# Application for an Amendment to the Town of Flamborough Zoning By-law No. 98-145-Z for Lands Located at 215 Dundas Street East (Flamborough) (PED13177) (Ward 15)

## TO:
Chair and Members
Planning Committee

## WARD(S) AFFECTED:
WARD 15

## COMMITTEE DATE:
November 5, 2013

## SUBJECT/REPORT NO:
Application for an Amendment to the Town of Flamborough Zoning By-law No. 98-145-Z for Lands Located at 215 Dundas Street East (Flamborough) (PED13177) (Ward 15)

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

## PREPARED BY:
Timothy Lee
(905) 546-2424 Ext. 1249

## SIGNATURE:

## RECOMMENDATION

That approval be given to **Amended Zoning By-law Amendment Application ZAC-12-064, by Branthaven Homes, Owner**, for a change in zoning from the Urban Commercial “UC” Zone to the Medium Density Residential “R6-33-H” Zone, Modified, with a Holding Provision, to permit a 58-unit residential development consisting of townhouse and maisonette dwelling units, on lands located at 215 Dundas Street East (Flamborough), as shown on Appendix “A” to Report PED13177, on the following basis:

(a) That the draft By-law, attached as Appendix “B” to Report PED13177, which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;

(b) That the amending By-law be added to Section 6 of Zoning By-law No. 90-145-Z as “R6-33”;

(c) That the proposed modification in zoning conforms to the Urban Hamilton Official Plan.
EXECUTIVE SUMMARY

The purpose of the application is to modify the Flamborough Zoning By-law on lands municipally known as 215 Dundas Street East (Flamborough), in order to permit a residential development on the former Bohemian Restaurant and Banquet Facility, consisting of 42 townhouse dwelling units and 16 Maisonette dwelling units, associated amenity space and parking, and to establish site-specific regulations with respect to lot area per dwelling unit, setbacks, planting strip, condominium and parking requirements, and maximum density (see Appendix “B”). A Holding Provision has been included in the implementing By-law, and will be removed upon the approval of grading and erosion control plans at the Site Plan Control stage in order to address the issue of drainage.

The proposal has merit and can be supported, as it is consistent with the Provincial Policy Statement, conforms to the Places to Grow Growth Plan, and the Urban Hamilton Official Plan. The proposal will allow for an efficient use of land and a redevelopment opportunity for an underutilized commercial property, and it will provide a variety of housing types within the community that will have direct access to public transit.

Alternatives for Consideration - See Page 22.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS

Financial: None.

Staffing: None.

Legal: As required by the Planning Act, Council shall hold at least one (1) Public Meeting to consider an application for a Zoning By-law Amendment.

HISTORICAL BACKGROUND

Proposal:

The subject property, known as 215 Dundas Street East (Flamborough), is located on the north side of Dundas Street East, east of Riley Street, and west of Perrelli Street. The former Bohemian Restaurant and Banquet Facility was demolished in October 2012. There is an existing drainage easement on the west side of the subject property that provides for stormwater drainage running south to north within the Borer’s Creek watershed area.
The applicant is proposing to permit a residential development consisting of block townhouses and maisonette dwellings, a private condominium road, sidewalk, and visitor parking. The original concept plan (see Appendix “C”) proposed 66 dwelling units (22 maisonette units and 44 townhouse dwelling units) and 122 parking spaces.

Subsequently, the applicant revised the concept plan, consisting of 58 block townhouse and maisonette dwellings, which includes 7 unit rear lane townhouses fronting onto Dundas Street East, 35 “traditional” townhouses along the north, east, and westerly boundaries of the subject property that faces an internal condominium road, and 16 maisonette units in the centre of the subject property (see Appendix “D”). A drainage easement, located on the west side of the subject property, will be maintained, as it provides stormwater drainage from south of Dundas Street and flows north to Borer’s Creek.

An Official Plan Amendment was originally submitted to permit the proposed use, as the subject property was designated “Urban Commercial” in the Flamborough Official Plan. This is no longer required as the subject property is now designated “Mixed-Use - Medium Density” in the Urban Hamilton Official Plan and the West Waterdown Secondary Plan, where the proposed residential use is permitted under the policies of the respected designations.

The purpose of this application is to change the zoning from the Urban Commercial “UC” Zone to the Medium Density Residential “R6” Zone, with site-specific zoning provisions to the minimum lot size per dwelling unit, setbacks, planting strip, condominium road and parking requirements, maximum fence height, and maximum density (see Appendix “B”). A Holding Provision has been included in the implementing By-law and will be removed upon the approval of grading and erosion control plans at the Site Plan Control stage to address the issue of drainage concerns.

**Minor Site Plan Application (MDA-13-009):**

The applicant submitted a Minor Site Plan application to facilitate the construction of a new home sales trailer with associated parking located on the south-east corner of the property. The intent of the sales trailer is to facilitate the sale of new homes not associated with the proposed development on the subject property. The application was approved on April 12, 2013.

**Chronology:**

December 24, 2012: Applications OPA-12-022 and ZAC-12-064 are deemed complete.
January 8, 2013: Circulation of Notice of Complete Application and Preliminary Circulation of Application to all residents within 120m of the subject lands.

February 20, 2013: Community Meeting hosted by the agent and applicant.

June 25, 2013: Revised Concept Plan submitted to staff for review.

August 16, 2013: Urban Hamilton Official Plan in force and effect. Official Plan Amendment Application OPA-12-022 is no longer required.

November 1, 2013: Circulation of Notice of Public Meeting to all residents within 120m of the subject lands.

Details of Submitted Application:

Location: 215 Dundas Street East (Waterdown)

Owner: 2331883 Ontario Inc.

Applicant: Branthaven Development Corp.

Property Description:

- Lot Frontage: 130m
- Lot Depth: 90m
- Total Lot Area: 1.15 ha

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>(Former Bohemian Restaurant Demolished)</td>
<td>Vacant</td>
<td>Urban Commercial “UC” Zone</td>
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<th>Surrounding Lands:</th>
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<tr>
<td>North</td>
<td>Single Detached Dwellings</td>
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<td>South</td>
<td>Single Detached Dwellings</td>
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**POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

**Provincial Policy Statement:**

The application has been reviewed with respect to the Provincial Policy Statement policies that contribute to the development of healthy, liveable, and safe communities, as contained in Policy 1.1.1. In particular, the application is consistent with Policy 1.1.1b), where it accommodates an appropriate range of residential use to meet long term needs, and Policy 1.1.1d), which avoids development and land use patterns that would prevent the efficient expansion of Settlement Areas.

Also, the application is consistent with Policy 1.1.1e), which promotes cost-effective development standards to minimize land consumption and servicing costs, and Policy 1.1.3.2a) which establishes that land use patterns shall be based on densities and a mix of land uses which efficiently uses land and resources.

In addition, Policy 1.7.1(e) outlines that long term economic prosperity will be supported by planning so that major facilities such as major transportation corridors and sensitive land uses are appropriately designed, buffered, or separated to prevent adverse effects from odour or noise. An Acoustical Study was submitted by the applicant, where staff is satisfied of the Study’s findings that noise mitigation measures will be required in the form of a noise fence. Details of the noise fence, including the height and extent, will be finalized at the Site Plan Control stage.

Furthermore, Policy 3.2.2 states that remediation shall take place on contaminated sites prior to any activity on the site associated with the proposed use such that there will be no adverse effects. The proposed residential use is considered a sensitive use, and a Record of Site Condition (RSC) is required to ensure that the previous commercial use does not impact the future residential use with respect to contamination from the previous use and associated vehicular traffic. The applicant submitted a RSC, along with a letter of acknowledgement from the Ministry of the Environment to staff in mid-September, 2013. Based on the foregoing, staff is satisfied that the RSC has addressed all concerns with respect to soil contamination.
Based on the foregoing, the proposal to permit a 58 unit block townhouse and maisonette development within the subject property is consistent with the Provincial Policy Statement.

**Growth Plan for the Greater Golden Horseshoe (Places to Grow):**

The application has been reviewed with respect to the Growth Plan for the Greater Golden Horseshoe. The subject property is located within the Built-Up Area, as defined in the Places to Grow Growth Plan. The application conforms to Section 1.2.2, where some of the guiding principles of the Plan are to “build compact, vibrant, and complete communities”, “plan and manage growth to support a strong and competitive economy”, and to “optimize the use of existing and new infrastructure to support growth in a compact, efficient form”.

The application will also conform to Section 2.2.2, where the proposed development will reduce the dependence on the automobile through the development of mixed-use and transit supportive urban environments, providing a balance of housing types in communities, reducing the need for long distance commuting through providing close access to public transit, and encouraging the development of complete communities with a diverse mix of land uses, and a range and mix of housing with easy access to local stores and services. The proposed development is located within close proximity to existing commercial uses, and sits along an existing transit bus route.

The proposal to permit a 58 unit block townhouse and maisonette development within the subject property conforms to the Growth Plan for the Greater Golden Horseshoe (Places to Grow).

**Urban Hamilton Official Plan:**

The Urban Hamilton Official Plan is now in force and effect, except for the residential intensification policies and other site-specific appeals. Policies that remain under appeal and that subsequently are not in force and effect are reviewed as direction only, and for the purpose of this application, the Flamborough Official Plan policies are to be used.

The subject lands are designated as “Mixed-Use - Medium Density” on Schedule “E-1” - Land Use Designations of the Urban Hamilton Official Plan, where Policy E.4.6.5 permits multiple dwellings, to which the proposed development is permitted. In addition, the following policies under the "Mixed-Use - Medium Density" designation apply:

“E.4.6.4 It is the function of areas designated “Mixed-Use - Medium Density” to serve as vibrant people places with increased day and night activity through the introduction of residential development. Residential
development enhances the function of these areas as transit supportive nodes and corridors.

**E.4.6.7** Lands designated “Mixed-Use - Medium Density” shall contain a range of building heights and densities, to a maximum height of six storeys, which shall be set out in the implementing Zoning By-law. The specific permitted heights and densities shall depend on the area and be established through Secondary Plans, where one exists, and the Zoning By-law.

**E.4.6.10** Permitted uses shall be located in single or mixed-use buildings.”

The proposed development will further increase the overall density, which will support transit usage, as the subject lands are located along an HSR bus route, and contribute to a transit supportive corridor. In addition, the proposal meets the maximum height requirement of six storeys, as a maximum of three storeys is proposed.

**West Waterdown Secondary Plan:**

The subject lands are designated “Mixed-Use - Medium Density” in the Land Use Plan - Map B.4.1-1, to which the proposed residential use is permitted under Policy 4.1.4, Volume 2, of the Urban Hamilton Official Plan. In addition, the proposed development conforms to Policy 4.1.4c) with respect to providing a contiguous streetscape through a consistent setback and landscaping.

**Urban Design:**

The Urban Hamilton Official Plan sets out specific urban design policies that ensure the compatibility of the proposal to the surrounding lands with respect to scale, building mass, and height. Policy B.3.3.1.5 ensures that new development is compatible with and enhances the character of the existing environment and locale. In addition, the proposal must be adaptable and flexible to accommodate future demographic and environmental changes under Policy B.3.3.1.6. Finally, the following principles guide new development:

“**B.3.3.2.3** Urban design should foster a sense of community pride and identity by:

(a) Respecting existing character, development patterns, built form, and landscape;

(b) Promoting quality design consistent with the locale and surrounding environment;
(e) Conserving, maintaining, and enhancing the natural heritage and topographic features of the City and its communities; and,

(g) Contributing to the character and ambiance of the community through appropriate design of streetscapes and amenity areas.”

The proposal is compatible with the surrounding residential uses that consist primarily of single-detached dwellings. This is achieved through having comparable building height, buffering and landscaping, and scale. The proposed townhouse blocks, which are located around the periphery of the subject lands, will be limited to 10 units per block under the modified zoning provisions (see Appendix “B”), and each unit will be architecturally controlled to create a built form and landscape that is compatible with the surrounding dwellings. The proposed maisonettes will be located internally within the site, and are limited to a block of 16 units. In addition, the revised proposed development maintains the existing drainage easement on the west side of the subject lands, preserving the topographic and natural heritage features to provide for naturalized landscaping and adequate stormwater drainage of the surrounding area.

Under Policy B.3.3.2.6, where is has been determined that new development is compatible with the surrounding areas and it enhances the character of the existing environment, the following policies apply:

“B.3.3.2.6a) Complementing and animating existing surroundings through building design and placement, as well as through placement of pedestrian amenities;

B.3.3.2.6d) Complementing the existing massing patterns, rhythm, character, colour, and surrounding context; and,

B.3.3.2.6e) Encouraging a harmonious and compatible approach to infilling by minimizing the impacts of shadowing and maximizing light to adjacent properties and the public realm.”

The revised concept (see Appendix “D”) includes an internal pedestrian circulation consisting of a 1.2m sidewalk that will provide a safe pedestrian environment, and an on-site amenity space with street furniture and green space. This is to enhance the pedestrian environment within the development, as the nearest Park is located north of the subject lands. In addition, the built-form of the townhouses and maisonettes involve more intensive development closer to the centre of the property, and less intensive development abutting the existing residential development. This ensures the compatibility of the new development with existing uses with respect to scale, mass, and height through appropriate setbacks and landscaping.
Finally, Policy B.3.3.3 addresses the role of built form in defining the character of an area. More specifically, Policy B.3.3.3.1 directs new development to be located and organized to be successfully accommodated within the existing or planned context of an area. In addition Policy B.3.3.3.2 requires appropriate transition in scale to neighbouring buildings and ensuring adequate privacy and sunlight to neighbouring properties. The proposed development meets the above requirements, as the proposed townhouse dwellings that abut existing residential dwellings will be two storeys, with three storeys being limited to areas along Dundas Street, and where the site abuts commercial property east of the subject lands.

**Stormwater Management:**

The Urban Hamilton Official Plan addresses stormwater management of all forms of development. Policy C.5.4.2 requires that any new development shall be responsible for submitting a detailed stormwater management plan, prior to development, to properly address on-site drainage and ensure that new development has no negative impact on off-site drainage.

In its existing condition, the subject property has had a history of drainage issues, especially during times of abundant precipitation. An existing drainage stream runs south to north to Borer’s Creek and is located on the west side of the subject lands (see Appendix “D”) where it currently provides stormwater management for the subject lands and properties downstream. A Stormwater Management Brief was submitted as part of the application and the recommendations/conclusions have been supported, in principle, after staff review. However, a Holding Provision has been included in the implementing By-law, and will be removed upon the approval of grading and erosion control plans at the Site Plan Control stage to further address drainage concerns. This will ensure no increase in the stormwater load into the drainage easement as a result of the proposed redevelopment.


**Town of Flamborough Official Plan:**

As the residential intensification policies of the Urban Hamilton Official Plan are currently under appeal, the residential intensification policies of the Flamborough Official Plan Policies have been reviewed against this application. A site-specific amendment to the Flamborough Official Plan was originally applied to change the existing “Urban Commercial” designation to the “Residential” Designation, with a Site-Specific Policy to permit a density of 58 units per ha. As the Urban Hamilton Official Plan is now in force and effect, the amendment is no longer required.
The Flamborough Official Plan includes Housing and Residential intensification policies. Policy E.3.2.1 identifies the proposed development as a redevelopment of a previous commercial use and redeveloped for residential purposes, to which the following policies apply:

“E.3.1.1 (xii) When considering all new housing development or redevelopment, Council will require consideration of the following:

- That development or redevelopment is compatible with surrounding uses;
- That adequate off-street parking is provided and maintained;
- That the existing pattern of the streetscape and landscape is maintained or improved; and,
- That adequate separations are maintained through distance and/or buffering features between residential and adjacent land uses, particularly involving the privacy areas of adjacent residences.

E.3.2.3 Redevelopment may be permitted on lands designated in the Urban Area, subject to consideration of the following, where applicable:

(i) The proposal is compatible with the surrounding area in terms of height and mass; and,

(ii) The existing pattern of streetscape and landscape can be maintained or improved.”

Based on the foregoing policies, the proposed development meets the intent of the Housing and Residential Intensification Policies of the Plan, as the proposal will be compatible with the surrounding residential communities. Adequate buffering, in the form of a visual barrier, existing vegetation, and additional enhanced landscaping will provide privacy and buffering for the adjacent single detached dwellings. In addition, the form of housing to be constructed will be compatible with the surrounding residential communities with respect to height, mass, and built form. Off-street parking will be provided for each dwelling unit, and within dedicated visitor parking areas.
RELEVANT CONSULTATION

The following internal Departments and external Agencies had no concerns or objections to the proposed applications:

- Corridor Management, Public Works Department.
- Urban Forestry, Public Works Department.
- Source Water Protection, Public Works Department.
- Taxation, Corporate Services Department.
- Horizon Utilities.
- Bell Canada.
- Canada Post.

_Waste Management (Public Works Department):_

The proposed development is eligible for weekly collection of garbage, recycling, organics, as well as leaf and yard waste. In addition, for the collection of waste on private roads, an Agreement for On-Site Collection of Municipal Solid Waste must be executed and submitted to the City.

_Recreational Services (Community and Emergency Services Department):_

With respect to the consideration of the recreational needs of area residents and potential new residents, Rockcliffe Gardens Neighbourhood Park is within a 400m walking distance to the site. This Park includes a Class C soccer pitch and playground. However, access to the Park would include walking along Dundas Street, which may not be conducive to an appropriate pedestrian environment.

The original concept plan (see Appendix “C”) did not include an amenity space as part of the proposed development. However, as part of the discussion with staff and the Councillor, the revised concept plan now includes an amenity space with street furniture and green space for passive recreation use (see Appendix “D”), and addresses concerns with respect to the need for residents to travel to Rockcliffe Gardens Park.

_Hamilton Municipal Parking System:_

Staff notes that any “super-mailboxes” should not impede with parking. As shown in the concept plan (see Appendix “D”), the “super-mailbox” will be located within the boulevard and will not impact the private condominium road or impede in parking.
Hamilton Conservation Authority:

Hamilton Conservation Authority (HCA) staff notes that the subject lands are located within the Borer’s Creek subwatershed area, which drains into Hamilton Harbour. HCA staff has no objections to the approval of the submitted applications, in principle. However, finalizing stormwater and grading issues will be required at the Site Plan Control stage. A Holding Provision has been included in the implementing By-law, and will be removed upon the approval of grading and erosion control plans at the Site Plan Control stage to address the issue of drainage concerns.

Public Consultation:

In accordance with Council’s Public Participation Policy, a Notice of Complete Application was circulated to 181 property owners within 120m of the subject property on January 15, 2013. To date, three letters of opposition have been received by staff. A Public Notice Sign was also posted on the subject lands on March 4, 2013.

Notice of the Public Meeting was given in accordance with the requirements of the Planning Act through circulation to property owners within 120m of the subject lands. The Public Notice Sign was updated in October 18, 2013, with respect to the date of the Public Meeting.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(Include Performance Measurement/Benchmarking Data, if applicable)

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

   (i) It is consistent with the Provincial Policy Statement, which supports residential intensification within the Urban Area;

   (ii) It conforms with the Places to Grow Growth Plan, which encourages the development of higher density housing forms within intensification areas, such as along intensification corridors;

   (iii) It conforms to the residential intensification policies of the Flamborough Official Plan; and,

   (iv) It conforms to the Urban Hamilton Official Plan with respect to redevelopment of underutilized lands.
2. **Zoning By-law Amendment (ZAC-12-017):**

The subject lands are located in the Urban Commercial “UC” Zone, which permits a range of commercial uses such as clinic, day nursery, financial institutional, funeral home, hotel, office, restaurant, and retail use. To accommodate the proposed redevelopment, the property will be rezoned to the Medium Density Residential “R6” Zone, and a number of modifications are required, which are directly supported by the Urban Design Policies of the Urban Hamilton Official Plan, and are as follows:

**Townhouse Units in a Block:**

The intent and purpose of limiting the number of townhouse units in a block is to ensure that there is an appropriate break in the building form for landscaping, access to rear amenity space, and for an attractive streetscape. Under the definition of a “Townhouse” in the Flamborough Zoning By-law, a townhouse dwelling shall have a maximum of 8 units.

As shown in the revised concept plan (see Appendix “D”), Block “G” is located on the east side of the property and will have a total of 10 units. Staff has no objection to the requested modification, as the general intent of the definition is still met, where landscaping and proper access to the rear amenity space can still be achieved with 10 dwelling units in a block. In addition, staff is satisfied that the building mass would not detract from the existing streetscape.

**Maisonette as a Permitted Use:**

Maisonettes (or back-to-back townhouses) are not considered as a permitted use under Section 11 - Medium Density Residential Zone, nor is it defined under Section 3: Definition of the Flamborough Zoning By-law. As the applicant is proposing 16 maisonette dwellings, as shown as Block “C” in the revised concept plan (see Appendix “D”), the implementing Zoning By-law has included this type of housing as a permitted use. The proposed maisonette definition includes a maximum height of not more than a single-detached dwelling, restricts a block to not more than 16 dwelling units, recognizes that each dwelling unit shares a common vertical back wall and is joined on one or both sides by a party wall to another dwelling in the same row, and requires that each unit has a separate front entrance.
Maisonette dwelling units are a form of housing that provides affordable housing alternatives. Finally, other former municipalities, such as Ancaster (identified as Multi-Plex) and Hamilton (identified as a Maisonette), permit maisonettes as a permitted use and, subsequently, staff has no objections to the addition of this definition as a permitted use.

**Minimum Lot Area per Dwelling and Density:**

In accordance with Section 11.2(i)(a), the general intent of requiring a minimum 280 sq. m. per dwelling is to ensure that there is an appropriate amount of land for private and public amenity space, common element features such as sidewalks and condominium road, landscaping, and buffering from abutting properties. In addition, in accordance with Section 11.2(i)(k), the purpose of requiring a maximum of 40 units per net ha is to prevent over development and to ensure appropriate amenity space. These provisions do not affect policies under the West Waterdown Secondary Plan, as under the “Mixed-Use - Medium Density” designation, there are no density requirements.

The subject property is 11,564 sq. m. in size, and the proposed development will include 58 dwellings. The lot area per dwelling is proposed to be 199.4 sq. m. Consequently, the implementing By-law will vary the provision to require 195 sq. m. of lot area per dwelling, whereas a minimum of 280 sq. m. is required. In addition, an overall density of 55 units per net ha is proposed.

Staff is of the opinion that the modifications can be supported, as the revised concept plan shows that the general intent is being met. The addition of an on-site amenity area is being provided, and there is sufficient space for landscaping, condominium road, and sidewalk. Finally, there are other examples of similar townhouse development throughout North and South Waterdown, where the minimum lot area per dwelling has been modified and is still in keeping with the character of the surrounding area.

**Minimum Front Yard Setback:**

The general intent of providing for a 7.5m front yard setback is to provide for landscaping to create an appropriate streetscape, to provide a buffer between the road and the residential dwelling, and to permit any encroachment, such as porches and stairs.

The revised concept plan (see Appendix D”) shows Block “G” with a proposed front yard setback of 2.4m and Block “A” with a proposed front yard setback of 3.03m, as measured from Dundas Street East. Each dwelling unit will have frontage onto an internal private road. As such, the side elevations of Blocks “G”
and “A” will technically function as a flankage yard, similar to a corner or flankage lot. The general intent of providing a front yard setback is still being met, as there is a landscape buffer and privacy between the proposed dwellings and Dundas Street East.

The applicant has also recently proposed similar block townhouse developments in North Waterdown, with reduction in the front yard setback, where the general intent of requiring a front yard setback is maintained with respect to providing for a landscape buffer from privacy.

Minimum Rear Yard Setback:

The general intent of providing for a 7.5m rear yard setback is to provide a private amenity space, in addition to landscaping and buffering from abutting properties. The revised concept plan shows that the minimum rear yard setback of 7.0m is to be provided. Staff supports the modification, as the reduction by 0.5m is minor in nature and the general purpose of providing for a rear amenity space is still being met. In addition, the rear lot line, as shown in the concept plan (see Appendix “D”), is irregular in nature, where the setback ranges from 7.05m to more than 8.0m where, in general, the rear yard setback is met.

Minimum (Easterly) Side Yard Setback:

In accordance with Section 11.2(g), a minimum required side yard setback of 3.0m is required to provide for an appropriate separation between buildings for privacy and noise, and to provide for stormwater drainage between properties.

The applicant has requested a reduction to the easterly side yard setback to 2.2m for Unit 48 of Block “F”, located on the north easterly portion of the property. Staff has no objection to the modification, as the reduction to the side yard would function in a similar fashion to single detached dwellings.

Planting Strip along Street Frontage:

In accordance with Section 11.2(i), a planting strip of 3.0m is required across all lot lines adjacent to a street. For the purposes of this proposal, the Dundas Street East frontage is considered the front lot line. The purpose of providing for a planting strip along a street frontage is to create an attractive streetscape through landscaping, involving trees and shrubs. The applicant has requested that no planting strip be provided.
The concept plan shows that the Dundas Street East frontage will consist of noise attenuation fencing for Unit 7 in Block “A” and Unit 58 in Block “G” (see Appendix “D”), decorative fencing, porches, and individual pathways for each unit of Block “B”. Although no planting strip is to be provided through the implementing By-law, extensive landscaping will continue to be required at the Site Plan Control stage to ensure that the general intent of providing landscaping will be secured.

**Acoustical Fencing:**

The general intent of limiting the height of a fence is to create a standard fence height for all properties, and to prevent excessively high fences that create shadowing issues on abutting properties. In Section 5.6 of the Flamborough Zoning By-law, a maximum fence height is 2.0m, and 1.0m for the portion of the front yard within 6.0m from the front lot line.

The recommendations in the amended Acoustical Study, prepared for and submitted by the applicant, included the installation of an acoustical fence, of between 2.1m and 2.3m in height, to be located on the south-west and south-east corner of the subject lands. This is to ensure that non-point source of noise from Dundas Street East is mitigated for the rear yard private amenity area for “Unit 7” of Block “A” and “Unit 58” for Block “G”. The implementing By-law includes a site-specific provision to permit an increase in fence height to a maximum of 2.3m, in accordance of an approved Noise Study.

Staff has no objection to the increase in fence height, as this is a requirement under the recommendations of the Acoustical Study to mitigate noise within a private amenity area. Additional landscaping and fencing details will be addressed at the Site Plan Control stage to provide for a more attractive street presence. In addition, the acoustical wall, located on the south-west corner, will be partially shielded by the increase in elevation along the Dundas Street road allowance.

**Parking Space for Maisonette Units:**

The implementing By-law has included parking space requirements for maisonette dwelling units of 1.5 spaces per dwelling unit, and an additional 0.25 visitor parking spaces per dwelling unit. This requirement is consistent with parking standards for townhouse units, as identified in Section 5.21.1(c) in the Flamborough Zoning By-law. This will provide for a uniform parking requirement for townhouse and maisonette dwelling units. As shown in the revised concept plan, a total of 65 parking spaces for the dwelling units and 14 visitor parking.
spaces are proposed. This conforms to the parking requirements of the Flamborough Zoning By-law.

Parking Space Dimensions:

In accordance with Section 5.21.4 under the Flamborough Zoning By-law, a minimum parking space dimension of 2.6m in width and 5.8m in length, and a barrier-free parking space dimension of 4.4m in width and 5.8m in length, is required. A minimum requirement is to ensure that standard dimensions are established and prevent inconsistent parking space dimensions that could make parking of larger vehicles difficult.

As shown in the concept plan, the applicant proposes to meet the minimum parking space dimension requirements for resident parking spaces. However, a modification has been requested to reduce the visitor parking space dimensions to 2.6m x 5.5m, which will be consistent with Hamilton Zoning By-law No. 05-200 parking space standards. In addition, a modification has been requested to reduce the barrier-free parking space dimensions to 4.4m x 5.5m.

Staff has no objections to the requested reduction for visitor parking, as Hamilton Zoning By-law No. 05-200 parking space dimensions are the future standard throughout the municipality. In addition, the reduction will result in requiring less land needed for the parking lot in order to accommodate the same number of parking spaces.

Minimum Interior Size of Garage for Parking:

A site-specific zoning provision has been added into the implementing By-law to require that the size of each garage be at least 3.0m in width x 6.0m in length. In addition, an unobstructed parking dimension of 2.6m in width x 5.8m in length will also be permitted to permit stairs to encroach into the required parking space.

This provision is not a requirement under the Flamborough Zoning By-law. However, staff is in support of this requirement, as it will ensure that each garage is not undersized, and maintains sufficient space in the garage for the intended use as parking. In addition, as part of the site plan and condominium review process, the applicant will be required to advise all purchasers that the average parking space forms part of the required parking.
Access to Parking Space (Condominium Road):

Section 5.21.6 of the Flamborough Zoning By-law requires a minimum of 6.4m for driveways with two-way vehicular movement. This ensures that there is sufficient width for two cars to safely pass side by side. A modification to the zoning provision, to 6.0m, is proposed for the private condominium road, which will provide access to parking spaces. Staff has no objection, as the reduction in the driveway width will still maintain the general intent of the zoning provision and vehicles can still safely manoeuvre.

Holding Provision for Grading and Erosion Control:

A Holding Provision has been added into the implementing By-law, and will be removed upon the approval of a grading and erosion control, to the satisfaction of the Senior Director of Growth Management. This will ensure that the proposed changes to the grading of the subject lands, which are needed for drainage and servicing requirements for the proposed development, will be reviewed and approved by staff. The grading and erosion control plans will also be reviewed and approved at the Site Plan Control stage.

3. An existing drainage easement, located on the west portion of the subject lands, provides for stormwater drainage in a northerly direction for the subject lands and the residential development surrounding the subject lands to the south and north (see Appendix “A”). A naturalized drainage swale currently exists on the easement providing drainage north to Borer’s Creek, and was established as part of the development to the south of the subject lands.

The original concept plan (see Appendix “C”) shows the proposed development and visitor parking was to be built over the drainage easement. As development cannot occur over the easement, the applicant subsequently revised the concept plan to relocate the development outside of the easement (see Appendix “D”). In order to facilitate the proposed development, it has been proposed that the overall grading, especially to the rear and centre of the subject lands, be increased to allow for proper servicing of each dwelling unit to prevent flooding on the subject lands, and accommodate the installation of stormwater management systems.

The intent is to facilitate the proposed development, while keeping all stormwater within the subject lands, and minimize outflow and demand onto the existing drainage swale. This will also have the effect of maintaining the current drainage flows already being experienced by abutting residential lots to the north, where recent abundant precipitation over the years has resulted in over-saturation of the ground.
4. In order to minimize the increase in stormwater flow into the drainage easement from the subject lands, underground retention and detention facilities, to be located under the amenity area and private condominium road, will provide for stormwater management. In addition, pervious surfaces, such as permeable pavers for the private road, amenity space, and landscaping will also assist in stormwater management.

5. The original concept plan included 66 dwelling units and 122 parking spaces. Concerns were raised with respect to the lack of amenity space on-site for passive recreation opportunities. As the nearest Park, Rockcliffe Gardens, is 400m away from the subject lands, it is suitable to provide an on-site amenity area for residents to rest and walk to. After discussions with staff and the Councillor, the applicant subsequently revised the concept plan (see Appendix “D”), where an amenity space is now provided in the west portion of the property and adjacent to the drainage easement. Details of the street furniture within the amenity area will be provided at the Site Plan Control stage. Staff is of the opinion that the requirement to provide amenity space has now been satisfied.

6. The revised concept plan (see Appendix “D”) has incorporated elements of urban design, as required in the Urban Hamilton Official Plan. The following urban design principles have been incorporated into the design:

   - A 1.2m wide internal sidewalk that will be connected to the existing sidewalk along Dundas Street East is being provided to provide an internal pedestrian circulation. This provides for a safe pedestrian environment and prevents conflicts between vehicles and pedestrians;

   - An internal amenity space, to be located on the west portion of the subject lands, will provide for passive recreational opportunities for residents. This will also be accessible via the internal sidewalk; and,

   - The proposed block townhouses will have a maximum height of three storeys, which will be consistent with abutting existing two storey, single detached dwellings. This meets the general intent of new development that will be consistent with the scale and height of abutting residential uses.

7. Numerous trees of varying plant conditions previously existed as part of the former Bohemian Banquet Facility, and are located primarily within the drainage easement on the west side of the property and along the rear lot line abutting the residential properties. However, a number of trees have since been removed due to their poor health, and previous storms making some trees vulnerable to falling over.
A Tree Protection Plan (TPP) was submitted as part of the application identifying the trees that were to be retained and trees that were to be removed. As many of the trees had already been removed prior to the submission of the TPP, the Report could not be reviewed and extensive landscaping will be required to the rear of the property to re-establish the extensive vegetation that was once on the subject lands.

8. As the former Bohemian Restaurant and Banquet Facility was a commercial use, a Record of Site Condition (RSC) is required, as the proposed residential use is considered as a more sensitive use. The applicant submitted the RSC documentation, along with the Letter of Acknowledgement from the Ministry of the Environment, in mid-September 2013. Staff is satisfied that the issue has been addressed.

9. There are existing municipal sanitary sewers and watermains within the Dundas Street road allowance, which are sufficient to service the property. In addition, there are no additional road allowance widening requirements on this section of Dundas Street East.

A Stormwater Management Report was submitted to identify minor and major storm system outlets. In order to minimize the amount of stormwater from draining into the drainage swale, stormwater management techniques, such as the use of permeable pavers on the private road, detention and retention management systems, and landscaping within the subject property, can all be implemented. The initial findings also show that improvements will be needed to be made along the drainage easement to minimize over-saturation of soils along the swale.

In addition, the Report illustrated a storm drainage area plan showing appropriate runoff coefficients. Staff supports the initial findings and initial recommendations of the Report, in principle. Additional concerns will be addressed at the Site Plan Control stage.

In addition, a Functional Servicing Report was submitted, where the findings were supported by staff, where the proposed development can be properly serviced by proposed connections to the watermain and wastewater sewer along the Dundas Street East road allowance.

10. A total of two letters of opposition and/or concern with respect to the proposed development were received. The issues include the following:
Previous Septic System/Bed and Catch Basins:

All former septic systems and septic beds must be capped and removed, prior to any new construction. As the proposed development will consist of a future Plan of Condominium application, one of the conditions will include the removal of any decommissioned catch basins, septic systems, and septic beds.

Stormwater Drainage:

A main concern from abutting residential properties is the lack of proper stormwater drainage, despite the easement located on the west portion of the subject lands that acts as the main drainage outflow to Borer's Creek. The original concept plan included the partial paving of the easement for parking. The revised concept plan shows the existing easement preserved in its existing condition.

In order to facilitate the proposed development, all stormwater on the subject lands must be contained within the subject lands and minimize outflow onto the existing drainage swale. This will also have the effect of maintaining the current drainage flows already being experienced by abutting residential lots to the north. This can be achieved through the stormwater detention, where stormwater is collected in stormwater systems and water is slowly released into the drainage easement.

Existing Trees:

Numerous trees of varying plant conditions previously existed as part of the former Bohemian Banquet Facility, and are located primarily within the drainage easement on the west side of the property, and along the rear lot line abutting the residential properties. However, a number of these trees have since been removed by the current owner due to the poor health of the trees and the potential of falling over. In addition, due to the proposed grading of the property, additional trees may be removed. It will be required at the Site Plan Control stage that extensive landscaping is provided, in accordance with the Council-adopted Tree Protection Guidelines.

Adjacent Commercial Use:

The owner of 219 Dundas Street East had expressed concerns with respect to the proposed residential development on the subject lands. The revised concept plan shows the townhouse units in Block “G” will have a minimum rear yard setback of 7.03m, and Unit 48 will have a side yard setback of 2.2m. As a 1.8m privacy fence is being proposed along the east side lot line, there will be
adequate buffering from any redevelopment of the abutting commercial property. These concerns are addressed in the implementing By-law (see Appendix “B”), and the parent Zoning By-law. In addition, concerns respecting the buffer space between the proposed residential buildings and future development will be addressed at the Site Plan Control stage.

**ALTERNATIVES FOR CONSIDERATION**

Should the proposed Zoning By-law Amendment application be denied, the property could be developed for commercial uses, in accordance with the provisions of the Urban Commercial “UC” Zone of the Flamborough Zoning By-law.

**ALIGNMENT TO THE 2012 - 2015 STRATEGIC PLAN:**

**Strategic Priority #1:**
A Prosperous and Healthy Community

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

**Strategic Objective:**

1.5 Support the development and implementation of neighbourhood and City Wide strategies that will improve the health and well-being of residents.

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

**APPENDICES / SCHEDULES**

- Appendix “A”: Location Map
- Appendix “B”: Draft Zoning By-law
- Appendix “C”: Original Concept Plan
- Appendix “D”: Revised Concept Plan
- Appendix “E”: Resident Letters

:TL
Attachs. (5)
CITY OF HAMILTON

BY-LAW NO. 

To Amend Zoning By-law No. 90-145-Z (Flamborough), Respecting Lands Located at 215 Dundas Street East (Flamborough)

WHEREAS the City of Hamilton Act, 1999, Statutes of Ontario 1999 Chap. 14, Schedule 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 Hamilton”, and is the successor of 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 or the City of Hamilton;

AND WHEREAS Zoning By-law No. 90-145-Z (Flamborough) was enacted on the 5th of November 1990 and approved by the Ontario Municipal Board on the 21st of December, 1991;

AND WHEREAS the Council of the City of Hamilton, in adopting Item of Report 13- of the Planning Committee, at its meeting held on the day of , 2013, recommended that Zoning By-law No. 90-145-Z (Flamborough) be amended as hereinafter provided;

AND WHEREAS this By-law is in conformity with the Urban Hamilton Official Plan in accordance with the provisions of the Planning Act.
NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The Schedule “A-30” of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended to rezone from the Urban Commercial “UC” Zone, to the Medium Density Residential “R6-33(H)” Zone, Modified, with a Holding Provision, on the lands the extent and boundaries of which are more particularly shown on Schedule “A”, annexed hereto and forming part of this By-law.

2. That Section 11 - Medium Density Residential Zone, of Zoning By-law No. 90-145-Z (Flamborough), as amended, is hereby further amended by adding the following Sub-section:

   11.3 Exception Numbers

   11.3.33 “R6-33(H)” (See Schedule A-30)

   Permitted Uses:

   (a) Townhouses

      a. Notwithstanding the definition of Townhouse, one block may contain a maximum of 10 units.

   (b) Maisonette

      For the purposes of this amending By-law, a Maisonette Dwelling shall mean:

      A building of not more than 1 single-detached dwelling unit in height, designed to contain not less than 6 dwelling units and not exceeding 16 dwelling units, fully attached to each other, side-by-side, in two rows arranged back-to-back and in substantial harmony with each other, each of which dwelling unit:

      a. Has a separate front entrance;

      b. Is joined on one or both sides by a party wall to another dwelling unit in the same row; and,

      c. Is joined by a common vertical back wall extending the length of the building.
Zone Provisions:

(a) Lot Area (Minimum): 195 sq. m. per dwelling.

(b) Front Yard (Minimum): 2.4 m.

(c) Rear Yard (Minimum): 7.0 m.

(d) Side Yard - Easterly (Minimum): 2.2 m.

(e) Planting Strip (Minimum): No Planting strip shall be required across Dundas Street frontage.

(f) Density: 55 dwelling units per net ha.

(g) Parking Spaces (Minimum): 1.5 spaces per unit for a Maisonette, one of which is included in the garage. Visitor parking shall be provided at a rate of 0.25 spaces per unit for a Maisonette.

(h) Parking Space (Minimum) (Visitor Parking): Each parking space shall have a minimum of 2.6m x 5.5m.

Parking Space (Minimum) (Barrier-Free Parking): Each parking space shall have a minimum of 4.4m x 5.5m.

(i) A minimum interior size of a garage for parking shall be 3m x 6m with an unobstructed dimension of 2.6m x 5.8m.

(j) Condominium Road Width (Minimum): 6.0m.
Holding Provision:

The Holding Provision ‘H’ shall remain in effect until the following matters have been addressed through Site Plan Control, to the satisfaction of the Director of Planning and the Senior Director of Growth Management.

(i) The owner has submitted and received approval of a Grading, Stormwater Management, and Erosion Control Plan, to the satisfaction of the Senior Director of Growth Management

General Provisions:

Other than contained therein, all other provisions of the Flamborough Zoning By-law shall apply.

3. That By-law No. 90-145-Z (Flamborough) is amended by adding this By-law to Section 6 as “R6-33”.

4. That the Clerk is hereby authorized and directed to proceed with the giving of notice of passing of this By-law, in accordance with the Planning Act.

PASSED and ENACTED this [ ] day of [ ], 2013.

_________________________________________  _________________________________________
R. Bratina  R. Caterini
Mayor  Clerk

ZAC-12-064
This is Schedule "A" to By-Law No. 13-

Passed the .......... day of .................., 2013

Mayor
-
Clerk

Schedule "A"

Map Forming Part of
By-Law No. 13-_____

to Amend By-law No. 90-145-Z

Subject Property
215 Highway No. 5 East

[Redacted] Change in Zoning from the Urban Commercial "UC" Zone to the Medium Density Residential "R6-33-H" Zone, Modified, with a Holding Provision

Scale:
N.T.S.

File Name/Number:
ZAC-12-064 OPA-12-022

Date:
Sept. 19, 2013

Planner/Technician:
T/A/L

Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Lee, Timothy

From: [redacted]
Sent: Tuesday, February 19, 2013 9:00 PM
To: [redacted]
Subject: FW: Tomorrow night's meeting

Good evening Judi,

We just spoke with our neighbour Rita Malig who passed along the email you sent to her. Therefore, as you requested, we will cc you and Tim Lee on all our correspondence as to have it recorded on file. Please know that we are extremely apprehensive about this development due to our past experiences dealing with new development, draining, and solutions offered by the city of Hamilton. We feel strongly that rezoning of the property formerly know as the Bohemiam is not appropriate considering all the issues involved. Please see our attached list of questions that we will be addressing at tomorrow evening's meeting.

I look forward to seeing you again and trust that you will assist us in finding the best outcome for the community.

Annette & John Myers

From: [redacted]
To: [redacted]
Subject: Tomorrow night's meeting
Date: Tue, 19 Feb 2013 19:11:24 -0500

Here are the questions I recorded from yesterday’s gathering. Let me know what you think. If you notice anything missing please add it at the bottom.

Thanks
Annette

09/17/2013
When Goldenview homes were built, we were not consulted and all waste water flowed from the south side of Hwy 5 through our backyards. We were told that some of the water was diverted down Hwy 5 but ultimately all of the flow goes through our backyards.

What are the plans for the water that will flow off the property?

Will the properties be on city water and sewage?

Was there a septic system/bed existing on the property? Was this dug up or was it left there?

Will the water that flows from the parking lots and property be drained through our yards?

Has there been an environmental assessment done on the site? If so, can we see it?

Can we also see the civil engineering plans?

What will be done with the catch basin that exists on the Bohemian property?

When is the builder planning on building?

We still have serious concerns about the way our backyards were taken care of. The first time we addressed the draining issues, as a result of the Goldenview situation, we were not consulted prior to the build or told of the increase of the water flow or the damage it would ultimately do to our properties. Before the Goldenview build, our backyards were lovely and green. During heavy rainfalls we would get some water flowing through but it would drain away immediately after the rain stopped.

We now have a drainage situation that has caused a lot of sludge, over grown weeds, garbage, debris, dead rodents etc. to flow through our yards, exposed to our children and pets as well as affecting our property values. Even after the situation was “fixed” by the city, we still have lots of standing water, perfect breeding ground for west nile virus as well as having considerable maintenance on our part that is required to upkeep the swall.

Where will the run-off during construction flow? The silt from the Goldenview building site ran through out yards, clogging our weeping tile.

Another concern that neighbouring homes have is, what will happen with the trees on the back part of the property? Will they be left or cut down? What about the fencing?

Will there be any additional traffic lights installed along this stretch of Hwy 5?
Attn.: Tim Lee
Planning and Development
City of Hamilton

Subject: LETTER OF CONCERN

Address of property applying for rezoning: 215 Dundas St E, Waterdown

Tuesday 5th March, 2013

I, the undersigned, owner of the property located at 219 Dundas St E, Waterdown would like to express my gravest concern regarding the intentions of the adjacent neighbouring property located at 215 Dundas St E for rezoning of their property land use from Urban Commercial to Residential.

In the event that the rezoning comes into force, the by-law requires a minimum setback of 7m separating residential from urban commercial use, which would disadvantage the allowable building area on our site.

Based on the above, I would suggest either one of the following options:

- The owner of 215 Dundas St E support and endorse our minor variance to maintain the 3m setback on our property without increasing it to 7m.
- I express my complete rejection and object to the rezoning of 215 Dundas St E

We trust your dealing with this matter in a fair and honest way preserving our existing rights to build on our property as it is currently designated urban commercial within its allowable building limits.

Best regards,

[Signature]

Adel Doss - President of Doss Homes Construction & Development Corp.

Owner, 219 Dundas St E