

786 STONE CHURCH RD WEST

March 24, 2025



The following is an update for those interested in the construction activity occurring at 786 Stone Church Rd W, on the south side of Stone Church Road just west of the roundabout at Omni Blvd (outlined in pink on the attached map).

Concerns raised by the public have been communicated to the Hamilton Conservation Authority (HCA) and the appropriate City Staff, including senior leadership. Several City departments have responded to those concerns and taken action to ensure that the property owner and their agents are now acting in accordance with all City policies. City Staff remain actively engaged in the work happening at this site and will address any actions that do not comply with relevant policies and regulations.

My office recognizes that the larger Tiffany Creek Wetland Complex / Falkirk Forest as shown on the map is a significant natural area that deserves protection. It is unfortunate, but development is permitted on this 9-acre property and the specific reasons are outlined below.

In the interest of conservation in the area, I have met with both the HCA and the City of Hamilton Real Estate Division to explore possibilities for protecting these lands from future development. I will update the public with any relevant progress.

Specifically, my office has received concerns about the construction of the driveway and the development of the parcel itself. HCA and City Staff responses to these particular concerns are as follows:

Building Permit (Zoning, Hamilton Conservation Authority, Tree Study)

Building permits were issued by the Building Division for construction of a single-family dwelling and an on-site septic system.

The property is zoned "A" under Ancaster Zoning By-law 87-57 and allows for a single-family dwelling. As part of the building permit application review process, Planning Division Staff confirmed that the proposed single-family dwelling complied with the applicable zoning requirements (location, parking, building height, etc.).

As part of the building permit application review process, HCA Staff confirmed that the proposed locations of the single-family dwelling, driveway, and on-site septic system are located outside the area regulated by the HCA.

Please note there is no requirement through the building permit application process for an applicant to submit a tree study. Tree review is not 'applicable law' under the Ontario Building Code and, therefore, the City is unable to mandate it through the building permit application process. Where tree review was once mandated through the site plan approval process, it is no longer required (for developments of 10 residential units or less) as a result of Bill 23 (*More Homes Built Faster Act, 2022*).

Development / Planning Approval

As part of the Ontario government's Bill 23 (*More Homes Built Faster Act, 2022*), any development with 10 or less residential units is not subject to site plan approval. As the proposed development at 786 Stone Church Rd, is

identified as a single-family dwelling, a site plan approval and Environmental Impact Statement (EIS) were not required.

In addition to not being subject to site plan approval, the proposed development did not require a minor variance or rezoning and, therefore, is not shown on the City's "Development Applications" mapping system.

Tiffany Creek Wetland Complex Development

In 2024, the Ontario government introduced changes to the Conservation Authorities Act, reducing the regulated area around all wetlands, including Provincially Significant Wetlands (PSWs), to 30 meters, down from the previous 120 meters for PSWs and wetlands greater than 2 hectares. As a result of these changes - and as verified by HCA Staff - development is allowed on this property as long as it is outside of the 30-metre buffer from the wetland and outside of the 15-metre buffer from the floodplain. The subject site complies with these requirements.

Public Notice

There is Provincial permission via Ontario's *Building Code Act* to construct without neighbourhood consultation, approval, or notice for this property. This differs from certain planning approvals – such as minor variance or rezoning – where public notice is required. The proposed development at 786 Stone Church Rd did not trigger a development/planning approval mechanism that would have necessitated public notice.

Driveway Access and Sightline Concerns

A Residential Driveway Access Permit was issued in October 2024, subject to conditions. Regarding inquiries from the community related to the driveway construction process and concerns around non-compliance, all matters and inquiries sent to the City were reviewed and actioned accordingly by senior leaders and Staff as required. As mentioned above, the property owner and their agents are now acting in accordance with all City policies. The City will continue to address any concerns raised and work with the property owner to ensure compliance.

City staff are working with the applicant and their Licensed Professional Engineer to address all sight line, traffic, and guiderail concerns. Designs relied on the Ontario Provincial Standard Drawings for Private Entrances (OPSD 912.531) which includes guidance for steel beam guiderails on a curve. Staff also completed an internal re-assessment of the approvals and confirmed that the application meets all requirements.

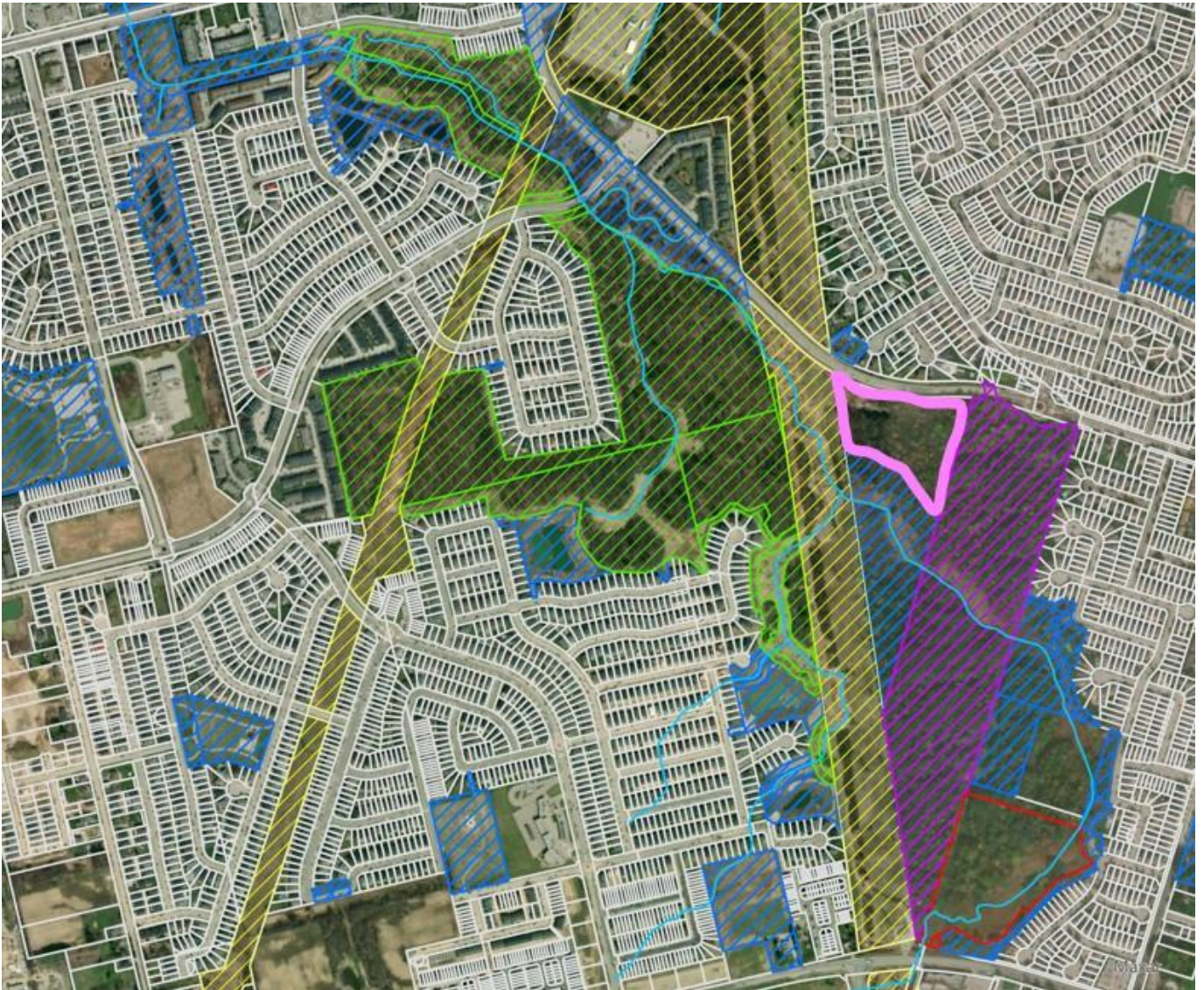
At this time the applicant has been authorized to proceed with the guiderail and curb work utilizing a City approved and bonded contractor. Staff will ensure the entrance is built to the specifications of the drawing submitted and approved by Transportation. A Temporary Road Use Permit issued by the Corridor Management group is required to close any lanes during the work.

Trees: Private and Right-of-Way

Private trees are protected by the Urban Woodland By-Law 14-212. Private trees damaged, injured or removed within a building envelope because of an approved Building Permit are exempt from the provisions of the by-law. Private trees located outside of the building envelope are subject to the by-law and subsequent enforcement. The property was visited by MLE Forestry staff who observed no violations, meaning the trees destroyed were contained within the building area. The area continues to be monitored.

The subject property owner has submitted a tree management plan to Forestry to gain approval with respect to the public trees in the right of way. The removal of any public trees is governed by the public tree by law 15-125.

MAP - Tiffany Creek Wetland Complex / Falkirk Forest



Map Legend

- 786 Stone Church Road development (**Pink** outline)
- Hamilton Conservation Authority (**Green** hatches)
- Infrastructure Ontario (**Yellow** hatches)
- Roman Catholic Diocese (**Purple** hatches)
- City of Hamilton (**Blue** hatches)
- Private ownership: (**Red** outline)