



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
 Growth Management Division  
 and  
**PUBLIC WORKS DEPARTMENT**  
 Hamilton Water Division  
 and  
**CORPORATE SERVICES DEPARTMENT**  
 Legal and Risk Management Services Division

<b>TO:</b>	Chair and Members Public Works Committee
<b>COMMITTEE DATE:</b>	December 7, 2020
<b>SUBJECT/REPORT NO:</b>	Stelco Inc. Severances - 386 Wilcox Street, Hamilton (PED20220/PW20067/LS20037) (Ward 3)
<b>WARD(S) AFFECTED:</b>	Ward 3
<b>PREPARED BY:</b>	Toni Sergi (905) 546-2424 Ext. 2274 Binu Korah (905) 546-6283 Ext. 1322 Andrew Grice (905) 546-2424 Ext. 1461 Patrick MacDonald (905) 546-2424 Ext. 4708
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Tony Sergi Senior Director, Growth Management Planning and Economic Development Department  
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Andrew Grice Director, Hamilton Water Public Works Department  
<b>SUBMITTED BY:</b>  <b>SIGNATURE:</b>	Nicole Auty City Solicitor  

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OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

**Discussion of this Confidential Report in closed session is subject to the following requirement(s) of the City of Hamilton's Procedural By-law and the *Ontario Municipal Act, 2001*:**

- advice that is subject to solicitor-client privilege, including communications necessary for that purpose; and,
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.

## **RECOMMENDATION**

- (a) That staff be directed to advise Stelco that it will not satisfy all Conditions of the Committee of Adjustment decisions dated October 10, 2019, including Conditions 6 and 7, until and unless:
  - (i) Stelco submits a comprehensive infrastructure strategy plan ("Master Servicing Plan") with sufficient details to meet the private and municipal servicing requirements of the City of Hamilton to the satisfaction of the General Manager of the Public Works Department and the General Manager of the Planning and Economic Development Department; and,
  - (ii) Stelco executes a Development Agreement substantially in the form already proposed by City staff that is approved by the the General Manager of the Public Works Department, the General Manager of the Planning and Economic Development Department and the City Solicitor;
- (b) That staff be directed to advise Stelco that should it not satisfy all Conditions of the Committee of Adjustment decisions dated October 10, 2019 by January 22, 2021, that any subsequent applications to develop Stelco's lands located at 386 Wilcox Street, Hamilton proceed by way of applications for a plan of subdivision or a plan of condominium;
- (c) That staff be directed to advise Stelco that any applications to develop Stelco's lands located at 386 Wilcox Street, Hamilton proceed such that amendments to the City's Sewers and Drains By-law No.06-026 and the City's Waterworks By-law R84-026 are not necessary; and,
- (d) That this Report, including the Recommendations therein, be released to the public following Council approval, except for Appendix "B" attached to Report (PED20220/PW20067/LS20037) which shall remain confidential.

## **EXECUTIVE SUMMARY**

It is appropriate that this Report remain confidential and discussed in a closed meeting as it contains solicitor-client advice and outlines the status of negotiations with Stelco Inc. regarding Stelco's attempts to satisfy the City that Stelco has met the Conditions imposed by the Committee of Adjustment in its decisions dated October 10, 2019.

In October 2019, the Committee of Adjustment approved Stelco's consent application under the *Planning Act* to sub-divide the site into seven parcels as depicted in Appendix "A" attached to Report (PED20220/PW20067/LS20037) on several conditions. Stelco is currently in the process of attempting to satisfy the conditions for this consent. These conditions must be satisfied by January 22, 2021 or the conditional approvals granted by the Committee of Adjustment will lapse.

Specifically, Stelco has indicated that it will not be providing a Master Servicing Plan as required by Condition 6 prior to January 22, 2021. Also, Stelco and the City have been unable to negotiate a Development Agreement that would satisfy Condition 7.

In addition, Stelco's severances contravene the City's Sewers and Drains By-law No. 06-026 which stipulates that a maximum of 3 Industrial, Commercial, or Institutional (ICI) properties can share a single connection to the municipal sewer system.

Stelco's severances also contravene the City's Waterworks By-law No. R84-026 which requires that where a parcel of land is divided by any means other than under Ontario's *Condominiums Act*, each separate parcel of land shall have a separate water service connection.

As a result, Stelco is seeking site specific amendments to both by-laws to exempt the site from these requirements. City staff do not support these proposed amendments as, in addition to imposing a greater burden on City infrastructure, staff and resources, they would set undesirable precedents for development activity throughout the City.

## **Alternatives for Consideration – See Page 8**

## **FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: N/A

Staffing: N/A

Legal: As outlined in Appendix "B" attached to Report  
(PED20220/PW20067/LS20037).

## **HISTORICAL BACKGROUND**

In September 2019, Stelco Inc. (Stelco), applied for four (4) consent applications to permit the severance of seven (7) irregular shaped parcels of land containing existing buildings for industrial purposes, and to retain irregular shaped parcels of land containing existing buildings for industrial purposes at 386 Wilcox Street.

Stelco indicates that the purpose of the applications is an internal corporate restructuring and that there is no immediate intention to build on the newly severed lots. However, the severed parcels may be sold to other parties and, unless the Conditions of severance are met to the City's satisfaction, the City's control over, and oversight of, the servicing impacts will be greatly reduced.

The applications were heard by the Committee of Adjustment (COA) on October 10, 2019 where they were approved subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in hard copy and in CAD format, drawn at true scale and location and tied to the City corporate coordinate system.
2. The applicant shall ensure compliance with Ontario Building Code requirements regarding spatial separation distances of any structures to the satisfaction of the Planning and Economic Development (Building Division – Building Engineering Section).
3. The applicant shall provide evidence confirming compliance with the requirements of the Zoning By-law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
4. The applicant shall provide confirmation of the existing uses on the lands to be retained and conveyed in order to determine compliance with the permitted uses of the M5, Exception 433 zone or alternatively apply for and receive final approval of a Zoning By-law amendment as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).
5. The applicant shall receive final approvals of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Division – Zoning Section).

6. That the owner provides an infrastructure strategy plan combined with sufficient details to satisfy the private and municipal servicing requirement of the City of Hamilton with respect to the severed and retained lands to the satisfaction of the Manager Engineering Approvals Section, if required.
7. That the owner enters into a Development Agreement with the City of Hamilton to implement the infrastructure strategy for the severed and retained portion of the lands to the satisfaction of the Manager Engineering Approvals Section, if required.
8. That the owner provides adequate reciprocal access and servicing easements between severed and retained lands to the satisfaction of the Manager Engineering Approvals Section, if required.
9. That, the owner register on the title of the lands and adequate storm drainage easement in the City of Hamilton's favour centred over the existing 2850mm x 2100mm storm outfall to the satisfaction of the Manager Engineering Approvals Section, if required (for HM/B-19:94 only).
10. The owner submits to the Committee of Adjustment office an administration fee of \$108.00 payable to the City of Hamilton to cover the costs of setting up new tax accounts for the newly created lots.
11. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.

The applications were deemed final and binding on November 7, 2019.

In accordance with the *Planning Act*, there is a one-year time period granted to fulfill conditions or the application for consent shall be deemed to be refused. The original expiry date was October 17, 2020, however, due to the Pandemic Emergency, the time period to fulfil conditions has been extended to January 22, 2021.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

As outlined in this Report.

## **RELEVANT CONSULTATION**

The following groups have been consulted or informed and are supportive of the recommendations of this Report:

- Public Works Department – Hamilton Water
- Planning and Economic Department – Planning

- Corporate Services Department – Legal and Risk Management Services

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)**

The Site has an area of over 313 hectares and is a long-established industrial site on which Stelco has been producing steel and managing infrastructure for over 100 years. Stelco Inc. is requesting that the City amend its by-laws to create 7 parcels of lands/lots. While lots would be created through these consent applications, lots without frontage on a public street would not be eligible for a building permit as they would be deemed to be landlocked and development would not be permitted in accordance with the zoning by-law. An amendment to the zoning by-law would be required to permit development by way of a future zoning by-law amendment or minor variance, in addition to any required site plan control application.

Although the stated purpose of these Stelco severances is to separate their lands into core Stelco business parcels, it is complicated by the fact that many parcels do not have frontage to a City road. Furthermore, all the parcels have existing surface and subsurface infrastructure including private roads, hydro, gas, communication lines, and water and sewer infrastructure. Notably for the City, there is an existing City easement for access to a large City storm sewer that traverses the Eastern portion of the property, ending at the Plymouth combined sewer outfall.

Staff from Planning & Economic Development, Legal Services, and Public Works have been working with Stelco since late 2019 on conditions for approval of the severance. However, for the severance to be approved, at least two (2) City of Hamilton by-laws require amendments:

- the City's Sewers and Drains By-law No. 06-026 allows a maximum of 3 Industrial, Commercial, or Institutional (ICI) properties to share a single connection to the municipal sewer system. The proposed Stelco severance could result in as many as nine (9) ICI properties sharing a single connection to the municipal sewer system; and
- the City's Waterworks By-law No. R84-026 requires that where a parcel of land is divided by any means other than under Ontario's *Condominium Act*, each parcel of land shall have a separate water service connection.

Stelco has been advised that City staff cannot support the by-law amendments required to clear the conditions, and that Council approval for such by-law amendments would be required. Furthermore, Hamilton Water staff will be initiating an update to the Sewers and Drains By-Law in 2021 and in keeping with best practices will be recommending that, in future, all individual ICI properties will require a dedicated connection to the municipal sewer system.

Hamilton Water's concerns related to amending the by-laws are rooted in the protection of our City infrastructure and the precedent it will set of for other development projects. More specifically the concerns include:

- complex provisions to satisfy water metering and backflow prevention. In addition to each parcel having a dedicated meter and backflow preventer additional metering and backflow prevention is required at the point which the water service exits the road allowance and enters private property. This is a necessity to ensure the safety of City infrastructure and health of our customers as well as avoid non-revenue leaks on private property;
- complex provisions and access requirements to satisfy the Sewer Use By-law. Each parcel will require a sewer manhole to allow for effluent sampling. A sewer manhole for sampling is also required at the point of entry into the City sewer system;
- due to the age and location of the private water and sewer infrastructure it may be in poor condition. A legal instrument will be required that allows for enforcement of abnormal sewer infiltration into the City's combined sewer network to prevent downstream capacity impacts; and
- water taking and sewer conveyance capacity cannot exceed pre-approved limits, regardless of the form of development that ultimately takes shape on the various severed parcels.

Staff from Planning and Economic Development, Public Works and Legal Services have discussed these concerns with Stelco representatives but have been unable to reach a consensus.

As part of the Severance application process, the City requested that Stelco submit a Master Servicing Plan (infrastructure strategy plan) including a Transportation Master Plan to demonstrate sufficient details to satisfy the private and municipal servicing requirement for the severed and retained portion of the lands to make sure that these lots can be independently serviced and has a road frontage to access the site including appropriate utility installation. Stelco advises that it is still in the process of developing the Master Servicing Plan and staff cannot evaluate all the implications without these studies.

As such staff recommend that this request will be denied until Stelco can meet the COA Conditions to the satisfaction of the City. Should Stelco not be able meet all COA Conditions by January 22, 2021, staff further recommend that any future applications to develop this Site proceed by way of a plan of subdivision or a plan of condominium as these applications provide a more comprehensive.

## **ALTERNATIVES FOR CONSIDERATION**

Council could support Stelco's proposals for the requested site-specific by-law amendments, to enter into a Development Agreement that is not supported by City staff and defer delivery of a comprehensive Master Servicing Plan until after January 22, 2021.

However, while staff are supportive of the logical and coordinated development of this Site, staff believe that these variations from preferred and standard practice will unnecessarily complicate the City's management and oversight of the development of this Site while setting undesirable precedents which could also complicate future development elsewhere in the City.

## **ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

### **Healthy and Safe Communities**

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

### **Our People and Performance**

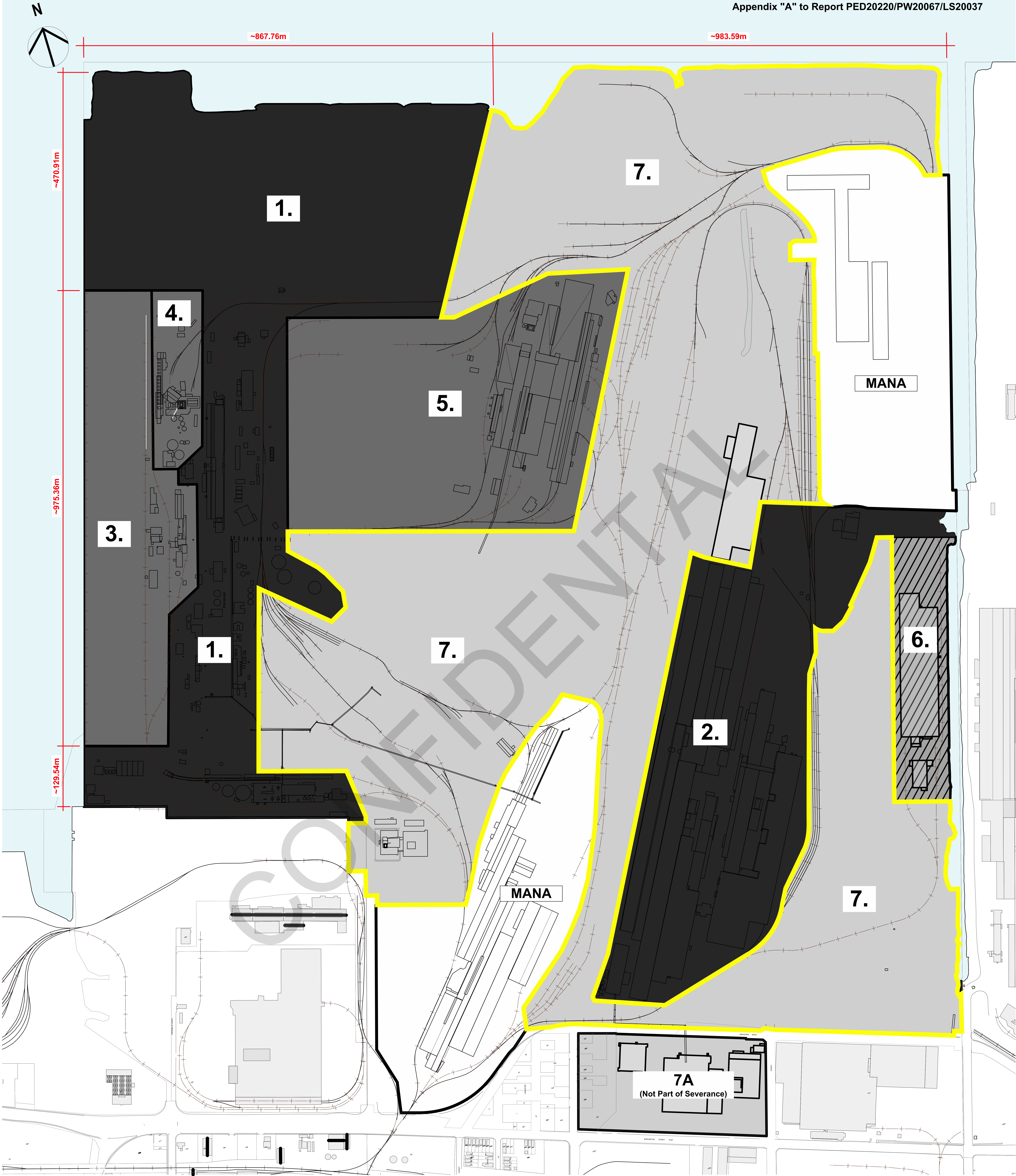
Hamiltonians have a high level of trust and confidence in their City government.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report (PED20220/PW20067/LS20037) - Diagram of Stelco's Severed Lots

Appendix "B" to Report (PED20220/PW20067/LS20037) - Solicitor-Client Advice Provided By Legal Services





0 20 50 100 200m

SCALE 1:2500

- 1. 2. PLANT LANDS (STELCO)
- 3. 4. 5. DEFERRED LANDS
- 6. PONDEROSA LANDS
- 7. DEVELOPABLE LANDS

7 PARCEL AREAS				
PARCEL	AREA (sq. ft.)	AREA (acres)	AREA (sq. m.)	AREA (hectares)
1. Plant Lands	6,822,723	156.63	633,851	63.385
2. Plants Lands	3,756,200	86.23	348,962	34.896
3. Deferred Lands	1,938,888	44.51	180,129	18.013
4. Deferred Lands	426,708	9.8	39,642	3.964
5. Deferred Lands	3,527,411	80.98	327,707	32.771
6. Ponderosa	720,507	16.54	66,937	6.694
7. Developable Land	15,631,247	358.84	1,452,190	145.219
7A Developable Land	896,491	20.58	83,287	8.329
	33,720,175 sq ft	774.11	3,132,705	313.271

STELCO INC. Consent to Sever Application  
Sketch Plan of Proposed Lots

SEPTEMBER 2019