect the timing or approval of the Secondary Plan. Matters related to the Jefferson Salamander will be dealt with at the development stage. Hamilton City staff has requested that MNR share the draft habitat mapping with Burlington for your information.

I believe this covers the items outlined in your letter. Staff would be pleased to meet with you to discuss any of this information further. Please advise if you wish to meet prior to August 13, 2010.

Sincerely,

Kirsten McCauley, MCIP, RPP
Planner, Community Planning and Design
City of Hamilton

Cc: Sent Via Email
David Cuming, Acting Manager - Community Planning and Design
Paul Mallard, Director - Planning Division
Jill Stephen, Director - Rapid Transit
Gord McGuire, Manager - Surveys/Technical Services
Paul Smithson, Manager - Policy Planning (City of Burlington)
Paul Lowes, Consultant - Sorensen Gravely Lowes Planning

Attachments — Sketch Illustrating Kems Road (Prepared by the City of Hamilton)
Property Identifier Information
Memo to City of Burlington RE: Kems Road EA
**PROPERTY DESCRIPTION:** PT LT 1, CON 3 EAST FLAMBOROUGH, AS IN CD122360, EXCEPT MISC PL 368 & AB037099; S/T HL5958 FLAMBOROUGH CITY OF HAMILTON

**PROPERTY REMARKS:**
- **EASEY/QUALIFIER:**
- **REAL ESTATE:**
- **REMOTELY:**
- **ST AND CONVERSION QUALIFIED**
- **OWNERS' NAMES:**
- **CROWN CLIFFE REIGNTS NON-PROFIT DEVELOPMENT CORPORATION**
- **PARTIES FROM**
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Memorandum

To: Vito Tolone, Project Manager  
City of Burlington

From: Kirsten McCauley, Planner  
Community Planning and Design

Phone: 905-546-2424 Ext 1292  
Kirsten.mccauley@hamilton.ca

Date: December 10, 2009

Subject: Request for Comments – Kems Road EA  
(Public Information Centre Presentation Circulated in March, 2009 for  
staff comment)

Community Planning staff has serious concerns with several of the recommendations of the Kems Road EA in light of the ongoing Waterdown South Secondary Plan study which is bordered by Kems Road. Kems Road is a boundary road between the City of Hamilton and the City of Burlington and Community Planning staff oppose any recommendation to restrict a road connection to Kems Road from the Waterdown South community. This connection is important to complete the east-west Collector Road spine within the Secondary Plan area. Staff may consider removing the Collector Road status; however, would still require a local road connection to Kems Road to provide more flexibility and an alternative access option to the medium density special policy area that is proposed for a retirement community.

The elimination of a full escarpment crossing is also of concern. It appears that the proposed recommendations/justification does not reflect the overall public interest. Based on the reasons for not selecting the full closure, the major issues identified in the EA study are related to enforcement and could be addressed through traffic calming measures such as raised intersections, speed humps or bump-outs.

Staff would prefer full turning movements from Kems Road into the Waterdown South community; however, staff is willing to accept an intersection design which directs traffic from Waterdown South north to Kems Road provided there is a signalized intersection at Dundas Road and Kems Road. Further to your request for comments on the proposed intersection design provided to staff on November 26, 2009, staff questions the need to restrict access to Waterdown South if the south bound lane of Kems Road is closed.
Community Planning staff also advise that the following comments were sent to Greg Simon and Ingrid Vanderbrug, as well as Nancy Mott-Allen at the Niagara Escarpment Commission, regarding the Burlington City Park Master Plan:

"(Community Planning staff) have no objections to the City Park Management Plan. I do note that the traffic analysis section of the report does not appear to be consistent with the recommendations of the Kerns Road EA (also being done by the City of Burlington). The City Park Management Plan recommends monitoring of the intersection of Kerns Road and Dundas Street for future consideration of a traffic signal which I don't believe is recommended in the EA. It also does not mention the south bound closure but rather a widening to allow for greater turning movement.

My main concern with the City Park is the interaction of the City Park and the Waterdown South Secondary Plan area on the lands west of Kerns Road. As long as Hamilton is kept in the loop with the ongoing design of the park so that we can ensure that roads align with Waterdown South, I have no objections to the project from a Community Planning perspective."

Community Planning staff appreciates the opportunity to comment on this EA and would like to be kept informed of your Council's decision.