SUBJECT: Applications for Approval of a Draft Plan of Subdivision and Change in Zoning for Lands Located at 887 West 5\textsuperscript{th} Street (Hamilton) (PED07192) (Ward 8)

RECOMMENDATION:

(a) That approval be given to \textit{Subdivision Application 25T200618 “West Bloom Estates”, Don Grant on behalf of the Hamilton-Wentworth District School Board and City of Hamilton, Owners}, to establish a draft plan of subdivision comprising thirty-five lots for single detached dwellings and two public roads, on lands known municipally as 887 West 5\textsuperscript{th} Street, as shown on Appendix “D” to Report PED07192, subject to the following conditions:

(i) That this approval apply to the revised Draft Plan of Subdivision 25T200618 entitled “West Bloom Estates” prepared by A.T. McLaren Limited., as certified on June 19, 2007, showing thirty-five lots for single detached dwellings (Lots 1-35), two public roads (Streets A and B) and one road widening block (Block 36), attached as Appendix “D” to Report PED07192, 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” to Report PED07192.

(ii) Acknowledgement that there will be no City share for any municipal works associated with this development, in accordance with the City’s Financial Policies for Development.
That approval be given to Zoning Application ZAC-06-84, Don Grant on behalf of the Hamilton-Wentworth District School Board and City of Hamilton, Owners, for a change in zoning from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District, to permit the development of thirty-five single detached dwellings on separate lots, on lands located at 887 West 5th Street (Hamilton), as shown on Appendix “A” to Report PED07192, on the following basis:

(i) That the subject lands be rezoned from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District.

(ii) That the draft By-law, attached as Appendix “B” to Report PED07192, which has been prepared in a form satisfactory to the City Solicitor, be enacted by City Council.

(iii) That the proposed change in zoning is in conformity with the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.

(iv) That upon finalization of the implementing By-law, the Kernighan Neighbourhood Plan be amended by re-designating the subject lands from “Civic and Institutional” to “Single and Double” Residential.

Tim McCabe
General Manager
Planning and Economic Development Department

EXECUTIVE SUMMARY:

The purpose of the applications is for approval of a draft plan of subdivision and a change in zoning to permit the development of the subject lands for thirty-five lots for single detached dwellings and the creation of two new public roads.

The proposal has merit and can be supported since the draft plan of subdivision and change in zoning are consistent with the Provincial Policy Statement, and implement the intent of the Hamilton-Wentworth Official Plan and the Hamilton Official Plan. The proposal is compatible with surrounding residential uses, and is an appropriate infill development that will make efficient use of existing services.
BACKGROUND:

Proposal

The purpose of the applications is for approval of a draft plan of subdivision and a change in zoning to permit the development of the lands located at 887 West 5th Street, for thirty-five lots for single detached dwellings and the creation of two new public roads (Appendix “A”). The proposed arrangement of the lots (Appendix “D”) would create three lots with direct access to Fortissimo Drive, with the remaining thirty-two lots accessed from a new crescent currently called Crescent ‘A’ (for reference purposes only, with official street name to be confirmed at a later date). Fortissimo Drive has been deeded to the City and will be constructed through this subdivision application. One road widening block (Block 36) is proposed for Blossom Lane.

The frontages of the lots as detailed in the proposed draft plan of subdivision would range from 10.00 to 10.8 metres, and lot areas would range from 301.6 sq.m. to 644 sq.m.

In order to implement the proposed draft plan of subdivision, the applicant has applied to change the zoning of the subject lands from the “AA” (Agricultural) District to the “R-4” (Small Lot Single Family Dwelling) District (see Appendix “A”). The proposed zoning would not require any modifications in order to implement the proposed draft plan of subdivision.

An amendment to the Kernighan Neighbourhood Plan to redesignate the lands from “Civic and Institutional” to “Single and Double” Residential is required to accommodate the proposal.

Owner/Applicant: Don Grant on behalf of the Hamilton-Wentworth District School Board (City of Hamilton owns future extension of Fortissimo Drive)

Agent: Metropolitan Consulting Inc.

Location: 887 West 5th Street, Hamilton

Description: Frontage: 20 metres (Fortissimo Drive)  
Depth: 121.9 metres  
Area: 1.99 ha
Details of Submitted Application

EXISTING LAND USE AND ZONING:

<table>
<thead>
<tr>
<th>Subject Lands</th>
<th>Existing Land Use</th>
<th>Existing Zoning</th>
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<tbody>
<tr>
<td>North</td>
<td>Vacant</td>
<td>&quot;AA&quot; (Agricultural) District</td>
</tr>
<tr>
<td>South</td>
<td>Vacant</td>
<td>&quot;AA&quot; (Agricultural) District</td>
</tr>
<tr>
<td>East</td>
<td>Single Detached Dwellings and Commercial</td>
<td>&quot;HH&quot; (Restricted Community Shopping and Commercial) District and &quot;C&quot; (Urban Protected Residential, etc.) District</td>
</tr>
<tr>
<td>West</td>
<td>Vacant and Single Detached Dwellings</td>
<td>&quot;C&quot; (Urban Protected Residential, etc.) District and &quot;AA&quot; (Agricultural) District</td>
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ANALYSIS/RATIONALE:

1. The proposal has merit and can be supported for the following reasons:
   i) It is consistent with the Provincial Policy Statement, and conforms to the Hamilton-Wentworth Official Plan and the Hamilton Official Plan.
   
   ii) It is consistent with the type and form of residential development in the surrounding neighbourhood.

   iii) It is an appropriate infill development that will make use of existing and adequate services presently available to the site.

2. Thirty-five single detached dwellings, two new roads and a road widening block are proposed (Appendix "D"). The scale and bulk of the proposed dwellings would be compatible with the existing dwellings in the surrounding “C” Districts to the north and southwest of the site. The resulting density, although slightly higher, is considered compatible with the surrounding area and conforms to the existing land use policies in effect (see Page 8 - Density & Streetscape Character for further analysis). No modifications to the “R-4” District would be required in order to accommodate the proposed Draft Plan of Subdivision.
3. Staff notes there is an existing watermain, an existing sanitary sewer and an existing storm sewer within City owned lands for the future extension of Fortissimo Drive to service this development directly.

4. There will be no City share for the construction of municipal services required for this development. In the subdivision agreement for “Parkway Manor Phase 2” for lands to the north, there is a provision for the Hamilton-Wentworth School Board to pay for the cost of underground services for the future extension of Fortissimo Drive, including the storm and sanitary sewers and the watermain. There will be no requirement for cost recoveries for this plan of subdivision for the existing underground services for the future Fortissimo Drive. The owner will be required to construct the roadway extension of Fortissimo Drive with sidewalks on both sides (Special Condition 9), and Crescent “A” with all services through the subject subdivision application. The City of Hamilton will require road widenings adjacent to the rear of Lots 18 and 19 (Block 36 – Special Condition 5). The owner will be required to pay all outstanding servicing costs for Blossom Lane at the time of development (Special Condition 12). The owner will also be required to complete the construction of sidewalks on Blossom Lane adjacent to Lots 18 and 19 as per Special Draft Plan Condition (14).

5. The application was reviewed by the Hamilton Conservation Authority (HCA) who noted that the Authority concerns with regard to stormwater management and sediment and erosion control contained in the submitted ‘Functional Servicing Report’ have been sufficiently addressed. Special Conditions 15 and 16 require further investigation of both issues to the City’s satisfaction.

6. Staff note that the subject property is within 300 metres of water and within 100 metres of a historic transportation route. An archaeological assessment requirement is covered in the Standard Form Subdivision Agreement.

7. In accordance with the Public Participation Policy that was approved by City Council on May 29, 2003, a preliminary notice of these applications was sent to 71 property owners within 120 metres of the subject lands. Seven responses were received to the preliminary notice of circulation letter (attached as Appendix “C”). One letter highlighted an inaccuracy with the initial Draft Plan of Subdivision that has since been corrected.

The remaining 6 letters referred exclusively to concerns over real estate transactions that resulted from a previous subdivision application to the immediate north of the subject lands. These concerns are related to the loss of development potential to residential properties to the west of the subject lands. These concerns are discussed in brief below.

Several of the letters received, raised concern over the possible loss of development potential for adjacent residential properties along West 5th Street. These concerns are in regard to the alignment of the extension to Fortissimo Drive. As detailed in Appendix “A”, the planned extension of Fortissimo Drive
has resulted in the creation of a remnant parcel of triangular land (see Appendix “A”). The subject site and the remnant parcel were previously owned as one parcel by the Hamilton Wentworth District School Board. When the lands were declared surplus they were offered to the City; however, the City declared no municipal interest. In order to service the subdivision to the north, an easement was secured by the developer from the Board and ownership of the land for the easement was later transferred to the City following the future extension of Fortissimo Drive. The remnant parcel resulted from the need to align the easement to match the road alignment and lotting pattern to the north. The remnant parcel is now owned by the northerly developer in accordance with an agreement the northerly developer had with the School Board. This remnant parcel of land prevents the rear of properties on West 5th Street from gaining access onto the extension of Fortissimo Drive. Concerned residents consider that the existence of this block provides the owner of the block with the opportunity to value their land below fair market value for the severance and sale of newer lots along the west side of the extension.

However, it should be noted that this parcel of land is outside the control of the City and the owners of the subject application. Staff are currently working with the owner of this triangular block and residents to the west, in order to try and reach a solution for assembly of the block with the lands to the west. Eventually, this assembly will require City approval through the consent process.

8. **Traffic/Safety Issues**

The Traffic Engineering and Operations Section has provided comments regarding this application and raise no objections to the zoning application, and note that as a condition of Subdivision Approval, all the driveway locations must be shown on approved engineering drawings and be located to the satisfaction of the Supervisor of Traffic Planning. This recommendation is addressed in the Standard Form Subdivision Agreement.

9. **Density & Streetscape Character**

The subject lands are currently located within an “AA” District, and are surrounded by existing and future proposed residential properties.

The rezoning of the subject lands to an “R-4” (Small Lot Single Family Dwelling) District would, in terms of zoning regulations for single detached dwellings, require the same minimum front yard setback, minimum rear yard setbacks and maximum height as the surrounding residential areas currently zoned within the “C” District. The scale and bulk of the proposed units would therefore be compatible with the surrounding area, with the “R-4” District requiring a minimum 6m front yard, a 7.5m rear yard and a maximum 11m height restriction.

The proposed “R-4” (Small Lot Single Family Dwelling) District would permit reduced lot widths and areas when compared to the surrounding “C” Districts,
with each lot under the proposed “R-4” (Small Lot Single Family Dwelling) District, required to have a minimum average lot width of at least 10 metres (and not less than 9m) instead of the minimum 12 metres required under the surrounding “C” District, and a minimum average lot area of at least 306 square metres (and not less than 278 square metres) instead of the minimum 360 square metres in the “C” Districts. In addition, the minimum side yard requirement in the proposed zoning, while equal to that of the existing “C” District for the interior side yard (1.2m), is permitted to be reduced to a zero lot line for the remaining side yard in the proposed zoning.

In considering the impact of the proposed higher density subdivision upon the existing streetscape, it must be noted that the majority of dwellings proposed would be accessed off a new public road. Consequently, most of the reduced frontages on these lots would not be viewed in the context of Fortissimo Drive in particular or the surrounding area in general, but instead would be viewed as forming part of a new crescent streetscape.

On the issue of densities, staff notes that while the permitted density of the subject land would increase from the standards of the surrounding “C” District, it is considered that the entire proposal maintains a similar residential density that is compatible with the adjacent neighbourhood. The proposal is reflective of the density policies of the Hamilton Official Plan, which state (Policy C.7.7.3):

“Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

(v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;”

The proposal also satisfies the provincial intensification policies. Policy 1.1.3.3 of the Provincial Policy Statement states:

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

As such, the intent to provide a higher density for the subject site conforms to City and provincial policies.

In conclusion, it is staff's opinion that the streetscape character of the neighbourhood will be maintained as the recommended zoning requires a built
form, maximum height, minimum setbacks and a scale of development that is largely consistent with that existing and permitted by the existing residential zoning in the surrounding area.

10. **Open Space / Greenspace**

In accordance with the City of Hamilton’s Parkland Dedication and Cash-in-Lieu of Parkland By-law, the application is subject to a parkland dedication, or a Cash-in-Lieu of parkland dedication payment. The application would be subject to a dedication of five percent (5%) of the total land area of the subject property. Given that the subject lands are not designated for a future park, the City does not require the inclusion of a parkland dedication into the draft plan of subdivision.

Therefore, in accordance with City By-laws, a cash payment to the City of Hamilton, in-lieu of the conveyance of the land, will be required prior to the issuance of each building permit for the lots within the plan.

**ALTERNATIVES FOR CONSIDERATION:**

If the applications are denied, the applicant can use the subject property for the range of uses that are currently permitted under the existing “AA” District.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

Financial: N/A.

Staffing: N/A.

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

**POLICIES AFFECTING PROPOSAL:**

**Provincial Policy Statement**

The applications have been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the applications are consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1).

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 to minimize the risk to public health and safety. Due to the proximity of the subject lands to the Lincoln
Alexander Parkway, staff requests a noise assessment be conducted. This is recommended under Special Condition (1).

Policy 2.6.2 outlines that development and site alteration may be permitted on lands containing archaeological resources or areas of archaeological potential if significant archaeological resources have been conserved by removal and documentation, or preservation on site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted. It is considered that the archaeological condition required in the Standard Form Subdivision Agreement would ensure all necessary preservation procedures are taken.

**Hamilton-Wentworth Official Plan**

The subject property is designated as “Urban Area” within 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.

Therefore, as the nature of the applications are for the development of a residential plan of subdivision where full municipal services are available, the applications conform with the Hamilton-Wentworth Official Plan policies.

Additionally, Policy B-9.2 states that the City shall consider the protection and preservation of Regionally significant historical and cultural resources, including recognized archaeological sites, in the review of proposals for development and redevelopment. Where possible these attributes will be incorporated into the overall design in a manner which minimizes adverse impacts and encourages maintenance and protection. This matter is addressed in the Standard Form Subdivision Agreement.

**Hamilton Official Plan**

The subject property is designated “Major Institutional” on Schedule “A” – Land Use Plan in the former City of Hamilton Official Plan.

The following policies of the Hamilton Official Plan, among others, are applicable to the subject lands:

- **A.2.6.5** Notwithstanding the policies set out above, in areas designated as MAJOR INSTITUTIONAL, Residential uses may be permitted provided they are compatible with the surrounding area and are in keeping with the Residential policies set out in Subsections A.2.1 and C.7 of this Plan.

- **C.7.7.2** Varieties of RESIDENTIAL types will not be mixed indiscriminately, but will be arranged in a gradation so that higher density developments will complement those of a lower density, with sufficient spacing to maintain privacy, amenity and value.
C.7.7.3 Council will encourage a RESIDENTIAL ENVIRONMENT of an adequate physical condition that contains a variety of housing forms that will meet the needs of present and future residents. Accordingly, Council will:

(v) Encourage new RESIDENTIAL development that provides a range of dwelling types at densities and scales that recognize and enhance the scale and character of the existing residential area by having regard to natural vegetation, lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;”

The proposal will increase the supply of housing in the neighbourhood in a manner that is compatible with the scale and character of the surrounding residential area. The proposal represents an appropriate example of infill development that will make efficient use of existing services, while ensuring that the existing low density, grade oriented character of the neighbourhood is maintained.

Based upon the forgoing, Planning staff is of the opinion that these applications conform to the Hamilton Official Plan.

Neighbourhood Plan

The property is located within the Kernighan Neighbourhood and is designated “Civic and Institutional”. An amendment will be required to redesignate the entire site to “Single and Double” Residential. This amendment is considered acceptable because it provides for compatible development.

RELEVANT CONSULTATION:

Agencies/Departments Having No Comment or Objections

- Traffic Engineering and Operations Section, Public Works Department.
- Culture & Recreation, Community Services Department.
- Strategic and Environmental Planning Section, Public Works Department.
- Hamilton Conservation Authority.
- Hamilton-Wentworth District School Board.
- Hamilton Municipal Parking System.

Budgets and Finance Division, Corporate Services Department, has reviewed this proposal and requests the following:

That the applicant pay the commutation amount of $1,533.87 as at December 31st 2006 for storm and sanitary sewer local improvement charge to the Budgets and Finance Section of the Corporate Services Department, City Hall. This is covered by the Standard Form Subdivision Agreement.
Open Space Development and Park Planning Section, Capital Planning and Implementation Division, Public Works Department, has reviewed this proposal and has the following comments:

*Parkland Dedication*
No park block has been identified in the plan of subdivision; consequently, the City is entitled to parkland dedication in the form of cash-in-lieu. The amount will be determined by the Planning and Economic Development Department prior to the issuance of Building Permits. This is addressed in the Standard Form Subdivision Agreement.

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

An assessment of the applications shows that there are Municipal Forestry conflicts. There are trees located on the road allowance of Blossom Lane. These trees are governed under The City of Hamilton Tree By-Law 06-151. With the current information submitted and the scope of this extensive development, it appears that trees located on municipal property will be impacted.

This section requests that all trees within this development be identified as municipal or private and that a Tree Management Plan be submitted for all trees on municipal property so a final determination of impact can be made. This is addressed through Special Condition 2.

**Bell Canada** has reviewed this proposal and has the following comments:

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 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 alternate 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). This matter is addressed in the Standard Form Subdivision Agreement.

**Horizon Utilities Corporation** has reviewed this proposal and has the following comments:

- Do not excavate within two metres of hydro poles and anchors.
Excavation within one metre of an underground hydro plant is not permitted unless approval is granted by a Horizon Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.

Horizon Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.

CALL BEFORE YOU DIG, arrange for underground hydro cable locates before beginning construction by contacting Ontario One Call @ 1-800-400-2255.

**Hamilton Street Railway** has reviewed this proposal and has the following comments:

- HSR currently operates the route #35 College bus along West 5th Street with no planned changes in service.
- Street orientation and pedestrian entrances are important. Direct short walking distances between dwellings and transit service are preferable.
- HSR supports the inclusion of high quality pedestrian amenities at this development like walkways, lighting etc.
- HSR supports sidewalks on at least one side of all streets to and from this development to West 5th Street.

**Culture and Recreation Division** has reviewed this proposal and has the following comments:

Culture and Recreation has no recreation related issues with this application. It is assumed that 5% Cash-in-lieu of Parkland Dedication will be paid by the developer. This matter is addressed in the Standard Form Subdivision Agreement.

**Public Consultation**

In accordance with the Public Participation Policy that was approved by City Council on May 29, 2003, a preliminary notice of these applications was sent to 71 property owners within 120 metres of the subject lands, and two Public Notice signs were posted on the subject lands. Seven responses were received and have been addressed in the Analysis/Rationale section of the report. Notice of the public meeting will be given in accordance with the regulations of the **Planning Act**.
CITY STRATEGIC COMMITMENT:

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

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

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Infrastructure and compact, mixed use development minimize land consumption and servicing costs.

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

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

:EJ
Attachs. (5)
Appendix “A” to Report PED07192
(Page 1 of 1)
WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario, 1999 Chap. 14, Sch. C. did incorporate, as of January 1, 2001, the municipality “City of Hamilton”;

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

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

AND WHEREAS the Council of the City of Hamilton passed Zoning By-law No. 6593 (Hamilton) on the 25th day of July, 1950, which by-law was approved by the Ontario Municipal Board by Order dated the 7th day of December 1951, (File No. P.F.C. 3821);

AND WHEREAS the Council of the City of Hamilton, in adopting Section of Report of the Economic Development and Planning Committee at its meeting held on the day of , 2007, recommended that Zoning By-law No. 6593 (Hamilton), be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Official Plan of the City of Hamilton;

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

1. That Sheet No. W9-b of the District Maps, appended to and forming part of By-law No. 6593 (Hamilton), is amended by changing from the “AA” (Agricultural) District, to the “R-4” (Small Lot Single Family Dwelling) District, the lands the extent and boundaries of which are shown on a plan hereto annexed as Schedule “A”.

2. 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 “R-4” (Small Lot Single Family Dwelling) District provisions.
3. 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 ____, 2007.

Fred Eisenberger  Kevin C. Christenson
Mayor          City Clerk

ZAC-06-084
This is Schedule "A" to By-Law No. 07-

Passed the .......... day of ...................., 2007

Clerk

Mayor

**Schedule "A"**

Map Forming Part of

By-Law No. 07-____

to Amend By-law No. 6593

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**Subject Property** 887 West 5th Street, Hamilton

Change in Zoning from the “AA” (Agricultural) District to the “R4” (Small Lot Single Family Dwelling) District.
Mark Kikot  
5235 Chapman Court  
Burlington, Ontario L7L 6W4

2007-05-28

Mayor Fred Eisenberger  
City of Hamilton, Office of the Mayor  
71 Main Street West, 1st Floor  
Hamilton, Ontario L8P 4Y5

Dear Mayor Eisenberger:

I am writing on behalf of my parents, Edward and Carolyn Kikot, who have resided at 879 West 5th Street in Hamilton since 1961, to share with you an on-going concern regarding the sale, and eventual development, of land adjacent to their property.

I have taken this initiative because my parents are elderly, and because they have been unsuccessful in having this issue resolved, in spite of the help that Councillor Whitehead has provided in attempting to ensure that they are not exploited by a reprehensible real-estate transaction that occurred in November of last year. This transaction also affects their neighbour, Anna Palazzo, who resides at 885 West 5th Street, and whose property had already been surveyed for the purpose of being divided into lots at some point in the future, but who – like my parents – has been deprived of access to the proposed Fortissimo Drive by a thin wedge of land that was sold to Paul Silvestri, a developer, as a condition of sale by the Hamilton Wentworth District School Board.

Although I discussed this situation with Ken Audziss last week, it is essential that I review the circumstances that have given rise to it. In 1999, the City’s Planning and Development Department failed to safeguard the interests of residents by approving plans submitted by Mr. Silvestri for the development of land on the northeast side of my parent’s property line. Because the lot on the northeast side of my parents’ property line was only 84 feet deep, Mr. Silvestri’s plans proposed moving the frontage 16 feet east, which moved the original plan for the road 16 feet out from the back of my parents’ property line, and potentially 16 feet out from the back of every property line to the south of the proposed development. The proposed change, and the approval of this change, advantaged Mr. Silvestri and disadvantaged other long-standing property owners, because Mr. Silvestri knew that Fortissimo Drive would eventually be extended onto Board property and deprive the residents south of his development with access to Fortissimo Drive (see the approved plans). Unfortunately, the copy of the plans that every resident within 120 metres of the proposed development received did not correlate with existing property lines; everything outside the plans for the proposed development was left blank, and therefore it was impossible for residents adjacent to the proposed development to ascertain if their interests had been compromised. It was not until July of 2006, when Mr. Silvestri began work on the lot to the northeast side of my parents’
property line, that they and their neighbours became aware that the frontage of the lot had been moved and the angle of the road had been changed. Furthermore, Mr. Silvestri then applied to the Engineering Department for permission to extend services onto Board property prior to any application being made for rezoning or any form of public consultation; and after being granted permission, he angled the extension of Fortissimo Drive until it connected with the back northeast corner of the third property south of his development, a property which he had recently purchased. The angle of the road created a wedge or "sliver" of land which deprived both my parents and their neighbour, Anna Palazzo, of future access to the continuation of Fortissimo Drive. I should also point out that Mr. Silvestri's agent, Mauris Cecca, a sales representative for Caldwell Banker and Pinnacle Real Estate, had contacted my parents as early as July 25, 2005, and on several occasions since that date had offered to purchase their property at a price that was far below fair market value considering the development potential of the property, but my parents had refused to sell. During his final conversation with my parents, Mr. Cecca disclosed that the wedge of land behind my parents' property was already owned by the developer, thereby implying that my parents' bargaining position was much weaker. It was then that my parents called Councillor Whitehead and arranged a meeting for August 10, 2006, in order to address their concerns and seek clarification. Initially, Councillor Whitehead and Michael Sabelli had suggested that the wedge of land behind my parents' property and Anna Palazzo's property could be treated as easement or sold to my parents and their neighbour at fair market value. However, upon looking into the details of the arrangement with the Board, Mr. Sabelli discovered that although Mr. Silvestri did not yet own the wedge, he had reached a verbal agreement with the Board that the wedge of land was to be returned to the developer after a sanitation line had been installed on the easement that had been dedicated to the city. It is obvious that Mr. Silvestri's strategy was to deprive my parents and their neighbour of future access to Fortissimo Drive in order to reduce the value of their property and make it next to impossible for them to sell their property to anyone except him, or to subdivide their property for future use by their children. Mr. Silvestri’s calculated maneuver – a maneuver facilitated, knowingly or unknowingly, by the Planning and Development Department – is so reprehensible that it can only be described as highway robbery. He is now in a position to simply sit on that wedge of land, which is currently zoned agricultural and which has little value or use except as leverage, and wait until my parents, who are in their late seventies, either die or become too ill to take care of the property on which they have paid taxes for forty-six years, and in which they have invested their life savings. If this way of doing business is condoned by the City of Hamilton, and no attempt is made to rectify the failure and abuse of the process, then one can only conclude that the legacy of the previous administration is alive and well.

In the hope of dispelling this perception, it is imperative that issues relevant to the creation of Lot 36 (the wedge of land) should be dealt with in conjunction with issues relevant to the rezoning of Lot 887. While I realize that an application has only been made for the rezoning of Lot 887, and that Mr. Silvestri is not likely to apply for the rezoning of Lot 36 until he has acquired my parents' property and their neighbour's property, I wish to point out that the Hamilton Wentworth District School Board sold their land with the understanding that it would be rezoned residential, and that the
developer purchased it with the understanding that it would rezoned residential, and that the public, specifically the residents affected by the sale, did not have an opportunity to express their concerns about the rezoning of the land prior to its partition into Lot 887 and Lot 36. If such an opportunity had been provided, this situation, which has upset my parents and their neighbour for almost a year, and which will continue to trouble them - might have been resolved.

I would ask, therefore, that you look into this matter on behalf of my parents, Edward and Carolyn Kikot, and their neighbour, Anna Palazzo. To that end, I have provided you with copies of all correspondence that has been generated in an effort to have their concerns addressed in a fair and timely fashion.

Sincerely,

Mark E. Kikot
(905) 332-3248

cc. Terry Whitehead, Councillor for Ward 8
    with the City of Hamilton
cc. Michael Sabelli, Business Facilitator – Development Engineering
    with the City of Hamilton
✓ cc. Edward John, Planning and Economic Development Department
    with the City of Hamilton
cc. Glen Peace, City Manager
    with the City of Hamilton
cc. Daryl Sage, Manager of Accommodation and Planning
    with the Hamilton Wentworth District School Board
cc. Wes Hicks, Trustee for Ward 8
    with the Hamilton Wentworth District School Board
cc. Edward and Carolyn Kikot
cc. George and Toni Palazo, son-in-law and daughter of Anna Palazzo
December 5, 2006

Edward John
City of Hamilton
71 Main St. W., 7th Flr
Hamilton, ON
L8P 4Y5

Re: Rezoning Applications, 26T200618 and ZAC-06-84

Dear Sir,

Please be advised that while reviewing the Draft Plan of Subdivision attached to the notice we received, it was discovered that Block 36 of your plan is included in error. Block 36 (as shown) is owned by 1125814 Ontario Ltd, which is a subsidiary company of Silvestri Investments.

We include for your records a copy of the transfer papers for PT LT 10 PL 427, PART 4 ON 62R17526, CITY OF HAMILTON, along with a copy of the R Plan. You will note that Part 4 on Plan 62R17526, is the same parcel as Block 36 on the Draft Plan of Subdivision for Blossom Estates Phase 2. We trust that the Draft Plan of Subdivision will be amended to exclude Block 36. We have no further objections to the application.

If you should have any questions or comments in regards to the above, please contact this office.

Sincerely,

William A. Baxter, C.E.T.
Project Manager
Silvestri Investments

World-wide commercial & residential developer
879 West 5th Street  
Hamilton, ON  
L9C 5R4  
2006-12-27  
Edward John  City of Hamilton  Planning & Economic Development Department  Development and Real Estate Division  City Hall, 71 Main Street West, 7th Floor  Hamilton ON L8P 4Y5  

Dear Councillors:  

We wish to share with you our concerns about the “Subdivision and Rezoning Applications, 25T200618 and ZAC-06-84 for lands located 887, West 5th Street, Hamilton (Ward 8)”.  

As long-time residents and property owners who will be negatively affected by the proposed plan of subdivision at the back of our lot and our neighbour’s lot, it is imperative that we draw your attention to a wedge of land, identified as BLOCK 36 in the bottom left-hand corner of the plan of subdivision, that will prevent us, as well as our neighbour, Anna Palazzo, from receiving fair market-value for our properties.  

While this issue was addressed, and our concerns were shared, with Councillor Terry Whitehead and the City Planning Department as early as August 10th, 2006 (see attached letter dated September 1st, 2006), and readdressed on September 13th, 2006 (see attached letter dated October 15th, 2006), this issue remains unresolved, despite assurances from Councillor Whitehead, as well as employees of the City Planning Department, namely Michael Sabelli and Edward John, that every effort is being made to deal with the fundamental unfairness of this real estate transaction.  

Nevertheless, we should review with you our perception of the situation and our assessment of the problem. In part, the problem dates back to an oversight in 1999 when the plan of subdivision on the northeast side of our property was approved by the City Planning Department. On the plan of subdivision submitted by the developer, the proposed frontage of the lot that adjoins our property was not aligned with the back of our property line or the back of any other property line to the west of the proposed subdivision. This irregularity was designed so that the developer would have a hundred foot lot with which to work and be able to maximize his profit, while the potentially negative impact of this design on adjoining properties was ignored (or planned) by the developer, and overlooked by the city planner who approved the plans. Since the property lines of adjoining properties were not delineated on the proposed plan of subdivision, it was nearly impossible to assess the discrepancy between the property lines; in fact, there was no distinction made between the back of our property and the land behind us that was owned by the Hamilton-Wentworth District Board of Education. It is our contention that these details should have been flagged by the City Planning Department, and drawn to our attention, prior to the plan of subdivision being approved. While it is the job of city
planners to invite and facilitate development, it is also their responsibility to safeguard the interests and rights of existing property owners.

As a result of this oversight, the recent sale of “the Board’s” land behind our property, to the same developer whose plan of subdivision for the land to the northeast side of our property was approved in 1999, has created – according to the current proposed plan of subdivision – a wedge of land approximately sixteen feet wide and two hundred feet long. This wedge of land disadvantages us and our neighbour, as each of our properties are one hundred feet wide, by depriving us of potential access to services on Fortissimo Drive if we should choose to sever our properties, and thereby reducing the value of our lots. Since the developer has already acquired the next two properties to the south of our neighbour, and has repeatedly attempted to buy our property, it is our firm belief that this wedge of land is being used as leverage to lower the value of our property and force us to sell our lots to the developer at his price. This contention is supported by the fact that the angle of the road was changed to create this wedge and align with the property that the developer has already purchased (see the proposed plan of subdivision). Furthermore, it was a condition of sale with “the Board” that this wedge of land, which was included in an easement and dedicated to the City of Hamilton, would be returned to the developer after services had been installed (see attached letter from Tony Sergi, written by Michael Sabelli, dated October 31, 2006). This condition raises several important questions. Was “the Board” aware that the developer intended to use this wedge of land - which is of relatively little value in itself - to manipulate market value and to exploit the owners of adjoining properties? Did “the Board” benefit financially from this agreement, “which included the condition that upon transfer of the easement to the City this remnant parcel of land would be conveyed to the developer”? Why did the City agree to the condition of returning this wedge of land to the developer when it had already been defined as easement? The answers to these questions should help you to assess the appropriateness of what has taken place, and whether this way of doing business is sanctioned by the City. While we do not deny that a developer has the right to profit from his investment, he should not be permitted to do so at the expense of tax-paying residents whose properties are often their largest, or sole, investment. We would propose, therefore, that this wedge of land be retained by the City as easement, or that we and our neighbour, Anna Palazzo, be allowed to buy this wedge of land at a price relative to the value of the land at the time that the developer purchased it from “the Board”. We are making this request because we believe that the ethics of representing the interests and rights of all parties is paramount, and that fair representation equals fair market value.

Finally, we wish to share with you some reservations that we have about what occurred prior to the process for public consultation being implemented, specifically prior to “Preliminary Circulation for Subdivision and Zoning Applications, 2ST200618 and ZAC-06-84 for land located 887, West 5th Street, Hamilton (Ward 8)”. It seems that the easement, which includes the wedge of land that concerns us, was dedicated to the City and that services were installed by the developer before the land owned by “the Board” was rezoned for residential use, before the proposed plan of subdivision was made available to residents, and possibly before the developer technically owned the property. If this exceptional arrangement has occurred – and we have reason to believe that it has – then the process of public consultation is largely a formality because the
issue of rezoning has already been decided, and the proposed plan of subdivision has essentially been accepted; in short, the deal is fait accompli. We should have been given an opportunity to challenge the rezoning, or the proposed plan of subdivision, before a shovel was in the ground. If the process of public consultation had been followed in good faith, our concerns would have been addressed and this issue might have been resolved.

In light of our predicament, we will be exercising the right to delegate Council and speak with you directly. Hopefully, with your help, we will be able to settle this matter in a just and timely way.

Sincerely,

Ed Kikot

Carolyn Kikot

cc. Terry Whitehead, Councillor for Ward 8 with the City of Hamilton
cc. Michael Sabelli, Business Facilitator – Development Engineering with the City of Hamilton
cc. Toni Paliso, daughter of our neighbour, Anna Palazzo
cc. Brad Wiseman, Lawyer with the law firm, Ross and McBride
879 West 5th Street  
Hamilton, ON  
L9C 5R4

2006-09-01  

Councilor Terry Whitehead  
71 Main West  
Hamilton City Hall  
Hamilton, ON  
L8P 4Y5

Dear Councilor Whitehead:

My wife and I would like to share with you our thoughts about the meeting that we had with Greg MacDonald and you on Thursday, August 10th, 2006. We also wish to share our assessment of the impact that the development of the land on the northeast side of our property line will have on our ability to sell our property for fair market value at some point in the future.

I should begin by providing you with a little background information. Last July, we received a letter from Mauris Cecca, a sales representative for Caldwell Banker and Pinnacle Real Estate. In his letter, dated July 25, 2005, Mr. Cecca informed us that he was acting on behalf of a developer who intended to develop the land directly behind our property – land that we knew was owned by the Board of Education – and “run a sanitation line along the rear of [our] property on the Board of Education property”. He also stated that “the maximum market value of [our] property [could] be achieved only when development of the rear of each property [was] possible”. Furthermore, he pointed out “for those [property owners] that are interested in severing the land themselves in the future once the road is constructed (whenever this happens?)…that the cost of the road and severance would be at their [?] cost, and that the extra profit may not be worth waiting for”. Since we received that letter, Mr. Cecca has met with us several times and offered to purchase our property on behalf of the developer, but we have been unable to agree on a price that reflects the real value of our property. It was only when the sanitation line was laid across the back of our hundred foot property, as well as our neighbour’s hundred foot property, that we became concerned. The sanitation line was laid in such a way that a right-angle wedge of land was created, a wedge approximately two hundred feet long across the back of our properties and approximately sixteen feet wide on the northeast side. This construction was not consistent with the original plans that would have given us potential access to a new road and services at the back of our properties. Because this wedge of land would – for all intents and purposes – land lock us and devalue our properties by making it nearly impossible for us to sell them to anyone other than the developer, we contacted you and arranged a meeting in the hope of clarifying the situation and addressing our concerns.
Regrettably, our meeting was a disappointment. Not only did Greg MacDonald, who works in the city’s planning department, not have the correct surveys, but he had not even been given our address. As a result, he was not able to clarify the situation or address our concerns. Although we described our predicament to Mr. MacDonald, and expressed our opinion that the road had been angled to accommodate the developer’s plans at our expense, Mr. MacDonald seemed to be more sympathetic to the developer’s needs than to the impact of this change on our property rights, even though he acknowledged that the city planners prefer straight roads to angled roads. The only useful information that we received—thanks to your intervention—was that the land directly behind our property and our neighbour’s property was still owned by the Board of Education. I then asked if it would be possible for us to purchase that wedge of land in order to ensure that we would have access to the road when it was built, and to prevent us from being ‘held ransom’ by the developer. Mr. MacDonald’s response to this proposal was somewhat dismissive; it appeared to us that he viewed the developer’s interest in this wedge of land as having greater weight and merit than our interest. This impression of inequity was further complicated by the frustration that we experienced in failing to get clear answers to simple questions. I believe that my wife conveyed our dissatisfaction when she called and spoke with you the day after our meeting. Nevertheless, we appreciate the help that you have provided, and that you are continuing to provide, in an attempt to have our concerns addressed.

But before our predicament can be fully understood, it is necessary for me to explain in detail why this wedge of land was created. Our property is approximately two hundred and thirty-four feet deep, as is our neighbour’s property on the south side of our property line. However, our neighbour’s property on the north side of our property line has a depth of approximately one hundred and fifty feet. Therefore, the developer only had approximately eight-four feet on which to build if he was to respect the integrity of the original plans. Because a lot with this depth would not be functional or marketable, the depth of this lot was increased by moving the proposed frontage approximately sixteen feet beyond our back property line. In making this decision, and in having his survey plans approved by the city’s planning department, the developer has increased the marketability and value of his property, but in the process of doing so he has decreased the marketability and value of our property, as well as our neighbour’s property. Surely the rights of property owners affected by such a change should have been taken into consideration by both the developer and the city planning department. Furthermore, this wedge of land can now be used by the developer—should his application to purchase this land from the Board of Education be accepted—as leverage that would make it extremely difficult for us to sell our properties to anyone but him, and at his price. Since this wedge of land is of no value to him, except as a strategy for land locking us, we, as well as our neighbour, should also be given an opportunity to purchase this wedge of land at a cost that is consistent with the price which the Board of Education is prepared to accept from the developer.

Because we have been told that the developer has recently submitted an application to purchase this land from the Board of Education, it is imperative that this situation be reviewed, our concerns addressed, and the issue dealt with as soon as possible. Your
assistance would be greatly appreciated in helping us draw attention to, and hopefully rectify, what we consider to be an infringement on our forty-five year investment, and a seeming manipulation, even exploitation, of our property rights.

Yours truly,

Edward Kikot

Carolyn Kikot

cc. Dan McKerral, School Trustee for the Board of Education
cc. Al Pierce, School Trustee for the Board of Education
cc. Sally Yong-Lee, Engineer with the City of Hamilton
cc. Greg MacDonald, Planner with the City of Hamilton
cc. Mauris Cecca, Sales Representative for Caldwell Banker and Pinnacle Real Estate
cc. Ryan Smith, Lawyer with the law firm, Ross and McBride
cc. Anna Palazzo
879 West 5th Street  
Hamilton, ON  
L9C 5R4  

2006-10-15  

Councilor Terry Whitehead  
71 Main West  
Hamilton City Hall  
Hamilton, ON  
L8P 4Y5  

Dear Councilor Whitehead:  

On September 13, 2006, we met with you, Suzy Yonge-Lee and Michael Sabelli, to discuss our predicament regarding a wedge of land that was created behind our property and our neighbour’s property when the city planning department approved a developer’s plans for residential development on north-east side of our property line.  

At that meeting – during which our neighbour’s daughter, Toni Paliso, took notes – we explained that this unutilized wedge of land would land lock our properties and make it impossible for us to receive fair market value for them. This concern was complicated by the fact that the developer who owned the land to the northeast of us was also in the process of purchasing the land behind our properties from Hamilton-Wentworth District School Board, land which would include this wedge.  

After discussing this issue for some time, we all agreed that this problem could be solved in two ways. One proposal was that the wedge of land could be red-flagged as easement, which would give us potential access to a planned road and services. The other proposal was that the wedge of land could be sold to us at fair market value. Either of these options would have addressed our concern, and after requesting a letter from Michael Sabelli confirming this arrangement – which he agreed to write - we left city hall feeling very relieved, and believing that the matter would be dealt with quickly and fairly.  

When we had not received a letter by September 25, 2006, our son telephoned Mr. Sabelli, who informed our son that neither of the proposed options was viable, and that he was still in the process of writing a letter to us. Mr. Sabelli also explained that he had spoken with Daryl Sage, Manager of Accommodation and Planning for the Hamilton-Wentworth District School Board, and was told that the wedge of land directly behind our property and our neighbour’s property could not be severed because the Board had already agreed to sell the property as a single piece of land to the developer. Apparently, the Board and the developer had reached an agreement of understanding in May of 2006.  

To date, we have not received a letter from Mr. Sabelli either confirming or denying the viability of the options that were proposed at our meeting. While we understand that you met and talked with Mr. Sabelli about this matter on September 27, 2006, and that
you spoke with our son, as well as Mr. Sabelli, on October 12, 2006, about our need for a letter, we must insist that a letter be sent to us as soon as possible so that we may proceed to do whatever is required to deal with our predicament in a fair and equitable way.

Once again, we want to thank you for the help that you have given us, as well as for your willingness to intervene on our behalf with the developer. We certainly hope that you are successful in your bid for re-election, and of course you may continue to count on our support.

Sincerely,

Ed Kikot

Carolyn Kikot

cc. Michael Sabelli, Business Facilitator – Development Engineering with the City of Hamilton
cc. Daryl Sage, Manager of Accommodation and Planning with the Hamilton-Wentworth District School Board
cc. Toni Paliso, daughter of our neighbour, Anna Palazzo
cc. Ryan Smith, Lawyer with the law firm, Ross and McBride
October 31, 2006

Mr. & Mrs. Kikot
879 West 5th Street
Hamilton ON L9C 5R4

Dear Mr. & Mrs. Kikot:

Re: Plan of Subdivision "Parkway Manor - Phase 2"
Remnant Parcel

Further to your letter of October 10, 2006, to Councilor Whitehead with respect to the remnant triangular parcel of land at the rear of your and your neighbor's property we provide the following information.

In order to provide servicing to the plan of subdivision to the north of your property, known as "Parkway Manor Phase 2", an easement was acquired from the Hamilton Wentworth District School Board by the developer and dedicated to the City of Hamilton. Subsequently, ownership of this easement was transferred to the City Of Hamilton.

As a result, a remnant triangular parcel of land was created by default on the west side of the future extension of Forissimo Drive at the rear of 879, 885 and 893 West 5th Street.

An agreement executed by the Hamilton Wentworth District School Board and the developer of "Parkway Manor Phase 2" included the condition that upon transfer of the easement to the City this remnant parcel of land would be conveyed to the developer.

Therefore, the options of addressing the easement through a future draft plan of subdivision or selling the remnant parcel to the adjacent land owners as discussed at the meeting of September 13, 2006, are no longer viable.

With respect to your concerns about fair market value, it should be noted that this would be a matter established between the property owners when the remnant parcel is merged in title with your lands and the adjacent lands fronting onto West 5th Street, and developed as lots fronting onto the future extension of Fortissimo Drive.

Cont'd...
- Page 2 -
Plan of Subdivision "Parkway Manor - Phase 2"
Remnant Parcel

Cont'd...

According to our records, all owners of property within 120 metres of the subject lands were sent written notification of the Public Meeting of the Planning and Development Committee as the application for approval of this plan of subdivision, which was held on February 17, 1999. However, this remnant parcel was not shown on the submitted plans as it was outside of the plan of subdivision.

If you have any questions please contact me or Michael Sabelli of this office at 905-546-2424, extension 2624.

Yours truly,

[Signature]

Tony Sergi, P. Eng.
Manager of Development Engineering

MPS

Cc: Mr. Paul Mallard, Manager of Development Planning
Cc: Councillor T. Whitehead
    Ward 8
December 27, 2006

Edward John
City of Hamilton
Planning & Economic Development Department
Development and Real Estate Division
City Hall, 71 Main Street West, 7th Floor
Hamilton, Ontario  L8P 4Y5

Re: Preliminary Circulation for Subdivision and Rezoning Applications,
25T200618 and ZAC-06-84 for lands located 887, West 5th Street, Hamilton
(Ward 8).

Dear Mr. John,

I would like to take this opportunity to address my concern with the proposed rezoning
for the lands noted above. Firstly, I must provide you with some brief background. I
have been a homeowner at 885 West 5th Street since 1972. For many years there has
been talk of future development of these lands. In fact, around July of 1989, in
anticipation of the possibility of any development to the rear of our property, my husband
had the land surveyed into four separate lots, of which the front lot now known as 885
West 5th Street, was later sold.

Our primary reason for concern at this point however, is the creation of a wedge of land,
identified as Block 36 in your subdivision plan. This wedge of land it appears was
created simply for the benefit of the developer as this wedge created a 100 foot lot
immediately on the north side of my neighbour’s (Ed & Carolyn Kikot) property. This
wedge only impacts our two properties, the third property affected was purchased by the
developer. In creating such a wedge, the planning department has in fact significantly
aided the developer. Not only does it negatively impact my neighbour and I, as we are
now deprived of access to our lots via Fortissimo Drive, it also thereby reduces our
marketability of these lands and more importantly requires us to negotiate based solely on
the developer’s terms, should we wish to pursue future development on our own.

I’d like to address several points related to the above:

1. In 1999, when the plan of subdivision on the northeast side of our property was
   approved by the City Planning Department there was no distinction made between
   the back of our property and the land behind us owned by The Hamilton Board of
   Education. There was no indication of any wedge of land as the proposed
   roadway was to run adjacent to our properties.
2. Our West 5th neighbours’ to our south, who also back onto these same lands, are not impacted as the roadway runs adjacent to their properties.

3. As per J.P. Woolley’s Surveyor’s certificate dated May 20, 2006, it would appear that this wedge was a recent creation. This leads one to not only ask why this angle in the road was created, especially when we have been told that it is the planning department’s preference to maintain straight roadways, but also to question why the city planners approved such a plan where the interests of long time tax paying residents were not given any consideration?

4. Why did the Planning department not include this small parcel of land as part of the easement?

5. Furthermore, it was a condition of the sale with the Hamilton Board that this wedge of land, which was included in an easement and dedicated to the City of Hamilton, would be returned to the developer after services had been installed. The fact that this was a condition of the sale agreement to the developer raises additional questions.

In summary, we have addressed our concerns with Councillor Whitehead and with City staff, notably Mr. Sabelli. While there have been some assurances that this matter will be resolved, to date the matter is still outstanding and of significant concern to myself and the Kikot’s. Housing development and specifically development of infill sites is a byproduct of a strong economic market. Certainly, one can also expect that a developer must generate monetary return for his investment. What we are questioning though is why and how were the interests of the Kikot’s and myself seemingly ignored to the benefit of a developer.

Sincerely,

George Palios
Per: Anna Palazzo
Special Conditions of Draft Plan of Subdivision Approval for “West Bloom Estates”

(1) That the owner/applicant shall investigate the noise levels on the site and determine 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 containing the recommended control measures shall be submitted to the satisfaction of the Director of Planning.

(2) That 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 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.

(3) That the final plan of subdivision not be registered until road access is available to service the lands of the draft plan.

(4) That the Owner agree in writing to install a minimum 1.5 metre high chain link fence along the rear of Lots 19 to 25, which rear yards abut parklands to the satisfaction of the Director of Development Engineering.

(5) That Block 36 be dedicated to the City of Hamilton as public highway, by the Owner’s certificate on the final plan of subdivision, for road widening on Blossom Lane to the satisfaction of the Director of Development Engineering.

(6) That the Owner pay their proportionate share for the future urbanization of Blossom Lane based on the City’s “New Roads Servicing Rate” in effect at time of payment to the satisfaction of the Director of Development Engineering.

(7) That as part of the detailed engineering design; the grading plan shall indicate all proposed driveway locations for all lots. Driveways for Lots 5 to 10, inclusive, and Lots 16 to 20, inclusive will not overlap and will have a minimum 1.0m separation at the curb line all to the satisfaction of the Director of Development Engineering. Driveways for Lots 25, 26 and 35 are to be located on the east side of the lot. Driveway for Lot 3 to be located on the north or east side of the lot.

(8) That the Owner provides a geotechnical report prepared by a qualified professional engineer prior to final engineering design to the satisfaction of the Director of Development Engineering.
(9) That the Owner agrees in writing to construct sidewalks as follows: along both sides of Fortissimo Drive from the north limit to the south limit of the subdivision. Further, that the Owner shall include a notice in all Purchase and Sale Agreements advising future homeowners of the sidewalk requirements to the satisfaction of the Director of Development Engineering.

(10) That the Owner transfers by deed, a 0.30 metre wide reserve to the City of Hamilton abutting Lots 18 and 19 along Blossom Lane to the satisfaction of the Director of Development Engineering.

(11) That the centreline of road intersection angle between Fortissimo Drive and the north leg of Crescent “A” must be set between 80 to 90 degrees to the satisfaction of the Director of Development Engineering.

(12) That the Owner makes a cash payment to the City of Hamilton for any outstanding servicing costs along Blossom Lane adjacent to Lots 18 and 19 to the satisfaction of the Director of Development Engineering.

(13) That the owner removes the existing temporary turning circles and completes all works necessary to connect to the existing roads at the north and south limits of this proposed development on Fortissimo Drive including restoration at their expense to the satisfaction of the Director of Development Engineering.

(14) That the Owner construct sidewalks adjacent to Lots 18 and 19 on Blossom Lane to the satisfaction of the Director of Development Engineering.

(15) That the Owner have prepared by a qualified professional engineer a detailed Storm Water Management Report, in the absence of a suitable overland flow route, demonstrating that the storm flows have been controlled to the capacity of the existing storm sewer pipe to the satisfaction of the Director of Development Engineering.

(16) That the Owner submit a plan for review and approval by the Director of Development Engineering, prepared by a qualified professional engineer in accordance with the “Erosion and Sediment Control Guidelines for Urban Construction December 2006” manual, showing the design and location of siltation and erosion control devices on the lands of the draft plan.