SUBJECT: Applications for Approval of an Official Plan Amendment and Change in Zoning for Lands Located at 1031 Highway 52 North, Copetown (Ancaster) (PED08193) (Ward 14)

RECOMMENDATION:

That Official Plan Amendment Application OPA-07-019, Copetown Lions Development Association, Owner, to exempt the subject lands from various Policies of the Ancaster Official Plan, and Zoning Application ZAC-07-076, Copetown Lions Development Association, Owner, to change the zoning from the Agricultural “A” Zone to the Residential Multiple “RM3” Zone, Modified, to permit the development of the subject lands for 42 Multiple Residential units on communal services, for lands located at 1031 Highway 52 N, Copetown, as shown on Appendix “A” to Report PED08193, be denied on the following basis:

(a) That the principle of development has yet to be established through submission of the necessary supporting technical information. The proposal for any form of residential development is, therefore, premature based on insufficient technical and environmental studies required to justify the proposal with respect to servicing and protection of natural heritage features, as deemed necessary in the Provincial Policy Statement, Hamilton-Wentworth Official Plan and Ancaster Official Plan.

(b) That the type and form of development proposed does not conform and is inconsistent with the intent of the Ancaster Official Plan.

(c) That the type and form of development proposed does not conform and is inconsistent with the intent of the Rural Hamilton Official Plan.

(d) That the type and form of development proposed is contrary to the Water and Wastewater Management Master Plan.
(e) That the type and form of development proposed is incompatible with existing and planned uses in the immediate area.

(f) That the proposal does not represent good land use planning.

Tim McCabe
General Manager
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of the application is for an Official Plan Amendment and a change in zoning to permit the development of the subject lands for 42 Multiple Residential units on communal services. The principle of development cannot be supported as the required technical and environmental studies necessary to support the application are insufficient. Furthermore, the proposal is contrary to Council Direction and Corporate Policy, which state that communal services are not permitted as a servicing form.

**BACKGROUND:**

**Proposal**

The subject lands represent a 2.3 hectare parcel of land, with frontage of approximately 86 metres on Highway 52 North in the rural settlement area of Copetown. Surrounding land uses include predominately single family residential units situated along Old Governors Road and Highway 52 North. To the east of the subject lands are the baseball diamonds and recreation area of the Copetown Lions Club; and to the south is a woodlot area which has been identified as an Environmentally Significant Area (ESA) in the Hamilton-Wentworth Official Plan.

The purpose of the applications is for an Official Plan Amendment and change in zoning to permit the development of the lands located at 1031 Highway 52 North, Copetown, for 42 Multiple Residential units on communal services (Appendix “A”). The proposed form and arrangement of the townhouses (Appendix “B”), would create eight blocks, each accessed by a private road from Highway 52. A number of different unit types are presented, including both one and two-storey units, some with walkout basements. The site would be serviced by way of on site wells and a private sewage collection and disposal system that will be maintained as a private system.

The proposal is intended to represent an opportunity for seniors to purchase units in the rural area on a life lease system. It is suggested that the form and tenure of the units would be affordable and suit the needs of the aging population currently residing within the rural area.
The proposed development would be assessed against the Residential Multiple “RM3” Zone standards of the Ancaster Zoning By-law. The concept plan illustrates that the proposal would conform to the general built form requirements of the proposed zoning; including the lot frontage, density and height, as required by the regulations of the By-law. The proposed zoning may require some modifications to the Residential Multiple “RM3” Zone in order to implement the proposed concept; however, insufficient information was contained in the concept plan to permit an in-depth review.

**Owner/Applicant:** Copetown Lions Development Association

**Agent:** Fothergill Planning and Development Inc.

**Location:** 1031 Highway 52 North, Copetown (Ancaster)

**Description:**
- **Frontage:** 86 metres
- **Depth:** 156 metres
- **Area:** 2.3 Ha

**Details of Submitted Application**

**EXISTING LAND USE AND ZONING:**

<table>
<thead>
<tr>
<th><strong>Existing Land Use</strong></th>
<th><strong>Existing Zoning</strong></th>
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<tbody>
<tr>
<td>Subject Lands</td>
<td>Vacant</td>
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<tr>
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<td>Agricultural “A” Zone</td>
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**Surrounding Lands**

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<th><strong>Existing Land Use</strong></th>
<th><strong>Existing Zoning</strong></th>
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<tbody>
<tr>
<td>North</td>
<td>Single Detached Dwellings and Retail</td>
<td>Residential “R4” Zone, Hamlet Commercial “HC” Zone and Residential Hamlet “RH” Zone</td>
</tr>
<tr>
<td>South</td>
<td>Single Detached Dwellings and Woodlot</td>
<td>Residential Hamlet “RH” Zone and Agricultural “A” Zone</td>
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<tr>
<td>East</td>
<td>Open Space/Baseball Diamond/Community Club</td>
<td>Public Open Space “O2” Zone</td>
</tr>
<tr>
<td>West</td>
<td>Single Detached Dwellings and Trailer Park</td>
<td>Residential Hamlet “RH” Zone and Public Open Space “O1” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposal cannot be supported for the following reasons:

   i) The principle of development, through insufficient technical information, fails to demonstrate conformity with the Provincial Policy Statement, the Hamilton-Wentworth Official Plan, and the Ancaster Official Plan.

   ii) The type and form of development proposed does not conform, and is inconsistent with the intent of the Rural Hamilton Official Plan.

   iii) The type and form of development proposed is contrary to the Water and Waste Water Management Master Plan.

   iv) The type and form of development proposed is incompatible with existing and planned uses in the immediate area.

   v) The proposal does not represent good land use planning.

2. The purpose of the application is for a change in zoning to permit the development of the lands located at 1031 Highway 52 North, Copetown, for 42 Multiple Residential units on communal services (Appendix “A”). The proposed form and arrangement of the townhouses (Appendix “B”), would create eight blocks, each accessed by a private road from Highway 52.

   A number of different unit types are presented, including both one and two-storey units, some with walkout basements. A number of modifications to the proposed Residential Multiple “RM3” Zone may be required in order to implement the proposed concept; however, insufficient information was contained in the concept plan to permit an in-depth review. The site is surrounded by predominately single detached residential dwellings situated on large lots, in addition to a small number of commercial and recreational uses. With respect to the scale, density and character of the proposal, this will be discussed in detail in the Density and Streetscape Character section of the report (Page 11).

3. Site Servicing

   The site would be serviced by way of on site wells and a private sewage collection and disposal system that will be maintained as a private system (i.e. a communal system). The applicant submitted a Hydrogeological Study undertaken by Terraprobe in support of the water supply availability. In addition, a preliminary servicing report for water and waste distribution and treatment by Stevenson Engineering has been submitted.

   With regard to applicable policies, it should be noted that the Provincial Policy Statement (PPS) Policy 1.6.4.2 states that municipal sewage services and municipal water services are the preferred form of servicing for settlement areas.
This presumption is further reiterated in the policy direction of the Growth Plan for the Greater Golden Horseshoe. While focused on urban areas, the Plan does contain reference to the Rural Area and, in particular, Rural Settlement Areas, with Policy 2.2.2 (j), which seeks to limit growth in settlement areas that are not served by municipal water and wastewater systems.

Notwithstanding this, the PPS does make provision for private communal services under Policy 1.6.4.3, provided they conform with Policy 1.6.4.1., which identifies the general parameters for communal systems, which includes:

\[ b) \text{ Ensure that these systems are provided in a manner that:} \]

1. \text{Can be sustained by the water resources upon which services rely.}
2. \text{Is financially viable and complies with all regulatory requirements.}
3. \text{Protects human health and the natural environment.}
4. \text{Promotes water conservation and water use efficiency.}
5. \text{ Integrates servicing and land use considerations at all stages of the planning process.}

In order for the municipality to assess the servicing proposal against these policies and those within the Ancaster Official Plan, staff has requested that the hydrogeological study be peer reviewed, and that the costs of the review be borne by the applicant. To date, the applicant has yet to provide the City with the necessary fees to proceed with this review and, as such, conclusions drawn from the report cannot be substantiated, nor conformity with the PPS be established.

The report has, however, been reviewed through the consultation process by the Ministry of Environment. The Ministry concludes that the report is preliminary, and that further work needs to be completed in order to determine if the site is capable of meeting the water supply needs for this development. Under these circumstances, staff maintains concerns over the ability of the site to provide adequate water and services to accommodate the proposal, and deem the principle of development premature until this issue can be resolved.

Notwithstanding the lack of substantiated technical information, it must be noted that it is Council Direction and Corporate Policy that communal servicing not be permitted as a form of servicing in the rural area. While the PPS maintains the opportunity for Municipalities to entertain the possibility of using Communal Services, it is clear that municipal services are the preferred option and that the decision to use communal services, where they are demonstrated to be in conformity with the aforementioned policies, are at the discretion of the Municipality, as per Policy 1.6.4.3 of the PPS, which states:
1.6.4.3 Municipalities may choose to use private communal sewage services and private communal water services…

Policies contained within both the existing Ancaster Official Plan and the new Hamilton Rural Plan clearly indicate that the City, over environmental and health concerns, have opted against adopting communal services as a viable and sustainable form of servicing in the rural area. Policy 3.3.8. states:

3.3.8 All development in the Rural Area shall have adequate and efficient systems of water, sanitary sewage disposal and storm drainage, and must be on the basis of private individual systems to avoid environmental problems that could result from development in these areas.

In particular, reference to the settlement of Copetown, the Copetown Secondary Plan details that:

6.3.13 (a) There is no intention on the part of the Region of Hamilton-Wentworth to extend municipal services to Copetown. Services shall consist of individual septic sewage systems and wells.

The continued commitment made by the municipality to choose against communal services is reflected in the new City of Hamilton Rural Official Plan, passed and enacted by Council on September 27, 2006, and currently awaiting Ministerial approval. Section C 5.2, Communal Water and Wastewater Systems, details, in particular, that such servicing forms should be restricted over concerns for public health, stating that:

C.5.2 The Province requires municipalities to prohibit lake-based municipal services to all rural areas except in response to public health emergencies…. Many existing communal systems operate in conjunction with privately maintained sewage disposal systems resulting in partly serviced rural development. Partly serviced rural development is subject to a higher risk of failure and the potential for future health emergencies. Therefore, it is the objective of this Plan to restrict both the creation and expansion of communally serviced or partially serviced rural development.

Consequently, Section C 5.2.1 of the City's Rural Official Plan states:

C.5.2.1 The creation of new communal water or wastewater treatment systems is prohibited.

These Council endorsed policy directions are also reflected in the City of Hamilton Water and Wastewater Master Plan Policy Paper and Master Plan, adopted by the Public Works Department and City Council in April 2005 and
August 2006, respectively, and updated in February 2007. The Plan identified general policies pertaining to both water and wastewater servicing, which included:

- Harmonizing planning and servicing policies such that planning decisions are made recognizing the infrastructure impacts.
- Growth areas with full municipal servicing given priority.
- Partial servicing no longer permitted.
- Maximize the use of existing capacity.

The above policies and corporate directions, endorsed by the City, clearly illustrate the intention of the City of Hamilton to resist communal systems based on the need to ensure the protection of water sources, the environment, public health and sustainable development. In addition to this, it should also be noted that there are significant potential liability issues created through approving communal services.

The issue of liability is significant because the Ministry of Environment (MOE), prior to approving any application for Provincial Certificates of Approval for such communal systems, now requires the municipality under Sections 52 and 53 of the Ontario Water Resources Act, to enter into a default agreement. The City would consequently be responsible for assuming control of the private communal system should it at any point in history default and/or fail. Not only would taking control of the system place unnecessary strain on the City’s resources, but given MOE standards for municipal systems being higher than those for private systems, the City would be required to ‘upgrade’ the system to the new requirements, placing a considerable logistical and financial burden upon the City.

It should be noted to this effect, that the City owns and operates four communal water systems, three of which have been assumed through development operator default. Currently, allocation of responsibility by the Province for a fifth system is being contested by the City. Under the Safe Drinking Water Act (SDWA), once the transition to municipal operation is made, there is a higher level of regulatory accountancy leading to requirements for substantial investments in infrastructure and operation, which are often not easily recoverable through standard rate structures.

In acknowledging the significant risk of this new liability, the new Rural Official Plan subsequently states the following:

5.2.3 The City will not consider nor accept to becoming a party to a ‘default responsibility agreement’ for any private communal water supply or sewage treatment system as may be required pursuant to Ministry of the
Given the risk involved, both from a public health and liability standpoint, staff from the City’s Planning Department and Water and Wastewater Division of the Public Works Department do not support the provision of communal services as a viable servicing form.

4. **Environmental Impacts**

The subject lands are traversed by Environmentally Significant Area (ESA) #37 (Copetown Ballpark Woodlot). In addition, portions within the site may contain wetland features and, as a result, provide an important hydrological and ecological function in its own right.

Consequently, as part of the application review, the Grand River Conservation Authority (GRCA) was circulated the application and asked to comment on the proposal. The GRCA confirmed that according to information currently available, portions of a wetland feature are located on the subject site. In addition, small wetlands have also been identified within the Copetown Ball Park Woodlot, an Environmentally Significant Area (ESA), which is located adjacent to the site. As a result of the wetland features, portions of the subject property are regulated under the GRCA's *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* (Ontario Regulation 150/06), which prohibits development in or on the following areas:

a) *Wetlands; or,*

b) *Other areas where development could interfere with the hydrologic function of a wetland, including areas within 120 metres of all provincially significant wetlands and wetlands greater than or equal to 2.0 hectares in size, and areas within 30 metres of wetlands less than 2.0 hectares in size, but not including those where development has been approved pursuant to an application made under the Planning Act or other public planning or regulatory process;*

    *And prohibits alteration to:*

    c) *Straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse or change or interfere in any way with a wetland prior to receiving written consent of the Grand River Conservation Authority.*

Given the significant environmental features contained within and adjacent the subject lands, the proposal will require further study including an Environmental Impact Statement (EIS) prior to a permit from the Conservation Authority being issued. The GRCA, therefore, concludes that in the absence of an
Environmental Impact Study (EIS) they would request deferral of the Official Plan and Zoning By-law Amendment applications.

This position is supported through policies in the PPS, Regional and Local Official Plans. In particular, Policy 2.1.6 of the PPS outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. Similarly, the Hamilton-Wentworth Official Plan in Policy C.1.2.2 states that land use changes in or adjacent to Environmentally Sensitive Areas (ESA’s) will only be permitted where such development:

i) Will not adversely affect, degrade or destroy any of the qualities which are the basis for the area’s designation;

ii) Will not cause any significant impacts upon water quality and quantity; and,

iii) Will not adversely affect the implementation of any resource protection policies or plans.

To date, no EIS study has been submitted and, as such, staff is unable to assess whether the proposal could be developed in accordance with the above policies.

5. **Intensification**

As detailed in the Planning Justification report submitted in support of the application by Fothergill Planning and Development Inc., the PPS encourages the efficient use of land and development patterns by promoting intensification in built up areas. In addition, Policy 1.1.1 of the PPS makes specific reference to:

b) Accommodating an appropriate range and mix of residential….development

A policy direction further substantiated in Policy 1.4.3., which states:

**Policy 1.4.3** Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market by:

a) Establishing and implementing minimum targets for the provision of housing which is affordable to low and moderate income households…

b) Permitting and facilitating:
all forms of housing to meet the social, health and well-being requirements of current and future residents, including special needs requirements…

As detailed previously, the application proposes affordable units at a type and density not currently offered within in the Copetown Settlement Area, and that these units would be marketed towards senior citizens. Subsequently, the planning justification report argues that in light of these policies, the application, achieves and conforms with the intent of the PPS.

However, it is staff’s opinion that these policies cannot be considered in isolation and do not provide justification in themselves. Careful consideration is required with respect to conformity with the Policy document as a whole, as well as other related Policy documents, including but not limited to the Growth Plan. Consequently, staff considers the potential conflict with PPS Policy 1.1.3.2, which emphasises the need for development and intensification to be appropriate and efficient with respect to the services and infrastructure presently available, as it states:

Policy 1.1.3.2  a) Densities and a mix of land uses which:

1. Efficiently use land and resources.

2. Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.

b) A range of uses and opportunities for intensification and redevelopment in accordance with the criteria in Policy 1.1.3.3, which states:

Policy 1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment where this can be accommodated, taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

The question of whether the settlement of Copetown has the infrastructure and public service facilities suitable for the proposed development must, therefore, be addressed. With specific reference to this application, it should also be noted that as the development is directed towards seniors, the availability of services, particularly transit and medical services, becomes increasingly more important. Copetown currently is a rural hamlet with limited commercial and institutional services within the settlement boundaries. Much of the area does not benefit from sidewalks, and currently no form of public transit services the area. The
Ancaster Official Plan in Policy 3.1.2 identified that this limitation for growth was a function of Rural Settlement Areas and, therefore, directed growth through intensification to the Urban Area, which was considered more appropriate, stating:

3.1.2 The framework for future development shall entail the establishment of two different types of growth areas: the Urban Area which shall absorb the predominant growth in the Town; and secondly, the Rural Settlement Areas, which shall experience only minor growth

The limited provision of services and infrastructure was also a situation recognized specifically within the policies for the Copetown Secondary Plan. In addition to noting that municipal services were not to be extended to service the area (Policy 6.3.13 a)), Policy 6.3.13 e) of the Ancaster Official Plan also identified that transit likewise, was not to be offered to the residents of Copetown:

Policy 6.3.13 e) There is no intention on the part of the Region of Hamilton-Wentworth to extend the boundaries of the urban transit service area to include Copetown.

The unavailability of transit in this rural area, based on the low-density rural landuses currently in operation, and the presumption that appropriate intensification should be directed to the Urban areas, subsequently result in the proposal being in conflict with the Growth Plan with respect to those policies that manage growth; in particular Policy 2.2.2 1. c), which seeks to:

Policy 2.2.2 1. c) build compact, transit supportable communities in designated Greenfield areas.

Furthermore, the policies of the PPS indicate that land use patterns within settlement areas shall be based on densities and a mix of land uses. However, it is important to note that the definition of settlement areas includes urban areas as well as rural settlement areas. The smaller areas, populations and limited mix of uses in the existing Rural Settlement Areas, combined with their near urban location, make them inappropriate for increased densities, particularly when coupled with the servicing issues identified above. The proposed density can be more appropriately accommodated in the Urban Area where the City provides for a mix of land uses, and densities that can be appropriately serviced by full municipal water and wastewater services.

6. Density and Streetscape Character

With respect to the proposed density of the residential project, and its subsequent impact upon the character of the area, staff notes that the area is predominately characterized by large single family dwellings located on large lots generally in excess of 0.4 Hectare (1 acre) (2.5 units/ha). Policy 3.1.10 of the Ancaster Official Plan requires new development in Rural Settlement Areas to be
compatible with existing development. Furthermore, the Secondary Plan in implementing this intent states:

6.3.9 (a) The lands designated ‘Hamlet Residential’ on Map 1 shall be for residential use in the form of single detached dwellings.

The character of the area with respect to density, and the provisions to maintain this as per the above policy, are a direct result of these dwellings requiring sufficient space to accommodate private individual services. Consequently, through proposing communal systems, the application would be able to accommodate a density of approximately 17.72 unit/ha, which would represent a significant change from the existing lotting fabric and character of the area not anticipated in the Secondary Plan.

Staff considers that although concerns over character remain, the application is for a comprehensive form of redevelopment and any potential negative impacts could possibly be addressed and mitigated through the amending By-law. The proposal would also be subject to site plan approval and, as such, an additional opportunity for detailed review and assessment would be available.

However, notwithstanding these provisions, the actual impact of the application with regard to character remains difficult to pre-judge given the absence of an EIS and subsequent development envelope. The application has, therefore, failed to demonstrate that the increase in density and land use mix is sustainable and appropriate; and, given the provision of the necessary services within the urban areas within close proximity to the subject lands, staff considers that any extension into the Rural Settlement Areas is unwarranted, inappropriate, and would create an unsuitable precedent.

7. With respect to archaeological potential of the subject lands, staff notes that the subject property is within 300 metres of water/prehistoric water course; is on well-drained, sandy soil within a clay/stone matrix, is within 100 metres of a historic transportation corridor, and that there is documentary evidence that associates the property with historic occupations (historical mapping shows a school within 100 metres of the subject property).

In these circumstances, where there is a potential for archaeological resources to be located on site, it is the City’s practice to place the subject lands in a ‘H’ Holding zone, thereby prohibiting the development of the subject properties until such time that the owner/applicant conducts an archaeological assessment of the subject properties and mitigates, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Using this option, no demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject properties prior to the approval of the Director of Planning and the Ministry of Culture confirming that all archaeological resource concerns have met licensing and resource conservation requirements.
8. In accordance with Council’s Public Participation Policy, a preliminary notice of these applications was sent to 44 property owners within 120 metres of the subject lands. Two responses were received from the preliminary notice of circulation letter, and an additional 69 responses were received from residents outside of the 120m circulation area (Appendix “C”). Sixty-three letters (1 from within the 120m circulation area) were in support of the proposal, stating that the opportunity to retire in the rural area was a positive step for the current residents within the area who did not wish to move to an urban area upon retirement. Eight letters (1 from within the 120m circulation area) were received raising concerns with the proposal. The concerns raised ranged from issues with the servicing capacity and potential for contamination in the area, increased traffic, environmental impacts, lack of services and unsuitable precedent. These concerns have been addressed within the main body of the report.

9. Traffic/Safety Issues

The Traffic Engineering and Operations Section has provided comments regarding this application, and raise no objections to the zoning application. It is noted that conditions related to sight lines, access permits and signage, would be requested and addressed at the site plan stage.

10. In conclusion, as established in the site servicing section, the question of capacity has yet to be verified, and furthermore, the issue of environment, public safety and liability remains of significant concern. Notwithstanding these technical issues, staff maintains concern regarding the ability of the proposal to represent efficient use of the existing services, and questions remain over the ability and capacity of the area to sustain the development in light of the availability of existing infrastructure and services. The proposal would place undue pressure on the settlement to extend services out to this rural area which have not been identified in either the existing or new Official Plan polices. Consequently, staff concludes that the proposal fails to represent good planning.

Finally, in response to the assertion that housing for seniors represents conformity with the need to provide diverse housing opportunities for different residents, it must be noted that the abilities under the Planning Act would not extend to permitting staff to make provision in the adopted By-law limiting the units to use by seniors. Consequently, staff must view the development with the understanding that the units would be available for general residential occupation regardless of the intended use.

**ALTERNATIVES FOR CONSIDERATION:**

If this application is denied, the applicant can use the subject property for the range of uses that are currently permitted under the existing Agricultural “A” Zone.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: N/A.

Staffing: N/A.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider applications for an Official Plan Amendment and a change in Zoning.

POLICIES AFFECTING PROPOSAL:

Greenbelt Plan

The subject lands are designated as “Copetown” Rural Settlement Area, within the Former Town of Ancaster Official Plan. Policy 3.4.2.1 states that Towns/Villages, as identified in municipal Official Plans and within their approved boundaries as they existed on the date this Plan came into effect, continue to be governed by municipal Official Plans and related programs or initiatives and are not subject to the policies of this Plan, save for external connection policies of Section 3.2.5. The proposal is, therefore, consistent with the policies of the Greenbelt Plan.

Provincial Growth Plan for the Greater Golden Horseshoe

The application has been reviewed with respect to the Provincial Growth Plan for the Greater Golden Horseshoe (Places to Grow). Staff does not consider the application to be consistent with the policies that manage growth and direct general residential intensification to the built up areas, as per the Policies contained in 2.2.2 and 2.2.3.

The intent to focus growth in urban areas and to direct residential intensification to areas with a public benefit was determined in the Growth Related Integrated Development Strategy (GRIDS). GRIDS uses the model of sustainability to draw together land use planning and infrastructure investment planning (water, wastewater, stormwater and transportation) within a framework that considers social/cultural, environmental and economic implications of growth and development decisions.

In particular, while Hamilton has yet to incorporate Intensification Areas into the Official Plan, it is clear that the subject lands, which are rural and are not serviced by transit or municipal servicing, do not represent areas appropriate for intensification.

Provincial Policy Statement

The application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is consistent with the policies that focus growth in settlement areas 1.1.3.1.
However, Policy 1.6.4.2 states that Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. In addition, Policy 1.6.4.3 states that municipalities may choose to use private communal sewage services and private water services, and where Policy 1.6.4.4 permits, individual on-site sewage services and individual on-site water services, where:

a) Municipal sewage services and municipal water services are not provided; and,

b) The municipality has established policies to ensure that that the services to be provided satisfy the criteria set out in Policy 1.6.4.1.

Staff notes that the owner/applicant has submitted a hydro-geological investigation (Terraprobe, August 2, 2006) in support of the proposed communal services. This study is required to undergo a peer review, with any associated costs to be borne by the owner/applicant. Until such time as the submitted study has been peer reviewed and accepted by the City, the proposal is premature, as the study is required for the satisfaction of the requirements of the Provincial Policy Statement policies.

However, it should be noted that it is Council Direction and Corporate Policy that Communal Services are not permitted as a servicing form. As such, the Municipality has chosen not to use Communal Services, as per Policy 1.6.4.3 of the Provincial Policy Statement.

Furthermore, Policy 2.1.6 outlines that development shall not be permitted on adjacent lands to the natural heritage feature identified (i.e. significant wetlands) unless the ecological function of the adjacent lands has been evaluated, and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions. The subject lands are traversed by ESA #37 (Copetown Ballpark Woodlot) and, as a result, staff requires that an Environmental Impact Statement (EIS) be prepared and reviewed/endorsed by ESAIG, to address this concern.

Lastly, 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. Due to the proximity of the subject lands to Highway 52 North; Governors Road and the Canadian National Railway Corridor, staff requests a noise assessment be conducted to demonstrate that any adverse impacts that would be created following the location of the residential development adjacent to these landuses, would be adequately mitigated.

Hamilton-Wentworth Official Plan:

The subject property is designated as a “Rural Settlement Area - Copetown” within the Hamilton-Wentworth Official Plan. Policy 3.2.1.6 states that residential development within Rural Settlement Areas may occur by means of Plans of Subdivision, land lease
or plans of condominium. Limited development by severance may be permitted if in conformity with the secondary plan, and if located in a manner that will not interfere with future development.

As mentioned above, the use of Communal Services has been removed, as per Council Direction and Corporate Policy, as set out within the Rural Hamilton Official Plan, City of Hamilton Water and Wastewater Master Plan, and City of Hamilton Water and Wastewater Master Plan Policy Paper.

Therefore, the proposed Official Plan Amendment and Re-zoning application are contradictory to the policies of the Hamilton-Wentworth Official Plan. In addition, Policy C-1.2.2 of the Plan states that lands use changes, in or adjacent to Environmentally Significant Areas, will only be permitted where such development:

i) Will not adversely affect, degrade or destroy any of the qualities which are the basis for the area’s designation;

ii) Will not cause any significant impacts upon water quality and quantity; and,

iii) Will not adversely affect the implementation of any resource protection policies or plans.

Rural Hamilton Official Plan

The subject property is designated Agricultural on Schedule “A” Land Use - Rural Area of the Ancaster Official Plan, and is designated as Hamlet Residential in the Copetown Rural Settlement Area.

The adopted Rural Hamilton Official Plan (Ministerial approval pending) designates the subject property “Rural Settlement Area”. Section 5.2.1, Chapter C of this Plan, prohibits the creation of any new communal water or wastewater treatment systems. Further, Section 5.2.3 states that the City will not become party to a Default Responsibility Agreement or any private communal water supply or sewage treatment system, and further residential development in the Rural Settlement Area is limited to single detached dwellings. Staff, therefore, does not support this application as there can be no consideration of communal systems or multiple forms of residential development in the Rural Area according to the policies of the new Rural Official Plan.

The Provincial Policy Statement (PPS) permits municipalities to consider the use of communal services, however, through the development of the Water/Waste Water Master Plan (February 2007), and implemented through the development of the Rural Official Plan, the City has determined that this form of servicing is not sustainable or appropriate. Therefore, these systems are not permitted.

In addition, the Rural Hamilton Official Plan identifies in Policy 2.4.2 that new development adjacent (within 120 metres) to a key natural heritage feature requires an Environmental Impact Statement, which demonstrates conformity with the
environmental protection policies identified in Chapter C. To date, the proponent has not submitted any technical information or EIS in support of the proposal.

**Town of Ancaster Official Plan**

The subject lands are designated “Rural Settlement Area” in the City of Ancaster Official Plan Schedule “A” and “Hamlet Residential” in the Copetown Rural Settlement Area Secondary Plan; the following policies are applicable to the proposed redevelopment of the subject lands.

3.1.2 The framework for future development shall entail the establishment of two different types of growth areas: the Urban Area, which shall absorb the predominant growth in the Town; and secondly, the Rural Settlement Areas, which shall experience only minor growth...

3.3.8 All development in the Rural Area shall have adequate and efficient systems of water, sanitary sewage disposal and storm drainage and must be on the basis of private individual systems to avoid environmental problems that could result from development in these areas.

3.1.10 New development in the Rural Settlement Area shall be of a nature compatible with the existing development.

5.8.1 The Rural Settlement Areas shown on Schedule A are those areas where a variety of land uses and development have clustered together on a small scale outside the designated Urban Area, and where it is considered appropriate that further development, predominately residential, on a limited basis can be accommodated in the time span of this Plan. In this regard, Secondary Plans shall be prepared to establish the type of development, its geographical limits, the total amount of growth, as well as the size and location of lots to be created...Future development in these areas shall conform to the Secondary Plan.

5.8.2 Within these Rural Settlement Areas, new development shall be compatible with the existing built environment...

5.8.4 The predominant use of land in the Rural Settlement Areas shall be for single-family detached residential development...

As detailed within the Analysis/Rationale section of this report, the application fails to maintain the intent and planned vision for development within the area, as prescribed in the above policies.

**Copetown Rural Settlement Area Secondary Plan**

6.3.9 (a) The lands designated ‘Hamlet Residential’ on Map 1 shall be for residential use in the form of single detached dwellings.
6.3.13 (a) **There is no intention on the part of the Region of Hamilton-Wentworth to extend municipal services to Copetown. Services shall consist of individual septic sewage systems and wells.**

(e) **There is no intention on the part of the Region of Hamilton-Wentworth to extend the boundaries of the urban transit service area to include Copetown.**

The form, type and intensity of development proposed does not comply with the specific policies identified in the Secondary Plan for the “Copetown Rural Settlement Area”, as detailed above.

**RELEVANT CONSULTATION:**

**Agencies/Departments Having No Comment or Objections**

- Traffic Engineering and Operations Section, Public Works Department.
- Community Services Department, Recreation Division.
- Hamilton Municipal Parking System.
- Open Space Development and Park Planning Section, Capital Planning and Implementation Division.
- Bell Canada.
- Niagara Escarpment Commission.

**Water and Wastewater Division, Public Works Department** has reviewed this proposal and states the following:

With respect to the establishment and provision of servicing to support the development, the City of Hamilton Rural Official Plan, passed and enacted by Council on September 27, 2006, Section C5.2, Communal Water and Wastewater Systems, applies. In particular, Section C5.2.1 of the City’s Rural Official Plan applies. Also refer to Section 5.2.3 of the City’s Rural Official Plan.

In view of the above Official Plan policies, and in consideration that any application for Provincial Certificates of Approval for such communal systems under Sections 52 and 53 of the Ontario Water Resources Act would require Application of Municipal Responsibility (Procedure D-5-2), the Water and Wastewater Division of Public Works could not support this proposal for development of new communal services in its current form.

**Grand River Conservation Authority** has reviewed this proposal and states the following:

Information currently available at this office indicates that portions of a wetland feature are located on the subject site. Small wetlands have also been identified within the Copetown Ball Park Woodlot, an Environmentally Significant Area (ESA), which is located adjacent to the site. As a result of the wetland features, portions of the subject...
property are regulated under the GRCA’s *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* (Ontario Regulation 150/06).

The Grand River Conservation Authority’s *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*, prohibits development in or on the following areas:

a) Wetlands; or,

b) Other areas where development could interfere with the hydrologic function of a wetland, including areas within 120 metres of all provincially significant wetlands and wetlands greater than or equal to 2.0 hectares in size, and areas within 30 metres of wetlands less than 2.0 hectares in size, but not including those where development has been approved pursuant to an application made under the *Planning Act* or other public planning or regulatory process;

And prohibits alteration to:

c) Straighten, change, divert or interfere in any way with the existing channel of a river, creek, stream or watercourse, or change or interfere in any way with a wetland prior to receiving written consent of the Grand River Conservation Authority.

Therefore, development on the subject property will require a permit from the Conservation Authority.

In the absence of an Environmental Impact Study (EIS), the GRCA requests deferral of Official Plan and Zoning By-law Amendment applications. The GRCA recommends the future submission clearly demonstrate the portion of the property proposed for Residential Multiple (RM3) and the portion of the property that will be maintained as Open Space (OS). Setbacks are required from the wetland and ESA features, which should be identified in the EIS and demonstrated on the proposed site plan.

The GRCA did review the studies submitted and requests the following be addressed in future submissions:

- Groundwater flow direction/discharge/recharge areas need to be addressed in the hydrogeological investigation.

- The high water table elevations need to be identified.

- The GRCA would like confirmation that the basement elevations are located above the highwater table and pond elevations.

- The GRCA recommends the City obtain confirmation that the proposed stormwater outlet constitutes legal outlet.
Public Health Services, Health Protection Division, has reviewed the proposal and states:

- Sewage Disposal system servicing the 42 Multiple Residential Units must be approved by the Ministry of Environment (MOE), as it will generate greater than 10,000 L/D.

- The City of Hamilton must make a decision to either accept or decline the responsibility of the communal sewage system in the event that the operator of the system fails to meet the operational requirements.

- The residential development will have greater that 6 residential units; therefore, the proposed communal water supply must comply with the Safe Water Act (SWA) and regulations thereunder.

- The City of Hamilton must make a decision to either accept or decline the responsibility of the communal water supply in the event that the operator of the supply fails to meet the operational requirements.

Forestry Section, Operations and Maintenance Division, Public Works Department, has reviewed this proposal and has the following comments:

An assessment of the submission, which would permit the construction of 42 Bungalow Townhouses for Seniors to be known as Copetown Lions Parkview Estates, shows that there are no Urban Forestry conflicts.

There are no trees located on the Road Allowance of this proposed development and the Forestry and Horticulture Section does not oppose these requests.

Numerous Private trees are located along the Southern edge of the site and may have to be managed as this application moves forward. This will be addressed at the Site Plan Stage.

Ministry of the Environment has reviewed this proposal and has the following comments:

After reviewing the above document, it was evident that this was a preliminary hydrogeological investigation, and further work needs to be completed in order to determine if this site is capable of meeting the water supply needs for this development. As indicated by the consultant, test well(s) will need to be drilled and a pumping test(s) will need to be completed. In addition to this, depending on the estimated water supply needs for the development, an assessment of the amount of sewage generated will need to be undertaken. If the sewage generated from the proposed development is estimated to be greater than the 3,000 LPD maximum flow indicated in the report, a more detailed subsurface investigation will need to be undertaken at this site, and the use of a tertiary treatment system would also likely need to be incorporated into the
system. Finally, if the sewage flows that need to be treated are estimated to be greater than 10,000 LPD, a Certificate of Approval from the Ministry will be required.

Public Consultation

In accordance with Council’s Public Participation Policy, a preliminary notice of these applications was sent to 44 property owners within 120 metres of the subject lands, and one Public Notice sign was posted on site.

Two responses were received from the preliminary notice of circulation letter and an additional 69 responses were received from residents outside of the 120m circulation area (Appendix “C”). 63 letters (1 from within the 120m circulation area) were in support of the proposal, stating that the opportunity to retire in the rural area was a positive step for the current residents within the area who did not wish to move to an urban area upon retirement. 8 letters (1 from within the 120m circulation area) were received raising concerns with the proposal. The concerns raised ranged from issues with the servicing capacity and potential for contamination in the area, increased traffic, environmental impacts, lack of services and unsuitable precedent. These concerns have been addressed within the Analysis/Rationale section of the report. Notice of the Public Meeting will be given in accordance with the regulations of the Planning Act.

**CITY STRATEGIC COMMITMENT:**

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected through the decision to prohibit communal servicing.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs through encouraging development to the urban areas.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:EJ
Attachs. (3)
Appendix "A" to Report PED08193

Location Map

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number: ZAC-07-076 / OPA-07-019
Date: November 30, 2007

Appendix "A"

Subject Property
1031 Highway No. 52 North

- Change in Zoning from the Agricultural "A" Zone to the Residential Multiple "RM3" Zone and Amendment to Official Plan designation "Hamlet Residential".
- Lands to Remain Under Existing Designation.

Ward 14 Key Map