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# HALDIMAND COUNTY

## Report PDD-13-2024 Zoning By-law Amendment to Permit an Additional Use of a Secondary Suite in the Existing Dwelling

For Consideration by Council in Committee on June 18, 2024

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### OBJECTIVE:

To consider rezoning 20 Featherstone Avenue, Rainham to allow for a secondary suite as an additional permitted use within the existing single detached dwelling.

### RECOMMENDATIONS:

1. THAT Report PDD-13-2024 Zoning By-law Amendment to Permit an Additional Use of a Secondary Suite in the Existing Dwelling, be received;
2. AND THAT application PLZ-HA-2024-067, to amend the Haldimand County Zoning By-law HC 1-2020, to rezoning 20 Featherstone Avenue, Rainham from 'Lakeshore Residential (RL)' Zone to 'Lakeshore Residential (RL-H)' Zone with Special Exception RL.10, with a Holding (H) Provision to permit the use of a secondary suite, be approved for the reasons outlined in Report PDD-13-2024;
3. AND THAT the General Manager of Community & Development Services be authorized to remove the Holding (H) on the subject lands when all conditions have been satisfied;
4. AND THAT the proposal is deemed to be consistent with the Provincial Policy Statement (2020) and conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) and the Haldimand County Official Plan;
5. AND THAT the by-law attached to Report PDD-13-2024 be presented for enactment at a future Council meeting.

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**Reviewed by:** Shannon VanDalen, MCIP, RPP, Manager of Planning & Development

**Respectfully submitted:** Mike Evers, MCIP, RPP, BES, General Manager of Community & Development Services

**Approved:** Cathy Case, Chief Administrative Officer

### EXECUTIVE SUMMARY:

Council in Committee considered Zoning By-law Amendment application PLZ-HA-2023-121 on December 12, 2023 (Report PDD-32-2023) regarding a proposed site-specific amendment to facilitate the approval of an oversized accessory structure on the subject lands.

During this meeting, numerous concerns were raised by neighbouring residents regarding the proposed structure (i.e., size, drainage, privacy and setbacks). It was also raised that a secondary suite was operating in the basement of the existing single detached dwelling without any approvals from the County, resulting in an enforcement issue. The enforcement issue results from the fact that a secondary suite is not a permitted use in the 'Lakeshore Residential (RL)' Zone. The secondary suite was not part of the application before Council in Committee at the time. As such, Council in Committee

recommended deferral of the application to the January 16, 2024 Council in Committee meeting to provide additional information related to enforcement, drainage and height restrictions. Subsequently the application was withdrawn, and the applicants revised their proposal.

The current application (PLZ-HA-2024-067) contemplates:

- 1) the legalization (permitting) the use of a secondary suite in the 'Lakeshore Residential (RL)' Zone;
- 2) permitting a secondary suite that is larger than the maximum permitted size of 100 square metres (1,076.4 square feet), pursuant to Section 4.55 of Haldimand County Zoning By-law HC 1-2020; and,
- 3) addressing the interior side yard setback deficiency of the existing accessory structure on the subject lands.

The current application does not contemplate any detached accessory building relief requests as the proponents have amended their proposal to now attach the additional space to the dwelling. This results in a different set of zoning provisions being applied, all of which would be complied with. Even though the addition is not impacted by this application, it is shown on Attachment 2 for information purposes such that a complete picture of the intent for the property is understood. To be clear, the addition to the dwelling would not accommodate any part of the secondary suite which is currently located, and will remain, within the basement of the primary dwelling. In addition, a Holding (H) Provision is being recommended due to prior concerns raised pertaining to lot drainage. As such, a condition has been attached to the Zoning By-law requiring a lot grading and drainage plan to be submitted and accepted, together with a Development Agreement, including receiving a Building Permit and approval of a septic evaluation, prior to any site alteration and development taking place.

Council is being asked to approve Zoning By-law Amendment application PLZ-HA-2024-067 to permit the existing secondary suite in the existing single detached dwelling in a zone that does not permit secondary suites (i.e., the 'Lakeshore Residential (RL)' Zone).

Planning staff are of the opinion that this proposal has regard for matters of Provincial interest under the *Planning Act*, is consistent with the Provincial Policy Statement 2020, conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020, conforms to Haldimand County's Official Plan and maintains the general intent and purpose of the Haldimand County Zoning By-law HC 1-2020. Planning staff recommend approval of this amendment for the reasons outlined in this report.

## **BACKGROUND:**

As previously noted, Council in Committee (CIC) heard an application for an oversized accessory structure on December 12, 2023. Given the number of concerns raised during that meeting, including the operation of a secondary suite that did not receive prior approvals, CIC recommended that the application be deferred pending the provision of additional information regarding enforcement among other issues. The application presented at that time was withdrawn and a new application which is fundamentally different has been submitted and is the focus of this report.

### **Location and Description**

20 Featherstone Avenue is a large, pie-shaped lot with a total frontage of 22.83 metres (75 feet) at the cul-de-sac portion of Featherstone Avenue and is approximately 0.902 hectares (2.23 acres) in size (Attachment 1).

The subject property is zoned 'Lakeshore Residential (RL)' Zone in accordance with Haldimand County Zoning By-law HC 1-2020. A secondary suite is not a permitted use in the (RL) Zone. The subject property currently contains a single detached dwelling and an accessory structure (garage).

Surrounding land uses include: low-density residential (single detached dwellings) to the east; residential and Lake Erie to the south; and agricultural uses to the north and west. The subject property is also serviced by a private cistern and a septic system.

While not part of this Zoning By-law Amendment application, the proponents are also proposing an addition to the dwelling for additional garage space, as well as additional living space for the existing dwelling. There is no relief being requested for the proposed accessory storage space. The additional living space proposed in the addition is not related to the secondary suite, nor is the additional living space being contemplated to be used as an additional secondary suite.

### **Related Application**

*PLZ-HA-2023-121*

The proponents previously submitted an application for a site-specific amendment to Zoning By-law HC 1-2020 to facilitate the construction of a two-storey detached accessory structure for storage purposes. The site-specific amendment was required to address deficiencies from zoning standards for lot coverage and building height.

Initially, the applicant submitted an application for minor variance for the proposed accessory structure. Given that the application proposed total lot coverage 3 times greater than that allowed under the Zoning By-law, the applicant was advised that staff could not support the application for minor variance given it could not be considered 'minor in nature'. The applicant was advised that if they wished to proceed with the proposal an application to amend the Zoning By-law would be required. This application was deferred on the December 12, 2023 Council in Committee meeting pending further information. However, the proponents withdrew the application prior to the January 16, 2024 Council in Committee meeting pending revised proposal, including addressing the secondary suite that did not receive prior approvals.

### **Enforcement Matters**

It is acknowledged that a neighbourhood complaint is what eventually led to the discovery of the secondary suite and the necessity for the subject application – i.e., zoning permission for the unit. Enforcement action was initiated upon confirming the existence of the unit. That action is currently suspended pending outcome of the application process. This approach is procedurally common and it is expected (by the courts) that all municipal processes are utilized to deal with a matter before charges should be considered. While there has been a significant amount of attention paid to the enforcement process, and this application directly responds to the issue, that process does not factor into the assessment or recommendations put forward by staff herein. The subject report focuses on the principle of land use and suitability of the proposal in the context of provincial and local policy, property characteristics and overall compatibility.

### **ANALYSIS:**

The following planning considerations apply to this proposal:

#### **Provincial Policy**

##### ***Provincial Policy Statement (PPS), 2020***

The Provincial Policy Statement (PPS), 2020 provides overall policy direction on matters of provincial interest related to land use planning and development in Ontario. The PPS sets the policy foundation for regulating the development and use of land. The *Planning Act* requires all decisions affecting planning matters to be consistent with the PPS policies.

The PPS states that healthy, liveable and safe communities are sustained by:

- a. promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b. accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs; and
- c. avoiding development and land use patterns which may cause environmental or public health and safety concerns.

**Planning Comment:** The proposed application to establish two dwellings on one lot (one as a secondary suite that is subordinate to the principle dwelling and contained within the existing single detached dwelling) will marginally intensify the use of the subject property while contributing to a mix of residential types. As it is contained within the existing dwelling, it will minimize land consumption and have negligible impacts on public health or safety concerns. There will be no visual change to the existing dwelling based on the secondary dwelling unit.

The PPS also requires that healthy, integrated and viable rural areas should be supported by accommodating an appropriate range and mix of housing in rural settlement areas and encouraging the conservation and redevelopment of existing rural housing stock on rural lands.

**Planning Comment:** While the Resort Residential Node is not considered to be an urban settlement area, it is classified as a settlement area, lacking municipal servicing and on private water and waste systems. The proposal provides a mix of housing types in the rural area and encourages conservation without requiring additional land or lot creation by utilizing the existing lot fabric to accommodate an additional dwelling unit and parking without having any negative impacts on the existing residential character of the community. The Planning Act now speaks to permitting secondary suites or accessory dwelling units in residential areas, and the subject lands is of an appropriate size to accommodate.

Finally, the PPS also states that planning authorities shall provide for an appropriate range and mix of housing which is affordable to low and moderate income households by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents and all types of housing intensifications, including additional residential units.

**Planning Comment:** The proposal will add needed housing stock which is supported by the policies of the PPS and it has been demonstrated through a septic evaluation that the septic system can accommodate both the primary and secondary dwelling unit without any required upgrades. Also, to reiterate the above points, the additional dwelling unit will not have a visual impact on the subject lands and is a form of housing that is strongly encouraged by the Province.

It is Planning staff's opinion that the subject application is consistent with the PPS.

### ***A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020***

The purpose of A Place to Grow ('The Growth Plan') is to address challenges related to the magnitude of forecasted growth and changes in the Greater Golden Horseshoe over the next thirty (30) years. Planning decisions must conform to the Growth Plan.

Similar to the PPS, the Province's A Place to Grow deals with higher order land use planning matters across the Province such as curbing sprawl, encouraging intensification, balancing land uses, planning for infrastructure, protecting finite resources, etc. as the Greater Golden Horseshoe dramatically grows and changes in the long-run.

Echoing the policies contained in the PPS, the Growth Plan also supports and promotes housing choice by identifying a diverse range and mix of housing options and densities, including additional residential units and affordable housing to meet projected needs of current and future residents. In addition, the Growth Plan also requires municipalities to identify mechanisms, including the use of land use planning to support the implementation of providing a range and mix of housing options and densities.

**Planning Comment:** As previously mentioned, the proposal will add needed housing stock, in the form of a diverse range of housing types (i.e., secondary suite) that marginally encourages intensification to meet the projected needs of current and future residents. Zoning By-law Amendments are a Planning Instrument and a tool encouraged by the Growth Plan to support and promote housing choice to support a range of housing types both in the urban and rural settlement areas of the Province.

The Growth Plan permits development outside of settlement areas on rural lands that supports housing choice. As the proposal provides a diverse housing choice and mix of housing options, it is Planning staff's opinion that the secondary suite contained within the existing dwelling will have minimal negative impacts to the community and are in line with the Growth Plan.

### ***Haldimand County Official Plan***

The Haldimand County Official Plan (OP) creates the long-term framework for guiding land use changes in the County by protecting and managing the natural environment, directing and influencing growth patterns and facilitating the vision of the County as expressed through its residents. The OP also provides the avenue through which Provincial Policy is implemented into the local context.

The subject property is designated as "Resort Residential Node" on Schedule D.9 of the OP, which is intended to recognize the variety of land uses that exist, permit resort residential development within the nodes and protect the open nature of the lakeshore resource. Seasonal residences are the preferred type of dwellings along the Lakeshore, with a limited number of year-round residences and new year-round residential infilling development also permitted; these policy permissions include accessory buildings to existing residential dwellings.

Pursuant to Section 4.F.2 of the OP, five principles have been established for the future planning of the Lakeshore area and include:

- a) To provide appropriate opportunities for development in the Lakeshore Area while protecting the health, welfare and safety of Lakeshore residents;
- b) To protect the Lakeshore as a resource by preserving its natural beauty and environmental significance as outlined in the Vision Statement of the County;
- c) To reduce municipal financial liability and risk by preventing the need to provide full municipal services (water and sewer) that would be prohibitively expensive for the owners of property along the Lakeshore and the ratepayers in the County as a whole;
- d) To express through County policy and regulation, the limitations of servicing development on private roads and protect the interest of the County by informing residents of the servicing limitations and the residents' personal liability associated with development on private roads; and,
- e) To market and plan for the north shore of Lake Erie in Haldimand County to ensure it remains an asset for all residents of the County and potential tourists to the Lakeshore area.

Prior to implementing the above-noted principles, six additional themes have been identified which must also be taken into consideration as part of the plan review and include:

- a) The conversion process from seasonal to year-round use;
- b) Lot size requirements;
- c) Development on private roads;

- d) Environmental requirements;
- e) Septage requirements; and,
- f) Review resort residential node boundaries.

**Planning Comment:** As the secondary suite is contained wholly within the basement of the existing dwelling, it will have a negligible effect on the health, welfare and safety of the Lakeshore residents; no visual impacts to the built of character of the neighbourhood are anticipated; and, will utilize the existing private services currently available on the subject property (i.e., private cistern and septic system). In addition, the subject property is located on a public road, is currently used as a permanent year-round residence and will not alter any future plans for the north shore of Lake Erie.

The Official Plan, specifically Section 5.O.1 contains general policies and criteria pertaining to secondary suites, where permitted, which include:

- a) The unit is clearly subordinate to the primary residential unit in the dwelling;
- b) Adequate on-site parking for both residential units is provided;
- c) Adequate servicing capacity exists;
- d) The secondary suite complies with Provincial building and fire code requirements; and,
- e) The exterior appearance of the dwelling is not significantly altered to accommodate the unit.

**Planning Comment:** The existing secondary suite is clearly subordinate (representing approx. 40% of the gross floor area of the existing residence), tandem parking is provided, a septic evaluation confirmed the existing sewage system is adequate for the existing home and secondary suite and given that the secondary suite is located in the basement, the exterior of the home will not be significantly altered to accommodate the unit, save and except for the exterior entrance. While secondary suites are not permitted in the (RL) zone, if the Zoning By-law Amendment is approved permitting such use, the above-noted policies contained in the Haldimand County Official Plan will need to be adhered to. That would be accomplished, in part, through the holding provision being applied to the zoning which sets out certain conditions that must be met.

It is Planning staff's opinion that the proposal is consistent with the Haldimand County Official Plan.

### ***Haldimand County Zoning By-law HC 1-2020***

The Haldimand County Zoning By-law HC 1-2020 regulates and provides provisions for the use of land within the County by stating exactly how lands may be used, where buildings and other structures can be located, the types of buildings that are permitted and how they may be used, and the lot sizes and dimensions, parking requirements, building heights and setback from the street. The Zoning By-law implements the Official Plan and is legally enforceable.

The subject property is zoned 'Lakeshore Residential (RL)' Zone in accordance with Haldimand County Zoning By-law HC 1-2020, as amended. Section 4.55 of Haldimand Zoning By-law HC 1-2020 does not permit secondary suites in the RL zone. In general, the RL zone has been established to recognize existing seasonal residential uses near Lake Erie. Most of the lots in the RL zone pre-date the Zoning By-law. Lot sizes vary significantly in size from very small to large. Some lots are too small for a septic system and have holding tanks instead. There are many lots in the RL zone without direct access to a publicly maintained road. New development on holding tanks or private roads is generally not supported. As a result of the large variation in lot sizes, and the prevalence of access through private roads, accessory dwellings/secondary suites are not permitted as of right in the RL zone. However, it is acknowledged that not all properties possess all of these characteristics, and some could be considered for secondary suite permissions through a zoning amendment process.

As noted above, Section 4.55 (Secondary Suites) of the Zoning By-law provides a number of provisions that secondary suites must conform to, where permitted, including:

- i. Number of secondary suites per lot;

- ii. Permitted dwelling types;
- iii. Maximum secondary suite size (per unit);
- iv. Maximum number of bedrooms (per unit);
- v. General provisions (per unit);
- vi. Parking (per unit);
- vii. Entrances (per unit); and,
- viii. Restricted areas.

The subject proposal does not meet the maximum secondary suite size, which is limited to a maximum of 40% of the gross floor area of the principle residential dwelling on the lot, up to a maximum of 100 square metres (1,076.4 square feet). The existing secondary suite, while it is not greater than 40% of the main dwelling, is currently 148.18 square metres (1,595 square feet). Relief of 48.18 square metres (518.6 square feet) is required. In addition, the subject proposal is located within one of the restricted areas noted in the Table 4.55 provisions, which is within the 'Lakeshore Residential (RL)' Zone. All other provisions for the secondary suite would be complied with.

Relief is required from the above-noted provisions. As such, this Zoning By-law amendment application seeks to address these deficiencies by seeking permission to (1) add the use of the secondary suite in the (RL) zone and (2), permit a secondary suite that is larger than the 100 square metres (1,076.4 square feet) maximum. As noted above, the restriction for secondary suites within the RL zone is primarily driven by the size of the majority of the lakeshore residential lots and limitations for access (private roads) and servicing. The subject lands have a lot size which is more equivalent to a hamlet lot, and rationale has been provided regarding the ability of the septic system to accommodate the use. The subject lands are also on a municipally maintained public road. These factors are strong contributing factors to support of the accessory dwelling unit on this property. It is also noted that the proposed by-law amendment will limit the secondary suite to a maximum of one (1) unit within the existing primary dwelling unit (i.e., will not be permitted in the proposed addition).

In addition, the application will also address the interior side yard setback of the existing accessory structure (garage) on the subject property. Whereas a minimum 1 metre (3.04 feet) setback is required, 0.56 metres (1.84 feet) was provided. It is uncertain as to why the accessory structure was constructed closer to the interior lot line than what is permitted, however, the deficiency is considered minor and is not likely to result in any negative impacts on the subject lands or adjacent property. However, as a result of the reduction, and in accordance with *Building Code*, the adjacent wall of the accessory structure is required to have a Fire Resistance Rating of 45 minutes in order to support the reduction in the setback (see comments below). This will be addressed through the appropriate building permit/verification process.

Finally, a Holding (H) Provision is being recommended due to prior concerns raised pertaining to lot drainage. As such, a condition has been attached to the Zoning By-law requiring a lot grading and drainage plan to be submitted and accepted by the County, together with a Development Agreement that is registered on title, prior to any site alteration and development taking place. A Building Permit will also need to be issued by the County for the secondary suite including a final septic evaluation to be accepted prior to any site alteration and construction.

It is Planning staff's opinion that the subject proposal generally conforms with the Haldimand County Zoning By-law HC 1-2020 and that addressing the above-noted deficiencies will bring the subject property in complete conformity.

#### *Building Addition*

It should be noted that the owner's intend to construct a two-storey addition to the existing dwelling that is proposed to be constructed at the rear. The addition is to be for additional garage space and additional living space for the existing dwelling (not the secondary suite). However, the building addition

does not form part of the subject application. The previous application (PLZ-HA-2023-121) which was heard on the December 12, 2023 Council in Committee meeting (Report PDD-32-2023) was fundamentally different from the current proposal as it previously contemplated the construction of a two-storey detached accessory structure. Given that the proposal was revised to attach the proposed addition to the existing dwelling, different zoning provisions apply versus those of a detached accessory structure. Given this change, the addition complies with all zoning provisions, including setbacks, lot coverage and height and the use of this space is not a factor in the assessment of this application.

## **FINANCIAL/LEGAL IMPLICATIONS:**

Not applicable.

## **STAKEHOLDER IMPACTS:**

**Mississaugas of the Credit First Nation** – No comments received.

**Six Nations of the Grand River** – No comments received.

**Grand River Conservation Authority (GRCA)** – No comments received.

**Bell Canada** – No comments received.

**Canada Post** – Please be advised that Canada Post does not have any comments on an additional dwelling unit. If they require mail delivery, I will need to know what the unit # or civic # will be and if they are permanent or seasonal. The customer will need to register for mail delivery if permanent at the Selkirk Post office. Connie Richardson, Delivery Planning Canada Post

**Emergency/Fire Services** – No comments received.

**Project Manager, Forestry Operations** – No Comments received.

**Engineering Services, Transportation Engineering Technologist** – No comments received.

**Building & Municipal Enforcement Services** –

Basement Secondary Suite:

Total Gross Floor Area (GFA) of the Primary Dwelling is 222.69 square meters.

Total GFA of the Secondary Suite is 148.18 square meters.

The mechanical room area is excluded since it is shared by both units. The total area of the house is 370.87 m<sup>2</sup>. The secondary suite is 40% of the total area of the house.

The existing garage permit was approved for 5 feet (~1.5 meters) from the side yard property line. The new site plan shows the existing garage at 0.56 meters away from the site plan. Because the garage is located closer than 0.6 meters to the property line, the adjacent wall will have to have a Fire Resistance Rating of 45 minutes.

The addition to the house is lacking construction plans. Unable to comment on possible zoning or code violations.

**Planning Comment:** The proposed Zoning By-law amendment applications seeks to permit the use of the secondary suite in the (RL) Zone, address the size requirements and also addressing the side yard setback of the existing accessory structure. The additional to the home is not part of the scope of this application. While the addition to the house is lacking detailed construction plans, these will be required at the time a Building Permit application is received. However,



Building & Municipal Enforcement Services have confirmed that the addition does comply with the applicable zoning provisions.

### **Correspondence from the Public**

At the time this report was written, the County received approximately nine (9) letters (via email) in opposition to the proposal to add the use of a secondary suite on the subject lands. A number of concerns have been raised in these opposition letters, and they primarily speak to noise, safety concerns such as speeding in the neighbourhood, visual impacts to the neighbourhood character, privacy issues with neighbouring homes, having a rental unit in an established single detached neighbourhood and the potential to impact adjacent property values. Additional concerns have been raised that the addition may also be used as a potential second secondary suite. A complete appendix of these comments received are included in Attachment 4 of this report.

**Planning Comment:** Planning staff acknowledge the concerns raised by the neighbouring residents and are required to analyze and report on applications as they are submitted. While some of the concerns are not within the scope of Planning matters, those specifically that are, including the use of a secondary suite are reviewed against Provincial Policy (i.e., the Provincial Policy Statement, 2020 and the Growth Plan, 2020), and the Haldimand County Zoning By-law HC 1-2020 and the Haldimand County Official Plan. If approved, the use will be subject to all zoning provisions as noted throughout the report, including receiving Building Permits for the secondary suite to ensure it is in compliance with applicable Building Code requirements. In addition, a final septic evaluation will need to be submitted and accepted by the County to ensure there is capacity for both the existing dwelling and secondary suite. Finally, as previously noted, the addition to the home is not within the scope of the current application as it complies with the provisions of the (RL) zone and does not require any relief from the Zoning By-law. As part of the submitted applications, the owners have confirmed that the addition is to be used as additional garage space and living space for their home, and will not be used as an additional secondary suite. Further, as part of the amending zoning by-law (Attachment 3) staff have incorporated clear provisions that restrict the use of the secondary suite to the current main dwelling as it exists today. The proposed secondary suite is to be wholly contained within the existing dwelling and there will be no perceptible visual impact regarding the use. Secondary Suites (or additional residential units) are specifically identified through the Ontario *Planning Act* in residential areas, whether it be for personal (family) use or as a rental unit. The zoning cannot control or mandate occupancy, the review is based on the use, which is considered appropriate in the context of the subject lands and ancillary to the existing single detached dwelling. In summary, a Zoning By-law amendment will implement the specific provisions relating to a proposed secondary suite in the existing residential dwelling, and while larger than permitted in the applicable zone provisions, the requested relief is acceptable in terms of the context and characteristics of the subject lands and maintains the general intent of the Zoning By-law. As such, Planning staff recommend approval of this application and passing of the attached by-law.

### **REPORT IMPACTS:**

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

**REFERENCES:**

None.

**ATTACHMENTS:**

1. Location Map.
2. Owner's Sketch.
3. Draft Zoning By-law.
4. Correspondence from the Public.