

ISSUE DATE:

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PL050408

**Ontario Municipal Board
Commission des affaires municipales de l'Ontario**

Harbour West Neighbours Inc., Michael Poworoznyk, Shawn Selway and John Mattinson have appealed to the Ontario Municipal Board under subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 23 to the (former) Regional Official Plan for the City of Hamilton

Approval Authority File No. ROPA No. 23
OMB File No. O050065

The TDL Group Corp, the Harbour West Neighbours Inc., the Canadian National Railway, 687224 Ontario Inc. et al. have appealed to the Ontario Municipal Board under subsection 17(24) of the Planning Act, R.S.O. 1990, c. P.13, as amended, from a decision of the City of Hamilton to approve Proposed Amendment No. 198 to the Official Plan for the City of Hamilton

Approval Authority File No. OPA No. 198
OMB File No. O050066

Rheem Canada Ltd., the Harbour West Neighbours Inc., the Canadian National Railway, 687224 Ontario Inc. et al. have appealed to the Ontario Municipal Board under subsection 34(19) of the Planning Act, R.S.O. 1990, c. P.13, as amended, against Zoning By-law 05-073 of the City of Hamilton
OMB File No. R050077

A P P E A R A N C E S :

Parties

City of Hamilton

North End Neighbours

Participant

Shawn Selway

Counsel

B. Duxbury and
T. David Marshall

H. Turkstra

In Person

DECISION DELIVERED BY H. S. GOLDKIND AND ORDER OF THE BOARD

INTRODUCTION

[1] On March 23, 2005, the City of Hamilton (City) adopted Official Plan Amendment No. 198 (OPA 198) to the City of Hamilton Official Plan, and Official Plan Amendment No. 23 (OPA 23) to the former Regional Municipality of Hamilton Wentworth Official Plan. Both amendments are secondary plans with similar provisions and refer to the same geographic area. These official plan amendments are commonly and collectively referred to as the West Harbour Secondary Plan (Setting Sail), and establish land uses and a transportation network for the City's West Harbour area.

[2] This secondary plan applies to a large area of the City, bounded on the north by Hamilton Harbour, on the east by Wellington Street, on the south by Cannon Street and on the west by York Boulevard.

[3] Setting Sail covers areas that are or were developed with commercial, industrial and residential uses. Much of the industry is gone, leaving large, vacant parcels of land and vacant buildings. Lands along the harbour shoreline have been acquired by the City, with some, such as Bayfront Park, converted to parkland. There are also old, compact, residential areas within the Setting Sail planning area that are to remain as stable residential areas.

[4] Setting Sail identifies three areas where most change is to take place, with redevelopment of vacant or underused lands. These areas are known as:

- i. The Waterfront;
- ii. Barton-Tiffany: This depleted industrial area is located between the Canadian National Railway rail yard and Barton Street, and west of Bay Street North;
- iii. Ferguson-Wellington Corridor: This area is comprised of the former industrial lands to the west of Wellington Street North, to the south of Strachan Street East and along the east and west sides of Ferguson Street.

[5] This hearing did not deal with the Barton-Tiffany and Ferguson-Wellington areas, but focused on a residential area known as the North End Neighbourhood (Neighbourhood). The appellant, North End Neighbours (NEN), is a corporation that is recognized by the residents of the Neighbourhood and by the City as the official representative of the Neighbourhood.

[6] The appeal by NEN relates to the Neighbourhood. This is an older residential area comprising much of the northeast part of the Setting Sail planning area. The Neighbourhood was developed with modest, low-rise, compact residential development in the late 1800s and early 1900s. This is a stable area that has undergone some renewal in recent years. Generally, the dwellings are occupied by families. The Neighbourhood contains schools, churches, recreation and other community facilities that serve its population of about 5,000 people. The Neighbourhood is bounded on the north by Hamilton Harbour, on the west by Bay Street North, on the south by Strachan Street (East and West), and on the east by Wellington Street North.

[7] Setting Sail does not contemplate major change in the Neighbourhood. This area is to remain a stable residential area. It is adjacent to the downtown core of the City to the south.

[8] There are a number of north-south roads connecting the downtown core to the waterfront that run through the Neighbourhood. These include Bay Street North, James Street North, John Street North and Ferguson Avenue North. Burlington Street (East and West) carries a large volume of cut-through traffic in an east-west direction through the north part of the Neighbourhood. Residents of the Neighbourhood object to the large volume of vehicular traffic in the Neighbourhood, much of it being cut-through traffic that competes with Neighbourhood's residential function.

[9] NEN submits that the Neighbourhood is under attack from the competing interests of the business and residential areas to the south, the industrial area to the east and the vision of the City to develop the harbour lands: all requiring vehicular access through the Neighbourhood.

ATTACHMENTS

[10] Attachment "1" is a copy of Exhibit 14, showing the Traffic Calming and Management Components of the City's North End Traffic Management Plan.

[11] Attachment "2A" is a copy of the components of the NEN's Traffic Calming and Management Plan. Attachment "2B" is a copy of NEN's amended plan.

[12] Reference to these plans will assist in understanding this Decision.

POSITION OF NEN

[13] NEN supports the appropriate residential and commercial development of the harbour lands and the rest of the Setting Sail planning area. However, the appellant wants to assure that traffic in the Neighbourhood will be controlled adequately with regards to volume, speed and traffic operation so that the stability of this area as a safe, family-oriented neighbourhood will be protected and enhanced.

[14] NEN seeks to achieve control over traffic by a number of means, including a mandated maximum speed limit for vehicles of 30 kilometres per hour (km/h) throughout the Neighbourhood. In addition, there is the requirement for a number of traffic control measures such as speed bumps, lane narrowing, road closures, by-law enforcement and signage. The objective is to control vehicular traffic and convince drivers to drive with caution and concern for the safety of the residents of the Neighbourhood. NEN is particularly concerned with east-west cut-through traffic along Burlington Street and north-south traffic between the City's downtown and the waterfront.

[15] A core principle of NEN's position is the requirement that its traffic control strategy be inserted into Setting Sail so that it cannot be changed without going through the formal public process required for amending an official plan. NEN submits that the City's plan to manage traffic in the Neighbourhood through the use of a traffic master plan, incorporating traffic management and calming features, does not provide adequate protection since a master plan may be changed by the City without prior consultation and public participation.

[16] NEN fears that the competing interest of developing the waterfront, especially Piers 7 and 8, with planned commercial and residential development, will generate excessive traffic in the Neighbourhood from areas in and outside of the City and will result in the erosion of traffic management and calming measures set out in the City's North End Traffic Management Plan (Exhibit 3).

[17] NEN contends this problem is exacerbated by an inherent conflict between the City, as an owner and developer of waterfront land and its position as the decision

maker on the issues of land use and traffic strategy. It also submits that the Waterfront Trust, entrusted by the City with the management of the City's waterfront properties, has a bias in favour of greater intensification of use of these properties, and has substantial influence over municipal council's land use and transportation decisions in relation to their development.

[18] NEN also submits that the City's North End Traffic Management Plan does not contain satisfactory traffic management and calming measures. NEN presented several amendments to the City's North End Traffic Management Plan with traffic management and calming features developed by NEN. The NEN plan was not prepared by a traffic engineer. The traffic strategy of NEN includes the diversion of much of Piers 7 and 8 related traffic around the Neighbourhood.

[19] NEN maintains that Setting Sail is not consistent with the Provincial Policy Statement of 2005 (PPS) and does not conform to the Growth Plan for the Greater Golden Horseshoe (Growth Plan).

[20] The guiding principle of NEN's position is the requirement for the City to adopt an approach that determines as a priority what works for maintaining and improving the Neighbourhood as a family-friendly, residential neighbourhood. Under this approach, the streets become more than traffic conduits and become part of the community's outdoor amenity area for recreation and social interaction. This involves a severe reduction or removal of cut-through traffic by the closure of roads and reduction of vehicular speeds to a maximum of 30 km/h. NEN maintains that this approach is supported by policies in the City's new Urban Official Plan that advocate family-friendly neighbourhoods and by policies in the PPS and Growth Plan that promote healthy, safe and stable residential communities. NEN maintains that the City's transportation policies for the Neighbourhood do not promote the functioning of the Neighbourhood as a family-friendly neighbourhood.

POSITION OF THE CITY

[21] The City submits that it regards the Neighbourhood as a valuable asset and intends to protect and enhance its stability as a family-friendly neighbourhood. The City contends that future development in the West Harbour planning area (including the recreational lands along the waterfront) will be compatible with the Neighbourhood as a family-friendly, residential neighbourhood. The City submits that NEN can fully

participate in the prescribed official plan process for determining the extent of development on the recreational lands and influence the character of this development.

[22] The City maintains that its North End Traffic Management Plan will preserve and improve the integrity of the Neighbourhood as a family-friendly neighbourhood as growth and change occur within the West Harbour boundaries, with measures that will control existing and future traffic in the Neighbourhood. However, the City submits that the North End Traffic Management Plan must remain as a master plan and not be embedded in Setting Sail. The City maintains that it requires the flexibility to make changes to traffic calming and management measures in an efficient and timely manner if and when changes and adjustments are necessary, and including its Plan in Setting Sail will result in unwarranted expense and delay in making changes.

[23] With regard to the request by NEN for changes to the City's North End Traffic Management Plan, including the matter of reduced speed and other measures, the City maintains that the consultant who prepared the Plan is the most qualified to provide objective, expert advice that protects the Neighbourhood while best managing traffic within the Setting Sail planning area. The City explains that the North End Traffic Management Plan was prepared as part of an extensive consultation and study process including the participation of representatives of the Neighbourhood, and the goal of the Plan is to preserve and improve the Neighbourhood as a family-friendly neighbourhood and not to expand road capacity to accommodate future development. The City submits that this plan will reduce cut-through traffic and will introduce traffic calming and management features that slow traffic and make the streets pedestrian friendly.

[24] The City submits that its adoption of Setting Sail and approval of the North End Traffic Management Plan are consistent with the PPS and conform to the Growth Plan. The City maintains that the land use policies and traffic framework in Setting Sail and the recommendations in the North End Traffic Management Plan appropriately balance the interest of the Neighbourhood and the interest of the City, and make suitable use of the existing historic roads that traverse the Neighbourhood. The City maintains that these roads cannot be closed because of their transportation relationship to the functioning of the rest of the City.

ISSUES LIST

[25] Prior to the hearing, the parties agreed to the following list of issues:

1. Is it appropriate to introduce a series of traffic calming and traffic management measures for the North End Neighbourhood defined as that area in the City of Hamilton bounded by Wellington Street North to the east, the Canadian National Railway rail line to the south and the Hamilton Harbour to the west and north?
2. What is the appropriate mix of traffic calming and traffic management measures for the North End Neighbourhood including full road closures, partial road closures, lane narrowings, one-way to two-way street conversions, additional on-street parking, street bike lanes, off-street bike lanes, roundabouts, curb extensions, road choker applications, enhanced pedestrian crossings, road classifications and categories, and speed limit reductions?
3. In particular, is it appropriate to require that traffic speeds be limited to 30 km/h on all streets in the North End Neighbourhood?
4. Is it appropriate that the traffic calming and traffic management measures be implemented as a pilot project for a period of five years?
5. What related amendments are required to the official plan, secondary plan and to the zoning by-law in relationship to the West Harbour Secondary Plan in order to implement the resolution of the issues set out above?

DEVELOPMENT OF THE WEST HARBOUR SECONDARY PLAN AND THE WEST HARBOUR TRANSPORTATION MASTER PLAN

[26] In 2002, the City of Hamilton initiated an integrated land use and transportation study for the West Harbour. This process involved two parallel studies; one in relation to land use issues as part of the secondary plan process, and one for transportation solutions as part of the transportation master plan process. There was also an ongoing exchange of study-related information between the two study groups, since developments in the secondary plan process have implications on determining the transportation network.

[27] Each study involved public participation and community input, including participation by residents of the Neighbourhood. The study process culminated in the

City's adoption of Setting Sail in March 2005 and the approval of the West Harbour Transportation Master Plan in April 2005.

[28] In May 2009, the City adopted a new comprehensive Urban Official Plan that the Minister of Municipal Affairs and Housing approved. The secondary plan for West Harbour is incorporated in the comprehensive plan, subject to this appeal.

[29] The City's growth as an industrial centre was founded in the West Harbour in the late 1800s with the establishment of port and rail facilities and industries. Much of the industrial use is gone, leaving a large amount of vacant land and underused properties. The City has acquired much of the waterfront property including Piers 5 to 8. The City has created Bayfront Park, Pier 4 Park, and recreational trails on its waterfront lands.

[30] Setting Sail provides a planning framework for the redevelopment of the underutilized West Harbour lands with a mixture of residential, commercial and recreational uses, and for transportation in conformity with the West Harbour Transportation Master Plan.

[31] The existing historic residential neighbourhood known as the North End Neighbourhood is located in the northeast part of the West Harbour. This low rise neighbourhood was developed in the late 1800s and early 1900s and housed the work force for the industries in West Harbour. This is a stable residential area that the City and NEN want to preserve and enhance.

[32] The gist of the conflict in this appeal relates to the roads that cut through the Neighbourhood and the treatment of transportation over these roads as proposed in Setting Sail, the West Harbour Transportation Master Plan and the City's North End Traffic Management Plan.

[33] The West Harbour Transportation Master Plan concludes that the existing streets in the West Harbour are capable of accommodating the additional vehicular traffic resulting from land uses in Setting Sail, based on maximum permitted density ranges for each permitted use, although the Plan forecasts that maximum densities will not be achieved on each parcel of land that is developed. The Plan also predicts an increase in traffic volume on non-local streets in the study area, but concludes that these streets, including Barton, Queen, Hess, James, John, Burlington and Wellington Streets have the capacity to accommodate this volume. This Plan also concludes that the local street system will operate in an "acceptable manner."

[34] Ted Gill is a transportation engineer who worked on the West Harbour Transportation Master Plan at a supervisory level. He appeared at the hearing as a witness on behalf of the City and provided evidence and opinion on transportation engineering. Mr. Gill worked on this Plan until about June 2004 when he left Stantec Consulting that conducted the transportation study for the West Harbour.

[35] Mr. Gill reviewed the evaluation process and recommendations of the West Harbour Transportation Master Plan. He explained that the West Harbour was developed, for the most part, on a grid network of streets that provides a good transportation system for moving goods and people. He advised that the only major arterial roads in the West Harbour study area are on its periphery. These are Wellington Street and Victoria Street for one-way pairs for north-south traffic, and Cannon Street, York Boulevard and Wilson Street for one-way pairs for east-west traffic.

[36] Mr. Gill advised that the Plan sets out a classification system for streets in the West Harbour and describes the intended uses and features of each classification. These types of streets are:

- i. Primary Mobility Streets (These include Burlington Street East and James Street North).
- ii. Neighbourhood Mobility Streets (These include Bay and John Streets North, north of Strachan Street).
- iii. Local Streets (These include Picton Street West and East and Macaulay Street West and East).
- iv. Local Streets (These include Picton Street West and East and Macaulay Street West and East).

[37] The Primary Mobility Streets have the highest volume of traffic and connect neighbourhoods and major activity centres within the study area and to points outside the study area. This type of road is similar to a generic arterial road. The Neighbourhood Mobility Streets are similar to a generic collector road and provide mobility within the study area. The Local Streets are similar to a generic local road and provide access to residences and businesses, with on-street parking. A priority is given

to pedestrian movement over traffic movement on Local Streets. Generally, the higher order streets are bigger, busier, and more restrictive with respect to pedestrian and cyclist movement and carry public transit.

[38] With the exception of Strachan Street West and East (to John Street), the street classification network recommended in the West Harbour Transportation Master Plan is reflected in Setting Sail's street network in s. A.6.3.3.2.4.

[39] Mr. Gill testified that the eight core principles underlying Setting Sail promote the strengthening of existing neighbourhoods and the development of a vibrant harbour with an appropriate mix of uses. He advised that he regards good access to the harbour as an essential ingredient to its success.

[40] Mr. Gill advised that the West Harbour Transportation Master Plan study process included evaluation of three transportation network alternatives under the headings of "Mobility Focus, "Neighbourhood Focus", and "Balanced Focus." He explained that the Mobility Focus network shows all non-local streets as Primary Mobility Streets, whereas the Neighbourhood Focus network shows most non-local streets as Neighbourhood Mobility Streets. He advised that both the Mobility Focus and Neighbourhood Focus networks would have adverse effects on Local Streets from the increased traffic expected as the West Harbour is redeveloped pursuant to Setting Sail.

[41] Mr. Gill advised that the Balanced Focus transportation network plan is the preferred solution for accommodating the expected increase in traffic while maintaining the character of Local Streets. However, in order to address concerns raised by the public, modifications were made to the Balanced Focus transportation network and street cross-sections in order to arrive at the Recommended Transportation Network. These changes were for the purpose of facilitating parking and cycling, and reducing the traffic impact on the existing shallow front yards of residential properties.

[42] Section 5.2 of the West Harbour Transportation Master Plan, sets out the requirement for a traffic calming study to "introduce traffic calming techniques, as required, to address traffic speeds or volumes on Neighbourhood Mobility Streets and Local Street. One must be completed for the Neighbourhood prior to the development of Pier 8." This requirement is also set out in Policy A.6.3.5.1.18 of Setting Sail but without restricting the study to only two classes of streets.

[43] NEN does not agree with the street classification system and the transportation network in Setting Sale and the West Harbour Transportation Master Plan. It wants streets in the West Harbour to be classified using the more common generic terms such as Arterial, Collector and Local, for ease of understanding and for consistency with other jurisdictions and with these generic names used elsewhere in the new comprehensive Urban Official Plan.

THE CITY'S NORTH END TRAFFIC MANAGEMENT PLAN

[44] Policy A.6.3.5.1.18 of Setting Sail requires a traffic calming study for the West Harbour area before the approval of any new development on Piers 7 and 8. This study includes the Neighbourhood. This policy states:

Prior to approval of any new development on a single block or multiple blocks on Piers 7 and 8, a comprehensive traffic calming study shall be completed and implemented. The study shall include the area north of the CN railway line (i.e. The Neighbourhood).

[45] In January 2006, the City retained Mr. Brian Hollingworth, a professional engineer specializing in transportation planning and engineering, to carry out a traffic management study of the Neighbourhood. Mr. Hollingworth is employed by IBI Group, a company that does transportation studies and plans. The study was carried out in accordance with the Municipal Engineers Association Schedule "B" Class Environmental Assessment guidelines. This process involved public meetings for providing information to the public with respect to the purpose and objectives of the study, the identification of and possible solutions to traffic problems, input from the public on existing traffic problems and proposed solutions. Representatives from the Neighbourhood participated in the study process and presented input and its preferred traffic solutions. The study process resulted in the June 2008 North End Traffic Management Plan (Exhibit 3) with proposed solutions to existing traffic problems and anticipated future traffic from redevelopment. Municipal council approved and adopted the North End Traffic Management Plan (hence forth referred to as the City's North End Traffic Management Plan).

[46] Mr. Hollingworth testified that the City's North End Traffic Management Plan is based on the City's Vision 2020 goal of preserving and enhancing residential neighbourhoods, such as the Neighbourhood, as child and family-friendly neighbourhoods. He explained that this will be accomplished, in part, by slowing down vehicular traffic, but not to such an extent that it negatively impacts commerce in the

Neighbourhood and future activities in the waterfront area. He advised that the City's North End Traffic Management Plan has design features that will connote a family-friendly, neighbourhood environment in the minds of drivers going through the Neighbourhood, with the result that they will drive in a prudent, respectful manner, having regard to children and adults and the residential character of the Neighbourhood.

[47] Mr. Hollingworth also explained that this Plan contains traffic management and calming features that will divert some Pier 8 development-related traffic to roads on the outer perimeter of the Neighbourhood and to Primary Mobility Streets such as James Street North and Dock Service Road.

[48] Mr. Hollingworth advised that one of the issues he faced was NEN's request for a maximum blanket speed of 30 kilometres an hour (km/h) over all streets in the Neighbourhood. Mr. Hollingworth explained that the City's North End Traffic Management Plan proposes this blanket speed, but with the exception of two Primary Mobility Streets, James Street North and Burlington Street East.

[49] Mr. Hollingworth testified that in his draft report he originally recommended a maximum speed limit of 40 km/h for James Street North and Burlington Street East. Both streets are bus routes. However, following discussions with representatives of the City and IBI Group he changed his opinion and recommended a 50 km/h speed limit on these Primary Mobility Streets. He advised that the lower speed limit will result in spill-over traffic from these busy streets onto Local Streets as a result of impatient drivers trying to speed up their trips. He also advised that the City's public transit management requested a 50 km/h limit on James Street North and Burlington Street East in order to have a more efficient system for moving a large volume of passengers. He also advised that aggressive traffic calming measures such as speed bumps are not appropriate for public transit equipment. He explained that without these measures, automobiles will not travel at a posted 30 km/h limit, but at the higher design speed of James Street North and Burlington Street East.

[50] He also advised that he recommends the 50 km/h limit on James Street North because Hamilton's Citywide Transportation Plan recommends James Street North as a key north-south corridor within a future rapid transit network for the City.

[51] Mr. Hollingworth reviewed the components of his Proposed Traffic Management Plan, illustrated in Exhibit 14 (Attachment "1"). He advised that the Plan includes a

westbound road closure on Burlington Street West at James Street North, and a westbound road closure on Simcoe Street East at Wellington Street. MacNab and John Streets North are to be converted into two-way streets in order to slow traffic by narrowing the traffic lanes. He reviewed a number of traffic calming features such as roundabouts, chokers and curb extensions that reduce traffic speed and make pedestrian activities safer and more comfortable.

[52] He also reviewed a number of traffic management measures that are to be installed in the future to address traffic issues resulting from the future development of Pier 8. These measures are to be implemented when Pier 8 is being developed, for the purpose of restricting north-south traffic through the Neighbourhood. These measures include:

- Southbound road closure on Ferguson Avenue North, just south of Burlington Street;
- Northbound road closure on Bay Street, just north of Burlington Street.
- Full road closure on Hughson Street North, just south of Guise Street.

[53] Guise Street is to link up with Dock Service Road. Both of these streets are east-west streets that separate the residential component of the Neighbourhood from Piers 7 and 8 and other waterfront lands. They are designated as Primary Mobility Streets in Setting Sail and will serve as the major conduit for east-west, Piers 7 and 8 related traffic Attachment "1".

[54] Mr. Hollingworth advised that the City's North End Traffic Management Plan also contains other recommendations including improved public transit for the Neighbourhood, improved signage to advise of appropriate routes for specific destinations, landscape features, and signage to convey the message to drivers that the Neighbourhood is a child and family-friendly neighbourhood that requires safe and responsible driving. There are also recommended off-street and on-street bike lanes or trails in the Plan, along with many traffic calming measures shown on Attachment 1. Mr. Hollingworth acknowledged that the Proposed Traffic Management Plan (Attachment 1) is designed to permit harbourfront-related traffic to run through the Neighbourhood, but

on fewer streets and with traffic calming measures to promote a family-friendly neighbourhood environment.

[55] He advised that good traffic planning requires the recognition of the existing street network and its function in connecting different parts of the City. He explained that traffic planning for the Neighbourhood cannot be done in a vacuum without negative consequences for other parts of the City. He also advised that the City's North End Traffic Management Plan is an evolving document, and that notwithstanding expert analysis and public input, it is likely there will be changes to improve it from time to time.

[56] He advised that the City's North End Traffic Management Plan also takes into account future traffic from Marine Recreational Lands on the Hamilton Harbour, to the west of Pier 8. He advised that these lands will be used for passive and active recreational uses along with associated uses such as retail, restaurant and clubhouse facilities for sailing clubs.

[57] Policy A.6.3.5.1.6 of Setting Sail requires a Marine Recreational Master Plan for the West Harbour waterfront by official plan amendment "prior to development or capital improvements proceeding within Marine Recreational areas." City council has approved the April 2010 Hamilton West Harbour Waterfront Recreational Master Plan as a plan for going forward into development of an official plan amendment. This will involve public consultation and participation and will give residents of the Neighbourhood the right of input and appeal with regard to the use of Marine Recreational lands. Mr. Hollingworth explained that the official plan amendment may have impacts in relation to transportation that affects the Neighbourhood and may require amendments to the proposed Traffic Management Plan shown as Attachment "1".

NORTH END NEIGHBOURS PREFERRED TRAFFIC MANAGEMENT PLAN

[58] Appendix "A" to the City's North End Traffic Management Plan is comprised of a plan and summary setting out the Preferred Traffic Management Strategy (the Strategy) of NEN, along with a summary of the traffic problems in the Neighbourhood and the proposed goals and solutions with respect to these problems. During the course of the hearing there were some changes to some of the components of the Strategy. The Strategy was prepared by NEN.

[59] The Strategy proposes more limitation on north-south access through the Neighbourhood to the waterfront than proposed in the City's North End Traffic

Management Plan. For example, NEN's proposed closure of MacNab Street North at Guise Street West and John Street North, north of Guise Street. However, under the NEN's Strategy and the City's North End Traffic Management Plan, James Street North will function as a conduit of north-south traffic accessing the harbour, albeit indirectly over Guise Street East and West.

[60] Dock Service Road is promoted as a major entry/exit route for Pier 8 traffic under both the City's and NEN's plans. The objective of both plans is to connect much of this traffic to Wellington Street North and Victoria Avenue North, the major pair of three-lane wide north-south roads at the eastern perimeter of the Neighbourhood. However, Dock Service Road does not physically connect to Wellington Street North and Victoria Avenue North, as it terminates to the west of these roads. Accordingly, Pier 8 traffic on Dock Service Road may only access Wellington Street North and Victoria Avenue North indirectly over Ferguson Avenue North and Burlington Street East.

[61] NEN's goal is to improve Dock Service Road's access to future development on Pier 8 by physically connecting it to Wellington Street North. However, there are existing physical barriers preventing the connection of Dock Service Road to Wellington Street North. The City maintains that the extension and connection of Dock Service Road to Wellington Street North is not practical because of the physical limitations and the cost. Also, to accomplish this connection it would be necessary to extend Wellington Street North to the north since it now terminates at Burlington Street East.

[62] NEN's Strategy also proposes other measures to reduce cut-through traffic in the Neighbourhood. It proposes the reduction of westbound traffic on Burlington Street East to one lane from Wellington Street North. It promotes the adjustment of traffic signals to improve the opportunity for southbound left-turns from Burlington Street East onto Wellington Street North in order to facilitate more traffic turning onto Wellington Street North and going around the Neighbourhood. However, the recent construction of a bridge on Ferguson Avenue North over the train tracks and not on Wellington Street North encourages traffic on Ferguson Avenue North, since there is no need to queue as trains cross it. The same trains cross Wellington Street North and the result is the back up of traffic on Wellington Street North.

[63] For the City, the most controversial features of NEN's Strategy are the requirements for a 30 km/h speed limit on all roads within the Neighbourhood and the embedding of NEN's Strategy in Setting Sail. These are the two features that the City

most strenuously opposes. Generally, but for the above issues, NEN and the City share a somewhat similar view on the components of a traffic management and calming plan.

[64] Mr. Hollingworth advised that components of his calming and management plan (Attachment "1") will probably require revisions and adjustments after the plan is implemented and the City has studied its operation and effect. He explained that it is necessary for the City to have the ability to make quick adjustments to the plan in order to improve it as required. He advised that the expert study and recommendations that form the basis for this plan do not foreclose the need for amendments to the plan.

[65] The City argues that including a traffic management and calming plan in Setting Sail will deprive it of the ability to make quick adjustments to the plan when needed, and will require an expensive and lengthy process for making any adjustments to the plan through an official plan amendment.

THE NEED FOR A TRAFFIC MANAGEMENT AND CALMING PLAN IN THE NORTH END. TESTIMONY FROM NEIGHBOURHOOD RESIDENTS

[66] A large number of residents from the Neighbourhood testified before the Board, including the evening session at the grade school. From their evidence, it is clear that children and adults within the Neighbourhood use the various community services within the Neighbourhood, and are often required to cross busy streets on foot in order to access them and also to visit with neighbours. Typically, school bound children must cross streets in the morning and in the afternoon when traffic volumes are high. Residents also cross Burlington Street East and West to get to the playing fields and the arena on the north side of the street. They also cross James Street North, one of the busiest north-south streets in the Neighbourhood, to visit stores, restaurants and other facilities.

[67] These witnesses testified that, notwithstanding the high traffic volume and speed on some of the neighbourhood streets, there is a great deal of pedestrian mobility by its residents within the Neighbourhood. They testified that they like the family atmosphere of the Neighbourhood, along with its service facilities and its location adjacent to the downtown core with its employment, shopping and entertainment opportunities. However, they explained that they are intimidated by the volume and speed of cut-through traffic in the Neighbourhood and fear for their safety and that of their children from the threats posed by this traffic. Some witnesses advised that they have moved out

of the Neighbourhood because of these traffic threats, and others advised that they will move if traffic conditions do not improve. These residents are also concerned about the additional traffic that will result from Setting Sail related development.

[68] Stephen Park, Sheri Selway and Shawn Selway are three of the many residents of the Neighbourhood who presented evidence on behalf of NEN. They were present for most of the hearing. They provided extensive evidence with regard to the history of the Neighbourhood, its residents, housing, social institutions, street system, traffic problems and the quality of life in the Neighbourhood. Mr. Park also provided evidence in relation to the Setting Sail and the West Harbour Transportation Master Plan process, including the participation of NEN in the process.

[69] Mr. Hollingworth testified that residents of the Neighbourhood were essential to crafting the following vision in the City's North End Traffic Management Plan:

A vision for the plan that is based on creating a child and family-friendly community near downtown Hamilton. One of the key elements of the Vision is to create pedestrian-friendly streets.

[70] Mr. Hollingworth testified that the above vision was arrived at as a result of the consultation process with residents of the Neighbourhood. He explained that pedestrian-friendly streets contribute to creating a safe, family oriented community. However, he advised that he does not want to "penalize traffic" to such an extent that it negatively impacts the viability of businesses in the Neighbourhood, including the Pier 8 development.

[71] Mr. Hollingworth testified that representatives of NEN had a significant impact on his goal in developing the City's North End Traffic Management Plan. He explained that the study process became more than an exercise to identify and examine local traffic issues and solutions to these problems. He referred to Page III of the Plan:

However, largely through the efforts of the community representatives, it was realized that there is potential for the North End study to help the entire City achieve its goals for sustainability, and to become a case study for other communities. It was also concluded that a traditional street by street approach to solving traffic issues was inappropriate and that the solutions would need to be community-wide and comprehensive.

[72] Steven Park has resided in the Neighbourhood since 1997. He often works from his home and is familiar with the Neighbourhood, including the harbour and trails that he frequently uses. He regards the Neighbourhood as a distinct village wedged between

the harbour and downtown Hamilton. He advised that the residents of the Neighbourhood comprise a diverse mixture of people but form a strong, integrated community. He advised that residents of the Neighbourhood benefit the City by providing a pool of employees and customers close to the businesses in the downtown core, and that many residents are without automobiles and travel by public transit and on foot. He also advised that they represent a mixture of incomes, occupations and ages that comprise one of the highest population densities in the City, and share a common goal: a child and family-friendly neighbourhood within the existing physical neighbourhood context. They do not want urban renewal in the form of torn down dwellings and replacement high-rise projects. Mr. Park also advised that the Neighbourhood has been revitalized somewhat through infill housing and renovation of older homes. However, he warned that the Neighbourhood is vulnerable to the negative impact of existing traffic and future traffic from Pier 8 development. In Mr. Park's opinion, if the City improves the traffic situation so that it is compatible with a child and family-friendly community, the Neighbourhood will continue to be revitalized and will be sustainable in that form.

[73] Mr. Park testified that NEN had provided the City with extensive research information on the benefits of slowing traffic on city streets, and examples of the beneficial effects of this practice on many cities in Europe and North America. He advised that the "Slow City" model had been studied by members of NEN, and out of this evolved the NEN concept for a child and family-friendly neighbourhood. He explained that under this concept the streets are used for more than moving vehicles and become part of the neighbourhood's residential environment: a place for children and other residents to meet and interact in safety and a safe place for walking to schools, parks, churches and other destinations.

[74] Mr. Park reviewed the NEN Strategy for managing and calming traffic in the Neighbourhood. This strategy is found at Appendix "A" in City's North End Traffic Management Plan, and is represented on Attachments "2A" and "2B" hereto.

[75] Mr. Park testified that it is important that James Street North, north of Strachan Street, and Burlington Street East, west of Wellington Street North, have maximum speed limits of 30 km/h, along with physical traffic calming measures to ensure the reduced speed. He explained that these measures could include the parking of cars on both sides of these streets to limit the width of the travelled portion of the roads and to separate pedestrian sidewalks from the immediate impact of automobiles. Mr. Park

testified that these streets within the Neighbourhood have adjacent dwellings and should be treated more like local streets in order to create a safe environment for the residents, rather than maintaining the 50 km/h limit recommended in the City's North End Traffic Management Plan.

[76] He advised that traffic on James Street North, from King Street north to Barton Street, travels at about 30 km/h because of parking on both sides of the street. However, north of Barton Street, this physical restriction is removed and traffic speed increases to match the design capacity of the street as it enters the Neighbourhood.

[77] With regard to Bay Street North, Mr. Park testified that this street carries a heavy volume of north-south traffic through a residential area. He maintained that the City's North End Traffic Management Plan does not provide as restrictive and effective calming on Bay Street North as the NEN Strategy. Mr. Park testified that road narrowing and roundabouts would effectively calm this traffic, whereas the City's proposed curb extensions are not effective enough.

[78] He also submitted that it is necessary to improve the City's traffic calming components shown on Attachment 1 by closing MacNab Street North just south of Guise Street West, and closing John Street North just north of Guise Street East, in order to reduce north-south, harbour-related traffic in the Neighbourhood. The City proposes to keep the intersection of MacNab Street North open at Guise Street West, and to carry John Street North across Guise Street East to connect with the future road system on Pier 8; but a with a variety of restrictions along John Street North to slow traffic. Mr. Park maintained that this is not sufficient.

[79] Both the City's plan and the NEN Strategy propose to shift some Pier 8 related north-south traffic to Wellington and Victoria Streets North, and east-west traffic to Dock Service Road to circumnavigate the residential part of the Neighbourhood. However, James Street North will carry significant north-south traffic between the downtown core and harbor areas.

[80] From the evidence of some NEN witnesses, it is apparent that NEN finds Mr. Hollingworth more sympathetic and receptive to their vision and goal for a child and family-friendly neighbourhood than the City's Public Works. They advised that Public Works, along with the Waterfront Trust, regard the Neighbourhood's grid system of roads only from the perspective of providing transit to and from the waterfront in the

most efficient manner. NEN maintains that these organizations have an agenda of maximizing the use of the grid streets at the expense of the Neighbourhood. NEN fears that these organizations have sufficient influence with the municipal council to carry their agenda. NEN submits that part of this agenda arises as a result of the City's interest in maximizing the use of its harbor lands including Pier 8.

[81] NEN witnesses gave examples of the City's actions that negatively impact the Neighbourhood and intimidate pedestrians. These include:

- the timing of traffic signals at the intersection of Burlington Street East and Wellington Street North that increased the volume of cut-through traffic on Burlington Street East , notwithstanding complaints to Public Works for years. Mr. Hollingworth advised that this is a problem that should have been corrected and would have diverted some traffic (including truck traffic) around the Neighbourhood over Wellington Street North.
- moving the centre line on Bay Street North to the east, so that traffic moves to within about 12 inches from pedestrians on the sidewalk. This is of great concern since peak traffic flows generally coincide with children walking to and from school.
- the recent construction of a new bridge on Ferguson Avenue North over the railroad track, which increases the volume of traffic on this north-south street.

[82] In order to ensure that the Neighbourhood is protected from the influence of Public Works and the Waterfront Trust, NEN wants its Strategy written into Setting Sail.

[83] Shawn Selway proposed that physical traffic calming measures be imposed along with a blanket speed limit of 30 km/h throughout the Neighbourhood. Also, in order to convince reluctant City staff, councillors and the public that a blanket 30 km/h limit will work appropriately, he recommended a trial period for the blanket speed limit, together with other appropriate traffic calming and management features.

[84] Mr. Selway acknowledged that Setting Sail and the City's North End Traffic Management Plan will protect interior local streets in the Neighbourhood from the increase in traffic volume from Pier 8 related development. However, he maintained that this will be at the expense of residents on James Street North and Burlington Street

East who will bear the impact of the new development. In his opinion, this treatment of the residents on Burlington Street East and James Street North is contrary to the following planning principle of Setting Sail:

Ensure new development respects and enhances the character of the neighbourhoods, (Section A.6.3.2.2(i) of Setting Sail).

[85] Mr. Selway maintained that the street classification system in Section A.6.3.3.2.4 of Setting Sail is also in conflict with the above principle since it classifies streets within the Neighbourhood such as James Street North and Burlington Street East as Primary Mobility Streets. In Mr. Selway's opinion, the residential character of these streets within the Neighbourhood requires their downgrading to a classification that anticipates less traffic and speed.

NORTH END NEIGHBOURS EXPERT WITNESSES

Dan Burden

[86] Dan Burden presented evidence in relation to bringing civility to the streets, putting pedestrians first, the effects of traffic calming practices and creating a sustainable community environment. His evidence was presented over Skypes from Michigan, U.S.A. and was in support of the NEN position.

[87] Mr. Burden visited the Neighbourhood in 2006 at the invitation of NEN to discuss the existing traffic situation, future developments and the required elements for creating a desirable, urban, residential environment.

[88] Mr. Burden testified that in order to "heal" the Neighbourhood, it was necessary to bring "civility" back to the streets. He advised that the key or principal streets in the Neighbourhood – those which are designated to contain the best businesses and buildings – must be nurtured so that they are successful. He advised that when the key streets are successful, this promotes improvement on other neighbourhood streets.

[89] He testified that in order to bring civility to the streets it is necessary to have appropriate speed limits so that people feel safe and comfortable walking on the sidewalks and crossing the road. He advised that this involves changing drivers' attitudes so that they slow down and yield to pedestrians. He explained that it is necessary to use traffic calming tools that connote to drivers that they are entering a different place where moderate speed and deference to pedestrians is required. He

advised that James Street North and Burlington Street East are principal streets that require the most attention with regard to creating a civil street environment.

[90] He testified that reducing speeds on these principal streets to a comfortable level for pedestrians will have the effect of bringing people back to the streets for walking, cycling, socializing, shopping and entertainment. He advised that vehicle speed and noise must not intimidate children and older people or they will keep away from the street. He cautioned that people will not invest in dwellings and stores where people are uncomfortable or intimidated on the street. He explained that low speed is critical for returning a street from a vehicle conduit to its full function and thereby returning vitality to these principal streets and adjacent uses.

[91] Mr. Burden referred to the research work of Dr. Donald Appleyard in relation to the effect of traffic volume and speed on social interaction and the quality of life in a resident neighbourhood. He explained that Dr. Appleyard found an association between motorists' behaviour on the street and social interaction between neighbours. If speed and volume is low, the amount of social interaction between neighbours is high; but as speed and volume increases, social interaction decreases along with property values, and in some cases there is neglect of property and even abandonment.

[92] Mr. Burden explained that low speed and traffic volume are needed for people to invest in their property and build the neighbourhood. He maintained that when streets are brought back to life with social interaction, people develop a greater sense of neighbourhood, invest in their properties and help neighbours.

[93] Mr. Burden advised that Portland, Oregon placed a blanket speed of 17 mph (30 km/h) on all of its downtown streets as a tool for rejuvenating its downtown. He explained that the City identified the principal streets that presented the most risk and threat for pedestrians and used the appropriate traffic tools for remediating these problems. He advised that this program resulted in bringing healing and life to the downtown streets and resurrected the downtown.

[94] Mr. Burden identified James Street North and Burlington Street East as principal streets that are entrances into the Neighbourhood and have a commercial and residential function. He advised that it is important to give these streets a strong positive character that defines the Neighbourhood by bringing civility to these streets and returning people, social interaction and community uses to them. He advised that a

speed limit of 30 km/h along with design elements such as landscaping, curb extensions and other features, will send the message to drivers that they are entering a different environment that requires lower speeds and yielding to pedestrians. He opined that these measures will bring life and renewal to these streets and help to improve the quality of life in the Neighbourhood. In his opinion, 30 km/h speed on these principal streets is optimum and will provide good access and movement for motor vehicles while promoting a sense of renewal and civility to these streets.

[95] On cross-examination, Mr. Burden acknowledged that he had not done independent research and analysis on existing and future traffic volumes in the Neighbourhood including the harbour area. He acknowledged the importance of revitalizing the waterfront and the importance of Neighbourhood flow-through traffic for access. However, he maintained that high traffic speed is not necessary to service the harbour area. He advised that low speed will serve this function while helping to heal the adjacent neighbourhood. He testified that “healing” must take place in the Neighbourhood so that it is healthy and vital. He advised that a healthy and vital Neighbourhood is essential to the well-being of the larger area that includes the downtown core and waterfront.

DR. RICHARD GILBERT

[96] Dr. Gilbert provided evidence in support of the NEN position. He appeared through Skypes. He provided evidence in one of his fields of expertise; development of child-friendly transportation planning guidelines.

[97] Dr. Gilbert has worked with Dr. Catherine O’Brien in developing the 2004 report entitled “Child Friendly Transport” for the Centre for Sustainable Transportation of the University of Winnipeg. The report identifies the need for cities, in their land use and transportation planning, to be more responsive to children and to develop child-friendly transportation guidelines to assist in urban planning. Dr. Gilbert was involved also with Dr. O’Brien in developing the document, Child and Youth-Friendly Land Use and Transportation Planning Guidelines.

[98] Dr. Gilbert advised that the Ontario Professional Planners Institute has adopted these guidelines and some municipalities have included these guidelines in their planning documents to assist planners in their work.

[99] Dr. Gilbert referred to the June 8, 2007 letter from Dr. Catherine O'Brien to Nancye Hadala, a Neighbourhood resident. The letter sets out transportation guidelines number 25 and 44. These guidelines refer to the benefits of lower traffic speeds in urban areas, such as fewer and less severe collisions, more congenial streets for pedestrians and cyclists and a significant improvement in the quality of life, while only having a minor effect on average journey times. The guidelines recommend a reduction in urban speeds to a maximum of 40 km/h on arterial roads and 25 km/h on other roads.

[100] In her letter, Dr. O'Brien states that she has studied the map of the Neighbourhood and that in her opinion the "internal streets in your community as shown on the map would come within the guidelines recommendation of a uniform 25 km speed limit and the 40 km recommendation would apply to Wellington and Victoria Streets, the apparent arterials. A uniform 30 km speed limit throughout your community would be a splendid implementation of the Guidelines."

[101] Dr. Gilbert supported Dr. O'Brien's opinion. Counsel for NEN advised that Dr. O'Brien was to present oral evidence but was unable to do so.

[102] Dr. Gilbert testified that a maximum blanket speed of 30 km/h throughout the Neighbourhood including James Street North and Burlington Street East, will improve conditions in the Neighbourhood for children and youths because the streets will be safer and more congenial for walking, cycling and crossing. He submitted that James Street North and Burlington Street East are primarily residential within the Neighbourhood and should be subject to the same standards as other residential streets.

[103] Dr. Gilbert advised that studies by World Health Organization and UNICEF document the need for slower speeds in urban residential neighbourhoods for the benefit of children. He advised that urban areas in Germany and Austria have speed limits of about 20 km/h.

[104] Dr. Gilbert testified that neither the NEN Strategy to calm and manage traffic nor the City's North End Traffic Management Plan, with the addition of a 30 km/h limit on James Street North and Burlington Street East, will be sufficient to ensure that speeds on James Street North and Burlington Street East will be no more than 30 km/h. He advised that additional traffic calming measures are required on these streets, such as four-way stops at all intersections along these streets, which he does not recommend.

In his opinion, it will require further collaboration between the City and NEN to arrive at appropriate calming measures for these streets.

[105] Dr. Gilbert dealt with the issue of formally defining the Neighbourhood as a “child and family-friendly neighbourhood” and its economic development potential. This idea is proposed by NEN. He explained that there is not adequate data from cities that have adopted this branding practice, to form an opinion on its economic benefit.

[106] He also examined the traffic issue from the perspective of trading off an additional 35 to 40 seconds of travelling time on James Street North and Burlington Street West (resulting from a reduction in speed to 30 km/h) as the consideration for enhancing the welfare of the people who reside in the Neighbourhood. He also submitted that the reputation of Hamilton as a liveable city, a characteristic that will attract investment, will be determined by “the perceived and actual protection of one of its longest-standing and most vulnerable neighbourhoods.”

[107] On cross-examination, Dr. Gilbert acknowledged that he did not have detailed knowledge of the Neighbourhood but was sufficiently familiar with it and had walked through it. He acknowledged the qualification and quality of Mr. Hollingworth’s work as a traffic engineer, but submitted that he and Dr. O’Brien have more expertise on the interest of children and youths in relation to land use and transportation planning.

PLANNING EVIDENCE – SETTING SAIL

[108] Brenda Khes is a land use planner retained by the City to provide planning evidence in support of Setting Sail. Ms. Khes is the proprietor of her own planning firm but prior to July 2010, she was employed in the City’s planning staff.

[109] She advised that Setting Sail was a study process that involved parallel land use and transportation studies for the West Harbour and culminated in the West Harbour Secondary Plan (OPA 198), commonly referred to as Setting Sail, and the West Harbour Transportation Master Plan. She testified that in Setting Sail, Pier 8 is designated primarily for residential use and that Pier 7 is designated for mixed-use development, with about 750 residential units presently planned for Piers 7 and 8. She advised that City-owned properties between Bayfront Park and Pier 7 are designated Marine Recreational in Setting Sail, but are subject to a West Harbour Marine Recreation Master Plan Study to guide development and improvement on these properties. Section A.6.3.5.1.6 of Setting Sail provides that the City shall “adopt the

Marine Recreational Master Plan by Official Plan Amendment” prior to “development or capital improvements” on these properties. She advised that Municipal Council had “received” the Hamilton West Harbour Waterfront Recreation Master Plan of April 14, 2010, as a basis for proceeding forward with an official amendment in a separate public process.

[110] Ms. Khes testified that Setting Sail is based on eight core principles that emerged from extensive public consultation near the start of the study process. Setting Sail sets out that these principles reflect the City’s objective of achieving balance between the goals of the City in developing the West Harbour and the needs of the local community. It also states that these principles support the City’s Vision 2020 goals for developing a “healthy and sustainable City.”

[111] Ms. Khes testified that Setting Sail supports the aspirations of the residents of the Neighbourhood. She relied on Setting Sail in support of her opinion. She referred to Section A.6.3.5.1.18 of Setting Sail that mandates the completion and implementation of a comprehensive traffic calming study for the Neighbourhood “prior to approval of any new development on a single block or multiple blocks on Piers 7 and 8.” She also referred to the core principle set out in Section A.6.3.2.2 of Setting Sail: “Strengthen existing neighbourhoods.” She explained that this principle states that the attraction of the Neighbourhood is its “historic character and waterfront amenities and that this character must be protected and enhanced,” and “it is important to ensure new development respects and enhances the character of the neighbourhood.” In her opinion, the objective of this provision is to protect and enhance the character of the Neighbourhood as a family and child-friendly community. She advised that the Neighbourhood also has the benefit of community assets such as places of worship, schools, parks, social institutions and police services that support the Neighbourhood as a family and child-friendly neighbourhood.

[112] Ms. Khes testified that the core principles in Setting Sail also recognize the need for improved access to the harbour and improved transportation within the West Harbour for automobiles, pedestrians and cyclists. She advised that the core principles also support a vibrant, diverse, safe and clean West Harbour. With respect to enhanced transportation and mobility, Ms. Khes referred to the principles in Sections A.6.3.2.5 and A.6.3.2.6. She testified that Section A.6.3.2.5 promotes the enhancement of existing physical and visual connections. She advised that the goal under this section is to make use of the existing grid of streets and extend them “to the waterfront wherever feasible

and appropriate.” She advised that this principle supports the elimination or mitigation of physical barriers to the waterfront such as the Stuart Street Rail Yard, which are obstacles for pedestrians and cyclists.

[113] Ms. Khes testified that Section A.6.3.2.6 requires that access by all modes of transportation will have to be improved in order to manage the increase in traffic resulting from the development in West Harbour. She advised that under Section A.6.3.3.2.2 the West Harbour Transportation Master Plan is to act as a strategy document for future traffic management, with the objective of promoting an improved and balanced transportation network. She explained that under Section A.6.3.2.6, traffic impacts on the existing street network are to be monitored and minimized, and “primary routes” to the waterfront are to be identified and improved.

[114] Ms. Khes testified that the requirement for a comprehensive traffic calming plan under Section A.6.3.5.1.18 of Setting Sail prior to any development approval, recognizes that new development in the West Harbour will have a significant impact on the Neighbourhood. She explained that although the West Harbour Transportation Master Plan determined that the existing street network could handle the traffic resulting from Setting Sail related development, the City required and undertook the traffic management and calming study because of its intention to protect the Neighbourhood. She advised that the City adopted the recommendations in the resulting North End Traffic Management Plan but the Plan has not yet been implemented.

[115] Ms. Khes provided the following response to the Issues List:

1. Ms. Khes testified that it is appropriate to introduce traffic calming and management measures for the Neighbourhood as required in Section A.6.3.5.1.18 of Setting Sail.
2. Ms. Khes testified that although the parties agree on the need for these measures, there is disagreement as to the mix and extent of traffic calming and management measures. She advised that Setting Sail requires the traffic calming and management study process for determining the appropriate mix of measures and that she accepts the recommendations of the study.
3. With regard to whether it is appropriate to have a blanket 30 km/h speed limit in the Neighbourhood, she testified that a secondary plan is not an

appropriate tool for addressing speed limits. In her opinion, this determination should be done and has been done through the North End Traffic Management Plan secured by the City.

4. With regard to whether it is appropriate to implement traffic calming and management measures as a pilot project for a period of five years: Ms. Khes did not deal directly with this issue, but said that Setting Sail is not an appropriate tool for making this decision.
5. Ms. Khes testified that no related amendments are required to the City's Official Plan, Secondary Plan and to the implementing Zoning By-law in relationship to Setting Sail in order to implement the resolution of the above issues.

[116] She testified that it is not appropriate to have a traffic management and calming scheme in Setting Sail because this would remove the City's ability to make changes to the scheme in an efficient manner since each change would have to go through the official plan amendment process.

[117] Ms. Khes introduced Potential Policy Modifications (Exhibit 88) to Setting Sail in an effort to provide NEN with a greater level of comfort in relation to the lack of site-specific, detailed, traffic calming measures in Setting Sail. These modifications generally refer to the "consideration" of a variety of measures within the Neighbourhood that are already considered in the City's North End Traffic Management Plan. NEN expressed no interest in these policy modifications.

[118] On cross-examination, counsel for NEN referred Ms. Khes to a document titled "Vision 2020". Ms. Khes advised that the City adopted this vision document providing for a safe, prosperous, healthy, and sustainable City, in 1992 and has reviewed it every five years. She explained that this document was developed with the aid of community assistance and is used by Municipal Council as a screening tool for reviewing all development applications, to ascertain whether they meet the goals and objectives of Vision 2020. She advised that Vision 2020 sets out that it seeks to develop a strong, healthy and sustainable City, where its residents live in a safe and healthy environment and enjoy a quality of life that is characterized by physical and economic health, personal safety, adequate food, shelter, income and educational opportunities for all residents.

[119] Ms. Khes testified that development proposals and planning related documents do not have to meet every objective or goal of Vision 2020, but should meet at least one of the goals. She advised that Setting Sail's development was guided by eight core principles and that Setting Sail states that these principles "reflect and build upon many of the City's Vision 2020 goals for creating a healthy and sustainable city."

[120] Ms. Khes acknowledged that the Neighbourhood meets the description of a desirable neighbourhood as described in Vision 2020 and that the City should protect its integrity. She acknowledged that the City's recently adopted Official Plan requires that the planned intensification in the West Harbour should be compatible with existing uses and that compatibility also relates to traffic management. She explained that the City's requirement for a traffic calming plan for the Neighbourhood arises out of its intention to protect the character of the Neighbourhood. She advised that she accepts the opinion of Mr. Hollingworth that the City's Traffic Management Plan (Attachment "1") has the appropriate mix of traffic calming and management measures to protect the character of the Neighbourhood.

[121] Ms. Khes acknowledged that residents of the Neighbourhood find that traffic on Burlington Street East and James Street North is heavy and fast, but she explained that recommended measures such as the partial closure of Burlington Street West at James Street North, the narrowing of the traffic surface on James Street North and the roundabout at the intersection of James Street North and Strachan Street will help to alleviate these conditions and inform drivers that they are entering a residential area and are to drive accordingly.

[122] In reply to the NEN position that the 50 km/h speed limit on James Street North and Burlington Street East is not safe, Ms. Khes advised that this speed limit functions as a safe speed in many residential areas in Ontario, with appropriate sidewalks and safe means of crossing. In reply to NEN's concern with respect to pedestrians crossing James Street North and Burlington Street East to access schools, churches and recreational facilities, Ms. Khes advised that the City's Traffic Management Plan (Attachment "1") features enhanced crossings at several locations to alleviate this concern.

[123] Counsel for NEN asked Ms. Khes why the Neighbourhood is not classified as a "child and family-friendly neighbourhood" in Setting Sale. Ms. Khes advised that such classification is not appropriate in an Official Plan document since it implies that other

neighbourhoods are not child and family-friendly, even though they may share similar family-friendly characteristics with the Neighbourhood. However, Ms. Khes has no objections to posting such signs on the roads that lead to the Neighbourhood.

[124] Counsel for NEN referred to the policies and principles in the City's new Urban Official Plan that was approved by the Minister of Municipal Affairs and Housing following the evidential part of the Board hearing. Counsel submitted that the Urban Official Plan's policies and principles will provide guidance on addressing Issue 5 on the Issues List. Counsel submitted that the City's Traffic Management Plan does not conform to the principles and policies of the Urban Official Plan, whereas the traffic calming strategy of NEN does conform.

[125] Counsel for NEN reviewed parts of the City's new Urban Official Plan with Ms. Khes. She advised that these policies generally promote the goals in Vision 2020. Ms. Khes testified that she supports Vision 2020 and the new Urban Official Plan and finds no conflict between the new Urban Plan and either of Setting Sail or the City's North End Traffic Management Plan. In support of her opinion, Ms. Khes referred to Policy 4.2.8 of the City's new Urban Official Plan under the heading Urban Design and Complete Streets. She advised that the Plan requires that new secondary plans shall direct "establishment of continuous grid road network as the preferred street layout" for moving pedestrians, cyclists and motor vehicles efficiently through communities.

[126] Ms. Khes submitted that this policy in favour of a grid network conflicts with the NEN strategy of not providing direct access for north-south roads onto Pier 8. She submitted that the grid system is more efficient for moving traffic and also allows easier access within a neighbourhood for neighbours to visit each other and can improve their quality of life. Ms. Khes testified that the Neighbourhood is a successful community that incorporates grid pattern streets. In her opinion, residents of the Neighbourhood will benefit from the City's proposed direct road connection to the waterfront and new development on Piers 7 and 8. She also advised that new residents on Piers 7 and 8 will benefit from direct connection to the Neighbourhood with access to its school, churches and community facilities.

[127] Ms. Khes maintained that James Street North and Burlington Street East have historically functioned as high traffic streets and that this is not inconsistent with adjacent residential use. She advised that traffic volume and speed will decrease on these streets once traffic management and calming is implemented within the

Neighbourhood. She advised that these streets have sidewalks for pedestrians and that planned crossing enhancements will assist children and adults in accessing schools, other community facilities and visiting neighbours. In her opinion, the City's proposed traffic management and calming strategy will facilitate a variety of transportation modes in a safe manner and is consistent with the Urban Official Plan policies in relation to streets and transportation.

[128] Ms. Khes acknowledged that most people in the Neighbourhood want a blanket speed of 30 km/h, but advised that as a planner she does not recommend this reduced speed on James Street North and Burlington Street East since traffic moves more efficiently at 50 km/h on these streets.

ANALYSIS

[129] Hamilton's West Harbour area was developed in the 1800s and early 1900s with industrial development and residential development to house the workers and their families. The streets were laid out in a grid pattern and in the residential neighbourhood the typical lots are narrow and shallow. Generally, the houses are small and located very close to the streets.

[130] Most of the industry in the West Harbour area is gone, leaving some large vacant parcels of land. However, some employment uses still exist. The City has acquired large parcels of land in the West Harbour area including Piers 5 to 8 and parcels along the shoreline. The City has created Bayfront Park and Pier 4 Park on its shoreline lands. There are some water-related recreational uses along the harbour, such as boat clubs.

[131] The City has adopted a Secondary Plan for the West Harbour. This Plan is known as Setting Sail and establishes a framework for guiding the redevelopment of the West Harbour with a number of uses including residential, commercial and recreational uses. Much of this development will be commercial and residential development divided between Piers 7 and 8.

[132] The residential neighbourhood immediately to the south of the shoreline area across from Pier 4 to Pier 8, is to remain intact. The shoreline uses are separated from the residential neighbourhood by two east-west roads, Guise Street and Dock Service Road that connect in front of Pier 8. The residential neighbourhood is known as the North End Neighbourhood and is referred to in this decision as the Neighbourhood. This is a healthy, closely knit community of about 5,000 persons, substantially comprised of

families, including many children. Generally, development in the Neighbourhood is compact, low rise housing and there is a variety of tenure. Typically, incomes are low to moderate.

[133] There is an open plaza in the centre of the Neighbourhood, on the north side of Simcoe Street East, between John and Hughson Streets North. There is a school, community health centre and recreation centre in the plaza and churches and playgrounds around the plaza. This is a busy gathering area for children and adults.

[134] James Street North, Bay Street North, and John Street North, carry most of the north-south traffic through the Neighbourhood while providing connections between the downtown core and the harbour area.

[135] Burlington Street East and West carries most of the east-west traffic through the Neighbourhood. It provides a connection to the Queen Elizabeth Way, providing access to the core of the City from the Niagara area and the U.S.A. Notwithstanding the heavy volume of traffic on these streets, there are also dwellings on these streets. Most of the interior streets in the Neighbourhood have low traffic volumes and are quiet local streets on quiet residential blocks.

[136] The parties agree that the volume and speed of traffic on these streets, especially James Street North and Burlington Street East, have a negative impact on pedestrians and cyclists who use these streets and the quality of life of the residents who live along these streets.

[137] The parties also agree that future Setting Sail related growth will add to the traffic load within the Neighbourhood, and measures should be put in place to mitigate the effect of existing and future traffic in order to preserve and improve the Neighbourhood as a sustainable residential community. The parties understand that the transportation issue is important to a community's liveability and sustainability.

[138] Setting Sail is the culmination of a planning process that started in 2002 and included parallel but integrated studies that dealt with land use and transportation solutions in the West Harbour area.

[139] This planning process included extensive public consultation. Representatives of the Neighbourhood participated in this planning process throughout its course and in the

North End Traffic Management Study prescribed in section A.6.3.5.1.18 of Setting Sail, in recognition of the need for traffic calming and management in the Neighbourhood.

[140] Both NEN and the City looked to the City's Vision 2020 as a basis for their respective goals. The City maintains that Setting Sail carries out the goal in Vision 2020 of making Hamilton into an attractive, strong, healthy and sustainable City in which its occupants enjoy "adequate food, shelter, income and education."

[141] Setting Sail states that the City relies on the development of an attractive, vibrant and healthy waterfront and central core as essential to the City's long-term prosperity and sustainability. The City's planner, Ms. Khes, explained that the planning process for Setting Sail was guided by "eight core principles" that balance the aspirations of the City and the Neighbourhood and reflect the goals in Vision 2020. These principles include the promotion of a healthy harbour (Section A.6.3.2.1); development of a diverse and animated waterfront (Section A.6.3.2.4); enhanced physical and visual connections to West Harbour (Section A.6.3.2.5) and strengthening existing neighbourhoods (Section A.6.3.2.2). Also, Section A.6.3.2.6 of Setting Sail promotes the principle of developing a balanced transportation network that will provide improved access for the waterfront and minimizes traffic impact on the existing local street network of the Neighbourhood.

[142] In summary, the City maintains that Setting Sail core principles and policies contain the framework for the successful redevelopment of the West Harbour and the protection and strengthening of the Neighbourhood as a child and family-friendly community. The City maintains that the implementation of recommendations in its North End Traffic Management Plan will mitigate existing traffic problems and resolve traffic issues linked to future Setting Sail related development.

[143] NEN maintains that Setting Sail recognizes the importance of protecting and enhancing the Neighbourhood. Its counsel explained that the core principle in Section A.6.3.2.2 recognizes the importance of the area's historic character and waterfront attractions for residents and the need to ensure that future development respects and improves the residential character of the Neighbourhood.

[144] NEN maintains that the City's North End Traffic Management Plan is not adequate to protect the residential character of the Neighbourhood from the negative impact of Piers 7 and 8 related traffic and to enhance its character as a child and family-friendly community.

[145] NEN submits that the traffic calming and management strategy developed by it offers better protection for the Neighbourhood while resulting in acceptable traffic speed reduction and the diversion of more waterfront-related traffic to Dock Service Road, Wellington Street North and Victoria Avenue North. For NEN it is essential that its strategy be embedded in Setting Sail in order to ensure the security of the strategy and the Neighbourhood.

[146] Although the NEN traffic management strategy was not designed by a professional engineer specializing in transportation planning, it was prepared with reference to existing conditions and problems and research of the experience of other communities where traffic speed has been reduced to no more than 30 km/h. However, this strategy was not expressed to take into account factors that Mr. Hollingworth explained he was required to consider and accommodate, such as public transit and the effect of his plan on the surrounding road network.

[147] NEN proposes the extension of Dock Service Road to intersect with Wellington Street North in order to improve the movement of motor vehicles from the harbour area to east of the Neighbourhood. However, the Board accepts the unchallenged position of the City that such an extension is impractical and expensive. Aside from the desire to extend Dock Service Road, NEN has not presented any practical evidence with regard to the feasibility of this idea. The extension of Dock Service is an issue for Municipal Council to determine, not the Board.

[148] The City's North End Traffic Management Plan already provides indirect access to Wellington Street North from Pier 8 along a route comprised of Dock Service Road, Ferguson Avenue North and Burlington Street East. This supplements James Street North as a major access to the harbor area. Components of the City's Plan impede entry of harbour related traffic into the neighbourhood over Ferguson Avenue North.

[149] The City's North End Traffic Management Plan was prepared by Brian Hollingworth, a professional engineer specializing in transportation planning and engineering. Mr. Hollingworth has extensive experience in this field in the City of Hamilton and other cities in and beyond Ontario. Mr. Hollingworth has conducted a thorough study of traffic issues in and around the Neighbourhood, including existing problems and those that may arise from development on Piers 7 and 8. He has

accepted ideas from residents of the Neighbourhood who have been part of the City's traffic calming study process and helped to shape its vision and direction of improving existing traffic conditions in the Neighbourhood and protecting its integrity as a residential family-friendly neighbourhood as change occurs in Piers 7 and 8 in the future.

[150] NEN wants a blanket speed limit of 30 km/h on all roads in the Neighbourhood. It relies on the evidence of its expert witnesses who testified that this lower speed will bring civility to the streets in the Neighbourhood, especially James Street North and Burlington Street East and will help to protect and enhance the Neighbourhood as a family-friendly neighbourhood. The City's North End Traffic Management Plan also recommends this lower speed limit for all streets except for James Street North and Burlington Street East, where it recommends the retention of the 50 km/h speed limit. James Street North and Burlington Street East and West are major streets in the Neighbourhood and carry public transit. Under the City's Plan, on-street parking will be permitted on these streets to narrow the traffic lanes and separate sidewalk pedestrians from traffic. These features will create a more pedestrian friendly environment in the neighbourhood, including along James Street North and Burlington Street East.

[151] Under the City's North End Traffic Management Plan, Burlington Street West will be closed to westbound traffic at James Street North. This feature, along with an improved left turn facility for westbound traffic on Burlington Street East, turning left onto Wellington Street North, should substantially reduce cut-through traffic on Burlington Street East. The recommended Roundabout feature on James Street North at Strachan Street will reduce northbound traffic speed on James Street North and will serve as a gateway feature into the Neighbourhood, helping to identify it as a distinct residential community.

[152] A variety of traffic management and calming features and their placement shown on the City's proposed plan (Attachment "1"), such as Roundabouts, Curb extensions, Chokers and Crossing enhancements, will slow traffic, improve pedestrian safety, and generally make the streets in the neighbourhood more pedestrian friendly. In particular, the recommended calming features on John Street North and Hughson Street North will slow traffic on the east and west sides of the community plaza and increase safety for the many children and adults who frequent it on a daily basis.

[153] The City's North End Traffic Management Plan also accommodates access to future development on the harbour lands. However, on Attachment "1", the "new proposed road (as per Setting Sail)" on Pier 8 does not show a connection to Catherine Street North, which runs northerly off Dock Service Road onto Pier 8. However, such a connection appears on Schedule M-2 of Setting Sail. Catherine Street North could provide additional access to Pier 8 traffic.

[154] James Street North and John Street North will continue to carry traffic between the harbour area and the downtown core of the City. However, only John Street North will be directly linked to the interior street network on Pier 8, but with physical features that will slow traffic, assist street crossing and improve pedestrian safety and comfort on John Street North.

[155] Although The City's North End Traffic Management Plan allows more traffic movement through the Neighbourhood at a higher speed than the NEN's traffic management strategy, it offers a reasonable and balanced transportation solution that appropriately addresses the aspirations of the City and the Neighbourhood.

[156] The City has a dual interest and obligation in the redevelopment of Piers 7 and 8, and the protection and enhancement of the Neighbourhood as a stable residential community. The City's North End Traffic Management Plan balances the interest of the City as well as the special interest of the Neighbourhood and promotes the goals of the City's Vision 2020 for a safe, diverse, strong and healthy community. NEN's transportation strategy is not the work of an expert in transportation planning and is focused only on the Neighbourhood. The City's North End Traffic Management Plan is the result of extensive consultation, input and analysis by an expert in the field of transportation planning and engineering, exercising a balanced focus on the needs and aspirations of both the City and the Neighbourhood. For these reasons, the Board has more confidence in and favours the City's North End Traffic Management Plan (Exhibit 3) and the traffic calming and management components of that Plan (Attachment "1") over the NEN's traffic management and calming strategy.

[157] Part of NEN's traffic management strategy is the incorporation of its traffic calming and management plan into Setting Sail. Its objective is to prevent any change of any component of the plan without a formal amendment to Setting Sail, a long, complex and expensive process. The City's North End Traffic Management Plan may be changed without public consultation by the City. If components of its Plan require

amendment, changes may be made directly. The Board assumes that the City will act in a bona fide and balanced manner in making any changes to the components of its Plan and without compromising personal safety for the purpose of moving more motor vehicles.

[158] Although it is argued by NEN that there is impropriety with the City acting as a landowner and decision maker in the circumstances before the Board, the Board does not find that the City has acted improperly. As long as Municipal Council acts in a reasonable manner, with reasonable consideration of the interests of the various parties affected by its action, there is no impropriety. There is no impropriety with the Waterfront Trust promoting its vision for the waterfront to Municipal Council. The Trust is charged with the duty of acting in the best interest of the City in developing these lands and to make the best use of these lands. Similarly, there is no impropriety with NEN advancing its position and asking Municipal Council to make changes to its North End Traffic Management Plan that are more advantageous to the Neighbourhood's vision. Also, residents of the Neighbourhood are able to participate in the Official Plan Amendment process for establishing uses within the designated Marine Recreational areas in Setting Sail, with a right of appeal from the decision of Municipal Council. In the decision making process it is expected that various stakeholders will promote their respective positions to Municipal Council.

[159] Setting Sail adopted the West Harbour Transportation Master Plan for the purpose of establishing the basic organization and operation of the transportation network within the West Harbour, including the Neighbourhood. Streets are classified in terms of reference to their "mobility function." NEN argues that this form of classification is confusing since it is not generally used within the transportation engineering field. The Board finds that this form of classification is satisfactory because the characteristics and function of each type of street is set out in Setting Sail. There should be no confusion as to function and form.

[160] The form of street classification in Setting Sail may be reasonably regarded as signifying that the West Harbour area transportation network may be treated differently, with more flexibility to reflect the needs of different neighbourhoods comprising this area. The City's North End Traffic Management Plan has used the opportunity to set a blanket speed limit on all streets within the Neighbourhood at 30 km/h (except James Street North and Burlington Street East) notwithstanding that some of the streets may

not normally be associated with such a low limit. This also provides a precedent for James Street North and Burlington Street East when appropriate.

[161] NEN maintains that the speed limit on James Street North and Burlington Street East should also be reduced to 30 km/h in order to increase civility on these streets and to make them more pedestrian-friendly. It is submitted that this will create an atmosphere that attracts improvements to the residential and commercial uses on these streets and will reinforce the Neighbourhood as a child and family-friendly community.

[162] Dan Burden is a recognized authority on street design, traffic calming and their effect on the community. He testified that traffic calming components, including the reduction of the speed limit to a maximum of 30 km/h in a residential community will improve the quality of life in the community. He explained that the imposition of this speed limit will improve the physical and social character of James Street North and Burlington Street East, the two principal streets in the Neighbourhood, and act as a precursor to general improvement and investment on these streets and throughout the Neighbourhood. Mr. Burden advised of examples of communities where traffic calming has resulted in improvement in the quality of life.

[163] Dr. Richard Gilbert is recognized for his expertise on child- friendly transportation needs and guidelines. He explained the benefits of reducing the speed limit throughout the Neighbourhood. Although he recommended the 30 km/h limit on James Street North and Burlington Street East, he explained that posted speed limit reduction would not be sufficient to achieve the reduction. He advised that it will be necessary for the Neighbourhood and the City to reach an agreement on an acceptable method of achieving this limit.

[164] The Board is satisfied that a reduction in speed on James Street North and Burlington Street East will foster a more pedestrian- friendly atmosphere. However, whether this will transform these streets into rejuvenated residential and commercial streets is speculative. The examples given by Mr. Burden of the successful use of lower speed limits do not set out sufficient context within which these limits were applied. Are these contexts similar to the West Harbour? We do not know. Accordingly these examples have limited weight.

[165] The Board is satisfied that the City's North End Traffic Management Plan will increase pedestrian safety in a reasonable manner throughout the Neighbourhood. The

City's Plan takes into account the concerns of the Neighbourhood and offers reasonable solutions and the flexibility for change. Monitoring the operation of the City's Plan is a component of the Plan and may reveal the need for further study of the City's transportation strategy and amendments. The City's use of the Master Plan approach to traffic management and calming allows the flexibility to make changes when needed, while balancing the interests of the Neighbourhood and the waterfront. The Board will not encumber this flexibility by fixing speed limits and other traffic calming and management tools within Setting Sail.

[166] The goal of NEN is to manage traffic in the Neighbourhood in a manner that will sustain and improve it as a community where children and their families can live well and in safety. NEN submits that this goal is also shared by the Province of Ontario and is reflected in its planning documents, namely, the *Planning Act* ("Act"), the Provincial Policy Statement of 2005 ("PPS") and the Growth Plan for the Greater Golden Horseshoe ("Growth Plan").

[167] NEN referred to the obligation of Municipal Council and the Board "to have regard to" matters of provincial interest enumerated in s. 2 of the Act, such as the orderly development of safe and healthy communities and the protection of public health and safety. Also, pursuant to Section 3(5) of the Act, decisions of a municipal council and the Board must be "consistent" with the PPS and "conform" with the Growth Plan.

[168] The parties agree that these provincial planning documents have a shared general goal, the building and maintenance of strong, clean and healthy communities and a strong economy in order to sustain the long term prosperity and social and physical well-being of the residents of Ontario. NEN argues that Setting Sail and the City's North End Traffic Management Plan will not sustain the Neighbourhood as a safe, healthy, child and family-friendly community, but that its transportation strategy will accomplish this goal.

[169] NEN argues that Setting Sail and the City's North End Traffic Management Plan are not consistent with the policy in Section 1 of the PPS that states:

"Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land and development patterns."

[170] NEN argues that Setting Sail and the City's traffic plan do not manage land use and change wisely since their alleged traffic impact threatens the sustainability of the

Neighbourhood. NEN maintains that the vitality, regeneration and intensification envisaged under the Settlement Areas policies in Section 1.1.3 of the PPS can be achieved for the City without impairing the Neighbourhood, by embedding the NEN traffic management and calming strategy in Setting Sail.

[171] NEN also submits that Setting Sail does not have regard to matters of provincial interest in relation to the orderly development of safe and healthy communities because of its alleged failure to protect and enhance the Neighbourhood while promoting redevelopment of Piers 7 and 8.

[172] NEN referred to the vision statement in Section 1.2.1 of the Growth Plan, setting out the long-term vision or goal of developing communities with strong economies, healthy environments, vibrant and productive urban areas and neighbourhoods that provide a “sense of place.” NEN submits that Setting Sail and the City’s traffic plan for the Neighbourhood do not reflect this vision and future harbour-related development will negatively impact the sustainability of the Neighbourhood.

[173] The PPS and Growth Plan are policy driven planning documents providing planning direction to municipalities on matters of provincial interest. These policies are to be applied over a broad area, such as the City of Hamilton. These documents are to be implemented by municipalities through their official plans. Section 4.5 of the PPS provides: “Municipal Official Plans shall provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.” It is clear that municipalities are given reasonable discretion in implementing the policies in these provincial documents.

[174] The City has seen most of the industry in the West Harbour area disappear. Over the years it has acquired much of the lands close to the shoreline and has developed parks and trails on some of this property. The City has undertaken an extensive planning and transportation study for the purpose of redeveloping and revitalizing much of the West Harbour area. Although the Neighbourhood is not to be redeveloped, it will be affected by Setting Sail-related development. Setting Sail mandates a traffic management and calming study prior to any development approval on Piers 7 and 8. This resulted in the City’s approved North End Traffic Management Plan to deal with existing traffic-related problems and protect the Neighbourhood from the negative impact of future growth on Piers 7 and 8.

[175] NEN supports the redevelopment of the West Harbour area and was an active participant in the Setting Sail planning process. NEN also provided significant input into the City's North End Traffic Management Plan and provided its vision for preserving the Neighbourhood as a sustainable child and family-friendly neighbourhood. However, NEN has developed its own strategy for calming and managing traffic within the Neighbourhood. The Board finds that this strategy is based on the City's North End Traffic Management Plan and both plans are quite similar with respect to traffic calming and management components. The basic differences in the NEN strategy are its request for a blanket 30 km/h speed limit on all streets, a somewhat greater diversion of cut-through traffic and the inclusion of its strategy in Setting Sail.

[176] The Board is satisfied that Setting Sail is consistent with the PPS, conforms to the Growth Plan and has regard to matters of provincial interest set out in the Act. Setting Sail recognizes that the City's long-term prosperity and sustainability are linked to a healthy, vibrant and attractive West Harbour and adjacent urban areas. The following principles and policies in Setting Sail are an expression of the City's intent and steps towards protecting and enhancing the Neighbourhood as a stable and liveable residential area. Setting Sail sets out in Section A.6.3.1 that the residential character of residential areas in West Harbour is to be preserved. Setting Sail sets out that its planning principles are based on the City's Vision 2020 goals for creating a healthy and sustainable city. Under principle A.6.3.2.2, Setting Sail requires that new development must "respect and enhance" the character of communities within the West Harbour area that are to be retained, such as the Neighbourhood. Setting Sail takes steps to implement this principle. Policy A.6.3.5.1.18 requires a "comprehensive traffic calming study" to be "completed and implemented" before any development approvals may be authorized on Piers 7 and 8. Under policy A.6.3.3.2.11 there are requirements for traffic monitoring and traffic impact studies for new development. Under policies A.6.3.5.1.6 and A.6.3.8.8.5 the Neighbourhood can participate in determining the future uses within designated Marine Recreational areas under the Official Plan amendment process.

[177] The above are some of the planning principles and policies in Setting Sail that seek to wisely manage change and development that have the potential for affecting the Neighbourhood. These principles and policies and the City's North End Traffic Management Plan seek to prevent any unacceptable impact from new development on the Neighbourhood.

[178] The Board is satisfied that Setting Sail and the City's North End Traffic Management Plan represent the City's reasonable use of its discretion in implementing matters of provincial interest and provincial policies in relation to the redevelopment of the West Harbour and the protection and enhancement of the Neighbourhood as a stable, safe and liveable residential community.

[179] The measures listed on Page VI of the City's North End Traffic Management Plan (Exhibit 3), under "Making it Happen", should be implemented directly by the City in order to promote public support for the city's Plan. Representatives of NEN should be given an opportunity to provide input into the implementation process and the monitoring and analysis of results. Effort should be made to improve streetscaping and signage as soon as feasible in order to create the atmosphere of a child and family-friendly Neighbourhood.

[180] The traffic calming and management process will require the City's ability to be flexible and respond quickly to solve problems. Embedding a traffic management plan in an Official Plan document will eliminate the City's ability to respond quickly and effectively to resolve traffic management and calming problems. Under NEN's proposal, traffic calming and management changes will be slow and very expensive and the authority for making changes will be removed from City staff with respect to the Neighbourhood, notwithstanding that changes may be in the interest of the Neighbourhood and the rest of the City. To select one community for significantly preferred treatment to the possible detriment of the other communities is not defensible.

THE ISSUES LIST

[181] The Board comments on the transportation-related five issues, as follows:

1. It is appropriate to introduce a series of traffic calming and traffic management measures for the Neighbourhood.
2. The appropriate mix of traffic calming and management measures are set out in the City's North End Traffic Management Plan (Exhibit 3). The Plan contains a thorough review of the problems, alternative solutions, analysis and appropriate recommended measures.
3. Matters of traffic speed, traffic management and traffic calming are best dealt with by the City's North End Traffic Management Plan.

4. It is appropriate that traffic calming and management measures be implemented in the Neighbourhood as a pilot project for a period of five years. This will provide time for these measures to have their full effect, for analysis and modifications. However, it is important to start at once to implement selected measures in order to convey to drivers that they are entering into a different environment where slower speeds and deference to pedestrians is required. Drivers must be given the message that they are potentially in conflict with children and that they must drive in a slower and more cautious manner. Drivers should be induced to feel they are participating in protecting the safety of pedestrians, especially children.
5. No amendments are required to Setting Sail or the urban Official Plan to implement the resolution of the issues set out above.

CONCLUSION

[182] For the above reasons, the Board orders that the appeal by NEN is dismissed.

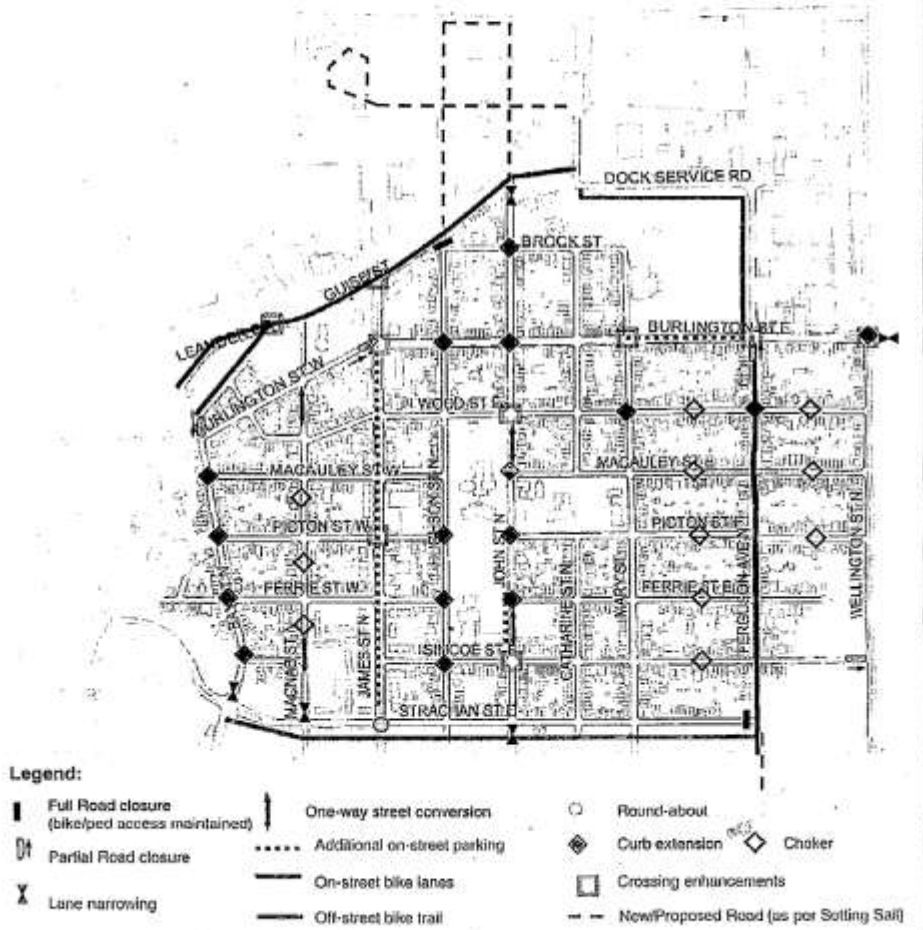
“H. S. Goldkind”

H. S. GOLDKIND
MEMBER

ATTACHMENT "1"

PL050408

Proposed Traffic Management Plan June 2008



ATTACHMENT "2A"

PL050408



30 K All the Way

The North End Hamilton's Child and Family Friendly Neighbourhood Preferred Traffic Management Strategy

What's the Problem?

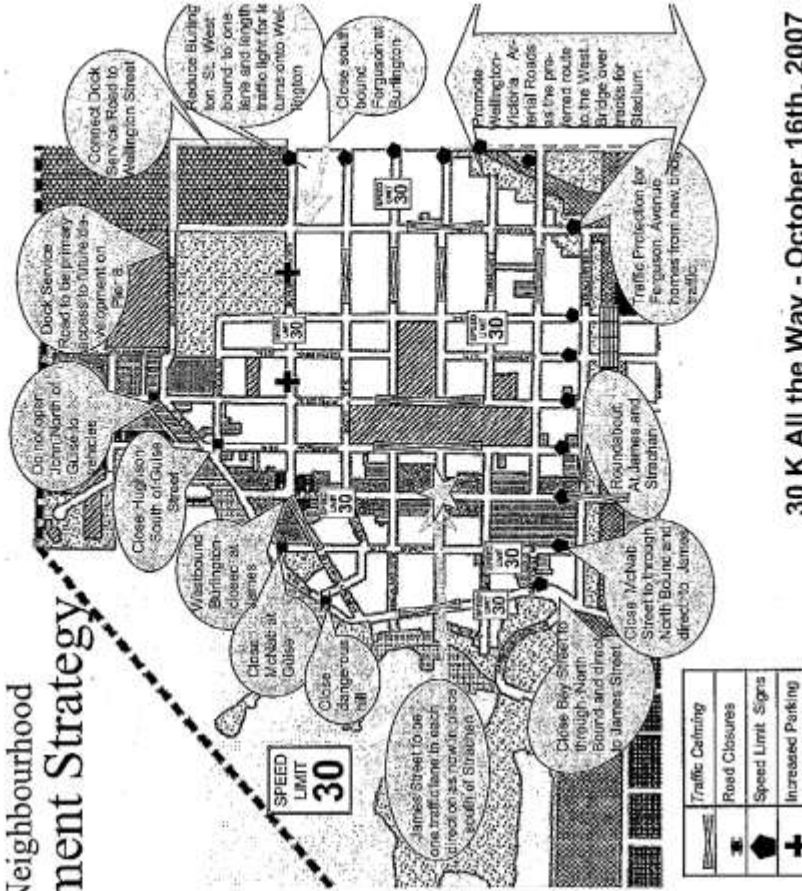
- Through traffic for Burlington industries and the QEW using North End residential streets is increasing, creating increased safety, environmental and health hazards, harming North End residential quality
- West Harbour destination traffic has not been channelled to the proper through streets and is using the north end residential streets as the "corridor to the shore".
- Increased volume of speeding cars and trucks on residential streets reduces safety and health, threatens pedestrian and cyclist

Goals:

- Build a safe and healthy attractive downtown community for children and families of all ages.
- Slow all traffic in the neighbourhood for improved safety, health, street character and community cohesion.
- Focus on people not cars. Encourage walking, cycling + transit.
- Direct all through traffic around the neighbourhood, not

Solutions

- ✓ Uniform 30K speed limit on all streets properly signed.
- ✓ Restrict through traffic at Wellington/Burlington, Bay/Strachan, Ferguson/Strachan from using residential streets.
- ✓ Channel north bound Harbour West destination traffic to James Street. Victoria and Wellington corridor to be designated waterfront access routes by all municipal departments.
- ✓ Direct Future Pier 8 traffic to Dock Service Road.
- ✓ Traffic calming in all sensitive areas.



30 K All the Way - October 16th, 2007

A Child and Family Friendly Neighbourhood
The North End - A Community in the core of Hamilton.

Residents of the North End, one of Hamilton's downtown neighbourhoods, have developed a program to continue and expand the character of the North End as a place to raise families. The concept of a Child and Family Friendly Neighbourhood has been developed in hundreds of cities in Europe and North America. Called by a variety of names in different countries, the concept involves recognizing that streets are places to live as well as corridors for automobiles. This concept fits in directly with current Hamilton and North American efforts to humanize cities for children.

Why the North End

The North End Neighbourhood is particularly suited to be Hamilton's pilot project in building neighbourhoods for the next generation of city dwellers. There are many reasons why:

The North End is particularly important to the City. Because it is a downtown residential community, adjacent to both the city core and the West Harbour waterfront activity, its appearance, safety, stability and visibility are all important to the City.

The North End is particularly vulnerable to traffic pressures. Because of its location sandwiched between such powerful traffic generators as the city core, the Burlington Street industrial area and the West Harbour, traffic pressures on the neighbourhood are very strong.

The North End is perfect for a pilot project because of its boundaries of Wellington Street, the CN tracks and the harbour's shoreline, it is geographically easy to identify. This also has helped the North End remain a cohesive entity with strong residents' loyalties and involvement in their community.

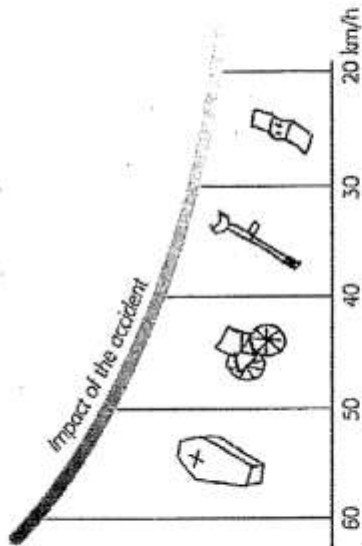
The North End is one of Hamilton's most densely populated areas with a high number of people living in each acre. This is combined with a building style inherited from a previous century with small front yards. As a result, streets are important to the lives of local families.

Supporting and reinforcing the character of the North End as a desirable place to live with children means wise use of the millions of tax dollars spent on existing community infrastructure such as schools, roads, sewers, recreational facilities, city owned housing. Major capital improvements are not necessary. The City will get a bigger bang for its buck by encouraging the continued family use of the land and facilities in the neighbourhood.

Automobile Traffic in the North End

Automobile traffic driving through the North End is a major issue and needs serious attention. Traffic management is only one component of maintaining and building a Child and Family Friendly Neighbourhood, but it is very important. We need to manage traffic to make sure that automobiles do not have a negative impact on the North End. A traffic plan is needed. The North End Neighbourhood traffic plan was developed by the Traffic Committee of the Board of Directors of North End Neighbourhood Inc. as part of the Official Plan Amendment program for the North End called Seating Hall.

For further information or comment, please contact the Traffic Committee Chairs, Stephen Park 905.522.2843 or Nancye Haealis 905.524.0034.



New Haven "pads the brakes on drivers" with traffic cushions that slow traffic to 30k. These are used in Burlington Ont. also as well.



A small town uses traffic light lane restrictions to control flow.



The Roundabout at Wilson Street and Hamilton Drive in Ancaster manages traffic declined to and from the high volume generator, Hwy 403.



Radar Speed signs sometimes work to slow traffic

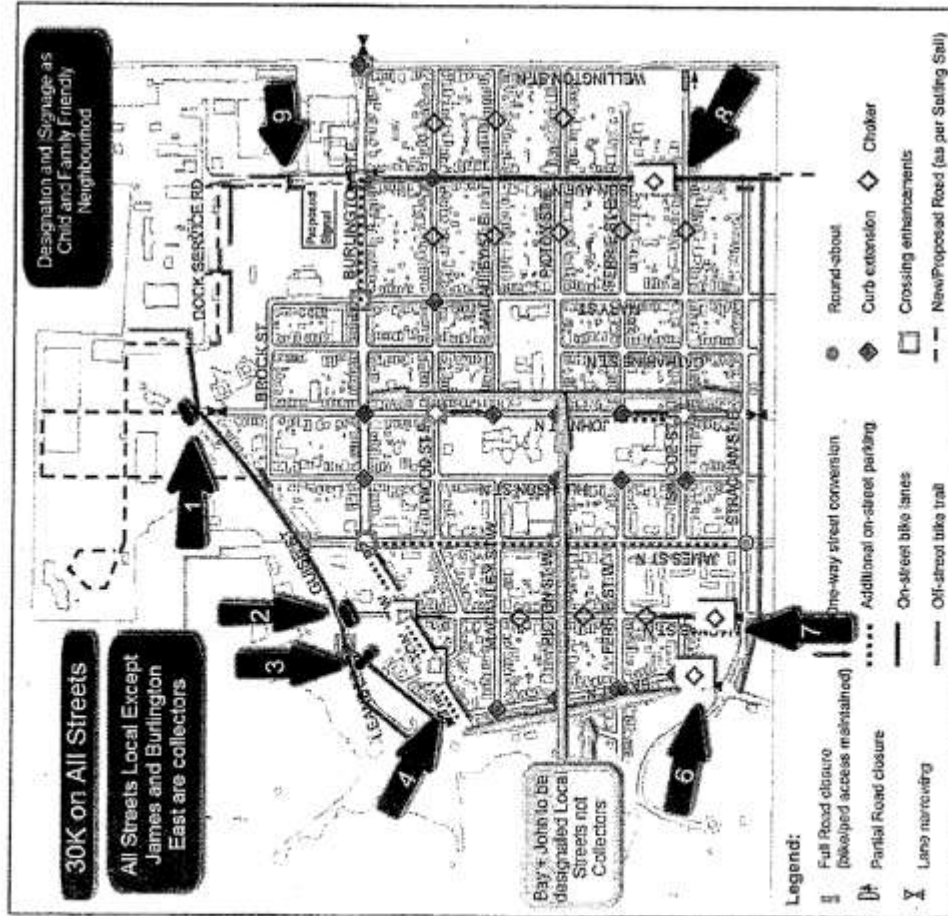


A traffic light lane restriction manages the flow of traffic while permitting two way traffic access.

PL050408

ATTACHMENT "2B"

Exhibit 6-1: Traffic Calming and Management Components of Recommended Plan



Key to Blue Arrows:

1. Retention of dead ending of John Street South at Guise
2. Full closure of McNab at Guise
3. Closure of Bay at Guise/Leander
4. Partial closure at Bay and Burlington
5. Missing Arrow
6. Bay Strachan Restriction and traffic buttons on Bay
7. Restriction at McNab and Strachan to limit North bound traffic
8. Choker on Ferguson to curtail cut-through traffic from the Ferguson Bridge