SUBJECT: Application for Approval of a Draft Plan of Subdivision, “Empire Nash”, and Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 22 Green Mountain Road West (Hamilton) (PED09275) (Ward 9)

RECOMMENDATION:

(a) That approval be given to Amended Subdivision Application 25T-200803, by Empire Communities Ltd., Owners, to establish a Draft Plan of Subdivision known as “Empire Nash”, on lands located within Part of Lot 25, Concession 5, municipally known as 22 Green Mountain Road West, in the Former Township of Saltfleet (Stoney Creek), as shown on Appendix “A” to Report PED09275, subject to the following conditions:

(i) That this approval apply to “Nash Neighbourhood Redline Revision Draft Plan of Subdivision”, prepared by Armstrong Hunter and Associates, and certified by Bryan Jacobs, OLS, dated January 11, 2008, showing a maximum of 129 street townhouse residential lots (Blocks A24, A25, A26 and A27), 115 single detached residential lots with 9.2m lot frontages (Blocks A11, A12, A13, A14, A15, A16, A17, A18 and A19), 65 single detached residential lots with 11.0m lot frontages (Blocks A2, A3, A4, A5, A6, A20, A21, A22 and A23), 24 single detached residential lots with 13.4m lot frontages (Blocks A1, A7, A8, A9 and A10), 90 maisonettes units (Blocks A28 and A29), 5 open space blocks (Blocks A, B, D, E and F), a stormwater management pond (Block C), a sanitary sewer easement block (Block G), and the creation of 10 new internal public roads, (Streets A, B, C, D, E, F, G, H, I and J), attached as Appendix “B” to PED09275, subject to the Owner entering into a Standard Form Subdivision Agreement, as approved by City Council, and with the Special Conditions attached as Appendix “E”.
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(ii) Acknowledgement by the City of Hamilton of its responsibility for cost-sharing paid from the City’s Development Charge Program with respect to this development for the following item:

(1) That the City will cost share for underground oversized watermain and sanitary sewer works, and fencing around the SWM pond, in accordance with the City’s financial policies. That the City will provide a financial contribution towards the Stormwater Management Facility, shown as Block “C” on the draft plan, up to the maximum contribution, including land, in accordance with the Development Charges Background Study and the City’s financial policies.

(iii) That payment of Cash-in-Lieu of Parkland will be required, pursuant to Section 42 of the Planning Act, prior to the issuance of each building permit for the lot-less blocks (Blocks A1 to A23, inclusive). The calculation for the Cash-in-Lieu payment shall be based on the value of the lands on the day prior to the day of issuance of each building permit. Payment of Cash-in-Lieu of Parkland for the street townhouse blocks (Blocks A24 to A27, inclusive) will be calculated in accordance with the City’s Parkland Dedication By-law, currently at a rate of 0.6 hectares for each 300 dwelling units proposed. Payment for the medium density blocks (Blocks A28 and A29) will be calculated in accordance with the City’s Parkland Dedication By-law, currently at a rate of 1 hectare for each 300 dwelling units proposed. All the townhouse and medium density units shall be based on the value of the lands on the day prior to the issuance of the first building permit;

all in accordance with the Financial Policies for Development, and the City’s Parkland Dedication By-law, as approved by Council.

(b) That approval be given to Zoning Application ZAC-08-026, by Empire Communities, c/o Daniel Guizzetti, Owner, for changes in zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential (Holding) “RM3-38(H)” Zone, with a Special Exception and a Holding provision (Block 1); from the Highway Commercial “HC” Zone to the Multiple Residential (Holding) “RM3-38(H)” Holding Zone, with a Special Exception and a Holding provision (Block 2); from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-20” Zone, with a Special Exception (Block 3); from the Neighbourhood Development “ND” Zone to the Single Residential “R4-26” Zone, with a Special Exception (Blocks 4, 5, 7 and 13); from the Neighbourhood Development “ND” Zone to the Single Residential “R4-27” Zone, with a Special Exception (Blocks 8, 9, 10, and 11), and to the Single Residential (Holding) “R4-28(H)” Zone, with a Special Exception and a Holding provision (Blocks 17 and 18); and from the Neighbourhood Development “ND” Zone to the Conservation/Hazard Land (P5) Zone (Blocks 6, 12 and 14), and the
SUBJECT: Application for Approval of Draft Plan of Subdivision, “Empire Nash”, and Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 22 Green Mountain Road West (Hamilton) (PED09275) (Ward 9)

Conservation/Hazard Land (P5, 23) Zone, with a Special Exception (Blocks 15 and 16); on the lands located at 22 Green Mountain Road West, Stoney Creek, as shown on Appendix “A” to Report PED09275, on the following basis:

(i) That the draft By-law, attached as Appendix “C” to Report PED09275, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council;

(ii) That the amending By-law be added to Schedule “A”, Map No. 11 of Zoning By-law No. 3692-92;

(iii) That the draft By-law, attached as Appendix “D” to Report PED09275, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;

(iv) That the amending By-law be added to Schedule “A”, Map Nos. 1353, 1354, 1405 and 1406 of Zoning By-law No. 05-200; and,

(v) That the proposed changes in zoning are in conformity with the Hamilton-Wentworth Official Plan and Stoney Creek Official Plan.

EXECUTIVE SUMMARY:

The purpose of the applications is for a Draft Plan of Subdivision and changes in zoning to permit the phased and orderly development of the subject lands on “lot-less” blocks for a maximum of 129 street townhouse units, 204 single detached lots, and two medium density blocks containing 90 maisonette units, for a total of 423 dwelling units, as outlined on the draft plan of subdivision (see Appendix “B”). The subdivision would also establish blocks for a stormwater management facility, open space, and a sanitary sewer easement.

The proposal has merit and can be supported as the changes in zoning and draft plan of subdivision are consistent with the Provincial Policy Statement and Places to Grow Plan, conform to the Hamilton-Wentworth Official Plan and Stoney Creek Official Plan, and implement the Nash Neighbourhood Secondary Plan. It is noted that a portion of the subject lands will be placed in a Holding Zone (see Appendix “C” - Schedule “A” - Blocks 17 and 18) until such time as a visual analysis is finalized to the Niagara
BACKGROUND:

History

The subject lands are located on the west side of Stoney Creek Mountain in what is known as the Nash Neighbourhood. The Nash Neighbourhood Plan study area was initially drafted in 1998, by the former City of Stoney Creek. The area consists of approximately 370 hectares of land, which includes the former West Quarry Landfill Site/Heritage Green Community Park, the East Quarry Landfill Site, farmland, a telecommunication tower and antennas, and a number of natural and built heritage features, including Environmentally Sensitive Areas and the Niagara Escarpment. Once the Secondary Planning Process for the Nash Neighbourhood was completed, City Council adopted Official Plan Amendment No. 131 (Nash Neighbourhood Secondary Plan Area) on September 27, 2006. This amendment established land uses, a transportation network, community facilities, infrastructure requirements, development standards, and policies to provide for orderly development, and to protect existing natural features and environmental resources within the Nash Neighbourhood. The Council decision was appealed to the Ontario Municipal Board (OMB) and, subsequently, approved by a Board Order issued on January 21, 2008, except for the lands identified on the attached map as Special Policy Area “F” (see Appendix “F”). The property subject to Special Policy Area “F” is bounded by the lands subject to this report.

On August 18, 2009, the OMB delivered a Decision, thereby approving the redesignation of the “Environmentally Significant” portion of the remaining lands (Special Policy Area “F”) to “Medium Density I Residential” and replacing Policy 12.7.1 of OPA 131 with the following:

“12.7.1 The development of lands designated Medium Density I and Medium Density II Residential and identified as Special policy Area “F” on Schedule “A3-2” shall be subject to the following site-specific provisions:

(a) Future development approvals shall provide for full municipal servicing connection and vehicular access to the Medium Density 1 lands east of the Hazard Lands;

(b) The location of such connection and access shall be to the satisfaction of the Hamilton Conservation Authority and the City of Hamilton; and,
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(c) The said vehicular access shall be aligned with the crossing of the Hazard Lands approved by the Hamilton Conservation Authority.”

Essentially, Policy 12.7.1 will require that Empire Communities (abutting land owner) provide access and a servicing connection for the future development of the lands on the other side of the creek. This has been accomplished through the draft plan of subdivision and applicable draft plan condition (see Appendix “E” - Condition No. 27).

Proposal

The subject lands are approximately 23.4 hectares (57.8 acres) in area and are designated primarily for “Low Density”, “Medium Density 1”, and “Medium Density 2 (Street Related)” residential uses in the Nash Neighbourhood Secondary Plan. A portion of the lands are also designated as “Natural Pond”, “Environmentally Significant Area”, and “Floodplain” in the Nash Neighbourhood Secondary Plan. This proposal is in keeping with the road pattern and land use designations in this Plan.

The lands are presently vacant and were formally used for agricultural purposes. The current proposal is to permit the development of 423 residential units, ranging in type and design on “lot-less blocks” in the draft plan of subdivision. The proposal includes 129 street townhouse units, 204 single detached lots (containing a mix of 9.2 to 13.4 metres in frontage), and two blocks containing 90 maisonettes and identified as medium density (back-to-back) units. The Draft Plan of Subdivision also identifies five blocks for open space, one block for a sanitary sewer easement, one block for a stormwater management pond, and ten internal roads. A site-specific Conservation/Hazard (P5) Zone has also been incorporated for the subject lands, and regulated under Hamilton Zoning By-law No. 05-200. The site-specific zone has been established to recognize two archaeological blocks which will be dedicated to the City. Draft Plan of Subdivision conditions have also been included (see Appendix "E" - Condition Nos. 10, 11, 12 and 13), which further addresses this issue.

Location: 22 Green Mountain Road West (see Appendix “A”)
Owner: Empire Communities Ltd. (c/o Daniel Guizzetti)
Agent: Armstrong Hunter and Associates

Property Description:
Frontage: 159.89 metres
(along Green Mountain Road West)

Flankage: 361.44 metres
(along Upper Centennial Pkwy.)

Lot Area: 23.4 hectares (57.8 acres)
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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<tr>
<td>North</td>
<td>Open Space</td>
<td>Agricultural “A” Zone and Open Space “OS-3” Zone</td>
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<tr>
<td>South</td>
<td>Hamilton Teleport (Satellite Dishes) and Landfill</td>
<td>Neighbourhood Development “ND” Zone and Extractive Industrial “ME-1” Zone</td>
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<tr>
<td>East</td>
<td>Vacant/Agriculture</td>
<td>Agricultural “A” Zone and Neighbourhood Development “ND” Zone</td>
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<td>West</td>
<td>Vacant/Agriculture/ Open Space /Upper Centennial Parkway</td>
<td>Neighbourhood Development “ND” Zone</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   (i) The proposal is consistent with the Provincial Policy Statement and the Places to Grow Plan.
   (ii) The proposal is consistent with the Niagara Escarpment Plan.
   (iii) The proposal conforms with, and implements the “Urban Area” policies of the Hamilton-Wentworth Official Plan.
   (iv) The proposal conforms to the Stoney Creek Official Plan and implements the Nash Neighbourhood Secondary Plan.

2. The requested changes in zoning will address the proposed development and regulate the residential units, the environmentally significant open space, and proposed stormwater management facility, (including two open space blocks for the preservation of significant archaeological sites) (see Appendix “A” - Blocks 15 and 16).
A Holding provision is also necessary, as the Nash Secondary Plan specifies that lands intended for residential uses within 160 metres of the working licensed limits of an active quarry, or the limits of a former quarry under rehabilitation, shall be placed in a Holding Zone; and will not be removed from those lands until such time as the completion of mining and rehabilitation on the quarry lands immediately adjacent to the residential Holding zone have been finalized, to the City’s satisfaction (see Appendix “C” - Schedule “A” - Blocks 1 and 2).

Two additional residential blocks (see Appendix “C” - Blocks 17 and 18) have also been placed into a Holding Zone to ensure that there are no visual impacts to the brow of the Niagara Escarpment, as per Policy 13.3.18.12 (f) of the Nash Neighbourhood Secondary Plan. In this regard, the applicant has submitted a Visual Impact Study (VIS), but an update to the VIS will be required once the grading plan has been finalized. The Niagara Escarpment Commission (NEC) has advised that the applications can proceed, subject to a condition of approval that the VIS is finalized, to the satisfaction of the NEC. This has been accomplished through four draft plan conditions (see Appendix “E” - Condition Nos. 2, 14, 75 and 76), and through placement of a Holding Provision on the two remaining single residential blocks (see Appendix “C” - Blocks 17 and 18 on Schedule “A”).

A further requirement of the Secondary Plan was the submission of an Environmental Impact Study. This Study was prepared by Stantec, in February 2008, and the applicant forwarded it to the City for review. The City’s review concluded that some minor revisions were required to the original report. The applicant was advised of this, but no addendum was submitted, and subsequently not forwarded to the Environmentally Significant Areas Impact Evaluation Group (ESAIEG). The revisions are currently being prepared, and expected to go before ESAIEG in the coming weeks. Therefore, a special draft plan condition was included (see Appendix “E” - Condition No. 7) to ensure that any recommendations or mitigation measures are implemented.

3. Through formal circulation of the rezoning and draft plan of subdivision applications, public agencies and departments provided comments and conditions. Those have been addressed through draft plan conditions (see Appendix “E”). The draft plan was required to be further revised, thereby necessitating recirculation of the draft plan in mid-December 2008. This redesign provided for an overall reduction in unit yield of 13 residential units.

4. With respect to the Street Related Medium Density 2 designation, the applicant, through redline revision, has addressed the City’s concern with respect to the lower density initially proposed. As a result, the Street Related Medium Density 2 policies of the Secondary Plan have been met, through the redlined draft plan, as a majority of the units (97%) are street related with no direct access onto Street “F”, and access to Blocks “A26” and “A27” will be from Street “I”, which is
not a private lane (see Appendix “B”). The overall density of those dwellings is 32.5 units per hectare (uph), which exceeds the policy in the Nash Secondary Plan requiring a minimum of 30 uph.

5. The formal development proposal necessitates the following site-specific requirements (see Appendices “C” and “D”):

Single Residential “R4” Zone (see Appendix “C” - Blocks 4, 5, 7 and 13):

Minimum Lot Frontage:

The required change to the minimum lot frontage is for 9.0 metres, except 11.0 metres for a corner lot, whereas the By-law requires 10.0 metres and 13.0 metres for a corner lot. The modification will allow for an overall greater mix of lot sizes and increased density, which is considered minor in nature and, therefore, supportable, as it conforms to the policies outlined in the Nash Neighbourhood Secondary Plan.

Minimum Lot Area:

The applicant has also requested a corresponding reduction in minimum lot area of 250 square metres, except 290 square metres for a corner lot, whereas the By-law requires 310 square metres and 400 square metres for a corner lot. In order to provide for a higher density and diverse gradation of lot areas, this request is supportable as it conforms to the policies outlined in the Nash Neighbourhood Secondary Plan. Further, these reductions have been supported and approved within the former municipalities of Stoney Creek, Glanbrook, and Ancaster.

Single Residential “R4” Zone for lots having frontages of 11.0 metres and greater (see Appendix “C” - Blocks 8, 9, 10, 11, 17 and 18):

Minimum Lot Area:

The applicant has also requested a reduction in minimum lot area of 300 square metres, except 360 square metres for a corner lot, whereas the By-law requires 310 square metres and 400 square metres for a corner lot. This modification is considered minor in nature and, therefore supportable, as it conforms to the residential policies outlined in the Nash Neighbourhood Secondary Plan.

Maximum Height:

The allowable maximum building height for Blocks 17 and 18 in the implementing Zoning By-law has been reduced to 8.5 metres, whereas the By-law permits 11 metres. This reduction has been incorporated, as per the recommendation in the
Phase II - Visual Impact Assessment, which is based on concerns originally raised by the NEC. The applicant acknowledges that the height has been drafted into the implementing By-law as an interim measure, as the NEC will need to be satisfied with the ultimate height of the buildings within the blocks. In this regard, should the NEC confirm the maximum height of 8.5 metres, then the applicant would only be required to apply to remove the ‘H’ Holding provision prior to any development on Blocks 17 and 18. However, should the NEC identify a different height requirement, then the applicant would have to apply for a further modification in zoning and removal of the ‘H’ Holding provision which would require Public Notice and another Public Meeting.

**Multiple Residential “RM2” Zone (see Appendix “C” - Block 3):**

**Minimum Lot Frontage:**

The requested change to the minimum lot frontage is 5.6 metres per dwelling unit, except 8.0 metres for a corner unit, whereas the By-law requires 6.0 metres and 9.0 metres for a corner unit. This request is considered minor and appropriate as it maintains the intent of the Official Plan and By-law.

**Minimum Lot Area:**

The applicant has also requested a corresponding reduction in minimum lot area for 150 square metres, except 195 square metres for an end unit, and 240 square metres, for a corner unit; whereas the By-law requires 180 square metres, 240 square metres for an end unit, and 270 square metres for a corner unit. The request is considered minor and maintains good planning principles, as it allows for an increase in density, while still maintaining a private amenity area.

**Multiple Residential “RM3” Zone (see Appendix “C” - Blocks 1 and 2):**

Blocks 1 and 2 have been placed in a Holding Provision to implement the policies in the Nash Secondary Plan as these lands are within 160 metres of the working licensed limits of an active quarry and the limits of a former quarry under rehabilitation. The Holding Zone will remain for those lands until such time as the completion of mining and rehabilitation on the quarry lands immediately adjacent to the residential Holding zone have been finalized. Removal of the Holding Zone is subject to Council approval, only at such time as the provision has been satisfied.

Block 2 is being rezoned from the Highway Commercial “HC” Zone to the Multiple Residential (Holding) “RM3-38(H)” Zone. The commercial zone has existed for sometime; however, it has not been used for commercial purposes for many years. Further, the Nash Secondary Plan designates the lands for
residential uses, specifically “Medium Density 1”. Therefore, this modification conforms to the Nash Secondary Plan.

**Minimum Lot Area:**

The applicant has also requested a reduction in minimum lot area of 89 square metres, except 95 square metres for an end unit, and 100 square metres for a corner unit; whereas the By-law requires 4,000 square metres for lot area. The intent of this regulation is to address larger parcels of land; however, the applicant has requested specific regulations as it relates to the details of the proposed built form (maisonette). Further, the tenure of the proposed units will be condominium. Based on this, the request is considered minor and maintains good planning principles, as it allows for an increase in density, while still maintaining a private amenity area. The modification requested is consistent with zoning for maisonettes elsewhere within the City of Hamilton.

**Minimum Lot Frontage:**

The requested change to the minimum lot frontage is 6.0 metres per dwelling unit, except 8.0 metres for a corner unit, whereas the By-law identifies 50 metres for the entire parcel being developed. Generally speaking, the subject lands meet the requirements of lot frontage and area, but as mentioned above, the applicant has requested detailed regulations to address the future tenure of the units. This request is considered minor and appropriate as it maintains the intent of the By-law and Official Plan, and is consistent with the Nash Neighbourhood Secondary Plan.

**Modifications applicable for all Site-Specific Zones in the Implementing By-law:**

**Minimum Front Yard:**

Relief is also being sought for a minimum front yard of 4.5 metres to the dwelling, except 6.0 metres to a garage, whereas the By-law requires 6.0 metres and 7.5 metres for a front yard. This request is considered appropriate and corresponds with guiding principles of urban streetscape character and design, while maintaining consistency of front yards for the entire draft plan of subdivision, while providing for tandem parking, as per the zoning By-law parking provisions.

**Minimum Parking Requirements:**

The applicant has requested modifications to the parking requirements as it relates to parking space size. Specifically, the parking space size located within a garage shall have a minimum width of 2.6 metres and a minimum length of 5.5 metres, with a maximum of 3 risers encroaching into those parking spaces. The
parking space size of 2.6 metres by 5.5 metres is consistent with the requirement in Hamilton Zoning By-law No. 05-200. However, with respect to the applicant’s request to have the 3 risers encroach into the required garage parking spaces, the City has recently reviewed similar proposals, as it relates to recent relief granted, and the ensuing parking implications. As a result of these implications, it has been determined that the garage spaces are inadequate when both the parking space reduction and riser encroachment has been established. Accordingly, the By-law has been drafted to incorporate the 3 riser encroachment; however, the parking spaces must remain at 2.6 metres by 6.0 metres.

**Minimum Side Yard:**

Modifications to the minimum required side yard are also being requested from 1.2 metres on one side and 0.6 metres on the other side, except for a corner lot abutting a flankage street, which shall be 2.4 metres; and where the garage fronts onto the flankage street, it shall not be located within 6.0 metres of the flankage lot line for all residential zones. The By-law requires 1.25 metres on one side and 1.0 metres on the other side, as well as a 3.0 metre side yard for a corner lot, and 5.5 metres for the flankage lot line. These modifications are considered minor, and can be supported.

**Minimum Rear Yard:**

This site-specific zone would also provide for a modification for minimum rear yard to 7.0 metres, whereas By-law 3692-92 requires 7.5 metres. This modification is supportable and considered minor, as there would be no foreseeable impact to rear yard amenity space given that the relief being sought is for a difference of 0.5 metres.

**Yard Encroachments:**

Additional provisions have been requested to ensure that some flexibility is permitted with the final construction of units in lot-less blocks, thereby avoiding the unnecessary submission of potential minor variance applications. They include covered porches projecting 3.0 metres into a front yard and 1.8 metres into a flankage yard, bay windows projecting 0.9 metres into any yard, and stairs projecting 4.5 metres into any front yard. These provisions are consistent with other developments, both in Stoney Creek, Ancaster, and Glanbrook. The request is justifiable, and can be supported, as it is a product of constructing dwelling units on smaller lots, which is a result of recent planning and urban design initiatives to increase densities under the Places to Grow Plan and the new Urban Official Plan, and is consistent with the Secondary Plan policies.
**Daylight Triangle:**

The applicant has requested relief from the required setback from a “daylight triangle”. The General Provisions Section of By-law No. 3692-92 identifies a Special Setback for Daylight Triangles. This provision has been amended from 3 metres from the hypotenuse of the daylight triangle to 0.5 metres for a building or porch, including porch foundations walls; and, 0.0 metres for eaves or gutters. This request is consistent with developments in other areas of Stoney Creek and, to date, has not created any negative impacts. Based on this, the request can be supported. Furthermore, it maintains the intent of the By-law while permitting increased densities outlined in the Nash Secondary Plan.

**Modifications applicable to only the “RM2” and “RM3” site-specific Zones in the Implementing By-law:**

**Maximum Height:**

The applicant is seeking to increase the permitted maximum height in the Multiple Residential RM2 and RM3 Zones (see Appendix “C” - Schedule “A” - Blocks 1, 2 and 3) to 12.5 metres, whereas the By-law permits 11.0 metres. The overall increase is 1.5 metres in height, and is considered minor as there will be no noticeable impact at street level. It will provide increased flexibility for an innovative design that enhances streetscape character and good urban design principles.

**Minimum Landscaped Open Space:**

For the medium density blocks, the applicant is seeking relief to allow for a minimum landscaped open space of 30%, whereas the By-law requires that 50% of the lot area be landscaped. Blocks 1 and 2 (see Appendix “C” - Schedule “A”) will be further assessed through site plan control. The frontage along Green Mountain Road for those blocks will also be subject to a special draft plan condition (see Appendix “E” - Condition No. 4) as the Nash Secondary Plan policies identify these lands as a gateway area. Staff is satisfied that there are sufficient measures in place to ensure that there is an enhanced level of landscaping and, therefore, this modification can be supported.

**Common Element Condominium Road:**

A provision has also been included with respect to the potential tenure and interpretation thereto. In this regard a provision has been included to allow street townhouses, townhouses or maisonettes on a common element condominium road.
Modification to Hamilton Zoning By-law No. 05-200 Conservation/Hazard Land (P5) Zone (See Appendix “D” - Blocks 15 and 16):

The site-specific modification to the (P5) Zone is to recognize the two archaeological sites. The two sites are of significant interest, and will be dedicated to the City; with financial compensation to maintain the two blocks in perpetuity (see Appendix “E” - Condition No. 11). Therefore, the By-law has been drafted in a fashion that will protect the two Blocks from future development by specifically including a clause that maintains preservation of an archaeological resource or resources in place.

6. Stormwater Management (SWM):

The Functional Servicing Report (FSR) provides for an existing farm pond within the draft plan lands, identified as Open Space, which will accommodate flows from the proposed SWM facility, in addition to major overland flow from the development and external areas. The Hamilton Conservation Authority has included draft plan conditions (see Appendix “E” - Condition Nos. 61 to 66), to address stormwater management and the existing weir structure located at the outlet of the farm pond. Further, it’s inferred from the FSR that post development flows exiting the farm pond will continue to do so as they do currently; however, in that the pond resides within both the Battlefield Creek floodplain and an identified ESA, it’s not clear whether any potentially required upgrades will be possible based on regulatory requirements of the Hamilton Conservation Authority and Niagara Escarpment Commission, nor is it clear as to what the potential impacts are to both the creek and private lands immediately downstream of the pond, and to the creek on City lands further downstream. The City’s Capital Planning and Implementation Division has initiated the Stoney Creek and Battlefield Creek Flood and Erosion Control Class Environmental Assessment to address existing problems related to stability and erosion, which ultimately, improves the creeks downstream. In that regard, it is recommended that the storm water management study to be prepared include an assessment of downstream impacts to Battlefield Creek, and that in conjunction with the assessment, a development impact monitoring plan be prepared with mitigating measures to address remediation requirements.

As post development flows relate to the private land owner downstream, it will be necessary that the City has jurisdictional control of flows from the development over these lands to ensure the long term sustainability of the outlet and the creek. Therefore, it will be a condition of approval that the developer acquires an easement in favour of the City of Hamilton across the lands prior to registration of the plan (see Appendix “E” - Condition No. 34). According to the Functional Servicing Report, the easterly portion of the development will impinge upon the Battlefield Creek floodplain. The Hamilton Conservation Authority will have to review and provide their consent.
Sanitary Sewers:

The Functional Servicing Report (FSR), as it relates to sanitary servicing, has been prepared based on recommendations from the City-wide Water Wastewater Master Plan, and additional conceptual design work for the future trunk sanitary sewer on Upper Centennial Parkway completed in March 2009. The FSR identifies the sanitary outlet for lands of the draft plan and lands external connecting to the future trunk sewer on Upper Centennial Parkway through an easement at the end of Street ‘C’, approximately 500m north of Green Mountain Road.

A review of the preliminary profiles indicates a concern with the proposed approach to servicing the lands; i.e. the sewers are at a depth such that a dual system of deep trunk sewers in rock and shallow local sewers are being recommended; no other options are considered. This approach has short term cost implications to the City, and long term sustainability issues that need to be assessed against the merits of servicing the neighbourhood with a system consisting of shallow sewers and a pumping station(s). Therefore, although there will be an outlet provided to service the lands as part of construction of the Centennial trunk, the ability of the lands to be developed will be subject to the approval of a comprehensive servicing plan, which accounts for the long term sustainability of the infrastructure required to service the entire catchment. In that regard, it is possible that development of the subject lands will depend on the servicing of adjacent lands prior to it proceeding if a pumping station is required outside lands within the draft plan. This is an important consideration in that adjacent lands to the west already require servicing of the subject lands to secure an outlet to the Centennial trunk.

Watermains:

The Functional Servicing Report, as it relates to water servicing, has been prepared based on recommendations from the City-wide Water Wastewater Master Plan (W/WWMP). It has not considered recent recommendations resulting from the City’s conceptual design work for the future trunk feedermain required to service the Nash Neighbourhood, completed in March 2009. This is important, in that the recent design work identifies a major change to the location of the trunk feedermain from what is identified in the W/WWMP. The FSR shows a connection to a future trunk watermain on Upper Centennial, while the trunk watermain has been redesigned to extend through an existing 15m easement adjacent to an existing 1200mm watermain west of First Road West on the western boundary of Heritage Green Sports Park, outside lands of the draft plan. Therefore, the subject lands will be further restricted from developing until intervening adjacent lands between the future trunk system and the subject lands are serviced (see Appendix “E” - Condition Nos. 16 and 17).
Traffic/Transportation:

At this time, the size of the daylight triangles that will be required at the intersection of the widened limits of Green Mountain Road and Upper Centennial Parkway is not known. These daylight triangles will be determined once a traffic impact study is reviewed and approved, since these daylight triangles may need to be increased from the size indicated on the draft plan to accommodate intersection upgrades, which have yet to be determined (see Appendix “E” - Condition No. 31).

The submitted Draft Plan must be revised to indicate a minimum 18.0 metre radius for the cul-de-sacs on Streets “F” and “C”. Until two points of roadway access are obtained, development will be constrained to 100 lots or less. At this time, only one point of access, Street “A”, is achievable (see Appendix “E” - Condition No. 40).

Due to the narrow width of some of the lots within the proposed development, it is recognized that on-street parking may be a concern. Therefore, the Owner will be required to provide the City with an on-street parking plan that meets the requirement of providing 40 on-street parking spaces for every 100 single family dwellings (see Appendix “E” - Condition No. 42).

The existing road allowance width of Green Mountain Road west is 20.12m. Since Green Mountain Road West is a collector road the ultimate road allowance width is 26.21m. Therefore, an approximately 3.045m widening is required on both the north and south sides of Green Mountain Road to establish the ultimate right of way. The owner will be required to dedicate sufficient lands to the City to establish road allowances. This road is to be upgraded to a full urbanized municipal cross section (see Appendix “E” - Condition No. 42).

Noise:

Due to the nature of the activity at the Newalta Landfill site and/or All Around Contracting site, adjacent to the subject lands, the noise study, completed by HGC Engineering, recommends that further detailed noise studies be performed should development occur prior to the landfill and/or contractor sites ceasing their operations (see Appendix “E” - Condition Nos. 5 and 6). With regards to Block “D”, Open Space, the Noise study submitted with the applications has recommended that this block be incorporated into the rear of Blocks “A11” and “A24”, which would include the acoustical noise barrier.

Cost Sharing

The City will cost share for underground oversized watermain and sanitary sewer works, and fencing around the SWM pond, in accordance with the City’s financial
policies. Temporary works are not eligible for cost sharing. The Stormwater Management Facility in Block “C” is identified in the DC Background Study. Therefore, the City will provide a financial contribution towards the SWM Facility, up to the maximum contribution, including land in accordance with the DC Background Study and the City’s financial policies.

7. As per the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 29 property owners within 120 metres of the subject lands, and a Public Notice sign was posted on the property on May 14, 2008. In total, 9 letters were received in objection to the proposed applications (see Appendix “G”). The overall concerns/issues/comments are outlined as follows:

- Requesting all future notices for the lands;
- Connection of infrastructure to other lands designated for urban land uses;
- Increased densities versus property values;
- Protection of environmentally sensitive areas and wildlife;
- Increased noise, pollution, and congestion;
- Proximity of proposed residential uses to the existing landfill (via land title/deed on residential uses);
- Location of residential units;
- Construction impacts to abutting properties;
- Proximity of proposed residential uses to radiated power emissions;
- Potential realignment of Green Mountain Road; and,
- Location of centreline of Street “F” on the draft plan of subdivision.

In response to the concerns/issues/comments raised above, staff provides the following response:
Notice:

It is a requirement that if a member of the public requests notice or additional information, that it will be provided. These requests have been forwarded to the Clerk’s Department for individual public notices.

Land Uses:

The proposed development is implementing the land use designations in the Nash Neighbourhood Secondary Plan.

Environmental Impacts:

The Nash Secondary Planning process included a master planning process that involved the completion of specific studies that ensured the protection of wildlife and the environment. This resulted in land use designations that included the protection of environmentally sensitive areas. The applicant has submitted an Environmental Impact Study, however, further review is necessary and, therefore, a condition of draft plan approval has been implemented (see Appendix “E” - Condition No. 7).

Traffic/Noise:

As per the Secondary Plan policies, the applicant has submitted technical studies addressing noise, traffic impacts, and air quality. These studies will require further review, and have been addressed through conditions of draft plan approval to ensure that all Provincial and City guidelines and policies are met (see Appendix “E” - Condition Nos. 5, 6, 47 and 48).

Compatibility with Landfill:

Concern has been raised with respect to the proposed residential uses being located near the existing Newalta landfill. The Nash Secondary Plan contains policies with respect to this issue. Furthermore, it has been addressed through the implementing By-law, via a Holding Provision, preventing residential development within an area of 160 metres from the licensed limit of the quarry/landfill, until such time as the completion of mining and rehabilitation on the quarry lands immediately adjacent to the residential Holding zone have been finalized, to the City’s satisfaction. In addition, a Landfill Impact Assessment will be required as a condition of draft plan approval (see Appendix “E” - Condition No. 5)
Road Pattern/Green Mountain Road West:

One of the abutting land owners has also raised concerns with the location of the residential uses, construction impacts, radiated power emission, and realignment of Green Mountain Road. The location of land uses was identified through the Nash Secondary Plan process, including extensive public participation, thereby establishing the principle of development. Construction impacts will be mitigated through the development process. Realignment of Green Mountain Road West will need to be determined further. If required, the matter will be addressed through a Class EA process. This has been addressed through a condition of draft plan approval (see Appendix “E” - Condition No. 45). With respect to radiated power emissions, there is no evidence that these emissions cause any sort of human health concern.

There was concern raised over the location of Street “F” on the proposed draft plan (see Appendix “E”) as it relates to the approved Schedule “A3-2” Nash Neighbourhood Secondary Plan and, in particular, Schedule “A3-3”, Nash Neighbourhood Road Classification Plan. The Road Classification Plan identifies the established arterial and collector road network, but specifically identifies local roads as “proposed”. This has caused some confusion, as the proposed local road is shown in Schedule “A3-3” to be completely on the subject lands. This has raised concern by one of the abutting land owners, as the draft plan identifies half of the proposed road (Street “F”) on the subject lands and the other half on the abutting lands to the west. The reason for this realignment is that it provides for better and equitable future access to all the lands as it eliminates the need to obtain access through Special Policy Area “C” (Hamilton Teleport/Satellite lands). This concept provides for more orderly development of the lands, as well as maintaining Policy 13.3.18.10.5 of the Secondary Plan, which states that views and vistas for north/south streets shall be oriented and terminated in such a way as to provide visual connections to the escarpment lands.

Since these applications are the first to proceed under the Nash Neighbourhood Secondary Plan, residents and land owners have shown interest in the outcome. However, through the comprehensive policy framework of the Secondary Plan, and the established set of draft plan of subdivision conditions, the issues and concerns they have raised will be appropriately mitigated.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications for rezoning and draft plan of subdivision are not supported, the lands would not be developed as per the Nash Neighbourhood Secondary Plan policies. The Neighbourhood Development “ND” Zone and Highway Commercial “HC” Zone provisions, which do not coincide with those policies, would remain in effect.
SUBJECT: Application for Approval of Draft Plan of Subdivision, “Empire Nash”, and Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 22 Green Mountain Road West (Hamilton) (PED09275) (Ward 9) - Page 19 of 32

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: City share for the stormwater management facility identified in the DC Study, oversizing of services, and fencing for the stormwater pond.

Staffing: N/A.

Legal: As required by The Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for an amendment to the Zoning By-law and approval of a Draft Plan of Subdivision.

POLICIES AFFECTING PROPOSAL:

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 (Policy 1.1.3.1). These policies, among others, are to be interpreted in their entirety, and not merely as stand alone.

Policy 1.1.1(c) outlines that healthy, liveable, and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Policy 3.2.2 states that contaminated sites shall be remediated, as necessary, prior to any activity of the site associated with the proposed use such that there will be no adverse effects. Due to the presence of two former landfills (#4 and #35, as illustrated within the Regional Municipality of Hamilton-Wentworth Waste Disposal Site Inventory), filing of a Record of Site Condition (RSC) with the Ministry of the Environment will be required (see Appendix “E” - Condition No. 8). The Nash Secondary Plan further outlines policies that address the provincial issue. The Plan specifies that all residential development within 160 metres of the licensed landfill boundaries may not proceed until such time as the appropriate level of remediation has occurred. The implementing Zoning By-law has been drafted with a Holding (H) provision on the proposed residential lands within the 160 metres, thereby satisfying this Policy (see Appendix “C”).

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 applicant has submitted a Noise Study, prepared by HGC Engineering, dated February 25, 2008. The Study findings require a further addendum
to be finalized, to the City's satisfaction, and have, therefore, been added as a Special Condition in the draft plan conditions (see Appendix “E” - Condition No. 6).

Lastly, 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. As the subject lands are traversed by Environmentally Significant Area (ESA) #53 (Felker's Falls Escarpment), an Environmental Impact Statement (EIS) is required to assess impacts. The applicant submitted an EIS, which was prepared by Stantec Consulting Ltd. (dated February 22, 2008), to address the ESA and potential development impacts to ecological functions. The City and HCA have some minor issues, which will be addressed through revisions to the Study. The applicant was advised of this, but no addendum was submitted, and subsequently not forwarded to the Environmentally Significant Areas Impact Evaluation Group (ESAIEG). The revisions are currently being prepared, and expected to go before ESAIEG in the coming weeks. Therefore, a special draft plan condition was included (see Appendix “E” - Condition No. 7) to ensure that any recommendations or mitigation measures are implemented.

Based on the above, the proposal is consistent with the Provincial Policy Statement.

**Places to Grow**

The Places to Grow Plan is more formally known as The Growth Plan for the Greater Golden Horseshoe, and it was prepared and approved under the Places to Grow Act, 2005, by the Province of Ontario. The Plan’s main objective is to provide direction in developing communities with a better mix of housing, jobs, shops, and services in close proximity to each other.

The Plan further states that designated greenfield areas will be planned, designated, and zoned in a manner that contributes to creating complete communities, which includes street configurations, densities and urban form that supports walking, cycling, and transit. The Plan further identifies that density targets of not less than 50 residents and jobs combined per hectare should be a goal for all municipalities. The Plan also includes policies about building complete communities where residents can live, work, and play; and it provides direction with respect to sustainable living that is transit supportive and environmentally friendly. This proposal meets those policies.

In this regard, a total average of 56.71 people and jobs can potentially be created from this development. In conjunction with the policies specifically identified under Designated Greenfield Areas in the Places to Grow Plan (50 residents and jobs combined per hectare), this proposal meets and exceeds the minimum density target. Based on the foregoing, this development proposal conforms to of the Places to Grow Plan.
Niagara Escarpment Plan

The subject lands are within the Niagara Escarpment Plan Area and designated “Urban Area” and “Escarpment Natural Area” in the Plan. Through the Nash Neighbourhood Secondary Plan process, the Niagara Escarpment Commission (NEC) provided feedback, and they requested that policies be placed in the Secondary Plan which addresses their mandate. Policy 13.3.8.12 (f) states that development proposals within 150 metres of the Niagara Escarpment shall have a maximum height of two storeys, and that prior to the approval of a draft plan of Subdivision and/or Zoning By-law, visual analysis shall be required to determine the maximum building height and minimum setbacks. The subject lands are located on the brow of the Niagara Escarpment. As part of the application submission, the applicant was required to prepare a Viewshed Analysis. That Analysis (Phase I) was reviewed by the NEC, and outstanding issues remained. On August 7, 2009, a revised Viewshed Analysis was prepared by the applicant, and submitted to the NEC for review. Their conditions/comments are noted below. The proposal is in conformity with the plan. They have, however, requested that draft plan conditions be included (see Appendix “E” - Condition Nos. 2, 14, and 75). Further, a Holding Provision has been applied to two blocks (see Appendix “C” - Schedule “A” - Blocks 17 and 18). The Holding provision can only be lifted once the visual analysis has been completed, to the satisfaction of the NEC. As these lands abut the Niagara Escarpment, which is an Environmentally Sensitive Area, the proposed single detached dwellings will be subject to Site Plan Control, at which time grading, building mass, and landscaping will be further reviewed to ensure conformity with the recommendations of the Visual Impact Assessment (see Appendix “E” - Condition 76).

Hamilton-Wentworth Official Plan

The subject property is designated as “Urban Area” in the Hamilton-Wentworth Official Plan. Policy 3.1 outlines that a wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Therefore, as the nature of the applications is for amendments to the Zoning By-laws in order to permit the development of a draft plan of subdivision, the proposal conforms to the Hamilton-Wentworth Official Plan.

City of Stoney Creek Official Plan

Originally, the subject lands were designated as Special Policy Area ‘B’ on Schedule “A” General Land Use Plan of the City of Stoney Creek Official Plan. This former Policy Area was intended for urban uses in accordance with the provisions of the Regional Official Plan. As mentioned above, the Nash Secondary Plan was approved in 2006, thereby replacing Special Policy Area “B”. The Nash Neighbourhood Secondary Plan is discussed, in detail, below. The proposal conforms to the policies of the Stoney Creek Official Plan.
Nash Neighbourhood Secondary Plan

The subject lands are designated “Low Density”, “Medium Density 1”, “Medium Density 2 (Street Related)”, “Environmentally Significant Area”, and “Floodplains” in the Secondary Plan. The applicant has submitted the required studies and reports to address issues relating to transportation, infrastructure, land uses and the environment. These studies (EIS, traffic, noise) require further review, and this has been addressed through the implementing Zoning By-law and through the draft plan of subdivision conditions. It is staff’s opinion that the development implements and conforms to the Nash Neighbourhood Secondary Plan.

Urban Hamilton Official Plan

The New Urban Hamilton Official Plan was adopted by Council on June 29, 2009, and is currently before the Ministry of Municipal Affairs for approval. The subject lands are designated as “Neighbourhoods” on Schedule “E” Urban Structure and Schedule “E-1” Urban Land Use Designation, and “Low Density Residential 2”, and Low Density Residential 2L” and Medium Density Residential 2” on Map B.7.5.1 Nash Neighbourhood Secondary Plan. The designations in the Secondary Plan have been carried forward into the New Urban Hamilton Official Plan. The proposal would conform to the Plan.

RELEVANT CONSULTATION:

Public Works Department (Traffic Engineering and Operations Section) has advised that the required Environmental Assessment analysis of the relocation of Green Mountain Road at Upper Centennial Parkway (existing and potential realignment), and also of First Road West at Mud Street (existing and potential realignment) has not been fully addressed in the Traffic Impact Study prepared for these applications. City staff and the applicant previously discussed the potential to address the Secondary Plan requirement through a traffic and safety analysis. The data presented does not provide complete analysis of the opportunities and challenges/impacts of realignment options to formulate a decision.

The applicant has submitted a Traffic Impact Study (TIS), prepared by Cole Engineering Group Ltd., which has been reviewed and outlined, in detail, below. At this time, Traffic is not in a position to approve the traffic engineering recommendations for the intersection upgrades on the road network surrounding the Nash Neighbourhood. Through the draft plan conditions (see Appendix “E” - Condition No. 48), this issue will be addressed prior to final approval of the subdivision.

Traffic has advised that as a condition of draft plan approval, the Owner must agree that occupancy of the proposed development will not be permitted until such time as the owner has completed, at their own expense, an Environmental Assessment (Class Environmental Assessment), to the satisfaction of the Director of Capital Planning and
Implementation, and the Director of Development Engineering, which addresses the potential re-alignment of Green Mountain Road West at Upper Centennial Parkway, as well as First Road West at Mud Street (see Appendix “E” - Condition Nos. 45 and 51).

As a condition of draft plan approval, the Owner is to finalize the traffic impact study prepared for the subject lands. The report will consider safety, capacity, phasing, and provide recommendations for improvements in location, geometry and/or intersection control. The report will be reviewed and approved by the Director, Operations and Maintenance. The report will include development of the Nash Neighbourhood and include potential development of the surrounding neighbourhoods (see Appendix “E” - Condition No. 46).

Further, the Owner will be responsible for any roadway improvements required on the adjacent road networks as a result of the proposed development identified through the Traffic Impact Study and staff recommendations thereto. Potential works may include design, new roadway construction, pavement widening of existing roads for additional turning lanes or centre two-way left turn lanes, urbanization, traffic signal installation or roundabout construction, signal hardware upgrades at existing signalized intersections, median construction, pavement markings, and signage. Roundabout feasibility analysis is suggested to be undertaken by a consultant well versed in Rodel and roundabout design. The Traffic Impact Study has identified the limits of review, including Mud Street and Highland Road (see Appendix “E” - Condition No. 47).

Traffic has also requested that a condition of draft plan approval include a peer review of the Traffic Impact Study for the subject lands, prepared by Cole Engineering Group Ltd. (see Appendix “E” - Condition No. 48). The peer review shall be by a City of Hamilton roster traffic consultant, at the expense of the Owner. It is Traffic's intention to have the City's roster consultant review the submitted traffic impact studies for the following developments to ensure that a consolidated analysis of all intersections in the study area, and their impacts on the road network and adjacent neighbourhoods, have been addressed. The peer review analysis will also identify an overview of the recommended improvements required on the arterial and collector road network to ensure an acceptable level of service is achieved. The traffic impact studies and/or development applications to be reviewed in the peer review exercise are:

- Paletta International Commercial lands at Mud Street and First Road West (File Nos. ZAC-04-092 and ZAH-06-34).
- Upper Centennial Developments (File Nos. ZAC-06-99 & OPA-06-26).
- ORC lands Mud Street at Isaac Brock (File Nos. ZAC-08-062, OPA-08-012 and 25T-200806).
- City of Hamilton Sports Park Complex Expansion (City Initiated).
As a condition of draft plan approval, the Owner, at their expense, will be responsible for base road surveying, engineering, potential roundabout or traffic signal design and pavement marking design for development related projects. Further, at the Owner's expense, they will be required to hire a traffic engineering consultant, approved by the City, to provide City formatted engineering drawings. The City would monitor the roundabout and/or traffic signal design, and pavement marking design, and once the design is close to completion, City staff would finalize the details. Furthermore, traffic signal, roundabout and pavement marking design drawings must be approved and signed by the Manager of Traffic Engineering and Operations (see Appendix “E” - Condition No. 49).

Traffic also recommends, as a condition of draft plan approval, that the Owner dedicate sufficient lands from the north-west corner of Green Mountain Road West at Upper Centennial Parkway, in order to complete the intersection traffic control upgrading or realignment based on the approval by the City of the Owner's Traffic Impact Study. The dimensions of the land to be dedicated cannot be confirmed at this time, however, we advise that a 15m x 15m daylight triangle will likely be necessary. Traffic advises that that the required size of the triangle may increase, depending on the ultimate intersection location and upgrades required in order to accommodate traffic from the Nash Neighbourhood traffic (see Appendix “E” - Condition No. 50).

Traffic has also requested, as a condition of draft plan approval, that the Owner upgrade the existing intersection of Green Mountain Road West at Upper Centennial Parkway, at their cost, in accordance with the recommendations of an approved Class EA process, prior to occupancy of any dwelling units (see Appendix “E” - Condition No. 51). As a condition of draft plan approval, Traffic recommends that Green Mountain Road West be upgraded to an urban cross-section from Upper Centennial Parkway through the limits of subject lands (see Appendix “E” - Condition No. 52). Further, a condition of draft plan approval will also involve the urbanization of Green Mountain Road West, wherein, the Owner will undertake to confirm that the required sightline standards have been met at the intersection of Green Mountain Road West, at Street ‘A’. The applicant must incorporate TAC methods in the calculations (i.e. driver height at future neighbourhood road intersections looking east and west to the windshield (considering street lights on the roadway) of vehicles on Green Mountain Road West, 10 km/h over posted speed, sight lines for left and right turns to attain 85% of design speed per TAC, etc.) (see Appendix “E” - Condition No. 53).

Traffic also recommends, as a condition of draft plan approval, that the engineering design of Green Mountain Road West include a gateway/entrance feature (see
Appendix “E” - Condition No. 4) at the easterly limits near Upper Centennial Parkway, and that Green Mountain Road West be designated a 26 metre road allowance collector road with on-street bike lanes (see Appendix “E” - Condition No. 54). They further recommend that the driveway locations at the bend in Street ‘B’ be located, to the satisfaction of the Manager of Traffic Engineering and Operations, and that all driveways must be shown on approved engineering drawings (see Appendix “E” - Condition No. 55). Lastly, they recommend that the lots at the north end of Street ‘F’ be reconfigured to avoid the cul-de-sac road design for a few single family lots (see Appendix “E” - Condition No. 56). They also recommend that Street ‘C’ be reconfigured to function as a bend in the road rather than a cul-de-sac (see Appendix “E” - Condition No. 57). If Street ‘C’ and the cul-de-sac at Street ‘F’ remain in the draft plan, Traffic recommends, as a condition of draft plan approval, that the driveways be located to the satisfaction of the Manager of Traffic Engineering and Operations. The driveway must be shown on approved engineering drawings.

Traffic recommends, as a condition of draft plan approval, that an On-Street Parking Plan be prepared to address lot sizes and the capability of the road network to accommodate on-street parking for the neighbourhood, and still maintain emergency routes and road maintenance activities (see Appendix “E” - Condition No. 58). They also advise that no direct access will be provided from Upper Centennial Parkway to the subject lands, and that no access to Green Mountain Road West will be provided to Blocks A28 or A29.

Daylight triangles will be required at Street ‘A’ and Green Mountain Road West. Street ‘A’, at the southerly intersection with Street ‘B’, must intersect at a 90 degree angle as much as possible. Traffic recommends that the plan be modified to provide a straight approach and departure at the intersection (see Appendix “E” - Condition No. 59). Street ‘G’ dead-ends at the easterly property line limit.

Traffic also reviewed the Cole Engineering Group Ltd. Traffic Impact Study, dated July 2009. They have provided comments and the Owner will address those issues through draft plan conditions (see Appendix “E” - Condition Nos. 46 to 48).

**Public Works Department (Open Space Development Section and Park Planning)** has advised that the subject lands will be subject to the City’s Cash-in-Lieu of parkland dedication. They have further advised that as part of the Stormwater Management Pond, a loop trail be constructed around the Pond, as well as a connection to the existing pond, shown as Open Space Block ‘B’ on the Draft Plan of Subdivision (see Appendix “B”). Options to incorporate a loop trail will be determined through the detailed design stage of the stormwater management facility.
Hamilton-Wentworth District School Board has advised that the following conditions are included in the draft plan of subdivision conditions:

“Schools within the surrounding area are at or exceed current enrolment capacity.” As a result, should the City of Hamilton proceed with such a development, the Hamilton-Wentworth District School Board requires that the developer agree to have the following conditions of draft plan approval:

1. The Developer, at their expense, place adequate signage on the site, based on Board specifications, advising that students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.

2. The sub-agreement requires the developer to include in all agreements of purchase and sale notice to purchasers advising that “Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.

3. Any rental or lease agreement required for occupancy include, in all agreements to renters or lesasers, a clause advising that “Students from this development are likely to be redirected to schools outside of the area with available capacity, and that students may be transported as governed by the Board Transportation Policy.”

These conditions will be addressed through the City’s Standard Form Subdivision Agreement.

Bell Canada has advised that the following be included as conditions of draft plan approval:

“1. The Developer is hereby advised that prior to commencing any work within the Plan, the developer must confirm that sufficient wire-line communication / telecommunication infrastructure is currently available within the proposed development to provide communication / telecommunication service to the proposed development. In the event that such infrastructure is not available, the Developer is hereby advised that the Developer may be required to pay for the connection to and/or extension of the existing communication / telecommunication infrastructure. If the Developer elects not to pay for such connection to and/or extension of the existing communication / telecommunication infrastructure, the Developer shall be required to demonstrate to the municipality that sufficient alternative communication / telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication / telecommunication services for emergency management services (i.e. 911 Emergency Services).
2. The Owner shall agree in the Agreement, in words satisfactory to Bell Canada, to grant to Bell Canada any easements that may be required for telecommunication services. Easements may be required subject to final decisions. In the event of any conflict with existing Bell Canada facilities or easements, the owner/developer shall be responsible for the relocation of such facilities or easements.

3. Bell Canada requires one or more conduit or conduits of sufficient size from each unit to the room(s) in which the telecommunication facilities are situated, and one or more conduits from the room(s) in which the telecommunication facilities are located to the street line.”

Bell Canada has no objections to rezoning. These conditions apply if zoning is approved and project progresses. There are currently facilities on Green Mountain Road, and if there is a need to relocate, it will be at the Owner’s expense.

These conditions will be addressed through the City’s Standard Form Subdivision Agreement.

The Niagara Escarpment Commission has advised of the following:

A second Visual Assessment Study (VAS) was submitted by the applicant on August 7, 2009. This study addressed that portion of the Empire Communities proposed draft plan of subdivision contained within the Niagara Escarpment Plan. The report addressed the first component of the Visual Assessment process, as set out in the following document:

CITY OF HAMILTON
NASH NEIGHBOURHOOD OPA 131
BY-LAW NO. 06-294
NIAGARA ESCARPMENT PLAN
VISUAL ASSESSMENT STUDY REQUIREMENTS
February 2008

The Viewshed mapping provided by the consultants digitally modelled the built form, accounting for the proposed grading, assumed built form setbacks on blocks, utilization of a building height of 10 metres, and included a 3 metre high acoustic wall proposed along the property line abutting Centennial Parkway. Vegetation on the brow and slope, as well as within Viewshed zones, was not modelled initially, but was assessed in conjunction with the field assessment and analysis. The applications utilized and methodology followed by the consultants largely meet the requirements for the first stage of the visual assessment guidelines regarding Viewshed mapping.
There is only one area of concern, and that is the modelling height of the built form. At our meeting of July 20, 2009, NEC staff recommended a margin of error, 1 to 2 metres, be built into the modelled elevation to peak of roof in order to accommodate any increases in grade in the final engineering drawings for the subdivision. It is unknown, at this time, whether the elevation noted as ‘Ground Elevation’ represents the existing elevation or one that is proposed on the preliminary grading plans. As an example; please see Figure 1, where the ground elevation is noted as 187.5 + height of building 10 metres + viewers height 1.5 = 199.0.

The study identified two critical areas where visibility of the built form will require more detailed investigation. These critical zones are on the periphery of the site in the vicinity of the Escarpment brow and slope. The consultant’s assessment concluded that the built form blocks in the interior of the site were not of visual concern. Based on the documentation and field assessment, NEC staff can accept this conclusion subject to the establishment of a maximum built form height for these blocks in the next stage of the visual assessment.

Next Steps:

The next step in the investigation is focused on three areas; they are:

- Area A10 - Block A10 DPS
- Blocks - A2 through A9 DPS

Block A1:

The recommendations on Page 5 of the VAS set out possibilities for the mitigation of the visible built form through the trees from specific viewpoints. We recommend line of sight cross sections, one may be sufficient, be prepared based on the parameters set out in the Viewshed model. This will establish how much of the built form would be visible. Subsequently, the different forms of mitigation proposed can be modelled into the LSX to determine final measures to deal with any issues. This has not been determined and, therefore, Block A1 has been placed into a Holding Zone, until the ultimate height has been determined through the visual assessment, and is satisfactory to the NEC. The grading of this Block has also been addressed through a draft plan condition (see Appendix “E” - Condition No. 14).

Block A10:

Recommendations associated with Block A10 are also set out on Page 5 of the VAS. The measures include adjusting building height, location, and vegetative planting, or a landscaped berm. Figure 2 does not identify any specific critical viewpoints to be investigated further, but does identify that “…there are potential views of residential buildings and a noise wall from Upper Centennial Parkway as it approaches the Escarpment brow adjacent to the site.” As such, the views to be examined further with
the use of line of sight cross sections and/or photo simulations must be determined. The use of these two methods, starting with the LSX, will help establish how much of the built form would be visible. Subsequently, the different forms of mitigation proposed can be modelled into the LSX to determine final measures to deal with any issues.

Based on the foregoing a Holding Zone has been placed on a portion of the Block to ensure acceptable heights, as they relate to grading, are maintained, as well as appropriate landscaping, to the NEC’s satisfaction (see Appendix “E” - Condition Nos. 2, 14 and 75).

With respect to Block “A1” and Block “A10” on the draft plan of subdivision, the final grading will ultimately dictate the maximum height of the single detached dwellings. Furthermore, both Blocks will be subject to Site Plan Control, prior to the issuance of building permits, due to their proximity to the contiguous open space boundary, as per the Site Plan Control By-law. The applicant will be required to acknowledge this requirement (see Appendix “E” - Condition No. 76). Furthermore, as previously mentioned, a maximum building height of 8.5 metres has been included in the draft by-law based on the recommendation in the Phase 11 - Visual Impact Assessment, subject to confirmation of the NEC. Should the NEC confirm the maximum 8.5 metres building height, then the applicant would only have to apply to remove the ‘H’ Holding provision. However, should the NEC recommend a different building height, then the applicant would have to submit another zoning application to further modify the building height requirement, and to remove the ‘H’ Holding provision. This would require Public Notice and another Public Meeting.

**Hamilton Conservation Authority** has provided the following comments:

The applicant is proposing to subdivide a 23 hectare vacant parcel of land, located on the north side of Green Mountain Road West, south of the Niagara Escarpment, west of Upper Centennial Parkway, and east of First Road West in the Nash Neighbourhood, for the purpose of developing the property into a mix of single detached lots, medium residential, and street townhouse units, and several open space blocks containing natural hazard and natural heritage features on the site. The proposed development requires a Zoning By-law Amendment to change the Neighbourhood Development “ND” Zone to the Modified Multiple Residential “RM3” Zone and the Conservation/Hazard Land (P5) Zone.

The subject property contains a portion of the Felker’s Falls Escarpment Valley Environmentally Significant Area (ESA), which includes the Niagara Escarpment brow lands along the north side of the site, an existing farm pond, and a watercourse which flows across the property through the existing farm pond and over the Escarpment. This watercourse is one of two tributaries of Battlefield Creek that traverse the site, with both originating on the east side of Upper Centennial Parkway and having their confluence in the roadside ditch, on the west side of Upper Centennial Parkway, adjacent to the Vartanian property (property subject to the OMB proceedings), and
approximately 80 metres upstream of the farm pond. In order to comply with the 2005 Provincial Policy Statement and HCA’s 2009 Planning and Regulation Policies and Guidelines, whereby new development, including lot creation, must be located entirely outside flood and erosion hazard lands, the applicant undertook a floodline analysis study to determine the extent of the Regional Storm floodplain on the site.

HCA staff has now completed the review of the revised Functional Floodline Analysis, dated September 2009, prepared by MTE Consultants Ltd., which identified a portion of the proposed new development as being located within the Regional Storm floodplain under existing conditions. The analysis included modelling by MTE, which took into account the existing farm pond and the old crumbling man-made weir structure located at the downstream end of the pond, adjacent to the Vartanian lands, as well as the proposed construction of a noise barrier along the east side of the property, adjacent to Upper Centennial Parkway.

The September 2009 report by MTE recommended some modifications to the creek channel and overbank area adjacent to the creek in order to eliminate the Regional Storm floodplain from the proposed residential development. The pre and post development floodplain lands, and the parcel fabric, has been illustrated on the Floodline Mapping, Figure 1.0 in the MTE September 2009 report, which indicates that all lots and blocks, roadways, and the stormwater management pond will be located outside the Regional Storm floodplain, with the floodplain lands being contained within Open Space Blocks. The only exception is the stormwater management outfall structure, which outlets into the farm pond and will be constructed partially within the Regional Storm floodplain and partially within the Felker’s Falls Valley Escarpment ESA. HCA has agreed, in principle, to this encroachment, but will require submission of detailed drawings at the detailed design stage. In addition, HCA will require that the proposed channel works be designed by a qualified fluviogeomorphologist, in accordance with the modelling prepared by MTE, included in their September 2009 report (see Appendix “E” - Condition No. 65). The proposed in-stream channel works and grading activities within the HCA’s regulated area will also require a permit from HCA pursuant to our Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04.

With respect to the natural heritage features on the site, the City of Hamilton Natural Heritage Planner and HCA staff met on site with staff from Stantec Consulting Ltd., on December 7, 2007, to determine whether the ground flagging of the Felker’s Falls Escarpment Valley Environmentally Significant Area (ESA), previously undertaken by Stantec, accurately identified the natural heritage features. City and HCA staff agreed with the ESA boundary modifications, which was based on the dripline of the forest edge associated with the Niagara Escarpment and the limit of the natural vegetation around the farm pond and along Battlefield Creek. Subsequently, an Environmental Impact Study was prepared by Stantec Consulting Ltd., dated February 22, 2008, which recommended that a 30 metre development setback be maintained from the brow of the Niagara Escarpment, as per the requirement of the Niagara Escarpment Commission,
and a minimum 10 metre development setback from the remaining ESA. HCA agreed with the setback recommendations. In this regard, we note that the amended Draft Plan, prepared by Armstrong Hunter and Associates, revision date November 2008, accurately reflects the natural heritage feature and their associated setbacks, with these lands being contained within open space blocks. We note, however, that the Floodline Mapping, Figure 1.0, prepared by MTE in September 2009, shows a somewhat different residential block positioning, such that Street 'B' and Block ‘A24’, adjacent to the archaeological site identified as Open Space Block ‘E’, are now shifted southward and further into the Eramosa Escarpment. According to the Conceptual Cut Fill, Drawing QU1.1, prepared by MTE, dated June 4, 2009, this encroachment into the Eramosa Escarpment will require a substantial cutting into the steep escarpment slope. Notwithstanding the issues surrounding disturbance of lands in close proximity to the archaeological site, there may be slope stability and drainage issues related to the proposed excavation works. In this regard, we recommend that a geotechnical assessment be done to determine slope stability and drainage issues (see Appendix “E” - Condition No. 67).

The following Departments and Agencies had no comments or objections:

- Hamilton Public Works Department (Forestry and Horticulture Section).
- Hamilton Emergency Services.
- Hamilton Public Health Services.
- Hamilton Hydro.
- Canada Post.
- Union Gas.
- Hydro One Networks.

Public Consultation

In accordance with the new provisions of the Planning Act and the Council approved Public Participation Policy, Notice of Complete Application and Preliminary Circulation was sent to 29 property owners within 120 metres of the subject lands, and a Public Notice sign was posted on the property on May 14, 2008. Local residents and property owners in the immediate area have raised issues with respect to the proposed applications (see Appendix “G”). These issues have been highlighted and addressed in the Analysis/Rationale section of this report. The Notice of Public Meeting was also circulated in accordance with the provisions 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.
SUBJECT: Application for Approval of Draft Plan of Subdivision, “Empire Nash”, and Amendments to Stoney Creek Zoning By-law No. 3692-92 and City of Hamilton Zoning By-law No. 05-200, for Lands Located at 22 Green Mountain Road West (Hamilton) (PED09275) (Ward 9)

Community Well-Being is enhanced. ☑ Yes ☐ No
Shelter, care, and satisfying employment are accessible to all Hamiltonians.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Ecological function and the natural heritage system are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

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

:JM
Attachs. (7)
CITY OF HAMILTON

BY-LAW NO. __________

To Amend Zoning By-law No. 3692-92 (Stoney Creek), Respecting the Property Located at 22 Green Mountain Road West (Stoney Creek)

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

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

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

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

AND WHEREAS the Council of the City of Hamilton, in adopting Item _____ of Report 09-____ of the Economic Development and Planning Committee, at its meeting held on the ____ day of ____ , 2009, recommended that Zoning By-law No. 3692-92 (Stoney Creek) be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;

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

1. That Map No. 11 of Schedule “A”, appended to and forming part of By-law No. 3692-92 (Stoney Creek), is amended as follows:

   (a) by changing the zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential (Holding) “RM3-38(H)” Zone, the lands comprised in “Block 1”;
(b) by changing the zoning from the Highway Commercial “HC” Zone to the Multiple Residential (Holding) “RM3-38(H)” Zone, the lands comprised in “Block 2”;

(c) by changing the zoning from the Neighbourhood Development “ND” Zone to the Multiple Residential “RM2-20” Zone, the lands comprised in “Block 3”;

(d) by changing the zoning from the Neighbourhood Development “ND” Zone to the Single Residential “R4-26” Zone, the lands comprised in “Blocks 4, 5, 7 and 13”;

(e) by changing the zoning from the Neighbourhood Development “ND” Zone to the Single Residential “R4-27” Zone, the lands comprised in “Blocks 8, 9, 10 and 11”;

(f) by changing the zoning from the Neighbourhood Development “ND” Zone to the Single Residential (Holding) “R4-28(H)” Zone, the lands comprised in “Blocks 17 and 18”;

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

2. That Subsection 6.10.7, “Special Exemptions”, of Section 6.10 Multiple Residential “RM3” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “RM3-38(H)”, as follows:

“RM3-38(H)” 22 Green Mountain Rd. West, Schedule “A”, Map No. 11

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (f) (j) and (m) 1. of Subsection 6.10.3 of the Multiple Residential “RM3” Zone, on those lands zoned “RM3-38(H)” by this By-law, the following shall apply for maisonettes:

(a) Minimum Lot Area: 89 square metres, except 95 square metres for an end lot, and 100 square metres for a corner lot.

(b) Minimum Lot Frontage: 6.0 metres per dwelling unit, except 8.0 metres for a corner unit.

(c) Minimum Front Yard: 4.5 metres to the dwelling, except 6.0 metres to the garage.

(d) Minimum Side Yard: 1.2 metres, except:

On a corner lot the minimum side yard abutting the flankage street shall be 2.4 metres, provided that an attached garage, which fronts on the flankage street, shall not be located within 6.0 metres of the flankage street line.
(j) Maximum Building Height: 12.5 metres.

(m) 1. Minimum Landscaped Open Space: 30%.

Notwithstanding provision b) of Section 4.10.3 “Dimensions of Parking Spaces”, on those lands zoned “RM3-38(H)” by this By-law, the following shall apply:

The parking space size located within a garage shall have a minimum width of 2.6 metres, and have a minimum length of 6.0 metres. Stairs to a maximum of 3 risers shall be permitted to encroach into the length of the parking space.

In addition to the provisions of Section 6.10 of the Multiple Residential “RM3” Zone, on those lands zoned “RM3-38(H)” by this By-law, the following uses shall also be permitted:

Street townhouses and townhouses on a common element condominium road shall be permitted in accordance with the regulations of the “RM2-20” Zone.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted for all uses:

(a) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for a flankage yard;

(b) Bay windows, either with or without foundations, may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres; and,

(c) Stairs may project into any required front yard at a distance of not more than 4.5 metres.

Notwithstanding Section 4.13.1 “Special Setbacks - Daylight Triangles”, the following shall apply:

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

The (H) symbol may be removed by further amendment to this By-law at such time as the following condition has been satisfied:

(a) The completion of mining and the completion of rehabilitation on the quarry lands has been finalized, to the satisfaction of the Director of Planning.
3. That Subsection 6.9.6, “Special Exemptions”, of Section 6.9 Multiple Residential “RM2” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “RM2-20”, as follows:

“RM2-20” 22 Green Mountain Rd. West, Schedule “A”, Map No. 11

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d), (e) and (h) of Subsection 6.9.3 of the Multiple Residential “RM2” Zone, on those lands zoned “RM2-20” by this By-law, the following shall apply:

(a) Minimum Lot Area: 150 square metres, except 195 square metres for an end unit, and 240 square metres for a corner unit.

(b) Minimum Lot Frontage: 5.6 metres per dwelling unit, except 8.0 metres for a corner unit.

(c) Minimum Front Yard: 4.5 metres to the dwelling, except 6.0 metres to the garage.

(d) Minimum Side Yard: 1.2 metres, except:

On a corner lot the minimum side yard abutting the flankage street shall be 2.4 metres, except that an attached garage, which fronts on the flankage street, shall not be located within 6.0 metres of the flankage street line.

(e) Minimum Rear Yard: 7.0 metres.

(g) Minimum Landscaped Open Space: 30%.

(h) Maximum Building Height: 12.5 metres.

Notwithstanding provision b) of Section 4.10.3 “Dimensions of Parking Spaces”, on those lands zoned “RM2-20” by this By-law, the following shall apply:

The parking space size located within a garage shall have a minimum width of 2.6 metres, and have a minimum length of 6.0 metres. Stairs to a maximum of 3 risers shall be permitted to encroach into the length of the parking space.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted:

(a) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for a flankage yard;
(b) Bay windows, either with or without foundations, may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres; and,

(c) Stairs may project into any required front yard a distance of not more than 4.5 metres.

4. That Subsection 6.5.7, “Special Exemptions”, of Section 6.5 Single Residential “R4” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “R4-26”, as follows:

“R4-26”  22 Green Mountain Rd. West, Schedule “A”, Map No. 11

Notwithstanding the provisions of Paragraphs (a), (b), (c), (d) and (e) of Subsection 6.5.3 of the Single Residential “R4” Zone, on those lands zoned “R4-26” by this By-law, the following shall apply:

(a) Minimum Lot Area: 250 square metres, except 290 square metres for a corner lot.

(b) Minimum Lot Frontage: 9.0 metres, except, 11.0 metres for a corner lot.

(c) Minimum Front Yard: 4.5 metres to the dwelling, except 6.0 metres to the garage.

(d) Minimum Side Yard: 1.2 metres, except:

On a corner lot, the minimum side yard abutting the flankage street shall be 2.4 metres, except that an attached garage which fronts on the flankage street shall not be located within 6.0 metres of the flankage street line.

(e) Minimum Rear Yard: 7.0 metres.

Notwithstanding provision b) of Section 4.10.3 “Dimensions of Parking Spaces”, on those lands zoned “R4-26” by this By-law, the following shall apply:

The parking space size located within a garage shall have a minimum width of 2.6 metres, and have a minimum length of 6.0 metres. Stairs to a maximum of 3 risers shall be permitted to encroach into the length of the parking space.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted:

(a) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for a flankage yard;
(b) Bay windows either with or without foundations may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres;

(c) Stairs may project into any required front yard a distance of not more than 4.5 metres; and,

Notwithstanding Section 4.13.1 “Special Setbacks - Daylight Triangles” the following shall apply:

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

5. That Subsection 6.5.7, “Special Exemptions”, of Section 6.5 Single Residential “R4” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “R4-27”, as follows:

“R4-27”    22 Green Mountain Rd. West, Schedule “A”, Map No. 11

Notwithstanding the provisions of Paragraphs (a), (c), (d) and (e) of Subsection 6.5.3 of the Single Residential “R4” Zone, on those lands zoned “R4-27” by this By-law, the following shall apply:

(a) Minimum Lot Area:  300 square metres, except 360 square metres for a corner lot.

(c) Minimum Front Yard:  4.5 metres to the dwelling, except 6.0 metres to the garage.

(d) Minimum Side Yard:  1.2 metres, except:

On a corner lot the minimum side yard abutting the flankage street shall be 2.4 metres, except that an attached garage which fronts on the flankage street shall not be located within 6.0 metres of the flankage street line.

(e) Minimum Rear Yard:  7.0 metres.

Notwithstanding provision b) of Section 4.10.3 “Dimensions of Parking Spaces”, on those lands zoned “R4-27” by this By-law, the following shall apply:

The parking space size located within a garage shall have a minimum width of 2.6 metres, and have a minimum length of 6.0 metres. Stairs to a maximum of 3 risers shall be permitted to encroach into the length of the parking space.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted:
(a) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for a flankage yard;

(b) Bay windows, either with or without foundations, may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres;

(c) Stairs may project into any required front yard a distance of not more than 4.5 metres; and,

Notwithstanding Section 4.13.1 “Special Setbacks - Daylight Triangles” the following shall apply:

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

6. That Subsection 6.5.7, “Special Exemptions”, of Section 6.5 Single Residential “R4” Zone, of Zoning By-law No. 3692-92, be amended by adding a new Special Exemption, “R4-28(H)”, as follows:

“R4-28(H)” 22 Green Mountain Rd. West, Schedule “A”, Map No. 11

Notwithstanding the provisions of Paragraphs (a), (c), (d), (e) and (f) of Subsection 6.5.3 of the Single Residential “R4” Zone, on those lands zoned “R4-27(H)” by this By-law, the following shall apply:

(a) Minimum Lot Area: 300 square metres, except 360 square metres for a corner lot.

(c) Minimum Front Yard: 4.5 metres to the dwelling, except 6.0 metres to the garage.

(d) Minimum Side Yard: 1.2 metres, except:

On a corner lot, the minimum side yard abutting the flankage street shall be 2.4 metres, except that an attached garage which fronts on the flankage street shall not be located within 6.0 metres of the flankage street line.

(e) Minimum Rear Yard: 7.0 metres

(f) Maximum Building Height: 8.5 metres

Notwithstanding provision b) of Section 4.10.3 “Dimensions of Parking Spaces”, on those lands zoned “R4-27” by this By-law, the following shall apply:

The parking space size located within a garage shall have a minimum width of 2.6 metres, and have a minimum length of 6.0 metres. Stairs to a
maximum of 3 risers shall be permitted to encroach into the length of the parking space.

In addition to the regulations of Subsection 4.19 “Yard Encroachments”, the following encroachments shall be permitted:

(a) Covered porches may project into any required front yard a distance of not more than 3.0 metres and 1.6 metres for a flankage yard;

(b) Bay windows, either with or without foundations, may project into any required front, rear, or flankage yards a distance of not more than 0.9 metres;

(c) Stairs may project into any required front yard a distance of not more than 4.5 metres; and,

Notwithstanding Section 4.13.1 “Special Setbacks - Daylight Triangles” the following shall apply:

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

The (H) symbol may be removed by further amendment to this By-law at such time as the following condition has been satisfied:

(a) That the visual analysis of the Escarpment brow is finalized, to the satisfaction of the Director of Planning and the Niagara Escarpment Commission.

7. That no building or structure shall be erected, altered, extended or enlarged, nor shall any building or structure or part thereof be used, nor shall any land be used, except in accordance with the Single Residential “R4” Zone, the Multiple Residential “RM2” Zone, and the Multiple Residential “RM3” Zone provisions, subject to the special requirements referred to in Sections 2, 3, 4, 5 and 6.

8. 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 , 2009.

______________________________  _________________________________
FRED EISENBERGER  KEVIN C. CHRISTENSON
MAYOR  CLERK

ZAC-08-026
25T-200803
Appendix "C" to Report PED09275

This is Schedule "A" to By-Law No. 09-
Passed the ........... day of ...................., 2009

Map Forming Part of By-Law No. 09-

Subject Property
22 Green Mountain Road West, Stoney Creek

Block 1 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential Holding "RM2-9B(H)" Zone
Block 2 - Change in Zoning from the Highway Commercial "HC" Zone to the Multiple Residential Holding "RM2-8B(H)" Zone
Block 3 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Multiple Residential "RM1-20" Zone
Blocks 4, 5, 7 and 13 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-20" Zone
Blocks 8, 9, 10, 11 and 12 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Single Residential "R4-27" Zone
Block 17 and 18 - Change in Zoning from the Neighbourhood Development "ND" Zone to the Single Residential Holding "R4-20(H)" Zone
Blocks 6, 12, 14, 15 and 18 - Refer to By-Law No.05-200
CITY OF HAMILTON

BY-LAW No. [number]

To Amend Zoning By-law No. 05-200

22 Green Mountain Road West (Stoney Creek)

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 Zoning By-law No. 05-200 was enacted on the 25th day of May, 2005;

AND WHEREAS the Council of the City of Hamilton, in adopting Item [number] of Report 09- [number] of the Economic Development and Planning Committee at its meeting held on the [date] day of [month], 2009, recommended that Zoning By-law No. 05-200, be amended as hereinafter provided;

AND WHEREAS this by-law is in conformity with the Official Plan of the City of Hamilton (formerly the City of Stoney Creek Official Plan), approved by the Minister under the Planning Act on May 12, 1986;

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

1. That Map Nos. 1353, 1354, 1405 and 1406 of Schedule “A” to Zoning By-law No. 05-200, is amended by incorporating additional Conservation/Hazard Land (P5) Zone and Conservation/Hazard Land (P5, 23) Zone boundaries for the applicable lands, the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”;
2. That Schedule “C” of By-law No. 05-200 is amended by adding an additional special exception as follows:

“23. Within the lands zoned Conservation/Hazard (P5, 23) Zone, identified on Map 1406 of Schedule “A” and described as 22 Green Mountain Road West, the following special provisions shall apply:

a) No person shall erect, or use any land, building, or structure, in whole or in part, within a Conservation/Hazard Land (P5) Zone for any purpose other than that listed in Section (b) below;

b) Permitted Use - Archaeological Conservation which, for the purpose of this By-law, shall mean the preservation of an archaeological resource or resources in place.”

3. 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.

4. That this By-law No. _____ shall come into force, and be deemed to come into force, in accordance with Subsection 34(21) of the Planning Act, either upon the date of passage of this By-law or as otherwise provided by the said subsection.

PASSED and ENACTED this _____ day of _____, 2009.

______________________________  ________________________________
FRED EISENBERGER                  KEVIN C. CHRISTENSON
MAYOR                              CLERK

ZAC-08-026
25T-200803
Schedule "A"

Map Forming Part of By-Law No. 09-____
to Amend By-law No. 05-200

Subject Property
22 Green Mountain Road West, Stoney Creek
- Lands to be Zoned Conservation/Hazard Land (P5) Zone
- Lands to be Zoned Conservation/Hazard Land (P5.23) Zone
- Refer to By-law No. 3692-82
Special Conditions of Draft Plan of Subdivision Approval for “Empire Nash”

1. That, prior to preliminary grading or servicing, the Owner submit a tree preservation study and plan, prepared by a certified arborist or landscape architect, for review and approval by the Director of Capital Planning and Implementation, Public Works Department, and provide written certification from the Owner’s landscape architect/arborist to the Director of Planning that all measures for the protection of isolated trees, tree clusters and woodlands, in accordance with the Detailed Tree Preservation Plan approved by the City, have been implemented and inspected, prior to any clearing or grubbing of the lands within the draft plan.

2. That, prior to registration of the final plan of subdivision, and at the Owner’s expense, the Owner shall submit Architectural and Urban Design Guidelines, prepared by a qualified architect or urban designer (referred to as the “Design Architect”), and where required on the draft plan, be in accordance with the requirements and/or recommendations contained within the Visual Assessment Study approved by the Niagara Escarpment Commission, to the satisfaction of the Director of Planning.

3. That, prior to registration of the final plan of subdivision, and at the Owner’s expense, the Owner shall have a “Control Architect”, independent of the “Design Architect” firm or individual retained, to the satisfaction of the Manager of Community Planning and Design, and whose function shall be:
   
i) To ensure, amongst other matters, the appropriate development of each lot with respect to siting, built form, materials, colours and landscaping in compliance with the approved Architectural and Urban Design Guidelines, including the Visual Analysis for Blocks A1 and A10; and,
   
ii) To certify, through stamping and signing, all drawings for the development of each lot and or block subject to the architectural guidelines prior to the issuance of any building permit(s).

4. That the Owner agrees, at their expense, to design and construct an entrance feature that is prepared by a qualified landscape architect, to the satisfaction of the Director of Planning and the Director, Operations and Maintenance.

5. That, prior to registration of the final plan of subdivision, the Owner shall submit a Landfill Impact Assessment, to the satisfaction of the Director of Planning. This assessment shall comply with MOE Guideline D-4, Land Use On or Near Landfills and Dumps. Specifically, this study shall consider landfill-generated gases, ground and surface water, contamination by leachate, odour, litter, contaminant discharges associated with vehicular traffic, visual impact, dust,
noise, other air emissions, fires, surface runoff, vectors and vermin, and the migration of methane gas. The assessment shall identify any required remediation measures, controls, or conditions that should be included if the proposed development is approved in order to minimize adverse effects on the proposed land use from the landfill. The Landfill Impact Assessment, and any studies completed as part thereof, must be completed by qualified experts. Should peer reviews of the assessment or any separate reports prepared as part of the assessment be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the, Director of Planning.

6. That, prior to registration of the final plan of subdivision, the Owner shall investigate the noise levels on the site, and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of the Environment’s recommended sound level limits. An acoustical report, prepared by a qualified Professional Engineer and containing the recommended control measures, shall be submitted, to the satisfaction of the, Director of Planning. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the Owner and shall be submitted, to the satisfaction of the Director of Planning and Director of Development Engineering.

7. That, prior to registration of the final plan of subdivision, the Owner submits an addendum to the Environmental Impact Statement (EIS), prepared by Stantec, dated February 22, 2008, for review by the Environmentally Significant Areas Impact Evaluation Group (ESAIEG), and implement the recommendations/mitigation measures as requested by the City of Hamilton, to the satisfaction of the Director of Planning.

8. That, prior to the issuance of any building permit, the Owner shall submit a signed Record of Site Condition (RSC) to the Director of Planning and the Ministry of the Environment (MOE). This RSC must be to the satisfaction of the City of Hamilton, including an acknowledgement of receipt of the RSC by the MOE, and submission of the City of Hamilton’s current RSC administration fee.

9. That, prior to the issuance of any building permit, the Owner shall provide maintenance easements for any lots with a side yard of less than 1.2m, to the satisfaction of the Director of Planning.

10. That, prior to registration of the final plan of subdivision, Block “B” ("Nash II" Archaeological site AhGx-248) and Block “E” ("Nash IV" Archaeological Site AhGx-250) be conveyed to the City.

11. That, prior to registration of the draft plan of subdivision, the Owner provide the sum of $25,000 to be placed in a City fund for the perpetual care and maintenance of Blocks “B” and “E”, to the satisfaction of the Director of Planning.
12. That, prior to registration of the final plan of subdivision, the Owner prepare, at their expense, an archaeological site management plan for Blocks “B” and “E”, prepared by a licensed archaeologist from the City of Hamilton’s roster, to the satisfaction of the Director of Planning detailing, but not limited to:

i) The intended long-term use of the Blocks “B” and “E”;
ii) Any means of long-term physical definition and protection of the sites;
iii) Surface treatment (e.g. ground-cover);
iv) Neighbourhood and Councillor engagement; and,
v) First Nations engagement, and the nature of this involvement.

13. That, prior to registration of the final plan of subdivision, the Owner agree to the inclusion in the Subdivision Agreement of the following warning clause:

“Purchasers are advised that despite the fact the City has ownership of the archeological sites, maintenance of those sites will be at a minimum, and the sites will remain in a natural state, which may become of concern, occasionally interfering with some activities of the abutting land owners.”

14. That, prior to registration of the final plan of subdivision, the Owner agrees to prepare and implement a grading plan, incorporating the recommendations of the final Visual Impact Assessment, to address the final building height for Blocks “A1” and “A10”, to the satisfaction of the Director of Engineering in consultation with the Niagara Escarpment Commission.

15. That, prior to registration of the final plan of subdivision, storm sewers, sanitary sewers and water shall be available to service the lands of the draft plan, to the satisfaction of the Director of Development Engineering.

16. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time trunk sanitary sewer and watermain, including appurtenances, are constructed in accordance with the City Water/Wastewater Master Plan, and the supporting Conceptual Design Report for the Centennial Parkway Trunk Feedermain and Sanitary Sewer, and Related Master Plan Projects (March 2009), to the satisfaction of the Director of Development Engineering.

17. That, prior to servicing, the Owner agree to prepare a comprehensive functional servicing plan for the Nash Neighbourhood for sanitary sewer and watermain servicing. For sanitary servicing, the servicing plan shall investigate alternative servicing options; e.g. deep gravity system vs. shallow gravity system with a pumping station, to the satisfaction of the Director of Development Engineering.
18. That, prior to registration of the final plan of subdivision, the Owner agree that the subject lands shall not be developed until such time as full municipal services including sanitary sewers, storm sewers, watermain, and fully urbanized roadway are constructed, at the Owner’s expense, on Green Mountain Road West from Upper Centennial Parkway to the west limits of the subject lands, to the satisfaction of the Director of Development Engineering.

19. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the rear yard and side yard of Blocks “A6”, “A7”, “A8”, “A9”, and the sideyard of Block “A10, which abut SWM Block “C” and Open Space Block “B”, to the satisfaction of the Director of Development Engineering.

20. That, prior to servicing, the Owner include in the engineering design for the draft plan lands installation of a minimum 1.5m high chainlink fence along the side yard of Blocks “A10” and “A11”, which side yards abut Sanitary Sewer and Watermain Easement Block “G”, to the satisfaction of the Director of Development Engineering.

21. That, prior to servicing, Owner agree to prepare a detailed stormwater management report to address quality and quantity control, as well as 5 year and 100 year storm, including provisions for a major overland flow route for review and approval by the Director of Development Engineering and all other appropriate agencies, with sufficient back-up information, to verify that the stormwater management facility has been designed with a suitable outlet and in accordance with current storm water management guidelines, and that the land area designated for a storm water management facility will accommodate the proposed facility. Further, the Owner shall submit: (i) a maintenance plan for the SWM facility; and, (ii) a monitoring plan that describes how the performance and effectiveness of the SWM pond will be monitored to ensure that the SWM quality and quantity control criteria are achieved.

22. That, prior to registration of the final plan of subdivision, the Owner agrees to:

i) Operate and maintain, in an acceptable manner, SWM facility throughout the construction of all stages of draft plan registration, or until a time as established by the Director of Development Engineering, and monitor such operation and effects thereof;

ii) Assume full responsibility for the cost to operate and maintain the SWM facility, including any changes to conditions of the MOE’s approval until such time that the facility is assumed by the City of Hamilton;

iii) Provide an operation and maintenance manual, to the satisfaction of the Director of Development Engineering, for the SWM facility, and agree to inspect/monitor and maintain the SWM facility in accordance with said
manual throughout construction, or until a time as established by the Director of Development Engineering; and,

iv) Keep detailed logs concerning performance and required maintenance activities for the pond, including costs for cleaning and removal of sediment etc., to the satisfaction of the Director of Development Engineering. This information is to be included in the operation and maintenance manual that will be provided to the City of Hamilton by the Owner upon the future assumption of the facility,

all to the satisfaction of the Director of Development Engineering.

23. That, prior to registration of the final plan of subdivision, the Owner agree to convey sufficient lands (Block “C”) to the City of Hamilton for the purposes of an adequately sized Stormwater Management (SWM) Facility, to the satisfaction of the Director of Development Engineering.

24. That, prior to registration of the final plan of subdivision, the Owner shall prepare a Groundwater Study, which shall assess the impact the proposed development would have on the water supply and the sewage disposal systems on the adjacent properties. Pending the outcome of the Study, the Owner shall propose appropriate mitigative measures to address the concerns, to the satisfaction of the Director of Development Engineering.

25. That, prior to servicing, the Owner shall submit a hydrogeological study, prepared by a qualified professional, that assesses impacts to existing and future homes, identify any significant recharge and discharge zone, and provide recommendations to mitigate the groundwater impacts, such as continuously running sump pumps both during construction and post construction and to undertake any remedial works, as recommended, including monitoring, to the satisfaction of the Director of Development Engineering.

26. That, prior to servicing, the Owner, through a soil consultant or other qualified consultant, shall: check existing wells which provide potable water supply to other properties located within a reasonable distance of the subject lands to establish the existing depth of water within wells, prior to the commencement of construction; monitor these wells during construction; and check wells for a period of one year after the completion of construction. Where, in the opinion of the City, if any problems arise, they must be appropriately addressed by the Owner, to the satisfaction of the Director of Development Engineering.

27. That, prior to registration of the final plan of subdivision, the Owner provide an engineering design for a suitable servicing easement for water, sewer, and road access through Block “A29” to provide for servicing of the future redevelopment of private lands known as 403, 405, 407, 411, and 413 Upper Centennial Parkway, to the satisfaction of the Director of Development Engineering.
28. That, prior to registration of the final plan of subdivision, 4.5 metre by 4.5 metre daylight triangles be established on the final plan of subdivision at the intersection of Street “A” and Street “B” (north intersection), Street “A” and Street “D”, Street “A” and Street “E”, Street “B” and Street “D”, Street “B” and Street “E”, Street “B” and Street “F”, Street “F” and Street “G”, Street “F” and Street “H”, Street “G” and Street “H”, all to the satisfaction of the Director of Development Engineering.

29. That, prior to registration of the final plan of subdivision, 4.5 metre x 4.5 metre daylight triangles be established on the final plan of subdivision at the “L” shaped bends on Street “B” at the corner of Block “A15” and Block “A22”, and the “L” shaped bends of Street “H” at the corner of Block “A5”, all to the satisfaction of the Director of Development Engineering.

30. That, prior to registration of the final plan of subdivision, 7.0 metre x 7.0 metre daylight triangles be established on the final plan of subdivision at the south intersection of Street “A” and Street “B”, to the satisfaction of the Director of Development Engineering.

31. That prior to registration of the final plan of subdivision, the Owner agree to dedicate the necessary lands for daylight triangles to accommodate the ultimate design of intersection upgrades at the intersection of the widened limits of Green Mountain Road West at Upper Centennial Parkway, to the satisfaction of the Manager, Traffic Engineering and Operations, and the Director of Development Engineering. In the event there are temporary works required, the Owner further agree that he will be responsible for all related costs of installation, removal, and restoration.

32. That, prior to registration of the final plan of subdivision, a 12.0 metre x 12.0 metre daylight triangle be established on the final plan of subdivision, at the intersection of the widened limits of Green Mountain Road West and Street “A”, to the satisfaction of the Director of Development Engineering.

33. That, prior to registration of the final plan of subdivision, the final plan of subdivision include a block showing sufficient lands to be dedicated to the City of Hamilton as public highway, by Owner’s certificate on the plan, to establish the widened limit of Green Mountain Road West at 13.0 meters from centerline of the original road allowance, to the satisfaction of the Director of Development Engineering.

34. That, prior to registration of the final plan of subdivision, the Owner shall submit the necessary transfer deeds to the City’s Legal Department to convey sufficient lands for a sanitary sewer easement, to the satisfaction of the Director of Development Engineering.
35. That, prior to servicing, the Owner shall include in the engineering design for the draft plan lands installation of 1.5m wide sidewalks on both sides of Streets “A” and “F”, the outer loop of Streets “B” and “H”, the north side of Streets “D” and “E”, the south side of Street “G”, the west side of Streets “I” and “J”, however, all subject to change in accordance with the current applicable City sidewalk policy in affect at the time of engineering approval, to the satisfaction of the Director of Development Engineering.

36. That, prior to servicing, the Owner include in the engineering design, the driveway locations for the bend in Street “B” and the cul de sacs at the north limits of Streets “C” and “F”, to the satisfaction of the Director of Development Engineering, and the Manager of Traffic Engineering and Operations.

37. That, prior to servicing, the Owner shall implement recommendations of a Geotechnical report, prepared by a qualified consultant, to the satisfaction of the Director of Development Engineering.

38. That, prior to registration of the final plan of subdivision, the Owner, through a qualified consultant shall: maintain and monitor the existing siltation/erosion control; provide monthly reports until the completion of sodding, all to the satisfaction of the Director of Development Engineering.

39. That, prior to registration of the final plan of subdivision, the Owner shall include in the engineering design verification that the proposed water main system provides adequate domestic and fire flows in accordance with MOE requirements, to the satisfaction of the Director of Development Engineering.

40. That, prior to servicing, the Owner shall agree that a maximum of 100 residential units of the final plan shall be permitted to be constructed with only one (1) public road access to service each phase of the development. A second public road access to the subject lands is required, prior to development, beyond the initial 100 residential units, to the satisfaction of the Director of Development Engineering.

41. That, prior to registration of the final plan of subdivision, the Owner agree to urbanize Green Mountain Road West from Upper Centennial Parkway to the west limit of the draft plan lands, including the installation of sewers and sidewalks in accordance with requirements of the Nash Neighbourhood Secondary Plan, to the satisfaction of the Director of Development Engineering, and the Director of Operations and Maintenance.

43. That, as part of the engineering design, the Owner agree that surface drainage from larger width abutting lots will not be permitted to drain through adjacent narrow width lots, to the satisfaction of the Director of Development Engineering.

44. That, prior to registration of the final plan of subdivision, the Owner pay their proportionate share for the future urbanization of Upper Centennial Parkway, adjacent to the east limit of the subject lands, based on the City’s “New Roads Servicing Rate” in effect at the time of payment, to the satisfaction of the Director of Development Engineering.

45. That, prior to registration of the final plan of subdivision, the Owner agree to complete, at their own expense, an Environmental Assessment (Class Environmental Assessment) for the realignment of First Road West and Green Mountain Road West; or, the Owner provide evidence that the Class EA is not necessary, to the satisfaction of the Director of Capital Planning and Implementation, and the Director of Development Engineering.

46. That, prior to registration of the final plan of subdivision, the Owner is to finalize the Traffic Impact Study prepared for the Nash Neighbourhood development lands. The report will consider safety, capacity, phasing, and provide recommendations for improvements in location, geometry and/or intersection control. The report will include development of the Nash Neighbourhood, and include potential development of the surrounding neighbourhoods, to the satisfaction of the Director of Operations and Maintenance.

47. That, prior to registration of the final plan of subdivision, the Owner shall be responsible for any roadway improvements required on the adjacent road networks as a result of the proposed development identified through the Traffic Impact Study or staff recommendations. Potential works to include design, new roadway construction, pavement widening of existing roads for additional turning lanes or centre two-way left turn lanes, urbanization, traffic signal installation or roundabout construction, signal hardware upgrades at existing signalized intersections, median construction, pavement markings and signage. Roundabout feasibility analysis is suggested to be undertaken by a consultant well versed in Rodel and roundabout design. The Traffic Impact Study has identified the limits of review, including Mud Street and also Highland Road, to the satisfaction of the Director of Operations and Maintenance.

48. That, prior to registration of the final plan of subdivision, the Traffic Impact Study for the Nash Neighbourhood lands, prepared by the Owner (Cole Engineering Group Ltd.), will be peer reviewed by a City of Hamilton roster traffic consultant, at the expense of the Owner. The City’s roster consultant shall review the submitted traffic impact studies for the following developments to ensure that a consolidated analysis of all intersections in the study area and their impacts on the road network and adjacent neighbourhoods has been
addressed. The peer review analysis will also identify an overview of the recommended improvements required on the arterial and collector road network to ensure an acceptable level of service is achieved, to the satisfaction of the Director of Operations and Maintenance. The traffic impact studies and/or development applications to be reviewed in the peer review exercise are:

- Paletta International Commercial lands @ Mud Street and First Road West (File Nos. ZAC-04-092 and ZAH-06-34).
- Upper Centennial Developments (File Nos. ZAC-06-99 and OPA-06-26).
- ORC lands Mud Street at Isaac Brock (File Nos. ZAC-08-062, OPA-08-012 and 25T-200806).
- City of Hamilton Sports Park Complex Expansion.
- Penny Lane Estates, Felker (File Nos. ZAC-08-077 and 25T-200808).
- Paletta International Residential lands, Felker (File Nos. ZAC-09-031 and OPA-09-008).

49. That, prior to registration of the final plan of subdivision, at the Owner's expense, the Owner will be responsible for base road surveying, engineering, potential roundabout or traffic signal design, and pavement marking design for development related projects. At the Owner's expense, they will be required to hire a traffic engineering consultant, approved by the City, to provide City formatted engineering drawings. The City would monitor the roundabout and/or traffic signal design, and pavement marking design, and once the design is close to completion, City staff would finalize the details. Traffic signal, roundabout and pavement marking design drawings must be approved and signed by the Manager of Traffic Engineering and Operations.

50. That, prior to registration of the final plan of subdivision, the Owner dedicate sufficient lands from the north-west corner of Green Mountain Road West at Upper Centennial Parkway to complete intersection traffic control upgrading or re-alignment, based on the approval by the City of the Owner's Traffic Impact Study. The dimensions of the land to be dedicated cannot be confirmed at this time, however, we advise that a 15m x 15m daylight triangle will likely be necessary. The required size of the triangle may increase depending on the ultimate intersection location and upgrades required to accommodate Nash Neighbourhood traffic, multi-lane roundabout or traffic signal, to the satisfaction of the Director of Operations and Maintenance.
51. That, prior to registration of the final plan of subdivision, that the Owner upgrade the existing intersection of Green Mountain Road West at Upper Centennial Parkway, at their cost, in accordance with the recommendations of an approved Class EA process, to the satisfaction of the Director of Operations and Maintenance.

52. That, prior to registration of the final plan of subdivision, that Green Mountain Road West be upgraded to an urban cross-section from Upper Centennial Parkway through the limits of their property, to the satisfaction of the Director of Operations and Maintenance.

53. That, prior to registration of the final plan of subdivision, the urbanization of Green Mountain Road West will include the requirement that the Owner undertake to confirm that the required sightline standards have been met at the intersection of Green Mountain Road West at Street ‘A’. The Owner shall incorporate TAC methods in the calculations i.e. driver height at future neighbourhood road intersections looking east and west to the windshield (considering street lights on the roadway) of vehicle on Green Mountain Road, 10 km/h over posted speed, sight lines for left and right turns to attain 85% of design speed per TAC, etc, all to the satisfaction of the Director of Operations and Maintenance.

54. That, prior to registration of the final plan of subdivision, that Green Mountain Road West along the extent of the subject lands, be designated a 26 metre road allowance width collector road, with on-street bike lanes, to the satisfaction of the Director of Operations and Maintenance.

55. That, prior to registration of the final plan of subdivision, that the driveway locations at the bend in the Street ‘B’ be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveways must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.

56. That, prior to registration of the final plan of subdivision, that the lots at the north end of Street ‘F’ be reconfigured to avoid the cul-de-sac road design; if not possible, driveway locations on the cul-de-sac at Street “F” will be relocated. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.

57. That, prior to registration of the final plan of subdivision, that the driveway locations on Street ‘C’ be located, to the satisfaction of the Manager of Traffic Engineering and Operations. The driveway must be shown on approved engineering drawings, to the satisfaction of the Director of Operations and Maintenance.
58. That, prior to registration of the final plan of subdivision, that an On-Street Parking Plan be prepared to address lot sizes and the capability of the road network to accommodate on-street parking for the neighbourhood, and still maintain emergency routes and road maintenance activities, to the satisfaction of the Director of Operations and Maintenance.

59. That, prior to registration of the final plan of subdivision, Street ‘A’ at the southerly intersection with Street ‘B’, must intersect with as much of a 90 degree angle as possible. The plan shall be modified to provide a straight approach and departure at the intersection, to the satisfaction of the Director of Operations and Maintenance.

60. That, prior to registration of the final plan of subdivision, the Owner prepare and implement an erosion and sediment control plan for the subject property, to the satisfaction of the Hamilton Conservation Authority. The approved plan should include the following notes:

   a) All erosion and sediment control measures shall be installed prior to development and maintained throughout the construction process, until all disturbed areas have been revegetated;

   b) All erosion and sediment control measures shall be inspected after each rainfall, to the satisfaction of Authority staff;

   c) Any disturbed area not scheduled for further construction within 45 days will be provided with a suitable temporary mulch and seed cover within 7 days of the completion of that particular phase of construction; and,

   d) All disturbed areas shall be revegetated with permanent cover immediately following completion of construction.

61. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a stormwater management plan and detailed design engineering drawings for the subject property, to the satisfaction of the Hamilton Conservation Authority (HCA) and the Director of Engineering, ensuring all Provincial, municipal, and HCA policies and standards are met.

62. That, prior to registration of the final plan of subdivision, the permanent stormwater management facility be dedicated to the City of Hamilton for ownership and maintenance.

63. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a landscaping plan for the stormwater management facility, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.
64. That, prior to registration of the final plan of subdivision, the Owner demonstrates, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering, that all major flows, including external drainage, can be conveyed safely, and that all Provincial, municipal, and HCA policies and standards are met.

65. That, prior to registration of the final plan of subdivision, the Owner prepare and implement detailed design drawings that are prepared by a qualified fluviogeomorphologist for the proposed channel works, in accordance with the modeling prepared by MTE Consultants Ltd. in their Functional Floodline Analysis study, dated September 2009, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.

66. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified engineer to undertake a structural assessment of the existing weir structure located at the downstream end of the farm pond, and that any identified necessary repair and/or replacement works be implemented to ensure the structural integrity of the man-made structure, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.

67. That, prior to registration of the final plan of subdivision, the Owner retain, at their expense, a qualified geotechnical engineer to undertake an assessment of the Eramosa Escarpment slope, and determine whether the proposed residential development will have any impacts on slope stability, to the satisfaction of the Hamilton Conservation Authority.

68. That, prior to registration of the final plan of subdivision, a Tree Protection Plan be prepared and implemented that outlines how the proposed retained trees will be protected from development activities prior to and during construction and/or grading activities, to the satisfaction of the Hamilton Conservation Authority.

69. That, prior to registration of the final plan of subdivision, all proposed outdoor lighting located adjacent to the ESA and buffer lands be configured or appropriately shielded to prevent the intrusion of light into these habitat areas, to the satisfaction of the Hamilton Conservation Authority and the Director of Planning.

70. That, prior to registration of the final plan of subdivision, the Owner prepare and implement a lot grading plan, to the satisfaction of the Hamilton Conservation Authority.
71. That, prior to registration of the final plan of subdivision, the applicant install chain link fencing, or other acceptable type, at the rear of all lots and blocks that abut open space blocks, to the satisfaction of the Hamilton Conservation Authority and the Director of Development Engineering.

72. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause and identify on the grading and drainage plans, a requirement for a permit to be obtained from the Hamilton Conservation Authority under its Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses Regulation 161/06 under Ontario Regulation 97/04, prior to the initiation of any watercourse alterations, and/or construction and grading works within the Authority's regulated areas.

73. That, prior to registration of the final plan of subdivision, the Subdivision Agreement include a clause acknowledging that approval is required under the Federal Fisheries Act from the Department of Fisheries and Oceans, prior to any watercourse alterations.

74. That, prior to registration of the final plan of subdivision, all open watercourse channels and associated flood and erosion hazard lands be contained within an appropriate Open Space zone, to the satisfaction of the Hamilton Conservation Authority.

75. That, prior to registration of the final plan of subdivision, the Visual Impact Assessment is finalized to ensure acceptable building heights for Block A1 and Block A10, to the satisfaction of the Niagara Escarpment Commission.

76. That, the Owner acknowledges development of Block A1 and Block A10 will be subject to final Site Plan Approval prior to the issuance of any building permit(s).
1 Ridgeview Drive,
Stoney Creek, L8J 1X5

June 2, 2008

DELCMERED

Joe Muto, Senior Planner,
Planning and Economic Development Department,
City of Hamilton
77 James Street North - East Section, Suite 400,
Hamilton, Ontario, L8R 2K3

Dear Mr. Muto:

RE: Empire Communities’ Subdivision Application
22 Green Mountain Road West, Stoney Creek
File #: 25T-200803
Subdivision Proposal – Effect on 1 Ridgeview Drive

As a resident adjacent to the proposed development area, I am disappointed that I am not receiving notices, as required by the Planning Act. I should not have to hear from my neighbours about Empire’s proposed developments or receive Mr. De Iulio’s May 7/08 letter from my neighbours a mere four days before the comment deadline. I can only assume that I am not the only resident that has been ignored in this notice process and would suggest that Empire be directed to repeat this process to ensure all affected community members are appropriately notified.

My primary concern with the proposed development is whether the construction that this development entails will result in any structural damage of my property, pool and landscaping. Along the same lines, I would like to hear from a real estate expert what adverse impact, if any, will such dense development have upon my property value and utilities’ easement.

More important, I am concerned that the dense housing proposal will create a corresponding utilities’ concentration that will increase radiation levels and result in other adverse health consequences. I would like to know what resident health impact studies are being performed as part of this Subdivision Application.
Thank you for allowing me to table my concerns. Please ensure that I am added to any notice lists respecting this or adjacent developments.

Yours truly,

[Signature]
City of Hamilton Planning and Economic Development Department
77 James Street South, Suite 400
Hamilton, Ontario
Canada L8R 2K3
Attn: Chris Bell, Senior Planner

March 25, 2009  Your File Nos. ZAC-09-007 & 25T-200901

Dear Sir/Madam:

RE: Notice of Complete Applications for a Zoning By-law Amendment and for Approval of a Draft Plan of Subdivision by Red Hill Developments on lands located on the northeast corner of Green Mountain Road West and First Road West, Stoney Creek

Notice of this application was received at the March 2, 2009 meeting of the Newalta Hamilton Landfill Liaison Committee (NHLLC), a group established by the Ontario Ministry of the Environment under Schedule "I" of the Certificate of Approval for the Newalta Hamilton Landfill situated at 65 Green Mountain Road West (Ref: A181008, dated April 16, 2008). At the same time, the NHLLC was advised of an additional application (Your File Nos. ZAC-08-077 & 25T-200808) also in the immediate vicinity of the landfill.

It was the view of the NHLLC that while developments in this area are not to be discouraged, it is of great importance to the community that the timing of any developments in the immediate vicinity of the Newalta Hamilton Landfill should be planned in a way that the two land uses are compatible. The NHLLC draws to the City’s attention the Ministry of Environment Guideline D-4, Land Use On or Near Landfills.

It is the Committee’s contention that a landfill by its very nature is a temporary active land use, involving the receipt of materials by heavy trucks. It also involves the use of heavy equipment on the site to move the materials and carry out construction activities related to the proper operations of a landfill.
Although the site is well managed and conforms with its Certificate of Approval, there may be occasional issues relating to the landfill operations which may be considered a minor nuisance to immediate residential neighbours. The Committee believes it is important that the City, the developers and potential residents are aware of this situation.

It is our understanding that the landfill has an anticipated remaining lifespan of approximately ten years, after which the site will take on a passive use which will result in a green space in the neighbourhood for the long term future.

The Committee believes that a development program for these adjacent lands should be planned to coincide with the planned closing date of the Newalta Hamilton Landfill. It is understood by the Committee that a number of activities have to be undertaken to extend services of various types to the proposed development areas. The Committee sees no conflict in the installation of necessary services, but has a real concern about the idea of introducing new residential neighbours into an area where industrial activity and landfill operations are ongoing.

It is the view of the Committee that a public information session should be held in the immediate future to discuss the proposed developments in the areas near the landfill, and the proposed timing both of the installation of services and the construction of the additional residential units in the development. In the event that these plans are approved in the short term, these lands should be subject to the addition of a covenant on the deed advising potential purchasers of the potential for incompatible land uses over the next decade.

This letter is to advise that the NHLLC would wish to be added to the distribution list of those stakeholders wishing to receive information on how these plans for development are progressing.

Yours sincerely,

[Signature]

Brian Gaspar, Chair
Newalta Hamilton Landfill Liaison Committee

MEMBERS OF THE NEWALTA HAMILTON LANDFILL LIAISON COMMITTEE

Councillor Dean Clark, City of Hamilton; Brian Gaspar, Community Representative;

Greg Jones, Newalta; Mike Jovanovic, Newalta; Geoffrey Snapper, Ministry of the Environment; Michael Ricotta, Community Representative; Councillor Dave Mitchell, City of Hamilton; Randy Dalehut, Community Representative.
Dear Sir:

Further to your notice of complete application of the zoning by-law and draft plan application in the above-noted files, please notify me of the decisions on these applications.

Note that my clients own the adjacent lands in the northeast section of the subject property.

Previous negotiations between Empire and my clients resulted in an agreement that a policy be inserted in the Secondary Plan regarding the connection or access from the Empire lands across Battlefield Creek to my clients' property.

A final order of the Ontario Municipal Board implementing amendments to the designation of my clients' property as well as incorporating said policy concerning a connection between Empire and my clients' property should be issued shortly.

Note that my clients have retained ELS Planning as their planning consultants in this matter. They will be contacting you in the near future.

Yours very truly,

Manfred Rudolph
MR/lj

Rudolph Law Office
One James Street South
11th Floor
Hamilton, Ontario
L8P 4R5
June 3, 2008

Mr. Joe Muto
City of Hamilton
Planning and Economic Development
77 James Street North, Suite 400
Hamilton, Ontario
L8R 2K3

Dear Mr. Muto:

Re: File No: ZAC-08-026 & 25T-200803
Zoning By-Law Amendment Draft Plan of Subdivision
Empire Communities 22 Green Mountain Road West

We have received the Notice of Complete Applications and Circulation for a Zoning By-Law Amendment.

Newalta Industrial Services Inc. owns and operates an industrial waste management facility located at 297 Upper Centennial Drive. The associated offices of the operation are located at 65 Green Mountain Road West. The subject lands are separated from the waste management operation by the road allowance for Green Mountain Road.

This operation will remain as an active waste management site for at least the next 10 years with activity approaching closer to the subject lands for the next 7 years and then proceeding away to the west and south. During this active operating period, typical industrial activity will be present with heavy vehicle movements into and out of the area and there will also be off road vehicle movements associated with the operation. Also during this time, annual construction activities will be taking place. Adjacent lands with differing land use and zoning (residential versus industrial) as such may be incompatible without special provisions incorporated into the subject lands planning and or design. Consideration should be given to ensuring the subject lands comply with MOE Guideline D-4 (formerly 07-07) - Land Use on or Near Landfills. Consideration should be given whether or not a notice on title should be placed on the subject lands that there is an active landfill located immediately in proximity to this property.

.../2
We wish to be notified of the adoption or refusal of the Zoning By-Law Amendment and similarly we wish to be notified of the decision related to the Draft Plan of Subdivision.

Thank you for providing us with an opportunity to comment on this Notice. Should you have any questions please contact Michael Jovanovic at 905-548-5871 or by email at mjovanovic@newalta.com.

Yours truly,

[Signature]

Michael Jovanovic
Regional Manager
Newalta Industrial Services Inc.

Cc: Councilor Brad Clark, Ward 9
City Clerk, Economic Development and Planning Committee
Director, Planning Division, Planning and Economic Development Department
June 3, 2008

Joe Muto, Senior Planner
Planning and Economic Development Department
City of Hamilton
77 James Street North – East Section, Suite 400
Hamilton, ON  L8R 2K3

Subject: Empire Communities Subdivision Application
22 Green Mountain Road West, Stoney Creek
File #: 25T-200803
Subdivision Proposal – Effect on 9 Ridgeview Drive

Dear Mr. Muto:

As a resident of 9 Ridgeview Drive, I am responding to your letter dated May 7, 2008 concerning the request to change the zoning by-law at 22 Green Mountain Road West by Empire Homes.

The plan calls for medium and high density housing including a large number of townhomes and back-to-back units. The plan also includes up to 12 new streets. This is a large number of housing units slated for a relatively small area. Given the unique characteristics of the area and its proximity to the Niagara Escarpment, I have a number of concerns regarding this application:

1. Property Value

   As a property owner on 1.6 acres of land, I am concerned with the value of my home being negatively impacted by medium and high density housing. The associated construction and alterations to the current infrastructure and the impact on my home are a concern of mine.

2. Wildlife and Environment.

   There are numerous animals that live in the area including but not limited to: white-tailed deer, coyotes, wild turkeys, chipmunks, raccoons, fox, snakes (garter, brown and milk) as well as many birds of prey including Turkey Vultures and Hawks. Medium and high density housing units in this area would put a significant strain on this wildlife. If the City of Hamilton is serious about maintaining the environment and in particular the Niagara Escarpment, it should refuse this application.

3. Noise/Congestion/Pollution

   Medium and High density housing will result in more people and cars in the area resulting in an increase in noise, congestion (traffic) and pollution.

I am not opposed to development in the area however I am concerned with developers who are intent on squeezing as much housing into a limited area. Given the unique characteristics of the Niagara Escarpment, I believe the City of Hamilton should refuse this application.

Sincerely,

[Signature]

[Address]

Appendix "G" to Report PED09275
(Page 9 of 18)

9 Ridgeview Dr.
Stoney Creek, ON L8J 1X5

Escarpment and the associated environmental concerns, I would be more in favour of low density housing.

Finally, we would appreciate being notified of any developments, meetings and/or proposed changes to the zoning by-laws in the adjacent lands (Nash Neighbourhood Development) to 9 Ridgeview Drive.

Should you wish to discuss my concerns, please contact me directly.

Sincerely,

[Signature]
June 5, 2008

BY EMAIL AND MAIL

City of Hamilton
Suite 400 - 77 James Street North
Hamilton, Ontario
L8R 2K3

Attention: Mr. Joe Muto, Senior Planner, Planning and Economic Development
Department, Planning Division – Development Planning – East Section

Dear Mr. Muto:

RE: Applications for Zoning By-Law Amendment and Approval of a Draft Plan
of Subdivision by Empire Communities
22 Green Mountain Road West, Stoney Creek
File Nos.: ZAC-08-026 and 25T-200803 (collectively, the “Applications”)

In response and pursuant to a letter dated May 7, 2008 signed by Peter J. De Iulio, Senior
Project Manager, City of Hamilton in respect of the Applications, please accept this letter
as my formal submission of comments on the proposed development. I request that these
comments form part of the staff report to be prepared for consideration by the City of
Hamilton’s municipal council in its deliberations in conjunction with the Applications.

Let me begin by stating that given the few residents in the vicinity of the property subject
to the Applications, it is rather disappointing that I am not receiving timely or any notices
of matters relating to the proposed development. It is fortunate that my neighbours have
apprised me of the June 6, 2008 deadline as I would have undoubtedly missed it
otherwise.

The proposed development described in, and contemplated by, the Applications deeply
concerns me. My husband and I purchased our property based on its unique
characteristics and location, and its suitability for a peaceful retirement. Its seclusion,
proximity to the Bruce Trail and the fact that the surrounding wooded areas are inhabited
by wildlife were important factors that motivated our purchase of the property. We fear
that these special and unique characteristics will forever disappear if the Applications are
granted and the proposed development is permitted to proceed.

More importantly, I am seriously concerned that the proposed development will result in
several months, and maybe years, of ongoing heavy construction, which may cause
structural damage to my property and landscaping thereby decreasing its safety and value.

As well, such a proposed development will undoubtedly have adverse environmental consequences such as a migration of existing wildlife but, more importantly, result in a decrease in air quality, and an increase in radiation levels and noise pollution, which could potentially have adverse health consequences to the residents of the area.

Accordingly, I would like to be apprised of any property/community impact studies, audits, or environmental or health assessments that have been prepared or conducted in conjunction with the proposed development. If no such studies have been conducted then I strongly urge that they be obtained prior to any final decisions or determinations being made in respect of the Applications. In my view, it is municipal council’s duty and responsibility to properly assess the attendant risks and consequences of any such development before permitting it.

I would also appreciate receiving a copy of the staff report prior to any public meeting and request formal notification of any matters relating to the proposed development contemplated by the Applications.

I thank you for the opportunity to submit my comments.

Yours truly,

[Signature]

[Redacted]
Message

Muto, Joe

Sent: Wednesday, June 04, 2008 9:00 AM
Subject: FW: Nash Info

-----Original Message-----
From: [Redacted]
Sent: June 4, 2008 6:52 PM
To: [Redacted]
Subject: Re: Nash Info

Hi Danielle,

Sorry for not being able to take your calls - I've been in planning meetings all week. I've seen the official plans, but have concerns. They are very vague and the developer is proposing all kinds of high to medium density residential right across from an environmentally sensitive area and a few existing high valued detached estate residences. Not a typical mix of residential and one that puts considerable downward pressure on the existing residents. I've made this point a number of times over the past couple of years but seem to have been ignored by the city. The residential owners here in Nash don't seem to have a voice at the table even though we are long time residents and have personal equity at stake. The individual you spoke to did not call me back so I'm not sure who they talked to. The sign indicates we were supposed to receive a letter which we did not and I found out the deadline for appeal was June 6th through 3rd party sources - it all smells fishy to me. I'll try and call you tomorrow - would love to know what my options are.

R

----- Original Message -----
From: [Redacted]
To: [Redacted]
Sent: Tuesday, June 03, 2008 2:14 PM
Subject: Nash Info

Hi Rob,

Here is the secondary plan online. www.hamilton.ca/nash
Unfortunately the contact listed has not been changed as Alissa Mahood is on maternity leave.
http://www.myhamilton.ca/myhamilton/cityandgovernment/city/departments/planningecdev/development/communityplannin

That website also has more information included like the maps and background information.
I hope some of this helps.
See you soon!

[Redacted]

City of Hamilton Planning and Economic Development
Planning Officer
Community Planning
73 George Street
Hamilton ON

Telephone: [Redacted]

Please consider the environment before printing this email.
Further to our conversation regarding the draft plan present by Empire Communities, we are concerned about the road that runs from Green Mountain road to Ridgeview, it is half on Empire Communities property and half on adjoining lands. The Nash neighbourhood secondary plan has been approved with that road running entirely on the Empire Communities property. We have given land for park and we do not wish to lose any more land.

Thank you

Our land is located on 0 First Road West.
June 4, 2008

SENT VIA FAX (905)546-4202
& E-MAIL: jmuto@hamilton.ca

Joe Muto, Senior Planner,
Planning and Economic Development Department,
City of Hamilton
77 James Street North - East Section, Suite 400,
Hamilton, Ontario, L8R 2K3

Dear Sir:

RE: Empire Communities’ Subdivision Application
22 Green Mountain Road West, Stoney Creek
File #: 25T-200803
Impact of Subdivision Proposal on 50 Green Mountain Road West

I am in receipt of a letter dated May 7, 2008 from Mr. De Iulio, the City’s Senior Project Manager.

In compliance with the Planning Act and the directive in Mr. De Iulio’s letter, I am notifying the City of Juch-Tech’s concerns and objections regarding the above-referenced application.

I would also draw your attention to the fact that the March, 2008, Draft Plan of Subdivision attached to Mr. Iulio’s May 7, 2008, letter is incorrect to the extent that it identifies 50 Green Mountain Road West as owned by Jeff McLeod. The Hamilton Teleport Ltd. takes exception to the Applicant’s attempt to mislead the Municipality as to the rightful owners and occupier’s of those adjacent lands. The property has been owned by The Hamilton Teleport and its President, Walt Juchniewicz, since June 2, 2005, and Empire’s Draft Plan is particularly disingenuous as it properly identified the owner on the envelope in which notice of the Application was served and have repeatedly sent realtors to buy the Teleport on Empire’s behalf.

More specifically, The Hamilton Teleport’s owner objects to the March, 2008, Draft Subdivision proposal for all of the following reasons:
1) 50 Green Mountain Road West has not only been owned by The Hamilton Teleport since June 2, 2005, but it was leased for the same purpose since 1996 – a fact of which Empire is well aware, as well as of the Teleport’s legal non-conforming status;

2) Having already been apprised of our objections in this regard last summer, it is very disconcerting to see Empire submitting property bars and boundaries which are not in keeping with those bars historically accepted by surveyors and by our own surveyors, A.J. Clarke in 1994 and Larry Woods in 2007. Last year we notified the lawyer for Rechill Developments, which we understand is a branch of Empire Communities, that The Hamilton Teleport would not accept their changing of the bars which encroach on The Teleport’s lands. It is most disingenuous for the Applicant to ignore the historical and survey boundaries, as well as Juch-Tech’s notices (including a “Cease and Desist Dumping” notice in the summer of 2007) by purporting to identify land as its own;

3) East border setback between Juch-Tech and Empire’s proposed houses appears to be 20.0 meters, but this remains unclear as the unit of measurement is not definitively identified in the map or legend;

4) Open space D, except for 20 meter setback abuts Juch-Tech’s property on the most northerly corner of Juch-Tech’s property. Juch-Tech has no objection to this Open Space provided that there are no intentions of making an alternate use of the land in the future and no intent to install or plant any vertical objects that would impact upon Juch-Tech’s dishes’ horizontal “line of vision”. For the same reasons, Juch-Tech would ask that strict monitoring be maintained to ensure that there are no alterations in the grading of the land during or post-construction;

5) Block A28 borders Juch-Tech’s Teleport on the north border, but the draft Plan fails to identify any intended setbacks for the 32 residential medium density proposed townhouses. This concentration of 32 residences on a lot size of 6.1 meters seems excessive;

6) The Hamilton Teleport strenuously objects to the proposed Street A which borders its east side. The Plan fails to identify any setback between the street and The Hamilton Teleport’s property line. Moreover, the street proposal obviously entails the installation of light standards and other vertical erections which naturally come with road installations. Such erections would adversely impact the “look angle”/beam from Juch-Tech’s satellite dishes, which are on an almost horizontal angle on the east side of The Teleport’s
property, in contrast to the angle of the dishes on the south side of its property which is more upward.

It warrants mentioning that the owner of Juch-Tech took great pains, due diligence and planning to ensure that Juch-Tech's satellite dishes were not located anywhere near the west side of its property as initial conceptual development plans, as well as plans provided as late as the summer of 2006 identified a proposed street (identified in the Draft Plan as Street “F”) on its west border. By contrast, no previous plans indicated any street on the east border of Juch-Tech’s property. As such, the newly submitted Draft Plan from Empire entails insurmountable interference with Juch-Tech’s existing and future contractual services. Endorsing Empire’s Draft Plan, as submitted, is tantamount to putting Juch-Tech out of business;

7) Of even greater concern to Juch-Tech is the fact that road construction, particularly on the subject lands, which is largely bedrock, will necessitate significant blasting. While sturdy structures in themselves, once properly installed, satellite dishes are extremely sensitive instruments and any ground tremors, however minor, would have significant adverse impact upon the installation and efficacy of the dishes. The efficacy of these dishes, their calibration and transmission are the heart of Juch-Tech’s business. Without constant, consistent and uninterrupted service, Juch-Tech loses its client base;

8) How close is the proposed street F which abuts the west side of The Teleport’s property? What, if anything, is the setback? This road appears to continue through the natural waterbed identified by Watershed Planner, Nora Jamieson of the Hamilton Conservation Authority during her recent site visit on April 29, 2008. Is that the case?

9) East border of our property, beyond Street A, blocks A31-33, respectively, are planned ei. intended to be back to back residential medium density, whereas on the most southerly part beyond Street A, block A34 is intended to be 20 residential medium density townhouses. This concentration proposal is far too intense. Not only does the Draft Plan concentrate the highest density of houses closest to The Hamilton Teleport, with no setbacks, but it fails to do anything to mitigate against the effective radiated power emissions (ERP) which naturally flow from our satellite dishes. To place the greatest concentration of people within such close radiation proximity is grossly irresponsible and inconsiderate of the health effects of these emissions and the electrical safety code six considerations;
Juch-Tech would insist that if there is to be any development, the setback for any buildings, trees, fences or any other vertical erections have a minimum setback of 150 feet for reasons already set out in paragraphs 5 and 6 herein. For the same reasons, Juch-Tech would propose that the medium density houses proposed in blocks A-31 be left vacant and moved to Open Space “D”;

10) Block F .008 ha is noted as parcel in Schedule of Land Use legend. What will this "parcel" be used for and what is its long term intended use?

11) Block E is sanitary easement next to Street “C” between “L” and “K” and blocks A12, A9 and A13 – what is its purpose?

12) What is the purpose of changing the current Green Mountain Road to curve away at southeast corner? The current road is parallel to The Hamilton Teleport’s southern property line? Juch-Tech has serious concerns that the proposed alteration of Green Mountain Road West will effectively close off one of its two existing ingress/egress accesses to its Teleport. Depending upon satellite locations and delivery needs at any given time, Juch-Tech needs unimpeded retention of both access points on the south east and south west corners of the Teleport’s property; and

13) The Hamilton Teleport reserves the right to add or amend this list of concerns and objections at any time.

I trust this is of assistance. Should you require further clarification, I can be reached at (905)573-6556, x-7003.

Yours truly,

Sandra Majic
Chief Legal Counsel &
V.P. of Regulatory Affairs
cc.: Walt Juchniewicz  
President & CEO, Juch-Tech

Councillor Brad Clarke, Ward 9  
via e-mail: bclark@hamilton.ca  
via fax: (905)546-2535

Paul Mallard, Director, Planning Division  
via e-mail: pmallard@hamilton.ca

Steve Robichaud, Manager, Planning Division  
via e-mail: srobichaud@hamilton.ca